

Should Nepal opt for a two-track model for farmers' rights?

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Historical contexts

- ▶ Official plant exploration, collection and exchange of plant germplasm since 1937
 - ▶ For example, 2,839 rice accessions were provided from different locations to several international genebanks
- ▶ Policy focus on the import of high-yielding varieties and their parental lines from outside
 - ▶ Visible from the First Development Plan of the 1950s to the current development plans
 - ▶ Excessive reliance on foreign crops/parental lines
 - ▶ Some recent progress to use landraces through participatory plant breeding programmes (mainly after 1990s)
- ▶ The first National Seed Seminar in 1983
- ▶ Seed Act in 1988

Historical contexts...2

- ▶ **The Seed Act 1988 (together with National Seed Policy and Seed Regulations)**
 - ▶ DUS criteria for plant varieties
 - ▶ A system of variety release, registration, notification and truthful labelling/self-declared quality scheme
 - ▶ The first ever recognition to breeders' ownership rights over plant varieties (though only with an ownership certificate)
- ▶ **New issues emerged after the following developments**
 - ▶ No to UPOV Campaign in 2003 and WTO membership in 2004
 - ▶ Stop Monsanto in Nepal Campaign in 2010

Nepal's WTO commitment for PVP

- ▶ **In the 2004 Working Party Report for Accession to the WTO,**
 - ▶ Nepal is obligated to initiate “the drafting of the Plant Variety Protection Act” and promulgate the same as “a separate free-standing Act” to protect “protect the rights of relevant stakeholders [such as breeders, farmers and researchers] in accordance with the needs of the country” (WTO 2003: 42-43).
 - ▶ Nepal was only required to “look at [...] UPOV 91 [...] in terms of national interest and explore the possibility of joining [the Convention] in the future, as appropriate (WTO 2003: 40)

Towards a *sui generis* PVP law

- ▶ The first PVP law in 2004/2005
- ▶ Revisions to the draft law between 2006 to 2011
 - ▶ led by the Ministry of Agriculture, NARC, SQCC, SAWTEE, LIBIRD, and CEPREAD
- ▶ A new committee is now active about which we will discuss at today's national consultation

Key issues of Nepal's PVP law

- ▶ Breeders' rights as in UPOV, but subject to certain exemptions as well as farmers' rights over protected varieties including
 - ▶ Farmers' rights to save, exchange, reuse and sell, to benefit sharing, and to revocation and compensation
- ▶ Farmers' rights over farmers varieties
 - ▶ Varieties that have the characteristics of DUS and that have been registered under this law
 - ▶ The right to register plant varieties without paying any fee, the right to prior informed consent, and the right to know about the use of their varieties for research and development/bioprospecting
- ▶ The role of farmers recognized in the definitions of breeders as well as farmers
 - ▶ a farmer could be an individual or a community, and can establish and register a farmers' organization under the law

Key Issues as way forward

- ▶ What are farmers' varieties and what are local and native varieties?
- ▶ Should Nepal opt for a two-track model of farmers' variety registration?



- ▶ The idea of such a two-track model may (or should) not limit the scope of farmers' rights over breeders' varieties, State varieties, and varieties in international gene banks, the Multilateral System, the SAARC Seed BANK, and so on?
- ▶ UPOV does not limit the scope of protecting both local and native varieties, and farmers' varieties