



GLOBAL EXPERTS GROUP MEETING

Legislation Unit Strategic Review EGM

Concept note and programme

Swedish International Development Cooperation Agency

SIDA

Stockholm, Sweden

6-8 December 2017

Background

The United Nations Human Settlements Programme, UN-Habitat, is the UN agency for human settlements. It is mandated by the UN General Assembly to promote socially and environmentally sustainable towns and cities with the goal of providing adequate shelter for all. The Urban Legislation Unit, within the Urban Legislation, Land and Governance Branch of UN-HABITAT, has the mandate to promote enabling legislation adequate to meet the challenges of rapid urbanization.

The urban environment is extremely complex, being the focus of human economic, social and political activity throughout the world. Urban areas dominate economies, drive technological development and provide shelter and livelihoods for the population. The quality of human settlements and urban governance affect the quality of life of millions of individuals. Choices made in relation to them have concrete positive or negative impacts on social justice, good governance, democratic decision making, economic development, the respect of fundamental rights, transparency etc. In this context, urban legislation has an important role to play: it defines conditions for access to land, infrastructure, housing, basic services; lay out rules for planning and decision making; guides the improvement of livelihoods and living conditions by setting requirements for urban development initiatives; and, sets the context within which urban authorities, local governments and communities are expected to fulfill their mandates and react to emerging challenges. The impact of legislation is important: it can set meaningful frameworks for sustainable development or 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.

The mere existence of urban legislation is not enough for effective urban management and development. Legislation is often believed to generate more problems than those it actually solves. The review of several legal frameworks and the experience from our projects in many countries show that urban law, particularly urban planning law, is perhaps one of the least effective areas of law. 'Effectiveness' refers to the capacity of a given law to fulfill its declared or intended function. Many urban laws, particularly around spatial planning and municipal finance, have the characteristics of what is colloquially referred to as 'Zombie' legislation, i.e. it is on the books but is, for most practical purposes, dead. UN-Habitat's experience highlights a widespread popular perception that this occurs because 'the law is good but the resources and capacity aren't there to make it work'. UN-Habitat challenges that on two basic grounds. First, what is the definition of good if the legal instrument in question is having no, or negligible, positive impact? Second, if the resources and capacity required to make the law work have not existed in the past, why is that situation likely to change? Law must be judged by its impact, it must be appropriate to its context and it must be proportionate to its objectives.

UN-Habitat proposes that, in large part, the ineffectiveness of urban law predominantly derives from structural weakness. Structural in the sense that the challenge lies more in the technical and political order that develops urban law, and is a question of the systematic perpetuation of that order, than in the way that people interact with these laws after they have been developed. Weakness in the sense that there are major challenges with the policy direction of urban law and in that it is generally poorly designed from conception, through formulation and into implementation and monitoring.

The Sustainable Development Goals provide a relatively clear framework for addressing the challenges of urban law. The obvious foundation is Goal 11, which aims to ‘Make cities and human settlements inclusive, safe, resilient and sustainable’. Goal 11 is no different to any other structure of rights or policies: legal and institutional frameworks are basic to delivery on the ground, whether in terms of establishing benchmarks, creating accountability, empowerment or the identification and allocation of resources. However, Goal 11 cannot simply be seen as a neutral set of technical objectives to be delivered. To ensure that Goal 11 is delivered in a manner that creates the greatest benefit for those most in need, the Urban Legislation Unit consistently links it with Target 10.3, to

Ensure equal opportunity and reduce inequalities of outcome, including by eliminating discriminatory laws, policies and practices and promoting appropriate legislation, policies and action in this regard

Target 16.6, to *develop effective, accountable and transparent institutions at all levels*, is also considered as essential in the achievement of Goal 11.

The New Urban Agenda addresses urban law more implicitly than the Sustainable Development Goals, but calls for law reform in four broad areas:

- i) Equity and Governance
- ii) Planning, Land, Environment
- iii) Housing and Basic Services
- iv) Economy and Finance

The Urban Legislation Unit

The Urban Legislation Unit was established in late 2012 in the framework of the Executive Director’s internal reform process. UN-Habitat had a long history of legislative and regulatory work but this had been addressed in an *ad hoc* manner through individual projects leading to fragmented approaches and no consistency in methods of legal analysis or interaction with other UN-Habitat thematic areas. The creation of the Legislation Unit established a specialized office able to support the Agency’s work in the legal field both at HQ level and in the field and ensure quality, consistency and sound methodology in the legislative work of the Agency.

UN-Habitat’s work on Urban Law is built around three principal areas of work:

- Technical assistance for the review and analysis of urban legal frameworks provided to national and local governments and support to UN-Habitat projects where legislative or regulatory work is needed to achieve a specific technical objective.
- Comparative and normative work in priority themes. Development of innovative approaches, tools and methodologies to particular problems in urban law reform. This area seeks to improve the functional effectiveness and inclusiveness of legal and administrative frameworks.
- Training and awareness raising about urban law: UrbanLex database, Global Sample of Cities Survey and through a number of publications including: Land Readjustment, Urban Law in Colombia, etc. The Legislation Unit also continues to partner with a variety of host institutions to hold ‘Urban Law Day’ seminars that explore urban law issues and themes according to local priorities or based on global processes.

