



Family farming



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Guided by the *Global Action Plan of the United Nations Decade of Family Farming 2019-2028*, this legal brief examines concrete ways that legislation can effectively support policy processes aimed at advancing family farming's contribution to the attainment of the Sustainable Development Goals. Building on Legal Paper 108 "Legislative and Regulatory Frameworks for Family Farming", it aims to present different legislative and regulatory options to decision-makers to facilitate their appreciation of the complexity of existing frameworks that underpin family farming while favouring the design of supportive approaches best suited to respective national context. With the multisectorality of family farming at its core and mindful of family farmers' overwhelming contribution to nutritiously and sustainably feed the world, this legal brief discusses legislative and regulatory processes in four interrelated areas – 1) access to resources and opportunities, 2) sustainability and traditions, 3) nutrition and healthy diets; and 4) resilience and socioeconomic services - that are conducive to a sustainable and inclusive agri-food systems transformation for a better production, better environment, better nutrition and better life for all, leaving no one behind.



Introduction

Family farmers¹ are pivotal in rendering agri-food systems more inclusive, sustainable, resilient and efficient, not only due to family farming employing 30 percent of the world's population and producing over 80 percent of the world's food in value terms (FAO, 2014a), but also given their role as custodians of biodiversity, landscapes and cultural heritage. There are currently more than 600 million family farms around the world (Lowder, Sánchez and Bertini, 2019), with more than 98 percent of farms being less than 20 hectares (HLPE, 2013), while 90 percent of people employed in fisheries and half of the global fish catches come from small-scale fisheries (FAO, 2020a).

Despite family farmers being key in sustainably transforming agri-food systems to nutritiously feed the world, it remains that they are among the most affected by poverty and vulnerability (FAO, 2020b). More than 75 percent of the world's poorest live in rural areas and depend on agriculture for their livelihood, with family farmers – in particular small-scale food producers, women, youth, Indigenous Peoples and ethnic minorities – among those facing the highest levels of economic, financial, social and environmental risks (FAO and IFAD, 2019a). The urgency to act could not be stronger with more than 2.3 billion people lacking year-round access to adequate food in 2021 – the global novel coronavirus disease (COVID-19) pandemic being partially responsible for this single-year leap as big as the previous five years, and more than 3 billion adults and children not having access to healthy diets largely due to excessive costs. Based on current trends, estimates see Sustainable Development Goal (SDG) 2 being missed by a margin of nearly 660 million people, with 30 million of these being linked to the pandemic's lasting effects (FAO, IFAD, UNICEF, WFP and WHO, 2021).

To effectively address this dire situation, a coherent set of policy and investment portfolios that comprise a myriad of measures is warranted (FAO, IFAD, UNICEF, WFP and WHO, 2021). Among those coherent measures, legislation offers an effective and prompt way to address pressing issues throughout agri-food systems, in addition to supporting the sustainability of policy processes and offering a prime way to translate supranational commitments and recommendations into national objectives and targets. A well-defined legal framework is a tool of stability to consolidate efforts aimed at achieving agri-food systems transformation. Well-drafted, implemented, enforced and monitored laws bring clarity and predictability, leading to the creation of an enabling environment of transparent and accountable governance mechanisms and institutions while increasing inclusive economic opportunities for all, especially vulnerable groups. As explicitly prescribed by the *Global Action Plan of the United Nations Decade of Family Farming 2019-2028* (UNDF), it is paramount to strengthen, in a coherent manner, legislative and institutional frameworks across all the relevant policy areas of family farming. To do so, it is paramount to define family farming in legislation, which will then be the anchoring point for legislative and policy measures that can foster an enabling policy environment to strengthen family farming (FAO and IFAD, 2019b).

Against this background, this legal brief aims to examine the fundamental role of legislation in anchoring broader policy efforts to support family farming – with implications for numerous sectors of great interest for the sustainable agri-food systems transformation, thereby advancing the objectives of the UNDF and the related SDGs. While not possible to cover all sectoral areas in this brief, the emphasis is placed on four broad and interrelated core sections that encompass prevalent issues for

¹ According to FAO's working definition, family farming is a means of organizing agricultural, forestry, fisheries, pastoral and aquaculture production that is managed and operated by a family, and that is predominantly reliant on the family labour of both women and men. The family and the farm are linked, co-evolve and combine economic, environmental, social and cultural functions. Family farmers include mountain farmers, artisanal fisherfolk, pastoralists and forest dwellers, while family farms may include members of multiple generations managing and working on the farm (FAO, 2013).

