

Movement for National Land and Agricultural Reform (MONLAR) disagrees with the procedures adopted to Introduce

Plant Breeders Rights Law in Sri Lanka

On July 24, 2001 the national intellectual Property Office of Sri Lanka and the Sri Lanka foundation institute organized a seminar with the objective of reviewing the proposed Plant Breeders Law of Sri Lanka.

The Intellectual Property Office of Sri Lanka has drafted a working paper for the proposed law on Protection of New Plant Varieties (Plant Breeders Rights). The aspects discussed included legal and institutional aspects, rights of plant breeders of Government and private sector, farmers who produced their own planting material, seed user farmers, UPOV Convention and national development.

Director National Intellectual Property office of Sri Lanka explained that since Sri Lanka has signed the TRIPs Agreement the Govt. of Sri Lanka is obliged to introduce a Breeders Rights Law and that this has to be done without much delay. Some felt that having such a law was necessary to attract new and advanced technologies and to provide incentives to plant breeders. Sri Lanka needs to improve its agricultural technologies to meet the increasing food needs of the increasing population. It was said that most farmers today depend on the hybrid varieties of seeds for higher yields. Providing possibilities for new plant breeders by protecting their rights is a necessary step in achieving these developments.

Those who spoke on the legal and institutional aspects admitted that the legal aspects were very complicated and were not easy to understand even by the experts who were present.

MONLAR was invited to talk about the rights of farmers who produced their own planting material and the situation of seed users – farmers.

Taking into consideration the background to this draft legislation and the international background that lead to the signing of the TRIPs Agreement and also the urgency of pushing this legislation, the real motives were very questionable. Is it to protect the rights of farmers to use their long traditional knowledge and experience in developing and using the rich biological resources in the country? Has there been sufficient thinking about the possible implications of this process of granting the right to big foreign TNCs to have control over the seed resources and the rich biological wealth. It would be almost impossible for the millions of poor small farmers in Sri Lanka to use this legislation to protect their rights to traditional knowledge. This legislation is therefore likely to lead to a process of big TNCs and private businesses preventing the farmers from using their own intellectual property rights which is always a collective right of generations and not of any single individual.

We have not yet identified what is “old” in the case of seeds or planting material. Therefore it is not possible to decide what is “new”. It is in fact impossible to identify or list out all that people have been using for ages. No individual is able to invent any thing completely new without depending on the already existing knowledge. Therefore the best way to protect this collective right of people to knowledge is by allowing and facilitating free transfer of such knowledge and experience.

In many countries, as well as in Sri Lanka we have had over 1000s of years of such free transfers of knowledge and technology. It was not done for financial profit but for the good of all. The essential consideration in deciding to whom this knowledge was handed over was the assurance that this would not be used for the good and well being of people, for protection of life. The knowledge of medicinal plants, their use and the ancient systems of indigenous medicine were examples of this.

There is a strong struggle worldwide, particularly launched by the people and some governments of the developing countries to prevent and oppose the attempt made by the big TNCs to take monopoly control over the seeds, the biological resources and the food resources of the world. The GATT, WTO and TRIPs arrangements are aimed at acquiring control over these resources which would not make these people more food secure, but would in fact make it very difficult or impossible for people to have access to their essential food and medicinal requirements due to their very high costs.

Sri Lanka has many strong and very clear examples of this happening, as seen in the case of very high and impossible costs of agricultural technology, the proposals made by the World Bank to the government to make arrangement for a process of large numbers (1.8 million families) of small farmers to leave their land and agriculture to be replaced by richer operators who would be able to use higher technology to produce higher value crops. The present case of extremely high cost of milk food where the markets are controlled entirely by a few big TNCs is another example. Attempted privatization of water is a process linked to this.

A completely non-participatory process of policy decisions and formulation of law

The process adopted in drafting this legislation is only one among a series of such non-participatory policy decisions taken in the recent times. In year 2000 a decision was taken to change the entire legal system to further facilitate the private sector lead economy. A very large loan was taken with an agreement with the World Bank to do this where the decision was taken only between three persons, the President, the president of the WB and the Minister of Justice. The legal reforms included Intellectual Property laws and Labour laws. Attempted Water Privatization Laws were drafted in the same manner. The recent agreements with the IMF on the stand by loan included conditions that were not discussed with the people at all.

MONLAR, therefore, strongly objected to giving any approval to this process of formulation of law for protection of Plant Breeders Rights, at this moment, with out further study and much more discussion with the people.

MONLAR also proposed setting up a group to study the alternative views that are emerging among people through out the world to this process of TRIPs and intellectual property rights, against patenting of life forms and also about the introduction of GMOs.

Request for Information

MONLAR would therefore like to request all friends and concerned groups to send us information about the activities and dialogue that is taking place about TRIPs and intellectual property rights and plant breeders rights in particular.