



Urban Agenda Platform

The global platform for sharing progress, action and knowledge on the implementation of the New Urban Agenda to achieve sustainable urban development.

Latin American Urbanistic Agreement: Legal Implementation of New Urban Agenda and SDGs

Region	Latin America and the Caribbean
Themes	Capacity-Building Human Rights Urban Governance and Legal Frameworks Others
Geographic scope	Regional
Sustainable Development Goals	Goal 11 - Make cities and human settlements inclusive, safe, resilient and sustainable Goal 16 - Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels
New Urban Agenda Commitments	Sustainable Urban Development for Social Inclusion and Ending Poverty Sustainable and Inclusive Urban Prosperity and Opportunities for All Building urban governance structures to establish a supportive framework

Summary

Within the framework of the implementation of the New Urban Agenda Habitat III and the ODs of the United Nations, the College of Urban Jurisprudence, CNJUR International, together with multiple actors from society and local governments, has launched a Legal Crusade that aims to develop a Latin American Binding Agreement based on the principles of the New Urban Agenda, founded on a new Guaranteed Urban Constitutionalism, based on the Recognition, Protection, Development and, Balance of Human Rights that make up the Right to Habitat; the creation of a new legal system for planning and comprehensive design of the territory, balancing human rights in space, the creation of licenses and comprehensive tools for managing the territory, the recognition of binational and international conurbation zones and the creation of a true urban justice system that understands people's feelings and problems.

Background and Objective

Within the framework of the implementation of the New Urban Agenda Habitat III and the ODs of the United Nations, the College of Urban Jurisprudence, CNJUR International, together with multiple actors from society and local governments, has launched a Legal Crusade that aims to develop a Latin American Binding Agreement based on the principles of the New Urban Agenda, founded on a new Guaranteed Urban Constitutionalism, based on the Recognition, Protection, Development and, Balance of Human Rights that make up the Right to Habitat; the creation of a new legal system for planning and comprehensive design of the territory, balancing human rights in space, the creation of licenses and comprehensive tools for managing the territory, the recognition of binational and international conurbation zones and the creation of a true urban justice system that understands people's feelings and problems.

After the Habitat III Conference, the UN-Habitat office for Latin America and the Caribbean, and the Economic Commission for Latin America and the Caribbean ECLAC, designed -with the consultative participation of CJUR International - the Regional Action Plan for Latin America and the Caribbean on Cities and Human Settlements 2016-2036 (PAR); a document that is a plan for the governments of Latin America and the Caribbean, created jointly by members of civil society, the private sector and by governments at all levels. It sets out the political priorities and the actions to be adopted in the regional implementation of the international commitments expressed in the New Urban Agenda, adopted at Habitat III. The PAR defines guidelines to develop key tools and instruments in the implementation of the New Urban Agenda for Latin America and the Caribbean. That is: the PAR constitutes the mechanism to specify the issues of the New Urban Agenda at the level of each Latin American and Caribbean Nation.

In this context, since 2015, CJUR International has introduced the themes described above in the activities of the UN-Habitat World Urban Campaign for the action of the City we Need, as well as in the debate with ECLAC and UN-Habitat in the work sessions for the Implementation of the New Urban Agenda, and the Conformation of the PAR Regional Action Plan. These interventions highlight the need to have a Binding Agreement (mandatory) for Latin America derived from Habitat III, focused on legal urban planning that guarantees human rights, a comprehensive and interdisciplinary vision of urban planning, and Urban Justice.



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In this context, CJUR International, together with the UN-Habitat Office for Latin America and the Caribbean, promoted the celebration of a Point of Agreement in the XXVII General Assembly of Ministers of Housing and Urbanism of Latin America and the Caribbean (MINURVI) held between October 24 to 26, 2018 in Buenos Aires to "Work on the proposal for an urban agreement for Latin America and the Caribbean." This forum, established in 1992, is the main instance for political agreement, coordination, and regional cooperation on housing issues and sustainable urban development in the region.

Proposing a regional urban agreement in the MINURVI declaration in the joint Latin American agenda represents a great step to guarantee and accelerate compliance with the New Urban Agenda in the region.

The Declaration of Buenos Aires establishes: "To work on the formulation of a Latin American and Caribbean Urban Development Agreement, to generate links, based on the United Nations legal system, which serves as a basis for the adaptation of national and sub-national legislation and regulations of the Region."

As has been said, around this project there are years of work and articulation before and after the Habitat III Conference. The need and opportunity to create this agreement has been closely linked to the work process for the development of a Regional Action Plan (PAR) for the implementation of the New Urban Agenda (NAU), both due to the participation of the same actors, as well as for the gaps found for its success in the coming years.