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family farming: 1) access to resources and opportunities; 2) sustainability and traditions; 3) nutrition and healthy diets; and 4) resilience and socio-economic services. The four core sections of the brief will display legislative and regulatory initiatives that are conducive to family farming while promoting a more inclusive participation of family farmers and their organizations, including women and youth, leading to a determining impact in transforming agri-food systems for a better environment, better production, better nutrition, and ultimately a better life for all, leaving no one behind (FAO, 2021a).

1. Access to resources and opportunities

For family farmers to be main agents of agri-food systems transformation, secure tenure rights and equitable access to resources and productive assets are critical. Coherent legal, policy and organizational frameworks for good governance of tenure that facilitate, promote and protect tenure rights, while recognizing legitimate tenure rights, including legitimate customary tenure rights that may not currently be protected by law, are conducive to sustainable development, responsible investment and the eradication of poverty and food insecurity for family farmers (FAO, 2012a).

Pillar 5. Outcome 5.2 – Improved access to and control of natural resources and productive assets by family farmers, in particular of youth and women, Indigenous and landless peoples.

While family farmers face constraints in accessing, controlling and owning resources and productive assets, women generally have less access than men to resources and opportunities, despite their critical role in feeding the world and the importance of gender equality in implementing responsible governance of tenure (FAO, 2012a). Legal reforms can help address those concerns. For instance, Burkina Faso's *Decree 705 of 2012* helps prevent discrimination against women family farmers by stating that the head of a family farming household may be male or female. Another issue, land inheritance, was addressed in Nepal through a recent amendment to the *Muluki Ain* (General Code) granting women, including unmarried daughters, the right to inherit land from their parents. The ability to own land is also a primary area of concern for youth, as the discrimination they face in accessing, controlling and owning resources and productive assets hampers the generational turnover in agriculture, fisheries and forestry (FAO, 2018).

Pillar 3. Outcome 3.2 – Increased access of women in family farming to natural resources, productive assets, information, infrastructure, financial services and markets.

Decision-makers can look at several legislative options to incentivize the involvement of youth in agriculture, with the adoption of redistributive and mediated market measures supporting youth access to inputs or youth-centred inclusive innovation for sustainable agri-food systems as examples (HLPE, 2021). As per all other family farming constituencies, youth can benefit from favourable fiscal policies and financial support. In the Russian Federation, a number of regions have adopted such innovative legislative measures, with, for instance, *Law No. 172 of 2012* of the Mari-El Republic supporting novice farmers through the allocation of grants covering up to 90 percent of the costs for their acquisition of land plots and farm inputs. In addition, several regions adopted differentiated tax rates depending on the types of agricultural products produced, the amount of income from the sales, the location, and the average number of employees. These measures, adopted in 2018, resulted in tax rates from 2019 to 2021 being 0 percent in the Moscow Region (*Law No. 145*), 3 percent in the Kemerovo Region (*Law No. 91*) and 5 percent in Sverdlovsk Region (*Law No. 114*). Meanwhile, to specifically address the impact of the COVID-19 pandemic on family farmers, El Salvador adopted *Decree No. 642 of 2020* that establishes a number of financial measures, such as a moratorium on agricultural credit payments and the creation of new credit lines.

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Pillar 2. Outcome 2.2 – Improved access of the next generation of family farmers to natural resources, productive assets, education, information, infrastructure, financial services and markets.

A significant way for decision-makers to facilitate family farmers' equitable access to resources and opportunities can be through legislation that supports the creation of organizations and cooperatives. They can offer a broad range of services to their members, from access to information and training, to innovation and technologies, in addition to facilitating active participation in decision-making processes (FAO, 2012b). Specific legislation can authorize the creation and operation of such groups, as was done in Georgia through the *Law on Agricultural Cooperatives of 2013* that aims to develop family farms, cooperate with them and increase their viability. Meanwhile, broader laws on family farming can also provide a good legislative avenue to touch on critical issues for family farming, as was done in Peru with *Law No. 30355 of 2015*, which not only promote and stimulate the association and cooperativism of family farmers in all its facets, but also prioritize the access of family farmers to programmes to improve technical capacities and the use of technology, as well as dedicated financing programmes and marketing advice.

