

Pro-poor legal and
institutional frameworks
for urban and
peri-urban agriculture



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LEGISLATIVE
STUDY

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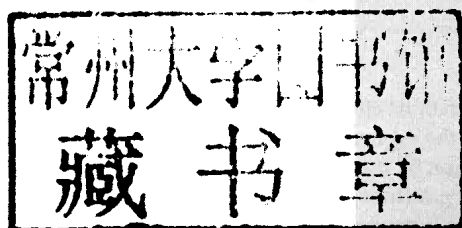
by

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for the

Development Law Service

FAO Legal Office



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FOREWORD

Urbanization is one of the key drivers of change in the world today as the world's urban population will almost double from the current 3.5 billion to more than 6 billion by 2050. It is a challenge not only for urban areas but also for rural areas. Supporting the most vulnerable groups in an urbanizing world demands discussions on food, agriculture and cities in the context of rural-urban linkages. Policies need to address a very wide range of issues in order to link urbanization, food and nutrition security and livelihoods: how and where to produce enough food for urban dwellers? What infrastructure is needed? How can cities preserve the surrounding ecosystems?

The "Food for the Cities" multidisciplinary initiative of the Food and Agriculture Organization of the United Nations (FAO) promotes a food system approach supported by a great variety of areas such as urban and peri-urban agriculture (UPA) and forestry, support to small producers in urban and peri-urban areas, land tenure, food supply, nutrition education, school gardens, waste management and re-use of wastewater. All stakeholders from the public sector, the private sector and the civil society need to work together at global, national and local levels, and FAO seeks to bring these stakeholders together and serve as a neutral forum for international discussions.

Specifically regarding urban and peri-urban agriculture (UPA), FAO has in recent years, through the Growing Greener Cities initiative, provided assistance to policy makers worldwide in the implementation of systems to strengthen urban and peri-urban horticulture (UPH). By supporting governments in formulating policies, removing barriers, establishing incentives and promoting capacity building of urban farmers and producers, the FAO programme, and similar ventures by other organizations, has demonstrated through case studies undertaken in Africa and Latin America that UPA provides an effective and viable solution to address food and nutrition security in poor urban populations (FAO, 2010).

This legislative study aims to promote an understanding of the key elements and issues to be addressed by a pro-poor legal and institutional framework for the practice of urban and peri-urban agriculture. Several case studies from Argentina, Brazil, Canada, Cuba, Ghana, and Uganda are included to this end. It is hoped that this study will provide guidance to national legislators,

ministers and administrations, mayors and other municipal officials, as well as lawyers involved in drafting legislation and regulations or advising on, or advocating for, better legal frameworks for urban and peri-urban agriculture.

The Development Law Service commissioned the study from the Development Planning Unit, University College London (DPU/UCL) and it was undertaken by Professor Yves Cabannes, in collaboration with a number of others noted in the acknowledgements.

The preparation of the study was supervised by Margret Vidar, Legal Officer, Development Law Service, FAO. Thanks is given to Victoria Aitken and Graham Hamley, legal interns, for their assistance in the review, as well as Jane O'Farrell for her editorial expertise.

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List of selected acronyms and abbreviations

AMA	Accra Metropolitan Assembly
CSO	Civil Society Organization
CC	Climate Change
DPU	Developing Planning Unit
EPA	Environmental Protection Agency (USA)
ESD	Environment and Sustainable Development
FAO	Food and Agriculture Organization of the United Nations
GLA	Greater London Authority
GM	Genetically Modified Food
GNAU	National Group for Urban Agricultures
ICESCR	International Covenant on Economic, Social and Cultural Rights
IDRC	International Development Research Centre
IPES	International Promotion of Sustainable Development
IWMI	International Water Management Institute
LA&C	Latin American & the Caribbean
NGO	Non Governmental Organization
PNUD	United Nations Development Program
RUAF	International network of Resource Centres on Urban Agriculture and Food Security
STERRI	Science and Technology Policy Research Institute
TNC	Transnational Companies
UA	Urban Agriculture
UDHR	Universal Declaration of Human Rights
UN	United Nations
UPA	Urban and Peri-Urban Agriculture
VFPC	Vancouver Food Policy Council

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INTRODUCTION

The objective of this legislative study is to provide an analysis of the texts and the issues that need to be considered to primarily understand the legal and institutional frameworks that facilitate the agricultural practices of poor urban farmers. Special emphasis is also given to the instruments and frameworks that increase access to food for those living in urban poverty and who do not have access to nutritious food.

The study is divided into four sections. Section 1 of this report provides technical definitions of what is urban and peri-urban agriculture (UPA) and the extent to which UPA can address the global food insecurity prevailing in cities today.

