



LAND AND THE NEW URBAN AGENDA

BRIEFING NOTE FOR POLICY MAKERS

SECURING LAND AND PROPERTY RIGHTS FOR ALL

LAND AND THE NUA

The New Urban Agenda (NUA) is about people. People need a place to live in dignity and a place means land; land for housing, working, education, commercial activities, leisure, transport etc.

Today's high population growth puts increasing pressure on land, which in turn becomes increasingly scarce. We are at a turning point! The use of and access to land need to be managed with care and responsibility in order to harness the transformative potential of the NUA, in particular in situations where cities need to grow.

Governments that ensure affordable and equitable access to land, tenure security for all, that establish frameworks to ensure the sustainable use of land and mechanisms to generate revenue from land, can guide and finance sustainable urban development and create inclusive and resilient cities.

Governments that do not regulate access to land and land use, leaving everything to the market and the elites, and that do not benefit from land value increase cannot influence urban development, but they do risk conflicts, social instability and unrest, a negative impact on climate, and disaster.

Land underpins all the key aspects of the New Urban Agenda because land is a key driver for inclusive, sustainable urban development!

Security of land tenure and sustainable land use together with responsible land governance are at the core of managing land responsibly.

This ultimately contributes to the majority of overall (urban) policy objectives, including poverty reduction, gender equality, inclusiveness, integration, provision of adequate housing for all, local economic development

and employment, municipal finance, transport and mobility, protecting cultural heritage, environmental sustainability, reducing disaster risks, limiting climate change, responsible governance and the promotion of peace. The responsible management of land rights and uses, therefore, is a transformative mechanism to achieve peaceful, inclusive, safe, sustainable and resilient settlements.

When finalizing the New Urban Agenda, United Nations Member States should address land as a key focus area and include land in all types of human settlements: urban, peri-urban and rural, rich and poor.

Member States should confirm and build on existing international instruments that promote secure tenure for all, public control of land use and responsible land governance¹.

In particular, they should embrace and incorporate all commitments related to land made by the Vancouver Action Plan, the Habitat Agenda, the Voluntary Guidelines on the Responsible Governance of Tenure and relevant resolutions of UN-Habitat's Governing Council.

United Nations Member States should make the following **four key commitments** to achieve the goals of the new Urban Agenda:

1. Ensure tenure security for all:

The New Urban Agenda should stress that no one should be left behind concerning land rights. It should confirm that it is the state's duty to recognize, respect and safeguard all legitimate land tenure rights along the continuum of rights, including informal and customary tenure, and to promote and facilitate the enjoyment of them.

The New Urban Agenda should confirm that businesses have a responsibility to respect human rights and legitimate land tenure rights.

¹ Key international instruments on which the New Urban Agenda should build are: the Sustainable Development Goals (in particular targets 1.4, 5.7, 11.1 and 11.3, and indicators 1.4.2 and 11.3.1), the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (VGGT), the Resolution GC23-17 by the Governing Council of UN-Habitat, relevant General Assembly, the Commission on Human Rights and the Human Rights Council resolutions including on the right to adequate housing and forced evictions, and the Land Policies Initiative's Framework & Guidelines. Because land is a cross-cutting issue that impacts directly on the enjoyment of a number of human rights, the New Urban Agenda should also be built on and aimed at the promotion and protection of international human rights law, and on the guidance provided by human rights mechanisms. These include the Guiding Principles on Security of Tenure for the Urban Poor and the Basic Principles and Guidelines on Development-based evictions and displacement. For many people, land is a source of livelihood and is central to economic human rights. Land is also often linked to people's identities and so is tied to social and cultural human rights.

The New Urban Agenda should also promote durable solutions for displaced people.

Tenure security for all matters because it is the basis for adequate housing for all, private responsible investment and the overall prosperity of an inclusive and safe city.

2. Ensuring sustainable land use:

The New Urban Agenda needs to

- Stress the responsible public regulation of land use, determined by the long-term interests of the public, in particular the affected communities, including the poor and the marginalized;
- Stress the high priority of minimizing land consumption while planning at scale for the expected population growth to reduce the ecological footprint of settlements, to protect nature and to conserve cultural landscapes;
- Promote respect for the social function of land and promote the provision of safe public space responding to the needs of all, including women, children, youth and LGTB;
- Promote land management tools such as spatial planning, land readjustment and land sharing that provide huge opportunities for sustainable urban development; and
- Highlight the importance of balanced territorial development.

