

Policy brief

Recognition of farmer managed seed systems in the policy and legal framework on seed in Tanzania



Tanzania Organic Agriculture Movement

**ROSA
LUXEMBURG
FOUNDATION**

1.0 Key messages

- a) The National Agriculture Policy-2013 to be reviewed and amended so that it recognizes the use of Farmer Managed (Saved) Seeds by smallholder farmers as an informal seed system.
- b) The Seed Act to be reviewed and clearly provide exemption for all use of Farmer Managed (Saved) Seeds by smallholder farmers and strictly continue to control and regulate the use of certified seeds.
- c) Seed Policy and Seed Act clearly to define the Formal Seed System (Certified Seed System) and Informal Seed System (Farmer Managed Seeds System).
- d) The Ministry of Agriculture in collaboration with Seed stakeholders (public, private, civil society, farmers etc.) to initiate a process of developing a standalone Seed Policy.
- e) The Government in collaboration with Development Partners, Seed stakeholders and other actors to invest on extension services by training small holder farmers across Tanzania on seed selection, multiplication, storage, protection and exchange or sell of their own saving seeds among themselves.
- f) The Government to put in place Quality Declared Seed System through Regulations or Rules as it is required by Section 33(2) (g) of the Seed Act, 2003 and Regulation 26 (4) of the Seed Regulations, 2007.

2.0 INTRODUCTION

Seeds are one of the irreplaceable pillars of food production. In Tanzania the seed supply is derived from both “formal seed system/certified seed system” and “informal seed system/ uncertified seed system/Farmer Managed Seed System”. Formal seed system which is market-oriented is developed by the public and/or private sector by producing improved varieties of seeds and selling them to farmers. Currently, the Seed Act of 2003¹ regulates the formal seed system (certified seed system); Amendment of the Seeds Act of 2014²; Seed Regulations of 2007³ and Seeds (Amendment) Regulations of 2017⁴. The main objective of the Seed Act, 2003 is to make provisions for the control and regulation of the standards of agricultural seeds in Tanzania. The law provides for a compulsory seed certification, laboratory seed testing, variety evaluation and registration under the control of the Tanzania Official Seed Certification Institute (TOSCI).

Act No. 18 of 2003

¹ The Written Laws (Miscellaneous Amendments) Act, 2014

² Government Notice No. 37 published on 09/02/2007

³ Government Notice N0. 6 published on 20/01/2017

The other system which operates in country is called “informal seed system/uncertified seed system/Farmer Managed Seed System.” The informal seed system refers to the process whereby farmers/communities are the main seed producers and thereafter they distribute the seeds through local processes by saving, sharing and selling. Various studies have shown that, Farmer Managed Seed System is the major and low cost (affordable) source of seed in all agro ecological zones within Tanzania⁵ and is rich in agro-biodiversity⁶.

3.0 Statement of problems

Currently, a large share of seed accessed by farmers comes from smallholder farmers after saving and managing their seeds and offer for sale or exchange among themselves. The system of saving, managing and exchange of smallholder farmers’ seeds is recognized by the Ministry of Agriculture for years now, although it is neither documented in the Seed Act nor the National Agriculture Policy. The Agriculture Sector in Tanzania has a general policy with the name, National Agriculture Policy issued by the Ministry of Agriculture on October 2013. The policy does not have a specific policy statement concerning seed issues in Tanzania instead; it has general policy statement on Agricultural Inputs as a package to include fertilizers, agrochemical, seeds and farm machinery.

4.0 Experiences from other countries, which have recognized/exempted farmer managed seed systems in their legal frameworks

A number of countries inside and outside Africa have positively stipulated into their Seed Laws that, the Laws shall not apply on the Farm-saved seeds. This spirit of exempting farm-saved seeds being regulated by the Seed legislations has been suggested by African Union since year 2000 so that it should be considered by African countries when enacting their laws by taking into account farmers rights to save, use, exchange and sell farm-saved seed material. Some of these countries are:-

4.1 Ethiopia seed law

The Seed Industry at Federal Democratic Republic of Ethiopia is currently governed by the so-called **Seed Proclamation No. 782/2013**. The Proclamation has six (6) parts. Part One covers, short title, definitions and scope of application.