Section 2 provides a set of international instruments such as declarations, special comments, action plans and guidelines that support the development of an enabling legal framework and strategies from national to local levels intended to respect, protect and fulfil people's human rights, achieve progressive steps towards food security, and support UPA implementation. This section highlights the principle that the creation of an enabling legal framework is one of the fundamental steps towards appropriate and efficient implementation of UPA.

Section 3 presents examples of good pro-poor practices from cities in different global regions where policies and supportive legal frameworks have been developed and implemented. These instruments are organized into three major inter-connected fields, being: (a) policies; (b) legislation and regulations; and (c) incentives at national, state, and municipal levels. Furthermore, a series of key issues and recommendations for the development of safe and sustainable urban and peri-urban agriculture are presented based on the practical experience gained by various local governments in the last few years.

Section 4 examines national and municipal institutional frameworks that are necessary to implement the policies and legal instruments. They draw on the experience of Cuba, Rosario in Argentina and Belo Horizonte in Brazil.

The cases have been selected from a wide literature review, combined with first-hand knowledge of the research team who participated in the study.

Cases have been selected that deal with key aspects necessary for creating an enabling environment for urban and peri-urban agriculture. Issues are addressed such as land and security of tenure for land, increased accessibility to safe water and facilitation of small business and tax regimes, and overall, the cases share a focus on *pro-poor* legal and institutional frameworks.

I

DEFINITION OF URBAN AND PERI-URBAN AGRICULTURE AND ITS CONTRIBUTION TO FOOD SECURITY

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1.1 Technical definitions of urban and peri-urban agriculture

Definitions of urban and peri-urban agriculture are relatively recent. Mougeot (see Box 1) was one of the first to provide a holistic definition that goes beyond the limiting notion of "backyard gardening" and incorporates the diversity of local situations.

BOX 1

One broad definition, coined by Luc Mougeot¹

"Urban agriculture is an industry located within, or on the fringe of a town, a city or a metropolis, which grows and raises, processes and distributes a diversity of food and non-food products, re (using) largely human and material resources, products and services found in and around that urban area, and in turn supplying human and materials resources, products and services largely to that urban area."

This definition is interesting because it contemplates two important characteristics of UPA practices. Firstly, in terms of location, urban agriculture is generally not only *intra-urban* and tends to take place on the fringes of expanding cities as *peri-urban* agriculture. The tension between expanding cities eating up part of their food base and new or traditional urban agriculture activities is precisely what policies and legal frameworks have to regulate.

Secondly, the definition alludes to the spatial and land use dimension of urban and peri-urban agriculture. It is important when setting up a pro-poor institutional and legal framework to take account of the huge variety of spaces where the urban agriculture industry is taking place. These include: (i) houses, on terraces and balconies; (ii) private plots, even if without property title, around the home; (iii) along highways, railways or pathways; (iv) public parks and open spaces; (v) non urbanized patches of land within and on the fringes of the city; (vi) areas where construction should not be taking place, such as along water beds and other risk-prone lands; and (vii) institutional properties (for instance schools, hospitals or large enterprises).

1 Mougeot L. (2005). Agropolis. The social, political and environmental dimensions of urban agriculture. Earthscan, London.

1.1.1 Wide variety of economic actors and productive systems

Van Veenhuizen² proposes the following definition:

Van Veenhuizen's definition is similar to Mougeot's. However he expands on another important challenge for policy and legal UPA frameworks by highlighting the variety of possible productive systems ranging from family based to fully commercial enterprises that involve difference social and economic actors.

This definition that will be used along with Mougeot's in this study encompasses FAO's 2001 comments³ on what makes peri urban agriculture specific in relation to urban agriculture, as it includes other productions systems than semi or fully commercial farms that are taking place in peri-urban areas through the formal or informal expansion of cities:

"Peri-urban agriculture happens on farm units close to town that operate intensive semi- or fully commercial farms to grow vegetables and other horticulture, raise chickens and other livestock, and produce milk and eggs.

This study, however, selectively focuses on pro-poor solutions and therefore primarily on household and informal groups of producers based levels to small scale agro-business enterprises and cooperatives levels, as they are generally the kind of activities in which poor urban farmers are more active.

1.1.2 Social diversity of producers

A large proportion of people involved in UPA in developing regions of the world are the urban poor. Contrary to the belief that those involved in UPA are essentially recent migrants from rural areas, UPA is practiced generally by

2 Van Veenhuizen R. (ed), *Cities Farming for the Future, Urban Agriculture for Green and Productive Cities*. 2006, Leusden, Netherlands, p. 2.

