



Communiqué: The first meeting of the Platform for Urban Planning Law Reform in Sub-Saharan Africa

A gathering of urban planning and legal experts under the auspices of the African Centre for Cities and the Association of African Planning Schools, at the Rockefeller Foundation Centre in Bellagio July 24th-26th 2012, agreed the following:

Preamble

There is an inevitable shift of Africa's population from a rural to an urban context, as well as a rapidly growing contribution of urban economies to national economic growth. Peri-urban areas are undergoing rapid transition. In many countries these transitional areas are governed separately from the core cities and effective management of the transition therefore often requires solutions across jurisdictional boundaries.

The role and importance of cities and towns on the continent needs to be accepted and embraced given that urbanization is a key factor in economic growth. The development and implementation of more appropriate law will yield substantial economic benefits, unleashing the potential of the continent's cities to drive national and regional economic growth. Moreover, there is an opportunity to address these urban problems now before the scale of urbanization makes it far more difficult to address them, as has been the case in other parts of the world.

For this reason there is an urgent need to promote urban and planning law reform in Sub-Saharan Africa where, in many countries, unreformed, outdated or unimplemented laws are unable to respond to the many new forces now shaping urban settlements. They contribute directly to the perpetuation of urban problems.

While the focus of the meeting was on urban planning law, this is too restrictive a lens through which to examine the legal systems and legal tools that determine how towns and cities are planned and managed. Instead the term 'urban law' will be used, to confirm that there is a wider range of laws that also have to be reformed if urban planning and management is to meet the needs of Africa's cities. The meeting acknowledged that initially its expertise and competence lay primarily in the field of urban planning law, but that it is no longer helpful to

refer to urban planning law in isolation: it must be seen as part of a bigger, constantly evolving body of urban law.

Hence:

1. The new key urban issues to which urban law must respond are: urban growth along with the emergence of extensive peri-urban areas; inadequate infrastructure; large and growing poor populations with inadequate shelter and services; climate change and natural resource depletion, including the encroachment of settlement onto productive farmland; new interest in investment in urban economies and urban land; and growing forms of urban crime and violence, often as a result of land and service shortages; and inadequate provision and maintenance of infrastructure and services, and the need for participatory urban governance. New, more appropriate urban law has the potential create the conditions for economic growth, social development and environmental sustainability.

2. Inadequacies in legal frameworks mean that countries and cities are unable to capitalize on the opportunities for growth and development offered by urban centres, but these inadequacies entrench and reinforce unacceptable injustices in relation to land and housing rights in urban areas, and are directly exacerbating the socio-spatial problems that have accompanied urban growth.

3. Urban management in Africa continues to suffer from un-coordinated and un-integrated policy arenas leading to fragmented and wasteful development of urban infrastructure and land.

4. Urban form in many urban areas (monofunctional and low density areas in some parts of the city, high levels of private car dependence and hence major traffic congestion, low-income residential areas in remote locations etc) has added to the marginalization of the urban poor and greatly reduced the efficiency of urban areas.

5. The financing of cities needs urgent attention if urban governments are to address the rapid growth of demand for land and services.

6. Strengthening civil society organizations and democratic governance on the continent are providing an important opportunity to develop new urban law as a partnership between such institutions and organizations, that will be accepted and supported by a broad base of the population.

7. There is an urgent need to address the issue of education, training and capacity building to produce new professional urban practitioners – especially lawyers, planners and land surveyors - who are aware of the new challenges to urban development in Africa and are equipped to use new urban and planning policies and laws. Currently many curricula used to train such practitioners are also very outdated.

Given the above there is an urgent need to consider urban law reform which:

1. Starts with the premise that there needs to be a mind-shift regarding the permanent presence of poor households in towns and cities. Urban residents must be accorded the right to live and work securely and have say in the governance of the towns and cities in which they live. The laws and rules that make access to formal land and housing opportunities unaffordable for the majority of citizens have to be changed to take into account the dominant reality of widespread poverty, without ignoring essential health and safety concerns.
2. Achieves justice in relation to urban land, housing and governance, in order to overcome the injustices entrenched in much of existing planning law and practices which prevent the large majority of urban populations from attaining land and housing rights. Without justice there cannot be stability in cities and without stability there cannot be economic growth.
3. Achieves principles of environmental sustainability and puts in place the legal and policy pre-conditions to protect cities from the effects of global warming and climate change.
4. Ensures that land use change and land development are accompanied by the necessary level of infrastructure and services provision.
5. Acknowledges the reality of customary and traditional law and informal practices which currently play a major role in shaping urban land use, and works with the positive and socially just elements of these frameworks to fashion new urban law appropriate to the continent's needs and context.
6. Recognizes the fundamentally contested nature of urban law and urban law development processes. Such processes cannot be purely expert-driven but must emerge from a co-production process based on partnerships between government, the private sector and social movements. They cannot repeat the mistake of the past where law and policy development was a top-down and non-participatory process.
7. Considers the need to consolidate urban and planning law within a coherent framework of national urban policy.
8. Respects the constitutional powers and obligations of local government to carry out its urban governance mandate effectively.
9. Considers the principle that such law needs to be made understandable and accessible to lay-persons. Also considers that forms of 'guidance' rather than laws may be more appropriate in some circumstances where there are major implementation capacity constraints.
10. Considers five areas for specific intervention in the urban legal order. These are areas in which the current legislation and practice is inadequate and in which far-reaching change is

needed. The precise way in which each of these areas is addressed has to be determined on a country-by-country basis due to the specific contextual requirements of each country's urban and legal systems (recognizing that laws in various and pluralistic legalistic traditions differ significantly). The five areas are:

- I. The process of making and implementing urban plans.
- II. Guiding and controlling urban land use and development as well as the regularization of informal settlements.
- III. The structures and processes of urban governance and urban finance.
- IV. The processes of conceiving, drafting and implementing new legislation.

The meeting therefore agreed to consider a long-term strategy to bring about urban and planning law reform on the continent which consists of:

1. The development of a long-term vision for law reform in partnership with relevant development agencies (UN Habitat, World Bank, Cities Alliance, bilateral donors etc), institutions, civil society movements (SDI, WIEGO etc), professional associations and educational networks (AAPS etc), on the continent. In all these partnerships it is important to draw on both people and organizations from the urban and legal disciplines.
2. A range of activities consisting of regular meetings, knowledge production (research, manuals and guidelines), educational curricula reform, coalition building, influence of major African decision and policy-making bodies (eg AU, UCLGA, AfDB etc), linkages with civil society movements.
3. The conclusions of this meeting will be taken forward to the September 2012 World Urban Forum in partnership with UN Habitat.

The interim institutional home for this strategy is the African Centre for Cities, University of Cape Town, and the Association of African Planning Schools, in partnership with UN Habitat.

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Signed at Bellagio on July 26th 2012

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