



## Updates on Plant Variety Protection

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### 1. Editorial

Today is the Global Day of Action against UPOV and seed privatisation involving Non-governmental and Farmers' Organisations worldwide. APBRES is taking this symbolic date, which is also UPOV's birthday, as an opportunity to introduce its new policy brief, *'UPOV's War against the Rights of Farmers.'* The policy brief demonstrates how UPOV, with the support of some of its member states, is waging a global war against farmers' rights to seeds. Veit Braun's book *At the End of Property* also discusses the controversy between property rights and farmers' rights, taking the debate to a broader context. It takes some time to study the extensive publication but the time around the turn of the year could be a good opportunity to do so. Perhaps you will also find the time to read the other articles we mention in this newsletter. For example, the one on farmers' arguments against tightening plant variety protection in Canada, or the one on intellectual property rights and plants created by new genomic techniques.

### 2. UPOV's War against the Rights of Farmers

The new [policy brief](#) published by APBRES shows how UPOV, with the support of some of its member states, is waging a global war against farmers' rights to seeds worldwide. Many countries in the South have clauses in their laws that allow farmers to exercise their right to save and, in some cases, to exchange and sell seeds in a way that would not be possible under a law in conformity with UPOV 91. These existing laws are a thorn in UPOV's side. UPOV has been undertaking a systematic campaign for years to have these laws amended and farmers' rights abolished. The organisation uses misleading information, communication that resembles an advertising campaign and one-sided advice when countries want to draft or review plant variety protection laws. Individual UPOV members play a decisive role in driving the countries of the South into the arms of UPOV. In particular, the countries with seed multinationals that profit from seed exports.

### 3. At the End of Property - Patents, Plants and the Crisis of 'Propertization'

In his [book](#), *At the End of Property - Patents, Plants and the Crisis of Propertization* (restricted access), Veit Braun, a Research Associate at the Institute for Sociology at the Goethe University in Frankfurt am Main, Germany, describes the development of property claims in plant breeding with a focus on Germany and Europe. Through historical analysis, as well as various interviews, he concludes that 'Over the years and decades, it seems, property in plant breeding has turned from something that could solve social problems into something that instead creates more of them.' He concludes that 'The true crisis of property can be seen in the fact that the failures of property are fuelling, not slowing, propertization. [...] It is not that the people in the seed industry are not well aware of the limits of plant variety

protection, patents or personal property. If there is no end to property's crises in sight, it is because, despite all its shortcomings, they struggle to find a better answer to these crises than more property.'

#### **4. Farmers' Organisations Reject the Attempt to Restrict the Farmer's Privilege in Canada**

The Canadian Food Inspection Agency launched a consultation on "[Proposed amendments to the Plant Breeders' Rights Regulations](#)". These proposals include the removal of the farmers' privilege for rights-protected fruits, vegetables and ornamental varieties, as well as for hybrids and parental inbred varieties. The National Farmers Union (NFU), along with many other Farmer Organisations, have responded with a detailed [commentary](#) exposing the government's dubious arguments and clearly rejecting the proposals. They argue that 'the proposed regulatory change would set an extremely negative precedent by removing a fundamental right from farmers who grow horticultural and ornamental crops in order to deliver a minor increase in revenue to a few companies while creating a significant risk to the long-term resilience of Canada's food supply'.

#### **5. Intellectual Property Rights and Plants Made by New Genomic Techniques: Access to Technology and Gene-Edited Traits in Plant Breeding**

In her [Article](#), Joanna M Lukasiewicz and her colleagues from Wageningen University provide an overview of the possible impact of patent rights and Plant Variety Rights (PVR) on the availability of technology and gene-edited alleles to breeders at a European level. They conclude that the following issues need to be addressed in Plant variety rights and patent law with the introduction of 'GE alleles': Firstly, the patent landscape needs to become more transparent. Secondly, the protection of breeders using native traits that are the same as patented 'GE alleles' has to be guaranteed. And lastly, the breeders' freedom to operate needs to be increased. In the authors' view, this can be done by extending the breeder's exemption under patent rights. In addition, sufficient room for return on investment under PVR may come from an agreement among breeders to delay using new varieties in crosses for a couple of years.

#### **6. Developing a Registration System for Farmers' Varieties**

The [article](#) by Dr Bram de Jonge, Researcher in the Law Group of Wageningen University and Seed Policy Advisor at Oxfam Novib and his colleagues from Oxfam Novib provides a guided approach to how to develop and implement a registration system suitable for farmers' varieties. That system would fully recognise the inherent properties of those varieties that often distinguish them from those that are developed in the formal seed sector. In contrast to the registration of varieties from the formal sector, applying the DUS criteria of the UPOV system does not make sense for the mostly heterogeneous farmers' varieties. The authors conclude that a farmers' variety registration system, as proposed, allows farmers the option to legally sell and scale up production of quality seeds of farmers' varieties that are in demand in the local and national markets but not supplied through formal channels of seed production mechanisms. Additional benefits include supporting agro-biodiversity, expanding dissemination channels of farmer-preferred seeds, and many more.

#### **7. The Federal Seed Act, Plant Variety Protection, and the Politics of Seed Exchange in the United States**

The [feature](#) by Julie Wassermann, a (graduate from Indiana University, USA, explains how initiatives have been established to protect food crop diversity. One type of response involves the (re)establishment of community seed networks (CSN) in which seed can be freely utilised, shared, and

circulated. Examples in the United States include Native American seed banks, seed libraries, and online seed exchanges. However, in the United States, many barriers have been erected to hinder this seed exchange, specifically The Federal Seed Act and the Plant Variety Protection Act, which limit both the physical and genetic movement of seeds. Julie Wassermann concludes that 'the promotion and proliferation of modern crop varieties, intellectual property restrictions, and concentration within the seed industry, have isolated farmers and gardeners all over the world from the practice of freely saving and circulating seed within their communities. Yet, the increase of CSNs within the last few decades suggests that there is a growing awareness and concern around seed sovereignty issues among members of the public.'

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Feedback & Contact

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