Farmers’ Rights & Breeders’ Rights: A false conflict

Symposium on possible interrelations between the IT PGRFA and the UPOV Convention

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Agenda

- Why is this debate important?
- The rights concerned
- The interrelations
- My conclusions
Why is this debate important?

- Perceived conflict between breeders’ rights & farmers’ rights
- Overlapping membership of UPOV & the Treaty
Why is this debate important?

- Perceived conflict between breeders’ rights & farmers’ rights
- Overlapping membership of UPOV & the Treaty

With regard to both elements clarification is needed

ON:
- Perceptions & misperceptions
- Concepts & contexts
- Obligations & pathways for their harmonious implementation

The rights concerned

PLANT BREEDERS’ RIGHTS

- Plant breeding = time-consuming, costly but very innovative process
- Results in biological material (new plant variety)

Easy to copy → system to ensure return on investment & thus incentives needed

- Open-source system – breeders’ exemption
- Has always stimulated quick innovation in plant breeding
The rights concerned

FARMERS’ RIGHTS

- Article 9 IT PGRFA
- Historical context

Recognize the past, present and future contribution of farmers to sustainable use & development of PGRs

Elements of Farmers’ Rights

- Protection of traditional knowledge
- Right to equitable benefit-sharing
- Right to participate in decision-making on the national level in matters related to conservation and sustainable use
- Rights that farmers have to save, use, exchange and sell farm-saved-seed

Subject to national law & as appropriate
Right to participate in decision-making is central to Farmers’ Rights

The interrelations

Two conventions, two sets of objectives

UPOV

Encourage the development of new plant varieties for the benefit of society

The International Treaty on Plant Genetic Resources for Food and Agriculture

Conservation & sustainable use of PGRFA; access and benefit-sharing

No article by article scrutiny but exploring how they fit & can coexist

“The Treaty and other international agreements relevant to this Treaty should be mutually supportive with a view to sustainable agriculture and food security”
The interrelations

System created by UPOV underpins the goals of the Treaty:

- It stimulates plant breeding = conservation & sustainable use
- Brings considerable benefits via the breeders’ exemption
- It boosts availability of modern varieties to the farmer

Areas of interrelations between elements of Article 9 & UPOV

- Protection of TK: UPOV has no relevance
- Participation: Treaty context is very precise; UPOV has no relevance
- BUT: participation at UPOV level ensured
The interrelations

Right that farmers have to save, use, exchange and sell farm-saved-seeds

<table>
<thead>
<tr>
<th>Type of farmer</th>
<th>Types of varieties used</th>
<th>Purpose of use</th>
<th>Legal situation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Subsistance</td>
<td>Old varieties, landraces, farmers’ varieties</td>
<td>Conservation, maintaining their livelihoods</td>
<td>Not under protection</td>
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<tr>
<td>Protected varieties</td>
<td>Development, adaptation to local circumstances, improving livelihoods</td>
<td>Breeders’ exemption; private and non-commercial use (all acts allowed)</td>
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<tr>
<td>Small scale</td>
<td>Old varieties, landraces</td>
<td>Conservation, adaptation</td>
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<td>Breeders’ exemption</td>
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<td>Protected varieties</td>
<td>Save &amp; use FSS (reproduction) not linked to conservation</td>
<td>Agricultural exemption (save &amp; use allowed with exemption from payment; exchange &amp; sales not allowed)</td>
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Conclusions

1. Useful to have this discussion
2. Common understanding of concepts & contexts
3. No a priori conflicts between the instruments examined
4. Implementation – national needs & realities to be taken into account → no one size fits all solution
5. This exercise must focus on balanced ways of implementing obligations under both treaties
Thank you for your attention!