



[DEVLAW] 4

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IN THIS ISSUE

The fight against IUU fishing through port State measures gains traction

The Right to Food

Codification: a step in the right direction when it comes to making the law more accessible

Better aquatic animal health systems crucial for economic success in Suriname

Implications of climate change and rising sea levels for Pacific Island States

Implementation of the VGGT in Sierra Leone

The Comoros Project

FAO, IFAD and UNIDROIT partner for the development of a Legal Guide on Contract Farming Operations

Animal welfare project brings FAOLEX's work to the fore

FAO volunteers

The fight against IUU fishing through port State measures gains traction

In September the Development Law Service (LEGN) was involved in a regional workshop in Montevideo, Uruguay to highlight the importance of implementing port State measures (PSMs) in order to combat illegal, unreported and unregulated (IUU) fishing.

IUU fishing is a global problem. It undermines sustainable fisheries as well as the ability of legitimate fishers to compete in the global market, depletes fish stocks and poses threats to the safety of humans, vessels and the environment. The [FAO Agreement for Port State Measures](#) stipulates binding minimum PSM's to combat IUU fishing. PSM's are a safe and cost-effective way to deter and prevent vessels engaged in IUU fishing from accessing ports as well as reducing the number of IUU catches entering the market.

The workshop in Uruguay was part of a series of global workshops that FAO has been conducting. These workshops are not only informative but also provide an opportunity for exchange of

national experiences and for States to network and combine forces at the regional and international level, which is essential in the fight against IUU fishing. Over the course of the workshop, States came up with various recommendations and strategies for the implementation of PSMs that incorporated operational, legal, policy, institutional and capacity development dimensions. LEGN is looking forward to providing further support to countries as they implement these strategies.



The Right to Food

The right to food is a fundamental human right yet more than 800 million people go to sleep hungry every night. LEGN contributes towards the implementation of the right to food in a number of different ways.

To celebrate the 10th anniversary of the adoption of the [Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security](#) (the "Right to Food Guidelines") the FAO Right to Food Team and the Legal Office have prepared seven working Thematic Studies that document and highlight progress made over the last ten years as well as the challenges that lie ahead.

The Right to Food Guidelines were adopted by the FAO Council in November 2004. They are not legally binding, but seek to give guidance to countries on how to implement their obligations under international human rights law with regard to the right to food. They address a number of legislative, policy and programmatic areas and themes and have provided the impetus for many countries to update their legal and accountability frameworks in relation to the right to food.



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Legislative action in pursuit of securing the right to food can be by way of:

1. The creation of a constitutional right to food;
2. The adoption of a framework law on the right to food or food security and nutrition; and/or
3. Ensuring that sectoral legislation is conducive to the realization of the right to adequate food.

One of the Thematic Studies prepared by LEGN focuses on the legislative, judicial and jurisprudential developments in this area over the last decade. The paper was written by Margret Vidar, Yoon Jee Kim and Luisa Cruz (Legal Officers), with research assistance from the Food and Agricultural Legislation Team (FAOLEX).

A [draft version](#) of the study is currently available and the authors are grateful to International Development Law Organization (IDLO) for the permission to use a forthcoming publication as a source.



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FAO has also recently published a [Review of the legislative framework and jurisprudence concerning the right to adequate food in Nepal](#) by Raju Prasad Chapagai, which was technically supervised by Margret Vidar. The review critically assesses the constitutional and legislative provisions and the Supreme Court jurisprudence in Nepal in relation to the right to food as well as highlighting non-judicial means of remedying violations of the right to food.

Nepal is currently drafting a new constitution and in this sense the review has been published at a perfect time. The review was part of FAO's global project "[Integrating the Right to Adequate Food and Good Governance in National Policies, Legislation and Institutions](#)". The overall goal of the project is to assist the Government of Nepal, the Constituent Assembly, the Judiciary, the National Human Rights Institutions, and civil society organizations in their initiatives towards advancing the human right to adequate food.

