

## The Development Fund's Policy Position on Farmers' Rights to Seeds

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### Introduction

This policy aims to clarify Development Fund's position on Farmers' rights to seed, and includes the rationale for it, explains and describes briefly what it is and the relevant international framework. Development Fund's overarching goal is to improve the condition of poor rural communities and smallholder farmers, to whom access to seeds is as important as access to land.

Most smallholder farmers in developing countries rely on the customary informal seed systems<sup>1</sup>, or farmers' seed systems, through which they save, use, exchange and sell seeds. Farmers' seed systems are therefore the backbone of smallholders' food production. 80-90% of the production of staple crops such as maize, beans and rice in countries like Nepal and Guatemala is based on farmers' seed systems and traditional varieties.

Smallholder farmers' access to seeds and well-functioning farmers' seed systems depend on international and national seed policies and legislation that ensure farmers' rights to seeds. It is therefore crucial to ensure access by promoting and implementing such rights, and to strengthen farmers' seed systems on the ground.

Development Fund's position on farmers' rights to seeds is based on our target group's – poor smallholder farmers' – needs, conditions and rights.<sup>2</sup> We also base our position on the experience of more than forty years of work in Africa, Latin America and Asia, where we have tested different methods to identify the ones that are most suitable for the target group. Our policy position is developed with the aim of strengthening our effort to support the target group's rights to use, save, exchange, develop and sell seeds and planting material, which is crucial for improving their livelihoods and influence on decisions that affect their lives.

### Background

For thousands of years farmers all over the world have domesticated plants, developed new breeds, saved seeds and planting material for the following season, and exchanged seeds and plants with their neighbours and other farmers. Through trial and error, they bred and grew crops that could cope with their environment and fulfil their needs and preferences. In this way, they created diversity – a wealth of plant genetic diversity of global importance for food and agriculture. With their knowledge and skills, they managed and conserved the food crops that feed the world today.

As consequence smallholder farmers' fields are one of the world's most important gene banks. Many small-scale farmers take care of the huge diversity of plant genetic resources

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<sup>1</sup> The farmer's seed system is informal vs the more commercial *formal seed system* where seed are registered

<sup>2</sup> The Development Fund works to strengthen resilience to climate change and other shocks among rural communities and one of the most vulnerable groups in the world – smallholder farmers in developing countries. More than 500 million smallholders and 3 billion people in rural areas depend mainly on agricultural production to survive. They are also some of the world's most important food producers, hence playing a key role in ensuring food security, particularly in developing countries.

by growing and developing local or traditional varieties – varieties that have important traits and that are not found in any gene banks. Farmers preserve this diversity by constantly adapting and selecting crop varieties through their use of the seeds. These varieties are often not used commercially but are equally valuable in terms of use and nutritional value – and not the least as “nature’s gene bank” and sources for plant breeding in the future.

While *ex-situ* conservation (germ plasm banks etc) is important for securing the conservation of *known and registered* plant genetic resources, on-farm and *in-situ* conservation methods play a key role in conserving traditional varieties. Farmers’ fields conserve a large part of the pool of plant genetic resources, from which plant traits can be found that meet the challenges of crop pests and diseases, drought, marginal soil conditions, changes in temperature etc. Local communities can also play an important role in the sustainable management and protection of natural resources, which are crucial in ensuring the pool of genetic resources that may be found in wild relatives and species that are not yet identified. Their capacity to develop new varieties and adapt to climate change depend on the conservation of these resources found in the field and the nature.

Small-holder farmers depend to a large extent on farm-saved seeds to maintain the agriculture production. Loss in crop production, often caused by drought, flood or pests, limits farmers’ possibilities to save seeds. The poor quality of crops often affects the quality of grains used for seeds, as the same time as poor farm-based households are forced to make a trade-off and choose between storing grains as seeds or feeding the members of the household when yields fail. These situations can kick start a vicious cycle of indebtedness and poverty in the families of poor farmers. Community seed banks have proven to be efficient to increase seed security. A community seed bank is a storage space in a community where farmers store seeds collectively. Community seed bank functions as an insurance for farmers in time of crisis and as a place where local genetic diversity is conserved.

