

The climate crisis adds another dimension of urgency in dealing with the world's dwindling agricultural biodiversity. The seeds of today will have to be adapted to changes in climate and the ensuing changes in ecosystems. Such adaptation can only be based on the wealth of agricultural biodiversity that farmers have created. Farmers' seeds and seed systems have never been more important to humanity, and yet never have they been more threatened. A growing array of laws and regulations spreads around the world to prevent farmers from working with seeds, while new technologies, such as GMOs, put these seeds at risk of contamination and destruction. Meanwhile, the handful of seed corporations that now dominate the global seed market want unfettered access to the seeds that have been taken from farmers and stored in the world's gene banks.

In this context, the Governing Body of the International Treaty on Plant Genetic Resources for Food and Agriculture held its third session on 1–5 June 2009 in Tunis. Guy Kastler, the European delegate to La Via Campesina's Biodiversity Commission, and representative of the Réseau Semences Paysannes of France, explains what he sees as the failures of the Treaty and the opportunities and spaces for action emerging from Tunis.

Farmers' rights or fools' bargain?

GUY KASTLER



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Guy Kastler has a small organic farm in southern France. He is coordinator of the Réseau Semences Paysannes (Peasant Seed Network), a member of the Confédération Paysanne (Peasant Confederation) and European representative in the Biodiversity Committee of Via Campesina.

There has always been a core tension in the negotiations for the International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGR). On one side, the multinational seed industry wants a multilateral system that gives it open access to the world's genebanks and farmers' fields, unrestricted by national sovereignty. On the other side are farmers and indigenous peoples, who insist that their historic role in creating the world's agricultural biodiversity, and their need for support to continue doing this work in the face of increasing criminalisation and marginalisation of their seed systems, be recognised. Absolutely central to this recognition is stopping the privatisation of

communities' knowledge and material resources. In the Treaty negotiations, this tension has played out in a loose division between rich countries, where the seed markets are dominated by transnational corporations (TNCs), and poor countries, where farmers' seeds and public breeding programmes are more important. In the text of the Treaty, the division has evolved into a murky compromise between access and intellectual property rights (IPRs) on the one hand, and benefit-sharing and farmers' rights on the other.

The Treaty, like all international agreements, is a reflection of power politics, with the industry getting pretty much everything it wants in terms of IPRs and access, and farmers getting nothing of

substance on farmers' rights or benefit-sharing. The negotiations during the third session of the Treaty's Governing Body in Tunis were hardly an exception. Although the rich countries have had no problems finding billions of dollars to bail out their banks this year, they refused to cough up the relatively meagre amount needed for the Secretariat to carry out its mandated programmes for the development of farmers' rights and the sustainable use of plant genetic resources. Some start-up money was made available to a benefit-sharing fund, but there was still no agreement on a mechanism that would force the seed industry to contribute its rightful share or that could put the "benefits" in farmers' hands. And despite efforts from civil society and some governments of the South, the Treaty still imposes no obligations on parties to enforce farmers' rights. Brazil, supported by all the countries of the South, proposed a draft article that would require member countries to bring their national legislation into conformity with farmers' rights. But Canada was able to water down the proposal to make it non-binding. Similarly, Canada succeeded in making the organisation of regional workshops on farmers' rights conditional on the availability of funds, which always depends on the good will of rich countries.

Nevertheless, the final resolution adopted in Tunis lays out some important principles that could be used as a powerful lever for food sovereignty if farmers and civil society seize the opportunity to obtain their comprehensive implementation.

The final resolution "invites parties to consider reviewing and, if necessary, adjusting national measures affecting the realisation of farmers' rights, and encourages parties and organisations to submit

views and experiences on the implementation of farmers' rights." The resolution also states that the Governing Body "appreciates the involvement of farmers' organisations in its further work" and "requests the Secretariat: to convene regional workshops on farmers' rights, subject to agreed priorities and to the availability of financial resources, aiming at discussing national experiences on the implementation of farmers' rights; and to collect parties' views and the reports of the regional workshops for consideration [at its next session]".

However restrictive the final document is, it is now an official document unanimously approved by the Governing Body that explicitly recognises that many national laws are obstacles to farmers' rights. Such recognition provides an important basis from which farmers' organisations and civil society can challenge their governments and force them to respect the Treaty to which they are a party. In Tunis, we could see some important space open up in this direction.

