

What's happening with seeds in the global South?

Key Learning 2: Law, international trade and aid must be analysed and addressed together to combat corporate domination and monopolisation of seeds

This learning has been a tough pill to swallow. To acknowledge the extent to which governments, international development agencies and charities, sometimes called 'philanthrocapitalists', such as the Bill and Melinda Gates Foundation, collude with corporate agribusiness interests to force unsustainable and unjust industrial farming into the global South. Learning how law, trade and aid are undemocratically combined to market corporate seeds is alarming and signals the need for our movements to grow extensive alliances for multi-pronged strategic actions.

A. International trade and law:

The best segue we could find between the two learnings is a [new two-minute video](#) produced by a Swiss coalition of NGOs, including APBREBES, which explains the negative impacts of UPOV 91 legal provisions in bilateral free trade and economic partnership agreements (FTAs/EPAs) particularly on small-scale agrarian countries in the global South. Please take a pause on the reading and watch the video which explains UPOV 91 concisely.

Crucially, the World Trade Organization's Trade-Related Agreement on Intellectual Property Rights (TRIPS) states that members must implement **some form of** intellectual property protection on plant varieties. Capital-rich industrialised governments together with the transnational agribusiness corporations they host (and from whom they receive some revenue from after massive tax-evasions) interpret and push **UPOV91** as 'the universal form' of **plant variety protection** appropriate to all countries. They push UPOV91 because it serves their interests over the countries they continue to exploit and extract from. Regrettably, there are usually only tokenistic forms of civil society consultation by governments before they sign documents and treaties which directly oppress small-scale farmers and their seeds.

UPOV 91 legally protects the rights of industrial plant breeders and industrial seeds while restricting farmers' rights to freely use and exchange farmer-saved seed. The European countries in EFTA, USA and Japan insist that African and other Southern states must adhere to UPOV rules as part of their trade agreements. These rules enable the patenting and protection of industrial seeds. This legally enables seed corporations to gain market advantages and direct returns on their neo-colonial investments by obliging farmers to buy industrial, non-reuseable seeds. Farmer-managed seed systems enter a grey legal space of informality and technical illegality while industrial varieties of seeds (hybrid or GM) become legally protected and promoted by governments. Injustice.

Join [APBREBES](#) and the decolonial coalition movement to "demand that capital-rich, industrialised countries stop requiring strict plant variety protection based on UPOV 91 in their FTAs. Developing countries should have full freedom to establish **their own** plant varieties as their food security depends on the practice of freely saving and using farmer-saved seed". Exporting legal frameworks is a flawed colonial strategy. Click [here](#) to subscribe to APBREBES's excellent newsletter which gives 1 page updates on the legal battles and successes against industrial seeds and the mounting evidence against the dysfunctionality and destruction of implementing UPOV 91 law.

The North African Food Sovereignty Network and ROPPA are also active on the issue of seed laws in trade agreements in Africa. Other African organisations also include the African Food Sovereignty Alliance and La Via Campesina Africa.

B. International Aid Reinforces:

The legal measures pushed onto Southern countries via trade deals are reinforced by major international donors and development agencies. This has a reinforcing effect to increase the sales of industrial seeds and further marginalise farmers' rights to seeds as a common good. By looking at reports on Tanzania specifically, we can gain a more grounded understanding.

In 2016, Tanzania was the first 'least-developed country' to join the UPOV-91 convention which legally criminalises the sharing and selling of uncertified farmers seeds (WTO exempts least-developed countries from including IPRs on seeds in their legislation until 2021). In exchange for development assistance the government gave Western agribusiness full protection by recognising patents on their industrial seeds. "Tanzanian farmers risk a prison sentence of at least 12 years or a fine of €205,300, or both, if they sell seeds that are not certified." The extremity of such sanctions is clear when understanding that for a Tanzania farmer the "[average wage is still less than \\$2 US dollars a day](#)," says Janet Maro, head of Sustainable Agriculture Tanzania.

"Women farmers have few resources and do not want seed that we can plant for one season only or seed that is owned by companies. We believe in our own seeds that we can access from our own collections or from our farmer networks, free of charge."

Beatrice Katsigazi Eastern and Southern Africa Farmers Forum, Uganda

Despite farmers mainly using farmer seeds (>80%) and preferring them for affordability, reliability and availability, the government provides no policy support for farmers' seeds (not mentioned in Seed Act and Regulations) nor practical support (no training on farmer managed seed systems). The [report](#) also evidences that 92% of official government advice from extension agents is for farmers to use commercial seeds. Commercial seeds which are mainly owned by industrial agribusiness corporations who strategically 'gift' industrial seeds as part of their agrochemical aid packages. These toxic colonial packages become integrated into national rural development programmes where the government repackages aid into 'agricultural input subsidies' for small-scale farmers to access and become dependent on. Not only does this seriously threaten the food sovereignty of farmers but also increases industrial agriculture, one of the biggest causes of global heating and climate change with ever more extreme weather events.

