Module 1

Context & Concepts
Overview of the Seminar

Key Relevant Terms

Linking LUP, Biodiversity & Climate Change

‘Integrated Land-Use Planning Law’

Relevant International Law & Policy

Importance of Governance
Objectives

- Introduce key terms informing the development & implementation of integrated land-use planning law.
- Foster awareness of the linkages between land-use planning, climate change and biodiversity issues.
- Build understanding of what is integrated land-use planning law.
- Advance knowledge of the relevant international law and policy context relevant to integrated land-use planning.
- Promote clarity on the role of governance in facilitating integrated land-use planning through the law.
Outcomes

- Appreciation of key terms informing the development & implementation of integrated land-use planning law.
- Awareness of the linkages between land-use planning, climate change and biodiversity issues.
- Understanding of what is integrated land-use planning law.
- Knowledge of the relevant international law and policy context relevant to integrated land-use planning.
- Clarity on the role of governance in facilitating integrated land-use planning through the law.
Before We Begin

diversity
complexity
scale

acknowledge
Acknowledging Diversity

- differences
- legal tradition
- legal hierarchy
- issues/realities
- legal process
- installation framework
- terminology
Acknowledging Complexity

a simple roadmap!
Acknowledging Legal Scale

terrestrial focus

international

regional

national/federal

domestic focus

local
Let Us Begin

acknowledging

diversity

complexity

scale
Overview of the Seminar

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Importance of Governance
Key Relevant Terms

- ‘other’ terms?
- ‘land-use planning’ terms?
- ‘climate change’ terms?
- ‘conservation’ terms?
- ‘integrated land-use planning’
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*Legend: OECMs - Operational Efforts Clustering Methods*
Overview of the Seminar

Key Relevant Terms

Linking LUP, Biodiversity & Climate Change
LUP, Biodiversity & Climate Change

**common limitations of LUP**

- Urban focused
- Short-term
- Narrow perspective
- Fragmentation
- Centralised
- Legal uncertainty

**vertical**

**horizontal**
LUP, Biodiversity & Climate Change

understanding the links

advanced scientific understanding

improved information technology

growth of global information sharing networks

conservation

land-use planning

climate change
LUP, Biodiversity & Climate Change

benefits of creating the links

- broad-scale planning
- integrated planning
- varied temporal planning
- harmonised & participatory planning
- improved legal certainty
- improved planning efficiency
Overview of the Seminar

Key Relevant Terms

LUP, Biodiversity & Climate Change

‘Integrated Land-Use Planning Law’
What is ‘ILUPL’? breaking it down into concepts

‘land use’?

‘planning’?

‘land-use planning’?

‘integrated’?

‘law’?
What is ‘ILUPL’?

‘land-use’

- ‘Land use is the function of land - what it is used for.’
- ‘Land use involves the management and modification of the natural environment or wilderness into built environment such as settlements and semi-natural habitats such as arable fields, pastures, and managed woods.’
- ‘Land use means the purpose for which land is or may be used lawfully.’

current use  control  future use
What is ‘ILUPL’?

- **General definition**
  - ‘the process of making plans for something’
  - ‘a formulated or organised method according to which something is to be done, a scheme of action’

- **Narrower definition**
  - ‘concerned with the determination, allocation and alteration of land uses’
  - ‘controlled design of buildings and development of land’

Tags:
- forward looking
- informative
- controlling
- prescriptive
What is ‘ILUPL’?

‘land-use planning’

‘spatial planning’

land-use planning

‘land-use management’
What is ‘ILUPL’?

‘spatial planning’

- ‘the creation of a blueprint for future land use that will support sustainable development’
- ‘methods and approaches used by the public and private sector to influence the distribution of people and activities in spaces of various scales’

- macro focus
- informative
- forward looking
- guiding
What is ‘ILUPL’?

‘land-use management’

- ‘that part of the planning process that deals with changes to land use as set out in the original plan, framework or restrictive condition’
- ‘regulation of a variety of different types of activities and development that take place on land’

- micro focus
- allows for change
- control/regulate land use
- manage impacts
What is ‘ILUPL’?

‘land-use planning’

- decision makers
- guide

inform

‘spatial planning’

land-use planning

regulate

‘land-use management’

control

landowners
What is ‘ILUPL’?

integration of what parts/elements?

- ‘combined to form a single thing’
- ‘to put together parts’

### Scale
- international
- national
- province/district
- local/village
- urban
- rural
- temporal

### Substance
- social
- economic
- environmental
- land use
- biodiversity
- climate change

### Process
- state
- individuals
- communities
- Cos,CBOs&NGOs
What is ‘ILUPL’?

‘law’

‘A body of rules governing human conduct, recognised as binding by people and enforced by public authorities (the state).’

state

rules

rights

duties

people

things
What is ‘ILUPL’?

