



**LAND IN THE NEW URBAN AGENDA: OPPORTUNITIES,
CHALLENGES AND WAY FORWARD**

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Responsible Land Governance: Towards an Evidence Based Approach

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Abstract

Land governance underpins all key aspects of the New Urban Agenda (NUA) which was adopted at the closing plenary of the Habitat III, the United Nations Conference on Housing and Sustainable Urban Development in Quito, Ecuador in October, 2016. Moreover, within the context of the Sustainable Development Goals (SDGs), addressing land governance, in both rural and urban areas is also important since it permeates many processes or decisions on the economy, food security, demography, environment protection and climate change, social justice, peace building, human rights and sustainable housing and urban development. Today's high population growth continues to put increasing pressure on land particularly in urban areas, which in turn becomes increasingly scarce and may cause social unrest and conflict. Use of, access to land and good land governance are therefore important in order to harness the transformative potential of the NUA, particularly in situations where cities need to grow in an environmentally sustainable manner, to combat inequalities and promote socially and sustainable settlements. Given the task ahead of implementation of the outcomes of the Habitat III Conference and NUA this paper will present some of the key challenges and opportunities to sustainable urbanization in addition to identifying specific recommendations needed in addressing land governance issues for the NUA to be a game changer.

Key words: Forced eviction; Gender equality; Gentrification; Human rights; Inclusive partnerships; Land governance; Right to adequate housing; Tenure Security, GLTN, Sustainable Urbanization; Urban-rural linkages



1. INTRODUCTION

Land underpins all the key aspects of the New Urban Agenda (NUA) which was adopted at the closing plenary of the Habitat III, the United Nations Conference on Housing and Sustainable Urban Development in Quito, Ecuador in October, 2016. With the world's urban population expected to nearly double by 2050, urbanization has become one of the twenty-first century's most transformative trends. This is because population increase, economic activities, technological, social and cultural interactions, as well as environmental and humanitarian impacts are increasingly concentrated in cities, with accompanying sustainability challenges in terms of housing, infrastructure, basic services, food security, health, education, decent jobs, safety and natural resources, among others. For rural areas, the transformative power of urbanization has important implications too in both developing and developed countries since they can be places that offer better opportunities for employment or where people find what has not been made available in rural areas, such as basic services. These transformative issues relate to the dynamic economic transition of cities in national and global contexts; the evolving spatial form of cities; capacity of cities to address environmental risks; and the emergence of smart and connected cities, driven by ICTs, city data movements and big data (UN-Habitat, 2016). The NUA thus provides a set of guidelines that lays out the vision of achieving sustainable urban development.

Since 1950, there has been considerable variation in the rates of urbanization across regions. Currently, 90 per cent of urbanization is taking place in developing countries with the fastest growth happening in small-medium sized cities of Africa and Asia. Continuing population growth and urbanization are projected to add 2.5 billion people to the world's urban population by 2050, with nearly 90 per cent of the increase concentrated in Asia and Africa (UNDESA, 2014). It is projected that by 2030, 60% or about 5 billion of world's population will live in urban areas; 78% will be found in less developed regions (UN-DESA 2006, UN-Habitat 2006). As the world continues to urbanize, sustainable development challenges will be increasingly concentrated in cities, particularly in the lower-middle-income countries where the pace of urbanization is fastest (UNDESA, 2014). In the face of rapid urbanization, the supply of serviced land at scale will also remain a huge hindrance to sustainable urban development. This is because expansion areas at the urban fringe particularly in developing countries often lack infrastructure and services. Slums, which dominate most cities, house the majority of urban residents on poorly serviced land which are also under complicated tenure regimes and/or hazard prone locations. Antonio (2011) appropriately highlighted that urban growth in developing countries is characterized by informality, illegality and unplanned settlements and is, above all, is strongly associated with urban poverty. Within



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cities, large portions of land remain underdeveloped and underutilized due to inappropriate densities and/or dilapidation of entire neighborhoods. In many cities, huge tracts of land are also held vacant for speculative purposes.

Region/Area	Average annual rate of change of the urban population				Entire Period
	1995-2000	2000-2005	2005-2010	2010-2015	1995-2015
World	2.13%	2.27%	2.20%	2.05%	2.16%
High-income countries	0.78%	1.00%	1.00%	0.76%	0.88%
Middle-income countries	2.74%	2.77%	2.61%	2.42%	2.63%
Low-income countries	3.54%	3.70%	3.70%	3.77%	3.68%
Africa	3.25%	3.42%	3.55%	3.55%	3.44%
Asia	2.79%	3.05%	2.79%	2.50%	2.78%
Latin America	2.19%	1.76%	1.55%	1.45%	1.74%
Europe	0.10%	0.34%	0.34%	0.33%	0.31%
North America	1.63%	1.15%	1.15%	1.04%	1.24%
Oceania	1.43%	1.49%	1.78%	1.44%	1.53%

Figure 1: Urban rate of change 1995 – 2015..... Source: UN-Habitat, World Cities Report 2015

Within the context of the Sustainable Development Goals (SDGs), addressing land governance, in both rural and urban areas is critical since it permeates many processes or decisions, be they on the economy, food security, demography, environment protection and climate change, social justice, peace building, human rights and sustainable housing and urban development. This is because almost every facet in society in one way or another is linked to the land issue. Addressing land governance issues is thus critical for sustainable development, shared prosperity and social inclusion due to its centrality in the global development discourse.

