Submission from Malaysian organizations on "Concentration of corporate power in global food systems and its implications for the realization of the right to food"

CSO Response to
https://www.ohchr.org/en/calls-for-input/2025/call-input-concentration-corporate-power-global-food-systems-and-its

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RESISTING CORPORATE CAPTURE OF MALAYSIA'S FOOD SYSTEM

Q1. Malaysia's scenario is one of:

A. Disproportionate land use for commodities and an over-reliance on imports and industry for food and seed security;
B. A "technology"-driven industrial production view of food security by the Ministry of Agriculture and Food Security (MOA) that focuses on technical solutions, external investment and digitalisation of the sector. In this regard, among other things, the MOA sees UPOV 1991 and seed certification or quality legislation as necessary;
C. Corporate monopoly in Malaysia's staple crop, rice;
D. Lack of meaningful recognition of the role of farmers and indigenous peoples as guardians of seed and other biodiversity, their rights and knowledge (traditional and adaptive) in agricultural policy, leading to lack of support for their growth and even marginalisation of their practices and contribution to the nation's food sovereignty.

A. OVERVIEW: DISPROPORTIONATE LAND USE AND OVER-RELIANCE ON COMMODITIES AND IMPORTS

Malaysia's agricultural sector is heavily skewed toward commodity crops which dominate land use and economic output. In 2024, out of 7.5 million hectares of agricultural land, 5.8 million were dedicated to oil palm and 700,000 to rubber, while food crops, mainly rice, occupied only 500,000 hectares.[1] The result is a reliance on imports for food and seeds, particularly vegetables, fruits and livestock, as domestic production cannot meet national demand.

Commodity production is mainly operated by large companies, such as Sime Darby, a Malaysian government linked company. Figures in 2017 show that there are 921,931 registered farmers in Malaysia, especially in rice cultivation, where they produce around 70% of the country's domestic needs. In addition, fruit farmers in Malaysia produce around 77.5% of the country's domestic fruits needs while vegetable farmers currently produce around 46.6% of Malaysia's vegetable needs.[2] Malaysia has not achieved full self-sufficiency in any of these categories. The sector faces additional challenges, including land insecurity, shrinking plot sizes, climate change impacts and an aging farming population given the lack of incentive for the young to farm—nearly half of all farmers are over 60 years old.[3]

A 2019 report by the Malaysian Competition Commission[4] highlighted increasing food imports, high market concentration at the importer and wholesaler levels, and potentially collusive practices that limit competition, requiring regulatory attention.

Clearly, there is a need to focus on developing and diversifying domestic production towards a more sustainable and resilient sector and for Malaysia's food security. Malaysia's agricultural policies must be reoriented to prioritise farmers' rights, empower smallholders, and promote sustainable, equitable agricultural development while also preserving cultural heritage that is inextricably linked to biodiversity and farm practices.

B. A PRO-INDUSTRY APPROACH, UPOV 1991 AND SEED CERTIFICATION / QUALITY LEGISLATION

Malaysia imports almost 90% of its non-commodity seeds (except for local rice varieties and some

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[1] https://www.thestar.com.my/news/nation/2025/06/01/age-not-the-only-factor-behind-moribund-farms
[2] https://www.twn.my/title2/books/Potential_Impact_UPOV_Malaysia.htm
[3] https://www.thestar.com.my/news/nation/2025/05/30/ageing-farmers-a-worrying-trend
[4] https://www.mycc.gov.my/market-review/final-report-market-review-on-food-sector-under-competition-act-2010

fruits)[5]. MOA pursues a production-oriented, pro-industry strategy. It aims to modernise agriculture through technical innovation, digitalisation, and by positioning Malaysia as a regional seed hub.[6] As part of this, MOA is drafting the Crop Seed Quality Bill[7] (KBT Bill)[8] and preparing to accede to UPOV 1991, which is TRIPS plus[9]. UPOV 1991 maximises intellectual property rights over new plant varieties of institutional breeders [10] at the expense of farmers' rights over seeds.

