AFSA
ALLIANCE FOR FOOD SOVEREIGNTY IN AFRICA

Studying the new UPOV membership trends in Sub-Saharan Africa

The case of Benin, Tanzania and Zambia

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Abstract

Three decades after its last revision, the International Convention for the Protection of New Varieties of Plants (UPOV) has emerged as a focal point of discussion in Sub-Saharan Africa. This paper delves into the factors driving the region's increasing interest and adherence to the Western-crafted Plant Variety Protection (PVP) system over the past decade, examining this phenomenon from the perspective of post-development theory.

Addressing the fundamental question of Why UPOV91 has gained traction in Sub-Saharan Africa? the paper scrutinizes the role of external influences in shaping governmental decisions. Drawing on ethnographic methods and the experiences from Benin, Tanzania, and Zambia, the findings of this research reveal the key role of international economic influence, international ideational influence, and national political elite's preferences. To maximize the practical impact of this research, the author, in collaboration with the Alliance for Food Sovereignty in Africa (AFSA), concludes with recommendations. These suggestions aim to strengthen advocacy efforts by local Civil Society Organizations tirelessly working to implement alternative systems that prioritize farmers' rights, traditional knowledge, and the protection of seed biodiversity. The overarching goal is to take significant strides toward achieving food sovereignty across the African continent.

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Liste des abréviations

ACP	African, Caribbean and Pacific states
AFSA	Alliance for Food Sovereignty in Africa
AGRA	African Alliance for a Green Revolution in Africa
AMSAP	Advanced Maize and Seed Adoption Program
ARIPO	The African Regional Intellectual Property Organization
CBD	Convention on Biological Diversity of 1993
CSO	Civil Society Organization
EPA	European Partnership Agreement
FAO	The Food and Agriculture Organization of the United Nations
FMSS	Farmer's Managed Seed Systems
FTA	Free Trade Agreement
G8	The Group of Eight was an inter-governmental political forum from 1997 until 2014, conformed by Canada, France, Germany, Italy, Japan, Russia, the USA and the UK. Now G7 following Russia expulsion in 2014.
LDCs	Least Developed Countries
NAFSN	The New Alliance for Food Security and Nutrition in Africa
OAPI	Organisation Africaine de la Propriété Intellectuelle
PAIRED	Partnership for Agricultural Research, Education, and Development
PVP	Plant Variety Protection
SCCI	Seed Control & Certification Institute of Zambia
SSA	Sub-Saharan Africa
TRIPs Agreement	Trade-Related Aspects of Intellectual Property Rights
UNDROP	United Nations Declaration on the Rights of Peasants of 2018
UPOV/ UPOV91	Convention for the Protection of New Varieties of Plants /1991's revision
USAID	United States Agency for International Development
WTO	World Trade Organization

1. Introduction

Following the enactment of the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights in 1995 (TRIPs Agreement), member states of the organization were mandated to adopt some form of intellectual property protection for plant varieties to comply with the agreement. However, the Least Developed Countries (LDCs) were granted an extended transition period for implementation, extending until 2034 in 2021 ''in recognition of their special requirements, their economic, financial, and administrative constraints, and their need for flexibility to create a viable technological base'' (WTO, 2021 para. 1). This extension, voted on by the organization's members, aims to provide ample time for these countries, the majority of which are in Sub-Saharan Africa (SSA), to develop systems tailored to their needs.

Although the TRIPs Agreement does not specify a particular system to be adopted, and LDCs being exempt from it until 2034, a significant number of SSA countries have demonstrated interest in the system proposed by The International Union for the Protection of New Varieties of Plants (UPOV) in its 1991 revision (UPOV91). Despite UPOV emphasizing its alignment with the TRIPs Agreement, even stating that «the introduction of a system which differs significantly from the harmonized approach based on the UPOV Convention will raise questions with regard to the implementation of the TRIPS Agreement» (UPOV, 2002 para. 3), its ratification in the SSA region has been limited so far, with only four countries (Ghana, Kenya, South Africa, and the United Republic of Tanzania) and OAPI member countries, although none of them individually, indirectly becoming members.

Recently, the region has experienced a growing interest from countries in the UPOV system. Countries such as Zimbabwe and Nigeria have recently initiated the process of ratifying the convention, while Malawi, Mozambique, Namibia, Sudan, and Zambia have been in contact with the Office of the Union for assistance in developing laws based on the UPOV Convention, as having a Plant Variety Protection (PVP) system already aligned with UPOV91 is a prerequisite for ratifying UPOV91 (UPOV, 2023). This renewed interest in the UPOV91 system has sparked attention from CSOs, activists, scholars, and farmer's communities. In thematic gatherings like the Pan African Seed Conference in 2023, there has been an expressed need to investigate why this trend is occurring, identify the power dynamics inherent in these processes, and map out the interests driving this shift. Therefore, this research aims to answer the following question: «Why has interest in UPOV91 membership grown in the last decade in Sub-Saharan Africa, and what does it imply for the region?»

There was a previous reluctance on the part of SSA countries toward UPOV that can be explained by various factors. Firstly, the inadequacy of the UPOV system for the specific characteristics of these countries has been highlighted by numerous experts, academics, and CSO activists. Many argue that it is a system created exclusively by European countries in line with the interests and needs of their predominantly industrialized food systems. The Alliance for Food Sovereignty in Africa (AFSA) has been a vocal advocate for these claims, pushing for a PVP system suitable for African food systems, where

traditional and ecological agriculture is predominant and responsible for feeding and nourishing the entire continent, and where traditional knowledge and local seeds are key to food sovereignty.

Secondly, the provisions of UPOV91 have conflicted with other international agreements and declarations such as the Convention on Biological Diversity (CBD), in effect since December 1993, or more recently, the United Nations Declaration on the Rights of Peasants (UNDROP) of 2018. In this regard, the UPOV91 system lacks provisions to ensure an adequate benefit-sharing mechanism or protect the rights of farmer communities to save, use, sow, re-sow, exchange, share, or sell farm-saved seeds.

Given all these considerations, it is pertinent to inquire about the changes that have led a significant number of SSA countries to recently decide to embark on the path of adopting the UPOV91 system.

