



Essential Readings in Environmental Law
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AGRICULTURE, FOOD AND ENVIRONMENTAL LAW AT FAO
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Overview of Key Scholarships

1. Cabannes, Y., *Pro-poor Legal and Institutional Frameworks for Urban and Peri-urban Agriculture*, Legislative Study 108 (Rome: FAO, 2012)
2. Morgera, E., C. Bullón Caro, and G. Marín Durán, *Organic Agriculture and the Law*, Legislative Study 107 (Rome: FAO, 2012)
3. Burchi, S., J. Rendón Cano, y A. D'Andrea, *Manual para la formulación de reglamentos nacionales para la gestión de recursos hídricos - Principios y práctica*, Estudio legislativo 106 (Roma: FAO, 2012)
4. Knight, R.S., *Statutory Recognition of Customary Land Rights in Africa - An Investigation into Best Practices for Law Making and Implementation*, Legislative Study 105 (Rome: FAO, 2010)
5. Morgera, E., *Wildlife Law and the Empowerment of the Poor*, Legislative Study 103 (Rome: FAO, 2010)
6. Morgera, E., K. Kulovesi, and A. Gobena, *Case Studies on Bioenergy Policy and Law - Options for Sustainability*, Legislative Study 102 (Rome: FAO, 2009)
7. Vapnek, J., I. Pagotto, and M. Kwoka, *Designing National Pesticide Legislation*, Legislative Study 97 (Rome: FAO, 2007)
8. Spreij, M. et J. Vapnek, *Perspectives et directives de législation alimentaire et nouveau modèle de loi alimentaire*, Etude législative 94 (Rome: FAO, 2007)
9. Cullinan, C., *Integrated Coastal Management Law - Establishing and Strengthening National Legal Frameworks for Integrated Coastal Management*, Legislative Study 93 (Rome: FAO, 2006)
10. Stewart, C., *Legislating for Property Rights in Fisheries*, Legislative Study 83 (Rome: FAO, 2004)
11. Cotula, L., *Gender and the Law - Women's Rights in Agriculture*, Legislative Study 76 (Rome: FAO, 2002; Revised Edition, 2006)
12. Castelein, A., T.T.V. Dinh, M.A. Mekouar, and A. Villeneuve, *Mountains and the Law - Emerging Trends*, Legislative Study 75 (Rome: FAO, 2002; Revised Edition, 2006)

Background

Over the decades, the Food and Agriculture Organization of the United Nations (FAO) has made key contributions to foster regulatory frameworks on food and agriculture for sustainable development, through the setting of norms and standards in soft and hard law instruments, the drafting of national legislation, and the production of publications dealing with the management of natural resources in areas pertaining to its mandate, i.e. agro-biodiversity, fisheries, forests, land, livestock, water, wildlife, etc.

Within the FAO Legal Office, the Development Law Branch has a lead role in conducting and promoting research and studies on important legal issues relating to food and agriculture. In this context, it has produced numerous publications on new developments and emerging trends in agriculture and natural resources management law, mainly within two series: the *FAO Legislative Studies* and the *FAO Legal Papers Online*. Published since 1971, the Legislative Studies series comprises to date 108 volumes¹, whereas the Legal Papers Online series, published since 1998, presently consists of 91 papers².

This document provides: (i) a selection of FAO publications on agriculture, food and environmental law; and (ii) additional references to FAO literature on the same subjects.

