HOUSING AND LAND RIGHTS NETWORK
Habitat International Coalition

Human Rights Habitat Observatory
Restoring the human rights and habitat approaches to the global development agenda

Gains and Losses of Habitat III

Whenever a global policy comes under periodic review and reconsideration, that process holds the prospects of both shedding former principles and enshrining new ones. The new formulation does not promise to be more progressive or more appropriate than its predecessor, despite popular expectations. Rather, it often involves a struggle to salvage former achievements and commitments, while seeking new ones that reflect lessons learnt, greater clarity of concepts and evolutionary practice to face new challenges.

Looking back on the Habitat III process culminating in the "New Urban Agenda" (NUA), an inventory of the normative gains and losses is essential to assess the global progress—or retrogression—of collective standard setting that is supposed to address persistent and emerging challenges. As with other UN conferences and policy-making processes, the minimum standard calls for the renewed commitments to realize the UN System's integrated purposes of peace and security, forward development and human rights, as provided in the UN Charter.

Most such UN conferences have issued declaratory instruments to guide states' individual and collective, domestic and extraterritorial efforts toward greater achievement of those global purposes and goals. However, the Habitat III Secretary General and UN Habitat's Executive Director Joan Clos proposed a "radical shift" that envisioned a clean break from the past, in particular from the foregoing agreements at Habitat I (1976) and Habitat II (1996).

The first and second rounds of the UN Conference on Human Settlements crystalized the "habitat" concept as a needed "regional and cross-sectoral approach to human settlements planning, which places emphasis on rural/urban linkages and treats villages and cities as two ends of [i.e., points on] a human settlements continuum in a common ecosystem."[1] The Habitat III Secretariat abandoned that holistic and integrated approach to sustainable development with the suggestion that

[1] Habitat Agenda (1996), para. 104, http://www.un.org/en/events/pastevents/pdfs/habitat_agenda.pdf. The only mention of "ecosystem-based approaches" is relegated to a reference to the Sendai Framework for Disaster Risk Reduction (2015–30) in the NUA (para. 77).

"inevitable urbanization" occasioned a top-down shift to replace the more-universal vision of previous Habitat Conferences.

In 2016, those foundational Agendas were replaced instead by an "urban agenda" that reflects ways to capitalize on unchallenged and unchallengeable urbanization. The preceding Agendas' central commitment to "balanced rural and urban development" gave way to favoring and celebrating exclusively the urban context, seeking to exclude rural people and issues except in the interest of serving cities, despite the 2030 Sustainable Development Agenda pledge to "leave no one behind" and the global alarm at urbanization's contribution to destructive climate change.

Another fundamental difference at Habitat III was the effective shift from the commitment to a human rights approach and an explicit focus on good governance and social justice that were central to Habitat II. Although the NUA dutifully mentions the human rights principles of equality, nondiscrimination, accountability, and solidarity, it does not stress existing legal obligations of states or operationalize the "indivisibility of human rights" framework, leaving little guidance on how to operationalize those standing treaty-bound duties.

The NUA dropped the Habitat II commitment—repeated 61 times in 1996—to "the progressive realization of the human right to adequate housing," replacing that with three less-committal references to "a view to progressively achieving the full realization of the right to adequate housing (para. 13.a) and promoting policies that support that right (para. 31) and that "we will foster" its realization (para. 105).

The Habitat Agenda (1996) enshrined a commitment to "prevent and redress forced evictions" and "end homelessness." Habitat III reflects no such promise and reflects little understanding to address those violations of the human right to adequate housing and their structural causes. The NUA's more-ambiguous language refers to promoting "adequate and enforceable regulations to combat and prevent speculation, displacement, homelessness and arbitrary forced evictions" (para. 111), as well as to "prevent arbitrary forced evictions" and to "focus on homelessness" (para. 31).

Thus, the NUA text is notably more aspirational and less operational that its Habitat Agenda predecessors. The negotiations, in particular during the 3rd Preparatory Committee meeting in July 2016, accommodated United States and Canadian efforts to insert the redundant qualification of the unwanted forced evictions as "arbitrary," as if forced evictions could be anything but arbitrary by their legal definition.

