

POLICY BRIEF: ZAMBIA'S SEED FRAMEWORKS FOR THE FUTURE

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The Zambian government is changing the regulatory framework that governs seed production and distribution in the country.

The proposed framework will align with the strict international Union for the Protection of New Varieties of Plants (UPOV) standards that enforce the rights of private and corporate seed breeders over those of farmer-managed seed systems.

This move will negatively affect Zambia's ability to fight malnutrition and to build community resilience to climate change.

BACKGROUND

Zambia does not have a comprehensive national seed policy. The draft version, started in 1999, has never been finalised. This lack has led to the formulation of seed-related regulations in the absence of an overarching vision for the sector.

The national development and agriculture plans do acknowledge the existence and importance of the two co-existing formal and informal seed and farming sectors. There is a disconnect, however, between the stated policy intentions of supporting smallholder farming systems and the legislative and regulatory framework that favours commercial interests.



ZAAB
Zambia Alliance For Agroecology & Biodiversity

THE CURRENT FRAMEWORK

Zambia is bound by international agreements to protect farmers' rights through the International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA) and the Convention on Biological Diversity. It is also bound to protect the rights of plant breeders through its membership of the World Trade Organization and, thus, is subject to its Trade-related Aspects of Intellectual Property Rights Agreement (TRIPS). In compliance with TRIPS, it developed its own *sui generis* plant variety protection system to accommodate farmers' rights while still providing private breeders with exclusive use of their "innovation" for a period of time. This is to allow the breeder to make a financial return on the variety as an incentive to develop new varieties.

Farmers' Rights

- The right to the protection of traditional knowledge related to plant genetic resources for food and agriculture.
- The right to participate in making related decisions at the national level.
- The right to share in the benefits derived from the use of these genetic resources.
- The right to save, use, exchange and sell farm-saved seed and propagating material.

Harmonising Zambia's seed framework with UPOV will negate these rights.

THE PUSH FOR CHANGE

There has been increasing pressure on African governments from international organisations, such as the United States Agency for International Development and the World Bank, and regional groups, such as the Alliance for a Green Revolution in Africa, to favour a commercial uniform seed and farming model.

This model promotes the use of hybrid seed grown using external inputs (such as fertilisers, pesticides and herbicides). It performs best in uniform growing conditions – monocropping – with irrigation. It is an expensive model for smallholder farmers and primarily focuses on improving yields at the expense of broader social-ecological concerns.

The “green revolution” model is just one of several foreign-led harmonisation interventions in African markets that aim to provide easier and cheaper market access to large continental and multinational companies. They do this by reducing or eliminating the need to comply with individual country legislative requirements.

REGIONAL HARMONISATION

In recent years, regional bodies, such as the Southern African Development Community, the African Regional Intellectual Property Organization and the Common Market for East and Southern Africa, started aligning their regional seed certification and plant variety protection regimes with that of the UPOV.

As a member of these bodies, Zambia is under pressure to align its own framework with UPOV. The country’s Seed Control and Certification Institute has also approached UPOV regarding

direct membership. It has been informally advised that it will need to revise its Plant Breeders’ Act to comply.

This has significant negative implications for Zambia’s farmer-managed seed systems; smallholder farmers, particularly women; and the country’s capacity to achieve human rights and progressively realise the right to food.

ABOUT UPOV 1991

The International Convention for the Protection of New Varieties of Plants established UPOV, which was adopted in 1961 and revised in 1972, 1978 and 1991.

UPOV aims to “provide and promote an effective system of plant variety protection” to encourage the development of new varieties of plants. It does this by granting the breeders of new varieties intellectual property rights – breeders’ rights. Countries that belong to UPOV need to set minimum standards for plant variety protection that incentivise breeders to develop “new” varieties. To qualify for protection, a variety must be novel (new), distinct from other varieties, stable and uniform in appearance and characteristics (NDUS). Farmers’ varieties, which are genetically diverse and adaptable, do not conform to these narrow criteria.

UPOV 1991 significantly strengthens the rights of breeders and further erodes and, in a sense, criminalises, farmer-managed seed systems.

THE IMPLICATIONS OF UPOV 1991

The adoption of UPOV 1991 has broader implications for Zambia’s ability to build community resilience to climate change and to fight malnutrition.