- 1) *Proclamation shall be applicable to **any seed**.*
- 2) *This Proclamation **may not be applicable to:***
 - a) *The use of farm-saved seed by any person;*
 - b) *The exchange or sale of farm-saved seed among small holder farmers or agro-pastoralists;*
 - c) *Seed to be used for research;*
 - d) *Forestry seed.*

The Seed systems of Ethiopia categorically regulates all seed however; the regulatory mechanism provided some aspects which are exempted by the law to be regulated as per **Article 3(2)(a-d) of the Seed Proclamation**. One of the aspects, which have been exempted by the regulatory system of seed in Ethiopia is the **use of farm-saved seed**. By clearly stating that the proclamation may not be applicable to the use of farm-saved seed and the exchange or sale of farm-saved seed among smallholder farmers or agro-pastoralists, the Ethiopian government offers protection to the key rights of smallholder farmers to engage in FMSS.

⁵ Study of farmer managed seed systems in Tanzania-Bureau for Agricultural Consultancy and Advisory Services (BACAS) of Sokoine University of Agriculture (SUA)- 2015, pg. iii & 48.

⁶ A scoping study report on Seeds and Agriculture Research Processes in Tanzania: The case of small scale farmers' participation in setting research May, 2013agenda, ESAFF, pg. 6

4.2 Zimbabwe seed law

The Seed Industry in Zimbabwe is currently governed by the **Seed Act, No. 11 of 2011 (Chapter 19)**. Section 8(1) of the Act, prohibits unregistered persons from selling seed. However, Section 8(2) provides **a clear exemption** for seed grown by any farmer and sold by him to a person for use as seed by such person.

“8. Unregistered person or laboratory may not sell or test seed

(1) Subject to subsection (2), no person shall-

(a) Sell seeds unless he is registered as a seller of seed; or

(b) Test seed otherwise than in a laboratory registered as a seed testing laboratory

(2) Subsection (1) shall not apply to the sale of seed which is grown by any farmer and sold by him to a person for use as seed by such person”

Zimbabwe Seed Law has considered suggestions by African Union Model Law on Rights of Communities, Farmers, Breeders and Access to Biological Resources by taking into account farmers rights to save, use, exchange and sell farm-saved seed material.

4.3 Uganda seed law

Seed industry in Uganda is regulated by the **Seeds and Plants Act of 2006**. It is an Act that provides for the promotion, regulation and control of plant breeding and variety release, multiplication, conditioning, marketing, importing and quality assurance of seeds and other planting materials and for other related matters.

Section 27 of the Act, provides for exemption, which can be granted by the Minister as follows:

“The Minister may, on written recommendation from the Board, exempt any person or class of persons from the provisions of this Act”

Section 28 (1) and (2) of the Act makes a clear distinction of certified seed and uncertified seeds at Uganda as follows:

*“S. 28(1) – The Minister may, after consultation with the Board, make regulations for the control of breeding, multiplication, marketing, **certification of seed** and generally for the better carrying out of the provisions of this Act”*

*“S. 28(2) – The Minister may, in consultation with the Board, make regulations for the control of a prescribed or non prescribed seed **which is not a Uganda certified seed** and is **produced by a seed producer on his or her own land, and is sold by him or her for sowing by a buyer or for the purpose of re-sale**”*

The Seed Act of Uganda clearly provides an exemption clause for uncertified seeds, which are produced by a seed producer on his or her own land in other words refers to Farmer Managed Seeds.

4.4 India Seed Act 1966

The first seed legislation in India was passed in 1966; this coincided with the 'Green Revolution'. The law focused on regulating the quality of seeds that were notified by the Central Government to be sold for agriculture. Those kinds or varieties are required by law to conform to the prescribed standards for identification, germination, purity and labeling.