The Vancouver Action Plan of Habitat I (1976) recognized how "The ideologies of States are reflected in their human settlement policies" and warned that "These being powerful instruments for change, …must not be used to dispossess people from their homes and their land, or to entrench privilege and exploitation." Such recognition of root causes of violations and the normative guidance toward rectifying them fell off the Habitat III negotiation table, deferring rather to the welcome role of

business and the private sector (48, 53, 82, 126, 132, 139–43) and development banks (82, 132, 139–40, 142) toward realizing habitat rights.[2]

In related omissions, Habitat III and the resulting NUA avoided such burning issues as the global migration crisis, the ongoing violent destruction of human habitat, the dilemmas of urbanization in the context of climate change, the unprecedented income and wealth disparity embodied in urban development, and the need for state support for people's social production of habitat. The refusal of Habitat III and the NUA's failures to incorporate those lessons form an indelible part of its legacy going forward.

At the same time, the NUA enshrines some positive, new concepts, although not in the language of commitments or operational specificity. For example, it "envisages" cities and human settlements that "fulfil their social function, including the social and ecological function of land" (13(a), 59). That vision is welcome, but remains without operational legs in the NUA.

Certain positive contributions of the Habitat III outcome align with other long-advocated terminology, not least the Agenda's introductory "Shared Vision" recognizing the "right to the city" concept and vision that "some national and local governments…enshrine…in their legislation, political declarations and charters." As gratifying as that recognition is to urban social movements promoting the "right to the city" claim and corresponding governance principles, the NUA subordinates these under a "vision of cities for all." That term is not habitual, yet undefined and seemingly coined only for the special occasion of Habitat III, were it not for an important book of similar title published by Habitat International Coalition (2012) and specifically dedicated to the right to the city.

Other positive achievements of the Habitat III process include its NUA's consistent recognition that urban development must seek gender equality and that gender-sensitive policies and approaches constitute the standard of the current period. Also, thanks to vigorous lobby efforts, not least by our friends and colleagues in the Huairou Commission, the NUA gives special recognition also to the needs and participation rights of persons with disabilities and the commitment to combat discrimination against them. However, Russia and Egypt will remain forever on record as the states that militated against recognition of discrimination on the basis of sexual identity and orientation, as well as states' obligations to eliminate that form of discrimination.

The NUA is replete with gains and losses in comparison to its forebears. At Habitat III, Habitat International Coalition issued its position statement on the remaining gaps and unaddressed priorities of the next 20 years of the new global policy's implementation. Since the NUA's adoption, HIC has been engaged in a consultative process of assessing with Members those gains and losses. The outcome of that review will serve as a guiding basis for the Coalition's monitoring and evaluation of the new normative instrument and its implementation. HLRN is positioned to lead HIC's Human Rights Habitat Observatory in the coming years to monitor the Habitat III commitments, as it has done in the post-Habitat II period.[3]

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[2] Commission on Human Rights, "forced eviction," resolution 1993/77, 10 March 1993, http://www.hlrn.org/img/documents/ECN4199377%20en.pdf; and "Prohibition of forced evictions," resolution 2004/28, 16 April 2004, para. 1, http://www.hlrn.org/img/documents/E-CN_4-RES-2004-28.pdf.

[3] Declaration on Cities and Other Human Settlements in the New Millennium, A/RES/S-25/2, 9 June 2001, para. 66, http://www.un-documents.net/s25r2.htm.

Habitat I, II, III

All three iterations of the global policies on the human habitat—Habitat I, at Vancouver (1976); Habitat II, at Istanbul (1996) and Habitat III, at Quito (2016)—address common issues. Therefore, many features of the "New Urban Agenda" (NUA) are *not* new, but remain constant, if at varying levels of commitment, throughout the past four decades.

