





Developing seed law in Southeast Asia's Greater Mekong Subregion

TROPAG / Harlan IV

Session 7.6: The future of crop diversity

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Evolving seed laws & practices

The setting

- The greater Mekong subregion (GMS)
- Transnational, > 300 M pop.

The challenge

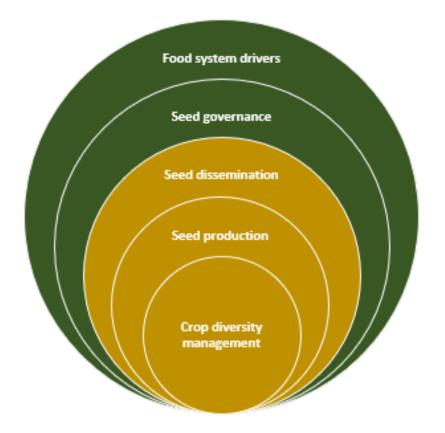
- Diversity in governance and political frameworks
- Increasing integration & transboundary issues
- Interdependence in seed exchange/trade

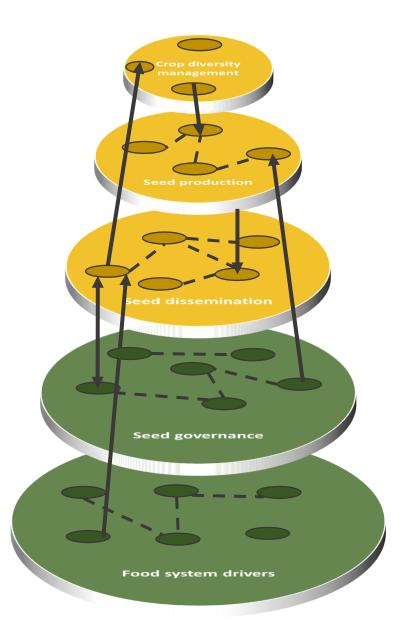


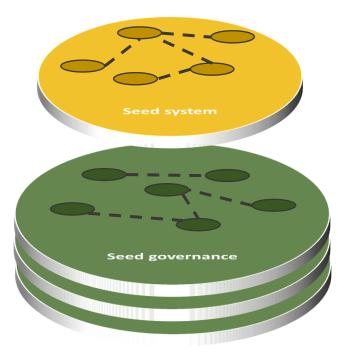




Session framework





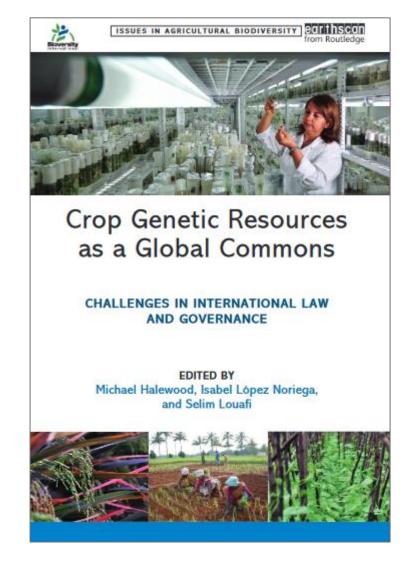






Organizing concepts – seed as a commons

- Governance through regulation seed law, policy
- Plant genetic resources 'global commons' (Halewood, 2013)
- 'a resource, a community, governance protocols' (Bollier 2014)
- Pluralism in seed system development, both in global North and South (Louwaars et al., 2013; Montenegro de Wit, 2019; Mulesa et al., 2021)
- The formal and the informal
- What does this look like in practice in the GMS?