To have good yields, farmers must have access to high quality seeds at the right time. The Development Fund supports community seed production and improvement, as well as conservation of traditional varieties, which are well adapted to local environment. Community-based agro-biodiversity programmes in Nepal, Ethiopia, Somalia, Malawi, Guatemala and (previously in Honduras & Nicaragua) have contributed to increased seed and food security for rural households. Over the last decade up to 2017, the Development Fund supported more than 46,000 farmers and their families to increase their access to seeds through a network of 81 Community Seed Banks, development of 69 new varieties through Participatory Plant Breeding, which resulted in increased yields for maize, beans, sorghum, rice and wheat by at least 25%. From 2017, DF continued this work in lower volumes. However, since 2021 we are stepping up our efforts, based on recommendations in several evaluations.

Farmers alone cannot rescue agriculture from the impacts of climate change. Government and policy makers must implement policies that strengthen smallholder farmers’ adaptive capacity. The Development Fund supports farmers to act collectively through farmer organisations or cooperatives and engage with policy makers both at local and national levels.

### The rationale of farmers' rights

Plant genetic diversity is more important for farming than any other environmental factor because it enables adaptation to changing environmental conditions, such as those caused by climatic change. Since farmers are custodians and developers of crop genetic diversity in the field, their rights in this regard are critical if they are to be maintained in this vital role for food security. Farmers' Rights are important to enable them to use their knowledge to conserve, produce food and participate in decision-making.

Their rights are supported by the following

1. **The conservation and sustainable use of Plant Genetic Resources for Food and Agriculture:** Farmers have played a major role in maintaining and improving crop biodiversity over centuries. They contribute to maintain a pool of genetic diversity which is fundamental for the development of new varieties.
2. **Food security and nutrition:** Small-holder farmers are the main producers of staple crops, particularly in developing countries. Access to a large variety of locally adopted and high quality seeds is crucial for food security and nutrition, and the achievement of the Sustainable Development Goals 1 (no poverty), 2 (zero hunger) and 15 (life on land).
3. **Farming as a source of livelihood:** Majority of people in rural areas in developing countries depend on farming as their source of livelihoods. Farming relies mainly on access on land, water, and other inputs such as labour, knowledge and technology, and not the least seeds.
4. **Participatory Approach to development:** Farmers' Rights depends largely on the ability to respond to the realities and needs of farmers and their organizations in relevant decision-making processes. Thus, including target groups in decision-making is essential if development cooperation is to be successful.

### The international framework for Farmers' Rights to Seeds

However, this important role of farmers, as custodians and innovators of plant genetic diversity which is of global significance to food and agriculture, was not formally and explicitly recognized at the international level, with its essential dimensions, until the adoption of the International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA), hereby called *The Plant Treaty*.<sup>1</sup>

The Plant Treaty is the international mechanism that regulates and facilitates the use of and access to plant genetic resources. The objectives of the Treaty are the conservation and sustainable use of plant genetic resources for food and agriculture and the fair and equitable sharing of benefits arising from their use, in harmony with the Convention for Biological Diversity, for sustainable agriculture and food security.

The Plant Treaty recognises the important contribution of farmers in conserving, improving and making available plant genetic resources in the past, present and future. This acknowledgement is the basis for the concept of Farmers' Rights established in the Plant Treaty, which includes protection of traditional knowledge to plant genetic resources for food and agriculture; the right to equitable participation in sharing benefits arising from the

utilisation of plant genetic resources; the right to participate in decision making; and the right to save, use, exchange and sell seeds.<sup>3</sup>

Today, other international agreements have recognised farmers' rights. The UN Declaration of the Rights of Peasants from 2018 has taken the concept of farmers' rights to seeds to a higher political level which has resulted in farmers' rights being acknowledged as a human right.<sup>4</sup>

The Norwegian government is not only supportive to Farmers' Rights, but also act as an advocator for strengthening the realisation of Farmers' Rights in international fora such as the Plant Treaty. This is part of the Norwegian government's efforts to fulfil its international obligations in international conventions and treaties to which the country adheres. Norway has yet not signed the UN Declaration of the Rights of Peasants.