Section 24 of the Act states that: *Nothing in this Act shall apply to any seed of any notified kind or variety by a person and sold or delivered by him on his own premises direct to another person for being used by that person for the purpose of sowing or planting.*

As a corollary, non-notified seed is free from such requirement. This creates a space for farmers to market and sell their seeds, and that too as per their criteria of quality. For in India's Seeds Act, 1966 a specific provision exempts farmers from the seed regulation with the language

In other words any farmer selling or exchanging seed that s/he has grown intended to be used by the other farmer for sowing/planting does not need to conform to the seed standards under the seed law. This is still the current legal position in India. In this way, seed keepers and small farmers who are not in the business of seed (as large corporate and smaller companies are) have the freedom to keep seed in circulation amongst themselves.

5.0 Conclusions

It can be concluded that one of the constraints facing the seed industry in Tanzania is Policy and Law gap particularly non-recognition of the Farmer Managed (Saved) Seeds. The Seed Act, 2003 in its Long title put forward that, the law shall control and regulation of the standards of agricultural seeds and for matters incidental to, however, within the Law those "agricultural seeds" are not defined. As per spirit of the law, that, laws should be clear and certain, then, Seed Act, 2003 ought to be specific on the definition of the seeds, which will be controlled and regulated mainly certified seeds but with exemption clause of Farmer Managed/Saved Seeds. If Farmer Managed Seeds will not be subjected to control and regulations of Seed Act 2003, then, Informal seed system will be formally recognized by the Seed Act.

6.0 Recommendations

It is recommended that the on-going exercise of Seed Act revision to consider the following provisions that recognize farmer managed seed systems.

Proposed sections for farmer managed seeds in Tanzania

S/N	Area of amendment	Proposed amendment
1.	Long Title of the Seed Act, 2003 reads as follows: “An Act to make provisions for the control and regulation of the standards of agricultural seeds and for matters incidental to and therewith” Section 2 of the Seed Act, which provides for the interpretation section, doesn't provide a definition of agricultural seeds. The long title should be clear to indicate what kinds of seeds are referred by the Act and what kind of seeds are exempted/ excluded. The words “agricultural seeds” can be removed and replaced with the words “certified seeds/ “seeds” and with exception words which shall refer to “farmer managed seeds”/“informal seed system”	Long title of the Seed Act, 2003 to be amended by removing the words “agricultural seeds” and replace with the word “seeds” and add the words “with exception of Farmer Managed Seeds”. The Long title should read as follows: “An Act to make provisions for the control and regulate standards of certified seeds/seeds with exception of Farmer Managed/Saved Seeds and for matters incidental to and therewith” OR Introduce new section within the Seed Act which shall be an exemption clause and read as follows: “This Act shall not be applicable to: (a) The use of farm-saved seed by any person; (b) The exchange or sale of farm-saved seed among small holder farmers”.
2.	Section 2 of the Seed Act (Interpretation). The National Agriculture Policy-2013 and the Seed Act, 2003 does not provide definitions of Formal Seed Systems and Informal Seed Systems although the terms are being used by seed stakeholders (both Public and Private). The National Agriculture Policy-2013 and Seed Act, 2003 should categorically define the two systems in order the stakeholders to have a clear guidance on their implementation.	Add new definitions in Interpretation Section which shall read as follows: (a) Formal Seed Systems means seeds which undergo quality control in the process of producing, processing and marketing done by TOSCI; (b) Informal Seed System (Farm Managed/Saved Seeds) means seeds produced by smallholder farmers, saved, used, exchanged and sold among them and are exempted from the Seed Act; (c) Small holder farmer means a farmer holding one acre of crops (d) Stakeholder means a farmer, a person, group of persons/farmers, entity or Institution which has direct or indirect interest on seed development in Tanzania.