Selected Publications

1. *Pro-poor Legal and Institutional Frameworks for Urban and Peri-urban Agriculture*, authored by **Y. Cabannes**, addresses a subject which is attracting increased interest as the world's urban population is expected to almost double by 2050, raising new challenges in terms of linking food, agriculture, cities and livelihoods in rapidly evolving rural-urban contexts, e.g.: how and where to produce enough food for urban dwellers; and how cities can preserve the surrounding ecosystems. The study explores the main issues to be tackled by pro-poor legal and institutional frameworks, at national and municipal levels, for the practice of urban and peri-urban agriculture, through case studies from Argentina, Brazil, Canada, Cuba, Ghana and Uganda, and in the light of relevant international instruments. It also provides specific guidelines for the drafting of appropriate legislation and regulations on urban and peri-urban agriculture.
2. Co-authored by **E. Morgera**, **C. Bullón Caro** and **G. Marín Durán**, *Organic Agriculture and the Law* captures some of the lessons learned by FAO in advising countries on organic agriculture legislation, representing a first step in unravelling the complex issues involved in drafting national legislation in this area. Based on a comparative review of selected public and private legal sources of international relevance, as well as on experience gained through field projects, the study seeks to analyze the main legal issues related to organic production, formulating detailed recommendations for the design of related national legislation. Beyond a broad description of relevant legal instruments governing organic agriculture generally, the study offers specific illustrations from six countries, namely Argentina, Canada, India, Japan, Tunisia and the USA, as well as from the European Union.
3. Jointly produced by **S. Burchi**, **J. Rendón Cano** and **A. D'Andrea**, *Manual para la formulación de reglamentos nacionales para la gestión de recursos hídricos - Principios y práctica* is intended as a guide for the preparation of national regulations for the management and conservation of water resources, for use by government officials to

develop regulations for the implementation of water policies and laws. As scarce water resources are under increasing pressure owing to growing socioeconomic demand and pollution damage, there is greater need for suitable policy and legal instruments to rationalize their use, development and protection. Hence, this manual provides conceptual material arranged according to the main functions of water resource management, and illustrated by examples of original water regulations drawn from a variety of Spanish-speaking countries. Similar versions of the manual also exist in English (Legislative Study 80, Rome: FAO, 2003) and in French (Legislative Study 69, Rome: FAO, 1999).

4. Through *Statutory Recognition of Customary Land Rights in Africa - An Investigation into Best Practices for Law Making and Implementation*, **R.S. Knight** provides guidance on how best to recognize and protect the land rights of the rural poor and investigates the various over-arching questions related to the statutory recognition of customary land rights. The study addresses issues related to land tenure of the people living and making their livelihood upon lands held according to custom, which have become more pressing with the widespread trend of conceding vast areas of land to foreign investors. On the basis of three case studies from Botswana, Mozambique and Tanzania, the publication suggests various oversight and accountability mechanisms which may be established to ensure that the law is properly implemented, the land claims of rural communities are protected, and the legislative intent of the law is realized.
5. **E. Morgera**, in *Wildlife Law and the Empowerment of the Poor*, reviews the conditions, approaches and options for the preparation of wildlife laws that empower people while ensuring environmental sustainability. The study is premised on the belief that wildlife law can contribute to the legal empowerment of the rural poor in different ways, in particular by: (a) granting them secure rights to conserve and benefit from wildlife; (b) recognizing and supporting traditional use that is sustainable; (c) incorporating the needs of local and indigenous communities in wildlife management planning; and (d) creating safeguards for the food security of local communities. From this perspective, legislation can apportion economic and other benefits from wildlife activities to local and indigenous communities, including income generated through community-based wildlife management schemes. Underpinned by the findings of regional reviews of legislation from selected countries in Africa, Latin America, South-East Asia and Oceania, the study identifies legal tools that allow disadvantaged people to directly benefit from wildlife management, thereby improving food security, alleviating poverty, and enhancing rural livelihoods in a sustainable manner.
6. In developing *Case Studies on Bioenergy Policy and Law - Options for Sustainability*, **E. Morgera**, **K. Kulovesi** and **A. Gobena** built on the preliminary findings of a previous publication (*Recent Trends in the Law and Policy of Bioenergy Production, Promotion and Use*, Legislative Study 95, Rome: FAO, 2007), which sought to feature national legal and policy frameworks for bioenergy to assess their strengths and weaknesses. This study deepens the understanding of the interconnection between legislation on bioenergy and other sectors. In a wider perspective, it examines both bioenergy and bioenergy-related legislation in selected countries, namely: Argentina, Brazil, Estonia, Mexico, the Philippines, Thailand and Tanzania. On the basis of these seven case studies, the review identifies legal tools which can meaningfully contribute to the social, economic and environmental sustainability of bioenergy production, by mapping out the existing legal and institutional frameworks in a range of relevant sectors, including forestry, land, water, trade and the environment. A clear conclusion emerging from the study is that legislators

should take an interdisciplinary approach to regulating bioenergy in order to ensure that social, economic and environmental considerations are equally taken into account in bioenergy programmes in the short and long term.