Sustainable land use matters because it allows for a balance between the different needs and interests of all urban inhabitants, which makes cities and human settlements inclusive, safe, resilient and sustainable.

3. Generating land-based revenues for the benefit of all:

The New Urban Agenda should stress the high potential of

- Establishing transparent, fair and effective land value sharing mechanisms, e.g. land value capture, betterment levies and sale of development rights;
- Selecting one or several types of land taxation adjusted to local conditions, e.g. land acquisition, land holding, land sales and land value increment tax; and

- Developing and implementing a strategy on land banking and generating income from public land.

Land-based revenues are fair and socially sustainable because those who benefit more from urbanization contribute more to its costs; they matter because they expand the revenue base of local governments, which enables them to finance inclusive and sustainable urban development.

4. Enabling responsible land governance through:

- The elimination of administrative and political corruption, fraud and clientelism in land administration and management;
- The promotion of accountability, transparency and participation by all when managing land;
- The establishment and implementation of national land policies, laws and standards in accordance with international law;
- The creation of short, simple, affordable procedures and standards adjusted to local requirements;
- Customer-friendly delivery systems that are effective and efficient, accessible and affordable, accountable and transparent, that exploiting digital and communication technologies as well as the wide range of data and information, including geospatial information;
- Transparent and responsible public land management; and
- Monitoring the application of global and national frameworks.

Responsible land governance matters because it protects cities from land-based corruption and can solve and prevent conflicts and social unrest, leading to much more inclusive and sustainable cities.

The adequate inclusion of Land in the New Urban Agenda is crucial for achieving sustainable urban development!

LAND AND THE NUA

Each of the four key commitments requires a set of actions to be initiated by governments:

Commitment 1: Ensure tenure security for all

Action 1: Create awareness of the centrality of land for sustainable human settlement development.

Action 2: Provide sufficient affordable space for all while recognizing the limited availability of land.

Action 3: Achieve security of tenure for all and end gender inequality in tenure rights. To this end, recognize the diversity and multidimensional nature of existing land tenure systems, practices and rights, and establish an effective, equitable, non-discriminatory and gender-responsive, time and cost efficient, fit-for-purpose land administration that is responsive to local needs, demands and capacities.

Proposed indicator for commitment 1: Refer to indicator SDG 1.4 on the proportion of women, men, Indigenous Peoples and local communities with secure tenure rights to individually or communally held land, property and natural resources.

Commitment 2: Ensure sustainable land use

Action 4: Ensure that (spatial) urban planning results in efficient, socially and environmentally sustainable use of land in spite of high and rapid population growth.

To this end, establish effective land management, including transparent, inclusive, equitable and non-discriminatory, participatory land-use planning, land readjustment and land sharing adjusted to local conditions and its effective implementation resulting in low rates of land consumption.

Action 5: Promote balanced territorial development and support secondary cities through national and regional spatial planning, with clearly established responsibilities for different spheres of authority.

Action 6: Promote spatial planning for city regions and encourage inter-municipal cooperation.

Action 7: Fulfil the social function of land, respecting diversity in its widest sense, ensuring equitable access for all to public space, infrastructure and services, and protecting the cultural landscape.

Action 8: Avoid further climate change, mitigate disaster risk, and adapt to both through sustainable land management.

Action 9: Provide durable solutions for displaced people, including internally displaced people (IDPs), resettled people, refugees and returnees.

Proposed indicator for commitment 2: Refer to indicator SDG 11.3.1 on the ratio of land consumption rate to population growth rate.

Commitment 3: Generate land-based revenues for the benefit of all

Action 10: Generate land-based revenue for local governments to be spent for the benefit of all settlement dwellers, in particular the most marginalized.

To this end:

- Establish transparent, fair and effective land value sharing mechanisms, e.g. land value capture, betterment levies and sale of development rights;
- Select one or several types of land taxation adjusted to local conditions, e.g. land acquisition, land holding, land sales and land value increment tax; and
- Develop and implement a strategy on land banking and generating income from public land. Avoid that land value capture results in unjustified land consumption.

Proposed indicator for commitment 3: Share of land based revenue of overall municipal revenue.

Commitment 4: Enabling responsible land governance

Action 11: Eliminate administrative and political corruption, fraud and clientelism in land administration and management through promotion of accountability, transparency and participation of all when handling land.