### **DF's Position and Action on Farmers' Rights to Plant Genetic Resources for Food and Agriculture**

Local knowledge, needs and rights of smallholder farmers have been at the centre of the Development Fund's work since its start. We believe that a holistic approach with diversity at the centre, is the most suitable route to increased food security and increased climate adaptation for smallholder farmers in developing countries. Access to good quality seeds and planting materials of preferred crop varieties is a precondition for farmers' possibility to produce food and for ensuring food security.

The main goal of our policy work is that Farmers' Rights are fully realised. The full realisation of Farmers' Rights requires a set of measures in practice as well as the development of an enabling policy environment. Several actions based on a community-based agro-biodiversity management approach are recognized by the Plant Treaty as measures to implement Farmers' Rights, including community seed banks, participatory plant breeding, participatory variety selection, identification and rehabilitation of lost varieties, and seed fairs.

At the policy level, the recognition of farmers' rights and farmers' seed systems in national seed policies are important measures. Other legislations, such as plant variety protection laws, should be supportive to farmers' rights.

Despite the international recognition of farmers' rights, the realisation of farmers' rights is inadequate in many countries. The main challenges for the realisation of farmers rights are lack of knowledge and guidance; non-functional mechanisms for access and benefit sharing; lack of recognition of farmers' rights and farmers' seed systems in national policy framework; other international conventions that contradict or are in conflict with farmers rights by imposing strict plant variety protection legislation that limit farmers' rights; and patents on seeds.

The Development Fund works to sustain plant diversity and strengthen farmers' rights on various levels. We support farmers' local management systems for plant diversity. Local seed banks are essential for the maintenance, use, exchange, and sale of seeds, and in addition

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<sup>3</sup> Annex – FR art. 9 in Treaty text

<sup>4</sup> 33 countries voting for the resolution in the UN Human Rights council, while 3 voted against and 11 abstained, and 121 countries votes for the UN General Assembly Resolution (73/175), while 8 voted against and 54 abstained

secure farmers' access to seeds. We promote participatory plant breeding and participatory processes for selection of suitable seeds and varieties and contribute to the further development of seed resources. In this way, plant varieties with higher yields and greater resistance to flooding and drought are developed.

We also engage in policy and advocacy work on local, national and international level. We apply an evidence-based policy approach, where good practices from our programme are documented and promoted in relevant policy processes at different levels. We involve our partners and representatives from our target group directly in the policy work. At local level, we support activities to increase government support and recognition of farmers' rights. At national level, we support partners' advocacy activities and efforts to promote the recognition of farmers' rights in seed policies and other related legislations. At international level, we work together with partners, other civil society organisations, farmers' organisations, research institutes and governments to influence international frameworks, most importantly the Plant Treaty and the International Union for the Protection of New Varieties of Plants (UPOV). We also promote Farmers' Rights in other relevant fora, such as the UN Food System Summit.

To achieve the goal that Farmers' Rights are fully realised, the Development Fund is involved in and support policy processes at national and international level. Our policy work is guided by the following positions:

### **International level**

The Development Fund advocates for the recognition and realisation of Farmers' Rights in relevant international policy frameworks. To achieve this, we promote and support efforts to:

- Develop guidelines for the realisation of Farmers' Rights
- Establish mechanisms for access and benefit sharing based on mandatory payment
- Strengthen guidance on the conservation and sustainable use of PGRFA
- Develop *suis-generis* systems for plant variety protection and the recognition of such systems within relevant international regulations and agreements
- Recognise and strengthen farmers' seed systems within relevant international agreements
- Facilitate the participation of farmers and civil society actors in decision-making and policy processes

### **National level**

We support our partners in their advocacy work at national level. The realisation of farmers' rights depends on the development of policies and laws as well as other measures that support and recognises farmers rights and farmers' seed systems, more specifically:

- Seed Laws and Legislations recognise farmers' rights and support farmers' seed systems.

