Farmers, food and freedom

How trade deals are undermining the right to seeds

Transform Trade

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Laily Khatun, a farmer from Rajibpur, Bangladesh, plants seeds on her land.
Photo: GMB Akash/Transform Trade

Introduction

Smallholder farmers play a pivotal role in feeding the world, estimates suggest they feed between 35% and 70% of the global population.[1] This is particularly true for many countries in the Global South. In Africa, there are an estimated 33 million smallholder farmers, contributing up to 70% of the food supply.[2]

Smallholder farmers rely on good quality seeds for their livelihoods, often accessing them through farmer-managed seed systems which are underpinned by local seed exchanges, seed banks or by saving them from the previous harvest to reuse. The UN International Treaty on Plant Genetic Resources for Food and Agriculture (the Seed Treaty) recognises the importance of these practices for food supply, livelihoods, biodiversity and climate change mitigation:

> *"...plant genetic resources for food and agriculture are the raw material indispensable for crop genetic improvement... essential in adapting to unpredictable environmental changes and future human needs... [the] contributions of farmers in all regions of the world, particularly those in centres of origin and diversity, in conserving, improving and making available these resources, is the basis of Farmers' Rights."* [3]

However, farmers' rights to seeds are under threat, as national governments introduce laws which prohibit farmers from saving, exchanging or selling some seeds. A significant driver of this is pressure to comply with the International Convention of the Union for the Protection of New Varieties of Plants 1991 (UPOV91), which is often exerted on countries in the Global South through trade and investment agreements.

The UK is currently one of several countries using trade deals to push countries in the Global South to introduce restrictive seed patenting, certification and marketing laws (herein referred to as 'seed laws'). At the time of writing, the UK has signed or ratified 19 trade agreements covering 68 countries which require or encourage those countries to comply with UPOV91. While other trade deals might not mention UPOV91 specifically, they may contain wider provisions on intellectual property which broadly cover seed laws.

This report outlines the importance of freedom of choice for farmers and the right to seeds; that is the ability of farmers to save, exchange and sell seed both for livelihoods and for adapting to climate change. It recommends that the UK Government removes and renegotiates the seed law provisions in its trade deals so that they recognise farmers' rights to seeds, in line with commitments it has made in UN agreements.

What is UPOV91?

The International Union for the Protection of New Varieties of Plants (UPOV) is an intergovernmental organisation that "promotes and protects new varieties of plants."[4] Founded in 1961, the UPOV Convention forms the basis of plant breeders' rights over new plant varieties.

There have been four versions of the UPOV Convention, 1961, 1972, 1978 and 1991. Only the 1978 and the 1991 versions are currently in force globally. Any new signatory countries that joined after 1998 only have the option of signing up to the 1991 iteration, known as UPOV91.

UPOV91 is more restrictive than the UPOV78 version as it contains a provision that grants exclusive rights to the plant breeder of a new plant variety. This means that the plant breeder is the only company or entity with rights over the production, selling, export and import of that variety. Once a country is a signatory of UPOV91 or has committed to comply with it under a free trade deal, it must introduce domestic regulation to align with it. In real terms, this means that farmers:

- Can legally access privatised varieties of seed only if they buy them from a place that has permission to sell them.
- Cannot exchange these seeds in any way, even as a gift.
- In some countries, they cannot save these seeds for the following season. In others, farmers can reproduce or keep privatised seed variety for the next season but only if it's for their own use, and/or they may have to pay a royalty to do so.
- Cannot use these seeds to develop their own varieties.[5]

Margaret Mugambi, showing an overview of her farm in, Meru County, Kenya. Photo: Brian Otieno/ Transform Trade

The importance of smallholder farmers and farmer-managed seed systems

In many parts of the world, smallholder farmers play a vital role in preventing hunger, and providing nutrition and livelihoods to communities. According to the UN Food and Agriculture Organisation (FAO) around 94% of farms globally are under five hectares in size.[6]

Despite only cultivating 12% of all agricultural land, smallholder farmers produce at least 35% of the world's food, with some estimating that this figure is closer to 70%.[7] In Asia and Sub-Saharan Africa, smallholder farmers operating on landholdings of less than two hectares provide an estimated 80% of food grown in those regions.[8]

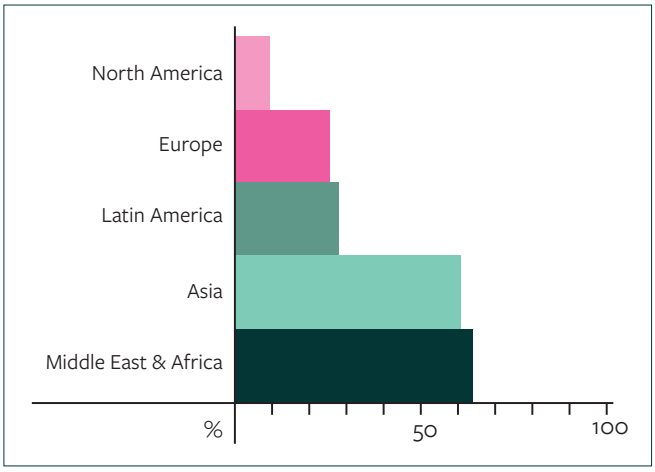
Smallholder farming is the backbone of many national economies in the Global South. In Sub-Saharan Africa, agriculture contributes 25% to Gross Domestic Product (GDP) on average. The agriculture sector employs more than half of Africa's workforce, and smallholder farmers constitute 60% of the population in some low-income African countries.[9]

Policies that undermine smallholder autonomy and farmers' rights to seeds can therefore be detrimental to livelihoods, economies and food security.