UPOV, CLIMATE CHANGE AND AGROBIODIVERSITY

It will become more difficult to produce food in the future because of climate change impacts: unpredictable rainfall patterns, more droughts and floods, new pest and disease vectors and increased temperatures. This will exacerbate existing developmental challenges.

There is global recognition of the importance of maintaining and enhancing agrobiodiversity – the wealth of genetic resources related to agricultural production – to ensure food security in a time of climatic uncertainty.

We will need to access a range of genetic resources to improve existing and develop new crop varieties that are able to adapt quickly to changing conditions.

- UPOV 1991 encourages the adoption of uniform seed, which could replace the genetically diverse seeds used in smallholder farming systems. It does this by controlling what type of seed is available for sale on the market.
- UPOV 1991 denies farmer-managed seed systems their role as the rightful custodian of the genetic resources related to food and agriculture, and the right to benefit from the work they have done to develop varieties over centuries. It is this work that forms the basis of all modern varieties, including hybrid and genetically modified seed.

The adoption of genetically uniform seed by farmers because of its promotion and infiltration into farmer-seed systems is one of the biggest drivers of agrobiodiversity loss.

UPOV, HUNGER AND MALNUTRITION

Zambia was ranked the third “hungriest country on the planet” in 2016 and it has alarmingly high malnutrition rates. About 45% of children under the age of five are malnourished.

There are a variety of reasons that the smallholder farming system, which grows about 85% of the food consumed locally, is not performing as it should. The primary drivers are a distorted agricultural framework that does not provide appropriate support, an over-emphasis on cultivating maize, rural poverty and degraded soils.

Nutrition is not necessarily an outcome of food security. The over-emphasis on maize production – promoted through subsidy programmes – has resulted in the loss of those farmers’ varieties that provide vital micronutrients.

Seed systems need to provide for a diverse array of seeds to promote nutritional health and crops that provide food security during the “hungry season”. A diversity of crops also contributes to broader ecosystem health.

Farmer-managed seed systems need to be able to continue to save, exchange and sell their varieties, which fulfil these functions.

- UPOV 1991 does not allow farmers to save and replant their seed, unless the country government has made a special provision to this end.
- UPOV 1991 does not allow farmers to market and sell the seed that they harvest from the crop.

In some UPOV member countries, farmers cannot save or exchange seed even on a non-commercial basis.

- UPOV 1991 does not allow anyone to use the variety for commercial purposes without the permission of the breeder. The breeder retains control over the reproductive material.

ZAMBIA, FARMERS' RIGHTS AND THE RIGHT TO FOOD

Zambia has signed and ratified a number of historic international frameworks that recognise the need to protect social and ecological systems from over-exploitation by unregulated private economic interests.

In the 15 years since signing the ITPGRFA, government has not, however, put specific policy and legal measures in place, or a budget, to implement the Treaty or to realise farmers' rights as per its obligation.

It has also not successfully ensured that benefits derived from the use of genetic resources related to food and agriculture have benefitted farmer-managed seed systems.

Zambia is also a signatory to the United Nations' International Covenant on Economic, Social and Cultural Rights. It therefore also has a responsibility to support the "progressive realization of the right to adequate food".

It must do so by refraining from actions that impede access to food and to prevent actions by non-state actors that could undermine this access.

- Joining UPOV contravenes Zambia's obligation under the ITPGRFA to realise farmers' rights.

- Joining UPOV does not support Zambia's obligation to support the Covenant on Economic, Social and Cultural Rights.

A FUTURE-FACING FOOD SYSTEM

Changing Zambia's seed framework to align with UPOV 1991 will significantly affect the country's ability to build resilience to climate change and fight malnutrition.

There is no obligation to join UPOV. Zambia must halt its regional harmonisation efforts and withdraw from membership application to UPOV. Instead, it must:

- Develop a national seed policy based on inclusive and comprehensive consultation. Such a policy must domesticate Zambia's obligations under the ITPGRFA.
- Design an equitable legal and regulatory framework that actively realises farmers' rights.
- Coordinate the institutional approach to provide comprehensive and appropriate support to farmer-managed seed systems operating in diverse contexts and micro-climates.

The Zambia Alliance for Agroecology and Biodiversity (ZAAB) is an advocacy network of faith, farmer and civil society organisations committed to a common cause of realising a just and sustainable food and agroecological system in Zambia.

www.zambianagroecology.org