

Concept note: 'Urban Law Day 2016'

Proposed Date: 15 July 2016

Proposed Title: GOOD URBAN LEGISLATION IN RESOURCE-POOR SETTINGS: CHALLENGES & PRACTICAL SOLUTIONS

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 third Urban Law Day will take place on 15 July 2016 at the Institute of Advanced Legal Studies (University of London), and will address challenges in developing countries related to good urban legislation and practical solutions for improving them.

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 failing to have a positive impact when being implemented "on the ground", providing ambitious frameworks with multiple interlocking elements that seek to manage the detailed evolution of cities. While these legal frameworks include detailed and often complex management arrangements, 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 to 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.

Effective urban legislation is fundamental in achieving Goal 11, Sustainable Urbanisation, of the 2030 Sustainable Development Agenda as well as a number of the other goals. Urbanization’s potential to generate increases in productivity and contribute positively to development depends on the quality and transparency of its rules and regulations. The impact of legislation is important: it can set meaningful frameworks for sustainable development, or on the contrary, accentuate inequalities and exclusion. Urban law is necessary to provide a framework of rules to mediate and balance competing public and private interests, especially in relation to land use and development: it creates a stable and predictable framework for both public and private sector action; it guarantees the inclusion of the interests of vulnerable groups and provides a catalyst for local and national discourse.

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 simple and clear legal frameworks, with an efficient implementation “on the ground” is advocated.

Overall, UN-Habitat promotes for the New Urban Agenda the adoption of three development enablers, which are jointly referred to as a “three-pronged” approach: 1) rules and regulations; 2) urban planning and design, and 3) municipal finance mechanisms. Along with national urban policies, these three development enablers underpin planned urbanisation and they can generate across-the-board sustainable urban development. This approach has been tested by UN-Habitat in several countries through the “Achieving Sustainable Urban Development” (ASUD) programme, which amongst others, 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.

	<p>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.</p> <p>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.</p>
	<p>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, as well as supporting the national and local governments in monitoring the 2030 Agenda - Sustainable Development Goal 11, the “Urban SDG”- to make human settlements inclusive, safe resilient and sustainable.</p>

Draft Programme

09:00-09:30	Registration
09:30 - 09:45	Introduction & Welcome address from the IALS and UN-Habitat
09:45- 11:15:	<p>Legislation and the urban development agenda</p> <p><i>The Sustainable Development Goals and the rule of law as a development framework</i>, Dr Julinda Beqiraj, Associate Senior Research Fellow, Bingham Centre for the Rule of Law</p> <p><i>Good legislation and good governance</i>, Dr. Constantin Stefanou, Director of Taught Programmes and Director of the Sir William Dale Centre for Legislative Studies, IALS, UoL</p> <p><i>Urban Rules and Legislation in the New Urban Agenda</i>, Robert Lewis-Lettington/Anne Klen, UN –Habitat</p>
11:15-11:30	Coffee Break
11:30-13:00	Practical tools for improving the quality of urban legislation in resource poor settings

	<p><i>Defining quality of legislation and effective urban legislation, Dr. Maria Mousmouti, Lecturer in Law, IALS, UoL</i></p> <p><i>Establishing a new legal framework for the planned delivery of development: an initial case study of the Ghanaian system – Stuart Andrews, Partner, National Head of Planning and Infrastructure Consenting, Eversheds International</i></p> <p><i>The Legal Assessment Framework tool & a case study from Egypt – Anne Klen, UN Habitat & Mohamed Nada, UN-Habitat Cairo office</i></p> <p><i>A case study on the effectiveness of urban legislation in Nigeria, Elohor Onoge</i></p>
13:00- 13:30	Open discussion

Outcome

The overall objective of the Urban Law Day is to strengthen key messaging around the clear articulation of the essential legal framework within the context of the New Urban Agenda. Prevalent approaches to important areas of urban law are highly technocratic and do not recognise three important points: law is founded on political decision-making; law must be contextualized, reflect local culture and designed to serve local needs; and, the quality of law is central to its success or failure. In this respect, participants will be asked to share country experiences, challenges and ideas with regard to what would work and what would not work to improve the quality of legislation in their countries. A report on the Urban Law Day will be published on IALS website and an outcome paper will be distributed in Quito during the Habitat III meeting.