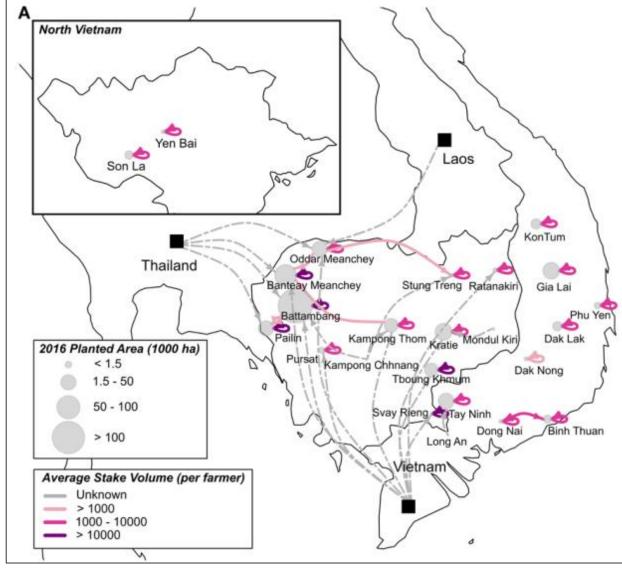
A practical case study - cassava

- 2.5 M ha in GMS, >30 M t roots annually
- 2nd or 3rd field crop by area in several countries
- Vegetative 'seed' special attributes and needs (McEwan et al. 2021; Thiele et al. 2022)
- Asian public breeding programs (Thailand, Vietnam, China)
- Major seedborne phytosanitary constraints (CMD, CWB)

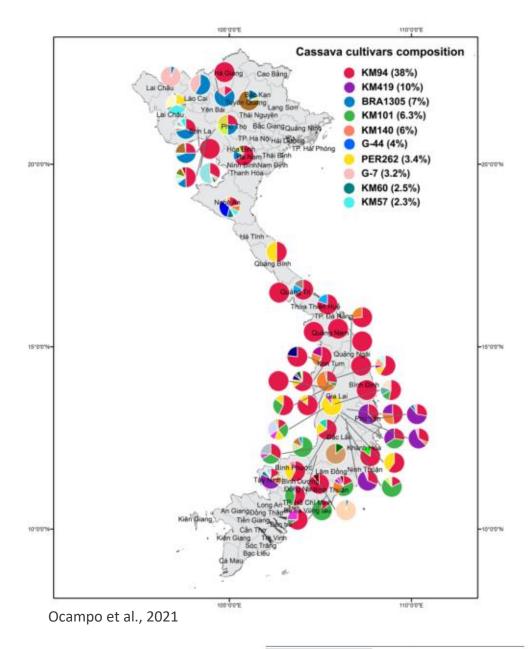








Delaquis et al., 2018









Methods: gather seed-related documents by theme, space, time

Source/database Manual screening Theme Query Results termless search (inclusive) of categories: Initial search results / results retained after screening 'planting material/seeds', 'plant variety', Legislation Regulation Policy Food and Agriculture 'breeders' rights', 'farmers' rights', 'plant Results: 124 Cambodia 2/2 7/4 2/1 Agriculture Organization of the protection' Lao PDR 3 / 3 (1 repealed) 10/8 1/1 Relevant: 72 **United Nations - FAOLEX** (general) Filtered by 'cultivated plants' 3/2 1/1 4/3 Mvanmar 4/3 **Thailand** 3/3 0/0 Search updated Jan 26, 2022 6/4 Vietnam 73 (15 repealed) / 37 (6 repealed) 5/0 17 / 14 Total 95 / 53 12/5 WIPOLEX search Search results World Intellectual Results: 18 termless search (inclusive) of 'Plant Variety Main IP IP-related **Implementing Property Organization -**IP – variety Relevant: 18 Protection' category legislation legislation Rules/regulations WIPOLEX Search updated Jan 26, 2022 Cambodia 0 0 1 Lao PDR 2 1 Myanmar 0 **Thailand** 2 6 Vietnam 1 Results: 46 ASEAN Trade in Goods Total Census of ATIGA Annex 9 SPS measures **Phytosanitary** Non-duplicate: 23 submitted by national governments Agreement - ATIGA Relevant records / Non-duplicate results Legislation Regulation Cambodia 3/0 Lao PDR 3/1 Myanmar 1/0 International Plant Census of items submitted to IPPC web Non-duplicate: 4/1 3/1 **Thailand** Phytosanitary Protection Convention – portal following National Reporting 1/0 31/21 Vietnam 6 Thai regulations **Obligations** IPPC member reporting Total 6/1 40 / 23 Summary list of seed documents Legislation Regulation Policy Total Supplementary addition of missing Cambodia 1 9 11 Additional manual legislation, including the Lao Decree on Lao PDR 5 12 18 Manual additions: 19 Plant Varieties (2020) and Decision Thailand 9 11 0 searches 20 35/2008/QD-BNN of Vietnam's MARD Mvanmar 6 2 13 Vietnam 7 68 0 75 Total 28 102 137