Continuing population growth and urbanization are projected to add 2.5 billion people to the world's urban population by 2050, with nearly 90 per cent of the increase concentrated in Asia and Africa (UNDESA, 2014). Today's high population growth puts increasing pressure on land, which in turn becomes increasingly scarce and may cause social unrest and conflict. This is because growing population automatically increases demand for land which unfortunately is a finite resource. This situation is exacerbated by unequal and discriminatory distribution, corruption and speculation. Indeed, a global study of urban growth paths finds that when city populations double, urban land area triples, since urban dwellers are demanding more land per person as incomes rise (Angel et al. 2004). It thus may not be possible to stop the wheels of urbanization or market forces that drive up the cost of urban land and making it more inaccessible to most city dwellers, especially the poor. However, with good governance,



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accountability and political will coupled with putting in place of appropriate policies and strategies, governments, community organizations, civil society organizations and other stakeholders can ensure more land is available for sustainable developmental needs for all, now and in the future. Some of these strategies include participatory and inclusive urban governance, planning more efficiently, better land information including ‘fit-for-purpose’ land administration, appropriate land value sharing mechanisms, land readjustment and effective, inclusive partnerships at all levels that go down to the organized grass-roots communities within the continuum of land rights approach. These pro-poor and gender land policies, tools and approaches are well supported by the Global Land Tool Network, composed of more than 74 international partner organizations, towards securing land and property rights for all (UN-Habitat/GLTN 2012.)

Use of, access to land and management of land is therefore important in order to harness the transformative potential of the NUA, in particular in situations where cities need to grow. With rapid urbanization, it is also critical to take cognizance of urban-rural linkages as more investment flow into cities through land markets and level of investments flowing into rural areas. This is because problems of inequalities will only increase if there is no balance in investments into cities and their surrounding areas. Other key issues that need to be addressed are rural-urban migration, expansion of urban areas into the peri-urban areas, rapid changes in land use with the attendant implications on agricultural producers and smallholder farmers. Governments should therefore ensure affordable and equitable access to land and tenure security for all, establishment of transparent, participatory and accountable frameworks that ensure the sustainable use of land and putting in place mechanisms to generate revenue from land, guide and finance sustainable urban development and create inclusive and resilient cities.

Given the task ahead of implementation of the outcomes of the Habitat III Conference and NUA, this paper will present some of the key challenges and opportunities to sustainable urbanization in addition to identifying specific recommendations needed in addressing land issues for the NUA to be a game changer.

2. LAND AT THE CORE OF NEW URBAN AGENDA

The development of the New Urban Agenda was not a single process but involved participation of many relevant actors including governments, key land actors, women’s and grassroots women’s organizations and stakeholders. The process also included substantial contribution in the different issue papers, policy



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units, regional meetings and constant advocacy and information sharing with partners, allies and the society at large. This robust engagement in shaping the way cities and human settlements can be more economically, socially and environmentally sustainable reaffirms global commitment to sustainable urban development in an integrated and coordinated manner at global, regional, national, sub-national and local level. In shaping the outcome document of the Habitat III, the global land community, particularly the GLTN partners, played a huge role in relentless advocacy and the countless negotiations and consultations, within and beyond the scenes, in order to put the land governance agenda at the centre of the NUA.

This resulted in the role of land being well captured in the NUA with social, ecological and economical functions of land being well articulated in the outcome document. These commitments and implementation priorities are also highlighted in the SDG Goals 1, 2, 5, 6, 10 and 11 (United Nations 2015). They include the call for (i) securing land and property rights for all, with great emphasis on improving access to land and natural resources by women, youth and vulnerable groups; (ii) recognition of the plurality of tenure types, and to develop fit-for-purpose, age-gender-environment responsive within the continuum of land and property rights framework; (iii) prevention of forced evictions and the need to promote affordable serviced land; (iv) the need for access to public land and property; (v) the need for responsive land policies; (vi) sustainable use and management of land and natural resources; (vii) strong inclusive management frameworks and accountable institutions and transparency in land management and (viii) the capture and sharing benefits and increase in land and property values generated as a result of urban development projects and investments; (iv) partnerships towards an effective and sustainable land governance interventions adoption of land-based revenue and financing tools; and (v) partnership towards an effective and sustainable land governance interventions (see the full text of the New Urban Agenda at <https://habitat3.org/the-new-urban-agenda>).

The NUA is an inclusive, concise and action-oriented document that is intended to guide the next twenty years of sustainable and transformative urban development worldwide. With a strong focus on the inclusion and participation of stakeholder groups, civil society and grassroots organizations, the NUA aims to pave the way towards making cities and human settlements more inclusive, ensuring everyone can benefit from urbanization, and paying particular attention to those in vulnerable situations. It is therefore important that all inhabitants live in dignity and a place means land whether for housing, working, education, commercial activities, leisure and transport in order to take the best of what cities, towns and villages have to offer.



Since land cuts across all sectors in urban development and urban land management (See Figure 2), it offers unique opportunities in reinvigorating the call and commitment towards the New Urban Agenda. This is because security of land tenure and sustainable land use together with responsible land governance contribute to the realization of human rights and the vast majority of overall (urban) policies, including poverty reduction, gender equality, inclusiveness, integration, housing, local economic development and jobs, municipal finance, transport and mobility, protecting cultural heritage, environmental sustainability, reducing disaster risks, limiting climate change, responsible governance and peace. The responsible handling of land rights and uses, is therefore critical to achieving peaceful, inclusive, safe, sustainable and resilient settlements.