Considerations for decision-makers and practitioners

- Is the existing legislation conducive to family farmers equitably accessing, controlling and owning resources and productive assets? Do women and men have equal rights under existing legislation? What about Indigenous Peoples? What do customary law and practices say?
- Are there provisions in place to facilitate the active involvement of youth in family farming, such as dedicated financial and extension services, special tax regimes, favourable access to technology and opportunities? What considerations are there for data disaggregation when analysing and addressing specific conditions faced by family farmers and their various constituencies?
- Does the legislation authorize the creation and operation of family farmers' cooperatives and organizations? Are there specific provisions favourable to those organizations, such as increased space for participation in decision-making processes, tax exemptions, targeted and preferential credit lines, or access to extension and advisory services? Are there gender equality considerations and do women have the same access as men, to and within such organizations?

2. Sustainability and traditions

Legal frameworks are fundamental to support the agri-food systems transformation through sustainable agricultural models, which promote biodiversity and the conservation of natural resources as well as the use of environmentally sound practices. In Colombia, *Resolution No. 464 of 2017* details ten axes to strengthen the social, economic and political capacities of families, communities and organizations, through rural development with a territorial approach that improves the sustainability of agricultural production and improves the livelihoods of the rural population. The ten axes not only strive to guarantee the right to healthy and nutritious food for the entire population while making agriculture more productive and sustainable, they also involve rural youth through outreach and education initiatives while tackling gender inequalities through financial services for low-income rural women.

Pillar 6. Outcome 6.1 - Family farmers placed at the centre of sustainable and responsible management and use of natural resources with increased access to productive assets and services.

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Agroecology is one such sustainable agricultural model that is key to the agri-food systems transformation and the achievement of the SDGs, by notably building resilience to climate change, contributing to healthier diets, and shortening the value chain while improving the livelihoods of family farmers and their communities (FAO, 2019). One possible legislative avenue may be similar to that taken by France with its *Law No. 2014-1170 of 2014* that adopts a system-wide agroecological approach to address the economic, environmental and social challenges of its agricultural sector.

Pillar 6. Outcome 6.2 – Family farmers practicing and driving transition towards sustainable agriculture to support current and future generations' needs and mitigate climate change.

Given their key environmental, social and cultural roles as custodians of biodiversity and cultural heritage, family farmers are pivotal in bridging the past with the future when it comes to a sustainable transformation of agri-food systems. Decision-makers can capture this holistically when legislating on key areas for family farming, similar to that of the Plurinational State of Bolivia through its *Law No. 338 of 2013* that recognizes the importance of family farmers and all its constituencies. *Law No. 338 of 2013* places emphasis on women, youth and Indigenous Peoples in preserving and disseminating traditional knowledge, practices and technologies that are respectful of the environment and at the basis of a sustainable agri-food systems transformation that ensures the right of everyone to adequate food.

Pillar 7. Outcome 7.3 – Innovative economic opportunities and market solutions promoting services and goods of the multifunctional family farming, embedded and built on resources provided by the local context in place.

An additional legislative path that has been gaining momentum in recent years to promote the multifaceted role of family farming is through income diversification measures. In Italy, *Law No. 96 of 2006* authorizes agritourism at national level, whereby working farms can provide lodging and activities for tourists while selling agricultural products. Marketing and labelling legislation can also support family farmers with specialized production, such as organic, traditional, or socially responsible products and practices that can support artisanal production, similar to Guinea with *Order A/2013/2226 of 2013*.

Considerations for decision-makers and practitioners

- Is there a dedicated legislation to promote and facilitate a transition towards sustainable agricultural models? Is family farming a primary consideration to support this transition? Are there dedicated provisions and corresponding resources to accompany family farmers, especially women and youth, towards more sustainable farming practices?
- Is the legislation on agriculture, forestry and fisheries affecting agri-food systems transformation in looking at a food-systems approach to holistically and inclusively address its sustainability and efficiency? What considerations are placed on traditional knowledge and cultural heritage?
- What innovative inclusive economic opportunities are found in legislation to support the multifunctionality of family farming and the livelihoods of family farmers? Are there specific provisions on marketing and labelling for products of family farming? What about provisions on agritourism and on-farm activities? What considerations are placed on including specific groups, such as women and youth, in such legislative and policy measures?

3. Nutrition and healthy diets

Another critical area in the agri-food systems transformation where legislation can support family farmers' contribution to nutritious and healthy diets is with creating favourable conditions to make their produce more-widely available and accessible. Decision-makers can intervene along supply chains to lower the distribution and transaction costs of nutritious food, especially for those producing fruit and vegetables, making nutritious food available at an affordable price for consumers while ensuring access to markets and a remunerative price for producers. There are many ways available to act on the legislative, policy-driven and institutional facets of this issue, with increased attention being given to the establishment of direct relationships between family farmers and consumers, especially in light of the COVID-19 pandemic. For instance, the Chilean agricultural development institute established the *Law N° 18.910 of 1990* to promote the socio-economic and technical development of small-scale food producers by facilitating online markets for family farmers, which in turn ensures that the population has access to safe and healthy food.

