



Updates on Plant Variety Protection

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1. Editorial

The sole purpose of intellectual property rights, including plant variety rights, is to promote innovation, for example, the development of new plant varieties. Many might therefore conclude that stronger protection must lead to greater innovation. But Japan's experience tells a different story, as illustrated in our new report, published today: "The Erosion of Japan's Traditional Seed Sector Through Misguided Policy." The main problem with extremely one-sided plant variety protection rights is not only that they do not promote innovation any better than other systems, but that they conflict with human rights—as several articles in this newsletter will discuss.

2. The Erosion of Japan's Traditional Seed Sector Through Misguided Policy

What happens when the protection of plant breeders' rights is taken to extremes? "The Erosion of Japan's Traditional Seed Sector Through Misguided Policy – An Analysis and Impact Assessment of Japanese Seed Policies," [a report](#) by Inyaku Tomoya, Secretary-General of the OK Seed Project, provides an answer. Building on Inyaku's earlier publication in Japanese, APBRES and the OK Seed Project have joined forces to update his findings and make them available in English to a wider audience. Inyaku fundamentally challenges the narrative promoted by advocates of the 1991 UPOV Convention. Over the past 20 years, Japan has developed one of the world's strictest plant variety protection systems and curtailed farmers' rights more extensively than any other country. Yet during the same period, the number of newly protected plant varieties has declined more sharply in Japan than anywhere else, and the number of seed companies operating in the country has also fallen dramatically. According to articles in the [Bio Journal](#) and by [Third World Network](#), the current legislative amendments, enacted in July, further strengthen protection. Our new report documents these developments in detail and offers a clear warning to countries developing or reforming plant variety protection systems. The lesson from Japan is clear: stronger protection does not automatically produce more innovation. On the contrary, when protection becomes an end in itself, it can undermine the very innovation it is intended to promote.

3. Penalising peasant seed systems threatens global food supply: UN experts

A September 16 [press release](#) from the Office of the High Commissioner for Human Rights announced the publication of its report, "[Right to Seeds: Custodianship, Enclosure and Resistance](#)." The press release quotes Shalmali Guttal, Chair-Rapporteur of the Working Group: "Saving and sharing seed are among humanity's oldest agricultural practices, and the reason crops can still withstand drought, floods

and disease. Criminalising them is unacceptable and counterproductive.”

The report traces pressure on farmers’ seed systems to the 1991 Act of the International Union for the Protection of New Varieties of Plants (UPOV), which trade agreements increasingly require States to adopt, as well as to World Bank financing conditioned on UPOV-aligned reforms.

The report’s conclusions and recommendations, which invite States to refrain from implementing the 1991 UPOV Act and laws that restrict farmers’ rights to save, exchange, and sell protected varieties, are particularly important. Instead, the report encourages States to develop or strengthen sui generis seed systems suited to national agrobiodiversity and local farming realities.

4. The Special Rapporteur on the right to food calls on the EU and the Philippines to remove references to UPOV 91 from the EU-Philippines Free Trade Agreement

Sofia Monsalve Suárez, Special Rapporteur on the right to food, and Shalmali Guttal, Chair-Rapporteur of the Working Group on the rights of peasants and other people working in rural areas, addressed letters to the Government of the [Philippines](#) and to the representatives of the [European Union](#), concerning Free Trade Agreement negotiations between the EU and the Philippines on July 23. The letters detail the implications of the proposal to comply with the 1991 Act of UPOV 1991 for the Philippines’ ability to fully realize its obligation to respect, protect, and fulfill human rights, especially the right to food. Based on a thorough analysis, they call upon the European Union (and in a similar way, upon the Government of the Philippines), to reconsider the proposal that the Philippines adhere to UPOV 1991 and to remove any reference to that instrument from the draft Free Trade Agreement, thereby “preserving the policy space necessary for the Philippines to maintain and further develop a plant variety protection system suited to its national circumstances and consistent with its international human rights obligations.”

5. Opposition to UPOV 91 in Thailand, Zimbabwe and Zambia

In **Thailand**, one hundred and forty-six Civil Society Organisations have jointly issued [a call](#) to political leaders and to Parliament. They ask that political leaders “monitor, scrutinise and press the government and the Thai negotiating team on the Thailand-European Union Free Trade Agreement to place the public interest and the rights of the people first.”

