

Monday, June 6, 2016

Statement on the “Zero Draft of the New Urban Agenda”  
for the informal hearings of stakeholders June 6 – 8 in New York

## Include social regulation of real estate markets into the Habitat III agenda!

The signatories of this statement are among the authors of the open letter dated 31 January 2016: “Make social regulation of real estate markets an issue at Habitat III” (again attached). Most of the positions expressed in the following have been discussed among the networks that supported that letter. However, the undersigning persons can only speak for themselves and the indicated organization they represent.

### 1

We remind the Habitat III Secretariat, Bureau and other drafters of the Habitat III outcome document’s Zero Draft, as well as call upon all stakeholders to take serious notice of the concerns of international and national networks and organizations have addressed in their open letter: “Make social regulation of real estate markets an issue at Habitat III” (again attached). With the exception of two DGs of the European Commission, we are missing any official response to our letter. Neither Habitat III officials nor governments have responded. At the same time, some of our concerns have been reflected in the outcomes of regional and thematic meetings, but not reflected in the Zero Draft.

We still maintain since the beginning of the Habitat III process that what we need is a New Habitat Agenda (not a narrower, divisive and inoperable “urban agenda”). Such a reconsideration of the standing Habitat Agenda must embody a commitment of the world community to global development that does not put profit over people, but builds social rules for governments, property and financial markets.

After reading the Zero Draft, we can acknowledge progress in some principals and proposed recommendations (see point 2 below). However, we are still **missing any systematic debate on the role of global financial markets**, the consequences of the crisis or the growing role of transnational corporations, private equity funds and securitization in housing and other real estate markets. While we find some general recommendations regarding the regulation of planning, construction and land registration, we do not find any reference to the needed and possible instruments for social regulation of the private real estate, mortgage and land markets. We are missing any specific recommendation for rent control as a means toward ensuring security of tenure, as well as for the protection of consumers and housing rights in loan agreements. While the document recommends “mechanisms to capture the increase in land and property value” and demands “fair taxation,” we would expect a much more-developed strategy toward an effective and fair taxation of property transactions and rental income, in order to reduce speculation and gentrification and, at the same time, redistribute resources into social housing needs.

While we agree to the recommendations toward a public supply of affordable land for housing, we would like to see corresponding recommendations with regard to public finance for housing. While we welcome the addressed need to shift from the total dominance of private homeownership ideology toward an acknowledgement of the role of rental housing and co-op solutions, we are disappointed not to find clear language to support social public housing. What is principally missing as well is a concrete proposal for the improvement of the living conditions in non-authorized settlements, including the rights of tenants in cases of regularization.

It seems that these deficits are the outcome of a principal error, as well as an error of principle. The document generally does not address the centrality of previous Habitat Agenda commitments to human

rights and of the corresponding obligations of states. This is particularly true for the human right to adequate housing, which is enshrined in numerous treaties and international instruments. The single, perfunctory mention of “the right to adequate housing” in paragraph 28 is not sufficient.

The Zero Draft does recognize the New Agenda as relevant to all the SDGs. This is especially important as at least six of the SDGs relate to land and all involve local authorities and local governments. However, the **Draft does not explicitly align with the Sustainable Development Goal target 11.1**, which promises “access for all to adequate, safe and affordable housing and basic services and upgrade[d] slums by 2030.” It principally fails to adopt the holistic and planetary approach of SDGs, *inter alia*, the commitment to reduce inequality between countries.

The Zero Draft authors’ retreat from foregoing human rights commitments leaves no wonder that we cannot find clear language prohibiting **forced evictions** in the text. Also the huge problems of **corruption** and of **autocratic governments, authoritarian and market driven urban transformations, social and ethnical cleansing** and many other **discriminatory practices** apparently are not important enough to make it into the Zero Draft, despite their manifest impediments to the human right to adequate housing and sustainable development of human settlements at any scale. To wit, the Draft does not even recognize the extraordinary challenge to human settlements and their sustainable development posed by violent conflict, occupation and war, which form the escalating reason and context for much destruction of indigenous human settlements and demolitions of homes, confiscation and foreclosing of lands and territorial waters, illegal extraction of natural resources, the plunder of cultural and natural heritage, internal and external displacements, as well the cause for tens of millions of migrants and refugees to seek safe alternatives to live and, thus, heavily increase the housing demands in many countries, foremost among them poor and developing ones.