Pillar 6. Outcome 6.4 – Inclusive and fair value chain is functioning with improved conditions for family farmers, in particular for women, youth and their organizations, encouraging diversification and the production of nutritious food.

Public procurement, whereby governments allocate a share of their gross domestic product to procure food for public institutions – as much as 30 percent in some developing countries (UNEP, 2017) – has the potential to support family farmers in generating more income and reducing poverty in the wider community while offering a channel to favour the production and consumption of nutritious food and healthy diets (FAO, 2020c). Legislative measures are numerous to support family farmers in such processes, such as was done in Uruguay with *Law 19.292 of 2014* that sets a minimum of 30 percent of the public procurement of food to be geared towards purchasing from local family farmers for all centralized food purchases while it imposes a requirement of 100 percent for decentralized purchases from authorized organizations, with family farmers representing at least 70 percent of them.

Pillar 5. Outcome 5.4 – Improved access of family farmers to markets guaranteeing increased participation and adequate remuneration and income-generating opportunities, particularly for youth and women.

School food and nutrition being sourced from family farmers is a widely used public procurement method that carries several benefits in the efforts to achieve the SDGs. Not only can the exchanges between schools and farmers promote the involvement of youth in agriculture (Christensen *et al.*, 2019), the nutritional status of school children through better-quality and more nutritionally balanced meals can have a lasting impact on the realization of numerous human rights (FAO and European Union, 2017). Meanwhile, such programmes can contribute to empowerment and gender equality by notably increasing the enrolment of girls, reducing dropout rates for adolescent girls, and increasing graduation rates while reducing child marriages, among many other positive impacts (WFP, 2019). In Cabo Verde, for instance, *Law No. 89/VIII/2015* touches on a variety of compelling issues for school food and nutrition, ranging anywhere from favouring local producers in the procurement of fresh food to nutrition and health education, all of which ought to be dealt with while promoting gender equality and healthy habits.

Pillar 6. Outcome 6.3 – Inclusive market environment for family farmers developed, promoting short food supply chains, providing diversified and nutritious food, thus contributing to more sustainable food systems.

Considerations for decision-makers and practitioners

- Are there legislative provisions to facilitate family farmers' access to markets? For instance, is there a specific legislation on public procurement of food, and is there a mandatory minimum percentage to be sourced from local family farming production? Is there a cross-sectoral platform, which establishes clear institutional roles and facilitates collaboration among all those involved in public purchasing?
- Is there a specific legislation on school food and nutrition? What provisions are there to link schools with family farmers, not only for sourcing but also to share knowledge and experiences?
- In times of emergencies, are there innovative regulatory measures being discussed, such as food e-commerce? For schemes such as school food and nutrition, are there provisions to allow for the adoption of special measures to ensure they keep functioning despite school closures? For instance, do they foresee exceptions to movement restrictions for activities related to their execution, or do they allow for temporary flexibility for their implementation? What specific considerations are being placed on ensuring that produce be sourced from family farmers during such times?

4. Resilience and socio-economic status

Decision-makers can act in multiple ways to strengthen the resilience of family farmers to economic adversity by lessening the impact of pandemic-style shocks, one such way being through in-kind or cash transfer programmes (FAO, IFAD, UNICEF, WFP and WHO, 2021). For example, to mitigate the impact of fishing bans on fishing families in Mauritius, the *Fishermen Welfare Fund Act of 2000* establishes a fund, supplied through a fraction of fishing license fees, to advance and promote the social and economic welfare of fishers, including through loans and other financial assistance. Meanwhile, since 2016 in Indonesia, *Law No. 7/2016* recognizes the fishers' need for support and acts to protect and empower those groups given their dependence on fish resources, environmental conditions, facilities and infrastructure, business certainty, access to capital, science, technology and information.²

Pillar 5. Outcome 5.1 – Enhanced standard of living and reduced household vulnerability through access to social protection, services and public goods for family farmers – in particular for youth, women and for their communities.