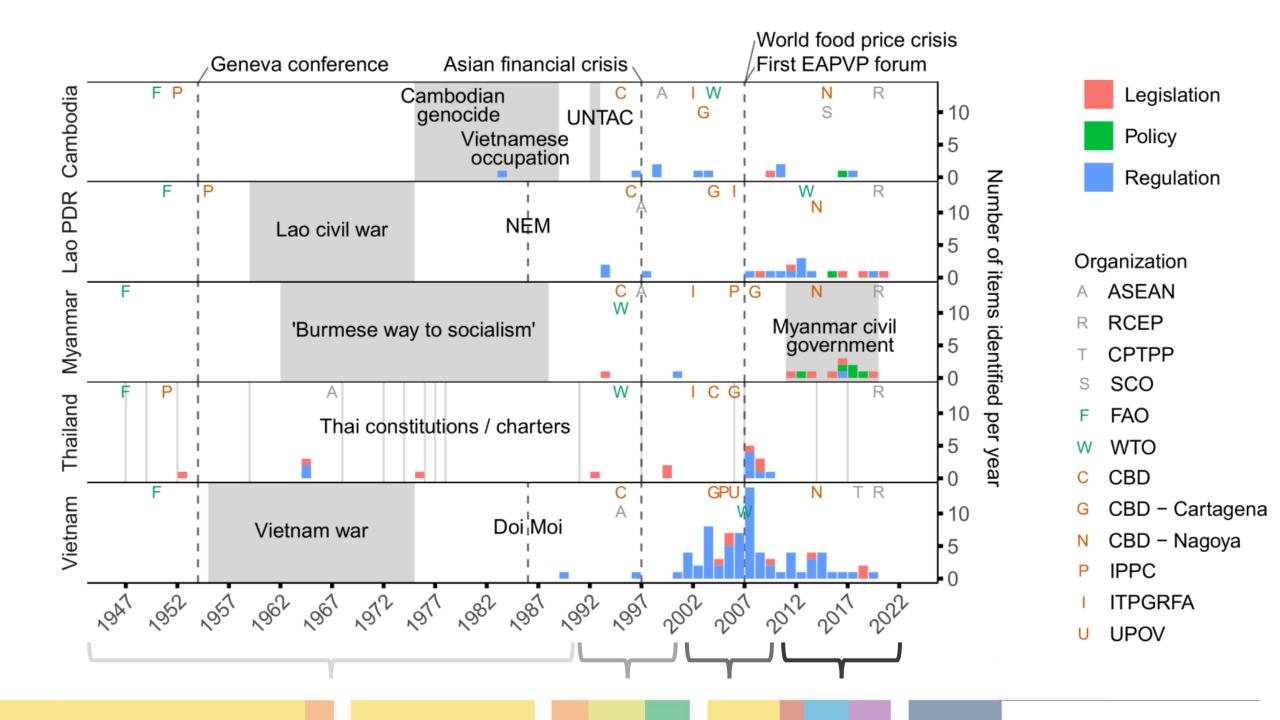
Methods: gather seed-related documents by theme, space, time

National-level regulatory documents:

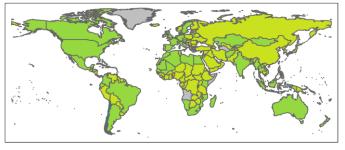
	Legislation	Regulation	Policy	Total
Cambodia	1	9	1	11
Lao PDR	5	12	1	18
Thailand	9	11	0	20
Myanmar	6	2	5	13
Vietnam	7	68	0	75
Total	28	102	7	137

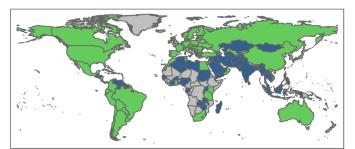
• International: participation status documented in 12 regional or global agreements, treaties, organizations with bearing on seed regulation

