



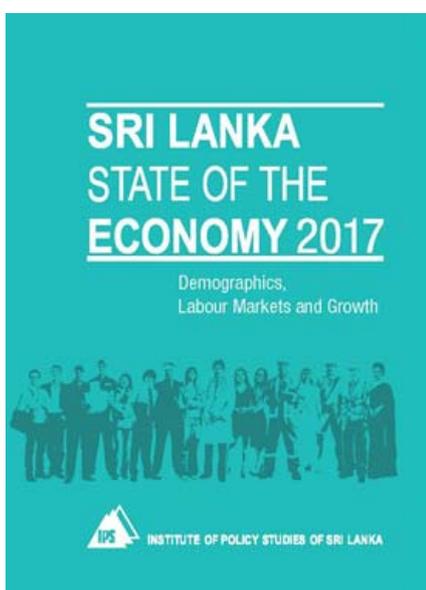
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POLICYINSIGHTS

INSTITUTE OF POLICY STUDIES OF SRI LANKA

TRIPs AGREEMENT AND FOOD SECURITY: A SRI LANKAN PERSPECTIVE

From the IPS flagship publication 'Sri Lanka: State of the Economy 2017 Report'



Food insecurity is a major challenge for Sri Lanka. The importance of Intellectual Property Rights (IPRs) - protection granted to creators of Intellectual Properties (IPs) - has increased over the last three decades in agriculture. Widely used IPs in agriculture are patents, plant breeders' rights, traditional knowledge and Geographic Indications (GIs).

The WTO's Trade Related Intellectual Property Rights (TRIPs) Agreement is the main agreement that provides due recognition to IPRs. The TRIPs Agreement protects seven categories of IPs, namely: copyrights, geographical indications, industrial designs, patents, trademarks, and undisclosed or confidential information. The legal protection offered by IPRs under TRIPs is one of the most important incentives for private sector

involvement in agro-biotechnology. TRIPs are thus essential in enhancing participation of the private sector in the development of improved seed and plant varieties which produce higher yields and thereby support food security needs of a country.

IPRs were gradually introduced into agriculture in two main stages. First, a number of developed countries adopted IP protection for plant varieties (plant breeders' rights) which is derived from the patent model. Second, with the development of agro-biotechnology, a number of developed and developing countries adopted patent protection for biotechnology.

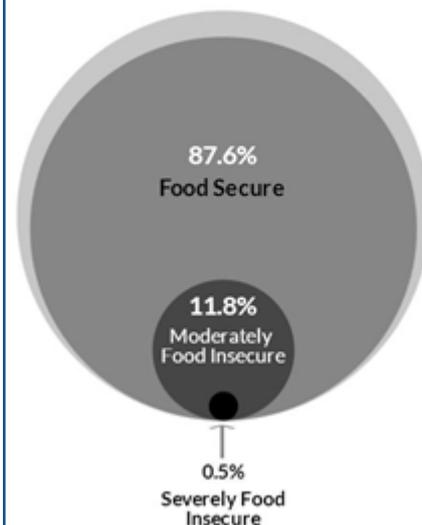
TRIPs, Agriculture and Food Security: Where does Sri Lanka Stand?

Sri Lanka passed its Intellectual Property Act No.36 in 2003 to comply with the TRIPs Agreement to replace the Intellectual Property Act No. 52 of 1979. The Act states that 'plants, animals and other micro-organism other than transgenic micro-organism and an essentially biological process for the production of plants and animals other than non-biological and microbiological processes shall not be patentable'. However, an invention can be patentable if it is new, involves an inventive step, and is industrially applicable. Thus, new plant varieties can be identified as a new innovation and can be patentable.

