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Concerns with the Revised Plant Improvement Act

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Overview

The Plant Improvement Act (PIA) No. 53 of 1976 is being replaced by new legislation, the Plant Improvement Bill, which has been passed by Parliament but is presently being debated at the National Council of Provinces.

The PIA and the Plant Breeders' Rights Act (1976) are integral parts of the current corporate-dominated seed architecture in South Africa. These laws promote and support industrial plant breeding for the cultivation of improved and genetically modified (GM) seed in large-scale, mono-cropping, commercial farming systems. These systems are heavily dependent on irrigation and synthetic fertiliser and pesticide use.

Main concerns

The PIA regulates the domestic marketing and cross-border trade of seed. It is highly skewed in favour of the formal seed system and does not treat all aspects of the seed sectors in South Africa equally. It supports the development of 'improved' seed that can meet certain 'distinct, uniform and stable' (DUS) requirements, which encourages genetic homogeneity.

The Act essentially provides for:

- Variety release – a registration process for new plant varieties that regulates and controls which seeds can be marketed and traded;
- Certification – a process for seed bulking, based on certification standards to monitor seed quality and varietal purity and to ensure that the seed produced is 'true to type'; and
- Phytosanitary measures- disease and pest control.

The PIA creates onerous and expensive conditions for the evaluation, sampling and testing of seed,

based on international standards, which farmers' varieties can never meet.

The Plant Improvement Bill is very similar to the 1976 PIA. Both do not address farmer-managed systems that produce most seed and where diversity and resilience are to be found. The Bill is not concerned with context-specific needs of farmers. Small-scale farmers cannot participate in the seed market, as they must go through the same procedures and pay the same fees as multinationals, effectively locking them out of opportunities to participate in experimentation and innovation.

The 'formal' seed system is far removed from the realities and needs of smallholder farmers vis-à-vis their own varieties and systems. Public resources in the form of extension support, research and development, and institutional support are orientated only towards the commercial and corporate seed sector regulated by the 1976 PIA Act. This orientation will be perpetuated by the new Bill if it is passed. This system excludes farmer varieties, failing to recognise the vast network of farmer seed systems that do exist, and the agricultural biodiversity they hold.

What we are requesting

Farmers must be able to freely cultivate, distribute, exchange, propagate and trade in their own seed varieties. In this regard we want a clear and unambiguous exclusion of these activities. We want an Act that speaks to the demands of small-scale farmers and ensures that farmers' seed systems are able to function without any hindrance.

The Plant Improvement Bill proposes that farmers' varieties, heirloom varieties and landraces will be exempt from the Act once it is passed, if these are:

- non-commercial varieties;
- not protected by the Act;

The PIA supports the development of 'improved' seed that can meet certain 'distinct, uniform and stable' (DUS) requirements, which encourages genetic homogeneity.

Farmer-managed seed systems

Farmer-managed seed systems (FMSS) refer to any seed that farmers have saved and reused for more than one season as a 'farmer seed variety'. This may include seed that was previously certified but was not purchased or distributed through registered seed agents in the past season.

FMSS include a range of aspects: plant breeding and the role of farmers in this; sources of public sector germplasm and farmer access; seed selection, enhancement and production in the field; seed storage, seed banks, and in situ conservation; indigenous knowledge, farmer and indigenous varieties and resuscitation and building of seed diversity; social networks and protocols around seed exchange and management; intersections with formal seed systems and possible benefits and threats to farmer seed systems; and the role of extension services and farmer organisations in supporting and strengthening farmer seed practices.

- open pollinated varieties (OPVs); and
- cultivated and sold on a non-commercial scale.

We find these proposed exemptions in the PIA Bill unclear and confusing.

We are concerned that 'non-commercial scale' is not defined. We want a clear and unambiguous definition of what 'non-commercial scale' entails.

We are deeply concerned about the definition of 'sell' as defined in the Bill, which restricts all exchange of seed. Such a broad definition directly prevents and criminalises an essential element of farmers' seed systems – namely the exchange between farmers of their own seed varieties. The word 'exchange' must be removed from this definition. Farmers must be given the right to freely exchange and sell their varieties.

The current definition of 'sale' prevents and criminalises the exchange of seed

Further, it is unreasonable and disingenuous to expect small-scale farmers to comply with the same procedures and pay the same fees as multinationals in order to participate in seed systems. Various farmer-led participatory quality and pest control methodologies can be discussed with farmers in order to enable them to participate in the seed sector.

Government has a constitutional duty to support and strengthen farmers' seed systems through training of farmers in seed production, cleaning, and storage of their own varieties.

Government must create an enabling legal environment that is just and equitable and allows small seed enterprises to enter the seed market and trade in OPVs and farmers' varieties.

Food sovereign agroecological systems that support agrobiodiversity conservation and climate change resilience are unable to exist and flourish unless the seed sector is transformed, based on the free use, cultivation, distribution, exchange, sale, and propagation of farmers' varieties.

Widening the base and increasing participation in productive activity is a national imperative in responding to the legacy of apartheid, which has produced a concentrated and racially skewed economic structure, where most of the population have been forced into subordinate roles in the economy, based on high levels of exploitation and oppression. South Africans are keenly aware that this underlying structure persists.

The realisation of the goals of widening economic participation and a more equitable distribution of resources and opportunities will require:

- Stabilising and supporting the expansion of smallholder farmers in diversified agricultural production;
- Supporting farmer and small business participation in seed production – this is completely neglected, and only a few very small programmes exist, touching not even hundreds of participants; and
- Involving farmers and small businesses in crop protection innovation and development – this can include context-specific and cost-effective alternatives, such as integrated pest management and use of biological controls, which are especially appropriate for smallholder production.



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