At the outset of the meeting, the International Planning Committee for Food Sovereignty (IPC), which is composed of NGOs and organisations of farmers, pastoralists and indigenous peoples, announced that, if the Governing Body of the ITPGR could not guarantee the collective rights of farmers, it would call for the formation of a coalition of countries willing to do so immediately. Also at the opening plenary, Via Campesina declared that corporate seeds, which cannot be freely reproduced by farmers, are the main cause of the disappearance of crop biodiversity and a significant cause of the food crisis. Under no circumstances, they stated, can such seeds be a solution to the crisis. Via Campesina called for a tax on all industrial seeds

Box 1: The ITPGR and farmers' rights

According to Article 9.2 of the ITPGR:

The Contracting Parties agree that the responsibility for realising Farmers' Rights, as they relate to plant genetic resources for food and agriculture, rests with national governments. In accordance with their needs and priorities, each Contracting Party should, as appropriate, and subject to its national legislation, take measures to protect and promote Farmers' Rights, including:

- a) protection of traditional knowledge relevant to plant genetic resources for food and agriculture;
- b) the right to equitably participate in sharing benefits arising from the utilisation of plant genetic resources for food and agriculture;
- c) the right to participate in making decisions, at the national level, on matters related to the conservation and sustainable use of plant genetic resources for food and agriculture.

Nothing in this Article shall be interpreted to limit any rights that farmers have to save, use, exchange and sell farm-saved seed/propagating material, subject to national law and as appropriate.



that cannot be saved in order to generate funds for local community-managed seed banks and participatory breeding.


These declarations from civil society were supported by almost all of the delegations from the South and, at the explicit request of some of them, were annexed to the Governing Body's official report. Many countries from the North also stood in support of greater recognition of farmers' rights, at least when it comes to farmers in the South (not in their own countries!). Norway demanded that farmers' representatives should be allowed to speak and, alongside Switzerland and Italy, worked hard to persuade the most reluctant delegations to accept the declaration on farmers' rights. Only Canada, France, Germany and Australia fought tooth and nail to protect the interests of the transnational seed companies.

Efforts to advance farmers' rights will have to confront directly plant breeders' rights legislation and the patenting of genes within plant varieties, promoted globally through the International Union for the Protection of New Varieties of Plants (UPOV). The negotiations in Tunis underscored how rich countries – France in particular – are unwilling to recognise any contradiction between PBRs and farmers' rights. There is reason to believe that the seed industry, even in the United States, is increasingly turning to PBRs as a way to maintain strong patent-like protection over seeds while side-stepping benefit-sharing (since PBRs, unlike patents, do not require holders to disclose the origin of the varieties).

The treaty can never be implemented as long as patents and PBRs are not redefined in such a way as to respect farmers' rights. The ITPGR came into being after UPOV, and it is therefore for UPOV to conform to the treaty and not the reverse. A world information campaign is necessary to denounce the system of biopiracy based on the combined use of PBRs on varieties and patents on

genes, the charade of benefit-sharing schemes, and the incoherent position of governments that have ratified the treaty with one hand while holding the pen with which they ratified UPOV and TRIPS in the other.

The Treaty's regional workshops on farmers' rights are potential spaces for advancing farmers' rights. But the Treaty secretariat will organise these workshops only if there is money to do so. The funds will not be raised without strong mobilisation by farmers' organisations and civil society. The discussions are bound to be intense, given the positions of the governments of those countries that are home to the multinational seed companies, but, in the end, their cynicism cannot stand up to public scrutiny. If the Treaty proves incapable of pursuing its work on the collective rights of farmers, the coalition of governments and civil society organisations interested in the immediate implementation of these rights, which began to take shape in Tunis following the declaration of the IPC, needs to be quickly established, country by country, region by region and, ultimately, at a global level. This coalition could be autonomous or could be established under the authority of an international organisation other than the Treaty. Latin America's experience with ALBA, a coalition of governments trying to develop trade relations on a basis that breaks away from the neoliberal model, could be inspirational in this effort.

The international debates that will take place on the food crisis at the FAO in Rome in November and then at the Climate Convention in Copenhagen in December, and the regional conferences of the food sovereignty collectives (2010 in Hungary, in the case of Europe) are places where such a coalition or coalitions can consolidate. The collective rights of farmers and indigenous peoples to their seeds must be included on the agenda of these meetings as an essential contribution to realising food sovereignty and solving the overlapping food and climate crises. 

Going Further:

IPC, "A Sizeable Step Towards a Real Commitment to Farmers' Rights at the FAO?" press release, 8 June 2009, http://www.viacampesina.org/main_en/index.php?option=com_content&task=view&id=738&Itemid=1

IISD, "Summary of the Third Session of the Governing Body of the ITPGR", IISD, Earth Negotiations Bulletin, Vol. 9, No. 471, 8 June 2009, <http://www.iisd.ca/vol09/enb09471e.html>

GRAIN, "The FAO seed treaty: from farmers' rights to breeders' privileges," 2005, <http://www.grain.org/seedling/?id=411>

Website of the ITPGR: <http://www.planttreaty.org/>

On ALBA, see: http://www.bilaterals.org/rubrique.php3?id_rubrique=153

