



Updates on Plant Variety Protection

Issue #18, 2 November 2015

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1. Editorial

This newsletter features concerns of the UN Secretary-General about UPOV 1991, pressures on Malaysia to revamp its *sui generis* PVP system to bring it in line with UPOV 1991, new research discussing inappropriate processes and unbalanced outcomes in connection with the recently adopted Protocol on Plant Varieties by the African Regional Intellectual Property Organization and new informative publications concerning farmer seed systems.

2. UN Secretary-General Raises Concern With UPOV 1991

The UN Secretary General in his report to the 70th session of the General Assembly, titled "Agriculture development, food security and nutrition" (A/70/333) raises serious concerns with UPOV 1991. Paragraph 68 of the Report states:

An additional challenge that has advanced to the forefront is the pressures exerted on small-scale farming stemming from the provisions of the 1991 Act of the International Union for the Protection of New Varieties of Plants. Restrictions on seed management systems can lead to a loss of biodiversity and in turn harm the livelihoods of small-scale farmers "as well as weaken the genetic base on which we all depend for our future supply of food".

As smallholders rely predominantly on informal seed systems, the restriction imposed by the Act on the use of farm-saved seeds and the prohibitions on their exchange and sale cause considerable concern.

Although only a handful of developing countries have implemented plant variety protection, small-scale farmers and other stakeholders are often excluded from participation in developing and reforming plant variety protection laws.

The full Report of the UN Secretary General A/70/333 is available at <http://www.un.org/Docs/journal/asp/ws.asp?m=A/70/333>

3. Article: Malaysia's *sui generis* PVP System Under Threat

In "[Law Speak - Safeguarding farmers' seeds](#)" (The Sun Daily), Gurdial Singh Nijar criticizes the Trans-Pacific Partnership (TPPA) negotiations, whereby the US insists that Malaysia replaces its PVP law with UPOV 1991 which "virtually prohibits farmers from freely saving, exchanging and selling their farm-saved seeds; especially as farmers use and co-mingle all kinds of seeds including those of protected varieties". He points at the fact that while Malaysia's current PVP law complies with the TRIPS Agreement and balances the rights of all breeders – commercial as well as traditional farming communities.

Gurdial Singh Nijar is a Professor at the Law Faculty, University of Malaya.

4. New paper: Inappropriate Processes and Unbalanced Outcomes: Plant Variety Protection in Africa Goes Beyond UPOV

Abstract: The African Regional Intellectual Property Organization (ARIPO) has traditionally been skeptical toward the African Intellectual Property Organization's (OAPI) approval in 1999 of a plant variety protection that was compatible with UPOV 1991, a convention adopted by the International Union for the Protection of New Varieties of Plants. Recently, however, ARIPO has been rushing through a plant variety protection (PVP) protocol, that in April 2014 was found by the UPOV Council to be in conformity with UPOV 1991. The article draws upon theories identifying under which conditions secretariats of international organizations (IOs) are able to operate without too stringent supervision and control by states. These theories goes beyond standars principal-agent theories, identifying IOs that regulate issues requiring high levels of expertise. Based on this general model, the article investigates both the process and the outcome of the ARIPO Arusha PVP Protocol. It finds that the interests of breeders prevail, while farmers' organizations and organizations promoting the public interest are to a large extent sidelined from the negotiations. The article then analyzes the content of the recently adopted Tanzanian Plant Breeders Rights Act, noting that several provisions go beyond the UPOV 1991 requirements. The article calls for the more flexible approach of the TRIPS Agreement.

Read More: Hans Morten Haugen (September 2015), [*"Inappropriate Processes and Unbalanced Outcomes: Plant Variety Protection in Africa Goes Beyond UPOV"*](#), Journal of World Intellectual Property, Volume 18, Issue 5, pp 196–216

5. New Paper: Sustainable Seed Systems for Family Farming: Promoting More Inclusive Public Institutions - Lessons Learned from Mesoamerica

Abstract: The “formal” seed systems in Mesoamerica function only for a limited portion of farmers. The systems were designed to respond to large commercial farmers and the businesses that attend them, providing a very limited number of varieties (sometimes hybrids) of a limited number of crops through a limited number of businesses. Over the last fifteen years the “informal” seed sector, that attending to family farmers and local interests have grown in experience and results, in many cases highlighting the divisions between the two systems and the lack of services and support from the “formal” system to the “informal” system. FAO’s Seeds for Development project worked for three years to bridge the gap between the two systems, through a series of discussions and analysis of the national seed systems. The project supported twenty-nine small, local seed businesses attending family farmers, as well as the public seed systems, so that they could better appreciate and respond to the needs of the “informal” sector. As a result, most countries in Mesoamerica are moving towards inclusive public seed institutions, making adjustments in their administrative procedures to better serve local seed businesses, increasing seed security for family farmers. While progress is evident, several key challenges remain for the creation of truly inclusive public seed systems and to achieve sustainable seed systems for family farmers in Mesoamerica.

Read More: Allan Hruska, FAO (2015) [Sustainable Seed Systems for Family Farming: Promoting More Inclusive Public Institutions - Lessons Learned from Mesoamerica](#) In: FAO & ICRISAT 01/2015: Community Seed Production, Edited by C.O. Ojiewo, S. Kugbei, Z. Bishaw, J.C. Rubyogo, pages 105-112; ISBN: 978-92-5-108751-0

6. New Paper: Farmer Seed Networks Make a Limited Contribution to Agriculture? Four Common Misconceptions

Abstract: The importance of seed provisioning in food security and nutrition, agricultural development and rural livelihoods, and agrobiodiversity and germplasm conservation is well accepted by policy makers, practitioners and researchers. The role of farmer seed networks is less well understood and yet is central to debates on current issues ranging from seed sovereignty and rights for farmers to GMOs and the conservation of crop germplasm. In this paper we identify four common misconceptions regarding the nature and importance of farmer seed networks today.

- (1) Farmer seed networks are inefficient for seed dissemination.
- (2) Farmer seed networks are closed, conservative systems.
- (3) Farmer seed networks provide ready, egalitarian access to seed.
- (4) Farmer seed networks are destined to weaken and disappear.

We challenge these misconceptions by drawing upon recent research findings and the authors' collective field experience in studying farmer seed systems in Africa, Europe, Latin America and Oceania. Priorities for future research are suggested that would advance our understanding of seed networks and better inform agricultural and food policy.

Read More: Coomes, O. T., et al. (2015). [Farmer seed networks make a limited contribution to agriculture? Four common misconceptions](#) Food Policy, 56, 41-50.

Calendar of Events

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