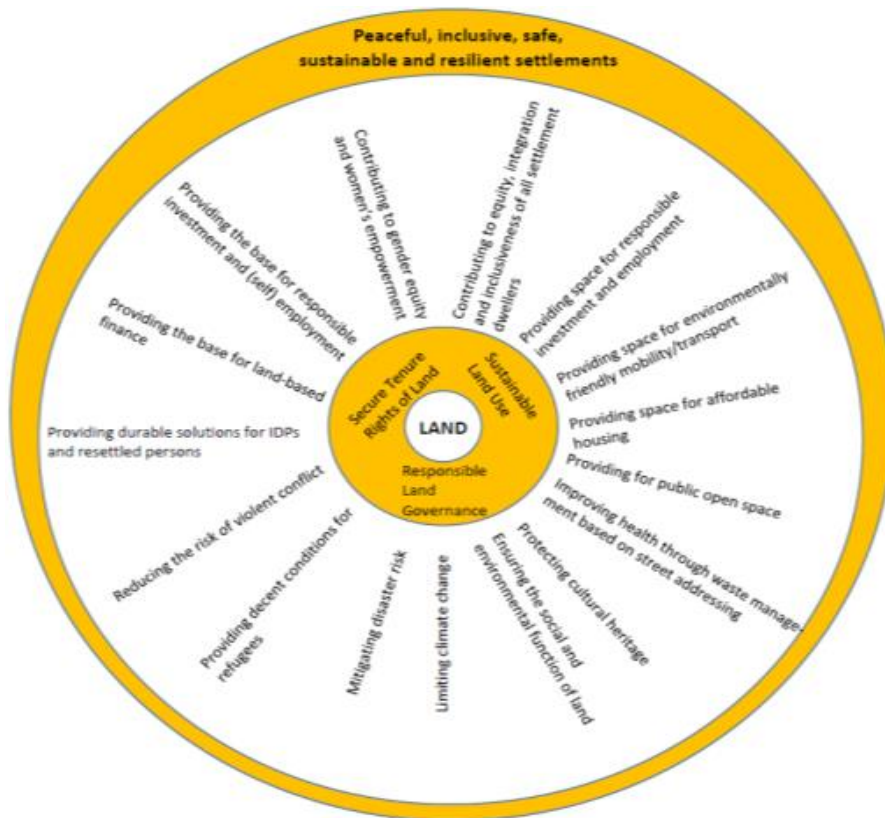


Figure 2: Diagrammatic representation of the position of Land in the NUA (UN-Habitat/GLTN 2016).

2.1 Land as a cross-cutting resource

Land is also a cross cutting resource that is the foundation for three levers of the urban agenda: urban planning and design, urban economy and municipal finance and urban legislation. As an example, a city



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extension cannot be done without land being taken into account, both from a political and technical point of view. From a political angle, land can become a driver of problems for planning, economy and urban legislation. For example, some cities and towns have witnessed the private sector capture the city's shape and fabric, parcel by parcel which distorts the original plan done by the city planners meaning that funds needed for sustainable cities end up being captured by the private sector. From a technical point of view, there exists a wide range of conventional land tools are used by cities for land management. In the developing world where it is estimated that between 30-60 per cent of urban areas are informal, such conventional land tools are ineffective. In the absence of innovative tools, most local governments are, due to capacity and governance issues, hard pressed to rationalize the use of land as well as generate resources to finance infrastructure and services both in slums and/or expansion areas. The Global Land Tool Network (GLTN) partners (more information at www.gltn.net) have therefore been creating alternative land tools at global scale that are innovative, more affordable and user friendly for implantation of pro-poor land policies and land reforms. GLTN's approach is to have these alternative tools work alongside the conventional ones to deliver sustainable cities.

The expansion of urban areas due to increase in population often results in development on hazard-prone sites (coastlines, river, beds, hill-slopes), which increases exposure and vulnerability to climate and disaster risk. For example Informal settlers often settle on such hazard prone locations, causing other policy challenges related to relocation, compensation and the use of these informal settlements as political bargaining chips. Vulnerability to climate and disaster risks in urban areas is also shaped by socioeconomic variables like poverty, security of tenure, access to social safety nets, livelihoods and ecosystem services, and other inequities (UNDP, 2016). It is therefore critical for cities to institute effective and accountable planning and administrative systems to avoid continued development on these vulnerable and disaster-prone areas despite the pressure for land for growing populations.

3. RURAL-URBAN LINKAGES

The inter-dependence of urban and rural areas economically, socially and environmentally proved to be relevant and critical as more and more cities continue to expand. Globally, the conventional distinction between urban and rural is changing, with cities emerging as drivers of change in rural areas (UN-Habitat, 2016). Rural areas benefit from urbanization through increased demand for rural goods, which have a significant impact on rural poverty (Cali, 2013; Cuong, 2014). Other benefits from the urban rural linkages include increased urban remittances, increased rural land/labour ratio, and increased nonfarm



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employment (Cali, 2013.). It is clear that national food security is not only a rural issue but is also an urban and peri-urban one; food, for example, needs to be secured for everybody everywhere. Further, food supply chains link rural and urban areas and it is not only that urban populations depend on agricultural production in rural areas, but also that increasing rural populations depend on food processing and other activities in the food supply chain that take place in urban and peri-urban areas (Wehrmann and Antonio 2015). Urbanization should conjure new approaches that not only nurture growth of cities in terms of size and population; but there should be greater focus on sustainability, improved means of managing resources and landscapes. The approach to urban development as distinct from rural development is thus not viable and realistic, considering the complementary functions and flows of people, capital, goods and services, employment, information and technology between the two areas.

The physical expansion of metropolitan regions where cities extend to peri-urban and rural areas is also another facet of the growing interconnection between urban and rural areas. In developing countries, the links between peri-urban and urban areas is important particularly, where local landholders participate in subsistence activities but try to utilize proximity to markets and services. These peri-urban areas are often excluded from land-use planning and governance systems and present significant challenges for poverty reduction and contribute to inequality (UNDP, 2016). Also as urban areas continue to expand to peri-urban areas which are often under customary tenure particularly in many African countries, women often lose their lands rights due to the patriarchal nature of most customary land tenure regimes. This is because, such land is often registered under the male head of the family and in situations where the land is sold or some form of compensation paid, women are at a disadvantage.

