



We are the Guardians of Land, Life, Seeds and Love

## FACTSHEET - 4<sup>TH</sup> CYCLE



### UNIVERSAL PERIODIC REVIEW OF SOUTH AFRICA

#### THE RIGHT OF PEASANTS AND OTHER PEOPLE LIVING IN RURAL AREA (SOCIO-ECONOMIC RIGHTS)

#### SUMMARY OF ISSUES RAISED IN THIS 4<sup>TH</sup> UPR CYCLE

*This is the first time that the 2018 UN Declaration on the Rights of Peasants and Other People Living in Rural appears on the UPR for SA. At the time of the last SA UPR review (2017) UNDROP had not yet been adopted by the UN. While the rights to seeds were not mentioned by any State in 2017 in the UPR Review, a few States made recommendations relevant to UNDROP: «the protection of the rights of peasants and other persons working in rural areas» (Plurinational State of Bolivia), «optimise land distribution, while implementing land reform, providing adequate support and training to beneficiaries» (Haiti), and «continue to make efforts for the enjoyment of the rights to ..... food» (Russian Federation). Cote d'Ivoire recommended «policy to fight poverty in rural areas». All these recommendations were supported by the SA government who, in 2018, adopted 2 new laws that deal with seeds and plant breeding and in June 2022 it released Draft Regulations to those 2 laws that provide some protection to the respective rights of peasants to farmer managed seed systems. However, improvements need to be made to strengthen and secure seed rights in line with UNDROP. Little progress has also been made in addressing the right to food and freedom from hunger, the rights of women and people in rural areas especially regarding land distribution and land reform. These rights are essential to meet Goal 1 and Goal 2 of the SDGs, one of the G2 targets being: «By 2020, maintain the genetic diversity of seeds, cultivated plants and farmed and domesticated animals ....., including through sound management and diversified seed and plant banks at the national, regional and international levels».*

### NATIONAL FRAMEWORK

SEEDS	LAND	FOOD SOVERIGNITY
The Plant Breeders Rights Act (No. 12) of 2018 (PBRA) and the Plant Improvement Act (No. 11) of 2018 (PIA) and their respective Draft Regulations released in June 2022. These are relevant to UNDROP Article 19. Strong and consistent lobby and advocacy over many years by a range of civil society organisations in particular by the African Centre for Biodiversity.	The SA Constitution is the overall legislative framework for land reform, protection of property rights and land expropriation in public interest. It also provides for land restitution for people who were deprived of their land by colonial rule past June 1913. The Land Reform (Labour Tenants) act No. 3 of 1996 provides for security of tenure and the acquisition of land and land rights of labour tenants. The Extension of Security of tenure Act no. 62 of 1997 provides for the security of tenure for farm workers and conditions under which the right of residence may be terminated. Since transition to democracy (1994) none of these laws have delivered on their mandates. Only 10-11% of the land has been redistributed and millions of farm workers have been evicted, ESTA either enabling legal eviction or unable to stop unlawful evictions. There is poor commitment to land and agrarian reform by governing and other political parties. A Parliamentary driven process of wide county wide consultations saw significant inputs by rural people - but none of the proposals have been carried out so far.	Department of Agriculture, Forestry & Fisheries (DAFF) Food Security policy for the Republic of South Africa (2012). Pretoria: Government of South Africa; DAFF (Department of Agriculture, Forestry and Fisheries). 2012.  Agriculture, Forestry and Fisheries Integrated Growth and Development Plan. Pretoria: Government of South Africa; Department of Agriculture, Forestry & Fisheries (DAFF) and Department of Social Development (2013) National Policy on Food and Nutrition Security (Annexure A); DAFF (Department of Agriculture, Forestry and Fisheries). 2014a.  The National Policy on Food and Nutrition Security for the Republic of South Africa. Pretoria: Government of South Africa.