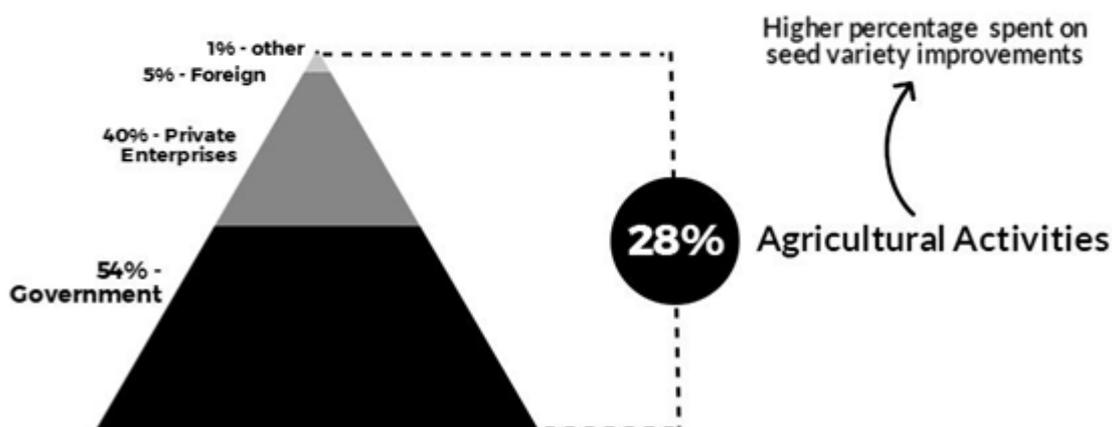
There are nearly 800 farmers engaged in rice seed production with a majority

of them being contract seed growers of the Department of Agriculture (DOA) in the past. The DOA is the main institution responsible for breeding new varieties and developing crop protection methods in Sri Lanka. Private sector participation in seed production and distribution were introduced after the enactment of the Seed Act No. 22 of 2003. The DOA encourages farmers to produce their own seeds; by doing so, farmers save money that would otherwise be spent on purchasing new seeds and also save time searching for new varieties. Moreover, the DOA provides extension services for farmers on new seeds and suitable varieties for their cultivation. However, in order to improve productivity and thereby to increase

Household Food Insecurity in Sri Lanka -2011



Sources of R&D Investments and Its Allocations in Agriculture



agriculture production, new seed varieties, new crops, new technology, etc., need to be identified.

Protecting farmer's traditional knowledge in developing new seed varieties is important. Sri Lanka's 2003 IPR Act offers a sui generis form of protection to folklore. However, Sri Lanka has not yet used GI to protect any food crops. Thus, despite the TRIPs Agreement offering several options to improve agriculture production and productivity by ensuring protection for farmers, plant varieties, and investments on Research and Development (R&D), Sri Lanka has not been successful in taking full advantage of it. The continued use of less improved varieties, lack of investments in R&D, and lack of commercialization have resulted in low production and productivity of most of the domestically grown crops.

Way Forward

In complying with the TRIPs Agreement, Sri Lanka passed an IPR Act in 2003. However, the Act has excluded patent protection for animals and plants which can be considered as most relevant to the agriculture sector in relation to increasing production. Thus, it is important to provide protection for plants and animals by way of sui generis system

following International Union for the Protection of New Varieties of Plants (UPOV) and Convention on Bio Diversity (CBD) Conventions.

Presently, most farmers in Sri Lanka depend on hybrid varieties of seeds for higher yields. Thus, providing opportunities for new plant breeders by protecting their rights is most vital in achieving higher agricultural productivity. An effective and productive IPR system is considered as an important element for agricultural advancement.

Developing and improving plant varieties requires freedom to undertake research and breeding where patented materials are involved. Thus, the IPR Act needs to make available laws to permit the commercialization of the newly obtained varieties and provide an assurance to private investors that their investments are secured. In addition, to protect IPRs, a strong institutional system is also required to make agricultural R&D more effective and attractive amongst private investors, especially to help attract new technology and more foreign investments to the sector.

Simultaneously, it is vital to implement a recent draft policy on traditional knowledge and cultural expressions. It has also been suggested that GI may

be of particular interest to countries like Sri Lanka when achieving, a comparative advantage in agricultural products, processed foods and beverages. However, these benefits should be weighed against the expenses of enforcement actions of GI.

This Policy Insight is based on the comprehensive chapter on "TRIPs Agreement and Food Security: A Sri Lankan Perspective" in the 'Sri Lanka: State of the Economy 2017 Report' - the flagship publication of the Institute of Policy Studies of Sri Lanka (IPS). The complete report can be purchased from the publications section of the IPS, located at 100/20, Independence Avenue, Colombo 7. For more information, contact the Publications Unit on 0112143107/0112143100.



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