

SDG 11

Commodification over community: financialization of the housing sector and its threat to SDG 11 and the right to housing

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SDG 11, “Make cities and human settlements inclusive, safe, resilient and sustainable” has the right to adequate housing at its core. Target 11.1 commits governments, by 2030, “to ensure access for all to adequate, safe and affordable housing and basic services [...]” All of the other targets under SDG 11 flow from this: upgrading informal settlements, ensuring access to transportation that connects homes to places of work and social services, ensuring participation in the planning and management of human settlements, and ensuring protection from the effects of natural disasters. All of these commitments have long been recognized as central obligations of States with respect to the progressive realization of the right to adequate housing. The greatest challenge to the realization of this right by 2030 is posed by the unprecedented dominance of financial corporations in the housing sector.

What is unique and of historic significance about SDG 11 and its targets is that it commits States to a firm timeline for realizing the right to housing. Until now, States have hidden behind misinterpretations of the “progressive realization” language of the International Covenant on Economic, Social and Cultural Rights (ICESCR) to justify their prevarications and inactions, with disastrous consequences for the lives of those affected. They can no longer adopt a ‘maybe later’ approach. They have made firm commitments to meeting goals and timelines for the realization of the right to housing. They must act and achieve results in a 15-year period.

Recognizing SDG 11 as a human rights obligation provides a transformative framework through which a political commitment lacking a detailed framework for implementation can be transformed into something more practical and realizable.

Attaching human rights to SDG 11 provides a way of governing, a system of norms and values to inform decision-making, policy, planning and development, and a way to empower residents to hold States and other actors accountable.

Dominance of financial corporations in the housing sector

Across the globe, the greatest challenge to the realization of the right to housing by 2030 is posed by the unprecedented dominance of financial corporations in the housing sector. What is sometimes referred to as “corporate capture” in other spheres has occurred in a singularly far-reaching and systemic manner in the housing sector in the last quarter century. Historic, structural changes in housing and financial markets and global investment have occurred in recent years. Rather than being valued as a place to live in a community, housing has become a commodity to be bought and sold for profit, valued as security for financial instruments that are traded in global markets and treated as a means to accumulate massive wealth for a few while rending housing

¹ This article is based on the 2017 report of the Special Rapporteur on Adequate Housing to the Human Rights Council, see UN Human Rights Council (2017).

unaffordable for others. These global challenges to the human right to housing are generally referred to as the “financialization of housing”. The term refers to the way capital investment in housing increasingly disconnects housing from its social function of providing a place to live, to the way housing and financial markets are oblivious to the role housing plays in the well-being of people and communities. In short, the financialization of housing stands in direct opposition to the idea that housing, as a human right, is linked to personal dignity, security and the ability to thrive in communities.

The pace and extent to which financial corporations and funds are taking over the housing sector is staggering. Global residential real estate is now valued at US\$ 163 trillion, more than half of the value of all global assets and more than twice the world’s total GDP.² Banks, pension and hedge funds, private equity firms and other kinds of financial intermediaries seek out housing in ‘hedge cities’ as a safe haven to park excess capital, often benefiting from tax shelters. Housing prices are no longer commensurate with household income levels, and instead are driven by demand for housing assets among global investors – rising in many cities by more than 50 percent in a five-year period.³

Fluctuations in markets driven by the dynamics of global capital rather than by the need for housing have become the dominant force in the housing sector. When housing prices skyrocket, low and sometimes even middle-income residents are forced out of their communities by high rent or mortgage costs. When housing prices plummet, residents face mortgage foreclosure and homelessness. The devastation of lives and the scale of evictions and displacement by inadequately regulated corporate financial markets is unprecedented. In the USA, in the five years following the financial crisis, over 13 million foreclosures resulted in more than 9 million households being evicted.⁴ In Spain, more than

half a million foreclosures resulted in over 300,000 evictions.⁵ Evictions of this scale should give rise to international outrage about violations of the right to housing. Yet the ravages of corporate finance and global financial markets have largely escaped human rights accountability.