Action 12: Create short, simple, affordable procedures and standards adjusted to local requirements and ensure customer-friendly delivery-systems that are effective and efficient, accessible and affordable, accountable and transparent, exploiting digital and communication technologies as well as the wide range of data and

information, including geospatial information.

Action 13: Ensure transparent and responsible public land management for the benefit of all and minimizing the risk of misuse, including illicit allocations and speculation.

Action 14: Recognize the crucial role of land in violence, social unrest and conflicts, including intra-household violence, and ensure that measures affecting land use and/or tenure arrangements do not directly result in or indirectly trigger violence, social unrest and conflict, but prevent new conflicts and contribute to solving existing conflicts.

Action 15: Promote the inclusion of long-term perspectives, including long-term needs and interests of the community when dealing with land issues.

Action 16: Establish and implement national policies, laws and standards on all aspects related to land tenure, land administration and land management in accordance with international law.

Action 17: Establish national standards for land-use planning, recognition of land rights, land valuation, land value capture etc., which respect international human rights law, ensure a pro-poor approach and are adjusted to local realities and needs to ensure their applicability.

Action 18: Promote participatory approaches and methods, such as participatory land-use planning, participatory land readjustment, participatory enumeration, crowd sourcing etc.

Action 19: Constantly collect, update and analyse timely and rigorous geo-spatial information in a transparent and accessible manner while taking the necessary safeguards. This should be included in functioning land information systems as a base not just for land management but for a broad range of urban development activities.

Action 20: Be fully committed to and accountable for the implementation of the New Urban Agenda and monitor and evaluate it regularly in a meaningful way, where possible linked to the monitoring of global and national frameworks, including, but not limited to, the Sustainable Development Goals.

Proposed indicator for commitment 4: Number of documented illicit land transactions and developments.

NUA should also include the following cross-cutting issues:

- Promote local action frameworks prepared by multi-stakeholder groups.
- Provide resources for capacity development and research.
- Stress the importance of knowledge sharing networks and platforms, sharing of technical expertise, access to information and assistance.

- Leverage the benefits of the digital age to implement the New Urban Agenda.
- Ensure effective change management when starting reforms to implement elements of the New Urban Agenda.

It would be beneficial to restate clearly the principles of non-discrimination and equality, including gender equality, meaningful consultation and participation, and the right to information, freedom of expression, peaceful assembly as central.

The NUA should clearly articulate the different roles of the different actors:

- Governments are the leaders/coordinators of the different stakeholders. They should encourage all potential actors to get involved, including civil society, responsible private actors, national, regional and local governments and administrations. They have to create opportunities for non-state actors, empower civil society and create strategic partnerships between civil society and private-public-partnerships, ensuring that public monies are used to create public resources and income, and that private actors adhere to the United Nations Guiding Principles on Business and Human Rights. Accordingly, when referring to the private sector, the NUA should consequently use the term “responsible private investor/enterprise/business”.
- Government functions should be conducted at the most appropriate level and follow the principles of subsidiarity. In this regard, the NUA needs to stress the importance of linking administrative decentralization with fiscal and political decentralization.
- Civil society organizations can contribute in multiple ways in implementing the NUA. They could play a major role in lobbying for the issue; explaining the issue to government officials and providing them with actual cases; establishing and maintaining networks on urban (land) issues; linking communities with each other as well as communities with experts; initiating the sharing of knowledge through different channels; developing and testing innovative tools; documenting and sharing good practices as well as monitoring (land) governance at local, regional or national level; identifying good and bad practices and making them public.
- Private investors are well placed to carry out many of the key tasks needed for sustainable urban development. They should play the role of implementers and developers acting responsibly by adhering to the United Nations Guiding Principles on Business and Human Rights.

MORE INFORMATION

Extracts from Existing International Instruments

United Nations Committee on Economic, Social and Cultural Rights, General Comment 4:

“Tenure takes a variety of forms, including rental (public and private) accommodation, cooperative housing, lease, owner-occupation, emergency housing and informal settlements, including occupation of land or property. Notwithstanding the type of tenure, all persons should possess a degree of security of tenure, which guarantees legal protection against forced eviction, harassment and other threats.

States parties should consequently take immediate measures aimed at conferring legal security of tenure upon those persons and households currently lacking such protection, in genuine consultation with affected persons and groups.”

