

A stylized, light-colored illustration of a plant with several leaves and a cluster of small, round fruits or seed pods, positioned on the left side of the slide.

FARMERS' SEED RIGHTS IN INDIA - UPHOLDING THE LAW

(PROTECTION OF PLANT VARIETIES &
FARMERS' RIGHTS ACT &
TREATY OBLIGATIONS)

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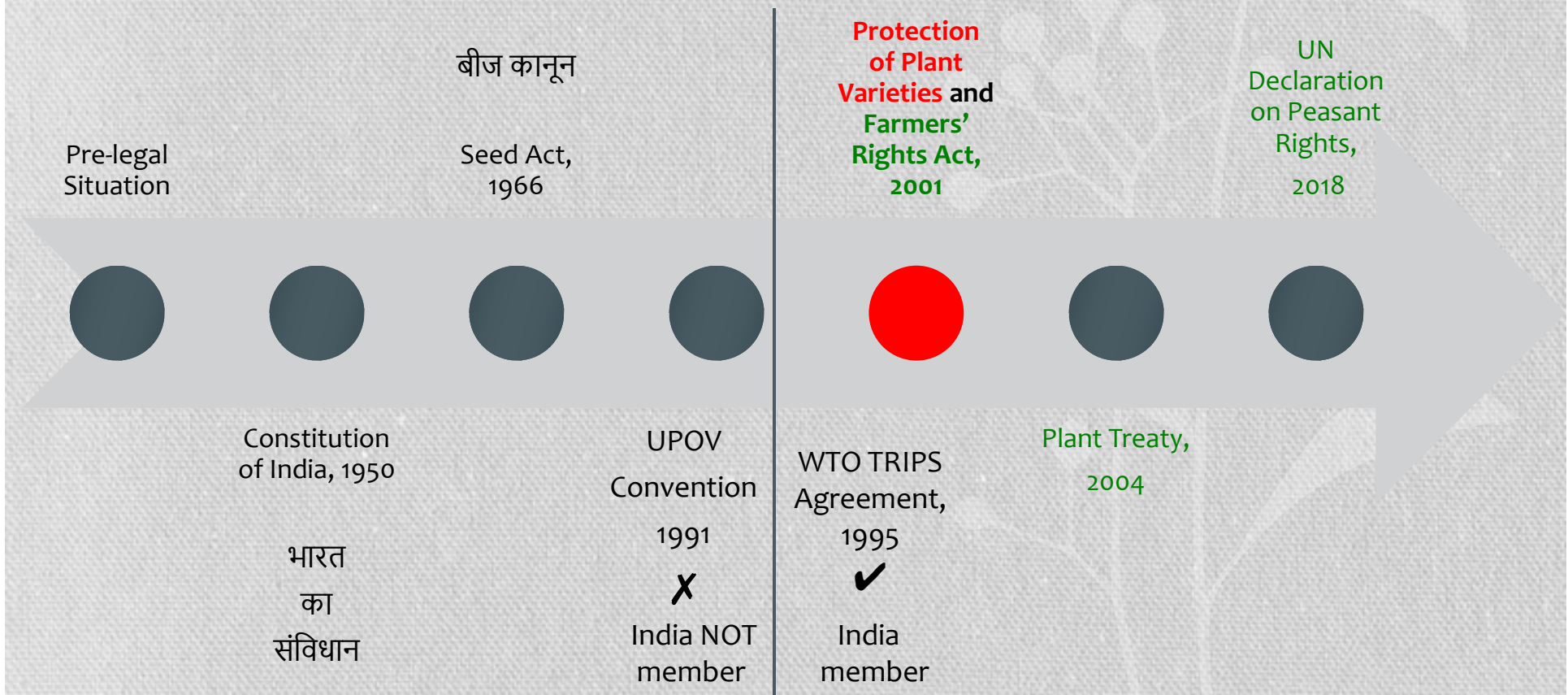
Inherent Rights

Farmers Seed Rights किसान बीज अधिकार
as the original seed keepers to:

- Save बचाना
- Share आपस में बाँटना
- Sell बेचना

seed, planting materials and their produce from seeds

Timeline



Seeds Act, 1966

DOES NOT APPLY to farmer-to-farmer sale or sharing

- Section 24:

*... nothing in the law applies to any seed of any notified kind or variety grown by a person & sold or delivered by him on his own premises direct to another person...
for sowing or planting*

Indian Situation

- Farmers' seed-saving is the norm
- No IPRs on life forms

Post-1995...

