



BIODIVERSITY MAINSTREAMING

Building legal & policy frameworks

18 November 2015
International Workshop on Mainstreaming Biodiversity
Ms. Yolanda Saito, ysaito@idlo.int





For discussion today:

The Good, the Bad and the Opportunities

- The Good What are the latest advances in law and policy?
- The Bad What challenges remain that block progress?
- The (missed)
opportunities From what we know now, how can we do better?



We agree law and policy is important

...but

*Attainment most of the Aichi Biodiversity Targets will require implementation of a package of actions, typically including: **legal and policy frameworks**, socioeconomic incentives aligned to such frameworks, public and stakeholder engagement, monitoring and enforcement. **Coherence of policies across sectors and the corresponding government ministries** is necessary to deliver an effective package of actions.*

Global Biodiversity Outlook - 4



But why? What is the value?

Because mainstreaming calls for us to:

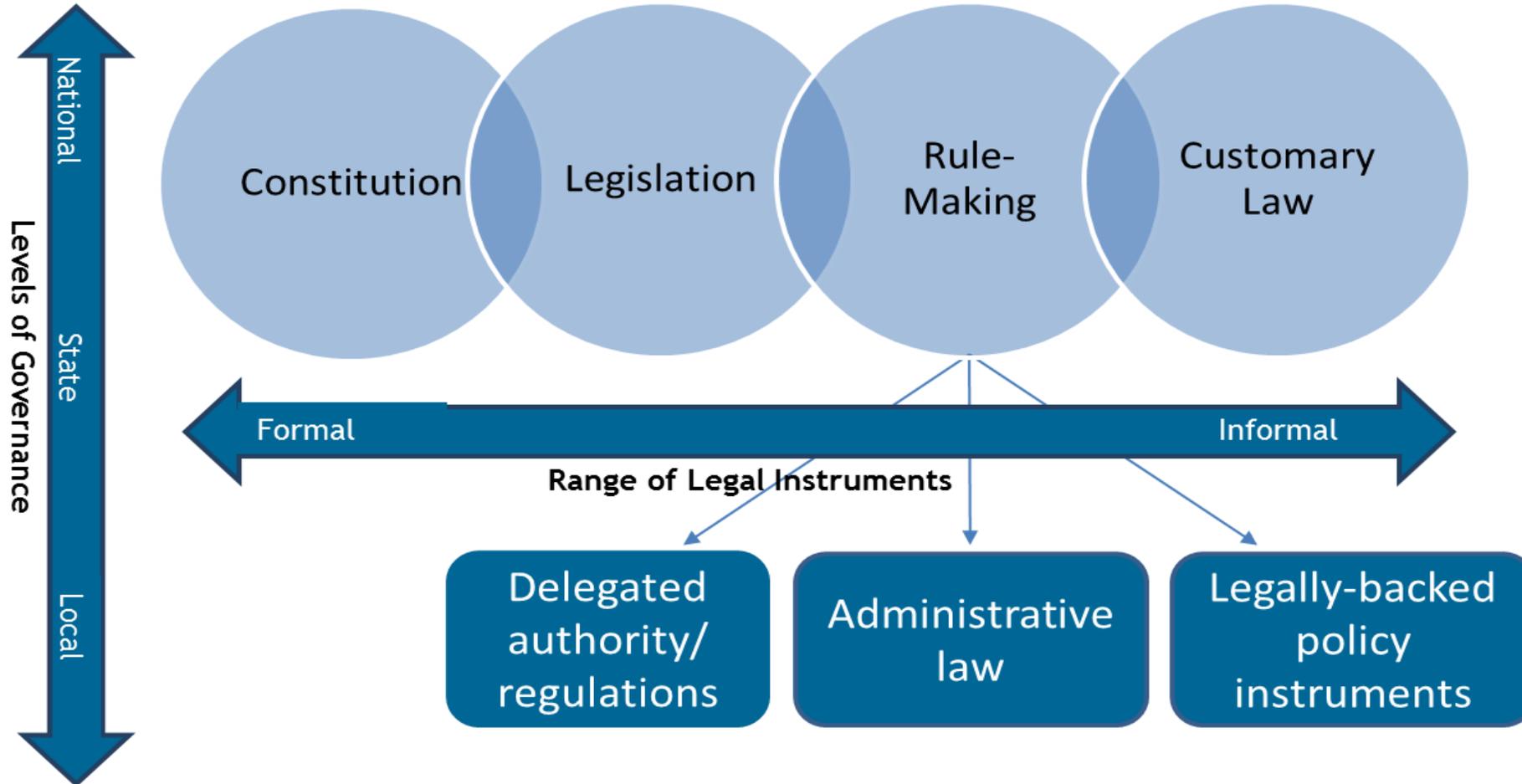
- **change to the value structures** of institutions and individuals
- **modify decision-making and practices** of production and political regimes
- **reach out to a large number of institutions and sectors** due to the breadth and complexity of landscape and seascape level mainstreaming
- **scale up actions** for biodiversity, beyond government, to engage business, citizens and communities to be agents for biodiversity.

