



LAND AND THE NEW URBAN AGENDA

BRIEFING NOTE FOR POLICY-MAKERS

SECURING LAND AND PROPERTY RIGHTS FOR ALL

LAND AND THE NUA

Land is central to sustainable urban development as most measures are only possible to be realized if sufficient land at the right location is available and affordable.

The issues of land in human settlements are increasingly similar in countries at all levels of economic development from small rural settlements in developed countries to megacities in developing countries.

Land in the New Urban Agenda (NUA)

- *The New Urban Agenda (NUA) has to address land as a key focus area.*
- *NUA has to address land in all types of human settlements – rural, peri-urban and urban, rich and poor.*
- *NUA needs to stress that no one should be left behind concerning land rights. NUA needs to confirm the duty of States to recognize, respect and safeguard all legitimate tenure rights holders and their rights, and promote and facilitate the enjoyment of them. NUA needs to confirm that business enterprises have a responsibility to respect human rights and legitimate tenure rights¹.*
- *NUA needs to stress the importance of responsible public regulation of land use, determined by the long-term interests of the public, in particular the affected communities, including the poor.*
- *NUA needs to stress the potential of land to generate municipal income to be used to finance public infrastructure and services for all segments of society, including the poor².*
- *NUA needs to confirm and build on existing international instruments that promote secure tenure for all, public control of land use and responsible land governance³.*
- *NUA should embrace and incorporate all commitments related to land made by the Vancouver Action Plan and the Habitat Agenda.*

This is due to land being a finite resource with a wide range of competing functions everywhere as well as due to the increasing penetration of poorly understood and often unregulated market forces into modes of accessing and developing land and the omnipresent temptation to make a quick profit – be it legal or not.

However, the scope of land related problems is higher in countries with high population growth, rapid rural-urban migration, low capacity and weak governance. In many contexts the situation is further complicated by corruption and land grabbing.

Security of land tenure and sustainable land use together with responsible land governance are at the core of handling land responsibly which 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 promotion of peace.

The responsible handling of land rights and uses, therefore, is a transformative power to achieve peaceful, inclusive, safe, sustainable and resilient settlements.

As part of the New Urban Agenda national and local governments should, therefore, commit themselves to the following actions:

- **Commitment 1: Create awareness** on the centrality of land for sustainable human settlement development.
- **Commitment 2: Provide *sufficient affordable space*** for all while recognizing the limited availability of land.
- **Commitment 3: Achieve *security of tenure for all*** and ending 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

¹ See quote of the Voluntary Guidelines on The Responsible Governance of Tenure in the box on page 3.

² Land based revenue can be generated through land acquisition, holding and sales taxes, land value capture, betterment levies, land value increment tax, sale of development rights, land leases and land sales, including land banking

³ 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, Resolution 42/146 by the UN General Assembly on realization of the right to adequate housing, Resolution 2004/28 on prohibition of forced evictions by the Commission on Human Rights and the Land Policies Initiative's Framework & Guidelines.

The New Urban Agenda should also build on international human rights law, that indirectly refers to secure and affordable access to land as numerous human rights are affected by access to land (e.g. right to housing, right to food, right to water, right to work) and several general principles in international human rights law provide protections that relate to access to land (e.g. equality and non-discrimination in ownership and inheritance).

effective, time and cost efficient, reliable land administration responsible to local needs and demands as well as capacities.

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 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 ensuring transparent, inclusive, participatory land use planning and its effective implementation.
Reference to indicator SDG 11.3.1. on the ratio of land consumption rate to population growth rate.
- **Commitment 5:** Achieve **responsible land governance** through eliminating corruption, fraud and clientelism.
Introduce new indicator such as the number of documented illicit land transactions and development. Sources could be joint databanks by CSO and grassroots organisations.
- **Commitment 6:** Generate **land-based finance** for local governments to be spent for the benefit of all settlement dwellers. To this end, establish fair and effective land value sharing mechanisms.
An indicator could read as follows: share of land based revenue of overall municipal revenue.
- **Commitment 7:** Balance the **social function and value of land** and land as an economic asset.
- **Commitment 8:** Provide **durable solutions for Internally Displaced People (IDPs)** and resettled persons.
- **Commitment 9:** Recognize the **crucial role of land in (violent) conflicts** and ensure that measures affecting land use and/or tenure arrangements do not directly result or indirectly trigger (violent) conflict.
- **Commitment 10:** Avoid further **climate change** and mitigate **disaster risk** and adapt to both through sustainable land management.
- **Commitment 11:** Constantly collect and up-date **geo-data in a transparent and accessible manner**.
- **Commitment 12:** Establish **land policies and laws** defining key objectives and principles such as respecting legitimate tenure rights and minimizing land consumption.
- **Commitment 13:** **Be fully committed to and accountable** for the implementation of the New Urban Agenda and monitor and evaluate it regularly in a meaningful way.

Land is a key driver for human settlement development everywhere!

EXTRACTS FROM EXISTING INTERNATIONAL INSTRUMENTS

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” (*Vancouver Plan of Action, 1976*).

Habitat II

“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.” (*The Habitat Agenda, 1996*).

The Sustainable Development Goals

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.

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

“States should:

1. 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.

2. 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.

3. 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.

4. 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.

5. 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 in non-judicial mechanisms to provide remedy, 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.”

Peaceful, inclusive, safe, sustainable and resilient settlements



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-sensitive land tools.

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