CHALLENGES	IMPACT
<p>Limited land and water redistribution, limited tenure rights and no agrarian transformation.</p> <p>There has been no new legislation on land reform regarding women, addressing women's specific needs.</p>	<p>Continuation of colonial land and water dispossession, marginalising and limiting the potential of black small-scale producers that play important role in food production, particularly in rural areas. This replicates inequality across generations, contributes to increasing hunger and malnutrition, undermines sustainable livelihoods and growth of independent food producers.</p> <p>Rural women have limited access to land: "In South Africa, women make up more than 51% of the population, yet they own less than 15% of land"(i). Women's food production and independent livelihoods undermined. (i)</p>
<p>Prioritisation of industrial agriculture with export orientation.</p>	<p>Government drives processes to integrate small-scale producers within an industrial model of food production - encouraging and even distributing agri-chemicals, hybrid and genetically modified seeds, integration into export supply chains. Being increasingly mechanised this system limits the potential to absorb labour and self-employment. Beneficiaries of land reform or government assistance are thus caught in the spiral of problems characteristic of industrial agriculture: soil and environmental degradation and poor consideration to the effects of climate change. There is no policy or government support for agroecology, the establishment of seed banks, etc - as provided for by UNDROP. This also undermines people's cultural rights and practice and the expansion of their traditional knowledge.</p>
<p>The June 2022 Draft Regulations on the 2018 PBRA and on PIA provide some measure of protection to farmer managed seed systems but the rights provided under these Regulations are still limited, given as 'exceptions' to the commercial sector seed laws. The rights of farmers and of farmer seed systems do not have enough protection.</p> <p>The exceptions to protected seed varieties in the PBRA for some categories of smallholder farmers ('indigent' vulnerable households, subsistence and new entrant small producers) are positive but too narrowly defined:</p> <p>a) in how farmers are categorised; b) in the protected variety of plants for which these farmers can use, reuse or exchange seeds (no sale provided); c) the quantity of seed and trees they are allowed to produce per year. The Regulations exclude crops that are commonly used for household food production (e.g. swiss chard; beetroot; lettuce; carrots; kale; garlic; a variety of dry beans) and do not take into account the different land sizes accessed by farmers.</p> <p>The quantities of non-protected varieties allowed to be exchanged and sold by smallholder farmers and their nurseries under the PIA Regulations are too small.</p>	<p>Unless the government expands the Regulations to PBRA and PIA and formulates specific policies to protect farmers' rights and their seed rights, there is a threat not only to the food production and livelihoods of those who are already successfully engaged but to their growth and expansion. This will undermine the critical role they can play in providing some measure of food and nutrition security in their homesteads and in some rural communities, as illustrated during Covid-19 lockdowns.</p> <p>The narrow definitions of farmers, the limits set out on the allowed amounts of seeds produced per year and prohibition on seed sales by all farmer categories, work against food and nutrition security and improving livelihoods and local food markets. The requirement for vulnerable households be classified as 'indigent' to be able to benefit from these Regulations are an assault on impoverished people's dignity and their unconditional right to food.</p> <p>These patterns will perpetuate the colonial marginalisation and dispossession of black farmers.</p> <p>The PIA Regulations only provide 'exceptions' and do not take into account the socio-economic and agroecological conditions of different farmers nor of the histories of their geographical locations (e.g. former apartheid homelands). These laws are not gender sensitive neglecting the fact that women have historically been and continue to be 'seed guardians' in their communities.</p> <p>All of the above fail to comply with UNDROP.</p>