In light of memorable and cyclical financial crises and other recent revelations, the Zero Draft does not even meet the 20-year-standing Habitat Agenda commitments to maintain just macroeconomic policies [Habitat Agenda, paras. 40(a), 62, 65, 67(b) 115, 186(d), 189(b) and 201(b)]. The pledged support for, and demands upon all spheres of government and public service—under “Building the Urban Structure”—can be met only within a responsible and transparent macroeconomic system that enables all spheres of democratic governance simultaneously to combat corruption, including off-shore tax havens, and properly allocate public resources in a context of international cooperation whereby states fulfill their extraterritorial obligations to each other, as well as to respect and protect the human rights of all. However, the Zero Draft remains silent on these indispensable aspects of the global economic order.

There will be no solution to the housing and urban crisis as long as these distortions in the macroeconomic system prevail, while the dogma of austerity rules in all spheres of government in many states. The envisaged solutions to overcome the housing shortage remain dreamy without **good global governance**, while requiring **massive public funding** and **popular participation**.

The “radical” paradigm shift claimed in the Zero Draft does not manifest in the current version. In some respects, it reads like a document “out of time,” without acknowledging major impediments to sustainable human settlement development witnessed in our daily news. The dominant macroeconomic order and the impunity for war crimes and crimes against humanity remain two main challenges for a social and sustainable spatial development that call for effective measures in Habitat III.

## 2

Nonetheless, in the Zero Draft of the mistitled “New Urban Agenda,” we welcome, in particular, the following points:

It is an indicator of progress that the commitment to “leave no one behind” (para. 6) now is expressed with respect to the global effort to overcome poverty and urban inequity. However, the Zero Draft still misses an opportunity to make the New Habitat Agenda relevant to the implementation of *all* SDGs. The second principle “*achieve sustainable and inclusive urban prosperity and opportunities for all*” is a questionable outcome of the narrowing of the Habitat Agenda, because the “prosperity” objective here is reduced to only the “urban” half of humanity and obviously purveys a problematic economic vision of growth, especially in connection with “competitiveness.”

Other principles in section A are welcome; however, the recommendations on implementation in section B generally could be more concrete.

We share the view that decision making and planning processes need to be more **participatory and democratic** (7g, 8a, 9b, 23, 30, 44, 87, 102, etc.). We also share the view that strategic urban planning is a must (104). However, urban planning is a public good and service integral to realization of the human right to adequate housing. We would expect similar recognition and more solid and specific commitments in the New Habitat Agenda.

We welcome some of the points in the statement on **land** (105–107), in particular:

- The combination of fiscal, urban planning, and urban management tools, including land market regulations to ensure the **capture and distribution of the value created** as a result of the process of urbanization and avoid speculative practices (105).
- The enhancement of the **public supply of affordable land for housing**, including land in the center and consolidated areas of cities, and encourage mixed-income development to offset segregation, to secure **land tenure in informal settlements**, and to introduce efficient legal and technical systems to capture part of the land value increment accruing from public investment (106).
- **Strong land management institutions** that deal with land registration and governance, implementing a transparent and efficient land use, property registration, and sound financial system. (107).

However, we are worried that the **protection of the commons** and of traditional land rights against commodification and land grabbing are not mentioned.

We welcome the aim to put **housing at the center of development** strategies (109) and the mentioning of participatory planning (108) in this regard. However, it should be clarified that **the human right to adequate housing** should be at the centre of the development of human settlements. Much more should be said on implementation.

It is encouraging that the Draft seems to **overcome the totally discredited private home ownership fetish**, and addresses rental and cooperative housing, as well as community land trusts in 110: *"We will consider policies that promote a wide range of alternative housing options, considering shifting from a predominantly private ownership to other rental and tenure options, including cooperatives solutions such as co-housing and community land trust, in order to improve the supply of affordable housing, as well as to adopt policies that support incremental housing and slum/informal settlements upgrading programs."* This denotes real progress, even compared to Habitat II, but it must be followed with lively and concrete action.

We are gratified to find language on the **regulation of housing** in 111: *"We will promote regulations within the housing sector, including building codes, standards, development permits, land use by-laws and ordinances, and planning regulations, ensuring quality and habitability. In this regard, planning initiatives should avoid peripheral and isolated mass housing schemes detached from the urban system."* It is disappointing, however, that the regulation of financialized markets such as mortgage, securitization, property transaction, corporate landlords and developers is totally missing. Regarding mass housing, we propose more-positive language, like: *"guarantee the inclusion of new settlements into existing spatial patterns and the social and physical infrastructure."*

We totally agree about the need to **shift from car-orientated policies** toward a massive increase in public transport, walking and cycling, as well as the avoidance of transport needs through mixed use and the inclusion of affordable housing (112).

