



POLICY DEVELOPMENT WITH INSUFFICIENT PARTICIPATION? EXAMPLES FROM SOUTHERN AND EASTERN AFRICA

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Reshaping African Agriculture

- A raft of new policies and laws are being drafted at both regional and national level in Africa to support the expansion of the seed industry on the continent.
- 6 July 2015 - African Regional Intellectual Property Organisation (ARIPO's) Arusha Protocol for the Protection of New Varieties of Plants (Arusha Protocol) was adopted.
- UPOV 1991 compliant and practices that are the norm in sub-Saharan Africa, such as seed saving and exchange between farmers severely restricted as farmers do not differentiate between protected and unprotected seed.
- The Southern African Development Community (SADC) also developed a harmonised PVP Protocol based on UPOV 1991, however, key provisions on farmers' rights were amended due to strenuous civil society and farmer participation at the tail end of the process in 2014.



Context

- 80% seed in SS Africa is produced & disseminated informally (women are prominent)
- Treasure of knowledge, diversity, resilience, culture
- Our governments represent this situation as problematic – source of hunger, low yields and spread of pests/disease. Embrace a strategy for wholesale replacement with improved varieties
- Formal sector is incapable of servicing beyond commercially viable crops



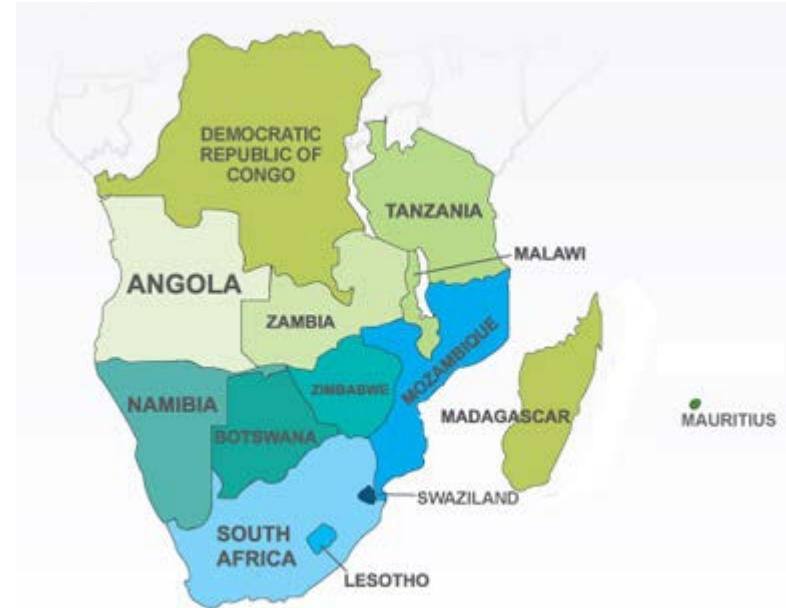


Context

12 out of 18 ARIPO members are Least developed countries

- People living on less than \$2 a day, widespread hunger, poverty and malnutrition.
Won't access improved varieties/inputs

- Member states have no experience of
 - PVP laws, costs and benefits
 - Have 7 years to implement
- 27 (3)(b) of the WTO TRIPs agreement that requires members to implement a plant variety protection regime





The UPOV disconnect

- UPOV evolved with a highly sophisticated seed industry.
- UPOV is the most restrictive & inflexible PVP model possible, one that is radically skewed in favour of private breeders, while prejudicing small-holder farmers, who are without doubt, the largest and most prolific seed breeders on the continent.
- Sets up regulations for an industry that largely doesn't exist while relegating the dominant system – farmer managed seed – to operate within a narrow exception
- Harmonisation - Sacrifice National Sovereignty in a one-size-fits all to gain access to economies of scale



The UPOV 1991 model is likely to lead to

- Progressive marginalization of farmer-managed seed systems and the disappearance of local varieties;
- Farmers becoming increasingly dependent on expensive inputs, creating the risk of indebtedness in the face of unstable incomes;
- Huge vacuum for non-commercial crops
- An imbalance between the private and the public sectors in agricultural research, with R&D being orientated towards formal sector
- Agrobiodiversity being threatened
- DUS – inequitable - only 1 system promoted. Threatens resilience



Civil society activity

- Civil society, largely under the banner of the Alliance for Food Sovereignty in Africa (AFSA) have championed farmer managed systems, agroecology & fought against harmonisation of UPOV through ARIPO and SADC Capacity building and consultation, substantive comments, appealed to UPOV





ARIPO - No consultation

- Negligible national consultation
- Gaining access to regional bodies is extremely difficult, bypassing national processes
- Accessing information on meetings and roadmaps and gaining relevant documents and invitations to regional processes is made incredibly difficult
- Civil society is required to resource themselves to gain entrance to these processes
- Foreign entities acting on behalf of private interests and the seed industry have exceptional access and influence (WIPO, the EU Community Plant Variety Office (CPVO), the French National Seeds and Seedlings Association (GNIS), the United States Patent and Trademark Office (USPTO) and UPOV)
- For farmers to engage meaningfully in policy development there is need for prolonged capacity building in vernacular, that requires technical capacity and resources, which civil society had to find



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- Legalise naturally excludes lay people and farmers from participating in negotiations and no attempt is made by governments to bridge this gap
- No effort was made to operationalize Article 9.2(c) of ITPGRFA, which is about Farmers' Rights to participate in decision- making on matters, related to the conservation and sustainable use of plant genetic resources for food and agriculture and this lack of effective public consultation may also be inconsistent with the constitution of several ARIPO countries, which require prior public consultation.
- You are either UPOV 91 compliant or not – issues raised through consultations cannot be accommodated.



Changes in SADC

- Civil society participation in the SADC protocol – broadened farmers’ rights exceptions and clause on declaration of origin to monitor biopiracy
- “(d) acts done by a farmer to save, sow, re-sow or exchange for non-commercial purposes his or her farm produce, including seed of a protected variety, within reasonable limits and subject to the legitimate interests of the holder of the breeder’s right. The reasonable limits and the means of safeguarding the legitimate interests of the holder of the breeder’s right shall be prescribed.”



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- SADC member states agreed to including, as part of the application requirements for a plant breeder's rights, a declaration to the effect that the genetic material or parental material acquired for breeding, evolving or developing the variety was lawfully acquired.
- However deep inequity remains as only 1 model of agriculture is recognised and incentivised. No parallel process on farmer managed seed systems is being developed

Thank you!