[Codification: a step in the right direction when it comes to making the law more accessible](#)

LEGN currently provides technical assistance to Member States for initiating the process of codification of laws. Codifying laws is an important mechanism for ensuring the accessibility and intelligibility of the law. It contributes to the realization of procedural rights (access to information,

public participation in decision-making and access to justice), strengthens the rule of law principle and helps to advance the fight against corruption.

Recently, Lalaina Ravelomanantsoa (Legal Officer) coordinated the process of codification of agrarian legislation in Morocco and forestry legislation in Madagascar. The draft rural code and fisheries code of Morocco will be delivered to the Government of Morocco by the end of 2014.

The inventory of Malagasy forestry laws and regulations resulted in the identification of several hundred texts, which will go through a meticulous filtering process. Texts that have become obsolete, explicitly or implicitly repealed, and those that cannot be codified will be identified. This will ultimately reveal the existing laws and regulations which are currently in force. These will be consolidated and restructured into a unique document (a code), logically divided into titles, chapters and sections and easy to access. The draft forestry code of Madagascar is expected to be ready around mid-2016.

[Better aquatic animal health systems crucial for economic success in Suriname](#)

Aquatic animal diseases have the potential to negatively impact trade, human health, national economies, the livelihoods of aquaculture farmers and the environment. Recently LEGN has supported Suriname to develop a Law on Aquaculture, Regulations on Aquatic Animal Health and a Ministerial Decree on Aquaculture Licensing. These instruments are intended to improve the legal framework for aquaculture and aquatic animal disease management and ensure that Suriname complies with international standards.



This new framework will facilitate the sustainable development of aquaculture in Suriname and strengthen the country's ability to trade internationally. The Minister responsible for fisheries submitted the draft legislation to the Ministry of Justice and Police as a first step in the process for adoption by the legislature.

LEGN is now supporting the Ministry responsible for fisheries to address the feedback received. The fruitful collaboration has resulted in a new country request to review the capture fisheries legislation of Suriname. The request has been approved by FAO and LEGN looks forward to embarking on this new assignment.



Implications of climate change and rising sea levels for Pacific Island States

One of the impacts of climate change is global sea level rise. A genuine threat posed by sea level rise is the submergence of physical demarcation points of baselines from which a coastal State's territorial sea and exclusive economic zones (EEZ) are measured under international law. If left unaddressed, these developments could cause dramatic economic consequences for small island developing States (SIDS) in the Pacific as they rely heavily on fisheries, aquaculture and tourism.

In 2013, 15 members of the Pacific SIDS, through the Pacific Islands Forum Fisheries Agency (FFA), requested technical assistance from FAO. In July 2014 Blaise Kuemlangan (Chief) and Yoon Jee Kim (Associate Legal Officer) were part of a mission to Papua New Guinea and Fiji where they participated in national consultations and a regional workshop. The workshop produced a draft regional strategy for the Pacific SIDS aimed at securing maritime jurisdictions and developing the capacity to address other aspects of climate change.

The workshop participants agreed that the fundamental objective is to ensure the preservation of maritime jurisdictional claims and limits of Pacific SIDS and that delimitation of boundaries was an important prerequisite. It was noted that as of 2014, the majority of maritime delimitations for the Pacific Island states still need to be completed.



While overall understanding of the effects of climate change and specifically sea level rise was enhanced by the mission it is clear that there is an ongoing need to provide information in the Pacific about the implications of international law and climate change. LEGN will continue to assist the Pacific SIDS through ongoing country consultations and capacity building efforts.

Implementation of the VGGT in Sierra Leone

FAO is assisting Sierra Leone with the implementation of [the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security](#) (VGGT).

The first stage involves a comprehensive assessment of the existing legal frameworks in Sierra Leone in relation to land administration, fisheries, forestry and the right to food.



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LEGN has developed legal assessment tools for land, fisheries, forestry and

gender and with the full involvement of all relevant stakeholders, national legal consultants are using these tools to carry out the assessment. The work started in April with a capacity development mission and is expected to be completed this year. Existing laws will be assessed as well as a draft land policy, a fisheries and aquaculture bill and a review of the forestry legislation.

LEGN is also working on a Technical Guide for lawyers on the VGGT and as the assessment tools are being used for the first time in Sierra Leone the experience is likely to greatly inform the guide.