Farmer-managed seed systems

Many smallholder farmers in the Global South rely on seed systems where they swap and buy seeds with other farmers, or save their own seeds to grow crops. These are called farmer-managed seed systems. A 2018 report by the Organisation for Economic Cooperation and Development (OECD) found that farmer-managed seed systems play a crucial role in some regions of the world (see Figure 1).

Figure 1: Farm-saved seed as share of total, 2016[10]



[Source: OECD, 2018]

Joyce Wakiini, 53 on her onion farm in Ngare Ndare, Kenya. Photo: Sarah Waiswa/Transform Trade

A study with smallholder farmers conducted across 10 countries in Africa found that 90% of seeds accessed by small farmers came from farmer-managed seed systems.[11] These systems can have a number of benefits:

Climate adaptation: Farmer-managed seed systems tend to foster local varieties of seeds, which are better adapted to local conditions (e.g. drought or soil type), are developed in situ, meaning that they evolve within the ecosystem they are grown in, and can have benefits for the local ecosystem such as improved soil quality.

Lower cost: power imbalances in privatised seed markets, including the dominance of a small number of large companies, drives up prices for seeds, as well as other inputs. In addition, many farmers operate in remote areas and are therefore at the mercy of a small number of seed traders, further inflating costs. In farmer-managed systems, farmers are much less reliant on a market that is often volatile or weighted against them, helping them to keep costs down.

Social benefits: exchanging seeds locally provides an incentive for farmers to come together and share knowledge and resources. Some local seed varieties may have specific cultural significance such as indigenous varieties of potatoes in Peru, which for many Quechuan people are culturally intertwined with their beliefs around Pachamama (mother earth).[12]

Improved livelihoods: Farmer-managed seed systems can provide farmers with an extra stream of income if they develop varieties and surplus seed to sell. Where seeds are stored in seed banks and distributed to farmers in the area, extra livelihoods can be created for those working in seed banks.

Many communities around the world are running local seed banks and cultivating indigenous and local varieties of seeds as a way of maintaining their livelihoods without relying on commercial seed markets. This is important for many farmers because it can be a way of keeping down costs, creating local jobs in trading, preserving and developing seed varieties and for conserving local varieties which are well adapted to the local environment.

Pahariya Seed Banks, Jharkhand, India

The indigenous Pahariya tribes of the Santhal Pargana region of Jharkhand, farm land in forests and on hill slopes.

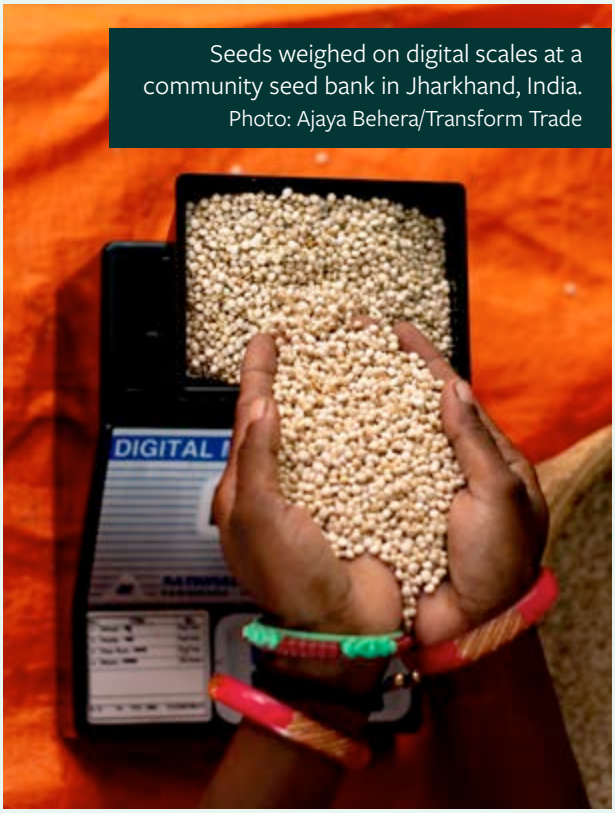
The Pahariya cultivate a variety of crops, including maize, cowpea, rice bean, millets and pulses. Women have traditionally been the custodians of seeds, preserving them for their families and farming businesses. Carefully selected and sorted seeds are stored after treatment, to be used for the next sowing season or sold in an emergency. Seeds stored at home are at risk of infestation, but the seed bank provides a safe place to store seeds and keep them free of insects and worms.

As Namita Paharin, a member of the Pahariya community explains, *"Seeds are our lifeline, we cannot think of farming if we do not save our seeds."*

However, when communities face economic hardship, there follows a sharp decline in seed security. Pahariya households in need of extra income sell their seeds to local traders, who buy at low prices because they know the community have little choice other than to sell. The traders often sell seeds back to the community in the sowing season when demand is high, but with price increases of up to 50%.