As urban populations increase, increased food demand from the cities may push rural food producers into unsustainable agricultural practices leading to land degradation for short-term gains. Such short time gains may include forest clearing for extensive agriculture; burning and removal of biomass; inadequate fallow periods; use of erosive crops and cultivation systems; inadequate investment in soil and water conservation; overgrazing; mono-cropping; overuse of fertilizer and pesticides; and depletion of open access resources. For a balanced city expansion that does not compromise food production, it is critical to manage land use in peri-urban areas through capacity enhancement, improved methods and workable partnerships to ensure sustained food production for the urban masses in addition to strengthening land administration mechanisms, including planning systems to respond to rapid expansion. A sound territorial planning process should therefore be put in place that is based on the urban and rural nexus realities and takes into consideration the need for land for city expansion. Thus for implementation of the NUA, it is



critical that any approach related to land governance and administration should not lose sight of the realities of the rural-urban nexus. Similarly, the energy demands of cities require large infrastructures, such as dams and mining, in the rural areas that displace populations, affect rural livelihood and impact the environment.

Sustainable urban development therefore should acknowledge that rural and urban areas are economically, socially and environmentally interdependent. This requires consideration of the carrying capacity of the entire ecosystem supporting such development, including the prevention and mitigation of adverse environmental impacts occurring outside urban areas and enhancing municipal revenues. This calls for identification and adoption of innovative land management and planning tools that are innovative, impactful and fit-for-purpose.

4. GENDER, GRASSROOTS AND THE NEW URBAN AGENDA

A combination of tenure security and sustainable land use is crucial for sustainable, safe and resilient cities and human settlements. In relation to women and girls, their insecurity of tenure reflects the gender disparities in development policies, land policies and land administration. Indicators of their marginalized status include their overrepresentation in poor living conditions in slums, in subsistence agriculture and in unpaid or low-paid work in the informal economy.

4.1 Gender disparity in land rights

Overall, despite acknowledgement about gender inequalities in land rights, there is insufficient understanding of how women's lived experiences and realities affect the delivery of established forms of tenure, as well as the strategies employed by underprivileged women to navigate their way across diverse cultural, economics and institutional terrains to secure tenure. Their journeys may take upwards of decades. Reviews of tenure for women remain focused on the legality or level of formality of the system or structure as the primary factor in providing security, rather than on the political, social and economic barriers that women face. Support of the market model remains a global favorite and may benefit some, especially if they are in households with steady incomes. Still, even then, changes in household formations through divorce or becoming widowed, living as single parents or single, will render women more vulnerable. Almost no typology of tenure explicitly identifies gender as an axis of difference and they do not take these differences into account.

The implementation of inclusive sustainable urban development that contribute to achieve gender equality



and the empowerment of all women and girls across a range of age, race, ethnicity and abilities require effective interventions that promote structural transformation, calling for systems and collaboration. All these elements are paramount not only at the global level, but across all scales of urban sustainable development.

Most recently, the framing of tenure security and land rights, in particular for women and girls, has increasingly bridged in global policy frameworks. This is the direct result of coordinated advocacy campaigns at UN fora by the women's land rights community. Given this bridge that has been created, it is important to highlight the New Urban Agenda has multiple commitments to "increased security of tenure for all," recognizing the "plurality of tenure types," and explicitly identifying women's security of land tenure as the cornerstone of their empowerment in (Pararaph 35). At the same time, the UN Committee on the Elimination of All Forms of Discrimination Against Women's recent General Recommendation 34 on the Rights of Rural Women, as well as the link to the SDGs that feature land rights as essential to Sustainable Development Goal to end poverty (Goal 1), food security (Goal 2), and gender equality and empower women and girls (Goal 5) commits to tenure security for all. In addition to this clear link among these frameworks, states are urged to anchor a normative framework for women's land rights which would require states to not only enact strong laws, but also to ensure equal rights are realized as is evidenced in a number of relevant international and national policy tools and targets, such as the Voluntary Guidelines on the Responsible Governance of Tenure (VGGTs) and the Africa Union's (AU) commitment of 30% target of new documented land rights allocated to African women by 2025 (AU specialized technical committee on agriculture, rural development, water and environment, 2016). Meanwhile, international and national standards must strive to develop an in-depth framework that analyses specific requirements or indicators on women's land rights to assess whether they are on the right track. Therefore, governments need to be influenced to establish criteria, including gender, as a strategy at the international and national level, in order to prioritize women's security of tenure.

4.2 Need for localized interventions

In light of collective efforts to coordinate the process of the implementation of the NUA, the contributions of women and grassroots organizations are based on the localized interventions that link the relevant global frameworks to the focus of Monitoring and Implementation of Cities and Human Settlements in a manner that is inclusive of the rights of women and girls, gender, and other social relations. Similarly, women and grassroots movements are focused on the importance of disaggregated data collection and its use in monitoring and evidence-based decision-making. Yet, strengthening of local processes driven by



local priorities, grassroots organizations, local capabilities are critical.

These efforts reflect the vision of the NUA, which is to:

“achieve gender equality and empower all women and girls, ensuring women’s full and effective participation and equal rights in all fields and in leadership at all levels of decision-making, and by ensuring decent work and equal pay for equal work, or work of equal value for all women, as well as preventing and eliminating all forms of discrimination, violence and harassment against women and girls in private and public spaces.”(Paraph 13 c)”

The NUA explicitly argues for action against unjust land governance systems and it makes commitments to apply age and gender-responsive budgeting at local levels in its Means of Implementation. This mechanism has proven to address gender disparities. Furthermore, the NUA also upholds commitments, ranging from age and gender-responsive integrated approaches, to urban territorial and planning processes; as well as planning for urban mobility; housing policies; sub-national and local government dialogue; and policies and plans for disaster risk reduction. All of the above are intertwined and would most benefit from an effective, inclusive, and engendered land management and administration.

Undeniably, opportunities are concentrated on how the implementation of the NUA will unfold following these mentioned guidelines and recommendations, and this depends largely on capacity building that must be part of policy-making and implementation of the NUA. Also, the adoption of development actions leading to establishing and/or strengthening local capacity to plan, execute and manage its implementation, guaranteeing gender equality and women’s empowerment at its core is key.

