**A Center for Law and Development**

March 2019

Globalization is changing the nature of markets and the laws and regulations that shape them, with significant implications for social and economic development. As the rules governing the market become more interconnected and complex, it is becoming increasingly important to strategically approach both how laws and regulations are designed and how they are applied in practice. Market rules should be benchmarked against their potential for economic growth, poverty reduction, and social participation, reinforcing global legal frameworks and the Sustainable Development Goals (SDGs). Within the international system of rules, countries can exercise policy autonomy to increase investment opportunities, create jobs, and improve livelihoods and economic rights across sectors. Yet, gaps in the enabling environment remain, impacting individuals, enterprises, and governments alike. Without a better process for crafting, understanding, and reforming the laws and policies surrounding the market, there is a danger that economic opportunities will remain open only to a few, stifling sustainable development and innovation. Although economic legal and regulatory systems are not always well designed, transparent, or participatory, this dynamic can be changed.

The New Markets Lab (NML) was established in 2010 to leverage law and regulation as a tool for sustainable economic development and provide thought leadership and legal capacity in an evolving global market. It is the only organization of its kind: an international center for law and development that houses comparative economic legal and regulatory expertise and an international team of lawyers focused on systemic and inclusive economic legal and regulatory reform. NML specializes in areas that hold significant potential for economic development but are also heavily regulated, such as trade, agricultural markets, services, standards, and the digital economy. NML has developed a new approach and methodology for legal and regulatory change, which engages public and private stakeholders to integrate social and economic considerations into the design and implementation of rules within and across borders. Through its programs and thought leadership, NML bridges the gap between high-level law and policy and on-the-ground realities in order to build legal systems that can deliver on development goals, strengthen rule of law, and improve application of the law in practice. NML’s founder Katrin Kuhlmann has also developed a unique in-class and field-based curriculum, which she has been teaching at Harvard Law School and Georgetown University Law Center.

NML has now successfully applied its model in over twenty countries in sub-Saharan Africa and Asia, building unique comparative experience in economic law and regulation. NML’s institutional partners have ranged from sector-focused foundations like the Alliance for a Green Revolution in Africa (AGRA) and the Syngenta Foundation for Sustainable Agriculture (SFSA), to international institutions including the World Bank and World Economic Forum, to think tanks and corporations. By virtue of its own network and the reach of its partners, NML contributes to tangible changes in law and policy, better implementation of economic laws, public-private engagement in rulemaking, and enhanced legal capacity in many countries.

NML is also upending traditional models for legal and development organizations through a globally diverse and entrepreneurial team, many of whom are young lawyers from around the world with a different vision for the role of law in economic development. NML was founded by Katrin Kuhlmann, a lawyer and law professor who started a career in international law hoping to find a path that linked law and economic development. After working as an international lawyer at two top U.S. law firms, a trade negotiator at the U.S. Trade Representative’s Office, and a senior non-profit leader, she set out to develop a way to address the fundamental disconnect between high-level economic agreements and on-ground economic development needs, founding NML to bridge this gap and help other lawyers forge a path in law and development. She is joined at NML by lawyers from around the world, including Argentina, China, Colombia, Ethiopia, the European Union, Ghana, India, Iran, Lebanon, Nigeria, South Africa, Uganda, Ukraine, and the United States. NML’s Senior Legal Fellows are helping to build out the NML model in East Africa (Adron Naggayi Nalinya), Latin America (Ana María Garcés Escobar), and globally (Megan Glaub).

***Fit-for-Purpose Law and Regulation Designed to Leverage Social and Economic Development***

NML houses a unique methodology, team with comparative legal expertise, and set of legal tools to guide the design and implementation of economic law and regulation in order to leverage social and economic development in all markets. NML’s programs target critical aspects of reforming the enabling environment and complement existing benchmarking tools (such as the World Bank’s Doing Business and Enabling the Business of Agriculture projects), going a layer deeper to understand the nuances in different regulatory systems and how laws and regulations function in practice. Through its projects and programs, NML has created a growing body of tools that benchmark national systems against international rules and good regulatory practices, highlight regulatory tradeoffs and options, and use systems design and scenario-based planning to customize reform efforts.