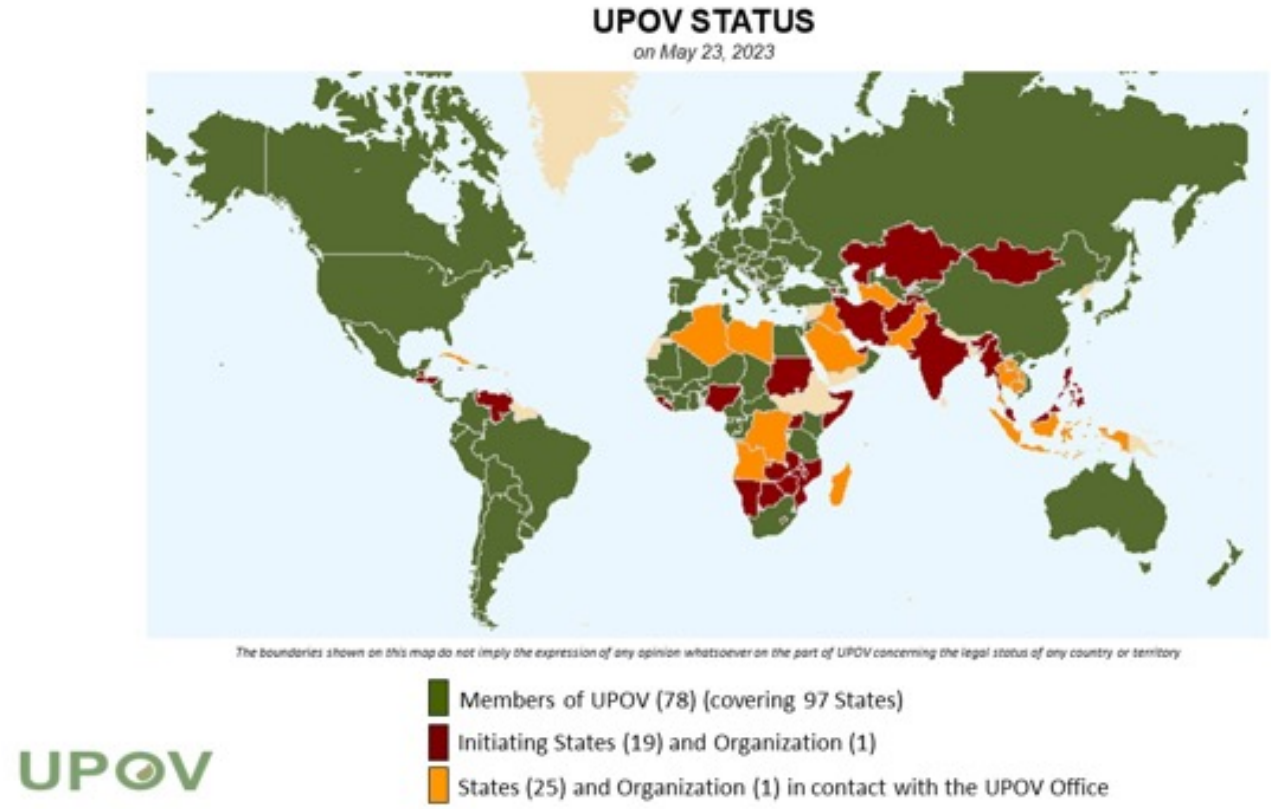
2. Literature review

Regarding the Sub-Saharan African (SSA) seed systems, a large part of the literature has been focused on the insufficiency of growth and innovation in agriculture, contending that it falls short of adequately meeting the dietary needs of their communities and ensuring farmers have sustainable livelihoods (Blaustein, 2008; Toenniessen et al., 2008). Historically, the problem of hunger in SSA has often been approached as a low production issue, with efforts aimed at mirroring the agricultural production patterns that took place in industrialized countries in the West. In line with these concerns, the principles of the Green Revolution were extended into SSA, with the aim of modernizing agriculture and restructuring seed systems to facilitate the production and distribution of improved seeds, ultimately aiming to boost agricultural yields via the introduction of modern seeds, agrochemicals, irrigation systems, and the promotion of open, free-trade markets (AFSA, 2014). These initiatives seek to facilitate a swift transition from the so-called "informal seed" systems to formal ones, as well as from local crop varieties to commercial ones (Mkindi et al., 2020; Louwaars et. al., 2013). However, critics like Leach et al. (2020) have underscored that this model places excessive emphasis on production as a solution to hunger, while neglecting essential aspects such as ensuring access to nutritious food, which is fundamental for overall health. Consequently, they advocate for a more holistic approach that takes into account the environmental, social, economic, and political contexts that are specific for each food system (Leach et al., 2020). Furthermore, African networks like The Alliance for Food Sovereignty in Africa (AFSA) and various research and advocacy institutions advocating for agroecology contend that the Alliance for a Green Revolution in Africa (AGRA) not only failed to achieve its objectives but also fell significantly short of them (Aijuka et al., 2020; Holt-Giménez et al., 2006; Mkindi et al., 2020). Notably, the number of people suffering from extreme hunger increased by 30% in AGRA's targeted countries of intervention during its operational years (Wise, 2020). Addressing this concern, a 2010 paper by the UN Special Rapporteur on the right to food concluded that "agroecology delivers advantages that are complementary to better known conventional approaches such as breeding high-yielding varieties, and it strongly contributes to the broader economic development" (De Schutter, 2010 p.1).

In a broader context, this debate has been identified in the literature as a tension between food sovereignty and food security paradigms. Food sovereignty represents a paradigm and a grassroots movement aimed at challenging the prevailing neoliberal food system. This term, which is increasingly used by international organizations, experts, and in public debate, seeks to address the imbalance of economic power and social control within global food production chains. Unlike food security governance, which stems from existing power structures and is rooted in the current food system, food sovereignty, a termed coined by La Via Campesina, has emerged from a network of small-scale producers, primarily in the Global South, who have developed a bottom-up approach. This class-based distinction significantly influences the political and legal strategies associated with both paradigms. Food security approaches encompass industrial and biological agriculture, while food sovereignty

approaches prioritize non-industrial, small-scale agriculture (Sørensen et al., 2022; Peschard & Randeria, 2020).