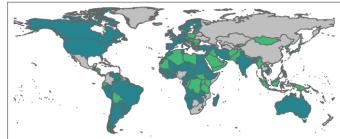


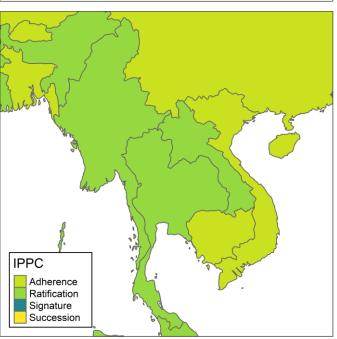


Treaties: phytosanitary, farmers' & breeders' rights

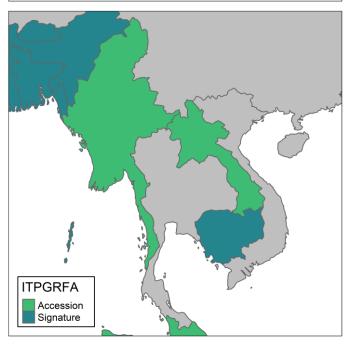








UPOV
Member
Observer



International Plant Protection Convention

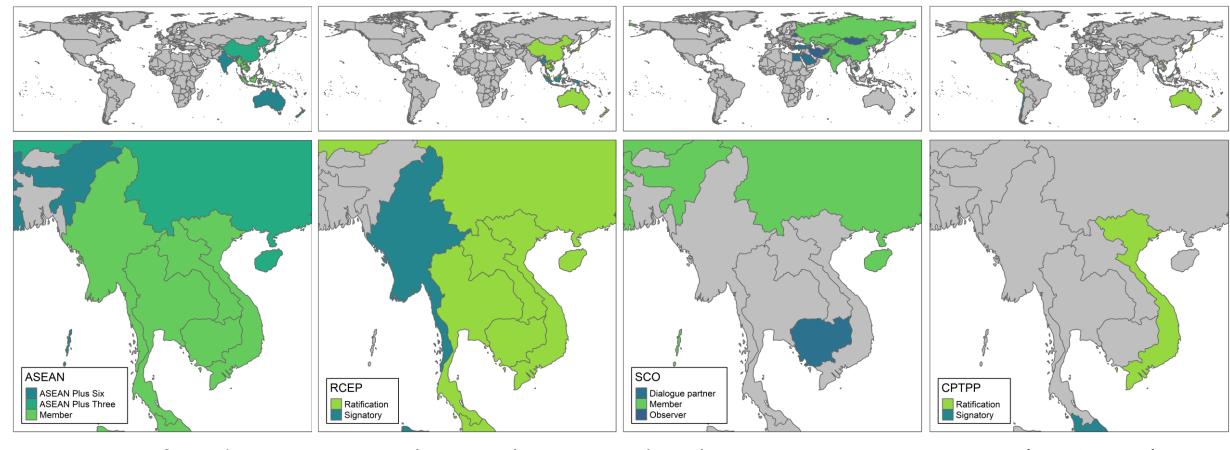
International Union for the Protection of New Varieties of Plants