⇒ *Mainstreaming needs both **technical** and **normative** tools for success.*

⇒ *We must not only set out the processes and pathways to sustainability, but also the social conditions for people to take those steps towards a new vision.*



Just quickly...what do we mean by laws?





The Good - what progress has been made?

- **At policy level**
 - Since 2010, 62 NBSAPs submitted, 53 incorporate SP-B
 - More **national policies** incorporate biodiversity concerns
- **At legislative level**
 - More **biodiversity-specific laws and policies**
 - Adjustments to **sectoral laws** to consider biodiversity moving from command + control to incentives
 - **A new generation of biodiversity mainstreaming laws** (spatial planning law, PES law, food waste, urban farming)
 - **Innovative legal tools** (EIA/SEA, fishing / resource rights, community protocols, benefit sharing agreements)
- **On legal reform**
 - Increased commitment to **adaptive legal reform** – better assessments, selection of legal approach, implementation





The Good – what has law contributed?



- ✓ Setting **biodiversity mainstreaming** as a national priority (raising awareness, debate)
- ✓ Enshrining **biodiversity principles** into decision-making (setting norms, EIAs, safeguards)
- ✓ Setting a **legal basis** for biodiversity policy/planning across sectors and levels of government
- ✓ Setting out **clear mandates** for cross-cutting biodiversity **institutions** (policy-setting, information hub)
- ✓ **Building confidence of stakeholders** in new processes and incentives (reform of perverse incentives, MBIs)
- ✓ **Recognizing community rights + customary law**, also sui generis regimes and rights-based approaches
- ✓ Building in **equity, justice and fairness** into outcomes



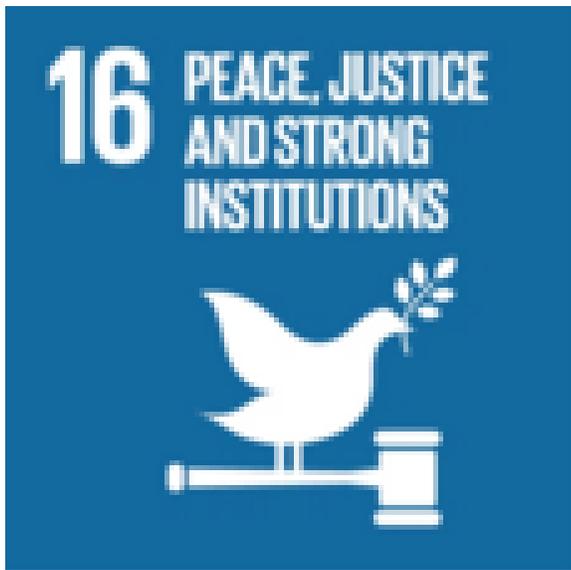
The Bad - what challenges remain?