More specifically, the International Urban Jurisprudence College (CJUR) and public, private, and civil society actors proposed the need for an agreement for Latin America and the Caribbean derived from Habitat III, centered on three essential axis:

1. A legal urbanism that recognizes, guarantees, and repairs human rights in all normative instruments: Constitutions, laws, regulations, plans, programs, and government actions.
2. A comprehensive and interdisciplinary vision of urban planning that considers different regulatory aspects that affect space and territory: Risks, vulnerability, environment, climate change, urban planning, cultural heritage, economy, property regime, territorial registry, among others.
3. Urban justice that guarantees effective access for any person or group that needs to demand and guarantee rights through clear and expeditious procedures to protect these rights. This urban justice must also guarantee courts and interdisciplinary international and national organizations specialized in urban matters, clear means of proof, and systems of responsibilities for violation of rights.

Latin America and the Caribbean is the only region with a plan focused on its specificities and that shares common legal challenges, such as the lack of adequate legislation to achieve the objectives of the New Urban Agenda, the excess of technical regulations, the inadequacy of regulations to reality and urban problems, contradictory regulations, permanent conflicts of constitutional and legal competence between authorities and little effectiveness of laws to guarantee rights, among others.

The agreement proposes to incorporate in the regional strategic agendas the central objective of promoting the common principles of Latin American legal urban planning based on the instruments of international law, the New Urban Agenda, and the Regional Action Plan for Latin America and the Caribbean.

It will be up to the new MINURVI secretariat, in 2022, coordinated by Chile, to advance on this regional agreement to create true accelerators that allow the effective implementation of the New Urban Agenda through common legal principles for the Region. Meanwhile, the agreement continues as an element of exchange in the various spaces of articulation between regional actors that work on norms, laws, and rights, as has been the case in the "Urban Thinkers Campus: Legal Implementation of the New Urban Agenda", coordinated by CJUR, ECLAC and the World Urban Campaign (UN-Habitat) in several Latin American countries; the panel "Strengthening the Implementation of the New Urban Agenda through Urban Legislation" during the Cities Conference, as well as during the "International Seminar: Urban Control and the New Urban Agenda" held in Medellín, Colombia, during the last years. An intense process of reflection, debate and social proposal is in the process to materialize a joint action that seeks to guarantee rights and promote the democratization of legal urban knowledge to achieve citizen processes of governance and accountability at the local level.

Outline of activities over the last four years

- Conferences and events at a global level within the framework of the World Urban Campaign of the UN-Habitat Program, through the celebration of Urban Thinkers Campus and Urban Labs, where the central theme is the creation of a new urban legal paradigm for Latin America through the celebration of a Latin American Urban Agreement.
- Creation of a network of interdisciplinary legal experts promoting the Latin American Urban Agreement.
- Participation in World Urban Forums in Kuala Lumpur and Abudhabi where the Latin American Urban Agreement project is presented as an accelerator for the implementation of the New Urban Agenda and SDG 11.
- Adoption of point of agreement on the proposal for an urban agreement for Latin America and the Caribbean approved at the XXVII General Assembly of Ministers of Housing and Urban Development of Latin America and the Caribbean (MINURVI) held between October 24 and 26, 2018 in Buenos Aires. This forum, established in 1992, is the main instance for political agreement, coordination, and regional cooperation on



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housing issues and sustainable urban development in the region.

- Edition of bibliographic material
- Joint work with the UN-Habitat Office for Latin America and the Caribbean, as well as with the Economic Commission for Latin America and the Caribbean ECLAC regarding the promotion and implementation of the Latin American Urban Agreement, before national and subnational authorities and international agencies.

Outcomes and Impacts

In Latin America, we are still far from implementing the New Urban Agenda through common legal principles that can be developed by the countries of the Region.