The Planning Law Assessment Framework

The Planning Law Assessment framework is a diagnostic tool to identify, in a structured, objective and systematic way, the strengths and weaknesses of planning legislation. It is designed to be used either alone or, ideally, within the context of a broader law reform method that begins with issue identification and legal mapping and moves all of the way through to recommendations for reform. The Assessment Framework uses an indicative approach, relying on a limited number of indicators in each of its six

thematic areas. While it produces what appear to be quantitative outputs, these are built on a primarily qualitative analysis that is designed as a framework to catalyze discussion within a national or local context and not as a means of ranking. This means that it is probably more accurately described as a *self*-assessment tool.

The Planning Law Assessment has been used in Colombia (2012), Philippines (2013), Rwanda (2014), Mozambique (2014), Egypt (2015) and in Saudi Arabia (2016). Overall, its implementation has proved to be effective in identifying strengths and major gaps related to the existing legal framework and policies. It is a useful tool to guide the process to agree on actions that are needed to address the identified gaps. The legal assessment framework uses two sets of indicators, the first is related to the functional effectiveness of law, which includes indicators related to the clarity of the objective of the regulation, its mechanisms and processes, institutional/organizational responsibilities and roles, ambiguity and standard of drafting, and capacity to implement the legislation. The second set of indicators are technical in nature and they are related to land, financing, public space, plots and blocks, buildability-development rights, and building codes. The assessment needs to be undertaken through an inclusive and participatory process that ensures active engagement of key stakeholders. The methodology adopted could include focus groups, interviews and expert group meetings.

Expected accomplishments

Part 1 of the meeting will discuss the structure, methods and experiences of the Urban Legislation Unit and provide recommendations for the adjustment of its strategy that may be implemented immediately but also that may be incorporated in the development of UN-Habitat's next Strategic Plan (2020-2026).

Part 2 of the meeting will provide a peer review of the Planning Law Assessment Framework (PLAF).

List of participants:

1	Robert Lewis-Lettington	UN-Habitat
2	Anne Klen Amin	UN-Habitat
3	Gianluca Crispi	UN-Habitat
4	Mikael Atterhög	SIDA
5	Nayoka Martinez-Bäckström	SIDA
6	Amanda Aronsson	SIDA
7	Maria Mousmouti	University of London, UK
8	Juan Felipe Pinilla	University de Los Andes, Colombia
9	Juli Ponce	University of Barcelona, Spain
10	Marta Lora-Tamayo Vallve	CNJUR, Spain
11	Johnny Astrand	Lund University, Sweden
12	Matthew Glasser	Centre for Urban Law and Finance in Africa, South Africa
13	Zione Ntaba	Judiciary, Malawi
14	Thomas Stellmach	TSPA, Germany
15	Rachelle Alterman	Israel Technion, Israel
16	Marius Pieterse	International Research Group on Law and Urban Space
17	Ainul Jaria Maidin	International Islamic University, Malaysia
18	Shi, Nan	Urban Planning Society of China
19	Fiona Darroch	Private Practice, UK
20	David Simon	Mistra Urban Futures Chalmers University of Technology, Sweden
21	Yu Yang	Renmin University, China

22	Eva Liedholm Johnson	Royal Institute of Technology, Sweden
23	Jenny Paulsson	Royal Institute of Technology, Sweden

Programme

Day I – December 6th		
8:30-9:00	Arrival and Registration	
9:00-9:30	Opening Remarks	UN-Habitat SIDA
	Participants' introduction round and housekeeping	Facilitator: Robert Lewis-Lettington
9:30-10:30	The place of urban law: SDGs/NUA/Sendai/Paris/Addis/ human rights and rule of law.	Presenter: Robert Lewis-Lettington Facilitator: Marius Pieterse
10:30-10:45	Break	
10:45-12:30	Urban law and its challenges: the experience and responses of the Urban Legislation Unit	Presenter: Robert Lewis Lettington Facilitator: Rachelle Alterman
12:30-13:30	Lunch	
13:30-15:00	Discussion on future priorities	Facilitator: Zione Ntaba
15:00-15:15	Break	
15:15-17:00	Programmes: technical assistance (intro summary, discussion and recommendations)	Presenter: Gianluca Crispi Facilitator: Juan Felipe Pinilla
Day II – December 7th		
9:00-10:30	Programmes: normative (intro summary, discussion, recommendations)	Presenter: Robert Lewis- Lettington Facilitator: Matt Glasser
10:30-10:45	Break	
10:45-12:30	Programmes: information and training (intro summary, discussion, recommendations)	Presenter: Anne Klen Facilitator: Maria Mousmouti
12:30-13:30	Lunch	
13:30-15:00	Discussion on future priorities	Facilitator: Robert Lewis-Lettington
15:00 – 15:15	Break	
15:15-17:00	Conclusions and recommendations on future strategy	
Day III – December 8 th		
9:00-9:30	Planning Law Assessment Framework: introduction and methodological context	Presenter: Gianluca Crispi Facilitator: Thomas Stellmach
9:30 – 10:30	Planning Law Assessment Framework: land management	Presenter: Gianluca Crispi

		Facilitator: Thomas Steilmach
10:30-10:45	Break	
10:45-12:30	Planning Law Assessment Framework: public space & plots and blocks	Presenter: Gianluca Crispi Facilitator: Thomas Stellmach
12:30- 13:30	Lunch	
13:30 – 15:00	Planning Law Assessment Framework: development rights & building codes	Presenter: Gianluca Crispi Facilitator: Thomas Stellmach
15:00 – 15:15	Break	
15:15 – 17:00	Planning Law Assessment Framework: land based finance and concluding comments	Presenter: Gianluca Crispi Facilitator: Thomas Stellmach