- ✘ **Lack of action on laws with perverse impacts:**
 - PA legislation without effecting M&E – tragedy of the commons
 - Incorrect pricing of subsidies, whether too high or too low
 - Beneficial use laws
- ✘ **More attention needed to choosing the right legal instrument**, matching legal approach with capacity and raising ambition with experience.
- ✘ **Building up the conditions for successful legal reform**, avoiding reactionary legislative action towards building legal preparedness.
- ✘ **Commitment to legal reform as a long-term adaptive process led by national legal champions** – within govt, civil society, communities.
- ✘ **Use of rights-based approaches to emphasize biodiversity not only a technical issue, but an issue of justice and equity.**



Where do we go from here? Finding solutions

Sustainable Development Goals highlight the importance of law & justice:



16.3 **Promote the rule of law** at the national and international levels and ensure equal access to justice for all

16.6 Develop **effective, accountable and transparent institutions** at all levels

16.7 Ensure **responsive, inclusive, participatory and representative decision-making** at all levels

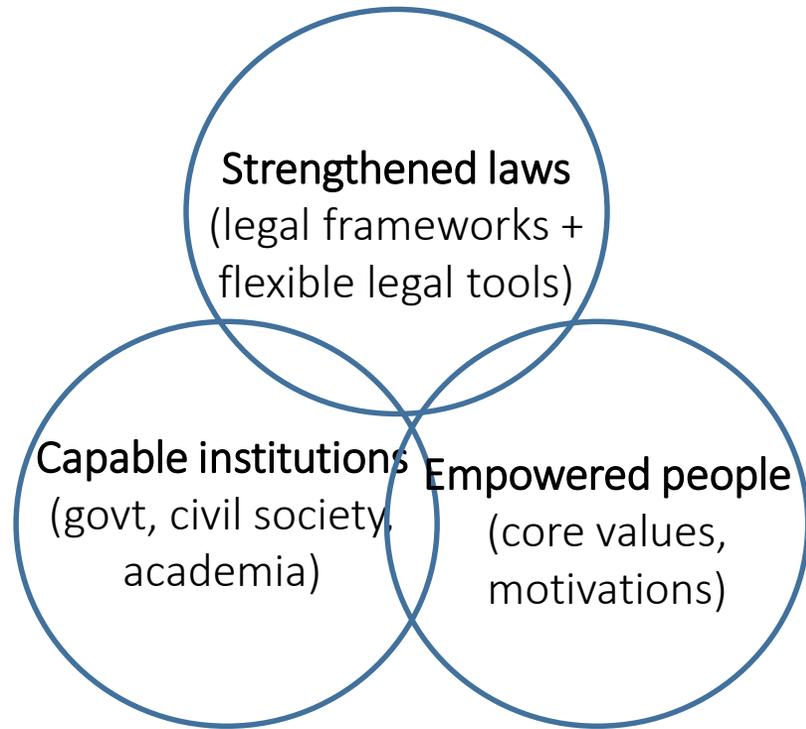
16.10 Ensure **public access to information** and protect fundamental freedoms, in accordance with national legislation and international agreements

16.b Promote and enforce **non-discriminatory laws and policies** for sustainable development