In this cycle, the Pahariya farmers make a financial loss. There are also concerns that the community lose control over their own seeds, which could weaken the traditional knowledge of farming and plant varieties which is vital to sustaining agriculture in the region.

Traidcraft India (part of Transform Trade) has partnered with local organisations, including the Badlao Foundation and Sathee to support Pahariya communities to set up and govern their own seed banks, which now serve around 3000 households in the region.



Seeds weighed on digital scales at a community seed bank in Jharkhand, India.
Photo: Ajaya Behera/Transform Trade

Seed banks provide an additional income for farmers and help to maintain healthy seed supplies for the next sowing season - reducing both the need to sell to traders in times of hardship and the cost of buying seeds for the next season. This enables local farmers to reduce their dependence on buying seeds from traders, whilst helping them to preserve indigenous seeds that are climatically adapted to local conditions.

Jawahar Paharin, a local farmer said about the project *"[Before] we had to put in a lot of time in drying and cleaning the seeds to prevent damage due to pests. The seeds we received from the seedbank were healthy and clean. Earlier, whenever there was need for money, we would sell our seeds [and buy them back later at a higher price]. Now at least I am assured that my seeds are stored safely in the seed bank."*

Climate change adaptation

Climate change increases the risk of crop failure due to extreme weather and increased numbers or types of pests and diseases. Crops that are developed in situ (otherwise known as indigenous plants or native/heritage varieties) can be more resilient to climatic shocks, because they have evolved over centuries to survive within the local ecosystem.

Furthermore, a diversity of seed varieties gives farmers more choice over which seeds they decide are most appropriate to suit the local ecosystem, whereas limiting the varieties available to farmers narrows that choice.

A diversity of crops can also mitigate against crop failure due to extreme weather, pests and diseases. This is because if there are a multitude of different crops, some may fail under extreme conditions, while others may survive, whereas a farm with only one variety of crop (monocropping) is more vulnerable because, if that single crop fails, it does so across the whole farm.

For all of the reasons stated above, the Inter-Governmental Panel on Climate Change (IPCC) has recognised that access to a diversity of seeds is one of the most important tools for climate-change adaptation.[13]

Conversely, intensive agriculture is one of the key drivers of a loss in diversity, as it is geared toward monocropping, rather than to growing a wide variety of crops. The UN FAO estimate that between 1900-1990, 75% of plant genetic diversity was lost *"as farmers worldwide have left their multiple local varieties and landraces for genetically uniform, high-yielding varieties."*[14] There are 7000 edible plant species, yet just 15 plants provide 90% of the world's calories.[15] This reduces biodiversity, which in turn increases the risks of pests and diseases in food crops, and pathogens dangerous to animals and humans.[16]

Mwanaidi Salumu Zowo preparing land for a vegetable garden near her house in Rufiji, Tanzania.
Photo: Micheal Goima/Transform Trade

Farmer-managed seed systems therefore play an important function in climate change adaptation. By maintaining a variety of crop types on farms, they foster the development of biodiverse, climate-resilient, context-adapted new plant varieties, which are crucial if farms are going to survive increasing shocks due to climate change.

Implications of UPOV91 for smallholder farmers

UPOV states that its purpose is *"provid[ing] and promot[ing] an effective system of plant variety protection, with the aim of encouraging the development of new varieties of plants, for the benefit of society. The UPOV Convention provides the basis for members to encourage plant breeding by granting breeders of new plant varieties an intellectual property right: the breeder's right."* [17]

It is designed to benefit the commercial seed industry - who are responsible for the majority of seed patent and certification applications. It fails to recognise the vital role that smallholder farmers play in the emergence of new varieties and encourages a system in which the only 'legitimate' seeds are ones that have been developed by commercial breeders. It also has the effect of limiting the autonomy of smallholder farmers to exchange, re-use and breed seeds.

The commercial seed market is dominated by a small number of large corporations. Six firms control 58% of the market share of the seed industry, with just two of those firms controlling 40%.[18] This means that the power to set the prices of seeds and to influence policymakers on national seed laws is concentrated in the hands of a few corporate actors.

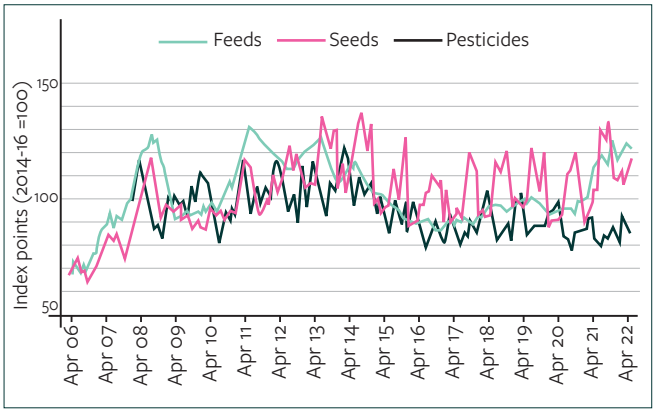
For example, between 2011-2015 the price of hybrid maize seed in Zimbabwe soared because one company had over 50% of the market share and was therefore able to set the price.[19] This led to higher production prices for Zimbabwean maize farmers, having serious knock-on implications for food security in Zimbabwe because maize is the primary staple crop, grown by 85% of farmers.[20]