Rather than responding to these crises by ensuring that governments and financial corporations are held accountable to the right to housing, the prevalent pattern has been for governments to be made accountable to private equity markets and credit rating agencies. Housing crises have prompted governments to relinquish control of housing assets and financing to private equity firms, selling off vast amounts of housing and real estate assets at bargain prices to corporate actors. Austerity measures have been designed more to meet the demands of private equity lenders than the needs of those without housing, imposing further privatization and deregulation and creating even greater long-term vulnerability to market forces.

In developing economies, even informal settlements have become subject to speculative investment. Residents are displaced and often rendered homeless to make way for luxury housing that often stands vacant. And even when informal settlements are upgraded, while meeting a critical need (as envisaged in target 11.1), this has usually been initiated within a framework of public-private partnerships (PPPs) that serve in the long term to reinforce privatization. Rather than supporting and building upon community based social production of housing on land treated as a common good, ‘slum upgrading’ usually enlists corporate actors both in the production of housing and in the provision of credit; imposing individualized property titles, private ownership and reliance on global financial markets. In both the global North and the global South, models of housing and land as social goods have been subverted in favour of housing as a commodity for the accumulation of wealth.

2 Savills World Research (2016), p. 4.

3 Sassen (2016).

4 Sassen (2014), pp. 5 – 6 (based on data from RealtyTrac 2007, 2008, 2009, 2010).

5 Observatori DESC/Plataforma de los Afectados por la Hipoteca (2013), p. 12.

Reclaiming OUR public transport

BY ALANA DAVE, INTERNATIONAL TRANSPORT FEDERATION (ITF)

Urban transport is a sector where the industrial and the political are very closely linked. Public transport is an essential service relied upon by millions of people globally. Public authorities are lead industry players in both their role as employers and political decision-makers. The sector has massive strategic importance in the economic and social life of cities. So for labour, the struggle for power is not only in workplaces with employers (private and/or public) but also in the public sphere where decision-making about the ownership, control, organization and financing of public services takes place. For many years, ITF affiliates have opposed the neoliberal model of privatization and deregulation, supporting public ownership and investment in infrastructure and operations, as well as democratic accountability in how public money is spent. It is recognized that this shift is now much more urgent given the climate crisis.

Urban transport unions occupy an important strategic position in cities. But their ability to win in industrial disputes has been seriously weakened and undermined by a massive offensive against unions and workers, including the ability to take strike action. The ITF is focusing on rebuilding industrial muscle in targeted cities and different transport modes, and at the same time positioning ourselves

politically to fight for a public transport system that meets the needs of the majority of people as well as the environment. We are reclaiming the meaning of the ‘public’ in the interests of social and environmental justice, rather than markets and private profit.

OUR public transport should ensure:

- The needs and rights of millions of **workers** who rely on public transport for their jobs and keep public transport moving.
- The rights of public transport **unions** around the world who have built and improved the sector by negotiating better terms and conditions of employment for workers.
- The needs and rights of millions of **informal workers** who rely on providing public transport for their livelihoods.
- The needs and rights of millions of **ordinary people** who rely on public transport to move around cities.
- The needs and rights of millions of **ordinary people** who still do not have adequate access to public transport.
- The needs and rights of **discriminated or marginalized groups**

such as women, elderly people, young people and people with disabilities.

What are our goals? We aim to build union strength across integrated public transport systems, and strengthen organizational and employment rights for workers and unions. In the long term, we aim to win alternative models of public transport based on decent work and democratic public ownership. Not everyone has a say in how public transport is run, and for whose benefit. Too often public transport planning does not include the views of the real experts – workers and passengers. Through organizing passengers and building strategic alliances, we will raise the visibility of workers and passengers’ stories, experiences and needs.

As Francisco Mora, President of the ITF affiliate SNTT in Columbia says:

“I believe we are not just transport workers - above all we are all transport users – and so are our families and friends. We need to make sure that transport in big cities becomes more humane and that profit is not put before the needs of people.”

