



Laws regulating seeds in South Africa to entrench hunger and inequality

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Press release: South African Food Sovereignty Campaign

On 15 May South Africa's Portfolio Committee on Agriculture held public hearings on two Bills that protect and regulate the commercial seed industry; the Plant Breeders Rights (PBR) Bill and the Plant Improvement Bill. The PBR Bill aims to stimulate innovation in plant breeding by awarding extremely strong intellectual property rights to breeders and the Plant Improvement Bill allows only certified seed to be sold on the commercial market. Several NGOs and smallholder farmers made submissions to the committee, saying that the laws will entrench inequality and deepen the hunger crisis in the country because the Bills are oblivious to seed systems that support smallholder farmers and ecological forms of farming. These laws do not recognise or protect farmer-managed seed systems or agricultural biodiversity but undermine the rights of farmers to re-use, exchange and sell all farm-saved seeds.

South Africa is one of the few African countries that is Party to the 1978 International Union for Protection of Plant Varieties (UPOV) - an intergovernmental organization that was established to reward breeders for their new plant varieties by granting intellectual property rights (IPRs) on the basis of a set of clearly defined principles. This has resulted in highly industrialised seed sectors where commercial breeders have strong protection, while farmers are restricted from sharing or selling seed that is protected under this regime. The South African PBR Bill (like its current Act), is based on UPOV 1991 and not UPOV 1978. UPOV 1991 has been slammed world-wide for giving private breeders excessive protection; criticisms include that UPOV 1991 protects private breeders IPRs but does not protect farmers' varieties from misappropriation; that it promotes genetically uniform seed suited to industrial chemical-dependent agricultural systems that are environmentally harmful; that it does not exempt crops that are important for food security from exclusive property rights and critically, that it outlaws the age-old practice of exchanging seed which has resulted in the

agricultural diversity that we know today. Seed exchange also provides safety nets amongst communities for food sovereignty. The second Bill, the Plant Improvement Bill, could also outlaw the sale or exchange of seed that does not meet stringent and highly industrialised certification standards set out in the Bill, and these standards apply to commercial seed, not farmers' varieties or seed appropriate for ecological agriculture. This creates a deeply troubling and inequitable situation where only certified corporate seed is allowed on the market.

While South Africa is considered a food secure country, statistics released by the Human Sciences Research Council (HSRC) show that 1 in four children are stunted due to malnutrition and 26% of the population (amounting to 14 million people) are hungry today. Another 28.6% are categorised as at risk of hunger. These figures show that despite the fact that South Africa is completely dominated by large scale industrial agriculture, there is still so much hunger. It would clearly make a difference if more food production was in the hands of smallholder farmers, who can put diverse quality food on tables, but their way of farming and in particular, their seed systems, are being ignored and undermined. Statistics on the numbers of smallholder farmers in South Africa remain vague as does the official definition of a smallholder; during the hearing Agriculture Portfolio Committee Chair, Ms Rosina Semenya, stated that the government recognises 64 000 small-scale farmers in South Africa, while the South African Agricultural Production Strategy 2011– 2025 reports that there are 1.3 million smallholder farming households, primarily concentrated in former homelands. Regardless of which definition is applied, this represents a significant number of farmers that have been left out of the two Bills and who are in need government support.

Haidee Swanby of the African Centre for Biodiversity (ACB), which presented on both Bills, told MPs that “South Africa’s food system is controlled by just a handful of powerful corporations which decide what we eat and what we will pay. For example, our maize seed sector is dominated by two foreign multinationals – Monsanto and Du Pont. Their expensive seed and technology maintains the status quo in South Africa where only the elite may produce maize and compete in the maize value chain. Our laws cannot only cater for the interests of one sector, but must also stimulate plant breeding that is appropriate for small-scale resource poor farmers to produce nutritious food for household food security and local markets”.