WTO TRIPS: IPR ON SEEDS IS THE NORM

Patent **X**

PVP ✓

Indian version: PVP + FR



Constitution of India

- Directive Principles of State Policy
- Fundamental Rights
- Federal Distribution of Powers
- 73rd Amendment, 1992

Constitution of India

- Directive Principles of State Policy (DPSP)

for social and economic freedoms by appropriate action by the State

Article 39

(b)...the ownership and control of the material resources of the community are so distributed as best to serve the common good;

&

(c)...the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment;

Constitution of India

- Fundamental Rights **मौलिक अधिकार**

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ARTICLE 19 – Right to Freedom

ARTICLE 21 – Right to Life

Constitution of India

- Federal Distribution of Legislative Powers

Agriculture – Entry 14 on State List, read with
Article 246

1. Relations between the Centre and the States
on an IPR law related to Agriculture
2. Roles and responsibilities of State Legislatures
and State Governments

Constitution of India

- 73rd Amendment, 1992
Agriculture – Eleventh Schedule, read with
Article 243-G

Powers, authority and responsibilities of Panchayats

PPV&FR Act:

The National Gene Fund shall be applied for meeting...

the expenditure for supporting the conservation and sustainable use of genetic resources including in-situ and ex-situ collections and for strengthening the capability of the Panchayat in carrying out such conservation and sustainable use;

- Section 45(2)(c)

PPV&FR Act, 2001

FARMERS' SEED RIGHTS

- As conservers
 - Rewards & recognition
- As breeders
 - Register varieties either as Farmers Varieties or under 'New' category
- As cultivators (as in the PepsiCo matter)
 - Seed freedoms when growing the IPR-protected variety
 - Claim for compensation for non-performance of a registered variety

PPV&FR Act, 2001

FARMERS' RIGHTS CHAPTER

- Section 39 (1)(iv):

Notwithstanding anything contained in this Act

a farmer shall be deemed to be entitled to save, use, sow, resow, exchange, share or sell his farm produce including seed of a variety protected under this Act in the same manner as he was entitled before the coming into the force of this Act,

provided that the farmer shall not be entitled to sell branded seed of a variety protected under this Act.

PPV&FR Act, 2001

FARMERS' SEED RIGHTS:

1. save
2. use
3. sow
4. resow
5. exchange
6. share or
7. sell his farm produce including seed of a PVP-protected variety protected in the same manner as he was entitled before the coming into the force of this Act,

but the farmer shall not sell branded seed of a PVP-protected variety.

PPV&FR Act, 2001

FARMERS' SEED RIGHTS in PepsiCo Matter:

1. save
2. use
3. sow
4. resow
5. exchange
6. share or
7. sell his **potato produce** including **seed of FL2027/FC5** in the same manner as he was entitled before the coming into the force of this Act,

*but the farmer shall not sell **branded seed of FL2027/FC5**.*

Upholding the law...

Means respecting the legal provision and recognising

FARMERS' SEED RIGHTS

Upholding the law...

WHY IS IT IMPORTANT?

Natural rights – Justice issue

Legislative intent: JPC Report

Balancing power...seed monopolies

Upholding the law...

Practically Means:

- Lower court should not have allowed the case
- Authority ought to have clarified
- MNCs & other seed companies should have been prevented from enforcing another interpretation

Upholding the law...

Challenges:

1. Actual practice of seed companies, including contracts between MNCs & farmers
2. Farmers' lack of awareness & legal illiteracy
3. Capacity of legal functionaries - Ignorance of the lower judiciary & few advocates to fight such cases
4. Government responses
5. Dominant pro-IPR positions

Upholding the law...

How does the Plant Treaty help?

International Treaty on Plant Genetic Resources for Food and Agriculture

(ITPGRFA), 2004

India ratified the Treaty in 2002;

It came into effect in 2004.

ITPGRFA...

Article 9.3

- Nothing in this Article shall be interpreted to limit any rights that farmers have to save, use, exchange and sell farm-saved seed/propagating material,

subject to national law and as appropriate.



PPV&FR Act in India

Upholding the law...

Does the UN Declaration on Peasant Rights help?

United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas, 2018

India has voted in favour

UN Declaration...

Article 19

1. Peasants and other people working in rural areas have the right to seeds, ...including...

(d) The right to save, use, exchange and sell their farm-saved seed or propagating material.

8. States shall ensure that seed policies, plant variety protection and other intellectual property laws, certification schemes and seed marketing laws **respect and take into account the rights, needs and realities of peasants** and other people working in rural areas.

Thank you!

DISCLAIMER

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