

Views, Experiences and Best Practices as an example of possible options for the national implementation of Article 9 of the International Treaty Submitted by Contracting Parties and Relevant Organizations

Note by the Secretary

This document presents the views, experiences and best practices on the implementation of Farmers' Rights, as set up in Article 9 of the International Treaty submitted by Oxfam Novib, The Netherlands on 29 June 2018.

The submission is presented in the form and language in which it was received.

Cover letter in response to the invitation to submit views, experiences and best practices as examples of possible options for national implementation of Article 9 of the International Treaty (NCP GB8-05 Farmers' Rights).

Sowing Diversity = Harvesting Security Programme

June, 2018

The Sowing Diversity=Harvesting Security (SD=HS) is a global programme led by civil society organizations in alliance with diverse stakeholders such as government and national and international breeding institutions and private sector. SD=HS aims to realise Farmers' Rights by empowering indigenous peoples and smallholder farmers (IPSHF) to uphold their role in contributing to food security and strengthening their adaptive capacities. The Treaty recognizes the strong and essential link between Farmers' Rights (Article 9) and the practices of sustainable use and conservation of PGRFA (Articles 5 & 6). This link is at the core of the SD=HS programme. Only by empowerment in all these areas, smallholder farmers and indigenous peoples can truly participate in shaping and managing the food and seed systems they operate in and fully exercise their rights.

This letter summarizes the pivotal areas for national implementation of Farmers' Rights the SD=HS program has identified on the basis of its experiences and work with IPSHF around the world. More detailed information can be found in the programme's submissions to GB 6 and 7, which are attached to this letter. These are joint submissions by:

- *Oxfam, the Netherlands*
- *Asociación para la Naturaleza y el Desarrollo Sostenible (Asociación ANDES), Peru*
- *Community Technology Development Trust (CTDT), Zimbabwe*
- *Southeast Asia Regional Initiatives for Community Empowerment (SEARICE), Lao P.D.R., Myanmar and Vietnam*

1) Strengthen support for Farmers' Seed Systems

It will be impossible to realise Farmers' Rights if the role of farmers' seed systems is not fully understood and supported by the requisite national policies, legislation and mechanisms. Seed systems in the developing world are predominantly farmer-managed, meaning that most seed are produced by farmers and circulated amongst them. SD=HS has demonstrated the importance of farmers' knowledge and skills in managing plant genetic resources for food and agriculture and adapting food systems to climate change. Yet, the efforts, knowledge and opinions of IPSHF are often ignored. Realizing Farmers' Rights means implementing mechanisms that strengthen farmers' seed systems. *Farmer field schools* (FFS) in plant breeding are one such mechanism, which the SD=HS program implements in close collaboration with national and international extension services and agricultural research centers. The FFS facilitate farmers in accessing, adopting and creating a better-adapted portfolio of crops and varieties, with particular attention for the participation, needs and preferences of women. The FFS develop people's power to exercise choice and their capacity to self-organise and learn, continuously innovate and update their practices, and engage in advocacy for policy changes. Another mechanism are *community seed banks*, which increase farmers' seed security and resilience. Realizing Farmers' Rights means supporting and relying more heavily on the role of smallholder farmers and their crop diversity management as

pathways for *achieving the SDGs* for nutrition security, climate resilience, biodiversity conservation and poverty reduction.

2) Support farmer-led participatory plant breeding

Promote partnerships between farming communities and (inter)national gene banks and research institutions in order to facilitate smallholder farmers' access to a portfolio of diverse crops and varieties and to stimulate participatory research. Special attention should go to the inclusion of women farmers. Whilst the contribution of women's labour to food production is increasingly recognised, women's knowledge and key role as managers of biodiversity for food and nutrition security is often overlooked and underestimated. To support farmers' seed systems and realise Farmers' Rights, inclusive decision-making processes need to be established that ensure women's participation and capture and respond to women's roles in seed and biodiversity management.

Public plant breeding should be strengthened since the private sector cannot cater for all farmers, crops and ecosystems. University curricula need to be developed to train students in participatory plant breeding and smallholder farmers should be included in national seed and variety release committees.

3) Amend seed laws to allow smallholders' seed production, including seed of farmers' varieties

In most countries, only certified seeds of registered 'modern' varieties may be marketed by registered sellers. Some country seed laws even prohibit the exchange and/or informal trade of non-certified seeds, which often is the main or only source of seed for smallholder farmers in developing countries. This negatively affects farmers' seed systems and is a missed opportunity to leverage the skills and entrepreneurship of smallholder seed producers. Instead, governments should establish legal structures that support and facilitate the involvement of farmers in quality seed production, in particular to market the seed of farmers' varieties that are maintained only in small-scale systems and that contribute to wider diversity in farmers' fields. Establishing legal frameworks that suit the needs and capacities of smallholder farmers can enhance the production of quality seed of both modern and traditional varieties most preferred by farmers, providing a short-cut to increase crop diversity in farmers' fields.

4) Balance breeders' intellectual property rights with Farmers' Rights

The implementation of intellectual property rights requires careful consideration in order not to weaken the role of IPSHF in their management of plant genetic resources for food and agriculture. Most national patent laws do not include a breeder's exemption while allowing the patenting, directly or indirectly, of plants and propagation material. This has a negative impact on innovation and the development of new crop biodiversity since both farmers and breeders depend on the continuous use of multiple existing crop varieties for the creation of new varieties. In addition, both patents and UPOV 1991-based plant breeder's rights do not allow smallholder farmers to freely exchange and trade farm-saved seed of a protected variety, blocking their main channel to access such varieties. Oxfam and its partners have proposed various strategies to overcome these bottlenecks and to balance plant breeders' intellectual property rights with Farmers' Rights.

5) Ensuring the fair and equitable sharing of benefits arising from the utilisation of plant genetic resources for food and agriculture

Facilitated access to PGRFA most preferred by both women and men is itself an important aspect of benefit-sharing, as discussed under point 2 above. Yet access to PGRFA, and the sharing of benefits arising from their use, needs to be fair and equitably balanced. The Treaty's benefit-sharing component needs to be strengthened to achieve this, and to stimulate farmers and countries to continue to share their crop diversity of wild, cultivated and newly developed varieties. This can be done only by ensuring user-based payments and contributions to the Benefit-Sharing Fund in a sustainable and predictable long-term manner. This should include the sharing of benefits derived from the commercial use of digital sequence data of the crops falling under the Multilateral System.

6) Secure IPSHF's participation in policy and decision-making relevant to the use and conservation of PGRFA

Inclusive decision-making processes, such as the participation of smallholder farmer representatives in national seed councils or during the formulation of research agenda's and breeding objectives of public researchers, are critical to strengthening farmers' seed systems and realising Farmers' Rights. Special attention should go to the inclusion of women farmers to ensure their participation and capture and respond to women's roles in seed and biodiversity management.