Concerning the seed legislation, the debate takes place around which kind of Plant Variety Protection (PVP) laws should be adopted in Sub-Saharan African (SSA) countries. In 1961, a harmonized system for PVP was created by a few European countries, who came together as the International Union for the Protection of New Varieties of Plants (UPOV), promoting the International Convention for the Protection of New Varieties of Plants of 1961. This model developed in the West was intended to be extended globally. According to UPOV, joining the latest revision, namely 1991's revision UPOV (UPOV91) asserts multiple potential benefits. UPOV proposes that safeguarding registered varieties fosters the emergence of new breeders and breeding endeavors. In this context, such registration system is believed to yield various economic, health, and environmental benefits, including improved yields, reduced consumer prices, enhanced product quality, increased marketability, improved nutritional content, and disease resistance. Its actual application, however, has been rather limited in the region considering that most of the members are only members through OAPI, but have not ratified the Convention unliterally (see Figure 1).



This is potentially due to the existence of a substantial body of literature and seed activism mainly emerging from Civil Society Organizations (CSOs) and farmers expressing their opposition to the UPOV agenda. Some scholars, such as Peter Munyi and Bram De Jonge, have pointed out that the breeder's protection provisions of UPOV91 come into conflict with farmers' rights to carry out their traditional practices of sharing, exchanging, saving, and selling seeds in favor of commercial breeders. This is because, ''while the criteria for protection have remained consistent throughout the revisions of the UPOV Convention, the scope of rights granted to the breeder has expanded over time, particularly in the 1991 revision of the Convention'' (Munyi & De Jonge, 2015 p.17). Other studies have highlighted concerns about UPOV91, including its failure to include a disclosure-of-origin requirement, viewed as incompatible with international agreements i.e. The Convention on Biological Diversity (CBD) and its Nagoya Protocol, as well as the United Nations Declaration on the Rights of Peasants of 2018. This omission hinders the establishment of a fair benefit-sharing mechanism and can lead to practices resembling biopiracy , creating inconsistency in UPOV91's efforts to prevent genetic resource misappropriation (Coulibaly et al. 2019; FAO, 2010). Additionally, organizations like The Food and Agriculture Organization of the United Nations (FAO) have expressed worries about the potential loss of biodiversity resulting from UPOV91's promotion of monocultures. FAO stated that a ''significant reduction in the number of farmers growing a particular variety and a shift to a single or limited number of new varieties can create a genetic bottleneck, potentially resulting in the loss of genetic diversity'' (FAO, 2010 p.41). Moreover, UPOV91's endorsement of high-yielding varieties necessitates the intensive use of fertilizers and pesticides, which can have adverse effects on soil quality and water contamination. Lastly, CSOs have strongly criticized the limited involvement of farmers in the negotiations leading to the enactment of seed laws. This has resulted in a top-down implementation approach without a participatory framework for those most

affected by these laws (Coulibaly et al., 2019).

Significantly, at the recent II Pan African Seed Conference in Dar es Salaam, these discussions took center stage, resulting in a unanimous consensus on the crucial need to investigate the reasons behind the recent engagement or attempts by several SSA countries to adopt UPOV 1991 as seed legislation, a shift that follows years of prior rejection. Participants expressed the lack of free, informed choices and secrecy surrounding UPOV91 membership processes. Currently engaged in negotiations for the membership of more than 10 African countries (see Figure 1), UPOV's approach to persuading these nations to join UPOV91 emerged as a focal point. Understanding the reasons why these countries are choosing to join UPOV, or being pressured to do so, will provide valuable information for the advocacy efforts of CSOs working on sui generis systems of PVP, such as the Farmer Managed Seed System (FMSS).

3. Theoretical framework

In the context of this research project, is contended that the concerned Western actors, including UPOV, exert a notably robust influence on the adoption of UPOV91 within developing nations. This influence appears to distinguish itself from other international agreements, as Dutfield (2011) suggests that "UPOV differs [from other international organizations] in the lengths to which it goes to influence potential members' policies" (Dutfield, 2011 p.10). He highlights an illustrative case of this behavior in which the UPOV Office strongly criticized an alternative model regime, the African Model Law, provisionally adopted by the Organization of African Unity Council of Ministers in 1998. UPOV Office representatives submitted a detailed 10-page critique to this law, involving the revision of over 30 articles in the model, ostensibly to align the Model Legislation with UPOV91. This critique followed a period of marked engagement and enthusiasm from the UPOV Office for OAPI to adopt UPOV91, all without conducting substantive empirical assessments to substantiate expectations regarding potential gains or to identify the distribution of potential losses stemming from the

revised Agreement (ibid.). Taking this into consideration, this study approaches the object of study, namely the new trends of membership of UPOV in Sub-Saharan Africa (SSA), as a phenomenon tied to a renovated effort to promote the Western commercial seed system. The strategies taken by UPOV and its western supporters in this process might go beyond influencing public decision-making entities to adopt UPOV91; involving the imposition of UPOV91 trough conditionality, making membership in UPOV91 a non-negotiable requirement in the signing of other treaties perceived as vital for specific countries.

This approach is consistent with the selected theoretical framework, as Post-Development Theory has delved deeply into the power dynamics between the Global North and South. It underscores the problematic nature of imposing the single development model originated in the West as the dominant paradigm globally, thus undermining the legitimacy of alternative approaches. The emphasis on the importance of global power dynamics is essential in the task of answering the research question: Why has interest in UPOV91 membership grown in the last decade in Sub-Saharan Africa, and what does it imply for the region?

Post-Development Theory

Post-Development aimed to challenge the consensus that 'development' was a necessary, self-evident, positive, and unquestionable endeavor. Through a critical analysis of the development model that informed the prevailing theory of modernization in the 1950s and 1960s, the key features of this paradigm were examined. During this period, a sense of certainty was established in the minds of many theorists and global elites, based on the perceived beneficial impacts of capital, science, and technology (Escobar, 2007). Escobar, one of the key contributors to this theory, pointed out how ''the development discourse made possible the creation of a vast institutional apparatus through which the discourse was deployed'' (Escobar, 2007 p.19). These institutions, such as UPOV and AGRA, conformed the mechanism through which a professionalization of development occurred, including the emergence of expert knowledge promoting agriculture's industrialization. From this perspective, the strategy towards rural development deployed by UPOV is understood as a systematic mechanism for connecting expert knowledge generated by western institutions to impose commercial seed policies in the Global South. Escobar highlights how this unidirectional influence profoundly reshapes rural landscapes and peasant societies in many parts of the Third World. Despite appearing as the 'natural ways of acting', it represents a substantial transformation aligning with modern capitalist perspectives on land, agriculture, and farming (Escobar, 2007). Therefore, through the lens of Post-Development Theory, this research aims for the reevaluation of indigenous cultures, a shift towards depending less on specialized expertise and more on the endeavors of ordinary individuals in building more culturally appropriate and environmentally sustainable societies, and the critical recognition of social movements and grassroots activism as the foundation for progressing into a new era.