The domination of commercial seed systems has knock-on effects for farmers, biodiversity and food security. Seed laws which only recognise commercial seed systems, and which restrict farmer-managed seed systems increase risks and roadblocks for farmers:

Volatile costs

The price of commercial seeds is highly volatile because they are traded on global markets which are vulnerable to economic shocks and rises in inflation. Figure 2 shows the levels of volatility between 2006-2022 of seeds, pesticides and feed globally, where seed prices fluctuate the most.

Figure 2. Indicative prices of feeds, seeds and pesticides[21]



[Source: FAO, 2022]

Seed companies either sell their seeds to traders, who sell them on to farmers, or they have an agreement with farmers which requires them to pay royalties (usually every year) for using and reproducing their seeds.

When prices spike, farmers who rely on commercial seeds are forced to pay these higher prices or royalties, which can exacerbate farmer debt. Farmer debt is a huge problem for some countries such as India, where in 2020 an estimated 50% of agricultural households were in debt.[22] For example, many Indian cotton farmers use a seed called 'Bt cotton', a genetically modified variety owned by large agribusiness Bayer (formerly Monsanto). The high prices of Bt. cotton royalties and seeds have been linked with a pattern of unsustainable debt for farmers in India.[23]

Chemical dependence

Commercial seeds can in some cases require more fertilisers and pesticides to grow than indigenous or local varieties.

Many commercial seeds are bred for large-scale monocropping, which can make them more vulnerable to pests and increase the need for pesticides. For example, the cultivation of Bt. Cotton saw an initial reduction in overall pesticide use, but over time because pests adapted to the crop, this reduction was not sustained and there has been an increase in pesticide use in recent years. .[24]

Additionally, some hybrid seeds are treated with pesticides before they are sold to the farmer. Not only does this increase the cost of the seed but can harm the surrounding biodiversity.

Legal liability

Farmers can be prosecuted if they are found to have exchanged or re-used commercial seed. This risk applies to all farmers operating in countries with strict seed laws. Criminal action can be brought against farmers for several reasons, including breeding a commercial variety with a native variety and sell it to or exchange it with their neighbours.

Breaking these laws can result in heavy fines for farmers, many of whom can't afford to pay them. Indonesia for example has been prosecuting farmers under UPOV-compliant seed laws for over two decades.

Farmers Criminalised In Indonesia For Saving Seeds

Several cases of farmers being prosecuted for saving and selling privatised seeds have been documented over more than 20 years in Indonesia.

In 2003, Turkirin, a smallholder maize farmer in the Nganjuk region of Indonesia was given a suspended prison sentence, and a decree that prevented him from planting maize crops for 1 year after being accused of selling privatised maize seeds to his neighbours.[25]

The lawsuit was filed by the Thai-Indonesian seed company PT Benih Inti Subur Intani (PT BISI), who had collaborated with Turkirin and other farmers in the Nganjuk region on a project to develop the maize seeds in 1994. Turkirin and the other farmers had not been informed about the aim of the project but were involved in the development of the seeds. When the project ended in 1998, the seeds were patented by PT BISI, without any of the breeder's rights going to the farmers.[26]

After the project ended, Turkirin started breeding the seeds that he'd helped to develop in the 90s and selling them in small quantities to his neighbours. When PT BISI found out, they filed the lawsuit that resulted in Turkirin's arrest and eventual prosecution.

Reflecting on the case, Turkirin said *"I just want to make seeds for myself and some friends, get a little income. I am just a small fish."* After the 1-year planting restriction ended, Turkirin said that he intended to continue breeding his own seeds and felt that he had the right to do so.[27]

This is not an isolated case in Indonesia. In 2019, a village leader in North Aceh was arrested for breeding and selling a rice seed variety called IF8. Commenting on the arrest, the Indonesian Farmer Alliance said: *"This is ironic for an agrarian country like Indonesia because a small farmer wants to contribute to the state by achieving food resilience and independence."* [28]

A farmer in Ngarendare, Meru County after a harvest, sorting and packing onions for sale. Photo: Brian Otieno/Transform Trade

The 'chilling' effect

In some countries where seed laws are strict, farmers are still allowed to save, exchange and breed non-privatised varieties of seed. Despite this, tight seed laws can have a 'chilling effect' which means that farmers are less confident in using farmer-managed seed systems. Farmers may worry that using seed banks or saving their own seeds could lead to legal action, and instead turn to commercial seeds. This phenomenon has already been observed in Indonesia, where a qualitive study found that farmers limited or avoided seed breeding activities even beyond the scope of the national seed law due to a fear of prosecution.[29]

Ignoring the importance of farmer-managed seed systems

UPOV91-compliant seed laws often fail to recognise or harness the benefits of farmer-managed seed systems.