- Plant Variety Protection legislations are coherent and supportive to the farmers' rights through the promotion of sui-generis systems. Plant Variety Protection laws in line with the UPOV 1991 act should be rejected.
- Ensure farmers' rights to participation in decision-making through the involvement of farmers and partners in gene commissions and other decision-making processes.
- Ensuring farmers' access to national gene banks.
- Farmers' and indigenous traditional knowledge should be protected against extinction and misappropriation.
- Recognition of the contribution of farmers, indigenous people and local communities through awards.

### **Local level**

We support the implementation of measures for the realisation of farmers rights through our collaboration with local partners. These measures are anchored in a community based agrobiodiversity approach that aims at strengthening farmers' seed systems for increased seed and food security. In particular, DF supports:

- The establishment and strengthening of community seed banks
- Development of new and locally adapted varieties and enhancement of varieties through actions such as participatory plant breeding, participatory variety selection, and recovery and rehabilitation of lost varieties
- Awareness raising and capacity building on Farmers' Rights

## Annex 1: **Farmers' Rights under the Plant Treaty**

- a) **Protection of traditional knowledge:** Paragraph (a) of Article 9.2 encourages measures for the “protection of traditional knowledge relevant to plant genetic resources for food and agriculture”. Traditional knowledge gained in the long history of agricultural development have been of great help for farmers for conservation and the proper selection of genetic resources, from different natural habitats such as fields, meadows, and forests in their immediate environment<sup>5</sup>.
- b) **Equitable participation in the sharing of benefits:** Contracting Party should, as appropriate, and subject to its national legislation, take measures to protect and promote Farmers' Rights, including the right to equitably participate in sharing benefits arising from the utilization of plant genetic resources for food and agriculture; and the right to participate in making decisions, at the national level, on matters related to the conservation and sustainable use of plant genetic resources for food and agriculture.
- c) **Participation in decision-making:** agriculture is heavily dependent on high quality seeds/propagating materials, it is natural that farmers or farming communities should participate in the decision-making processes laws and regulations governing the management of crop production, as well as seed regulations and standards.
- d) **Respect of existing rights under national law to save, use, exchange and sell farm-saved seed:** Article 9.3 of the International Treaty states that “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”.

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<sup>i</sup> The first use of Farmers' Rights (FR) as a political concept date back to the early 1980s. The term was coined by civil society activists, and first used in this context by Pat Roy Mooney and Cary Fowler of the Rural Advancement Foundation International (RAFI, now ETC-group). It was coined to highlight the valuable but unrewarded contributions of farmers to Plant Genetic Resources for Food and Agriculture (PGRFA) (Cary Fowler. 1994. Unnatural selection. Technology, politics and plant evolution. p. 192. Yverdon, Switzerland, Gordon and Breach); and Svanhild-Isabelle Batta Bjørnstad. 2004. Breakthrough for 'the South'? An analysis of the recognition of Farmers' Rights in the International Treaty on Plant Genetic Resources for Food and Agriculture. FNI Report 13/2004. p. 35. Lysaker, Norway, The Fridtjof Nansen Institute.) At the beginning, the idea developed as a way of countering increased demand for plant breeders' rights being voiced at the time in international negotiations. It soon emerged as a way of drawing attention to the unremunerated innovations of generations of farmers, who provided the foundation of all modern plant breeding. The important role of farmers, as custodians and innovators of plant genetic diversity that are of global significance to food and agriculture, was not formally and explicitly recognized at the international level, with its essential dimensions, until the adoption of the International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA).

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<sup>5</sup> Jovicic Z. and S. Kratovalieva, 2016. Global strategies for sustainable use of agricultural genetic and indigenous traditional knowledge. In: Plant genetic resources and traditional knowledge for food security. Pp. 39-72.