3 FAO, *Urban and Peri Urban Agriculture. A briefing note for the successful implementation of urban and peri-urban agriculture in developing countries and countries of transition*, July 2001, 84 pages.

poor people who have been living in the city for one or more generations and have had time to access urban land, water and other productive resources.⁴

A gender perspective is also important when designing legal frameworks as women constitute an important percentage of urban producers (up to 65 percent). It is more difficult for women to get skilled jobs in industrial areas or in the city but they are able to combine their processing and selling activities with household activities.⁵

1.1.3 From seed to plate: diversity of activities along the supply chain

Both definitions do not limit UPA to the mere cultivation of vegetables or the raising of small animals. UPA is a complete value chain that encompasses the supply of inputs, production, agro-processing, distribution through various marketing channels and the management of the waste produced all along the value chain. It draws from the material and human inputs (primarily being seeds, compost, water, land, labour, services or knowledge) that are necessary to produce food outputs such as vegetables, flowers, livestock, fruits, meat or fish.

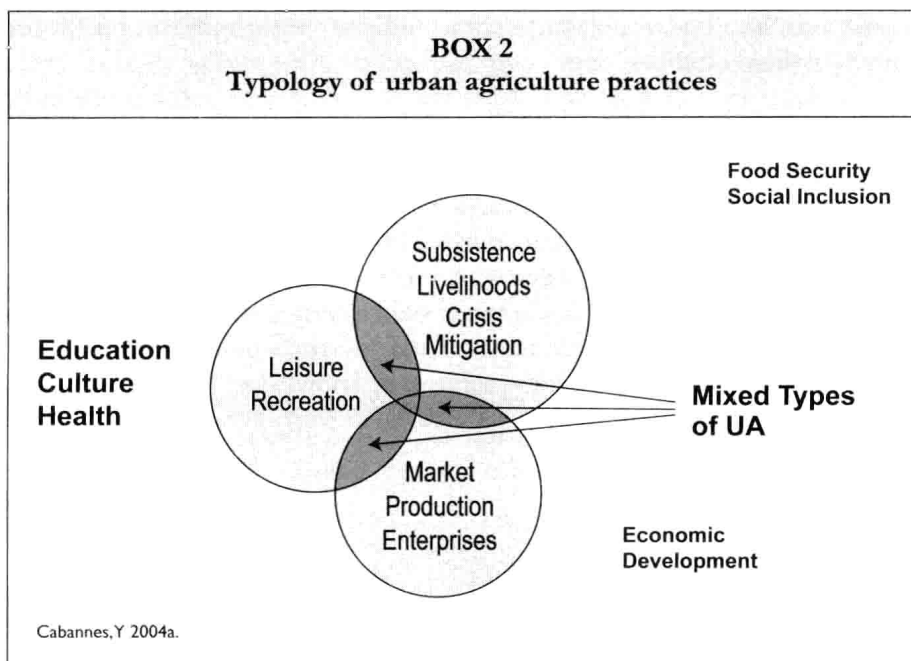
Therefore a legal framework for UPA cannot focus on only one of the stages of the chain, but should, of course, consider it in its totality. It is particularly important for pro-poor legal frameworks to focus on more than the production stage, and to give attention to the provision of inputs (land, seeds, water, pesticides, etc.) and to the transformation and marketing stages. The cases in section 3 were selected because of their effort to consider the whole chain, or concentrate on the ones least considered such as the distribution of transformed products.

4 Dubbeling M., de Zeeuw H. and van Veenhuizen R. (2010), *Cities, poverty and food*. FUAF Foundation. Practical Action Publishing Ltd, UK.

5 Mougeot L., 2005, *op cit*.

1.1.4 Different types of urban agriculture

Cabannes⁶ (see Box 2), established a typology of UPA practices that enables a better understanding of the wide variety of situations that might be found in the same city, region or country.



The most common of the UA practices (subsistence livelihoods and crisis mitigation) refers to UA as a way by which the urban poor and, to a lesser extent, middle class, make their living. In this case, UA plays a part in a *subsistence economy*, generally family based, and is seldom monetary. This activity does not generate a cash surplus but provides food or medicinal plants that reduce the expenses of the family and improve diet and access to medicine.⁷

6 Cabannes Y., Financing and Investment for Urban Agriculture, Chapter 4, pp. 87–123, In: Cities Farming for the Future, Urban Agriculture for Green and Productive Cities. Edited by René van Veenhuizen, 2006, Leusden, Netherlands.

7 Cabannes Y., *Agriculture Urbaine pour l'assainissement et la création de revenus dans l'agglomération de Fortaleza, Brésil. Rapport de synthèse*, CIRDI, Centre International de Recherche pour le Développement, Toronto, Canada, Janvier 1997.