What's Old in the New Urban Agenda

These continuing challenges and impediments to sustainable development identified in the three UN Conferences addressing:

- Local government and local authority roles in implementation;
- Responsible land administration;
- Climate change;
- Adequate housing for all;
- Alien and colonial domination, foreign occupation;
- Economic imbalances and poverty;
- Organized crime and terrorism;
- Social inclusion and cohesion;
- Adopting healthy lifestyles in harmony with nature;
- The rural-urban nexus;
- The range of housing and land tenure forms;
- Discrimination, including its multiple forms;
- Ending epidemics (e.g., AIDS, tuberculosis and malaria;
- Ensuring public participation;
- Combatting homelessness;
- Rural-to-urban migration;
- Increasing urbanization;
- Coordination among ministries and all actors;
- Special challenges in African countries, least developed countries, landlocked developing countries and small island developing States, as well as the specific challenges facing middle-income countries;
- Preserving natural and cultural heritage;
- Forced eviction;
- Security of tenure;
- Renewable energy;
- Green public spaces;
- Safe drinking water and sanitation;
- Safe, nutritious and adequate food;
- Waste disposal;
- Sustainable, people-centered, age- and gender-responsive and integrated approaches to urban and territorial development;

- Culture and cultural diversity as sources of enrichment of human settlements;
- Informal settlements and "slums";
- Elimination of harmful traditional practices, especially against women and girls;
- The need to address the root causes;
- Land-value capture/social created values in development;
- Popular participation and community-driven development;
- Partnerships in implementing the Agenda;
- Collaboration of institutions in research, development and finance;
- Decentralization.

Habitat I marked a turning point toward a holistic (habitat) approach to physical and social development across all human settlements, and featured a commitment to a more socially equitable administration of land.

The two main pillars of Habitat II outcomes were (1) the reaffirmation of states' human rights obligations related to human settlements and habitat, and (2) a commitment to good governance principles in balanced rural and urban development. The key to achieving these ends was "the progressive realization of the human right to adequate housing," repeated 61 times throughout the document.

Habitat III proffered a narrower urban-only agenda without any reference to the human rights obligations of states, asserting that urbanization was the *new* priority. The leaders and followers of the process avoided reference to, and evaluation of the previous Habitat Agenda commitments, as if starting from scratch to devise a global policy for cities.

Habitat III was not the third UN Conference on Housing and Human Settlements, but rather the first UN Conference dedicated only to "urban development." This "fresh start" approach of the "New Urban Agenda" (NUA) abandoned some previous Habitat Agenda commitments, while reintroducing others. It also resulted in some new features, reflecting current priorities and lessons learnt since 1996, although separate from any lessons derived from Habitat II implementation. The following is an inventory of the gains and losses of Habitat III, as reflected in its outcome document, the NUA.

What Was Lost

In summary form, the following list captures the values of previous Habitat Agendas lost in the New Urban Agenda (NUA):

- No reaffirmation of previous Habitat Agenda commitments;
- No committal language in the NUA, but only vague references to "promoting," "attempting," "fostering," "striving" and other qualified terms where effective measures and steps are required to achieve change or progress;
- NUA abandoned the "habitat" concept, previously defined as a planning, implementation and governance approach that considers villages and cities as points on a human settlements continuum, within a common ecosystem"[1];
- No mention of rural people in NUA;

- The former commitment to "balanced rural and urban development" is replaced only by recognition of related concepts (see **What We Salvaged** below);
- The Habitat II promise of local governments as "our closest partners" has been dropped;
- No NUA reference to treaties and corresponding state obligations, except for mention of the Paris Agreement (NUA: 79, 85); (Habitat II acknowledged state obligations under seven human rights and humanitarian treaties);
- No reaffirmation of the obligation to respect, protect and fulfill the human right to adequate housing, except for a reference to "fostering" that right (NUA: 105);
- No inclusion of previous Habitat II commitments to "prevent and redress forced evictions" (H2: 98), except for references to "arbitrary forced evictions" (NUA: 31, 107, 111), as if any force evictions could be anything but arbitrary;
- No reference to women's human rights, but reference to achieving gender equality and the empowerment of all women and girls (NUA: 5, 13.c).

What We Salvaged

Habitat approach:

References to "rural-urban interconnection and interactivity" (50); "rural-urban linkages" (28, 71), "territorial systems/planning" (15.c.iii, 49, 92, 96, 98, 101, 117, 123, 136), "rural-urban continuum" (49, 72, 95, 96), "coherence with rural development" (26, 88) and the claim that the NUA is "universal in scope" (16) could be interpreted in a holistic sense, but without the pledge to balanced rural and urban development.