4. Methodology

This section addresses the methodological considerations that guide the analysis and how they inform the use of methods for gathering evidence.

4.1 Methodological considerations

This research positions itself within the decolonization of knowledge approach, emphasizing the importance of inclusivity and bottom-up perspectives ''recognizing that people, their experience of the world and the base of knowledge that it comes from are of equal value'' (Araujo, 2016 p.457). In the context of this research, it is essential that the voices of the local farming community, often marginalized in technical, policy-making and academic circles, serve as a guiding principle both in how evidence is collected and in the expected outcomes of the analysis in order to create appropriate action and real empowerment (Burns, 2017). Inspired by the literature on the action research approach and drawing insights from Brydon-Miller et al. (2003) and Bradbury & Reason (2001) work, it is considered crucial to prioritize the practical results of the research, focusing on whether the work is genuinely useful and helpful in addressing shared concerns and interests (Brydon-Miller et al., 2003; Bradbury & Reason, 2001). Moreover, it aims to emphasize a participatory approach oriented at developing practical knowledge for meaningful human purposes i.e., understanding the new trend of UPOV-membership in SSA countries to facilitate advocacy efforts for food sovereignty in the region. These methodological considerations collectively inform the research methods, emphasizing the importance of inclusivity, reflexivity, and meaningful action in addressing the issues at hand. In accordance with these methodological considerations, this research utilizes three methods: interviews, field notes, and desktop research. The aim is to achieve a comprehensive understanding of the study subject, allowing for the cross-verification of findings across multiple data sets. This approach serves to mitigate the potential biases inherent in a single study while also capturing the experiences and insights of the primary stakeholders within the evidence.

4.2 Use of methods

Interviews

The five conducted interviews serve as one of the primary sources of information and evidence for the analysis of the countries selected in this study. In accordance with the methodological considerations explained above, the value inherent in the experiences and knowledge of activists, experts and local farmers plays a pivotal role in gathering evidence. This method employs an inductive approach to delve into the research subject and formulate the research question, ''starting with the 'lift' from empirical information to theoretical patterns'' (Sæther, 1998, p. 246). The rationale for this choice is to ensure that both the subject matter and its approach align with the needs of the population affected by the adoption of UPOV91 seed laws. To accomplish this, a comprehensive mapping exercise has been conducted in collaboration with AFSA, identifying individuals who have extensive experience in the field of seed policy in Zambia, Tanzania and Benin, including those affiliated with specific CSOs, as well as representatives of local farmer movements. The interviews are conducted using a semi-structured approach, meaning the interview guide comprises two levels of questions: overarching themes that address the subject of the study, and follow-up questions that emerge organically based on the in-

terviewee's responses (Kallio et. al., 2016). This approach fosters a bidirectional and adaptable interaction which allows the interviewee to explain what they consider most important and provide deeper answers. This approach is suitable for ensuring that the evidence and topics on which the research is based are of interest to the interviewees, who are also key stakeholders affected by the studied phenomenon. Therefore, it is ethically important to ensure that there is a symbiosis in terms of the benefits of the research and that the results obtained are useful to the community rather than being an exercise in knowledge extraction solely for the benefit of the researcher. The interviews are conducted online via Zoom platform, primarily due to the challenges posed by varying geographic locations.

Field notes

With the primary objective of assessing the research's thematic priorities and gaining a comprehensive understanding of the local farming community's needs, the researcher actively participated in the II Pan African Seed Conference, organized by AFSA in Dar es Salaam, Tanzania. Over the course of three days, she conducted meticulous observations, enabling me to document the central concerns expressed by key stakeholders, including researchers, policymakers, CSOs, and representatives of local farmer organizations from more than 20 African nations, mostly from Sub-Saharan Africa, and regional organizations, including the African Union. Moreover, this engagement provided valuable insights into the experiences, viewpoints, and potential alternatives pertaining to the implementation of UPOV91 in the countries under study.

Beyond data collection, this method allowed to immerse in a participatory environment, fostering the establishment of robust relationships and communication channels with key stakeholders

closely tied to this research. This early involvement ensures a shared sense of ownership over the evidence generated, facilitating broader networking opportunities and scalability, as discussed by Burns (2017). Therefore, the participatory observation serves as the method of choice to gain insights about the problem area.

Desktop research

Desktop research is employed as a method to inform the literature review and deepen the information obtained from the interviews in the analysis. The information contained in these documents can suggest questions that need to be asked and situations that need to be observed as part of the research. Therefore, they serve as a tool for approaching the subject of study, and in interactive conjunction with interviews, they generate key questions for them (Bowen, 2009). In this way, documents provide background and context, additional questions to be asked, supplementary data, a means of tracking change and development, and verification of findings from other data sources (ibid.). In terms of the methodological approach, the study of documents emanating from local CSOs is crucial for informing the study of new trends of membership of UPOV in Sub-Saharan Africa, taking Benin, Zambia and Tanzania as examples. CSOs have extensively addressed the implementation of UPOV91 for decades and, along with official government documents and international treaties, reports, and research articles they serve as valuable evidence.

Sample of countries as analysis units

The selection criteria for Benin, Tanzania, and Zambia were primarily determined by two key considerations. Firstly, priority was given to countries where AFSA has established close connections through

its network. Secondly, factors such as their political situation, seed legislation, and relationship with UPOV were considered. Notably, Tanzania obtained UPOV91 membership directly, Benin through a regional agreement with OAPI but rejected to be a direct member of UPOV and Zambia is currently in negotiations for membership. In all three countries in the sample traditional knowledge, subsistence agriculture, and farmer's seeds are pivotal components in ensuring adequate nutrition and supporting livelihoods. The study includes in its sample both Francophone and Anglophone nations, with the intention of illustrating regional trends within Sub-Saharan Africa. It is important to acknowledge the vast and heterogeneous nature of this region among different countries. Despite shedding some light on this phenomenon, the study's conclusions are limited in their generalizability.