A strong push for diverse, local mechanisms contextualized by local conditions for the implementation of NUA, in synergy with SDGs, must be established and institutionalized. The NUA refers to stakeholders nearly 30 times, but women are accounted for only once, on the long list of categories. Using gendered perspective to boost its Means of Implementation (MoI) is critical. This would include:

- A manner that is inclusive of the rights of women and girls, gender, other social relations as the foundation to the process on implementation and follow up and review.
- Adopting gender-responsive approaches in urban transport analysis, planning, and practices that aim to localize these policy frameworks in an integrated manner
- Boosting the MoI by embedding a diversity of local mechanisms contextualized for local conditions for the implementation of transport planning. It is critical that its implementation is



synergized with the SDGs in a manner that is institutionalized.

- Adopt integrated land-use and transportation planning using gender evaluation criteria to guarantee households' improved access to jobs and basic services, taking into account age and gender-differentiated needs.
- Enhance innovations, such as logic of the proximity of services and decisive measures, to avoid the inequalities that people face in slums, and by means of social segregation, like gentrification.

4.3 Capacity development is key

Also a critical challenge is to ensure that the implementation of key transformative commitments and priorities are not weakened. Most importantly, different segments of civil society must be engaged and claim an active role in the implementation, monitoring and accountability process. That being said, capacity of a range of stakeholders, in particular grassroots women's organizations, to collectively turn commitments into actions and leverage from existing skills and build on skills that needs to be built is critical. It is essential to utilize, through partnerships, grassroots women's organizations that have also skillfully used innovative strategies and tools such as the Social Tenure Domain Model and the Gender Evaluation Criteria.

The Monitoring and Evaluation tools such as the Gender Evaluation Criteria (GEC), a flexible adaptable framework tool that checks the gender compliance of land governance at grassroots, local and national levels, can also aid in the implementation of policies, such as the VGGTs, as well as the NUA or other national frameworks at the country level. A successful practice through the use of this gender framework in Brazil for example is a clear testimony of how a diversity of actors working towards engendered and just land governance provided a reference on how to plan, design, implement and monitor a land process effectively. A multi-stakeholder process was formed to implement the Master Plan Land Titling Program in Ponte do Maduro Recife. With municipalities required to prepare plans with the participation of local residents' participation in developing the Master Plan, Espaço Feminista, a non-governmental organization with support from the Huairou Commission, led a ten-year, five-phase process of social struggle to ensure women's rights were integrated into the regularization process.

To achieve this, Espaço Feminista volunteered to coordinate a pilot project in Ponte do Maduro, a 50-hectare settlement with 10,000 low-income families, and used Gender Evaluation Criteria (GEC) as a tool not only to monitor, evaluate and create accountability around the regularization process, but also to



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empower local women to become leaders in their own process. This ensured that communities were not just beneficiaries, but also the main actors in its implementation. In addition, the bottom-up approach was successful in overcoming the challenges of translating law into action, with this transformative process ensuring that women were guaranteed equal treatment throughout the process. Of the 5,700 titles, 90 percent are now issued to women, 37% of whom head their households. Through an active and engaging planning and implementation, the intervention integrated local women who were empowered as leaders and who continue to be engaged in other matters of the community. When women have secure rights to land, women's status improves, leading to social and economic empowerment. Research also demonstrates links between strengthening women's rights to land and productive assets and women's increased participation in household decision-making.

The development of and use of existing tools and knowledge to guide cities and human settlements towards a sustainable future that is inclusive, just, and upholds gender equality as central to the process, is essential to the relevance of the NUA. However this is not sufficient if the institutional and organizational environment, as well as the urban governance systems with its rules, norms and incentives, is not developed along with the putting in place a robust capacity strengthening interventions that target land actors and other stakeholders in the area of urban governance.

5. LAND AND HUMAN RIGHTS IN AN URBAN SETTING

Access to, use of and control over land directly affect the enjoyment of a wide range of human rights. Disputes over land are also often the cause of human rights violations, conflicts and violence. Importantly, the human rights dimensions of land management are directly linked to most aspects of social development, peacebuilding and humanitarian assistance, as well as disaster prevention and recovery. In urban areas, land is a key element in fighting inequalities, achieving sustainable urbanization and contributing to human rights of inhabitants.

5.1 Urban land, speculation, gentrification and ghettoization

Unfortunately, land is commonly considered as a mere commodity and its social function is not recognized. Such a vision across the world heavily results in the growing unaffordability of housing and land, and is responsible for increasing the number of people who are homeless and have to resort to living in inadequate and insecure housing conditions. In this context, speculation over and increase in the price of urban land impact the spatial composition of communities in cities. Unaffordability of land then leads to gentrification, ghettoization, creation of informal settlements and gated communities, and other



processes directly that negatively impact social cohesion and equality. It is important to note that this situation runs counter to ALL the Sustainable Development Goals, and in particular sustainable cities (Goal 11), no poverty (Goal 1), reduced inequalities (Goal 10), clean water and sanitation (Goal 6) and gender equality (Goal 5). The New Urban Agenda on the other hand rightly emphasizes the need to combat and prevent land speculation as an important principle for sustainable urbanization (para. 14.b; 111 and 137). By recognizing the social function of land, (paras. 13.a and 69) of the New Urban Agenda shifts the current paradigm. The integration in laws and policies of the social function of land, including its impact on the realization of human rights, is one of the crucial elements for the creation of sustainable cities and the realization of SDGs.