The legal and regulatory system can open the door for entrepreneurship and innovation while addressing market failures. NML’s comparative approach highlights where countries have flexibility in regulatory design while remaining in line with international and regional obligations. Regulatory design that is fit-for-purpose and aligned with particular goals can address pressing issues, reduce market risk, protect consumers and vulnerable populations, and advance countries’ economic development goals and the SDGs. In addition to assessing policy and development goals at the national level, it is important to understand how legal systems work together (or “interoperate”) across borders in order to build viable international markets in which law truly has an impact. These results will not happen automatically, however, and require evidence, experience, and follow-through.

NML was built around a successful proof-of-concept (TransFarm Africa) developed in partnership with the William and Flora Hewlett Foundation that demonstrated the role of the regulatory environment in unlocking emerging investment opportunity in Tanzania’s agricultural sector. The project’s systems approach combined economic diversification, increased social impact, better industry practices, and real-time, sustained regulatory interventions. The proof of concept not only launched a new methodology, it also produced results: increased financing for a market innovator (Tanzania Food Corporation/Mtanga Foods), improvements in seed regulations, and ultimately the commercialization of the potato sector in Tanzania, with a tenfold increase in yields for thousands of farmers, jobs for men and women on- and off-farm, with far-reaching implications for domestic and regional regulatory reform.

* Building on its early work in the design of regulatory systems for agricultural inputs, NML launched an ongoing program with its partner SFSA that has examined how seed is regulated in about a dozen countries and the four main regional bodies in sub-Saharan Africa. This work has revealed notable patterns in how countries regulate within and across borders, as well as highlighted best practices in regulation that have emerged from within sub-Saharan Africa and other developing markets. NML’s work with SFSA has focused in particular on improving the regulatory system to benefit smallholder farmers and emerging enterprises, and the work has expanded to include countries beyond sub-Saharan Africa (Myanmar) and access to intellectual property (IP) within seed systems. NML also designed a project with the Southern Agricultural Growth Corridor of Tanzania (SAGCOT), with support from AGRA and USAID, to map Tanzania’s entire regulatory system related to seed (including registration and certification of seed, IP, and trade) and improve Tanzania’s seed regulatory system in line with its international obligations under the New Alliance for Food Security and Nutrition. NML and its partner the African Fertilizer and Agribusiness Partnership (AFAP), with support from AGRA and USAID, have focused on design of fertilizer regulation at the country and regional levels. In addition, NML collaborated with AGRA and the Ethiopian Agricultural Transformation Agency (ATA) to design a contract farming scheme tailored to Ethiopia’s market, which resulted in a government proclamation on contract farming.
* In addition to agriculture, NML has since applied its model to unlock the potential for growth and poverty reduction in a number of key sectors, value chains, and corridors. NML’s projects have covered e-commerce and services, industrial products, and handicrafts and apparel. In 2018, NML and the Center for International Private Enterprise (CIPE) launched a comprehensive guide to digital economic regulation, drawing upon best practices and country experiences to assess trends, tradeoffs, and models in e-commerce regulation. NML and CIPE are designing programs at the country level to customize e-commerce regulation based on local demand. NML has also created several guides on the regulation of services (financial services, information and communication technology (ICT), transport, and tourism) in partnership with the International Centre for Trade and Sustainable Development that were designed to walk governments and private sector stakeholders through options for designing services regulatory regimes. In addition, NML has partnered with the International Growth Centre to examine the role of the regulatory system in unlocking growth potential in Tanzania’s cosmetics sector and with CUTS International on how law and regulation within the East African Community (EAC) impact growth of the apparel sector.
* NML has created a number of innovative tools, which include a library of *Legal and Regulatory Guides* that clearly present laws, regulations, and their implementation, benchmarked against regional and international good practices. NML has developed Legal Guides on diverse topics, including digital trade, legal aspects of social investment in East Africa, and issues facing women entrepreneurs, and actors in the seed and fertilizer value chains (in Tanzania, for example, NML and SAGCOT evaluated nearly 70 different legal measures governing the sector).

NML’s programs also center on development-focused models for international and regional trade designed to tailor broader agreement frameworks to local needs and the SDGs. NML has advocated for new models for trade agreements and trade preference programs, initiatives to improve food security, and new approaches in rule of law that balance the interests of diverse economies and legal systems. At the international level, the need for more inclusive law and development approaches is particularly pressing. More work is also needed to ensure that international and regional agreements are effectively implemented within countries and that national systems are “interoperable” in practice. NML has made notable contributions that link international legal frameworks with development considerations, working with partners like the World Economic Forum, UN Agencies, think tanks (such as the Center for Strategic and International Studies (CSIS) and German Marshall Fund), and African regional economic communities to provide thought leadership on new approaches to trade and development.