5. Analysis

The analysis seeks to delve into the reasons behind the expressed interest or actual participation of numerous Sub-Saharan African (SSA) countries in UPOV, particularly within the last decade. To accomplish this, the analysis is organized into two subsections dedicated to (1) exploring key factors affecting these regional trends and (2) how they manifest in the cases of the analyzed countries Benin, Tanzania, and Zambia. However, several of these categories often intersect, overlap and interact with each other.

5.1 International and regional influence

The persistent push from international organizations, large agribusiness companies and governments in Western nations for SSA countries to adopt the UPOV91 framework has been extensively documented (Dutfield 2011; Mwila 2016; Coulibaly et al. 2019; AFSA, 2021). For the purpose of this analysis the type of international and regional influence is distinguished according to two main methods in which it manifests. On one hand, economic influence and on the other hand, ideational influence. It is argued that both have manifested to a greater or lesser extent depending on the targeted countries, post-colonial relationships between donors and recipients, and the combination of both methods of influence throughout time. This analysis does not seek to provide an exhaustive overview of these manifestations but rather aims to illuminate key trends through observed manifestations of international and regional influence to adopt UPOV91 in the SSA region the last decade.

Economic influence

Economic Partnership Agreements (EPAs) between African countries and the European Union (EU) are structured within the framework of the Cotonou Agreement, adopted in 2000, where Article 46(6) mandates enhanced cooperation on Intellectual Property Rights (IPRs) between the involved regions (FAO). However, EPAs involving the SSA region, often do not directly address IPRs. Most of these agreements prioritize enhancing capacity and fostering cooperation among signatories. This results in IPRs being either excluded from the agreements' scope or only being addressed through a mechanism to consolidate the compromise of a future negotiation, which is denoted as rendezvous clauses. Notably, in EPAs

signed or in negotiation between the EU and diverse African nations and regions like the Ivory Coast, Ghana, Kenya, Rwanda, Cameroon, and the South African Development Community Group (SADC), the inclusion of intellectual property rights is acknowledged as a means to sustain ongoing negotiations for the adoption of robust Plant Variety Protection (PVP) laws in the future (Batur et al., 2021). EPAs are still being negotiated, and their implementation is under study. Hence, there seems to be an expectation that the EU will insist on the implementation of a robust plant breeders' rights system, mirroring the UPOV91 standards in African, Caribbean, and Pacific Group of States (ACP) countries that still lack such systems. Notably, in draft proposals for EPA's with ECOWAS (West Africa) and SADC, substantial commitments can be found regarding IPRs, including plant variety protection (Blakeney & Mengistie, 2021).

In terms of development projects, many donor countries have taken the approach of requiring SSA countries to join UPOV91 as a condition in exchange for substantial funding for the development of the agricultural sector within their territories or, in some cases, as one of the goals of the projects themselves. For instance, the Partnership for Agricultural Research, Education, and Development (PAIRED) ostensibly claims to uplift the commercial seed industry in West Africa. The 15-million-dollar project, funded by USAID since 2017, actively facilitated the adoption of harmonized seed regulations in participating countries under the guise of addressing challenges in the seed sector. After 5 years, internal evaluators of the project noted partial success on PAIRED's performance indicator related to seed harmonization following the enaction of UPOV-compliant PVP systems in the Parliaments of Ghana and Nigeria (USAID, 2023). This evaluation also suggested that ''due to the dominance of

small-scale farmers, the use of quality seed is limited, which if left unaddressed may lead to a continuous diminishing of agricultural productivity and compromise the cherished regional goal of food security'' (ibid. p.37). Therefore, traditional agriculture is framed as problematic and as a barrier to the development of the region's agricultural sector. This narrative, however, overlooks the sustainability of small-scale farming methods, the importance of traditional knowledge and their key role in sustaining food sovereignty and nutrition in the region. Moreover, the inclusion of UPOV as a partner organization in PAIRED, specializing in capacity building on Plant Variety Protection, further raises concerns about the convergence of interests between Western nations and UPOV in shaping seed legislation in SSA towards a commercially oriented model. Significantly, in the concluding year of the USAID-funded initiative, PAIRED joined forces with AGRA and the Syngenta Foundation to tackle challenges encountered throughout the project (ibid.). This collaboration, along with initiatives like the Advanced Maize and Seed Adoption Program (AMSAP) launched by USAID and Corteva in Ethiopia in 2013 or the New Alliance for Food Security and Nutrition in Africa (NAFSN) promoted by the G8 and mostly built on corporate-led programs, underscores the alignment of interests between Western powers and major agribusiness. These collaborations suggest a shared goal of influencing legislative changes that advance the commodification of seeds and the implementation of commercial seed legislations, such as UPOV91, that favor breeder's rights.

In the context of Free Trade Agreements (FTAs), APBREBES underscores the predominance of requirements of UPOV91 membership in these agreements with countries in the Global South. Specifically, six FTAs ratified by the EU, whether fully, partially in force, or provisionally applied, contain obligatory provisions endorsing UPOV91, each with varying degrees of commitment (Batur et. al, 2021). In this way, trade threats and the initiation of new trade agreements functioned as mechanisms for wielding economic influence to adopt interpretations of the TRIPS Agreement aligned with those adopted by Western contracting party and matching EU or US standards. In the SSA region, these agreements have typically avoided explicit mandates for UPOV91 membership and are limited to a commitment to ongoing negotiations on intellectual property matters. However, the endorsement of the African Continental Free Trade Area (AfCFTA) on March 21, 2018, supported politically, technically, and financially by all the main neoliberalist champions (UE, US, World Bank, IMF…), announces a new era of trade liberalization across the continent. While the specifics of the intellectual property protocol (including plant variety protection) are still under negotiation, the preliminary protocol emphasizes safeguarding breeder's rights and seeks to draw on relevant international models (African Union, n.d.). The UPOV system, despite having limited implementation in the region, is the unified system with the most members. This is the case because those who have not ratified UPOV91 have their own sui generis or have not yet adopted any system. This context, coupled with the backing of Western international institutions for UPOV, increases the likelihood that the AfCFTA will choose UPOV as a blueprint for harmonizing PVP at the continental level.

