

Harmonizing International Systems of Access and Benefit Sharing on Genetic Resources in Nepal

Smriti Dahal, PhD

Senior Programme Officer



Overview

- International instruments
- Issues of harmonization
- National instruments
- Food for thought

International instruments

Convention on Biological Diversity (CBD) 1992

- Sovereign rights of states
- Scope – biological diversity
- Bilateral system
- Rights of local and indigenous communities
 - Traditional knowledge
 - Prior informed consent
 - Benefit sharing
- **Nagoya Protocol**

ITPGRFA 2001

- Scope - Plant genetic resources for food and agriculture
- Multilateral system
- Annex I – 64 crops
 - Food crops – 35
 - Forages – 29
 - Legume forages -15
 - Grass forages – 12
 - other forages - 2
- Farmers' rights

ILO169

- Tribal and indigenous groups
- Non-discrimination – realizing social, economic and cultural rights
- Special measures – to be adopted to safeguarding the persons, institutions, property, labor, cultures and environment
- Article 14 and 15 – **land and natural resources**
- Other issues - recruitment and conditions of employment, vocational training, handicrafts and rural industries, social security and health

Issues of harmonization

- Identical objectives but different ABS system
- ITPGRFA –**in harmony with CBD**
- **Nagoya – article 4 central to understanding the relationship between Nagoya and IT -**
- At the National level - slow domestic implementation of both systems
 - uncertainty about how to address the interface between these two ABS systems
 - Lack of inter agency coordination to address access and benefit sharing
 - No comprehensive guidelines or decision making tools

ILO – national and local level implementation
– protecting community rights

National Context

CBD

- Party to the CBD (1992) – not to Nagoya
- MOFSC
- Draft law
 - Recognizes sovereign rights of individual, community and the government over biological and genetic resources and associated traditional knowledge and seeks to control bio-piracy by regulating access.
 - Access of genetic resources is subject to prior informed consent and mutually agreed terms.

ITPGRFA

- Ratified in 2001
- MOAD
- ABS – Yet to be drafted, some progress Annex I
- Major issues - Implementation issues
 - SMTA
 - BSF

ILO169

- Ratified in 2007 - only South Asian country
- Ministry of Local Development
- Issues
 - ensure effective participation and meaningful representation
 - formal endorsement of the National Action Plan on indigenous people
 - Constitution – rights of indigenous people

Food for thought

- Where and how to draw a line between the MLS under ITPGRFA and national access and benefit sharing laws pursuant to the CBD and Nagoya protocol and how to manage the interface between these two system?
- Where does ILO169 and rights of indigenous groups over their natural resources fit into this picture of harmonization of ABS between CBD and ITPGRFA?