The **KBT Bill** would require anyone processing, distributing, or selling seeds to obtain a license, submit samples for laboratory testing, and face heavy penalties for non-compliance. Farmers and civil society organisations (CSOs) fear the Bill will:
(i) Restrict farmers' traditional rights to freely share, exchange and sell seeds among family, community and the public, criminalising these traditional practices;
(ii) Increase costs for farmers due to license fees and laboratory tests;
(iii) Strengthen the monopoly of seed companies by mandating the use of only approved seeds, with compliance requirements that only industry can meet, further marginalising traditional seed varieties and push farmers into dependency on expensive, proprietary seeds;
(iv) Pose a significant threat to the livelihoods and cultural heritage of indigenous farmers in Malaysia, who have long relied on saved and shared seeds ;
(v) Threaten Malaysia's food sovereignty by promoting corporate control over the seed industry, undermining the autonomy of small farmers and deprioritising small scale farming. This dependency on domestic and increasingly multinational corporations could weaken community and national control over food systems and jeopardise the country's ability to ensure food security for its citizens;
(vi) Lead to monoculture farming with its promotion of approved corporated-developed seeds, posing significant ecological risks, reducing biodiversity, making crops more susceptible to diseases and pests, and ultimately threatening food security; and
(vii) Lead to further environmental degradation by the extensive use of pesticides and chemical fertilisers that accompany the growing of commercial hybrid and genetically engineered or modified seeds.
CSOs, farmers, and indigenous groups oppose these top-down measures, questioning the Bill's fundamental assumptions and citing a lack of transparency, insufficient meaningful public consultation, and inadequate regulatory and human rights impact assessments.[11]

By joining **UPOV 1991,** developing countries like Malaysia will face serious impacts that are well documented. Its unsuitability for Malaysia's seed sector is detailed in a report on "The potential impact of UPOV 1991 on the Malaysian Seed Sector, Farmers and their Practices". [12]

Malaysia's current Protection of New Plant Varieties Act (PNPV) 2004[13], which establishes the country's plant variety protection (PVP) system, is frequently referred to as balanced and a model sui generis TRIPS-compliant law. As a net intellectual property (IP) importer, TRIPS-plus obligations mean longer and more IP monopolies and consequently higher royalty payments, to the detriment of Malaysia's economy

[5] https://www.twn.my/title2/books/Potential_Impact_UPOV_Malaysia.htm
[6] https://www.bernama.com/en/news.php?id=2430108
[7] or *Rang Undang-undang Kualiti Benih Tanaman* in the Bahasa Melayu language
[8] https://www.facebook.com/share/1BfMn6X7wA/
[9] i.e. it contains provisions going beyond the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS)
[10] https://consumer.org.my/wp-content/uploads/2025/06/CAP-memorandum-on-MEEPA-IP-Annex_June-2025.pdf
[11] https://foe-malaysia.org/articles/groups-urge-government-to-stop-the-tabling-of-the-crop-plant-seed-quality-bill-in-parliament/;
[12] https://www.twn.my/title2/books/Potential_Impact_UPOV_Malaysia.htm
[13] https://faolex.fao.org/docs/pdf/mal47516.pdf

and farmers' rights. Agreeing to TRIPS-plus commitments in trade agreements also ties the hands of the Malaysian government, limiting its ability to adapt national laws/regulations in Malaysia to address new challenges and opportunities as well as to meet national development needs. Some of the important characteristics of the PNPV Act 2004 are:

(i) Recognition and protection of contributions made by local farmers and indigenous peoples to the development of new varieties of plants through different registration criteria for protection of their new varieties;

(ii) Provisions that operationalise the rights of Malaysia under the Convention on Biodiversity (CBD) to prevent biopiracy and facilitate fair and equitable sharing of benefits and implement biosafety legislation;

(iii) Restrictions on plant breeders' rights so as to not affect non-commercial uses and small farmers' practices of cultivating their own land with farm-saved seeds/propagating materials, in accordance with the implementation of Farmers' Rights under the International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA); and

(iv) Use of compulsory licence to ensure the availability of seeds or propagating materials.