For example, Tanzania's Plant Breeders Rights Act 2012 was designed to comply with UPOV91, and so protects the interests and intellectual property rights of large-scale commercial seed companies.[30] The changes it introduced criminalize the traditional farmers' practice of breeding, saving, and exchanging seeds for the varieties covered by the Act. By contrast, Tanzanian legislation is largely silent on the practices of smallholder farmers, offering them no protection.

The 2012 legislation was introduced even though around 90% of smallholder farmers access paddy, groundnut and bean seeds through farmer-managed seed systems.[31] These crops are crucial for food security in Tanzania, and many of the indigenous varieties of these crops are resilient to climate change. Another large study of Tanzanian farmers showed that farmers wanted to see the Government and other institutions supporting farmer-managed seed systems through training, subsidies and storage facilities.[32]

The current situation means that the commercial interests of large companies are given significantly greater protection than the traditional practices of farmers. The Tanzanian Government has stated plans to introduce the International Treaty on Plant Genetic Resources for Food and Agriculture into domestic law, which should offer greater protections for farmers' seed rights. However, until that happens, there are significant threats to smallholder farmer practices: in the short term this could mean exclusion from access to the benefits of improved seeds, in the longer term the gradual weakening of the rights of small farmers to operate their traditional practices of seed sharing and exchange, and increased dependence on external inputs.

Who benefits: UK trade deals and seed laws

Seeds being weighed for storage in Jharkhand, India. Photo: Ajaya Behera/Transform Trade

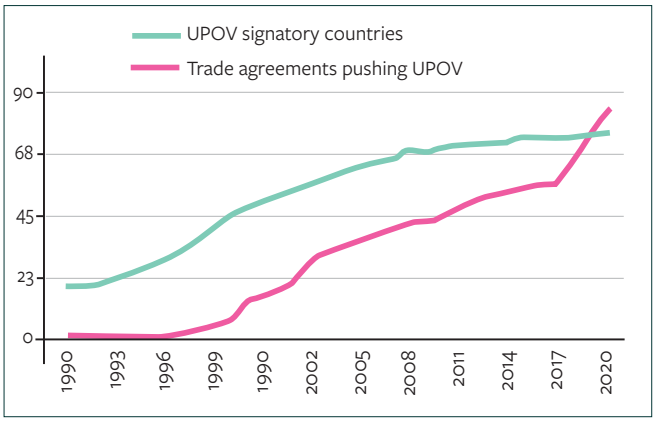
Trade deals are often used as a legal tool to standardise regulations across countries, with the aim of facilitating the freer flow of goods and services. The increasing inclusion of UPOV91 in trade deals is a key example of this and gives it much more legal enforceability than other comparable international agreements. This is because trade deals are legally binding texts, and if a party does not meet its obligations under that trade deal, repercussions such as financial or trade sanctions could be issued, harming that party's economy. [33]

Since the early 1990s there has been both a proliferation of bilateral trade deals (many of which contain provisions on UPOV91) and an increase in UPOV membership. One of the main drivers for this has been the push for globalisation. Large companies have sought more stringent intellectual property provisions in the Global South for many decades aided by governments.[34] This is because increased globalisation (production happening in more countries) and liberalisation (fewer restrictions on trade between countries) posed a problem for companies - liberalisation should mean more sharing of knowledge, but this undermined company business models, preventing them from profiting from the development of seeds.

Since the increase in international and bilateral trade agreements in the 1990s, companies have sought to protect what they consider to be 'their assets' through national or international implementation of seed patenting and plant breeders' rights.[35] One outcome of this is the inclusion of UPOV91 in a large number of trade deals.

If UPOV91 were removed from trade agreements, national governments would be under less pressure to ratify it or comply with it, and could design their national seed laws in ways that recognise and support farmer-managed seed systems.

Figure 3: UPOV signatory increase and UPOV provisions in trade deals globally [36]



[Source: GRAIN International, 2021 (adapted by Transform Trade)]