Within the various events, congresses, International Conferences, and Urban Thinkers Campus convened by CJUR International within the framework of the UN-Habitat World Urban Campaign, various approaches related to existing legal problems in urban planning in Latin America have been collected, recurrently highlighting among them the following:

- Legal regulations originally founded on Soft Law: Lots of politics and policies, little law.
- Almost null constitutionalization of urban planning in Latin American nations.
- Disparity of isolated urban norms: some of principles and declarations without specification (they recognize rights, but do not develop them); others of preponderant planning but not of urban management, and many of real estate regulation or urban use but without principles (they only regulate the right to build).
- Multiplicity of concepts without systematization.
- Confusion and regulatory contradiction of authorities, with the consequent conflicts of jurisdiction.
- New territorial phenomena without constitutional response, as in the case of the metropolis.
- Multiplicity of orders of different nature.
- Normative obesity.
- Excessive technical standardization
- Overlapping of regulatory orders/layers in the territory: Environmental, Climate Change, Cultural, Tourism, Investment and Trade, Economy, Property and Possession, Rural-Agrarian, Urban Planning, Cadastral, Registry.
- Urban problems that require the simultaneous intervention of various layers-legal orders and powers.
- Human rights recognized (in a generic way) but without effective legal mechanisms to guarantee them.
- Citizens do not have a legal framework to be co-creators of urban regulations.
- Social actors, in general, are not creators of government urban decisions, since these are considered a monopoly that exclusively holds authority.
- People do not understand or know the legislation or planning instruments and this automatically leads to key decisions remaining in the sphere of specialists always with sectoral interests.
- Legislation that does not recognize -or does so insufficiently- electronic urban planning or management systems.
- Rigidity in the interpretation of the Law or too much flexibility-arbitrariness.
- Urban phenomena faster than the vision of the Law (regulatory obsolescence).
- Absence of Judicial Institutions to guarantee rights or deficiencies in the administration of urban justice.
- Minimal possibility of effective access to justice, few specialized courts.
- Long jurisdictional processes.
- Sentences that are not executed effectively.
- Multiplicity of procedures and requirements for urban management real estate processes.
- “Copy-paste” of laws and regulations.
- Lack of technical legal professionals knowledgeable in Urban Law.
- Null evaluation of the effectiveness and compliance with urban legislation.
- Ignorance in law knowledge and application.
- Insufficiency of the institutions to solve urban problems.
- Distrust of citizens regarding the Law, Policies, projects, acts, and Urban Programs.
- Urban legal planning is obsolete and sectoral: it does not consider all the layers that affect the territory.
- Legal planning is obsolete and ineffective because it does not establish compliance and evaluation measurements based on the satisfaction of collective interests and human rights. It is left to the political criteria of compliance.
- The urban planning that we have is abstract, generally one-dimensional, it does not specify the regulations in the territory nor does it develop measures to protect human rights.



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- Absence of Law or “legality” with slowness, obesity, multiplicity, rigidity, arbitrariness, contradiction, illegitimacy, ignorance, corruption, violation, and lack of normative application.

Notwithstanding the foregoing, Latin America constitutes the ideal space for the development of binding legal instruments on common urban issues due to the similarity of their social and judicial systems, the shared history and language, and the parallelism in their urban, rural and environmental difficulties. Likewise, even though the Habitat III Conference is part of the international Soft Law instruments, there is unanimous consensus on its political and legal implementation by the member countries of the United Nations. The framework of the Regional Action Plan for Latin America and the Caribbean, as well as the coordination between national authorities within the Assembly of Ministers of Urban Development and Housing of Latin America and the Caribbean MINURVI, constitute the ideal time to accelerate the implementation of the principles agreed upon in Habitat III.

Achievements

The creation of a new paradigm of urban legal science through a Latin American Urban Agreement:

- a) It will allow the development of principles and rules for a new Latin American legal urbanism, contained in a Regional Urban Agreement, which accelerates the effective implementation of the New Urban Agenda and the UN-Habitat ECLAC Regional Action Plan, which considers the territory as an integral object of regulation, and normatively specify the right to the city.
- b) Develop new methodologies for legislation and planning instruments that recognize, develop, guarantee and materialize Human Rights in urban and rural population centers, as well as define regulations to prevent and repair human rights violations that make up the right to the City.
- c) Proposes the establishment of courts, prosecutors, mayors, ministries, and experts specialized in urban matters, made up of experts from different disciplines.
- d) Promotes awareness and training campaigns for authorities and citizens regarding the importance of legislation and knowledge of human rights, to guarantee peaceful governance and the construction of a new paradigm: Guaranteed urban democracy

Partners

- Colegio de Jurisprudencia Urbanística/ Association of Urbanistic Jurisprudence CJUR Internacional
- Regional UN Habitat Office for Latin America and the Caribbean
- Economical Commission for Latin America and the Caribbean
- Ministerio Público de la Defensa de la Ciudad Autónoma de Buenos Aires Argentina
- Instituto Polis Brasil
- Instituto Brasileiro de Direito Urbanístico
- Centro Nacional de Estudios Jurídico Urbanos México
- Municipalidad de Riobamba Ecuador
- Global Platform of the Right to the City