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The dominance of corporate financial actors in decision-making about housing and real estate and the loss of models of independent governance through which financial actors and markets can be adequately regulated has been gradual and often invisible. The trend has now become quite stark, with the unprecedented, visible role of real estate billionaires in government and policy-making in the USA and elsewhere. The corporate capture of democratic governance affects all sectors, but it is particularly all-encompassing and systematic in the sphere of housing and real estate.

The financialization of housing is a three-fold assault on human rights. First, financialization undermines democratic governance and community accountability. When the housing sector is dominated by corporate financial actors, governments tend to be held accountable and responsive to international financial institutions and creditors rather than to human rights and housing needs of communities. Decisions about housing — its use, its cost, where it will be built or whether it will be demolished — made from remote board rooms are fundamentally disconnected from rights holders. This undermines effective human rights accountability and is contrary to target 11.3, which calls for participatory, integrated and sustainable human settlement planning in all countries. Second, financialization of housing exacerbates inequality and social exclusion, making it difficult to achieve SDG 10 on reducing inequalities and SDG 16 on peaceful, just and inclusive societies. It creates more wealth for the wealthy and deprives the poor of housing and communities. And third, financialization detaches housing from the human rights values of living within a community, in equal dignity and security – the values that ought to define housing. When housing is bought and sold as a speculative commodity rather than valued as a place to live, it becomes dehumanized. Investors' rights to expected profits, protected in trade and investment agreements are protected by courts and tribunals while residents whose rights to housing are being systematically violated are denied access to justice.

The shift to a human rights paradigm for the realization of SDG 11

Financialized global markets are too often seen as external forces beyond the control of States. However, financialization is in fact a product of State action and inaction - sustained by and supported by States. It relies on the judicial enforcement of agreements between lenders and borrowers, on laws governing property rights, zoning and land use laws and policies. It relies on an increasingly complex system of international and regional treaties negotiated by States governing the terms and conditions of investments and government actions that may impact on profitability. States and governments are perfectly capable of redesigning laws and policies governing housing and financial markets to recognize the centrality of the right to adequate housing-providing they are allowed to implement them. The ability of States to perform this task is central to the realization of SDG 11. It will require a significant transformation of current systems of law and accountability and new avenues of access to justice, at the local, national and international level. Tall asks that are nevertheless not out of reach.

The reclaiming of human rights within the housing sector from the dominance of corporate finance will mean asserting both the role of rights claimants and at the same time, demanding that government at every level, from the local to the national, fulfil its obligations to respect, protect and fulfil the right to adequate housing. These obligations must be understood not only in the context of government programmes to provide housing but also in the context of governments' role in regulating private actors and financial markets.

The obligations of States in relation to the financial sector have often been ignored or interpreted too narrowly. The default position, bolstered by the ideology of neoliberalism, is that States should simply allow markets to work according to their own rules, subject only to the requirement that private actors “do no harm” – however they understand it – and avoid explicit violations of human rights. What is often missing from the discussion is an understanding that corporate actors must comply with domestic

laws and regulations and that these must be designed by States in a manner that is consistent with the right to housing. This means, for example, that while there may not be an obligation under international human rights law requiring private corporations to provide affordable housing to those in need, governments may in many circumstances have an obligation to impose that requirement on prospective developers. It will be important, in the realization of SDG 11, to draw on the immense amount of capital available for investment in housing. But it is up to States to ensure that investments in housing are consistent with the realization of the right to housing. States cannot simply rely on private actors, through due diligence, to design housing policy capable of realizing SDG 11. They must actively develop and implement new approaches to investment to ensure that result.

A human rights approach will build on innovative models of housing production and growing resistance to the financialization of housing emerging in communities around the world. Residents are demanding that vast amounts of vacant housing controlled by speculators be made available to those in need, that developers be required to build housing that is affordable and designed for and by the community, and that courts protect the right to housing. Residents of informal settlements are demanding new models of upgrading based on community practice and social production. Communities are demanding a significant change in the governance of housing and land, rejecting the commodification of housing in order to retrieve what housing means in terms of human dignity and security, as a lived experience, as a human right. Some local governments are pleading for recognition of the central role they can play in facilitating and supporting these types of community responses to financialization, as well as advocating with other levels of government for the necessary legislative, policy and fiscal changes.

