



Updates on Plant Variety Protection

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New APBREBES Study – Invitation to a Webinar

“Searching for flexibility - Why parties to the 1978 Act of the UPOV Convention have not acceded to the 1991 Act”

Today, APBREBES is publishing a new study “Searching for flexibility - Why parties to the 1978 Act of the UPOV Convention have not acceded to the 1991 Act”, authored by Karine Peschard, Research Associate at the Albert Hirschman Centre on Democracy, Graduate Institute of International and Development Studies, Geneva.

The study is available in [English](#), [Spanish](#) and [Portuguese](#).

In recent decades, the enactment of stronger intellectual property (IP) rights legislation for plant varieties has proven highly contentious in many countries. The International Union for the Protection of New Varieties of Plants (UPOV) is an intergovernmental organization that actively promotes IP rights on plant varieties, known as plant variety protection (PVP) or plant breeders’ rights (PBRs). Two versions of the UPOV Convention coexist today, the 1978 Act and the 1991 Act. While there is no legal obligation to do so, countries that are party to the 1978 Act have been under pressure from the plant breeding industry and some governments to adhere to the 1991 Act, which emphasizes the rights of plant breeders over those of farmers. However, several countries have so far resisted doing so.

The exploratory study documents nine countries out of the seventeen countries that are party to the 1978 Act: Argentina, Brazil, Chile, China, Colombia, Ecuador, New Zealand, Norway and South Africa. These countries have not acceded to the 1991 Act although they have been party to UPOV 78 for 20 to 40 years. The study reveals that countries seek flexibility in how they regulate PVP – a flexibility severely restricted under UPOV 1991. The study further demonstrates that by far the most contentious aspect of UPOV 1991 has been its implications for farmers’ rights and peasant seed systems. The study also shows that some countries have not acceded to the 1991 Act because doing so would exacerbate existing conflicts with other domestic and international legal norms.

Understanding the reasons why countries do not accede to UPOV 1991 is especially relevant for countries which are not yet members of UPOV. Since 1999, countries joining UPOV can only accede to the 1991 Act. Or, alternatively, they can remain outside UPOV and develop legislation suited to their needs and circumstances. Countries that are not members of UPOV are mostly from the Global South –Africa, the Middle East, Central Asia, South Asia and Southeast Asia. In these countries, a majority of people live in rural areas and peasant seed systems play a vital role in food production

and agrobiodiversity conservation. It is therefore all the more important that they adopt PVP laws that support peasant seed systems, rather than plant breeders' rights (PBRs) laws tailored to the interests of the commercial plant breeding industry.

The study highlights the importance of retaining flexibility to adapt PVP laws to national needs and circumstances. Instead of joining UPOV, countries can develop PVP laws that balance PBRs and farmers' rights, and support peasant seed systems as well as the conservation and sustainable use of agrobiodiversity.

The study will be presented and discussed during a **webinar** on November 3, 2021, 3 pm (CET). Please use [this link](#) to register for the webinar.

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