(United Nations Committee on Economic, Social and Cultural Rights (CESCR),

General Comment No. 4: The Right to Adequate Housing (Art. 11 (1)))

Habitat I

“Land, because of its unique nature and the crucial role it plays in human settlements, cannot be treated as an ordinary asset, controlled by individuals and subject to the pressures and inefficiencies of the market. [...] Instead, the pattern of land use should be determined by the long-term interests of the community, especially since decisions on location of activities and therefore of specific land uses have a long-lasting effect on the pattern and structure of human settlements. [...] Public control of land use is therefore indispensable to its protection as an asset and the achievement of the long-term objectives of human settlement policies and strategies.”

“The unearned increment resulting from the rise in land values resulting from change in use of land, from public investment or decision or due to the general growth of the community must be subject to appropriate recapture by public bodies (the community).”

(Vancouver Plan of Action, 1976).

Habitat II

Istanbul Declaration on Human Settlements, United Nations Conference on Human Settlements:

“We reaffirm our commitment to the full and progressive realization of the right to adequate housing as provided for in international instruments. To that end, we shall seek the active participation of our public, private and non-governmental partners at all levels to ensure legal security of tenure, protection from discrimination and equal access to affordable, adequate housing for all persons and their families.”

(The Istanbul Declaration and The Habitat Agenda, United Nations Conference on Human Settlements, Istanbul, Turkey, 3rd -14th June, 1996 (A/CONF.165/14), Para 8. Endorsed by the General Assembly at its 51st Session)

Habitat Agenda, para 75:

“Access to land and legal security of tenure are strategic prerequisites for the provision of adequate shelter for all and for the development of sustainable human settlements affecting both urban and rural areas. It is also one way of breaking the vicious circle of poverty. Every government must show a commitment to promoting the provision of an adequate supply of land in the context of sustainable land-use policies.

While recognizing the existence of different national laws and/or systems of land tenure, governments at the appropriate levels, including local authorities, should nevertheless strive to remove all possible obstacles that may hamper equitable access to land and ensure that equal rights of women and men related to land and property are protected under the law.

The failure to adopt, at all levels, appropriate rural and urban land policies and land management practices remains a primary cause of inequity and poverty. It is also the cause of increased living costs, the occupation of hazard-prone land, environmental degradation and the increased vulnerability of urban and rural habitats, affecting all people, especially disadvantaged and vulnerable groups, people living in poverty and low-income people.”

(The Istanbul Declaration and The Habitat Agenda, United Nations Conference on Human Settlements, Istanbul, Turkey, 3rd -14th June, 1996. Annex II: The Habitat Agenda (A/CONF.165/14), Para.75. Endorsed by the General Assembly at its 51st Session)

The Sustainable Development Goals...

...promote tenure security and the sustainable use of land. The following indicators support these claims and will measure them in future:

- Indicator 1.4.2: Proportion of the adult population with secure tenure rights to land, with legally recognized documentation and who perceive their rights to land as secure, by sex and by type of tenure.
- Indicator 11.3.1: Ratio of land consumption rate to population growth rate.

The Voluntary Guidelines on the Responsible Governance of Tenure of Land (VGGT)

“States should:

- **Recognize and respect all legitimate tenure right holders and their rights.** They should take reasonable measures to identify, record and respect legitimate tenure right holders and their rights, whether formally recorded or not; to refrain from infringement of tenure rights of others; and to meet the duties associated with tenure rights.
- **Safeguard legitimate tenure rights against threats and infringements.** They should protect tenure right holders against the arbitrary loss of their tenure rights, including forced evictions that are inconsistent with their existing obligations under national and international law.
- **Promote and facilitate the enjoyment of legitimate tenure rights.** They should take active measures to promote and facilitate the full realization of tenure rights or the making of transactions with the rights, such as ensuring that services are accessible to all.
- **Provide access to justice to deal with infringements of legitimate tenure rights.** They should provide effective and accessible means to everyone, through judicial authorities or other approaches, to resolve disputes over tenure rights; and to provide affordable and prompt enforcement of outcomes. States should provide prompt, just compensation where tenure rights are taken for public purposes.
- **Prevent tenure disputes, violent conflicts and corruption.** They should take active measures to prevent tenure disputes from arising and from escalating into violent conflicts. They should endeavour to prevent corruption in all forms, at all levels, and in all settings.

Non-state actors, including **business enterprises**, have a responsibility to respect human rights and legitimate

tenure rights. Business enterprises should act with due diligence to avoid infringing on the human rights and legitimate tenure rights of others. They should include appropriate risk management systems to prevent and address adverse impacts on human rights and legitimate tenure rights.