International Treaty on Plant Genetic Resources for Food and Agriculture





Trade areas & regional blocs



Association of Southeast Asian Nations

Regional Comprehensive Economic Partnership

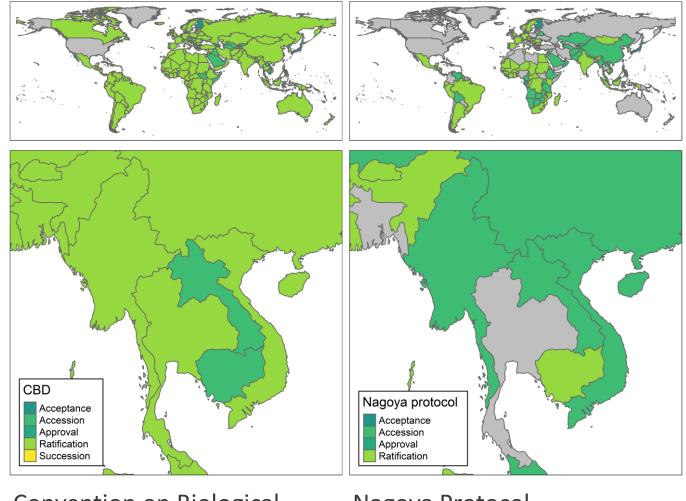
Shanghai Cooperation Organization

Comprehensive and Progressive Agreement for Trans-Pacific Partnership





CBD & Nagoya

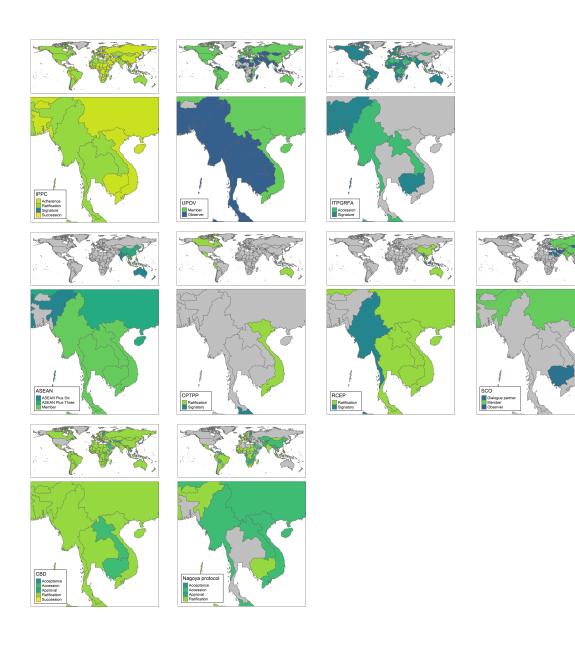


Convention on Biological Diversity

Nagoya Protocol









One-party socialist republic

Constitutional monarchy

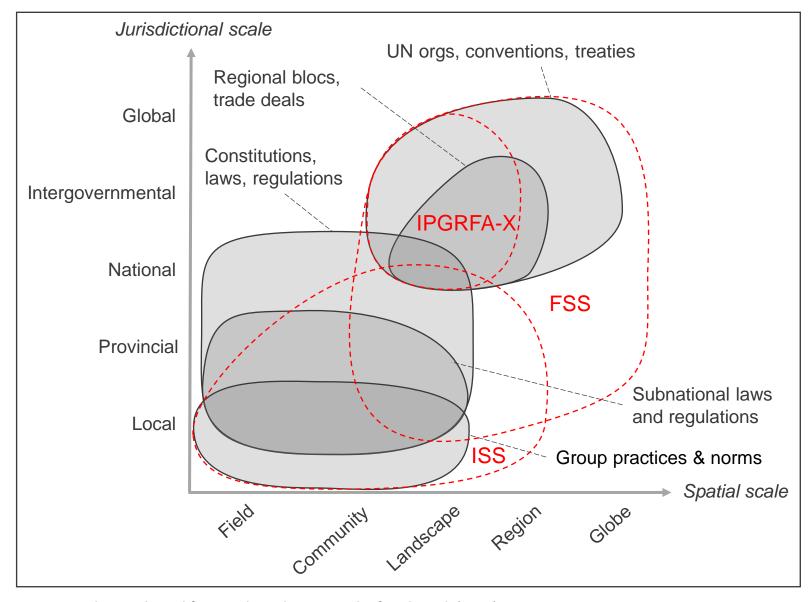






Regulation across scales

- Regulation domains across scales: spatial and jurisdictional
- Regime complexes (Raustiala & Victor, 2004)



Source: Authors. Adapted from multi-scalar approach of Cash et al. (2006).





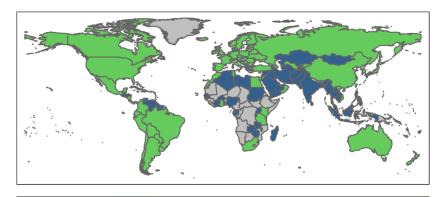
Instances of support for seed commons in legislation

- A few examples:
 - Myanmar's 'Law of Protection of the Farmer Rights and Enhancement of their Benefits' (2013)
 - acts of producing and selling seed in definition of 'farmer'
 - exceptions for gift/sale of seed 'from peasant to peasant'
 - Thailand: resistance to imposed IPR law restrictions on varietal exchange, protection
 of farmer exchange/sale rights, seed saving exemption explicitly including modern
 registered varieties
 - Vietnam's 'Mekong seed clubs' an example of legislative flexibility



Drivers of harmonization

- Trade integration
- UPOV
 - Despite some resistance to elements of UPOV, increasing number of economic trade deals (CPTPP) requiring membership are pushing its acceptance
- EAPVP forum
 - Cassava: unified varietal descriptors
- ASEAN seed working group
 - Harmonization recognized goal for seed regulation
 - Focus on commercial seed sector, no informal







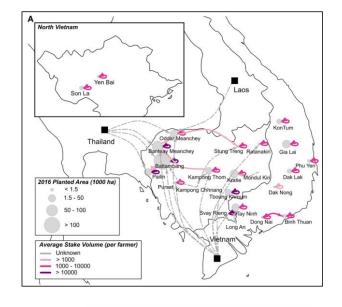


Discussion points

- Seed regulations are changing at an accelerated pace
- Risk of emerging regime complexes with actors across scales

What about our cassava case?

- 'Informal' seed systems and actors' roles are poorly represented
- Vegetative 'seed' unsuited to many regulations designed for grains
- Unregistered sale/exchange increasingly restricted, flexibility in interpretation of 'small farms' and 'non-commercial use'
- Rule by selective application?
 - Restricts pluralistic solutions lack of enforcement still shapes the 'innovation space'























Thank you!

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