The Act's distinctiveness has not affected its operation and use. The existing PVP system is utilised by a variety of actors, including local and foreign companies and research institutions. Under the UPOV's Secretariat's review of Malaysia's law, the above provisions would have to be removed or severely curtailed if Malaysia were to accede to UPOV 1991. Malaysia is constantly being pressured to join UPOV 1991 through free trade agreements (FTAs) and the East Asia Plant Variety Protection Forum (EAPVPF)[14]. EAPVP, primarily driven and funded by Japan, aims to establish a regional plant variety protection (PVP) system aligned with the UPOV 1991 and to harmonise application and examination procedures across East Asia. While PVP offices of ASEAN (Southeast Asian countries) participate and may benefit from information exchange, the forum largely represents the interests of major seed corporations, as reflected by the involvement of international industry and government entities.[15]

A key concern is that the EAPVPF is pressuring ASEAN countries to adopt UPOV 1991 through a regional process that bypasses domestic consultation and national decision-making, undermining national sovereignty. Most Southeast Asian countries (except Vietnam) have non-UPOV 1991 systems and face domestic opposition to UPOV. The forum's approach risks overriding national laws and policies, and excludes critical stakeholders—particularly farmers—from the decision-making process. The debate over adopting UPOV 1991 should occur at the national level with full stakeholder involvement, rather than being driven by external or regional interests that favour corporations.

Global seed and input supply is dominated by a few transnational corporations like Syngenta, Bayer, BASF, and Corteva[16], which are capable of controlling agricultural research, trade agreements, and policies, promoting their technologies as solutions to increase yields and address hunger[17]. Some operate in Malaysia, partnering with government institutions. The Malaysian government must maintain autonomy, implementing policies and regulatory frameworks to address corporate power, market concentration, unfair competition, and impacts on farmers and consumers. This framework should ensure transparency, accountability, and sustainability, while preventing digital agriculture's reliance on proprietary technologies like modified seeds, synthetic fertilizers, and AI tools from deepening dependency.

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[14] Please see https://www.twn.my/title2/books/EAPVP_Forum_and_UPOV_1991.htm for a critical examination of the EAPVP.

[15] The East Asia Plant Variety Protection Forum

[16] https://www.etcgroup.org/content/food-barons-2022

[17] https://www.panna.org/resources/corporate-science

C: CORPORATE MONOPOLY IN MALAYSIA'S RICE SECTOR

Rice has been a staple in Malaysia for centuries, but the rice seed sector has been tightly controlled since the 1960s.[18] Only nine licensed companies can produce subsidised paddy seed, with government approval required for each variety. Farmers can purchase subsidised certified seeds. The Policy Committee on Government Assistance to the Paddy and Rice Industry, which decides on which paddy seed varieties are allowed to be produced and distributed to farmers, released 53 rice varieties from 1964 to 2021. As of December 2020, 17 rice varieties have been granted plant breeders' rights protection but every season usually only three to four protected varieties are available in the local market at one time. The system is prone to exploitation by private companies, leading to monopolistic practices and price manipulation. In February 2025, the Prime Minister of Malaysia instructed that MOA address complaints from farmers on the poor quality of government-subsidised certified rice seeds.[19]

Farmers face frequent shortages, late seed deliveries, and pressure to use certain varieties that are profitable for the downstream industry players (such as MR220 CL2[20], which requires specific herbicides). Since 2023, various costs have skyrocketed, including (i) paddy seed costs which have increased sharply from RM45 (USD10.56) in 2023 to RM58 (USD13.62) per 20kg, (ii) ploughing and harvesting costs due to the cancellation of diesel subsidies, (iii) land rental costs; and (iv) chemical pesticide costs that have risen to almost 4 times more compared to prices 2 years ago. With an average rice field size of 1.3 hectares (average rice field area per individual), the income of the paddy farmers is only around RM469.35 (USD110.65) per month, far below the minimum wage of workers in other sectors.

In response, some farmers are returning to traditional seed varieties saving, exchange, and ecological farming methods. Agroecology and natural farming are gaining recognition, particularly among younger farmers.

D. POOR RECOGNITION OF FARMERS' AND INDIGENOUS PEOPLES' RIGHTS

Farmers and indigenous peoples are the original custodians of genetic resources, biodiversity, and agricultural innovation, yet they face declining support despite sustaining societies for centuries. In Malaysia, they are losing lands, livelihoods, cultural heritage, and traditional knowledge. Internationally recognized rights to resources and productive capacities including to save, use, exchange, and sell seeds must be protected locally to maintain diverse, resilient food systems. The government should avoid restrictive intellectual property regimes like UPOV 1991 and seed certification schemes that criminalize traditional seed practices and concentrate control in multinational corporations' hands.