5.2 Urban land and the right to adequate housing

Land is also a key component of the right to adequate housing. Access to land and security of land tenure are the means by which the right to housing can be realized, in both rural and urban areas. "Inadequate housing of the poor is often the consequence of being barred from access to land, credit, and materials with which to build. When access is granted, tenure generally is not. The lack of legal provisions to enable communities to inhabit or own land and to make productive use of natural or common resources should also be noted as creating an obstacle to the implementation of the right to adequate housing".¹

The New Urban Agenda clearly establishes the importance of the realization of the right to adequate housing for sustainability of cities (para. 13.a; 31; 33 and 105). Yet by using the terminology "progressive realization" it fails to acknowledge that access to land for the realization of the right to adequate housing is not only about resources. Discrimination in law and practice; people's lack of participation in decision making processes; lack of accountability of state authorities at all level; lack of consideration of the marginalized and the poor in urban planning; non prioritization in budget allocation for access to land and housing for all; non prevention of speculation in laws; non recognition of land as more than a commodity: all of these elements are as important – if not more – than the mere construction of housing units.

That is why the implementation of the New Urban Agenda and the SDGs requires the full recognition of the right to adequate housing in national and urban legislation with available and accessible recourse mechanisms. The integration of the elements of the right to adequate housing, including legal security of

¹ Special Rapporteur on adequate housing (A/HRC/7/16), para. 66.



tenure, affordability and location, in all laws, policies and programme are key for progressing toward sustainable cities.²

5.2 Urban land and forced evictions

Every year, millions of people around the world are threatened by evictions or forcibly evicted, often leaving them homeless, landless, and living in extreme poverty and destitution. The causes and types of forced evictions are multiple when it comes to land in urban areas among others infrastructure development projects; mega events, such as major international meetings or sporting events; city beatification, urban renewal/transformation, including disaster prevention; zoning, urban and spatial planning and slum clearance. Forced evictions commonly result in severe trauma and set back even further the lives of those that are often already marginalized or vulnerable in society. Forced evictions also violate a wide range of internationally recognized human rights, including the human rights to adequate housing, food, water, health, education, work, security of the person, due process, freedom from cruel, inhuman and degrading treatment, and freedom of movement and contradicts states obligations and the SDG goals since the vast majority of forced evictions are avoidable.

Depending on the situation many alternatives to evictions have proven successful, such as securing tenure, in-situ upgrading, land sharing and agreed resettlement. In all cases, consultation and participation lead to durable and peaceful solutions. Providing security of tenure, legalizing or upgrading informal settlement can spark an investment in housing; upgrading can improve dangerous or unhealthy living conditions, and land-sharing schemes can resolve land disputes between the urban poor and private owners seeking to develop their land.

All projects should therefore incorporate an eviction impact assessment that calculates the real cost of evictions. This entails more than the market price of the homes the poor inhabit, and should include other risk of displacement and impoverishment. Any project displacing people should also consider the possibility of restitution and return of the initial residents after the completion of the project.

Important to note is that international human rights law does not prohibit all evictions. The prohibition of forced evictions does not apply to evictions carried out both in accordance with the law and in conformity with the provisions of international human rights treaties. Nevertheless, even under these circumstances, the evictions should be in line with national law and relevant international standards, including due

² One can easily refer to the guidance provided by the human rights system and in particular General Comment n°4 of the Committee on Economic, Social and Cultural Rights



process. The human rights system has provided precise guidance to deal with situations where evictions are unavoidable. The Pretoria Declaration on informal settlement “Call for the issue of evictions to be addressed in the New Urban Agenda in line with the United Nations recommendations on “Basic principles and guidelines on development-based evictions and displacement”.³ Therefore these principles need to be fully integrated in any relevant laws, policies and programmes and used when evictions and displacements are envisaged.

5.3 Urban land and public spaces

The prioritization of “safe, inclusive, accessible, green, and quality public spaces” in the New Urban Agenda closely link with a broad range of human rights. Well designed and safe public spaces are key for social, inter-community and intergenerational interactions, promoting non-discrimination and gender equality. Public spaces are also an important element for people’s participation in civic and social life, freedom of expression, freedom of association, freedom of peaceful assembly and cultural rights. Therefore the provision of land and measures to avoid privatization of public land and spaces should be viewed from a human rights obligations perspective as well. Similarly urban renewal, urban regeneration and the redefinition of public spaces and allocation of land needs to be done for inhabitants and with their meaningful participation. Failure to do so results in situations of social distrust and tensions, as it was the case of the Gezi park in Istanbul, Turkey.

5.4 Accountability and participation

The New urban Agenda means of implementation recognize that the implementation of the New Urban Agenda is “based on the principles of equality, non-discrimination, accountability, respect for human rights, and solidarity, especially with those who are the poorest and most vulnerable” (para.126). It equally calls for cities and human settlements that “are participatory, promote civic engagement, engender a sense of belonging and ownership among all their inhabitants” (para. 13). Both of these engagements are basic human rights principles. Their genuine implementation – combined with the recognition of the social function of land and the links between land and the realization of human rights - will be a game changer in cities.

6. LAND, HOUSING AND PARTNERSHIPS

Housing, both in the informal and formal sector, is at the center of key development outcomes: achieving human rights and the right to adequate housing in particular, poverty reduction, livelihoods opportunities,

³ <http://www.ohchr.org/EN/Issues/ForcedEvictions/Pages/Index.aspx>



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education, crime reduction, and health, while contributing to economic growth, addressing energy consumption and fostering resilience. Housing, addressed holistically, is an integral and integrating element of sound urban development practice and urban policies.

Access to land, however, has been identified as one of the main obstacles for the poor to access adequate housing and for cities to improve urban living conditions. Estimates show that least 1 billion people struggle with tenure security and fear of eviction, and even more lack proper documentation of the land on which they live.

Informal settlements and slums keep growing. Because the formal housing market in urban areas is neither affordable nor accessible to the urban poor, an increasing number of people have no choice but to use illegal or informal land markets, relying on informal developers and irregular land subdivisions. Left to market forces, land development is displacing the poor, increasing social and economic segregation and endangering poor families to the possibility of forced evictions as well as market driven displacements. Current land policies have jeopardized effective land use management and marginalized these families. If this trend continues, by 2030, nearly 1 in every 4 people will live in a slum.

