

Property Rights Regimes and Plant Genetic Resources in Cuba, India, and the U.S.

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I. Project Description

This research is a comparison and analysis of property rights regimes related to plant genetic resources in the agricultural sector in the United States, Cuba, and India. It is motivated by the recent proliferation of international and domestic agreements and decisions related to the privatization and patenting of plant genetic resources. The United States, Cuba, and India represent three distinctly different legal structures and movements regarding these resources: the United States with an established private property rights regime, Cuba with significant publicly-funded organic agriculture and biotechnology research sectors, and India in a state of highly accelerated and publicly debated liberalization, including the privatization of resources and the strengthening of intellectual property regimes.

The research is based in part on a significant literature review, including historical, legal, and anthropological accounts of shifts in legal thought and agriculture in the three target countries and contemporary theory and practical analysis related to the development of intellectual property law and legal thought in this sector and the movements which have grown up around it. It is also based on fieldwork in each of the three countries, including interviews with multinational and domestic seed companies, farmers' cooperatives, life sciences research institutions, government regulatory agencies, plant breeders, think tanks, patent lawyers, industrial agricultural businesses, and activists.

The final product seeks to integrate discussion of the development and globalization of intellectual property law and legal thought related to seeds used in food agriculture with reference to the concurrent changes in the organizational, technical, and institutional aspects of agricultural production. It uses the United States, Cuba, and India as specific points of analysis within the larger framework of the globalization story in a cross-country comparison, providing the basis for an analysis of the interests reflected within international and domestic intellectual property regimes as well as the contemporary farmers' rights and commons movements' efforts to change the landscape of intellectual property over seeds in these three countries, with a focus on the movements' use of the concepts of tradition and farmers' rights. Recommendations are then made for potential alterations in the strategies implemented in order to achieve shifts in intellectual property rules related to seeds.

II. Activities Funded by the TIE Fellowship

The TIE fellowship, along with other smaller grants I had secured, funded a large portion of my Summer 2006 and 2006-2007 field research, including the transportation, lodging, and meals necessary to conduct interviews and other research in Cuba, the U.S., and India. This fieldwork included procurement of further literature as well as interviews with representatives from the following organizations (this is not an exhaustive list, but serves to demonstrate the types of actors who were included in the research):

Delhi, India	Lok Sabha committee on the Seed Bill Indian Agricultural Research Institute, Seed Science & Technology Division Research & Information System Indian Council of Agricultural Research Genetic Engineering Approval Committee, Ministry of Environment & Forests Seed Association of India Department of Industrial Development National Bureau of Plant Genetic Resources Genetic Resources Action International Gene Campaign National Working Group on Patent Laws Private domestic seed companies (anonymous) National Institute of Science, Technology & Development Studies National Seed Corporation Government of India Patent Office Department of Biotechnology
Bangalore, India	Green Foundation National Law School Greenpeace Alternative Law Forum Indian Institute of Science
Hyderabad, India	Several private domestic and multinational seed companies (anonymous) Deccan Development Society Center for Sustainable Agriculture Farmers' union Several rural villages surrounding Hyderabad (anonymous)
Raichur, India	Several rural villages surrounding Raichur (anonymous)
Ranchi, India	Gene Campaign

	Numerous rural villages surrounding Ranchi (anonymous)
Havana, Cuba and outskirts	University of Havana Law School, Intellectual Property Department Oxfam International Cuban Office of Industrial Property (OCPI) Ministry of Science, Technology, and the Environment (CITMA) Ministry of Agriculture Several urban farmers (anonymous) National Institute of Agricultural Sciences (INCA) National Association of Small Farmers (ANAP) Several farming cooperatives on the outskirts of Havana (anonymous)

I spent the 2006-2007 academic year conducting the U.S.-based research, which has included interviews with representatives from organizations such as the Missouri Farm Bureau, the Donald Danforth Plant Science Center, several Missouri farmers of different scale, the Washington University Office of Technology Management, Washington University plant breeders, Cornell University College of Agriculture and Life Sciences Biotechnology program, farmers in upstate New York, Cornell University Department of Life Sciences, the New York Seed Improvement Program, and partners of Earthbound Farms.