***Better Application of Law and Regulation to Close the “Implementation Gap”***

NML’s work goes well beyond the diagnosis of law and regulation to address the challenges of making legal systems work in practice. Often there is a significant gap between the rules on paper and their implementation; while this gap is acknowledged it is not well measured or understood. NML has been documenting the “implementation gap” for the past decade, working with its partners to assess how law and regulation are applied in practice and creating tools that will result in improvements in implementation.

NML’s dynamic bottom-up approach not only resolves specific challenges in economic law and policy, it also promotes transparency and increased participation in economic legal systems worldwide. Everybody who participates in the market needs a way to interact with the regulatory system day-to-day and raise concerns with how rules are applied, and governments need much better feedback loops with individuals and enterprises. Internationally, these direct experiences within different markets can be linked with international legal frameworks and agreements to make them more reflective of global needs and advance rule of law to the benefit of a diverse group of stakeholders.

* NML‘s innovative methodology to map how laws and regulations function and visually depict the regulatory process – and its implementation – step-by-step is contained in its *Regulatory Systems Maps*. These have been a constructive mechanism for bringing enterprises and policymakers together around a shared understanding of where the regulatory system has bottlenecks and where improvements would be most beneficial. Since its establishment, NML has developed institutional experience with regulatory mapping as well as a body of maps that span countries and regulatory processes, highlighting trends, common bottlenecks, and regulatory improvements.
* NML has also developed a series of *Law and Development Case Studies* focused on helping policymakers, students, and the private sector better understand practical, real-time regulatory constraints to market innovation and illuminate pathways for system-wide change. The Case Studies have covered issues ranging from implementation of trade agreements at the national level, evaluation of markets based on differing regulatory approaches, and the impact of gaps in law and regulation (and their implementation) from the perspective of women and small businesses.

***Improved Legal Capacity to Engage Lawyers, Policymakers, and Market Stakeholders in Improving Economic Legal Systems***

NML’s work also addresses a key constraint worldwide: capacity to build legal systems that can increase growth potential and reduce poverty. Law and regulation can create binding rights and obligations, but in many markets, the majority of stakeholders are not aware of the range of rules affecting them, limiting economic opportunity to a select few. Legal capacity is needed at many levels: policymakers and regulators, negotiators, lawyers, enterprises, and NGOs and industry associations. Legal capacity building is an integral part of both NML’s structure and programmatic work to improve the design and implementation of economic laws and regulations, address regulatory bottlenecks as they arise, and support local efforts to strengthen the feedback loop between regulators and local communities. NML works to build legal capacity through interactive legal tools, stakeholder consultation, ongoing partnerships, and scenario-based regulatory modules that rely on systems analysis and human-centered design.

In order to build lasting capacity for change, lawyers and policymakers also need practical experience crafting workable solutions. Despite the growing number of young lawyers interested in pursuing careers in law and development, there simply are not enough practical training programs during or, in particular, following law school. In response, NML has established a legal fellowship program to provide both technical knowledge and “learning by doing,” creating a global community of practice in law and development and an important in-country resource for NML and its partner organizations. NML has already proven to be a stepping stone to careers in legal reform and policymaking, with NML’s alumni working in government, international institutions, and the private practice of international law. NML’s founder has also developed a unique law school curriculum over the last decade to teach law students the dynamic nature of law and development through interactive case-study-based classroom exercises and in-field training.

NML is also launching a technology platform that will expand its ability to generate impact, measure results, and expand the dissemination of legal tools. Technology solutions are taking off in areas like financial regulatory compliance but have not yet been widely applied to law and development. NML will adapt and share its Regulatory Systems Maps more broadly through a digital platform, allowing stakeholders to comment on the content and enforcement of economic rules and creating a new set of data to measure legal implementation. Through digitization, NML’s detailed Regulatory Systems Maps could contribute to more participatory governance and legal empowerment, while providing a functional tool for local partners and governments to implement a development-focused regulatory reform agenda.