'order & security'

'certainty'

'predictability'

'justice'

'function of law'
What is ‘ILUPL’?

sources of law

soft law

international law

hard law

domestic law

Constitution

primary

legislation

subordinate

judicial precedent

common law

customary law
What is ‘ILUPL’?

- **Primary Legislation**
  - Central / National / Federal
  - State / Regional / Provincial

- **Subordinate/Subsidiary Legislation**
  - Made by executive officials
  - Power granted by primary legislation
  - Detailed rules necessary to implement primary legislation

- **Local Laws**
  - Power to make may be original or derived from federal law
What is ‘ILUPL’?

Structure of government

- Legislature
  - Make laws
- Separation of powers
- Executive
  - Administer laws
- Judiciary
  - Resolve disputes
  - Determine validity of laws & conduct
What is ‘ILUPL’?

**distribution of power/authority**

**unitary state**
- original power: central government
- regions
- local areas

**federal state**
- original power: central government
- ‘national’
- ‘federal’
- regional governments
- ‘provincial’
- ‘state’
- local areas

original power: central government
- local areas
What is ‘ILUPL’?

core concepts

‘land use’?

‘planning’?

‘land-use planning’?

‘integrated’?

‘law’?
What is ‘ILUPL’?

‘the area of law which provides for the creation of an integrated sustainable spatial planning framework as well as for the legal mechanisms and processes relating to the management of current land use and land development or change with the purpose of ensuring the health, safety and welfare of society as a whole’
What is ‘ILUPL’?

many scales

many substantive issues

many processes & parties
What is ‘ILUPL’?

historical growth of ILUPL

- small population
- simple activities
- small impacts
- simple land-use

- vast population
- complex activities
- large impacts
- dense land-use

new challenges

historical growth of ILUPL
What is ‘ILUPL’?

historical growth of ILUPL
What is ‘ILUPL’?

historical growth of ILUPL

Comparative urbanization zones
- Dark gray: 100%
- Medium gray: 80%
- Light gray: 60%
- Very light gray: 40%
- Even lighter gray: 20%
- Lightest gray: 0%

Map showing the historical growth of ILUPL across different regions of the world.
What is ‘ILUPL’?

historical growth of ILUPL
What is ‘ILUPL’?

The world’s 20 largest cities

Source: Demographia World Atlas, 2015
What is ‘ILUPL’?

‘land-use planning tools’

- Integrated Dev’t Plans
- Spatial Plans
- Spatial Dev’t Frameworks
- Protected Area Designation
- Enviro Mgmt Frameworks
- Conservation Agreements
- Coastal Management Plans
- Biodiversity Plans
- Protected Areas Plans
- Fresh Water Plans
- Climate Change Plans
- Development Permit Areas
- Zoning
- Coastal Setback Lines
- Urban Edge Delineation
- Title Deed Conditions
- Compulsory Acquisition
- Market-Based Incentives
- EIA & SEA
- Subdivision
- Planning Principles

Diversity of options

Diversity of names
What is ‘ILUPL’?

categorising land-use planning tools

- land-use plans
- zoning
- subdivision
- title deed conditions

‘spatial planning’

- decision makers
- other relevant plans
- integrated development plans

‘land-use management’

- landowners
- development permit areas
- environmental assessment
- protected areas
- other tools

other tools
Overview of the Seminar

Key Relevant Terms

Land-Use Planning, Biodiversity & Climate Change

“Integrated Land-Use Planning Law”

Relevant International Law & Policy
Relevant Int’al Law & Policy

inform domestic action

provide political impetus
Relevant Int’al Law & Policy

**CBD**

*Convention on Biological Diversity*

**Aichi Targets**

**SDGs**

**UNFCCC’s Paris Agreement**
Relevant Int’al Law & Policy

Article 6

Convention on Biological Diversity
Relevant Int’al Law & Policy

UN SDGs

1. No Poverty
2. Zero Hunger
3. Good Health and Well-being
4. Education
5. Gender Equality
6. Clean Water and Sanitation
7. Affordable and Clean Energy
8. Decent Work and Economic Growth
9. Industry, Innovation and Infrastructure
10. Reduced Inequalities
11. Sustainable Cities and Communities
12. Responsible Consumption and Production
13. Climate Action
14. Life Below Water
15. Life on Land
16. Peace and Justice, Strong Institutions
17. Partnerships for the Goals
Relevant Int’l Law & Policy

UNFCCC Paris Agreement
Relevant Int’al Law & Policy

- Convention on Biological Diversity (CBD)
- Aichi Targets
- Sustainable Development Goals (SDGs)
- UNFCCC’s Paris Agreement

Inform domestic action by providing political impetus.
Overview of the Seminar

Key Relevant Terms

Linking LUP, Biodiversity & Climate Change

‘Integrated Land-Use Planning Law’

Relevant International Law & Policy

Importance of Governance
Importance of Governance

‘governance’?

three interrelated dimensions

- quality of governance
  - good governance
- who makes decisions & how
  - types of governance
- degree of integration & cooperation
  - cooperative governance
Importance of Governance

‘governance’?