A number of States have instituted restrictions on foreign purchasers of residential real estate and others have imposed taxes on vacant or luxury homes. Some jurisdictions have introduced a property speculation tax and others have been successful at requiring developers to change plans for luxury housing into inclusive development that meets the needs of resi-

dents. Other governments such as the autonomous regions of Andalusia and Catalonia in Spain, have introduced legislation that explicitly affirms the social function of housing and facilitates temporary expropriation of vacant housing.⁶ Domestic courts have increasingly recognized their critical role in applying domestic law consistently with the right to housing, by, for example, refusing to enforce foreclosures or evictions that would result in homelessness.⁷

While these measures are important beginnings and can mitigate the effects of the financialization of housing, a more fundamental shift is also required. SDG 11 and the New Urban Agenda (adopted at the Habitat III Conference in Quito, Ecuador in October 2016) provide an important opportunity to replace the commodification of housing as a vehicle for the accumulation of wealth with the human right to housing, for dignity, security and sustainable communities. Central to making that shift will be a more robust engagement by States with financial markets, regulatory bodies and private equity firms to ensure that housing investment and development initiatives are consistent with States' obligations to realize the right to housing by 2030. Courts must begin to interpret and apply all domestic laws in manner which takes seriously the obligation to realize the human right to housing within a reasonable period of time, by all appropriate means, as binding obligations on all levels of government. The commitments made under SDG 11 can be referenced to that human rights obligation. National human rights institutions must monitor the effect of investment on the right to housing and SDG progress and hold governments and private actors accountable for violations and lack of progress. Trade and investment treaties must ensure that States are fully empowered to regulate and direct private investment so as to ensure the realization of the right to housing. Emerging work in the area of business and human rights should be more

6 Comunidad Autónoma de Cataluña, BOE-A-2015-9725. Junta de Andalucía, BOJA nº 69, Decreto-Ley 6/2013: Art. 2,3,4.

7 Committee on Economic, Social and Cultural Rights, General comment No. 7; Wilson (2009); City of Johannesburg Metropolitan Municipality v Blue Moonlight Properties 39 (Pty) Ltd and Another (CCT 37/11) (www.saflii.org/za/cases/ZACC/2011/33.html).

rigorously applied to the largest sphere of global business – the sphere of housing and real estate. Financial institutions and housing investors should be encouraged to adopt guidelines that recognize the important role that they must play in the realization of the right to housing.

The implementation of the 2030 Agenda is the right time to insist that human rights obligations be recalibrated to address the immense challenges of the financialization of housing and redirect the vast resources available toward the realization of the right to adequate housing.

References

- Observatori DESC/Plataforma de los Afectados por la Hipoteca (2013):** Housing emergency in Spain: The crisis of foreclosures and evictions from a human rights perspective. Barcelona. <http://observatoridesc.org/sites/default/files/2013-housing-emergency-spain-observatory-desc.pdf>
- Sassen, Saskia (2016):** The Global City: Enabling Economic Intermediation and Bearing its Costs. In: *City and Community* 15:2, pp. 97-108. <http://onlinelibrary.wiley.com/doi/10.1111/cico.12175/epdf>
- Sassen, Saskia (2014):** Finance as Capabilities: Good, Bad, Dangerous. In: *Arcade: A Digital Salon*. <http://arcade.stanford.edu/occasion/finance-capability-good-bad-dangerous>
- Savills World Research (2016):** What price the world? Trends in international real estate trading. London. <http://pdf.euro.savills.co.uk/global-research/around-the-world-in-dollars-and-cents-2016.pdf>
- UN Human Rights Council (2017):** Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context. Geneva (UN Doc. A/HRC/34/51). http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/34/51
- Wilson, Stuart (2009):** Breaking the tie: evictions from private land, homelessness and a new normality. In: *South African Law Journal* 126:2, pp. 270-290. http://abahlali.org/files/Breaking_the_Tie.pdf

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