7. **J. Vapnek, I. Pagotto and M. Kwoka** co-authored *Designing National Pesticide Legislation*, with the aim to provide governments wishing to develop, reform or update their domestic legislation, as well as to align national frameworks with international norms, with up-to-date guidelines on all aspects of sound pesticide management, including human health, environmental protection, registration, import and export, licensing, manufacture, storage, packaging, labelling, trade, use, advertising, transport, disposal, monitoring, etc. The recommendations to amend and upgrade national laws are intended for all countries, while also highlighting the particular challenges and needs of developing countries, offering practical solutions to common problems. The study is also available in French (Rome: FAO, 2005), Spanish (Rome: FAO, 2009) and Arabic (Rome: FAO, 2012).
8. The co-authors of *Perspectives et directives de législation alimentaire et nouveau modèle de loi alimentaire*, **M. Spreij and J. Vapnek**, drawing on FAO's experience in providing technical assistance for the development of food legislation, examine the many elements which should be taken into account in a comprehensive review of regulatory frameworks for food. The globalization of food trade and the harmonization of food standards and food safety rules have led to significant changes in such regulatory frameworks, stemming from an increasing recognition of the need to integrate and improve coordination of regulatory activities among national and international bodies for better protection of human, animal and plant life and health, without creating unnecessary barriers to trade. Moreover, outbreaks of food-borne disease have sparked greater attention to the regulatory frameworks for food safety and food trade in the global arena, giving rise to new legislative requirements. National regulatory frameworks need be adjusted to meet international and regional obligations, while the distribution of responsibilities for the food sector calls for rigorous review. Against this backdrop, the study offers detailed recommendations for the preparation of national food laws, including three variants of a new model food law. Similar editions of this study were published earlier in English (Legislative Study 87, Rome: FAO, 2005) and in Spanish (Estudio legislativo 91, Roma: FAO, 2006).
9. In this publication titled *Integrated Coastal Management Law - Establishing and Strengthening National Legal Frameworks for Integrated Coastal Management*, **C. Cullinan** offers practical guidance for the development and implementation of legal and institutional frameworks to promote integrated coastal management (ICM). The 1990s have witnessed a worldwide proliferation of legislative reform processes aimed at supporting ICM, as this concept was becoming widely accepted throughout the world as the best approach to dealing with coastal issues. Based on a review of ICM-related legislation from a range of countries, such as Australia, France, India, New Zealand, South Africa, Sweden, Thailand and the USA, the study successively covers in four parts: (a) an overview of the subject matter and the context within which national ICM laws should be prepared; (b) the process of drafting a legal framework for ICM and the key issues that should be taken into consideration at the outset; (c) the different legal approaches and techniques that can be used to achieve different ICM objectives; and (d) the global trends in the development of ICM legislation.