Civil society’s most important demand, the call said, is that “Thailand must **not** accept any commitment to accede to the UPOV 1991 Convention, must not amend domestic law to conform with that Convention, and must not accept any alternative wording that would, in practice, deliver an equivalent outcome to UPOV 1991 compliance.” The call points out the current Thai Plant Variety Protection Act, which was designed to “strike a balance between protecting plant breeders on the one hand and the rights of farmers and communities, local plant varieties, and benefit-sharing from genetic resources on the other. “

An [update](#) from the Seed and Knowledge Initiative reported that farmer seed rights are also under threat in **Zambia** and **Zimbabwe**. A [statement](#) by the Seed and Knowledge Initiative (SKI) during the National Good Seed and Food Festival in Harare warned that two proposed laws in these countries on plant breeders’ rights would criminalise traditional seed-saving practices and undermine the diversity that enables climate adaptation. [Farmers](#) from Zambia, Zimbabwe, Malawi, and South Africa launched their own campaign to defend their seed rights and are calling on governments to reject any laws that align with UPOV 91.

6. Democratization of Intellectual Property Regimes, Technology Sharing and Establishing Knowledge Commons

Emmanuel Kolawole Oke, Senior Lecturer, and Sonal Sinha, a graduate student at the Edinburgh Law School, published a joint [contribution](#) to “the Roadmap for Eradicating Poverty Beyond Growth,” a Report of the Special Rapporteur on extreme poverty and human rights, Olivier De Schutter. The authors assert that “rather than allowing IP rights to trump the right to health, the right to food, and the right to education, their approach insists that IP rights serve those rights; and that, where a conflict arises, human rights should prevail.” This approach to IP rights at the national, regional, and international levels would help eradicate poverty, they said, particularly in the Global South. They recommend that “states should exercise their discretion to design a balanced plant variety protection framework that prioritises farmers' rights and food sovereignty over corporate seed monopolies.” They invite national legislation to embed farmers' rights, such as the right to save, use, sow, re-sow, exchange, share, and sell farm-saved seeds, as a positive right rather than a mere exemption from breeders' rights.

7. Intellectual Property Protection Flexibility and Food Security in Indonesia: Towards an Inclusive Innovation Framework

Kanti Rahayu, a lecturer at the Faculty of Law of Universitas Pancasakti Tegal, Indonesia, and a colleague, published [a study](#) exploring which forms of intellectual property protection flexibility best support food security. Rahayu states that the current plant variety protection system is primarily designed to safeguard plant breeders' rights and interests. However, she found that “its implementation must be adjusted to prevent adverse impacts on traditional farming communities.” Developing a national sui generis system tailored to Indonesia's specific socioeconomic conditions, rather than fully adopting international models, offers one form of flexibility. “Such flexibility is essential to maintain an appropriate balance between breeders rights and farmers rights.” She also cited the recognition of farmers' rights, including farmers' ability to save, exchange, and replant seeds derived from their own harvests, as another example of flexibility.

8. Advanced Breeding Lines of Nitrogen Fixing Maize Released with Share-Alike MTAs

A University of Wisconsin-Madison project in the United States honors the gift made by indigenous farmers in Oaxaca, Mexico. The university's NFARM project makes available advanced maize breeding lines that incorporate a nitrogen-fixing trait derived from landraces cultivated by indigenous farming communities in Oaxaca. To honor that gift, NFARM distributes lines with [Share-Alike Material Transfer Agreements](#) (MTAs) that ensure their permanent availability and prohibit restrictions on use, including intellectual property rights.

9. Canada: Plant Breeders Rights regulatory change costs farmers, benefits seed companies

Our March [newsletter](#) commented on the Canadian Government's proposal to further restrict farmers' rights. In May, a National Farmers Union's [press release](#) announced the proposal's adoption in April. “When Canada's current Plant Breeders' Rights (PBR) Act was passed in 2015, the National Farmers Union warned that a future government could use it to restrict the Farmers' Privilege – the right to legally save and reuse seed of PBR-protected varieties — simply by changing a regulation,” said Terry Boehm, former NFU President, in the release. He added, “On April 23, 2026, the federal government did just that. It passed a regulation that eliminates the Farmers' Privilege for all fruit, vegetable, and

ornamental crops, along with hybrid varieties and the varieties used to produce hybrids that are covered by PBR. It is now illegal for farmers who purchase these PBR-protected varieties to use seed, cuttings, tubers or bulbs they harvest to grow future crops on their own farms.”

10. Subscription, Feedback & Contact

You are welcome to forward this issue to other interested individuals or organizations.

Feedback & Contact

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