Normative framework:

The NUA is "grounded in the Universal Declaration of Human Rights, international human rights treaties, the Millennium Declaration and the 2005 World Summit Outcome…and informed by other instruments such as the Declaration on the Right to Development" (NUA: 12), reaffirming the principles of the Rio Declaration on Environment and Development (NUA: 18), but no mention of specific treaties or corresponding obligations.

What's New in the "New Urban Agenda"

Certain new ideas did find their way in the reiteration of the global policy on human settlements development. Some of these are positive, while others are either negative or problematic.

Positive:

- A vision of land and cities fulfilling their social functions (13.a, 69);
- Leave no one behind, by ending poverty in all its forms and dimensions (14.a, 27);
- State-supported social production of habitat" (31, 46)[4];
- Usage of the term "decent work" (13.c, 43, 56–57, 62);
- Recognition of the contributions of informal, migrant, unpaid and domestic workers (59, 100);

[4] *See Housing in the City We Need*, Barcelona Urban Thinkers Campus, 16–18 November 2015, pp. 4, 10, https://www.hic-net.org/es/event/barcelona-urban-thinkers-campus-housing-in-the-city-we-need/.

- Prioritize local production of goods and services (70);
- Social and environmental function of land (69);
- Avoid gentrification (97);
- Inclusion of older persons (20, 34, 42, 113, 134, 148, 155–56);
- Prevent and counter stigmatization of groups as posing inherently greater security threats (103);
- Maintain genetic diversity of seeds (123);
- Public participation in financial management oversight (138);
- NUA dropped the former commitment to cost recovery for services (H2: 89.e);
- Takes into account the new generation of global policy commitments and their follow-up (6–7);[5]
- Preserving both tangible and intangible natural and cultural heritage (38);
- "Promoting affordable and sustainable housing and housing finance, including social habitat production" (46);
- Positive measures to combat and eliminate homelessness and its criminalization (33).

Negative or problematic:

Common usage of the term "resilience," without accountability for the shocks that call for recovery, as in "resilience of urban inhabitants" (80);
Promoting "sustainable debt management" (90, 139);
"Cities for all" undefined and subordinating the "right to the city" (11);

What's Missing in the "New Urban Agenda"

States and the Habitat III Secretariat drafters rejected or omitted some important issues, concepts, language and commitments, despite their support by advocates from the various deliberative forums of the Habitat III process. Notably, these include:

- The focus on citizenship as a value in participatory democracy and sustainable development (especially for youth, policy makers, *et al*);
- The human rights-based approach;
- Remedies and commitments to remedy inequities and disparities, including reparations[6] for victims of gross violations of human rights such as forced eviction3;
- "Build-back-better" and "resilience" concepts and principles need to be considered in the context of efforts to rectify the root causes that gave rise to them;
- LGBTQI2S;

[5] "2030 Agenda for Sustainable Development, including the Sustainable Development Goals, the Addis Ababa Action Agenda of the Third International Conference on Financing for Development, the Paris Agreement adopted under the United Nations Framework Convention on Climate Change, the Sendai Framework for Disaster Risk Reduction 2015–2030,4 the Vienna Programme of Action for Landlocked Developing Countries for the Decade 2014–2024the SIDS Accelerated Modalities of Action (SAMOA) Pathway and the Istanbul Programme of Action for the Least Developed Countries for the Decade 2011–2020. We also take account of the Rio Declaration on Environment and Development, the World Summit on Sustainable Development, the World Summit for Social Development, the Programme of Action of the International Conference on Population and Development, the Beijing Platform for Action, the United Nations Conference on Sustainable Development, the World Humanitarian Summit and the follow-up to these conferences" (6–7).

[6] Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, A/RES/60/147, 21 March 2006, http://www.un.org/Docs/asp/ws.asp?m=A/RES/60/147.

- Affirmation that human rights are universal, indivisible and interdependent;[7]
- Needed revision of urban/physical planning curricula consistent with social justice and human rights criteria;
- Recognition of "spheres" of government, not "tiers" (15.c.i, 46, 147), while recognizing "the leading role of national Governments," as appropriate, in the definition and implementation of inclusive and effective urban policies and legislation for sustainable urban development (15.b);
- Social function also of "property" (omission in 13(a), 59), not treating property simply and as sacrosanct, advantaging slum lords in resettlement and reparations projects;
- Any critical review of the assumptions and policy options concerned with the unquestioned projections of population growth and urbanization, as if both were "inevitable" and beyond human choice.