I have also conducted a more extensive literature review for some subjects in order to present a detailed historical perspective of the globalization of intellectual property in agriculture in the three countries, which had not been part of the initial proposal but seemed necessary in order to provide context and a well-founded critique.

III. Final Product

This summer, I have been working on initial written drafts of a final paper integrating the literature with my field research, which when completed will be presented to partners in the field and in fulfillment of the thesis and written work requirements at The Fletcher School and Harvard Law School, both of which are graduation requirements. I recently workshopped an initial draft at Harvard Law School, and expect that the paper will go through several drafts in order to be finished by the end of this academic year, after which I will seek to publish the paper.

The paper presents significant historical detail and qualitative interview data, which provide the basis for a rather deep critique of the interests reflected within intellectual property debates, the concepts and identities that have been created within the debate, and the resulting use of energy, time, and resources on resisting strong intellectual property rules rather than pursuing the underlying goals of those who are “anti-IP,” such as environmental sustainability, economic justice, and genetic conservation. I expect that it will contribute to both the literature that exists on the subject as well as the movements which have been created around it.

EXPENDITURES

Cuba/India (Summer 2006)

Int'l Airfare:	\$3700
Visa Fees:	\$275
Vaccinations/Medications:	\$810
	Japanese encephalitis: \$285 (3 shots at \$95)
	Malaria prophylaxis: \$525 (12 weeks)
Health Insurance:	\$1000
Local Transportation:	\$825
	Cuba: \$150 (bus, taxis)
	India: \$675 (bus, train, rickshaws, taxis, domestic flights)
Translation (India):	\$200
Food:	Approximately \$1125
	Cuba: appx. \$15/day (30 days)
	India: appx. \$15/day (45 days)
Lodging:	Approximately \$1425
	Cuba: \$25/day (30 days in home stay)
	India: appx. \$15/day (20 days in home stay, 25 days in budget hotel)

United States (2006-2007 academic year)

Domestic Travel:	Approximately \$1300
	Air: Boston – St. Louis, Buffalo-New York
	Train: Boston – New York
	Rental car: St. Louis – Columbia, MO – St. Louis, Boston – Ithaca – Boston
Lodging:	Approximately \$710
	Missouri: \$70/day (5 days in budget hotel)
	Ithaca: \$90/day (2 days in hotel)
	Buffalo: \$90/day (2 days in airport hotel)
TOTAL:	Appx. \$11,370
	\$4890 funded by TIE

The following expenditures diverge from the original budget:

*Visa fees for Cuba were more expensive than anticipated, as I was required to go through a travel agent in order to obtain the visa.

*Vaccinations were also more expensive than anticipated.

*Food in Cuba was less expensive than anticipated, as I was able to negotiate with my host family to provide most meals.

*I ended up taking three domestic flights in India in order to visit areas in the country where I was able to secure interviews that I thought would contribute significantly to the research. This increased my local transportation expenditures in India.

*The government rate for home stays in Cuba had increased, so home stays were \$25 per day rather than \$15 per day.

*My interviews in rural areas near Hyderabad, India required a reliable translator; the translation services I had expected to use either cheaply or for free turned out to be insufficient. As a result, I hired a professional translator for several days to assist me with the interviews.

*Domestic travel and lodging within the United States was generally less expensive than expected, as I was able to consolidate some of the interviews and do some over the phone. Some additional expenses were added, however, due to flight delays and resulting missed connections in Buffalo on the way to India, forcing me to purchase an additional domestic ticket and pay for a hotel.

*I went on private health insurance during the second semester of the school year, which I decided to continue throughout the summer for personal health reasons. I had originally not anticipated doing this, so it increased my summer budget by \$1000.