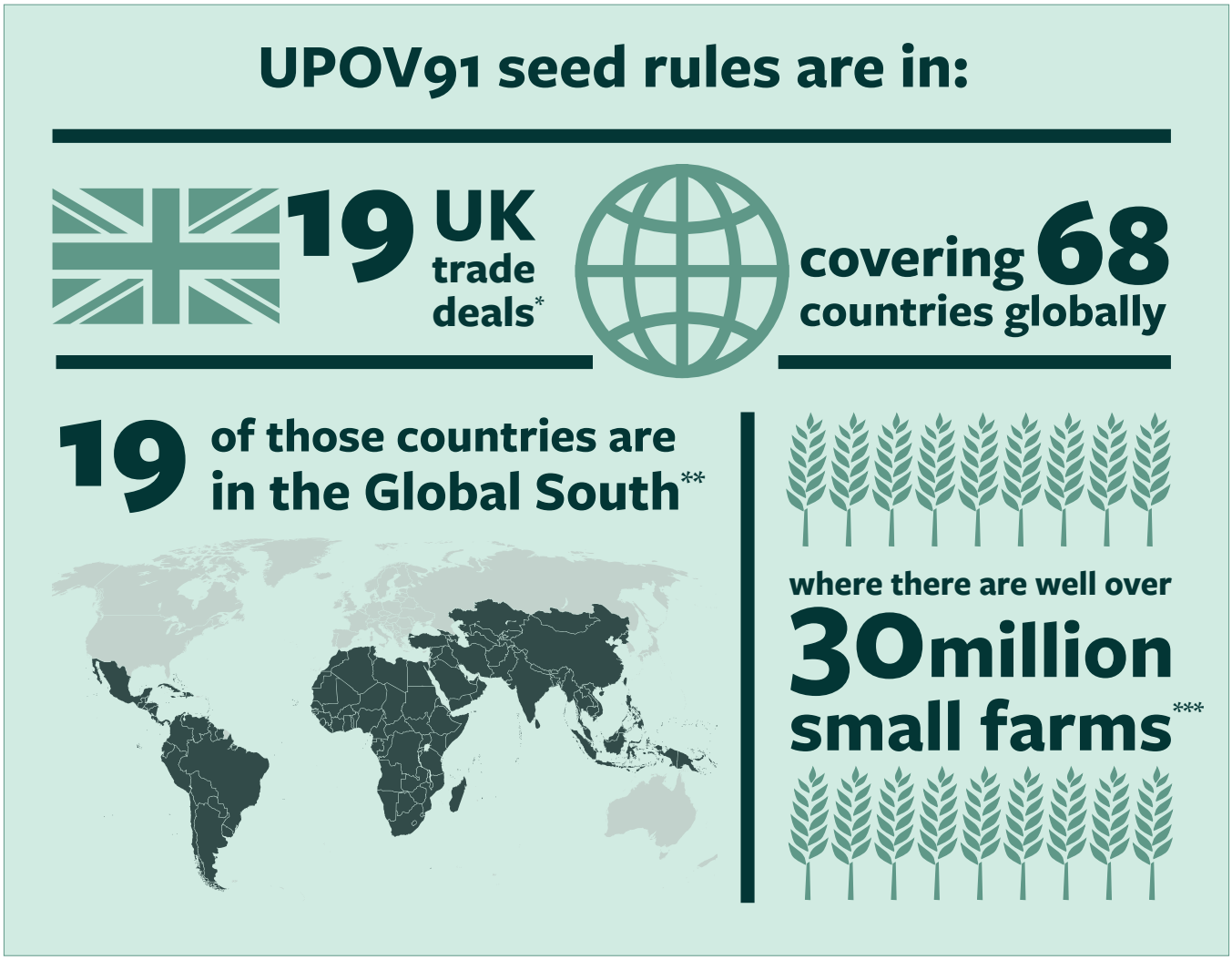
Often it is countries and trading blocs in the Global North such as the UK, US, Japan and the EU that are putting pressure on countries in the Global South to comply with these strict seed laws through trade deals.

UK trade deals containing UPOV91 requirements

There are 19 UK trade deals covering 68 countries which require or encourage signatory countries to comply with or ratify UPOV91, and many of these agreements are with countries that the UN has classified as 'least developed' or 'developing'.

While many trade deals containing these provisions were inherited by the UK from the EU after Brexit, the UK Government chose not to renegotiate them when it formally left the EU in 2020.

There is no publicised UK trade strategy that sets out the Government's intentions, however the above clearly indicates that it supports the proliferation of UPOV91 and the tightening of seed laws through trade deals. There is therefore a strong likelihood that the UK will continue to put pressure on other countries to comply with, or ratify, UPOV91 in any new agreements it negotiates.



* Source: GRAIN International data, updated by Transform Trade[37]

** Countries in the 'Global South' refer to the UN Economic and Social Council South-South Cooperation country participants

***Source: Food and Agriculture Organisation. Likely to be an underestimate due to significant gaps in data.

A group of farmers at a farm in Ngarendare, Meru County, Kenya. Photo: Brian Otieno/Transform Trade

The Comprehensive and Progressive Trans-Pacific Partnership Agreement (CPTPP) undermines farmers' rights

In 2023, the UK signed the Comprehensive and Progressive Trans-Pacific Partnership Agreement (CPTPP), a trade deal consisting of 11 other countries (at the time of writing).

The CPTPP explicitly requires countries in the agreement to ratify and enforce UPOV91 if they have not done so already. Before CPTPP came into force, only 6 of its 11 members had ratified the 1991 version of UPOV. Some of the remaining five had ratified UPOV78 but this comes with fewer concerns about the impact on the ability of famers to save seeds. As a direct result of CPTPP, five countries will be required to implement this treaty for the first time:

- Brunei: three years to ratify and comply with UPOV91
- Malaysia: four years to ratify and comply with UPOV91
- Mexico: four years to transition from UPOV78 to UPOV91
- Chile: has ratified UPOV91 but it is yet to be brought into law due to domestic opposition.
- New Zealand: three years to transition from UPOV78 to UPOV91 (with exemptions).

New Zealand, the last of the five, has negotiated a different arrangement for itself. It has the right to adopt any measures that it deems necessary to protect indigenous plant species in fulfilment of its obligations under the Treaty of Waitangi (a treaty that recognizes the rights of indigenous people and their genetic resources), even if these measures are in contradiction with UPOV 1991. However this flexibility has not been afforded to other CPTPP countries, many of whom have much more limited negotiating capacity than richer members.