The Ebola outbreak in the region is however affecting progress. Meetings are strongly discouraged by the authorities and so consultations will be conducted to validate the results only when the situation improves.

The Comoros Project

In June 2013, the Government of the Union of the Comoros initiated a project to strengthen its national regulatory frameworks for food safety, animal health and plant protection. Comoros is a small developing archipelagic State which relies heavily on imported food and agricultural products. Accordingly, it is vulnerable to the risks associated with the entry, establishment or spread of pests, diseases, and also contaminants, additives, toxins in foods, beverages or feed. The project aims to:

- strengthen the national institutions concerned with sanitary and phytosanitary (SPS) measures and to create a national SPS strategy and implementation plan;
- support the development of food safety and quality, with a focus on fisheries products;
- update the national plant protection legislation; and
- identify the legal gap in the area of animal health, paving the way for a legal drafting assistance project by the Animal Health Organization (OIE).

LEGN is currently providing assistance for the amendment of the Comorian

plant protection legislation in order to harmonize it with the requirements of the International Plant Protection Convention (IPPC). The next phase of LEGN's part of the project will involve a revision of the fisheries certification regulations to facilitate fisheries producers' access to new markets.

FAO, IFAD and UNIDROIT partner for the development of a Legal Guide on Contract Farming Operations

Since 2012, LEGN and the Agroindustries and Rural Infrastructures Division of FAO (AGS) have been actively collaborating with the International Institute for the Unification of Private Law (UNIDROIT) and the International Fund for Agricultural Development (IFAD) to create a global Legal Guide on Contract Farming Operations.

Contract farming involves buyers and farmers entering into contractual agreements to ensure farmers produce certain quantities and qualities of products in return for being assured commitment from buyers in terms of actual purchases, fair prices and production support. Accordingly contract farming is a powerful tool, if used correctly, to facilitate fair contractual practices in the field, to protect the rights of both farmers and buyers and to facilitate smallholders' and family farmers' access to new markets.



The guide details the different elements that should be incorporated into a contract in order to ensure fair contract law practices, including stating: how these contracts are formed, who may be party to such a contract, parties obligations, price determination, excuses for non-performance, as well as dispute resolution and remedies for breach, duration, renewal and termination.

The Legal Guide is being prepared by a Working Group of experts, including private law scholars from the different continents and legal traditions, as well as legal and technical experts from FAO, IFAD, the World Bank and the private sector. The development of the guide has involved a number of regional consultations with international experts, Universities, farmer communities and private sector representatives. The first consultation was held in Argentina in March and the second in Bangkok in September. A third consultation will take place in Addis Abeba in late October. A specific consultation with the private sector also took place in October in Rome.



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The Working Group of experts will meet for a final time in November to incorporate comments into the draft Legal Guide and complete the revision of various chapters. The guide is due for approval and endorsement of the governing bodies of UNIDROIT in 2015.

Animal welfare project brings FAOLEX's work to the fore

In 2013 LEGN technical experts and the FAOLEX team combined forces to investigate animal welfare legislation as part of a greater study on animal welfare undertaken by FAO and the European Bank for Reconstruction and Development (EBRD).

The FAOLEX team researched the existing laws relating to animal welfare in Italy, Poland, the UK, Egypt, Morocco, the Russian Federation, Serbia, Turkey and Ukraine. The in-depth research was made possible because of the extensive range of languages the FAOLEX Team are able to work in. According to Eylul Kocer from FAOLEX, as well as

increasing FAOLEX's "in-house visibility" the project also helped to populate the database and the collaboration with technical experts from LEGN "broadened the group's knowledge and capacity".



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FAO volunteers

Every year law students and recent graduates with a keen interest in development law volunteer their time and skills in LEGN's Rome Headquarters. This year LEGN has welcomed volunteers from Rwanda, Canada, France, the USA, New Zealand, Kenya and Cote D'Ivoire. Chloé-Rose Barakat-Devine from New Zealand describes the experience as "incredibly stimulating working in such an international environment and an amazing opportunity to see law and policy making in action".



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