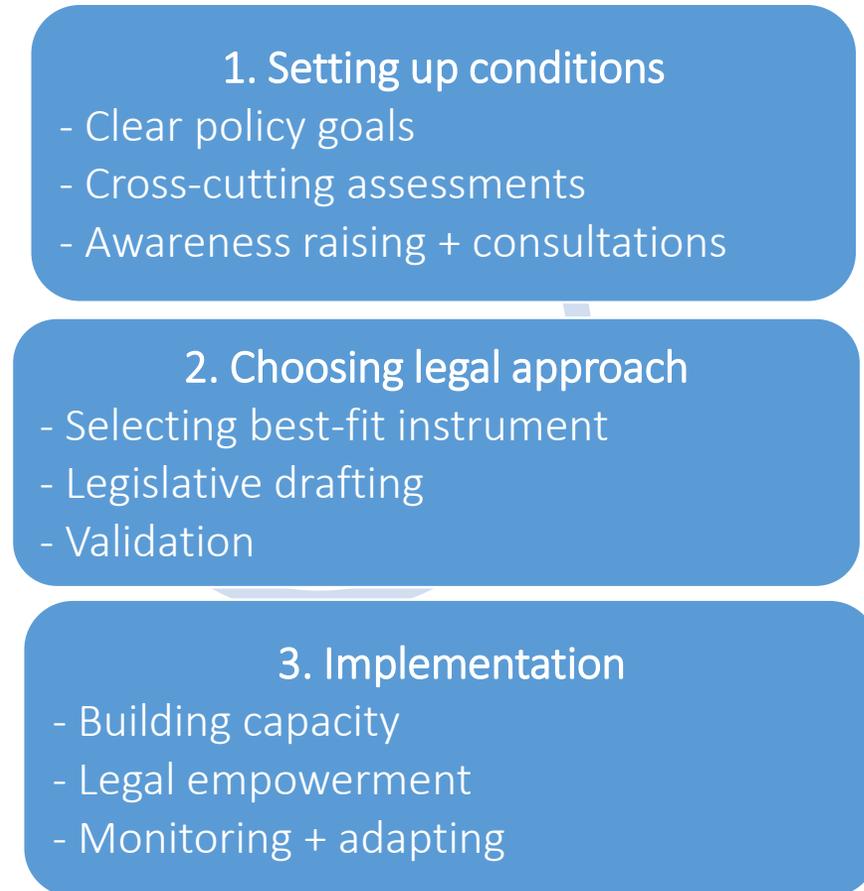


Opportunities – building methodologies

What?



How?





Country example – Engaging individuals and communities into conservation



- ❖ Peru, private conservation/landscape approach
 - Govt-run PAs could not meet targets for size and connectivity. Rural livelihoods needed.
 - Civil society worked closely with government throughout legal reform + implementation
 - Certainty through natl legal framework
 - Conservation agreements negotiated
 - *Conservamos por Naturaleza* program uses social media, crowd-sourcing to keep citizens inspired/interested.
 - Landscape-level conservation, with over 1.2 million hectares and +170 private areas.

Next steps – making the case for law/policy



How do we make the case for increased action / investment in law and policy support for biodiversity mainstreaming?

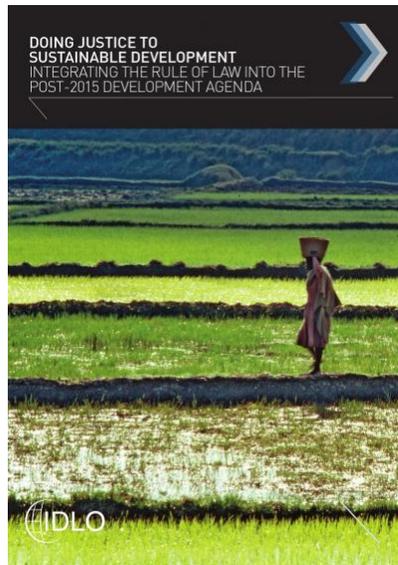
- ✓ What are other examples of good/bad mainstreaming laws?
- ✓ What have been the catalysts for success? Are they worth the investment?
- ✓ Is law and policy being adequately assessed in the design of mainstreaming tools?
- ✓ What do countries need to catalyse action? What is the role of natl vs intl actors?
- ✓ Is biodiversity mainstreaming an issue of justice and equity? If so, how can we communicate this better?
- ✓ How do we make law/policy not just an enabling condition but also a bottom-up tool for change?

For more information:



IDLO materials on SDGs:

- [Doing Justice to Sustainable Development, 2014](#)



Materials from the [IDLO-SCBD Initiative on Legal Preparedness for Achieving the Aichi Biodiversity Targets](#):

- [Scoping Paper on Legal Aspects of Target 3 - Incentives](#), 2014
- [Scoping Paper on Legal Aspects of Target 11 – Protected Areas and other effective area-based conservation measures](#), 2014
- [Scoping Paper on Legal Aspects of Target 16 – Nagoya Protocol](#), 2014
- [Roundtable on Legal Preparedness for NBSAP Implementation and Mainstreaming](#), WGRI-5, 2014
- [Experts' Retreat: Promoting Laws for Biodiversity](#), CBD COP 12, 2014
- E-learning modules – Building Legal Frameworks to Implement the Nagoya Protocol (forthcoming)



The International Development Law Organization (IDLO) enables governments and empowers people to reform laws and strengthen institutions to promote peace, justice, sustainable development and economic opportunity.

www.idlo.int
[Twitter@IDLOnews](https://twitter.com/IDLOnews)