It is of note that the CPTPP does not reference any of the other international treaties that recognize the rights of farmers to save, re-use, exchange and sell their seeds such as those outlined in the next section. CPTPP therefore creates a legal disparity between the obligations of member states to recognise farmers' rights to seed and those which restrict farmers' rights to seed: the latter gain the enforceability of a trade deal.

What's the alternative?

International agreements recognising farmers' rights to seeds

A number of international agreements (to some of which the UK is a signatory) explicitly recognise farmers' rights to seeds and/or recognise the importance of plant genetic diversity. Together, they could form the foundations of an alternative approach to seed governance:

- **Sustainable Development Goal 2** (Zero Hunger) target 2.5 commits to *"maintain the genetic diversity of seeds... promote access to and fair and equitable sharing of benefits arising from the utilization of genetic resources and associated traditional knowledge."* [38]
- **Convention on Biological Diversity's** Nagoya Protocol is a legal framework which requires equitable access of farmers to genetic resources including seeds.[39]
- **International Treaty on Plant Genetic Resources for Food and Agriculture** explicitly recognises the rights of farmers to save, use, and distribute their own seeds, and promotes equitable resource and benefit sharing of genetic resources.
- **United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas** (UNDROP) recognises that farmers have *"the right to save, use, exchange and sell their farm-saved seed or propagating material."* [40] Traditional farmer and indigenous knowledge should be harnessed, including through farmer-managed seed systems. The UN recognises this as a central tenet of food security and hunger prevention.

Unfortunately, while these international agreements hold some weight, they are not legally enforceable to the same extent as the explicit provisions to comply with UPOV91 in trade deals. This results in countries being more bound by their commitments to introduce strict seed laws than their commitments to recognise farmers' rights under other agreements.

Farmer and Government resistance

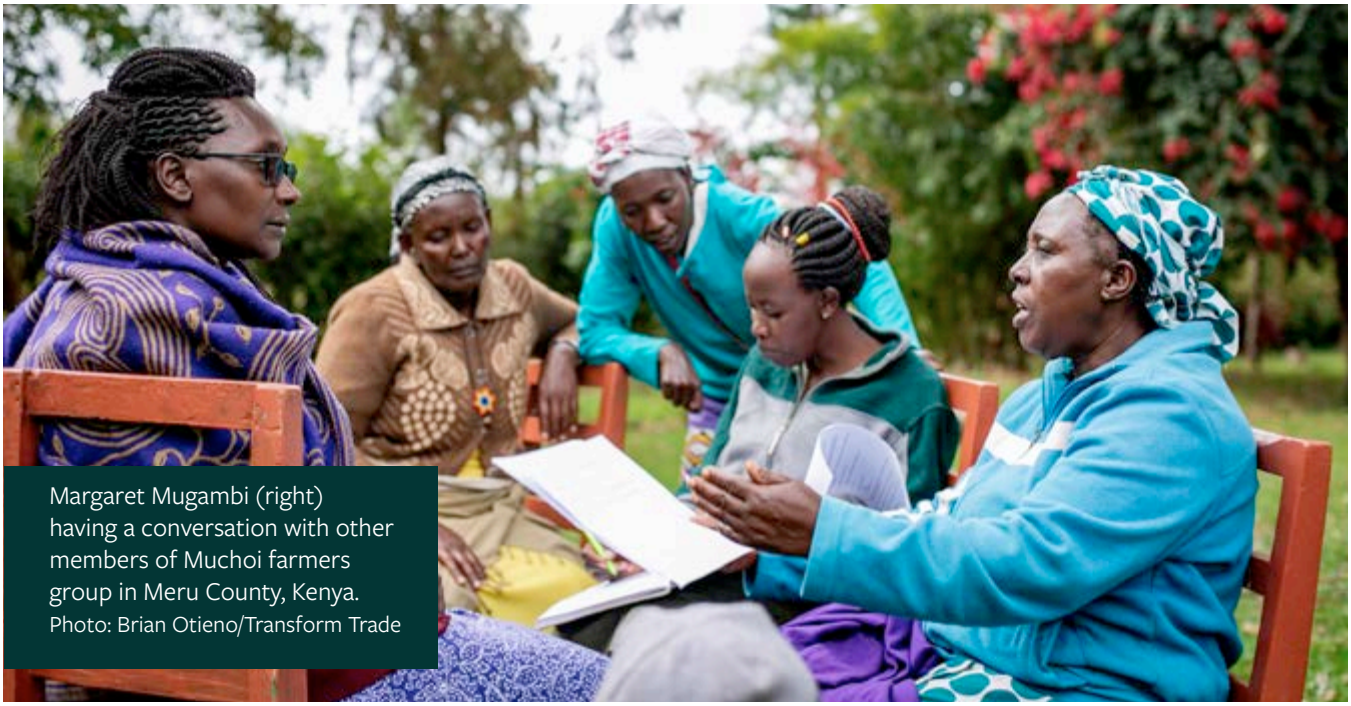
In many countries, smallholder farmers have been resisting UPOV91 and the laws that comply with it since its introduction. With this domestic backing, some national Governments have been able to resist joining UPOV91, instead protecting their own farming populations from these punitive laws:

India: India's national laws currently recognise the rights of farmers to use, exchange, breed and sell seeds without patents or licences, enabling farmer-managed seed systems to function unimpeded. There is an exception to farmer rights on genetically modified organisms (GMOs), where strict laws apply and where farmers must pay royalties if they wish to save and re-use GMO seed.