Policies and laws must strengthen frameworks protecting farmers' and indigenous rights, prevent biopiracy, and ensure access to diverse seeds. They should integrate social, economic, and environmental goals, emphasizing food security, nutrition, climate resilience, and indigenous and smallholder livelihoods and welfare. This includes adopting agroecology, supporting biodiversity, and involving farmers and indigenous peoples in decision-making. Public investment should prioritize

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[18] The primary legislation is the Control of Padi and Rice Act 1994

[19] https://www.nst.com.my/news/nation/2025/02/1181390/update-pm-orders-agriculture-ministry-improve-padi-seeds-quality#google_vignette

[20] MR220 CL2 has become the most widely planted rice variety in Malaysia, covering 44.60% or approximately 119,670 ha of the total planted rice area during the main planting season of 2017/2018. This protected variety owned by MARDI is based on BASF's Clearfield Rice Technology to prevent weedy rice. (The terms of the agreement between MARDI and BASF are not known.) There are not many other varieties to choose from since most of the suppliers only sell MR220 CL2 as a priority, because of its higher profit margin due to the seed being packaged with the specific herbicide, a product of BASF, promoted by the Seri Merbok company. See chapter 6 of https://www.twn.my/title2/books/pdf/Potential%20Impact%20UPOV%20Malaysia.pdf

research benefiting smallholders and respecting indigenous knowledge, rather than focusing solely on industrial monocultures or privately controlled digital agriculture.

Malaysia's smallholder farmers, who produce much of the country's food, face systemic challenges such as insecure land tenure, limited credit, poor infrastructure, and market exclusion. FKMM calls for securing land rights, providing affordable credit and agroecology-based extension services, and investing in rural infrastructure. It advocates diversified farming, preventing monopolies, supporting local seed systems, and farmer cooperatives. The Federal Government should ensure direct market access, fair pricing, and transparent supply chains, for producers, while State Governments must uphold small farmers' and indigenous peoples' land and tenure rights.

Malaysia's Federal Constitution does not explicitly mention farmers' rights at present. Although this right is encompassed within Article 5 on the right to life, which includes the right to livelihood, farmers rights and the right to food should be strengthened by express mention within the Constitution. This would reflect the implementation of Malaysia's obligations under Article 9 of the ITPGRFA (Farmers' Rights). Express mention should also be included for a right to a clean and healthy environment.

Q2. FKMM (which is made up of a coalition of civil society and farmer organisations) launched the Community Seed Reserve Initiative (Inisiatif Rizab Benih Komuniti - IRBK) which seeks to empower farmers by revitalising the traditional practices of seed saving, sharing, and exchange to protect agricultural heritage and biodiversity. IRBK supports farmers' rights to control their seeds, countering restrictive intellectual property regimes and regressive laws which lead to dependence on commercial seeds tied to pesticides and corporate control. By documenting seed guardians and preserving nearly 2,000 crop varieties so far, the initiative strengthens local seed systems, enhances resilience to climate change, and promotes food sovereignty. It also fosters community education and participation, ensuring smallholder farmers maintain diverse, locally adapted seeds that underpin Malaysia's food security, whilst enhancing sustainable agriculture through agroecological practices.[21]

Q3. Please see answers under question 1 above
Q4. Please see answers under question 1(D) above
Q5. -
Q6. -

Q7. Organizations like FKMM were often invited to "consultation sessions" that functioned more as one-way briefings than genuine dialogues. These sessions mainly featured government or corporate presentations with little opportunity for meaningful civil society organizations (CSOs) participation. Large participant numbers and limited time prevented genuine and in-depth discussion and alternative viewpoints. Agendas were rigid, preventing CSOs from raising critical issues. Invitations appeared to create an illusion of consultation to legitimize pre-made decisions. Additionally, there was a lack of transparent follow-up or feedback, with CSO inputs rarely reflected in final policies, discouraging future engagement. Information was often incomplete, last-minute, and insufficient for informed responses, further skewing power toward the organizers.

Q8. -

[21] https://www.benihkomuniti.com/en