Ideational influence

Beyond economic influence, the impact of ideas is often overseen but holds equal significance. Within a structural condition where Western countries hold epistemological or knowledge hegemony,

identifying this influence is often challenging. Western knowledge asserts its global superiority over knowledge generated elsewhere, prescribing the suitable means for achieving development. Through the dissemination of expertise in intellectual property matters, support in implementing seed regulations, and the infiltration of beliefs regarding the indispensability of these measures for economic development, international organizations, governments, and Western enterprises have sought influence on the decision-making processes of Sub-Saharan African (SSA) political elites. Especially in the context of plant variety protection, knowledge communities in favor of strong IPRs have enhanced access to financial resources, government entities, officials, and international media compared to those advocating for a more farmers' rights balanced IPR system i.e. CSOs and farmer's associations. Moreover, the pro-IPR alliance holds an advantage due to its dominance in the IPR field, as most technical and legal experts worldwide in the field of IPR advocate for stronger PVP systems such as UPOV91. Patent attorneys, primarily situated in the Western hemisphere, wield significant influence through the expertise they provide and the possession of technical knowledge that few others can reach (Deere, 2008). In addition to the advantage of powerful resources and support, IPRs and their implementation have been presented by these knowledge communities as a matter belonging to the technical realm, to be debated among experts rather than as a political, public debate affecting human rights of agricultural communities and ecological sustainability. All of this has translated into a greater capacity to impose a specific view on how the obligations stipulated by the TRIPs Agreement should be implemented. This influences the perception of SSA countries regarding what is possible or not possible for them to do regarding the interpretation of TRIPs, and, above all, what is most convenient for them based on the Western

experience and expertise. In this way, the UPOV91 system has been rationalized in terms of innovation and creativity, the necessity for private property rights, or a particular understanding of the good (ibid.). Diverse strategies facilitating the influence of major agribusiness, Western governments, and regional organizations are transmitted through entities like AGRA, WIPO, EU, OAPI, ARIPO, WTO, USAID, as well as UPOV and encompass a range of initiatives such as training workshops, seminars, capacity-building programs, diplomatic relations, and continuous political advisory.

5.2 The case of Benin, Zambia and Tanzania

The shifting perspectives regarding UPOV have been influenced by both internal dynamics within national politics and external political pressures. As mentioned above, international, mainly Western, influence plays a significant role in the decision-making processes of Sub-Saharan African (SSA) countries. However, suggesting that African governments implemented inappropriate, UPOV-based PVP exclusively because of Western influence excessively emphasizes the vulnerability of Least Developed Countries (LDCs), thereby downplaying the strategic acumen of these states (Van Dycke, 2023). Notably, sector-specific narratives, such as those within the seed sector, often align with global socioeconomic narratives through the mediation of specific actors, namely national governments acting as intermediaries (Bendjebbar & Fouilleux, 2022). Agriculture, for instance, may be perceived either as a means to sustain the nation's food needs or as a source of foreign revenue through exports, and the narratives of the Green Revolution may be more entrenched in certain political sectors than in others. Therefore, although Western pressure appears to play a key role in the adoption of UPOV91 in the region, other important factors must be considered in the decision-making process.

In several instances, motivations and values of the ruling government have prompted closer ties between institutional narratives and UPOV. This phenomenon is exemplified in the case of Benin. Despite being a member indirectly through OAPI, the Benin government sought individual accession to UPOV in 2017. However, the parliamentary vote was thwarted due to irregularities in the presented documents, as highlighted by my interviewee Patrice Sagbo, head of Action for Sustainable Development in Benin: «When they did the vote, a member of parliament raised his hand to say, 'Mr. Minister, the document you want us to vote on is not the same document you gave us when we were in the workshop». The voting was postponed until some requisites were met i.e. a deeper consultation with CSOs. However, on the 15th of November of 2023, the spokesperson for the President of the National Assembly announced in a press release that the request for membership in UPOV91 will be once again placed on the agenda for the second session of the year 2023 of the ninth legislature of the National Assembly (Mensah, 2023). To grasp the motivations behind the government's attempt to join UPOV, one must revisit events in 2006, when Patrice Talon's assumed the presidency and stimulated a reinforcement of neoliberal rhetoric. Talon, a key player in the Beninese cotton industry who controls nearly the entire market share for input sales (Bendjebbar & Fouilleux, 2022) together with the current political elite considered UPOV to be aligned with their interests, as an avenue to access more productive cotton varieties. These varieties could present an enticing opportunity for economic growth in a country where the cotton industry holds significant political and economic stance. Patrice

Sagbo underscores the government's motivation, stating, «The council of ministers spoke under business, meaning they considered seeds as business affairs. And also, there was political pressure because to try to get Benin to join UPOV independently, the Ministry of Agriculture was campaigning to convince everyone, including Parliament.» He also expressed dismay over the deficient consultation process regarding potential UPOV accession, emphasizing, «No one [referring to CSOs and farmer's communities] was consulted regarding the advent of UPOV in Benin.»

The international influence mentioned in the previous section can also penetrate national political elites, or some sectors of it, as is the case of the Seed Control & Certification Institute (SCCI) in Zambia. Here, the initial attempt to introduce a PVP law based on UPOV91 faced rejection from the farmer's communities and CSOs in 1999. This rejection stemmed from «major concerns expressed by the public since the Draft Act did not comprehensively protect farmers' varieties that communities have kept for generations» (Zulu et al., 1999 sec. 3.1). Nevertheless, the drafting of a new seed law resumed in 2002 by a designated working group that included key stakeholders and technocrats from both the public and private sectors of the country (Mwila, 2016). The objective of this law was to harmonize the rights of farmers with those of breeders. This process, elucidated by Godfrey Mwila, Deputy Director at the Zambia Agriculture Research Institute, ''The process attracted a lot of unsolicited external interest from foreign seed companies operating in the country, including entities like PANNAR Seed (a part of Corteva, a major US agribusiness), and regional seed regulatory bodies like the African Regional Intellectual Property Organisation (ARIPO) and UPOV'' (ibid. p.321). These external pressures aimed at advocating for a law that exclusively considered the rights of breeders. The initial bill, which included farmers' rights, was withdrawn right before official review. Subsequently, the process recommenced, with the revised bill exclusively focusing on plant breeder's rights under the UPOV91 system. It was officially passed as the Plant Breeder's Rights Act in 2007. However, this Act also does not make specific reference to intellectual property and how it relates to plant breeders' rights (WIPO, 2010) and therefore doesn't comply with the requirements for ratifying UPOV91. Interviewee Wilfred Miga, Program Officer for PELUM Zambia, claimed that it is essential that Zambia works towards a new seed legislation which takes a different route: ''We've been advocating for a standard seed policy'' and remarked the importance of the inclusion of farmer's communities and CSOs in the consultation process for these decisions: ''We've not been informed about what involved in the whole process''. Similar to Patrice Sagbo, Wilfred Miga expressed concerns about the reasons behind the political elite's expressed interest in UPOV91: ''It has more to do with money, or maybe also the money that is coming from these multinational companies. They're not considering the other effects or the other impacts that the UPOV will bring to the seed sector [...] it's the policy makers at the highest level, who are not being given the true information''. In anticipation of the upcoming formulation of a seed law in Zambia, the pivotal role played by the SCCI in deciding the Plant Variety Protection (PVP) system for adoption in the country cannot be overstated. Despite its status as a public entity, the SCCI acknowledges external influences, particularly from commercial seed companies, urging them to align the legislation with UPOV91. Nevertheless, the institute expressed openness to consider the perspectives of farmers on this issue by hosting a stakeholder meeting (ZAAB,

