

FORUM KESELAMATAN DAN KEDAULATAN MAKANAN MALAYSIA

MALAYSIA FOOD SECURITY AND SOVEREIGNTY FORUM



FARMERS AND CIVIL SOCIETY ORGANISATIONS' MEMORANDUM ON THE PROPOSED NEW SEED BILL 2019

8 May 2019

Farmers and civil society organisations are very anxious that the finalised new Seed Bill which is in the process of being tabled in Parliament would deny the rights of farmers and affect crop biodiversity as stated in the following treaties, agreements and international conventions signed and ratified by Malaysia:

- I. Convention on Biological Diversity 1992 (CBD)¹;
- II. Nagoya Protocol on Access and Benefit Sharing²;
- III. International Treaty on Plant Genetic Resources for Food and Agriculture 2001 (ITPGRFA)³;
- IV. UN Declaration on the Rights of Indigenous Peoples (UNDRIP)⁴, and
- V. UN Declaration on the Rights of Peasants and Other People Working in Rural Areas 2018⁵.

We strongly request that the current drafting process must be immediately halted until all interested parties are consulted and consensus reached. Any introduction to such laws must not be in conflict but rather uphold the principles and objectives of the international framework stated above.

On 16 September 2018, Datuk Mohd. Sallehuddin Hassan, the Secretary-General of the Ministry of Agriculture and Agro Based Industry announced that the government had already studied and proposed 3 Bills related to fertilisers, crop seed quality and plant biosecurity⁶. He explained that the process will be brought to Cabinet and then to the Attorney General's Chambers for checking and revision before being sent back to the Cabinet for recommendation for tabling the same in Parliament. On 08 April 2019, YB Datuk Salahuddin Ayob, the Minister for Agriculture and Agro Based Industry confirmed through a press statement that the Seed Crop Bill is being drafted to control and deal with the distribution of the widely available illegal paddy seeds in the market⁷ and will be tabled in Parliament at the end of the consultation process with all other agencies.

We support the government's move to ensure that quality seeds free from diseases are supplied and planted by farmers. However, our research and information in relation to laws on seed certification in other countries, raise a number concerns, including;

- I. Seed laws prohibit the practice of saving/collecting/keeping, exchanging and selling of crop seeds by farmers. This practice has been common amongst farmers in Malaysia for a long time. The infliction of a fine and imprisonment for a common practice such as this is a persecution on farmers and this could trigger protests and objections as in Indonesia. Between 2004 and 2010, there were 14 such cases in Indonesia⁸. In 2013, the

Indonesian Constitutional Court ruled that the 1992 Plant Cultivation Law that prohibited the saving/collecting/keeping, exchanging and the selling of seeds was unconstitutional and that the farmers no longer needed permission to collect seeds, reproduce or distribute them.

- II. Seed laws make it compulsory for farmers, seed breeders and seed producers to conduct lab tests, apply for certification and register the said seeds in line with certain pre conditions that have been determined prior to the planting and marketing of the same. In Europe, only seeds listed in the EU Common Catalogues are allowed to be sold⁹. This encourages the practice of monoculture agriculture where there will be a reduction in the varieties introduced in the market as time goes by and will at once discriminate against variety diversity of seeds and farming systems, destroy biodiversity, risk local and the world's food production. This is because the risk of the presence of weeds, pests and new diseases are higher in a monoculture cultivation setting.
- III. The annual compulsory seed registration process based on the seed being distinct, uniform and stable and the lab tests process called Value for Cultivation and Use (VCU) will increase the seed cost production and will eventually increase the market price of seeds¹⁰.
- IV. It will be the big corporations that will control the seed system in Malaysia. They will test the variety, prepare the basic seed, produce the seed, plan the seed production with the local agency, prepare the training module on the practice of seed production and cultivation management, give advice on the control of seed quality, process and save seeds, as well as distribute and sell seeds. Public funds for research and development for agriculture has been reduced over the years where not enough recognition has been attributed to farmers on their role of conserving and usage of seeds. What is more unfortunate is that government funds are used to subsidise this private seed system and discriminate local seed system. This would eventually reduce the important role of farmers in the agriculture sector.
- V Farmers would lose their freedom and right to determine their own seed selection system and food production. There will be limited selection of seeds in the market and farmers would have to comply with every single condition and system determined by seed corporations. Our national food supply guarantee system would increasingly be dependent on other countries who produce a lot of new seeds.