The added insecurity of tenure decreases the ability for families to improve their housing and living conditions. In an environment that does not recognize the multiplicity of tenure and considers ownership as the highest form of tenure, a person's security of tenure is affected by what property rights they hold and whether those rights will be acknowledged, respected and protected by law. 75% of land worldwide is not legally documented. Women are disproportionately affected by land access issues, routinely and systematically denied their right to land. Women hold only 1 to 2 percent of all titled land in the developing world, and women are often missing from policy-centered decisions, which means they are in turn left out and denied rights. For many women and vulnerable groups across the globe, the difficulties in gaining or maintaining property rights represents a bleak obstacle to obtaining a decent place to live and subsequently to climbing out of poverty.

Lastly, when disaster strikes and property rights are not secured, returning families must try to defend their property rights before it is safe to do so for fear of eviction. Without proper land policy and management practices in place, people lose their homes and their ability to recover. 200 million people



per year are affected by disasters, and systems that are currently in place do not adequately prepare and protect families and their homes.

How do we interrupt the vicious cycle of poverty and informality through adequate land policy interventions and strategies to increase access to land for housing and support the upgrading of existing slums?

There is a need for both adaptive and preventive strategies. Strategies to increase access to land for housing include: land-pooling or land readjustment, leverage of public land in partnerships with the private sector, partnerships with informal developers, strategic expansion of secondary infrastructure, vacant land taxation. These can be used both to increase the supply of affordable (and serviced) land for housing as well as neighborhood upgrading.

There is also a need for coordination of legislations related to planning, land-use, land value, land development and land registration, including recognition of a '*continuum of tenure options*'. Gender-responsive and community-mapping programs are proven solutions for ensuring more secure land rights and should be integrated into national, provincial and local policies and planning processes. Community-mapping processes, which recognize "social tenure" of properties, can be an important way to gain community recognition at the city level, advocate for investments in public infrastructure, clarify and negotiate internal claims and tenure conditions, fill the gaps in the formal system, and provide a step in the continuum of rights from informal to full, legal rights. It is essential to establish '*Fit-for-purpose*' land administration systems along the continuum land property rights; these systems should include clear descriptions of how rights can be established and transferred, use and application of affordable approaches on spatial mapping, enumeration and rights recognition and adoption of inclusive, responsive and pro-poor land policies and regulations with particular focus on women, youth, IDPs, indigenous peoples and other vulnerable groups (Enemark et al 2016).

Gender Property Rights: Bolivia - Through advocacy strategies that are inclusive and gender sensitive, Habitat for Humanity helped enable a legislative change that benefits women in 6 million homes under the poverty line (31% are headed by single mothers), who were previously excluded by customary land practices. Currently, the law is being put into effect and women are being empowered to exercise their right to secure land tenure.

Improved security stimulating housing and neighborhood improvements can significantly reduce the impact of disasters in families and communities, housing and infrastructure. Furthermore, adequate



documentation of tenure conditions on the ground can support and expedite response and reconstruction, opening access to a wide range of financial resources. By providing options for this kind of documentation, governments can reduce barriers to registering or transferring property titles after a disaster.

In New Orleans, an interim and innovative step to solving land tenure issues was the issuing of *transitional property documents* lieu of an official title. A transitional property document improves the perception of secure title while the government moves to establish more formal tenure security over time. The government revised its laws to quickly transfer properties to heirs so they would be eligible for housing assistance. When a will did not exist, the heir could submit an affidavit with signatures from other heirs that he or she was the rightful owner, allowing for increased security over the right to the land.

6.1 Inclusive partnerships

However, active and innovative policies and management tools for the adequate provision and distribution of land are not enough. Inclusive partnerships and pro-poor institutional arrangements are critical, particularly promoting the participation of the urban poor, local government agencies, civil society, and private enterprise, including financial institutions.

Habitat for Humanity Hungary is implementing advocacy strategies to provide and publicize evidence that high housing rental prices affect large numbers of people in the country, and that these effected people are at risk of becoming homeless. By engaging the media and hosting public conferences, Habitat for Humanity Hungary exposes weaknesses and loopholes in the laws regulating rental housing, then proposes amendments and develops case studies to share with public actors in hopes of achieving country-wide policy changes.

Given the complexity of land markets, it will be critical that those committed to improve the lives of urban dwellers find ways of working closely together in order to align and integrate their respective efforts in an effective way. Including both rural and urban land focus partners allows for a strengthening of rural/urban linkages around land that will be critical to NUA implementation.

This means working together within domains (practitioners working with practitioners, public sector agencies working with other public sector agencies, etc.) as well as across domains (CSOs working with private sector firms, technical experts working with the public sector, etc.). It will also require bringing together a wide range of expertise, tenure specialists, infrastructure engineers, financial experts, and developers, to come together in collaboration.



In Honduras, Habitat for Humanity is methodically engaging CSOs and local government in each municipality to work on the formulation and adoption of improved municipal housing and land policies, forming a diverse commission to develop recommendations, negotiating approval of the recommendations and monitoring their implementation. To date, the commissions have successfully advocated for adoption of more than 150 improved housing and land policies. A diagnosis of the challenges identified 28 issues to be addressed in the creation of land policies. A recent study of 35 municipalities showed that funding for land and housing increased by \$11.7 million in 2015, which benefited approximately 29,800 families and actively engaged over 20 government agencies as well as NGOs in the implementation process.

Recognizing that collaboration is time consuming and complex, organizations must figure out how to cover the costs of engaging in such collaborations – and donors must see the value in cross-sectoral partnerships and provide financial support to those efforts. Time horizons must account for the time for collaborations to effectively form and take root. Monitoring and evaluation capacity must be established at the beginning of these collaborations, and the partners need to be ready to adapt and adjust to ever evolving conditions in the communities where they work. Technology is expanding and broadening the ways in which we participate, collaborate, map and bring evidence to promote change.

