WHY GOVERNMENTS CAN'T MAKE POLICY
- THE CASE OF PLANT GENETIC RESOURCES IN THE INTERNATION ALL ARENA*

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* This paper is part of the background papers that have been prepared at the request of the GFAR Secretariat, in order to provide a technical background to GFAR stakeholders in their deliberations on the policy issues that are being analyzed in the "Initiative on Genetic Resources for Food and Agriculture". The paper is solely the responsibility of the author(s), and does not necessarily represent the views of GFAR, nor of any of its stakeholders.
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Executive Summary

This study emerged from an alarming and growing concern about the progress of international negotiations on issues of genetic resources. The paralysis resulting from the inability of governments to compromise and reach agreement is a very real threat to the continuation of the current international activities aimed at conserving and utilizing genetic resources for agricultural purposes. As the international stalemate continues, and indeed deteriorates, more restrictions to access are being contemplated without a clear vision of the future impact of, and often in response to, external driving factors such as the increasing number of patents being granted with wider and wider scope of protection.

The specific purpose of the study was to clarify issues and to inquire whether or not the complexity of the interrelationships among different international fora might contribute to the obscurity of the policy debates on genetic resources at both the national and international levels, thereby pointing out reasons for the near-complete paralysis in reaching decisions. To do that, the study reviewed current issues in genetic resources for food and agriculture, and analyzed decision-making at the national level in a small but purposely selected sample of very diverse countries, namely Brazil, France, Germany, India, Kenya, The Philippines, Sweden, and the United States. The focus on decision making at the national level was based on the assumption that positions taken by government representatives in various international fora critically depend on the nature, content and process of policy making at the national level.

In each case knowledgeable people, involved in agricultural genetic resources policy making and the corresponding policy debates, were interviewed. An account of recent relevant decisions and debates was written up, pointing out the major actors involved, such as NGOs, research organizations, industrial representatives, etc., and also the array of government ministries which participate. The interests and concerns these actors represent and express were identified. Implications from these analyses for the national positions taken in international negotiation fora were drawn, thereby providing an “explanation” for these positions and for the great difficulty of negotiating compromises among these national positions.

In the process, the study has placed the current debate in its historical context and has emphasized the wide range of interpretations of the meanings, uses and values of genetic resources to different societies and cultures. It has provided insights as to the root of the current stalemate, both in these social and cultural interpretations and the way they are manifested in national decision making processes.

In addition, one readily apparent explanation of why it has been extremely difficult to reach international consensus is indeed the complexity of the international negotiation processes involved. The international negotiations on plant genetic resources take place primarily in the Commission on Plant Genetic Resources for Food and Agriculture whose secretariat is provided by FAO. But

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deliberations in that forum are closely interrelated with negotiations in other international fora, particularly in the Conference of Parties of the Convention on Biological Diversity and those in the World Trade Organization regarding Trade Related Intellectual Property Rights. The negotiators in these fora are often from different ministries. That need not be a problem in countries which are well equipped to escalate issues to the level at which ministries can and must interact to remove contradictions and harmonize positions which will apply across fora. Sadly, that is seldom the case for genetic resources issues in most countries and the resolution of critical issues eludes negotiators in any specific forum.

A second similarly obvious explanation is the complexity of the issues themselves and the magnitude and scope of differing viewpoints within even a single country. The combination of a complex international negotiation process and a complex set of issues with tremendous long term social, economic and political impact is the perfect setting for a breakdown of international consensus on the issues of genetic resources.

Nowhere are the consequences of this lack of consensus more severe than in those international organizations, which produce international public goods based on conserving and using genetic resources. The research centers of the CGIAR constitute the most obvious example of such organizations. Until agreement is reached which would allow these centers to continue to operate under an umbrella of free and open access, at least for major food and agriculture crops, then the ability to produce international public goods is threatened. This unique role, by definition, will not be assumed by the private sector, nor by the national research institutions in developing countries, nor by any other of the single stakeholders in the debate. At a minimum, the results of this study would indicate that all countries would benefit by providing a special status in their national legislation for the international collections held in trust and for the benefit of humankind. Such a special status would insure that they continue to be freely available and in the public domain.

The maintenance of present day yield levels for major food crops will depend on combining many genetic traits found in materials of a wide variety of origins, that must be placed into a wide range of varieties and used in many different locations. Future food security depends on it and international public goods deliver it. Most of all, this study has emphasized the implication for a potential loss of those international public goods and the resulting threat to all countries. Thus we hope that this study can contribute to a greater awareness of the current threats and constitute a call to action.