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Right to Seeds: Towards a Rebalancing of State's Actions in the Face of the Asymmetry Created by Legal Frameworks Favorable to Agribusiness

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The defense of the right to seeds and the right to food has largely been structured around removing direct legal obstacles to the realization of these rights: restrictions imposed by UPOV 91, criminalization of seed exchange, and patents prohibiting reuse. This mobilization is legitimate and necessary.

The decision of the Honduran Supreme Court, which overturned a law compliant with UPOV 91, deeming it incompatible with the right to food and the right to seeds protected by the national Constitution and the UN Declaration on the Rights of Peasants and Other People Working in Rural Areas (UNDROP), sets a fundamental precedent: it establishes that the right to seeds, enshrined in human rights, must take precedence over any restrictive regulatory framework. This is also the approach that should prevail internationally.

However, as important as these legal victories are, they only address part of the problem. The deepest threat posed by intellectual property rights lies elsewhere: in the structural economic asymmetry they create, mechanically and permanently, to the detriment of peasant practices and other models of agricultural innovation.

Legal frameworks favorable for agribusiness

Intellectual property rights applied to agriculture — seed patents, the UPOV system, plant variety rights, and the WTO TRIPS Agreement — share a common characteristic: they grant temporary proprietary rights that secure future income and attract massive private investment. The establishment of these legal frameworks represents considerable investment and support from public authorities for a particular agricultural model: agribusiness. By granting proprietary sales rights for 15 to 25 years, intellectual property rights guarantee companies revenue streams that, in turn, justify massive investments in research, advertising, and distribution networks.

This economic power translates into a total occupation of institutional space. Seeds protected by intellectual property rights become highly visible: they dominate agricultural fairs, government programs, and extension services. Banks make their loans conditional on their use. This recognition is so profound that, in many countries where peasants' seeds remain dominant, expert reports see them as a "problem", a "gap to be filled", or even a "threat to food security", but never as an asset to be preserved. This perception is actively promoted by a vast institutional network: the OECD and UPOV explicitly promote the expansion of certified seeds through the Global Seed Partnership; the G7 ministers have launched an initiative to extend this certification system to Africa; and the European Union requires that all commercially available seeds be listed in an official catalog which, by its very design, structurally excludes heterogeneous peasant varieties.

Real risks beyond legal restrictions

While it is important to address legal restrictions on peasants' right to seeds, risks these systems pose to farming practices extend far beyond that. All these intellectual property systems share a common structural characteristic: they exclusively benefit an industry whose economic model transforms peasants into passive consumers of standardized products, rather than agents of agricultural innovation.

By concentrating all resources on what can be protected by intellectual property rights and made marketable, these systems marginalize peasants' breeding practices, which nevertheless allow for seeds' development finely adapted to specific terroirs, local climatic conditions, and needs of each farm. Behind these practices lies agronomic intelligence accumulated over generations: the ability to observe, adapt, and improve varieties according to soils, microclimates, and food uses. This discreet but continuous peasant innovation produces vibrant genetic diversity and resilience that centralized and standardized approaches are incapable of generating.

These dynamics lead to a gradual but irreversible erosion of the knowledge and skills related to seed selection, conservation, and improvement by peasants themselves. It also threatens the genetic diversity that these practices preserve — a diversity that, paradoxically, constitutes the raw material upon which seed companies depend for their own innovations.

Two mutually exclusive models

Agribusiness and agroecology represent two systems that tend to be mutually exclusive. On the one hand, the agribusiness approach transforms peasants into consumers of standardized products, selected for their quantitative yields under optimal conditions. This system exposes peasants to significant risks: dependence on credit to purchase inputs, increased vulnerability to climate hazards and phytopathogens linked to monoculture, and a progressive loss of autonomy. These

risks are not shared by agribusiness groups, which generate considerable income from the sale of products protected by state legal frameworks.

On the other hand, the agroecological approach maintains peasants as innovators. Varieties are chosen locally for reasons of quality and adaptation to the terroir. Scientific data clearly demonstrate its advantages: soil regeneration, resilience to climatic and biological hazards, maintenance of biodiversity, and peasant autonomy. However, the asymmetry created by intellectual property rights makes this model increasingly difficult to maintain, not because it is ineffective, but because it cannot mobilize the same economic and institutional resources.

States' obligation to provide compensation

The establishment of legal frameworks favorable to agribusiness must be met with active compensatory measures from states. The goal is not to oppose certified seeds, but to preserve an agricultural model that allows peasants to remain innovators capable of preserving, developing, and transmitting key knowledge. This obligation is grounded in UNDROP, which enshrines peasants' right to seeds (Article 19), their right to participate in decision-making about biodiversity (Article 20), and their right to the protection of traditional knowledge (Article 26).

As we have seen in recent decades, without states actively providing compensation, there is a gradual monopolization, not directly through legislation, but through the consequences of legal frameworks allowing a single model to occupy all the space for visibility and institutional influence. This compensation must include public investment in agroecological research, training in participatory selection, peasant seed banks, and institutional recognition of these practices as forms of innovation.

International organizations promoting intellectual property rights — development agencies, the World Bank — have also adopted internal human rights due diligence frameworks. It is therefore essential that they clearly establish the link between the promotion of intellectual property rights and the negative impacts on traditional practices and alternative agricultural models, and that they integrate mandatory compensatory measures into their technical assistance programs.

States that implement legal frameworks for intellectual property in agriculture have a positive obligation to actively compensate for the structural asymmetry they create. This is an obligation stemming from UNDROP and the right to food, and a necessity dictated by scientific knowledge about what truly constitutes sustainable food security. Without these measures, we will lose essential collective capacities that we will not be able to rebuild once they are gone.