Tanzania was one of the 10 African governments in "partnership" with the G8/G7, private corporations, development organizations and aid donors in the New Alliance for Food Security and Nutrition (NAFSN). NAFSN outrageously proposed to help people escape from poverty and hunger on the condition that they buy industrial seeds and toxic agrochemicals from G8's corporations. Syngenta, a Swiss mega industrial agribusiness, as well as Yara International, the world's largest fertilizer corporation headquartered in Oslo, Norway, were the largest private players in NAFSN. They were part of the leadership council and directly negotiated changes in legislation that must be met in exchange for aid. Both Yara and Syngenta employ the sinister strategy of distributing free trials of their deadly and addictive products as they invest in facilities to gain further market access to their so-called 'last frontier'. [According to Yara](#), in 2015 Yara constructed a terminal facility in Dar es Salaam which allows for "an annual import 350,000 tonnes of [synthetic] fertiliser" which is "almost three times the consumption of fertiliser in this country". In response to COVID-19, Yara's first shipment of [20,000 tonnes of fertilizer](#) set sail to the ports of Kenya and Tanzania on June 28th as a false gift to smallholder farmers in East Africa.

C. Can we turn the legal tide?

In the face of these colluding structuring forces there are also motivating signs of increased rights for small-scale farmers and agricultural biodiversity. The Tanzanian government is now working on a revision of their seed legislation due to the combination active pressure, argumentation and research from agroecology and seed activists, civil society organisations in Tanzania, minor international NGOS, alternative media and legal teams. A compromise is sought for by adding exceptional conditions for small-scale farmers and expanding the Quality Declared Seed System which is easier and less expensive for farmers to obtain certification than a patent. Traditional and indigenous varieties of 'quality-declared' seeds (QDS) could legally expand their sales from 3 surrounding villages to a district level of 70 villages, which is economically viable [according to the Tanzanian Organic Agriculture Movement](#). At the same time there are serious concerns and [counter views over QDS in Uganda](#), and seed licensing more generally, because they prevent farmers from directly controlling seeds systems and freely exchanging unless they gain government approval and become QDSs. The primary focus is on uniform production, rather than agroecology and food sovereignty.

Another success was the significant weakening of NAFSN's colonial corporate aspirations before its expiration in 2020. Successful awareness raising and actions made NAFSN's unjust intentions to extend the

power and access of multinationals into African markets to the detriment of small-scale farmers. A series of creative and concerted [campaign actions](#) from Global Justice Now also led the UK government to stop channelling further aid to the New Alliance in 2017. The New Alliance took another heavy blow in 2018, when France withdrew from NAFSN indirectly acknowledging that the initiative's measures to commercialise small-scale farms in industrial monoculture is a form of land grabbing that [“caused profound changes in food security and food consumption practices”](#) and [“did not really promote useful new investments and it did not prevent bad ones”](#).

In neighbouring Uganda in July 2019, the president rejected the GMO bill and proposed various adjustments, “including the need to ensure that the benefits of genetic inventions are shared equally between the breeder/inventor and the indigenous communities that have been the custodians of genetic materials throughout the ages”. Stringent isolation measures are proposed to clearly spell out how GMO crops will not contaminate organic crops with penalties to those who allow the co-mingling of GMO with non-GMO material. Encouragingly, there's a focus on liability that once harm has been done by a genetic material/product the burden of proof must rest with the inventor and introducer. “We cannot expect our poor peasant farmer to marshal the necessary financial and administrative resources to develop the scientific and legal evidence to defend himself or herself in court” [wrote President Museveni](#). Court proceedings continue while a movement grows for a [GMO-free](#) and organic Uganda.

[A richly informative, open-access and recently published article](#) explains how Ethiopia, a country with a long history of decolonial resistance has successively ‘gone against the grain’ and is preventing the corporate take-over of its seeds and genetic, biocultural heritage. Ethiopia rejected UPOV 91 and created its own legal framework which seeks a just balance between farmers’ rights and plant breeders’ rights. In comparison to most countries, it has a less liberal seed market, less involvement of multinational seed companies, less stringent IPR laws and seed policies that accommodate a “pluralistic” seed sector.

Ethiopia's policy of a pluralistic seed system aims to ensure complementarity of formal and farmer managed seed systems which makes the country exceptional according to a global survey referenced in the article. Farmers are granted easy access to protected plant varieties and have the right to freely save, use, exchange and sell them for non-commercial purposes. All commercial actors must disclose the origin of genetic material for their IPR applications to ease traceability and benefit sharing obligations. This can motivate other African and Southern countries to make their own legal frameworks which are primarily attentive and responsive to the needs of their own peoples and environments.

Confusingly, while state governments signed trade agreements with UPOV laws to promote industrial seeds they also sign international agreements designed to prevent exploitation, sustain farmers’ rights to seeds and protect agricultural biodiversity. [December 2019](#) saw the year anniversary of the UN Declaration on the Rights of Peasants and Other People Working Rural Areas (UNDROP). This document declares countries’ commitments to fulfil the human rights of peasants by eliminating conditions that perpetuate multiple and intersecting forms of discrimination (art. 3.3) supporting peasant seed systems and promoting the use of peasant seeds and agricultural biodiversity (art. 19.6). This is encouraging, but, as with any declaration, it remains non-binding.