Farmers' traditional varieties and the role of smallholder farmers have been recognised by the Food and Agriculture Organisation (FAO), ITPGRFA, CBD and the declarations of the United Nations mentioned above.

Article 8 (j) of the **CBD** requires each contracting party to respect, preserve and maintain knowledge, innovations and practices of indigenous and local communities and encourages the equitable sharing of the benefits arising from the utilisation of such knowledge, innovations and practices¹.

Article 6 of the **ITPGRFA** requires each contracting party to develop and maintain appropriate policy and legal measures that promote the sustainable use of plant genetic resources for food and agriculture including supporting the development and maintenance of diverse farming systems, encouraging the participation of many parties in plant breeding efforts, strengthening the capacity to develop varieties particularly adaptable to social,

economic and ecological conditions, as well as increasing the range of genetic diversity and others³.

Article 9 of the **ITPGRFA** states that the government is responsible for protecting and promoting farmers' rights including the right to save, use, exchange and sell seeds from their farms. The government is also responsible for farmers retaining their traditional knowledge and their right to equitably participate in the sharing of benefits arising from the utilisation of plant genetic resources for food and agriculture³.

The **UN Declaration on the Rights of Peasants** adopted by the Human Rights Council and the UN General Assembly requires all countries "to take steps to respect, protect and fulfil the rights of farmers and other people working in rural areas" wherein this includes the rights of farmers. This declaration requires Malaysia to fully retain her policy space for the government to implement any relevant actions⁵.

Hence, we urgently request that this ministry makes the Seed Crop Bill public and consult with organisations who have been working with farmers in Peninsular Malaysia, Sabah and Sarawak as well as farmers themselves before this Bill can be tabled in Parliament. We assert that the introduction of any law for farmers must take into account their wellbeing and the nation's food sovereignty without them having to sacrifice their rights and freedom in relation to seeds and their traditional agriculture system. To ensure that this matter will be fully implemented, the farmers must be directly involved in all decision making processes.

Supported by;

1. Angkatan Belia Islam Malaysia (ABIM)
2. Angkatan Gerak Minda Malaysia (AGRA)
3. Badan Bertindak Pesawah MADA
4. Badan Bertindak Selamatkan Industri Padi Dan Beras Malaysia (Padi Rescue)
5. Blindspots
6. Center for Human Right Research & Advocacy (CENTHRA)
7. Ecolnight
8. Gerakan Rakyat Marhain (MARHAIN)
9. Grup Sukarelawan Darul Ehsan
10. Jaringan Kampung Orang Asli Semenanjung Malaysia (JKOASM)
11. Jaringan Rakyat Tertindas (JERIT)
12. Koperasi Petani Tambatoun (KOPETA)
13. Kelab Pendidikan Dan Pemeliharaan Alam Lebah Bujang Lestari
14. Majlis Perundingan Islam Malaysia (MAPIM)
15. Majlis Tindakan Ekonomi Melayu (MTEM)
16. Malaysian Institute of Sustainable Agriculture
17. MiM Humanitarian - Rice & Roses
18. Parti Sosialis Malaysia
19. Partners Of Community Organization (PACOS)
20. Persatuan Agroekologi Malaysia (SRI-Mas)
21. Persatuan Aktivis Sahabat Alam (KUASA)
22. Persatuan Alam Sekitar Sejahtera Malaysia (GRASS MALAYSIA)
23. Persatuan Iban Marudi, Baram Sarawak(PIMB)
24. Persatuan Keusahawanan Asas Tani dan Penternakan Kerian (PAKAT)
25. Persatuan Melayu Marudi (PMM)
26. Persatuan Niagakawi Langkawi