However, the Indian Government is under pressure to introduce UPOV91. For example, in 2019, PepsiCo India filed a lawsuit against 11 farmers in Gujarat who were planting and selling the company's protected GMO potato variety. PepsiCo was seeking between $280,000 and $140,000 in royalties from the farmers. Later the same year, the Indian Government attempted to introduce a new Seed Bill, limiting farmers' rights in respect of all GMO and non-GMO seeds. Due in part to pressure from protests by farmers, PepsiCo has dropped its lawsuit. At the time of writing, the Indian Seed Bill has stalled.

Farmer organisations continue to resist punitive seed laws in the country, particularly as the Indian Government is negotiating trade deals with the UK, EU and USA.[41]

Honduras: In 2012, Honduras passed Decree No.21-2012 (dubbed the 'Monsanto law') which complied with UPOV91 and restricted farmers' rights to seeds.



Margaret Mugambi (right) having a conversation with other members of Muchoi farmers group in Meru County, Kenya. Photo: Brian Otieno/Transform Trade

However, in 2016 and again in 2019, the National Association for the Promotion of Organic Farming, alongside peasant organisations and independent farmers in Honduras filed legal actions against the law.[42]

This eventually resulted in the Supreme Court dissolving the Monsanto law in its entirety, on the basis that it was unconstitutional, undermined Honduras' sovereignty, violated constitutional principles for life, human dignity, human nutrition and health, contradicted the obligation of the state to preserve the environment and undermined indigenous cultures and farmers' rights.[43]

Benin: in 2023 farmer organisations, women's organisations, trade activists and consumer groups prevented the national Parliament from advancing a seed law which would make Benin a member of UPOV91.[44]

El Salvador: in 2013, civil society organisations campaigned against a law also dubbed the 'Monsanto Law' which aimed to introduce these restrictive seed laws, and the law was never implemented. In 2023, Congress attempted to bring that legislation back, once again meeting resistance from civil society.[45]

Philippines: Farmer movements are advocating for national laws which protect and support the rights of farmers to save, breed, exchange and sell seeds. In 2023, scientists, farmers and civil society filed a case to the Supreme Court to stop the commercial propagation of rice and aubergines that are patented by agribusiness giant Syngenta.[46]

Importance of farmer rights to seeds in agroecological systems

Many smallholder farmers around the world practice agroecology, a system of agricultural production which encourages the use of a diversity of seeds and crops. Agroecological farming also minimises the use of pesticides and fertilisers, nurtures the health of the soil and encourages biodiversity by farming 'with nature' rather than against it.

Smallholder farmers who often use agroecological practices benefit from farmer-managed seed systems because they can use locally sourced varieties of seeds, which in turn can reduce their costs of production, boost the health of the environment, and underpin a healthier and more varied diet for their families and local communities.

Conclusions and recommendations

Farmers' autonomy and their right to seeds are being undermined by trade deals which require or encourage national governments comply with UPOV91. The UK is perpetuating this trend through its own trade deals. The primary beneficiaries of this system are corporations and other commercial actors, who have an increasing monopoly over the global seed market. However, UPOV91-compliant seed laws can trap smallholder farmers into a cycle of dependence on expensive seeds to make their living.

Many farmers in the Global South rely on farmer-managed seed systems to feed their families and maintain their livelihoods. Farmer-managed seed systems are also vital to ensure the diversity and resilience of crop seeds, needed to mitigate the devastating impacts of climate change, which are already disproportionately impacting smallholder farmers in the Global South.

Farmers and civil society across the world are resisting these restrictive seed laws, advocating instead for policies which support farmer-managed seed systems and farmer autonomy. In many cases, they are winning, as some governments in the Global South have resisted pressure to introduce these laws. The UK Government has an opportunity to demonstrate that it supports smallholder farmers and does not wish to impose seed laws onto countries in the Global South, by moving towards trade policies and trade agreements which promote and support the rights of smallholder farmers everywhere.

Recommendations for the UK Government:

- Remove and cease to include UPOV91 and any other intellectual property requirements from trade deals which restrict the rights of farmers to use, sell, breed or exchange seeds.
- Ensure the following international agreements guide UK trade policy and UK trade deals, and work with other governments to promote them internationally:
  - The International Treaty on Plant Genetic Resources for Food and Agriculture (Seed Treaty)
  - The UN Declaration on the Rights of Peasants and Other People Working in Rural Areas (UNDROP).
  - The UN Sustainable Development Goals, particularly SDG 2, Zero Hunger.
- Work multilaterally and bilaterally with governments whose national policies align with the Seed Treaty (which respect the rights of smallholder farmers to save, use, breed and exchange seeds) to promote its aims and to advance global compliance.

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Contact us

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