

## GOVT. SELLS OUT FARMERS TO MNCS - READY TO JOIN UPOV

**Dr. Suman Sahai**  
**Convenor**  
**Gene Campaign**  
**genecamp@vsnl.com**

The Cabinet has approved a proposal put forth by the Ministry of Agriculture, for India to join UPOV- the International Union for the Protection of New Varieties of Plants. If the approval is not challenged, it would in one stroke, establish corporate control over seeds and undo whatever gains had been made in the recently enacted Plant Variety Protection and Farmers Rights Act, 2001 (PVP Act ). For India, which took a step forward by enacting Farmers' Rights, the decision to join UPOV is at least 100 steps backward.

The cabinet decision to join UPOV goes clearly against the directions given by Parliament when it enacted the PVP Act last August, with its well defined, proactive Farmer's Rights. Parliament sent a clear signal against UPOV when it passed the Act containing the kind of rights, which are not permitted under UPOV. Parliament's express move to protect the rights of farmers has been blatantly flouted by the approval now granted by the Cabinet. The Cabinet decision must be questioned and it must be made to explain the rationale for this seemingly mindless act.

It is impossible to maintain the pro-farmer provisions of the Indian Act and be a member of UPOV at the same time. So is this Cabinet decision paving the way for amending the recently enacted PVP law already and repealing Farmer's Rights? Should we anticipate amendments strengthening the rights of corporate breeders as provided in UPOV and will we be seeing Monsanto ruling Indian agriculture? Are the Farmers' Rights being knocked off even before they have started being implemented?

India is so far the only country in the world with a law which instead of granting mere exemptions to farmers, has explicit and proactive rights. These include, the right to save and exchange seed, as also to sell (none branded) seed. There is a provision for registering and recognising farmers' varieties. It is mandatory to seek the farmers' permission before using his variety for breeding work and if such is the case, then royalty for its use has to be paid into a National Gene Fund. Apart from benefit sharing, the Indian law grants rights for compensation if the breeders' seed was of poor quality and led to crop failure. The farmer is protected against the terminator technology because the Indian law forbids breeders from using it. None of these conditions would be permissible under UPOV.

Many developing countries, encouraged by the Indian legislation are using it as a model for their own *sui generis* legislation. The Indian law has been praised as a development and farmer friendly legislation that succeeded in using the flexibility of the TRIPS provisions with intelligence. An important feature of the Indian law has been precisely, its sidestepping UPOV and charting a new course. If the Cabinet's decision is implemented, India will have failed not only its own people but also a block of developing countries, which have been inspired by India.

The argument presented by the government is not only bogus, it is shameful- that joining UPOV was necessary to acquire skills and material resources for plant breeding. If the scientists of the ICAR are so stupid that we need outside skills, let us first close down ICAR. If the intention is to give unlimited rights to biotechnology companies like Monsanto at the

cost of Indian farmers, let the government make a statement in Parliament that that is the purpose of joining UPOV. In all the arguments presented by the government, the word Farmer finds no mention. It is only the Breeder and the company whose rights and interests are discussed.

Joining UPOV is not a requirement under WTO/ TRIPS. As a matter of fact, UPOV is not even mentioned in the treaty text, which only requires some kind of effective protection for the breeder of a new variety. If there is one thing that UPOV clearly and decisively *does not* do, it is to protect the rights of farmers. It was set up in 1961 by the corporate seed sector to protect their interest, that is the rights of the breeder, and that is exactly what it does. 'Breeders' in today's context means more often than not, Monsanto and Syngenta, rather than a scientist at the University of Ludhiana or California.

The Agriculture Ministry and the Indian Council of Agricultural Research (ICAR) have been great votaries of joining UPOV without ever being able to explain what benefits we would receive if we joined. Their role in these murky developments should not go unchallenged. Against the advice of independent experts from across the world warning about the danger of UPOV provisions for the livelihoods of farming communities, the Ministry has pushed relentlessly for India to join UPOV.

The people have a right to know what compulsions and blandishments have persuaded the worthies in Krishi Bhawan to consistently take such clearly pro-corporate positions and to finally force UPOV on Indian farmers. ICAR scientists, some of whom have been plant breeders themselves, know the contributions of farmers and the injustice and damage that a UPOV system would do to them.

Gene Campaign, which had spearheaded the civil society campaign for farmers' rights, has consistently opposed India joining UPOV and has proposed a developing country alternative called Convention of Farmers and Breeders – CoFaB, for short which is being discussed in national and international forums. In fact, the UNDP Human Development Report (1999) describes CoFaB as *“a strong and coordinated international proposal, which offers developing countries a far better alternative to European legislation, by focusing on the need to protect farmers rights and food and nutritional security goals of their people“*.