Smallholder farmers from Zimele Rural Women’s Empowerment Organisation and Msebe Project, hailing from rural KwaZulu Natal also presented and displayed their seeds. Richard Mthembu of Msebe Project told MPs that, “we farm without harmful chemicals or fertilizers and use traditional seeds. We are proud of our agricultural heritage”. However, the laws proposed by government do not stimulate innovation in plant breeding that is appropriate to small-scale ecological agriculture

and in some instances criminalises the age old practice of recycling and exchange of seed. These same farmers will participate in the international “March against Monsanto” taking place on 23 May to protest against the corporate control of seed and the erosion of farmers’ rights.

Elfrieda Pschorn-Strauss of Biowatch, which works closely with Zimele and Msebe, noted in her submission that, “we have lost an estimated 90% of our agro-biodiversity over the past 100 years largely due to industrial agriculture, which promotes uniformity rather than diversity as well as polluting the environment with harmful chemicals”. Pschorn-Strauss also highlighted that commercial seeds have been made possible due to the intellectual efforts of farmers over the ages, but this effort is not recognised and is open for exploitation by private interests.

A number of organisations that attended the hearings are members of a newly formed campaign called the South African Food Sovereignty Campaign (SAFSC), which recently held a 3-day Tribunal on Hunger, High Food Prices and Landlessness. SAFSC committee member, Karen Read, echoed one of the outcomes of Tribunal, saying that, “The support for small scale farmers is inadequate while support programmes impose GMO seeds and chemical fertilisers. The state is ignorant about the value and importance of agro-ecology for small scale farmers and it does not give farmers a choice to advance agro-ecology or to make decent livelihoods and stimulate local economies around food”.

The Plant Improvement Bill and Plant Breeders Rights Bill will be presented in the National Council of Provinces (NCOP) once it has gone through Parliament. Members of the SAFSC will demand further consultation at provincial level, where they will once again insist that the plight of smallholders and the contribution they make to food security be recognised in any new agriculture-related legislation.

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Contact:

African Centre for Biodiversity: Haidee Swanby: haidee@acbio.org.za 082 459 8548

Biowatch: Elfrieda Pschorn-Strauss: elfrieda.strauss47@gmail.com 082 413 0502

SAFSC: Karen Read: karen@biowatch.org.za 083 783 1515

Msebe Project: Richard Mthembu 076 158 1341 (preferably Zulu interview)

NOTES TO EDITORS

- Most African governments have not joined UPOV to date, because the seed industry has a scant footprint on the continent and it is they who require such protection. South Africa and Kenya are members of UPOV 1978, while Morocco and Tunisia are members of UPOV 1991. However, African governments are being encouraged to sign regional frameworks governing plant variety protection, based on UPOV 1991. Regional Economic Communities (RECs), such as SADC and COMESA are in the final stages of completion of these laws. Other bodies, such as the African Regional Intellectual Property Organisation (ARIPO) and its West African counterpart OAPI have also developed regional frameworks.
- To gain protection, a variety must (i) distinct from existing, commonly known varieties, (ii) sufficiently uniform, (iii) stable and (iv) new in the sense that they must not have been commercialized prior to certain dates established by reference to the date of the application for protection. These criteria effectively rule out farmers varieties which are valued for their genetic diversity and adaptability.
- The HSRC published the South African Nutrition and Health Examination Survey (SANHANES_1) in August 2013. Available:
[http://www.hsrc.ac.za/uploads/pageNews/72/SANHANES-launch%20edition%20\(online%20version\).pdf](http://www.hsrc.ac.za/uploads/pageNews/72/SANHANES-launch%20edition%20(online%20version).pdf)
- The South African Food Sovereignty Campaign (SAFSC) was launched in March 2015 after a meeting of over 50 organisations representing the hungry, the landless and the exploited people of South Africa involved in agrarian, water and land transformation, environmental justice, small scale farming, cooperatives, the solidarity economy movement, waste pickers, the unemployed and activists campaigning against increasing food prices. Declaration available at <http://www.copac.org.za/news/2015/declaration-south-african-food-sovereignty-campaign-and-alliance>
- March against Monsanto events South Africa:
<https://www.facebook.com/MAMSouthAfrica/events>