



STRENGTHENING ENVIRONMENTAL REVIEWS IN URBAN DEVELOPMENT

Urban Legal Case Studies: Volume 6

UN HABITAT
FOR A BETTER URBAN FUTURE

Strengthening Environmental Reviews in Urban Development

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Foreword

Urbanisation is one of the most significant trends of the 21st Century with the global urban population growing from 732 million to 4 billion between 1950 and 2017. While urban areas have become engines of economic growth, as well as social and cultural development, these advances have threatened, and are threatened by, the environmental integrity of human settlements. Cities are increasingly facing declining environmental quality as characterized by rising air pollution, loss of biodiversity, depletion of aquifers and declining water quality. The environmental effects of poor and unplanned urban development have also been shown to contribute to a reduction in food supplies and an increase in socio-spatial segregation. The environmental footprints of cities have been demonstrated to have significant global impact while cities are also disproportionately vulnerable to environmental risks.

Environmental reviews, often in the form of environmental impact or strategic environmental assessments, play a fundamental role in the process of urban development. They ensure that decisions regarding projects or policies are informed and based on a comprehensive assessment of their environmental and social implications. They work by ensuring that these implications can not only be identified, but also prevented or mitigated. When implemented successfully, environmental reviews may substantially improve quality of life and economic efficiency. Environmental reviews should be considered as an important tool to achieve sustainable development in line with international commitments, including the 2030 Sustainable Development Agenda and the New Urban Agenda.

Environmental reviews don't always achieve their intended function. The intended function is to provide evidence for informed decisions and to influence how a project or policy is designed and implemented. The purpose of this intended function is to avoid or mitigate negative environmental impacts and, ideally, shape optimum outcomes balancing physical development needs and environmental risk.

Environmental reviews are often poorly conducted in whole or in part, making them vulnerable to being overturned on appeal or to being ignored or undermined by communities and governments. This creates considerable uncertainty for planners, investors and other stakeholders. In other cases, environmental reviews have been poorly coordinated with broader sustainable development priorities, sometimes encouraging inappropriate developments that have negative social and economic consequences. There is a clear need to strengthen the integration of environmental reviews in urban development processes and broader decision-making frameworks.

This book comparatively analyses the challenges to effective environmental reviews in varying legal and geographic contexts and offers legal insights to improve environmental management tools. Strengthening environmental reviews and their implementation can directly improve government effectiveness by reinforcing the rule of law and the link between public policy and law. A simpler and clearer environmental review system can also reduce corruption and the discretion of public officials. For city leaders, a better understanding of the constraints of their current legal and institutional framework can trigger reform and provide greater accountability of the system to citizens. Ultimately, this will contribute to happier, more liveable, cities and a healthier local and global environment.



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Executive Summary

Background to Urbanization and Environmental Reviews

Environmental reviews, often in the form of environmental impact or strategic environmental assessments, play a fundamental role in the process of urban development. They are institutionalized decision-making arrangements in domestic legislation to address the environmental impacts and risks associated with a project. The Environmental Assessment process contributes to sustainable development through the provision of information that is used to approve and implement projects that are ecologically sensitive, socially acceptable and economically cost-effective.

However, weaknesses in environmental reviews have been noted in several cases. In some of these, the environmental review has been poorly conducted, making the process vulnerable to being overturned on appeal and, consequently, creating considerable uncertainty and expense for public sector planners, investors and other stakeholders. In other cases, environmental reviews have been poorly coordinated with broader sustainable development priorities, sometimes encouraging inappropriate developments and informal approaches that have negative social and economic consequences. In other cases, these assessments, even when well prepared, have little real impact upon decision-making. There is a clear need to strengthen environmental reviews in urban development processes and to promote their integration into broader decision making frameworks.

Legal reform for strengthening environmental reviews may arise through multilateral environmental obligations, increased coordination between levels of government, more effective governance, and increased efficiency and reliability of decision-making at the local level. In all cases the need for public participation and consultation in environmental planning decisions is paramount.

The New Urban Agenda and the Sustainable Development Goals

Strengthened environmental and social reviews in urban development processes and their integration into broader decision making frameworks will support the implementation of the New Urban Agenda and several of the Sustainable Development Goals. In particular, they will support the creation of policy frameworks that are able to minimize the negative environmental impact of cities and human settlements (NUA §13h), protect and safeguard the world's natural heritage, protect vulnerable population groups such as women, children, the elderly, or other minority groups, improve air quality and municipal waste management, mitigate and adapt to climate change and improve resilience to disasters (SDG 11) and develop effective, accountable and transparent institutions at all levels (SDG 16).

Strengthening environmental reviews and their utilization has been shown to directly improve government effectiveness, particularly the quality of policy formulation and implementation, reinforcing the link between public policy and law. It can also reinforce rule of law through the increased implementation and effectiveness of environmental reviews and urban legislation in general. A simpler and clearer environmental reviews system will reduce corruption and discretion of public officials and improve the efficiency of the public administration. It will also facilitate a better understanding by city leaders of constraints in their current legal and institutional framework. Finally, strengthened environmental reviews will increase the consideration of environmental implications of planned city extensions.

The Case Studies

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