Between 2003 and 2013, it is estimated that natural disasters affected 2.7 billion people, causing damages worth USD 1.3 trillion, with the agricultural sector absorbing 22 percent of the economic damages (FAO, 2014b). Legislation can therefore play a critical role in assisting family farmers scale-up their climate resilience by strengthening their adaptation ability on the one hand, such as through the promotion of agroecological practices, in addition to offering them wide access to climate risk insurance on the other (FAO, IFAD, UNICEF, WFP and WHO, 2021). On the latter, decision-makers can look at Brazil as an example, where, to cover the majority of the operational costs of family farmers faced with climate-change related consequences, *Law No. 5,969 of 1973* established the agriculture and livestock activity guarantee program (PROAGRO) to protect farmers from rural loan obligations. In 2006, *Decree No. 5,996* expanded the PROAGRO mais part (aimed at producers) of the national program for the strengthening of family farming (PRONAF), which, among others, covers up to 80 percent of the expected gross income of family farmers. One of the corresponding measures for PRONAF members is

² Additional information on this law and its participatory process are discussed in the video *The Public Policy Cycle for Family Farming – United Nations Decade of Family Farming (2019-2028)* (FAO, 2021b).

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the price guarantee program for family farmers that offers loans to protect against price reductions and cover production costs (FAO, 2016).

Pillar 5. Outcome 5.3 – Strengthened resilience and economic viability of family farmers through the application of sustainable and diversified production practices, innovations and their access to a diverse and nutritious diet.

Considerations for decision-makers and practitioners

- What legislation is there to oversee in-kind or cash-transfer programmes? Are there specific provisions for family farmers or targeted measures for some of its constituencies? Does it strive to strengthen the resilience of family farming communities? Does it have disaggregated considerations tailored to specific groups, such as women, youth, Indigenous Peoples?
- What is found in legislation to increase the climate resilience of family farmers and of family farming? Are there provisions on or considerations towards climate-risk insurance for family farmers? What about targeted protection schemes such as covering a large percentage of expected gross income in case of climate-related events?
- What emergency regulatory measures have been adopted that can impact the economic, social and physical availability and access to adequate food, such as imposing movement restrictions or open market closures? Have specific provisions been included for family farmers and their capacity to operate and earn a livelihood in times of emergency? Have they been included as part of essential economic activities or maybe there were safe trade corridors established? What about measures such as the postponement of rural credit payments or the promotion of local procurement, or maybe short-term stimulus packages, guarantee schemes for loans for family farms, quotas for financial institutions for lending to family farmers and smallholders, or grants, subsidized loans and tax incentives?

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³ This legal brief is inspired by and can be read in conjunction with the Food and Agriculture Organization of the United Nations (FAO) Legal Paper 108, *Legislative and Regulatory Frameworks for Family Farming* by Jessica Vapnek and Peter Boaz, which explores in more detail some of the key issues raised herein.

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Key messages

- **Decision-makers can efficiently support family farmers' contribution to agri-food systems transformation by adopting well-designed, coherent and enforceable legislation** – as legislation is crucial to accountable governance by fostering transparent institutions and measures, decision-makers have a primary role to play in drafting, consulting on and adopting sound legislation that will then be enforced and monitored to make the most of family farmers' contribution to Agenda 2030.
- **Coherent legislative and policy measures go hand-in-hand to ensure a positive impact on the livelihood of family farmers** – policy measures provide a direct way to implement the parameters of operationalization set forth in legislation while the latter can notably define the institutional structure to efficiently monitor the implementation of policy measures that concretely improve the lives of family farming constituencies.
- **Model and framework laws offer a prime way to adopt a coherent and multisectoral approach to family farming** – considering the various sectors involved in family farming, such legislative instruments favour cross-sectoral coordination among the different actors, promote a holistic response to the main issues facing family farmers and efficiently foster its positive contribution to agri-food systems transformation.
- **Defining family farming is key to improving the livelihoods of family farmers and advancing their contribution to pressing global challenges** – a legal definition will guide the interpretation of legislation in addition to ensuring that family farmers' main concerns can adequately be addressed through targeted policy measures, including social protection schemes.
- **The inclusion and active participation of family farmers throughout legislative and policy processes promote accuracy, ownership and sustainability** – wide consultations from decision-makers with family farmers and their organizations, with particular attention to the inclusion of women and youth, will render legislation and policies better tailored to their pressing needs while favouring their contribution to nutritiously feeding communities.
- **In times of emergency, legislation has an increased importance to guarantee the right of everyone to adequate food** – and this holds particularly true for vulnerable groups, such as family farmers, as it provides for special procedures for: budget allocation; governance and responsibilities to monitor, control and regulate the supply of commodities to ensure food availability; special measures to protect the rights of the most vulnerable against loss of income and possible food shortages; and complaint and law enforcement mechanisms to address grievances and sanction unlawful conduct, among others.⁴

⁴ More information on legal considerations for COVID-19 responses to mitigate the risk of food insecurity can be found in FAO, 2020d.