CSOs are now playing an important role promoting changes in policy and systems at local, national, regional and global levels. We do not need to do this alone and there is a need to leverage partnerships and networks. Networks such as the Global Land Tool Network have provided space for partnerships with CSOs and other land actors to influence the NUA to ensure that housing and land remains at the center of implementation strategies. Habitat for Humanity International’s Solid Ground Campaign is also bringing different partners together to support advocacy efforts. These efforts are brought to the ground level in partnership with others, ensuring implementation of urban policies and systems across a wide range of actors.

7. CONCLUSION AND RECOMMENDATIONS

Land governance will increasingly become important as countries move forward in implementing the NUA. This is in view of expanding populations and the need for provision of affordable and secure land and shelter. At the same time rural areas should not be ignored since development and land reforms in rural areas can contribute to reduce the flow of people into towns and cities and therefore be an important part of the solution. Some key steps that can be taken to improve the level of land governance in and expand equitable access to all for all includes:-



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- i. **Ensure tenure security for all** by ensuring no one is left behind with regard to land rights. This is through respect of human rights and prevention of forced eviction by recognizing and safeguarding all legitimate land tenure along the continuum of land rights.
- ii. **Integrate human rights, accountability mechanisms and complaint mechanisms in laws, policies and programmes.** Similarly urban renewal, urban regeneration and the redefinition of public spaces and allocation of land needs to be done for inhabitants and with their meaningful participation
- iii. **Integrate in laws and policies the social function of land,** including its impact on the realization of human rights, as crucial elements for the creation of sustainable cities and the realization of SDGs.
- iv. **Promotion of the recognition of the ‘continuum of land rights’** since it offers an alternative approach to the dominant focus on titling of individually held private property as the ultimate form of tenure security, or the end goal of land tenure reforms. The ‘continuum of land rights’ promotes recognition and increase of security across the continuum, with opportunity for movement or transformation between different tenure forms. This is because a significant portion of land interests around the world are not recorded, leaving a large number of people vulnerable to land grabbing by the state and other powerful interests. This also means adopting the fit-for-purpose land administration approaches and tools that promotes securing land rights at scale.
- v. **Ensure that both men and women enjoy equal access to land and property rights.** A gender responsive approach is essential to address persistent inequalities which in most cases discriminate against women. This is through working towards secure land and property rights for all, by promoting and supporting pro-poor and gender appropriate land policies, tools and approaches within the continuum of land rights framework.
- vi. **Put in place an in-depth framework that analyses specific requirements or indicators** on security of tenure for example women’s land rights to assess whether they are on the right track. Such frameworks should be supported by disaggregated data collection for use in monitoring interventions and inform evidence-based decision-making
- vii. **Strengthen capacity of a range of stakeholders,** in particular grassroots women’s organizations, to collectively turn commitments into actions and leverage on existing skills and build on skills that needs to be built. is critical. Through partnerships, grassroots women organizations for example, will obtain the relevant skills to use various innovative strategies and tools to secure their land rights



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- viii. **Making urban land markets more effectively for all.** Land markets in developing countries are largely distorted and skewed towards the minority high and middle-income earners (UN-Habitat, 2011). This situation results in slum dwellers often paying more for land, infrastructure and other basic services compared to their richer neighborhoods located in better parts of cities and towns. It is therefore important for municipalities or local authorities to put in place or improve regulations on land markets through implementation of equitable land and property tax systems, reduce land speculation and improve land-use planning.
- ix. **Promote a more holistic view of urban and rural.** It is now recognized that the urban-rural divide is artificial and no-longer tenable and hence a growing appreciation that the two are interconnected in larger system characterized by the dynamic flow of goods, finances, resources and people.
- x. **Put in place land based financing mechanisms that benefit all.** This is through establishing transparent, fair and effective land value sharing mechanisms that foster the availability of more resources to support public investments and services for local development through for example property taxes, land value capture, developer exactions, betterment levies, sale of development rights, transfer taxes and stamp duties.
- xi. **Put in place an enabling and responsible land governance framework.** This includes elimination of administrative and political corruption, fraud and clientelism in land administration and management; promotion of accountability, transparency and participation by all when managing land; recognition of the right to adequate housing in national and urban legislation with available and accessible recourse mechanisms; establishment and implementation of national land policies, laws and standards in accordance with international law; creation of simple, flexible, affordable procedures and standards adjusted to local requirements; putting in place customer-friendly delivery systems that are effective and efficient, accessible and affordable, accountable and transparent, that use digital and communication technologies as well as the wide range of data and information, including geospatial information; and transparent and responsible public land management;
- xii. **Promote inclusive and effective partnerships, collaboration and coordination at all levels.** This will contribute to strengthening of strategic and results-based collaborative alliances for sharing of ideas and knowledge, developing synergies, building on comparative advantages and avoiding duplication of efforts in the area of land sector support. Inclusive partnerships and pro-poor institutional arrangements are also critical, particularly in promoting the participation of the



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- urban poor, local government agencies, civil society, and private enterprise, including financial institutions.
- xiii. **Promote participatory and inclusive urban land governance** through more efficient planning, better land administration using ‘fit-for-purpose’ approaches, land readjustment, land pooling coupled with inclusive partnerships at all levels that go down to the organized grass-roots communities
- xiv. **Urban development and planning processes should be informed by risk considerations.** Through mainstreaming risk-based approaches into urban governance and planning processes and capacity strengthening initiatives for example, national, municipal and local governments would enable the integration of climate/disaster risk management concerns in local and urban development plans and investments
- xv. **Promotion of both adaptive and preventive strategies to increase access to land for housing,** including land-pooling or land readjustment leveraging on public land in partnership with the private sector and with informal developers, strategic expansion of secondary infrastructure and vacant land taxation. These can be used both to increase the supply of affordable (and serviced) land for adequate and affordable housing as well as neighborhood upgrading.

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