27. Persatuan Pendidikan Dan Kebajikan Jaringan Nelayan Pantai Malaysia (JARING)
28. Persatuan Penduduk kampung Long Pilah Telang Usan Miri (PPKLPTUM)
29. Persatuan Penduduk Kampung long Daloh Sg Patah Baram (PPKLDSPB)
30. Persatuan penduduk Kampung Long Luyim, Sg.Pelutan Baram (PPKLLSPB)
31. Persatuan Penduduk Kampung Long Miri Baram (PPKLMB)
32. Persatuan Penduduk Kampung Long Tepen, Pelutan Baram(PPKLTPB)
33. Persatuan Penduduk Kampung Sg Senga Sebauh Bintulu Sarawak (PPKSS)
34. Persatuan Penduduk Kampung Sungai Peking Tinjar (PPSPT)
35. Persatuan Penduduk Kampung Uma Bawang
36. Persatuan Penduduk Rumah Labang Nanga Seridan Tinjar Beluru Miri (PPRLNSTBM)
37. Persatuan Penduduk Rumah Lachi Anak Bikang Sebatuk Baru, Suai Niah
38. Persatuan Penduduk Rumah Sengok Sg Binyok Pandan Sebauh Bintulu (PPRSBPSB)
39. Persatuan Penduduk Sg Malikat Marudi Baram (PPSMMB)
40. Persatuan Penduduk Sungai Buri Bakong Marudi (PPSBMM)
41. Persatuan Penduduk Sungai Linei Tutoh
42. Persatuan Penduduk Sungai Satai Bintulu
43. Persatuan Penduduk Sungai Tarak, Lubok Amam, Marudi (PPSTLA)
44. Persatuan Pengguna Pulau Pinang (CAP)
45. Persatuan Pengusaha Padi Wangi Negeri Kelantan
46. Persatuan Persaudaraan Muslimah Malaysia (SALIMAH)
47. Persatuan Sahabat Sg Bernam
48. Persatuan Usahawan Organik Kelantan (PUOK)
49. Persatuan Usahawan Tani Cinta Alam (PUNCAK)
50. Pertubuhan Akademi Pendidikan Demokrasi dan Kewarganegaraan Malaysia (APDK)
51. Pertubuhan Aktivistik Pengupayaan Insan Malaysia (API)
52. Pertubuhan Gabungan Wanita Antarabangsa bagi Institusi Keluarga & Pendidikan Berkualiti (WAFIQ)
53. Pertubuhan Muafakat Warga Desa Negeri Kedah (Rural Citizen)
54. Pertubuhan Pembangunan Antarabangsa & Penyelidikan Untuk Kelestarian (IDRIS)
55. Pertubuhan Pendidikan Sejahtera Malaysia (PENDIDIK)
56. Pertubuhan Persaudaraan Pesawah Malaysia (PeSAWAH)
57. Pertubuhan Rangkaian Pembangunan Berkesinambungan Malaysia (SUSDEN)
58. Pop & Chee Healthy Home Farm
59. Sahabat Alam Malaysia (SAM)
60. Serukam Organic Farm
61. Seed Malaysia
62. Teras Pengupayaan Melayu (TERAS)
63. Third World Network (TWN)
64. Women Equality Association (WEA)

¹ Available at <https://cbd.int/doc/legal/cbd-en.pdf>

² Available at <https://cbd.int/abs/doc/protocol/nagoya-protocol-en.pdf>

³ Available at <http://fao.org/3/a-i0510e.pdf>

⁴ Available at <https://ohchr.org/EN/Issues/IPeoples/Pages/Declaration.aspx>

⁵ Available at <https://digitallibrary.un.org/record/1650694>

⁶ Jaafar, M.(2018). Pinda akta demi keselamatan rakyat. [online] Utusan Online. Available at: <http://utusan.com.my/berita/nasional/pinda-akta-demi-keselamatan-rakyat-1.748917>

⁷ MalaysiaGazette. (2019). Akta Benih Tanaman hampir siap - MalaysiaGazette. [online] Available at: <https://malysia Gazette.com/blog/2019/04/08/akta-benih-tanaman-hampir-siap/>

⁸ Grain.org. (2015). Seed laws that criminalise farmers: resistance and fightback. [online] Available at: <https://grain.org/article/entries/5142-seed-laws-that-criminalise-farmers-resistance-and-fightback>

⁹ Raadvoorplantenrassen.nl. (n.d.). EU Common Catalogue-Board For Plant Varieties [online] Available at: <https://raadvoorplantenrassen.nl/en/dutch-variety-register/eu-common-catalogue/>

¹⁰Seedquest.com. (2006). SeedQuest - Central information website for the global seed industry. [online] Available at: <https://seedquest.com/News/releases/2006/october/17227.htm>