‘The interactions among structures, processes and traditions that determine how power and responsibilities are exercised, how decisions are taken and how citizens or other stakeholders have their say.

rich & multifacteted
complex

who makes decisions
how decisions made

authority/power

how authority shared
who is accountable
Importance of Governance

five key influential factors

- government
- key actors
- source of authority: de iure, de facto
- type of authority: plan, promote, control, regulate
- type of decisions
- levels of decision-making

law plays central role

rights-holders
non-government stakeholders
Importance of Governance

why so relevant to ILUPL?

many actors
many sources of authority
many types of authority
many types of decisions
many levels/spheres

spatial planning

land-use management

good governance

cooperative governance
ILUPL & Good Governance

‘good governance’?

legal perspective

public participation

access to info  transparency  right to reasons

predictability

process  equity  outcome

appeal  justice  review
ILAUP & Good Governance

promoting good governance

identification of actors

public participation procedures

decision-making criteria

decision-making process

spatial planning

land-use management
Promoting Good Governance

identification of actors

government

non-government stakeholders

rights-holders

public participation procedures

trigger for procedures

notice & comment

drafts

nature of procedures

timing

inclusive process

provision of assistance

final

public hearings
Promoting Good Governance

decision-making criteria

- mandatory application
- broad/uniform application

exceptions

types of criteria

- planning principles & objectives
- spatial plans
- other plans
- EIA/SEA
Promoting Good Governance

- Decision-making process
  - Representivity
  - Appointment of decision maker
  - Impartiality
  - Enable expert review
    - Complexity
  - Clear & viable timeframes
  - Where
  - Notice of outcome
    - To whom
    - Form of approval
    - Request reasons
  - Notice of right to challenge
    - Appeal
    - Review
ILUPL & Good Governance

promoting good governance

spatial planning
- identification of actors
- public participation procedures
- decision-making criteria
- decision-making process

land-use management
ILUPL & Cooperative Governance

‘land-use planning tools’

- Integrated Dev’t Plans
- Spatial Dev’t Frameworks
- Protected Areas Plans
- Biodiversity Plans
- Coastal Management Plans
- Climate Change Plans
- Zoning
- Coastal Setback Lines
- Planning Principles

many planning tools

many laws

many institutions

fragmented governance

overlaps/conflicts

- many laws
- many institutions
- many planning tools

overlaps/conflicts

- many laws
- many institutions
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overlaps/conflicts

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overlaps/conflicts

- many laws
- many institutions
- many planning tools
ILUPL & Cooperative Governance

‘cooperative governance’?

cooperation

integration

harmonisation
promoting cooperative governance

planning principles/objectives
intergovernmental consultation
harmonising plans
decision-making criteria
integrated permitting

spatial planning
land-use management
Promoting Cooperative Governance

planning principles/objectives

- promote consistency
- promote uniformity

- content?
- mandatory?
- discretionary?

- application?
- cross-level/sphere?
- cross-sector?

- trigger?
Promoting Cooperative Governance

intergovernmental consultation

- mandatory?
- discretionary?

with whom?
- cross-level/sphere?
- cross-sector?

over what?
- planning?
- permitting?

when & how?
- timeframes?

failure?
- to approach?
- to respond?
Promoting Cooperative Governance

harmonising plans

which plans?

which order?

mainstreaming

form of harmonisation?

trumping

alignment

integration

through what process?

whose responsibility?

amending plans?
Promoting Cooperative Governance

**decision-making criteria**

- **which criteria**
- **framework law**

**who determines criteria?**

- **which plans**
- **individual laws**

**where are criteria prescribed?**

**which decisions?**

**by whom?**

‘take into account’

**how?**

‘ensure consistent’

exceptions/deviations?

failure to consider?
Promoting Cooperative Governance

integrated permitting

which permits?

statutory process?  by agreement?

what process?

one signed by many?  many signed by one?

form of permit?

many signed by many?

who considers application?

who issues permit?

who monitors compliance?
ILUPL & Cooperative Governance

promoting cooperative governance

- planning principles/objectives
- intergovernmental consultation
- harmonising plans
- decision-making criteria
- Integrated permitting

Spatial planning

Land-use management
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- Advance knowledge of the relevant international law and policy context relevant to integrated land-use planning.
- Promote clarity on the role of governance in facilitating integrated land-use planning through the law.
Outcomes

Appreciation of key terms informing the development & implementation of integrated land-use planning law.

Awareness of the linkages between land-use planning, climate change and biodiversity issues.

Understanding of what is integrated land-use planning law.

Knowledge of the relevant international law and policy context relevant to integrated land-use planning.

Clarity on the role of governance in facilitating integrated land-use planning through the law.
Building Capacity on Integrated Land-Use Planning Law

Module 1

Seminar Presentation
knowledge transfer

Practical Exercise
skills development

Context & Concepts