## RECOMMENDATIONS

<p>1. To advance to right to seeds as per UNDROP (Article 19):</p>	<p>2. To advance the right to food and freedom from hunger and food sovereignty of small-holder farmers and people living in rural areas as per UNDROP (Article 15)</p>	<p>3. To advance the rights of women and people living in rural areas as per UNDROP (Article 4)</p>	<p>4. To advance the right to land individually or collectively as per UNDROP (Article 17)</p>
<p>(A) Allow wider consultation with smallholder farmers before finalising the Regulations related to the 2018 Plant Breeders' Rights Act (PBRA) and to the 2018 Plant Improvement Act (PIA), allowing for:</p> <p>Under the PBRA:</p> <p>a) wider definitions of farmers using protected varieties;</p> <p>b) wider range of plant varieties to include commonly currently and historically used food crops that sustain food security and nutrition;</p> <p>c) greater quantities of seeds of plant and tree varieties to be produced per year, than currently set out; d) the universal right to food of impoverished "vulnerable households" should not be linked to classification as 'indigent'.</p> <p>· Under the PIA:</p> <p>a) Saving, using, exchanging and selling of FMS in greater quantities than those set out. The current restrictions prevent farmers and their associations from becoming financially sustainable.</p> <p>b) As the PBRA and PIA are oriented to the commercial seed sector, SA needs to enact specific policies to protect smallholder farmers' rights and farmers seed systems, and establish programmes and funding to support their initiatives, including the seed systems of smallholder farmers. The two seed systems should co-exist "not allowing one to flourish at the expense of the other".</p> <p>c) Create a state fund to support the establishment of community-based seed banks.</p>	<p>a) Speed up land and agrarian reform; prevent alienation of agricultural land into game reserves, tourist enclaves, golf courses &amp; housing estates.</p> <p>b) Increase production grants to small producers as per their specified needs.</p> <p>c) Prepare and finalise a policy and strategy for agroecology in SA. This process was initiated in 2011-2013 but was suspended.</p> <p>d) Promote and support agroecological smallholder family production units, with access to water.</p> <p>e) Facilitate establishment of markets for small producers, with adequate infrastructure.</p> <p>f) Ensure that women are clearly identified as beneficiaries in all the above interventions.</p> <p>Include small-scale producers in agricultural and trade policies consultations, which protect and strengthen local livelihoods and food sovereignty.</p>	<p>a) Strengthen and protect women's rights to land, having a policy on women owning or accessing their own land.</p> <p>b) Speed up land and agrarian reform. Implement government's "One Household - One hectare" policy but ensuring that women's land access is assured as per RWA's campaign for "One Woman- One hectare".</p> <p>c) Ensure democratisation of traditional councils by having elected leaders and the inclusion of women (Amend the Traditional and Khoisan Act 3 of 2019).</p> <p>d) Prepare policy for women to manage land and natural resources (i.e., land, seeds, water, forests, fisheries).</p> <p>e) Develop and speed up a gender-based violence (GBV)-FEMICIDE prevention and ensure the implementation of the Domestic Violence Act [No. 116 of 1998].</p>	<p>a) Strengthen legal rights to land (including tenure security, right to occupy, customary land tenure rights, 99-year leases) and natural resources. Ensure resources are allocated towards supporting GVB and femicide victims, often victims in the current agrarian systems.</p> <p>b) Protected against arbitrary and unlawful displacements from rural peoples' land or place of habitual residence.</p> <p>c) Ensure protection of legitimate tenure and ensure no arbitrary or unlawful evictions and that rights are not extinguished or infringed. Government to review ESTA to secure and advance tenure rights.</p> <p>Protect and implement the rights of small-scale producers and people working in rural areas from land grabs for large scale commercial agriculture, mining, tourism and housing estate developments. Investing business must comply with the UN Guiding Principles on Business and Human Rights (Protect, Respect &amp; Remedy) and seek free, prior and informed consent.</p>

## SOURCES

- [1] <https://www.gov.za/documents/national-policy-food-and-nutrition-security-south-africa>
- [1] March 2018, <https://www.parliament.gov.za/press-releases/sa-and-world-must-do-more-help-rural-women-and-girls-realise-their-dreams>
- [1] Risenga Maluleke, TOWARDS MEASURING THE EXTENT OF FOOD SECURITY IN SOUTH AFRICA an examination of hunger and food inadequacy, <http://www.statssa.gov.za/publications/03-00-14/03-00-142017.pdf>; and <https://www.statssa.gov.za/?p=15273>
- [1] [1] Tomlinson, N. - "WORLD HUNGER DAY: Food crisis: 2.5 million South Africans experience hunger 'every day'". (Daily Maverick, quoting a study by Dr Nic Spaull, economist at Stellenbosch University, and Professor Mark Tomlinson, Co-Director of the Institute for Life Course Health Research in the Department of Global Health at Stellenbosch University, who has been a consultant for the World Health Organization, Unicef, USAID and the World Bank). , <https://www.dailymaverick.co.za/article/2021-05-26-food-crisis-2-5-million-south-africans-experience-hunger-every-day/>
- [1] June 2022: 63,9% for those aged 15-24 and 42,1% for those aged 25-34 years, while the current official national rate stands at 34,5. [https://www.google.com/search?q=official+unemployment+figures+in+SA&rlz=1C1CHZN\\_enZA966ZA966&oq=official+unemployment+figures+in+SA&aqs=chrome..69i57j0i22i30j0i390l2.8113j0j7&sourceid=chrome&ie=UTF-8](https://www.google.com/search?q=official+unemployment+figures+in+SA&rlz=1C1CHZN_enZA966ZA966&oq=official+unemployment+figures+in+SA&aqs=chrome..69i57j0i22i30j0i390l2.8113j0j7&sourceid=chrome&ie=UTF-8)
- [1] The annual (inflation) rate for food and non-alcoholic beverages was 7% in July, higher than the 8,6% reading in June. Bread & cereals inflation continues to quicken, with the annual rate rising to 13,7% from 11,2% in June; the monthly increase was 2,4% in July, with large monthly price increases recorded for maize meal (4,2%), cake flour (6,3%), macaroni (5,0%) and white bread (2,8%) <https://www.statssa.gov.za/?p=15678>

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