Business enterprises should provide for and cooperate with non-judicial mechanisms to provide remedies, including effective operational-level grievance mechanisms, where appropriate, where they have caused or contributed to adverse impacts on human rights and legitimate tenure rights. Business enterprises should identify and assess any actual or potential impacts on human rights and legitimate tenure rights in which they may be involved.

States, in accordance with their international obligations, should provide access to effective judicial remedies for negative impacts on human rights and legitimate tenure rights by business enterprises. Where transnational corporations are involved, their home states have roles to play in assisting both those corporations and host states to ensure that businesses are not involved in abuse of human rights and legitimate tenure rights.

States should take additional steps to protect against abuses of human rights and legitimate tenure rights by business enterprises that are owned or controlled by the state, or that receive substantial support and service from state agencies.”

(The Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fishery and Forests in the Context of National Food Security, endorsed by the Committee on World Food Security at its 38th Session on 11 May 2012.)

Governing Council of UN-Habitat, 2011, Resolution 23/17(7):

“7. Encourages governments and Habitat Agenda partners, with regard to land issues:

(a) To implement land policy development and regulatory and procedural reform programmes, if necessary, so as to achieve sustainable urban development and to manage climate change better, ensuring that land interventions are anchored within effective land governance frameworks;

(b) To promote security of tenure for all segments of society by recognizing and respecting a plurality of tenure systems, identifying and adopting, as appropriate to particular situations, intermediate forms of tenure arrangements, adopting alternative forms of land administration and land records alongside conventional land administration systems, and stepping up efforts to achieve secure tenure in post-conflict and post-disaster

situations;

(c) To review and improve urban land governance mechanisms, including land and spatial planning administration and management, land information systems and land-based tax systems, so as to strengthen tenure rights and expand secure and sustainable access to land, housing, basic services and infrastructure, particularly for the poor and women;”

(United Nations, Governing Council of UN-Habitat in Resolution 23/17(7), 2011)

UN-Habitat Governing Council Resolution GC 25/4 passed in 2015

“requests the Executive Director to continue to support and reinforce the coordination of the efforts of the United Nations system, through the Global Land Tool Network, to bring coherence and conflict-sensitive approaches to land issues, including through a plurality of land tenure systems for all segments of society and alternative forms of land administration”. The same resolution promotes “an integrated approach to sustainable urbanization and human settlement” which inevitably would require participatory comprehensive urban and territorial planning. The resolution, therefore, “encourages member states to engage in inclusive, participatory and sustainable spatial planning processes that respond to their social, economic and environmental realities”.

United Nations Commission on Human Rights, 2004, Resolution on the Prohibition of forced evictions:

“Noting the provisions on forced evictions contained in the Habitat Agenda, adopted by the second United Nations Conference on Human Settlements (Habitat II) (A/CONF.165/14) convened in June 1996,

1. Reaffirms that the practice of forced eviction that is contrary to laws that are in conformity with international human rights standards constitutes a gross violation of a broad range of human rights, in particular the right to adequate housing;

2. Strongly urges governments to undertake immediately measures, at all levels, aimed at eliminating the practice of forced eviction by, inter alia, repealing existing plans involving forced evictions as well as any legislation allowing for forced evictions, and by adopting and implementing legislation ensuring the right to security of tenure for all residents;”

Commission on Human Rights Resolution number 2004/28, Adopted at 52nd meeting, 16 April 2004

Land Policies Initiative’s Framework & Guidance

“Although land is central to sustainable livelihoods in Africa, development initiatives in many countries do not always take comprehensive account of this reality. African governments need to take appropriate measures to ensure that land plays its primary role in the development process and more particularly in social reconstruction, poverty reduction, enhancing economic opportunities for women, strengthening governance, managing the environment, promoting conflict resolution and driving agricultural modernization.”

African Union/African Development Bank/Economic Commission for Africa (2010): Framework and Guidelines on Land Policy in Africa)

MAKING CITIES AND HUMAN SETTLEMENTS INCLUSIVE, SAFE, RESILIENT AND SUSTAINABLE BY HANDLING LAND RESPONSIBLY:



ABOUT GLTN

The Global Land Tool Network (GLTN) is an alliance of global, regional and national partners contributing to poverty alleviation through land reform, improved land management and security of tenure particularly through the development and dissemination of pro-poor and gender-responsive land tools.

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