10. The traditional public right to fish in tidal waters has been, in recent decades, supplanted by limitations on access to the stocks, particularly for commercial fishers, through statutory schemes establishing rights of various types. Where such rights are fully established, they show many of the legal features of property. In this context, **C. Stewart**, in *Legislating for Property Rights in Fisheries*, examines rights-based systems in fisheries management from a legal perspective. Outlining the history of the development of rights-based fisheries management, the study analyses the underlying concepts of property rights in fisheries and the terms used in property rights regimes, and examines legislation in jurisdictions that have introduced property rights in fisheries, as well as its interpretation by the courts. Possible options for implementing property-based fisheries rights systems in national legislation are discussed. With examples from Australia, Canada, Morocco, Namibia, New Zealand, Nicaragua, South Africa and the USA, the study illustrates how the extent of property in the fisheries right is most commonly determined by the strength of the property characteristics of transferability, durability, security and exclusivity.
11. **L. Cotula**, in *Gender and the Law - Women's Rights in Agriculture*, examines the gender dimension of agriculture-related legislation, reviewing relevant international instruments and focusing on national legal systems. Based on the legislation and case law of ten countries reflecting different legal traditions and cultural environments, the legal status of women is investigated in three key areas: rights to land and other natural resources; rights of women agricultural workers; and rights concerning women's agricultural self-employment activities, ranging from women's status in rural cooperatives to their access to credit, extension services and training. While gender issues cut across virtually all aspects of agriculture, particular attention is paid to customary norms and sociocultural practices affecting the application of statutory legislation. The initial research underpinning the study was carried out in 2001-2002. The second, revised and updated edition sought to capture important developments that had taken place since then. The study is also available in French and Spanish.
12. *Mountains and the Law - Emerging Trends*, co-authored by **A. Castelein**, **T.T.V. Dinh**, **M.A. Mekouar** and **A. Villeneuve**, was first published as part of the celebration of the International Year of Mountains, proclaimed by the United Nations General Assembly in 2002, and was subsequently updated and expanded in 2006. Looking at the development of mountain legislation, which remains in its early stages, the study broadly identifies the main elements of mountain-specific legal instruments, both in the international sphere as well as the domestic level. While most countries have not enacted mountain-specific laws, relying on sectoral legislation (on the environment, agriculture, forestry, soil, watershed, land, etc.) to provide for mountain protection and development, a few countries have enacted legal instruments dealing specifically with mountains areas, such as Algeria, Bulgaria, France, Georgia, Italy, Kyrgyzstan, the Russian Federation (North Ossetia-Alania), Switzerland and Ukraine. Case studies from these countries illustrate in some detail, in the second part of the publication, the main features of national mountain legislation, as outlined in the first part of the publication. This study is also available in French and Spanish.

Further Readings

Legislative Studies

- Burchi, S. and A. D'Andrea, *Preparing National Regulations for Water Resources Management Principles and Practice*, Legislative Study 80 (Rome: FAO, 2003)
- Burchi, S. and K. Mechlem, *Groundwater in International Law. Compilation of Treaties and other Legal Instruments*, Legislative Study 86 (Rome: FAO, 2005)
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- Cotula, L. and M. Vidar, *The Right to Adequate Food in Emergencies*, Legislative Study 77 (Rome: FAO, 2003)
- FAO Legal Office, *Law and Sustainable Development since Rio. Legal Trends in Agriculture and Natural Resource Management*, Legislative Study 73 (Rome: FAO, 2002)
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- Hodgson, S., *Land and Water: The Rights Interface*, Legislative Study 84 (Rome: FAO, 2004)
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- Jull, C., P. Carmona Redondo, V. Mosoti, and J. Vapnek, *Recent Trends in the Law and Policy of Bioenergy Production, Promotion and Use*, Legislative Study 95 (Rome: FAO, 2007)
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- Manzella, D. and J. Vapnek, *Development of an Analytical Tool to Assess Biosecurity Legislation*, Legislative Study 96 (Rome: FAO, 2007)
- Morgera, E. and M. T. Cirelli, *Forest Fires and the Law. A Guide for National Drafters based on the Fire Management Voluntary Guidelines*, Legislative Study 99 (Rome: FAO, 2009)
- Mosoti, V. and A. Gobena, *International Trade Rules and the Agriculture Sector: Selected Implementation Issues*, Legislative Study 98 (Rome: FAO, 2007)
- Rey Santos, O., *Marco Analítico para el Desarrollo de un Sistema Legal de la Seguridad de la Biotecnología Moderna (Bioseguridad)*, Estudio legislativo 90 (Roma: FAO, 2006)
- Spreij, M. and J. Vapnek, *Perspectives and Guidelines on Food Legislation, with a New Model Food Law*, Legislative Study 87 (Rome: FAO, 2005)
- Spreij, M. y J. Vapnek, *Directrices en Materia de Legislación Alimentaria (Nuevo Modelo de Ley de Alimentos para Países de Tradición Jurídica Romano-Germánica)*, Estudio legislativo 91 (Roma: FAO, 2006)
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Other Publications

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¹ Available at: <http://www.fao.org/legal/publications/legislative-studies/en>.

² Available at: <http://www.fao.org/legal/publications/legal-papers/en>.