3.	Section 4 and 5 of the Seed Act to be amended in order to distinct the functions of National Seed Committee and Seed Stakeholders' Forum. Section 4 read as follows: <i>"The National Seeds Committee shall be composed of:</i> • Permanent Secretary-MOA (Chairperson); • Officer in charge-Seed Unit (Secretary); • Head of division – Research; • Head of division-Crop Development; • Chief Seed Quality Controller officer – (TOSCI); • Registrar of Plant Varieties; • Representative from TASTA; • Representative from Higher Learning Institution responsible for agriculture; • Representative from seed consumers' association". Section 5 read as follows: <i>"The National Seeds Committee shall be a Stakeholders' Forum responsible for advising the Government on all matters relating to the development of the Tanzania seed industry"</i> Currently the National Seed Committee saves as Stakeholders' Forum with only nine (9) members and they supposed to advise the Government on all matters relating to the seed development in Tanzania. Among the nine members there is no person or NGO/ Forum which represent 75% of	Introduce new Section specifically for Seed Stakeholders Forum which shall read as follows: <i>"(1)For the purpose of promoting the development of the seed sector, there shall be a stakeholder's forum which shall be responsible for-</i> (a) <i>Advice the Ministry on formulation and implementation of the seed industry policy particularly matters of formal seed system and informal seed system (Farmer Managed Seeds);</i> (b) <i>To advise the Ministry on the implementation and amendment of the seeds legislation;</i> (c) <i>To advice the Minister on all matters relating to seeds;</i> (d) <i>To give general advice in the co-ordination and supervision of the seed industry</i> (e) <i>To establish stakeholders' secretariat and other organs for better carrying of the forum</i> <i>(2) The stakeholders' meeting shall be held at least once in every year for the purpose enhancing seed development and other matters of common interest".</i> (1) <i>(1)The Stakeholders meeting shall be composed of the following stakeholders:</i> (a) <i>Five (5) representatives from the Ministry of Agriculture;</i> (b) <i>Two (2) representatives from Tanzania Official Seed Certification Institute (TOSCI);</i> (c) <i>Three (3) representatives for Research and extension Institutions;</i> (d) <i>Two (2) representatives from Agricultural Seed Agency-ASA;</i> (e) <i>Five (5) representatives from NGO's advocating for small holder farmers (TOAM, MVIWATA, ANSAF, ESAFF, TABIO)</i> (f) <i>Five (5) representatives from Tanzania Seed Traders Association (TASTA);</i> (g) <i>Five (5) representatives from selected Donors who funds on seed research and development;</i> (h) <i>Ten (10) representatives of smallholder farmers.</i> (2) <i>The Ministry shall be the Chair of the Stakeholders meeting;</i>
-----------	---	--

		(3) <i>The Stakeholders’ meeting shall appoint the Secretariat of the Stakeholders meeting;</i> (4) <i>Notice of Stakeholders meeting will be posted/ advertised on the Newspapers of wide circulation;</i> (5) (a)<i>Any member may propose an agenda item. These must be provided in writing to the Chairman with a copy to Secretariat.</i> (b)<i>Solicitation for the meeting agenda items shall be included in each meeting announcement. Final meeting agenda and associated meeting materials shall be posted one week before the date of the meeting;</i> (6) <i>Resolutions of each Stakeholders meeting shall be adopted and confirmed on the same date of the meeting.</i>
4.	Section 14(5) of Seed Act as amended by the Written Laws (Miscellaneous Amendments) Act, 2014 Section 14(5) read as follows: “Any person who- (a) Sells seeds which is not certified under the provisions of this Act;..... <i>commits an offence and upon conviction, shall be liable to a fine of not less than one hundred million shillings and not more than five hundred million shillings or to imprisonment for a term not less than five years and not more than twelve years or to both”.</i> Therefore, Section 14(5) as amended categorically recognizes the use of certified seed (Formal Seed System) in Tanzania. The Seed Act shall provide an exemption clause for Farmer Managed Seeds (Informal Seed Systems/ uncertified seeds).	Add the words “with exception of smallholder farmers deal with Farmer Saved Seeds” between the words “Any person” and “who” appeared on Section 14(5). Section 14(5) should read as follows: “Any person, with exception of smallholder farmers deal with Farmer Saved Seeds who- (a) Sells seeds which are not certified.....”



Tanzania Organic Agriculture Movement

NSSF Mafao House | 15th Floor | Uhuru Road | Ilala Boma
P.O. Box 70089 | Dar es Salaam | Tanzania | Tel. +255 732 975 799 |
E-mail: toam@kilimohai.org | www.kilimohai.org