We applaud the mention of the **human right to water** in 120. We had wished to find more references to human rights, where appropriate, also regarding the human right to adequate housing.

We welcome also the aim to **"implement specific mechanisms to capture the increase in land and property value** generated by public investments, including the increased value of residential and commercial buildings brought about by provision of economic and social infrastructure and quality public space. Measures will be put in place to prevent its solely private capture as well as land speculations, by introducing **fair taxation** and site and city-wide redistribution of gains with the aim to ensuring the contribution of land owners to a more equitable urban development."

## 3

**We demand/expect:**

The New Habitat Agenda (not "Urban Agenda") must propose a commitment of the world community to the idea of a global development that does not put profit over people, but builds social rules for governments, property and financial markets that guarantee the human right to adequate housing and to all other services and infrastructures necessary for an adequate standard of living and well-being. This in particular requires social regulation of real estate markets at all levels and a provision of relevant social alternatives to private home ownership, private landlords and private finance. If the HIII process does not address the fundamental causes of segregation, exclusion and inequality in human settlements or include corrective measures, the subsequent Agenda will be another failure, squandering so many precious resources.

The three transformative principles should be specified as:

- (a) **Social human rights as the driver** of change toward cities for all, which must stop exclusion and guarantee equal access to resources;
- (b) Well-being, human rights and an adequate standard of living for all as international aims that result in **state obligations toward social regulation of markets and the provision of needed services and infrastructures** the markets do not provide;
- (c) Sustainable, resilient and social human settlements as a binding commitment for **integrated policies at all levels**. We acknowledge also that resilience, though a laudable pursuit, is not sufficient to prevent or remedy the crises and their effects as addressed in the Zero Draft. While we all share responsibility for sustainable development in the face of disaster risk, many human-made crises and disasters demand accountability and liability for harm caused by the commission or omission of responsible parties. In such cases, resistance, reparations and remedy are the required measures to avoid, resolve and deter the consequences of such crises and disasters of both cyclical and protracted nature.

The New Habitat Agenda must include a clear commitment to the **right to stay put**, which requires a principal of strengthening **security of tenancy and tenure** in its diverse forms in all countries. The global community must call for a ban on evictions without proper established safeguards, relocation in the same neighbourhood and respect all the human rights. The New Habitat Agenda should remind all stakeholders that forced eviction is a "gross violation of human rights, in particular the human right to adequate housing" and subject to prosecution of perpetrators and reparation for victims. It should include recommendations for the implementation of policies for concrete alternatives.

**Rent control** must be implemented for all tenants, for new rental agreements, as well as for sitting tenants.

**Enforceable rights to adequate housing** must be guaranteed by public institutions at different levels, which implies concrete policies in order to empower public institutions to uphold this human right in their relations to real estate and financial markets. This applies in both urban and rural areas, since we observe the same unfair trends affecting peasants and indigenous people, and not only city dwellers.

In all countries, we need **effective taxation of real estate transactions** to reduce gentrification and speculation, and to generate revenue for public-housing support. Vacant buildings should be subject to special tax and penalty. Public requisition of empty buildings and squats should be considered as legitimate for meeting social needs.

The New Habitat Agenda should express commitments to social and collective (not only private-property-based) solutions for the **regularisation of non-authorized "spontaneous" neighbourhoods**. Tenants in "informal" neighbourhoods and in the regularization processes must be respected as citizens with equal human rights, not least the human right to adequate housing.

Social housing needs never can be met by private markets alone. People with low and medium income in all countries and cities need structures of housing provision that do not pursue profit maximization, but are directly dedicated to a social purpose. Therefore, the ongoing **privatizations of public and social housing, publically regulated housing finance, urban planning and development must be stopped and reversed**.

There will be no solution to the housing and urban crisis as long as the dogma of austerity rules policies at all levels. We need **massive public funding** in order to overcome housing shortage. Mindful that popular housing solutions, by actual number of units, far outstrip both private and public sector production

combined, we urge the recognition of “state-supported social production” that the Barcelona UTC on “Housing in the City We Need” has proposed.

Essential to the New Habitat Agenda are firm commitments with respect to the rights of all workers, as well as inhabitants, to express, organize, strike and collectively bargain and negotiate **in order to achieve collective solutions**. The New Habitat Agenda should recognize squatting, rent strikes and other forms of peaceful protest and self-help as elements of rights-based spatial development. This approach does not question, but underlines and supports both the authority and obligation of constitutional states to prevent and remedy all violations of the human right to housing.

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