2020). However, it seems unrealistic to expect that smallholder farmers and farmer organizations who are often underfunded and under-capacitated in terms of seed legislation and IPR laws can effectively counter the efforts of well-trained and experienced lobbyists in the matter in a face-to-face meeting. Interviewee Frances Davies, co-founder and coordinator of The Zambia Alliance for Agroecology and Biodiversity (ZAAB) also expressed concerns regarding the amendment of a Plant Breeder's rights law in Zambia, as the influence of AGRA and UPOV, together with a section of in the Ministry of Agriculture advocating for UPOV91, is strong.

In contrast to the previous two countries, Tanzania already joined UPOV91 in 2015. This step may be tied to the country's participation in the above-mentioned development project The New Alliance for Food Security and Nutrition in Africa (NAFSN), launched in May 2012 under the auspices of the G8. The NAFSN is rooted in the principles of the Green Revolution and seeks to attract private investment in agriculture with the goal of creating conditions to enhance agricultural productivity and develop the participating countries' agribusiness sector (De Schutter, 2015). As part of its involvement in this initiative, Tanzania adopted a country cooperation framework, which outline its policy commitments. Among these commitments is the adoption of UPOV91, as articulated in the framework:

''Revised Seed Act that aligns plant breeder's rights with the International Union for the Protection of New Varieties of Plants (UPOV) system; facilitating the release of new varieties of imported seeds from outside the region; qualified private sector companies authorized to produce foundation seed under proper supervision and testing'' (De Schutter, 2015 p.42).

This governmental commitment in Tanzania occurs within a political

context where President Magufuli and his administration persisted in the predecessor's initiative of modernizing agriculture through the implementation of public-private partnerships, attracting foreign investment, and fostering commercial collaborations (Moore, 2018). As highlighted by interviewee Sabrina Masujila, researcher at the African Center for Biodiversity, the Green Revolution paradigm was already well established as the route for future agricultural reforms in Tanzania, being one of the target countries of AGRA for a decade. Therefore, Masujila claimed that the accession to UPOV91 was already planned by the government, even before the commitment to the NAFSN: ''When we were doing our study and we're talking to governments, they are saying this was already in our plan, this was already endorsed by the parliament, even before we joined the NAFSN''. Interviewee Abdallah Mkindi also pointed out that, added to the promises made by UPOV and Western countries about the benefits of UPOV91, this governmental trend to ratify the Convention was also driven by the influence of the former head of the plant breeder's unit at the Ministry of Agriculture in Tanzania, who later became the President of the Administrative and Legal Committee of UPOV.

5.3 Summary of findings and visualization

So far, the objective of this section has been to illustrate how Sub-Saharan African (SSA) countries might have faced pressure to ratify or move towards the UPOV91 system. The visualization in Figure 2 bellow illustrates how these influences impact the decision-making regarding UPOV membership, with the size of the arrows indicating the perceived importance of each influence. However, the prevalence of these influences varies among countries in the region, shaped by factors such as post-colonial ties, ruling elites, the role of CSOs and other country-specific factors. Two primary pathways for pressures towards joining UPOV were identified. Firstly, it occurs explicitly in the form of prerequisites for accessing other agreements, as depicted in the 'economic influence' (Figure 2) and represented by the case of Tanzania as part of the NAFSN project. Secondly, it operates indirectly through the ideational influence, permeating the approaches of local governments and compelling them to align with the UPOV agenda (Figure 2), represented by the case of Zambia and the role of the SCCI. Additionally, the interests of ruling elites have played a role in facilitating the introduction of the pro-UPOV narrative, as represented by the case of Benin.

Notably, the bulk of this influence emanates from powerful entities in the global economy today; Western country policymakers, international agribusiness leaders, and organizations specializing in international economic and intellectual property matters (OECD, the World Bank, WTO, WIPO, etc.) that also advocate for neoliberalist policies. They advocate for the UPOV91 adoption as part of the economic measures claimed to have propelled the so-called 'developed' countries' development, such as trade liberalization and robust intellectual property laws. However, applying these measures to SSA countries, where industrial agriculture is not as prevalent, has been widely criticized as premature. Authors like Chang (2019) emphasize that even 'developed' countries took a different path to development, widely employing protectionist policies to

nurture their infant industries and only implementing patent laws after their privileged economic position was secured (Chang, 2019). Therefore, the international influence for SSA countries to adopt the Western model represented by UPOV91 is deemed counterproductive, especially considering that the neoliberal policies currently promoted may be more a consequence of industrial development than a universal path to achieve it. Moreover, the consistent impact of one-sided influence means a loss of autonomy and sovereignty in the decision-making of local stakeholders. Thus, the importance of giving due consideration to dissenting voices from local stakeholders advocating for systems aligned with the region's interests and contexts becomes evident. At both regional and national levels, these stakeholders propose alternative courses of action that deviate from the dictates of the strong pro-UPOV influence.