Next Steps and Challenges

Near term

- Access the Green Climate Fund, the Global Environment Facility, the Adaptation Fund and the Climate Investment Funds, as well as subnational and local financial institutions among others, to finance change-adaptation and mitigation plans, policies, programmes and actions for subnational and local governments (143).
- IT solutions, digitalization and e-government (156, 160).
- Support community-collected data (157, 159).
- Reference to progress toward "a global people-based definition of cities and human settlements (158).

Implementation, monitoring and evaluation:

The NUA provides for a form of monitoring and evaluation of its implementation. However, reference to these indispensable functions is made in the considerably weaker terms of "follow-up and review." The Habitat Agenda set out specific roles and responsibilities for UN Habitat, among other partners, to implement it, including the UN General Assembly (UNGA) assigning UN-Habitat to operate a "Habitat Agenda Task Manager System."

However, the NUA leaves the responsibility for these roles and function to be determined later, presumably within the comprehensive system to implement the priority 2030 Sustainable Development Agenda and Paris Agreement on climate change. The NUA refers to UN Habitat only as "as a focal point on sustainable urbanization and human settlements…in collaboration with other United Nations system entities" (171). In the next paragraph, the states called for an independent assessment of UN-Habitat that produces recommendations to enhance the effectiveness, efficiency, accountability and oversight of UN-Habitat, while proposing reconsideration of the agency's governance structure.

The NUA does call for certain steps within a timeframe. It calls for a report of the Secretary General with "voluntary inputs from countries" every four years (166), beginning with the 72nd GA session (2017–2018).

[7] That is, as indicated in the Vienna Declaration (1993), and reaffirmed in the Millennium Declaration (2000) and the Declaration for the 60th Anniversary of the United Nations (2005); and that, therefore, not only is the realization of economic, social and cultural rights indispensable for the full exercise of political rights, but at the same time only the exercise of civil and political rights permits the participation in the decision-making mechanisms that may lead to the achievement of economic and social rights.

However, this schedule is bound to create asymmetry with the periodicity of the new governance structure and the 20-year cycle of the NUA itself. In addition, the near-term processes include:

1. An independent assessment to analyze UN Habitat's:

(a) normative and operational mandate;
(b) governance structure, for more effective, accountable and transparent decision making, considering alternatives;
(c) work with national, subnational and local governments and relevant stakeholders;
(d) financial capability (172).

2. A two-day UNGA session during 2017 to consider NUA implementation and UN-Habitat positioning within it (173)[8];

3. States and relevant regional and international organizations are to report to the UNGA on the progress of the implementation of the New Urban Agenda every four years, starting in the UNGA's 72nd session (2017–18);

4. UNGA consideration to convene Habitat IV in 2036 (174);

5. A UN Secretary-General report in 2026, taking stock of NUA implementation.

Longer term

While building upon the NUA, other longer-term objectives remain as a matter of advocacy and further normative development, including:

- Measures are to be consistent with the Paris Agreement (79);
- Urge to states not to take unilateral measures (85, 113);
- Urban agriculture and farming (95);
- Sustainable production and consumption (10, 13.h, 95);
- Recognition of land, energy and transport as codified human rights, citing related NUA commitments.

Conclusion

The vision of a "new urban agenda" fails to uphold the "habitat" approach of previous Habitat Agendas. It provides little encouragement to those seeking transformational change such as the needed shift from unlimited "growth"-based economic ideologies within the finite planet, a departure from privatizing public good and services, ending war, or regulation of hoarding land, real estate and other forms of wealth at the expense of the many.

Private interests appear to drive the NUA more than previous global policies; however, further review holds opportunities for more socially oriented implementation and the monitoring of NUA "commitments" within the prior, permanent and binding frame of human rights treaty "obligations" as proposed in the Human Rights Habitat Observatory and its complementary approach.

[8] Summary by the President of the General Assembly of the high-level meeting on the effective implementation of the New Urban Agenda and the positioning of UN-Habitat in this regard (New York, 5-6 September 2017), https://www.un.org/pga/71/wp-content/uploads/sites/40/2017/07/Summary-Report-of-HLM-of-NUA-and-UN-Habitat.-final.pdf.