

Concept note

'Urban Law Day 2015'

6 July 2015

EFFECTIVE LEGAL FRAMEWORKS AS A TOOL FOR SUSTAINABLE URBAN DEVELOPMENT

Purpose

The Urban Law Day is a specialised forum aiming to bring together a multidisciplinary circle of academics and practitioners interested in urban legislation, including planners, architects, policy makers, economists, urbanises, and lawyers. The purpose of the Urban Law Day is to facilitate discussion, the exchange of views, networking, and the presentation of new research findings or emerging issues. The second Urban Law Day will take place on 6 July 2015 at the Institute of Advanced Legal Studies (University of London), and will address the role and importance of effective functioning legal frameworks for sustainable urban development.

Background

The issues at hand and their implications on sustainable urban development

Legal frameworks and the institutional structures they establish are foundational elements in urban development strategies. They are the means for implementing the policies determined by legislative and executive authorities and they are central to delivering the rights and protections that societies offer to individuals and groups.

Central elements of urban legal frameworks, such as those regulating urban planning and development control, are not functionally effective in a large proportion of developing and least developed countries. They are often based upon foreign models, which may be technically sound in an abstract sense but provide for ambitious frameworks with multiple interlocking elements that seek to manage the detailed evolution of cities. While these legal frameworks propose detailed management, they frequently fail to provide municipal leaders with the land acquisition, financial or social tools that they need to actually make the framework happen. These technical challenges are enough on their own but, in all but the rarest of cases, they are combined with major resource constraints. Many least developed, and a number of developing countries have limited skills bases, particularly in government service. They are also unable to secure the financial resources necessary to fundamentally impact the shape of their cities. While the combination of these factors may vary, the result is almost always that legal frameworks for urban

development are poorly implemented, if they are implemented at all. This does not mean that the legal frameworks are good and that challenges can be addressed by an implementation ‘silver bullet’: the legal frameworks are not implemented because they are not relevant.

The complex or inappropriate nature of technically driven legal frameworks means that they are not implemented as intended and activity on the ground becomes a series of ad hoc ‘one offs’ instead of part of a predictable and systematic pattern. Complexity and administrative discretion also creates a prevalent trend of unaccountability and lack of access for vulnerable groups, particularly the poor, youth and women. They are unable access economic and social opportunities and are often deprived of basic rights. In addition to limiting government ability to deliver policy, the weakness of legal frameworks limits local government abilities to develop revenue streams and discourages investment, particularly from regional and international investment sources.

UN-Habitat’s approach to legal frameworks and experience from ASUD countries

UN-Habitat proposes a radical departure from the traditional focus on achieving the implementation of technically advanced structures. In its place, the adoption of legal frameworks that are the simplest possible solution to a given problem is advocated.

Overall, UN-Habitat through the ASUD promotes simpler, better formulated and more transparent legal frameworks for urban development. The emphasis is on frameworks that function and contribute to the development of the rule of law as well as to the achievement of specific municipal goals. These will provide a solid and predictable long term framework for urban development that can be built upon, as is needed and as capacity and resources allow.

Organisers



The Institute of Advanced Legal Studies is part of the School of Advanced Study of the University of London with the mandate to promote research facilitation, advance innovation, and bridge research between academy and the professions. The Institute produces its own high impact research, and contributes to the generation and development of high impact research by others.

The Institute brings together academic researchers, students, judges and legal practitioners from diverse backgrounds, enabling important opportunities for cross-fertilisation and has leadership involvement in strong networks both discipline-based and spanning geographical and jurisdictional differences.

Through its research projects and programmes the IALS leads and shapes research agendas, facilitates the identification of new research horizons and facilitates debate by providing opportunities and resources for cutting-edge research.



The United Nations Human Settlements Programme (UN-Habitat) was established by the General Assembly of the United Nations by its resolution 32/162 of 19 December 1977 and transformed into a Programme by its resolution 56/206 of 21 December 2001. It has its Headquarters in Nairobi, Kenya. UN-Habitat is the coordinating agency within the United Nations System for human settlement activities, the focal point for the monitoring, evaluation and implementation of the Habitat Agenda, as well as the task manager of the human settlements chapter of Agenda 21, and, in collaboration with governments is responsible for promoting and consolidating collaboration with all partners, including local authorities and private and non-governmental organizations in the implementation of the Habitat Agenda, Millennium Development Goal of significantly improving the lives of at least 100 million slum dwellers by the year 2020.

The programme

Theme 1: Urban policy

- a. UN Habitat and the 2015 Development Goals, Robert Lewis-Lettington
- b. What are the policy goals of a good planning law?
- c. Urban policy in a global context: case studies from developing and developed countries

Theme 2: Drafting urban law

- a. Translating urban policy into law, OPC
- b. The dilemma of legislative form: primary v delegated instruments
- c. Structure of urban legislation

Theme 3: Implementing urban legislation

- a. The implementation game
- b. Evidence based post legislative analysis

Theme 4: Workshop

Participants will be circulated in advance the text of a short planning law along with the UN Habitat report on the problems of its implementation. Participants will be invited to identify how to address the problems of the legislation in question, facilitated by Robert Lewis-Lettington. Having established the policy goals of a possible legislative intervention, participants will be invited to identify the best legislative option (amending or new law, primary or secondary legislation, structure, expression),

facilitated by Prof. Helen Xanthaki; finally, a report to UN Habitat will be drafted, facilitated by Dr Maria Mousmouti. At a later stage the Sir William Dale Legislative Drafting Clinic will draft the legislation, and participants will be invited to assist and contribute.

The result of the Urban Law Day will be a dedicated issue at the European Journal of Law Reform, including a report on the workshop.