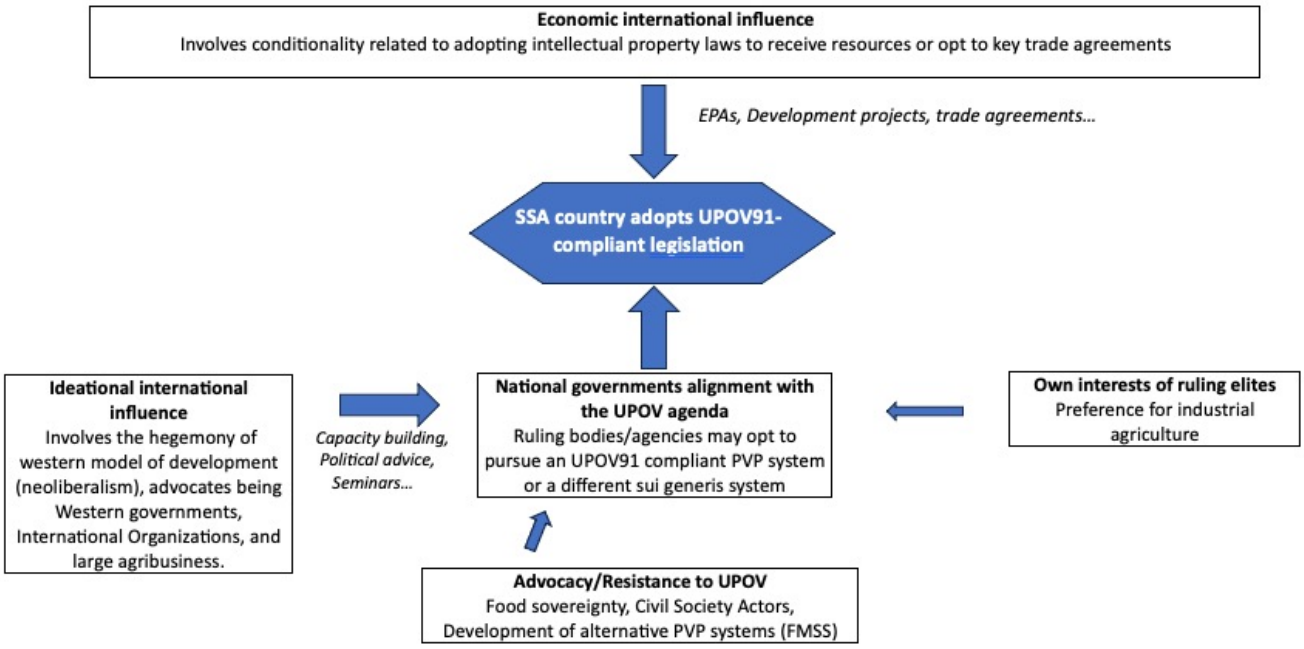


Figure 2: Visualization of influences on UPOV membership decision-making on SSA countries (Author's creation)

6. Recommandations

Having recognized the dynamics of influence permeating the decision-making process regarding adherence to UPOV91 in Sub-Saharan African (SSA) countries during the analysis, this section aims to transform these key findings into practical knowledge, offering recommendations and considerations that can serve as a guide for achieving a meaningful impact in the struggle for food sovereignty in the region.

(1) Oligopolies primarily based in rich western regions, effectively control global commercial seed production and agricultural inputs. And, as examined in this research, their influence has been focused on prompting SSA governments to institute laws that facilitate seed privatization. This observation brings to light a critical insight: the introduction of new market openings might not cultivate healthy competition and equal growth. On the contrary, it can create opportunities for the proliferation of monopoly powers with various social, ecological, economic, and political negative consequences, including increased dependence and vulnerability (Harvey, 2017). Therefore, it is crucial to prioritize local voices advocating for legislation that considers the rights of small local farmers and safeguards their primary means of livelihood. Alternative approaches, such as Farmer Managed Seed Systems (FMSS), developed by a broad alliance of local actors and farmer communities, aims to ensure the recognition and protection of farmers' rights to define rules based on their habits and customs within their communities. Given AFSA's current efforts in promoting FMSS, it is imperative to persist in these endeavors and continue disseminating the numerous advantages associated with it for the sustained advancement of food sovereignty within the region. Emphasizing the alignment of FMSS with broader agreements and declarations—such as the Convention on Biological Diversity (CBD), the United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas (UNDROP), and the International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA)—which have garnered more African members or signatories than UPOV91, further underscores the significance of this approach for the sustained progress of food sovereignty.

(2) In this context, seems crucial to debate this issue in an inclusive and diverse platform, including farmer communities and Civil Society Organizations (CSOs). It is necessary the democratization of the debate. The hegemony of IP- specialists and technocratic voices acts as a bottleneck, preventing the consideration of crucial aspects affected by these decisions, such as social, political, or economic rights. This debate should be public and political to balance different types of expertise and avoid monopolizing it with pro-IP actors. It is about working to ensure that decisions concerned with UPOV91 membership are made freely and informed. In light of AFSA's substantial network of Civil Society Organizations (CSOs), it is strongly recommended that AFSA enhances its role as a robust representative of the local farming community and their interests, particularly in matters related to seed legislation and seed systems. Strengthening this representation is crucial for ensuring that the perspectives and needs of the local farming community are given due consideration in discussions and decisions pertaining to seed-related issues. By actively asserting this role, AFSA can play a pivotal part in advocating for po-

licies and approaches that align with the well-being and sustainability of local farmers within the context of seed legislation and systems. Alongside this, it also seems pertinent to conduct independent studies to assess the potential benefits of these legislations in the context of the respective country.

(3) We must not underestimate the risk posed by the loss of germplasm biodiversity. This is a priority on the international agenda to ensure the protection of biodiversity and climate resilience through adaptable crops, nutritional quality provided by variety, and the conservation of ancestral seeds with significant cultural value. The same applies to the conservation of soil and water health, crucial globally at this moment. Considering this, a specific recommendation for AFSA is to further emphasize and articulate the implications of this risk. AFSA should actively engage in problematizing the potential consequences, elucidating why it is imperative for the global population to protect the germplasm of traditional seeds. By deepening the discourse on this issue, AFSA can highlight the significance of preserving biodiversity for global priorities such as climate resilience, adaptable crops, nutritional quality provided by diverse varieties, and the conservation of ancestral seeds with substantial cultural value. Elevating awareness of these interconnected issues reinforces the urgency of prioritizing seed conservation and strengthens AFSA's advocacy for sustainable agricultural practices.

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