Furthermore, most Southern governments also agree to the Convention on Biological Diversity (CBD) which recognises Indigenous peoples’ and local communities’ rights to (genetic) resources and knowledge and also the International Seed Treaty (ITPGRFA) which recognises farmers’ rights to all agricultural plants, to farmer-managed seed systems and to participate in policy and decision-making. Despite many national governments following obligations to incorporate the agreements into domestic law the core issue is on **implementation**.

The progressive agreements depend on the good faith of states to implement them and are not legally-binding. More resources and power are invested in implementing/enforcing other laws for an industrial seed system because they are subsidised and pushed by neoliberal governments, development agencies and seed corporations from capital-rich industrialised countries. Alliances between social movements and legal teams are required **#3. Let's make life-sustaining legislation stronger, make farmers' rights legally binding and ensure corporations pay for the implementation of these legislations from the obscene profits they accrued from biopiracy and benefit-sharing evasion.**

#3 Feedback from Kartini, Indonesia, working with GRAIN

“It might be good to include the victory of people's campaign on RCEP to challenge UPOV in FTAs? See <https://www.bilaterals.org/?resisting-rcep-from-the-ground-up> for example: "important victory in the peoples' campaign came when RCEP members decided, after years of mounting pressure from social movements, to drop any obligation to join the Union for the Protection of New Plant Varieties (UPOV) or to implement UPOV provisions in national laws. In February 2019, Indian civil society groups and IICFM farmers unions took the initiative, along with Malaysian, Indonesia and Filipino groups, to write open letters to their respective governments urging that the RCEP negotiations not include an obligation to join or implement UPOV as it would undermine farmers' rights. Thailand's chief negotiator informed civil society groups in a meeting on 13 June 2019 that UPOV was dropped from RCEP. This was informally confirmed by other governments since.”

Recommended readings:

- To understand the threatening essence of UPOV-91:
Monopolies on seed: How free trade agreements threaten food security and biodiversity. APBREBES. https://www.youtube.com/watch?v=BTWt3_AEV4M&feature=youtu.be
To subscribe to APBREBES Newsletter: <https://lists.mayfirst.org/mailman/listinfo/apbrebes>
- For a clear and direct synthesis of the threats and movements of UPOV 91 applied to Asia:
GRAIN, <https://www.grain.org/en/article/6372-asia-under-threat-of-upov-91>
- To easily understand the relation how development assistance assists Western agribusiness at the expense of small-scale farmers in Tanzania as well as the progressive response:
Tanzania farmers are facing heavy prison sentences if they continue their traditional seed exchange. Mondiaal Nieuws. <https://www.mo.be/en/analysis/tanzanian-farmers-are-facing-heavy-prison-sentences-if-they-continue-their-traditional-seed>
- For a detailed case study of Farmer Managed Seed Systems in Tanzania.
Making Farmer-Managed Seed Systems Work: A comparative study between Tanzania and India, Shalini Bhutani, Rosa Luxemburg Stiftung. <https://www.rosalux.de/en/publication/id/40955/making-farmer-managed-seed-systems-work>
- For counter views to the benefits of Quality Declared Seeds, return to:
The real seed producers: Small-scale farmers save, use, share and enhance the seed diversity of the crops that feed Africa. Alliance for Food Sovereignty in Africa and GRAIN (2018). <https://www.grain.org/e/6035>
- For a clear explanation of NAFSN and the associated Committee on World Food Security (CFS).
Transnational Institute. <https://www.tni.org/en/publication/the-new-alliance-for-food-security-and-nutrition>
- For ideas and learning from Global Justice's Now successful campaign actions against NAFSN:
<https://www.globaljustice.org.uk/building-better-food-system>
- President Museveni rejected GMO bill again. New Vision. <https://www.newvision.co.ug/news/1506579/president-museveni-rejected-gmo>
- To understand Ethiopia's journey to create its own pluralistic seed system:
<https://onlinelibrary.wiley.com/doi/full/10.1111/jwip.12142>
- **Highly recommended:** Most recent updates on the challenges and opportunities for farmer's rights to seeds and agricultural biodiversity via UNDROP, the Seed Treaty and the upcoming CBD to develop post-2020 Global Biodiversity Framework (28 May 2020, Webinars):
FIAN International, UNDROP & Seeds & Diversity:
<https://www.youtube.com/watch?v=ERb-BkkVi4o> (English speakers)
<https://www.youtube.com/watch?v=rVmDSTZZHmY> (Spanish speakers)
2020 – a super year for Biodiversity? Patrick Mulvany, Agroecology Now & CAWR
<http://www.agroecologynow.com/2020-a-super-year-for-biodiversity/>