Working Paper

SEED POLICY AND LAW

An Underexplored Factor in Emergency Assistance in Africa

NIELS LOUWAARS AND LOUISE SPERLING

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seed system Strengthening smallholder farmer seed systems

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About SeedSystem

SeedSystem provides practical ('how-to') guidance and strategic thinking to help professionals design seed security-related assistance. It aims to foster productive, resilient, and market-oriented seed systems, even in times of emergency (high crisis!) and chronic stress. SeedSystem creates links among donors, government professionals, researchers, and humanitarians, drawing users from over 75 countries worldwide. While global, the work has a particular focus on smallholder farmers across Africa.

About Mercy Corps

Mercy Corps is a leading global organization powered by the belief that a better world is possible. In disaster, in hardship, in more than 40 countries around the world, Mercy Corps partners to put bold solutions into action – helping people triumph over adversity and build stronger communities from within. Now, and for the future.

About ISSD Africa

Integrated Seed Sector Development (ISSD) Africa is an international community of practice, guiding seed sector innovation and development on the African continent to alleviate the problem of limited access to quality seed. It is enabled by the Swiss Agency for Development and Cooperation (SDC) and the Government of the Netherlands.

ISSD Africa addresses seed system challenges in fragile and conflict-affected states by fostering better coordination across the Humanitarian-Development-Peacebuilding (HDP) Nexus. It works to bridge emergency seed interventions with long-term sector development, ensuring responses are timely, targeted, and sustainable. This review and analysis were conducted under ISSD Africa Action Learning Project 2 (ALP2), which explores effective seed security responses in fragile and conflict-affected contexts. ALP2 is co-led by SeedSystem and Mercy Corps.

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Design

Kristin Lambert (Mercy Corps)

Contacts

Wageningen University, Fellow at the Law Group: Niels Louwaars, niels.louwaars@wur.nl
SeedSystem: Louise Sperling, sperling@seedsystem.org
Mercy Corps: Kristin Lambert, klambert@mercycorps.org
ISSD Africa: Geoffrey Otim, geotim@mercycorps.org

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Acronyms

10P	*Ten Guiding Principles for Good Seed Aid*
ARIPO	African Regional Intellectual Property Organization (Harare, Zimbabwe)
ASBPP	African Seed and Biotechnology Partnership Platform (of the African Union)
AU	African Union (Addis Ababa, Ethiopia)
CBD	Convention on Biological Diversity (Montreal, Canada)
COMESA	Common Market for Eastern and Southern Africa (Lusaka, Zambia)
CRS	Catholic Relief Services (Baltimore, Maryland, USA)
CTDT	Community Technology Development Trust (Zimbabwe)
DiNER	Diversity in Nutrition and Enhanced Resilience (type of seed fair)
DRC	Democratic Republic of the Congo
DRR	Disaster risk reduction
DUS	Distinct, uniform, and stable (of a variety)
DSD	Direct seed distribution (as seed aid strategy)
ECOWAS	Economic Community of West African States (Abuja, Nigeria)
FAO	Food and Agriculture Organization of the United Nations (Rome, Italy)
FARA	Forum for Agricultural Research in Africa (Accra, Ghana)
GMO	Genetically modified organism
IGAD	Intergovernmental Authority on Development (Djibouti)
INGO	International nongovernmental organisation
IPPC	International Plant Protection Convention (Rome, Italy)
ISSD	Integrated Seed Sector Development
ISTA	International Seed Testing Association (Zürich, Switzerland)
ITPGRFA	International Treaty on Plant Genetic Resources for Food and Agriculture (Rome, Italy)
NASC	National Agricultural Seed Council (Nigeria)
NGO	Nongovernmental organisation
OAPI	African Intellectual Property Organization (Yaoundé, Cameroon)
ODI	Overseas Development Institute (London, UK)
OECD	Organisation for Economic Cooperation and Development (Paris, France)
PBR	Plant breeder's rights (also plant variety rights)
QDS	Quality declared seed
SADC	Southern Africa Development Community (Gaborone, Botswana)
SEADS	Standards for Supporting Crop-Related Livelihoods in Emergencies
SERT	Seed Emergency Response Tool
SVF	Seed voucher and fair
SSSA	Seed system security assessment
TRIPS	Trade-Related Aspects of Intellectual Property Rights (under WTO)
UNDROP	United Nations Declaration on the Rights of Patents
UNDRR	United Nations Office for Disaster Risk Reduction
UPOV	International Union for the Protection of New Plant Varieties (Geneva, Switzerland)
VCU	Value for cultivation and use (of a variety)
WFP	World Food Programme of the United Nations (Rome, Italy)
WTO	World Trade Organization (Geneva, Switzerland)

Executive Summary

Aims and Scope

Seed aid is a major type of agricultural assistance offered to stressed farmers during emergencies or early recovery periods. If done well, such aid serves as a powerful assistance tool as it can quickly help farmers sow and harvest themselves and can potentially yield important production gains. If done poorly, seed aid can increase vulnerability, wasting farmers' land and labour, and stifling the development of both sustainable farmers' systems and commercial seed businesses.

Seed aid is a relatively new form of humanitarian assistance, dating mainly from the mid-1990s, but its use has risen dramatically in recent years. The FAO, in 2023 alone, spent US$470 million on emergency relief, much of it seed-related and delivered across many countries (e.g., Sudan, South Sudan, Ethiopia, Burundi, Central African Republic, Chad, Nigeria, Mozambique, Madagascar, Lesotho, Niger, Mali). Also, seed aid is often being repeated across the same countries, regions, and farmers (e.g., Ethiopia has implemented such assistance for more than 42 years). Along with its geographic spread, emergency seed aid has evolved from primarily direct seed distribution to varied market-based approaches, such as seed vouchers and fairs, cash for seed, etc. A range of technical guidelines for these approaches has been issued and is reviewed in this document.

In most countries, the seed sector is highly regulated and geared to implementing agricultural development and food security policies. Policies and regulations strongly focus on the formal seed sector and tend to be poorly aligned with the pluralistic systems that all together support seed security. With an aim to increase the effectiveness of the range of seed aid approaches, this study reviewed the seed policy and regulatory environments surrounding emergency aid, examining global and regional (Africa) agreements and seed-related policies and laws of six key African countries. The base questions were: could existing policies or laws block effective seed aid response?; and, what is needed for policies and laws to enable positive guidance towards more effective humanitarian seed action?

Key Findings

The review of the policy and legal documents showed the following diverse trends and implications for action.

1. Global Intergovernmental Agreements

Within the eight seminal global agreements and instruments of relevance to seed systems, there seems to be no mention of emergencies or disaster (OECD Seed Schemes, ISTA, IPPC, UPOV, CBD, Cartagena Protocol, ITRPGRFA, and UNDROP). Few have explicit exemptions that could be used in emergencies. Greater attention to emergency seed actions may be beneficial for member governments (e.g., through derogations or exceptions). Guidance might be added to at least avoid blocking the best responses at the national level. That said, relaxing of phytosanitary rules is not advised, as introduction of pests and diseases could leave populations even more compromised. Also, it may be relevant to put seeds on the agenda of international forums that focus on emergency preparedness and response, such as the UNDRR.

2. Africa Regional Seed Harmonisation Agreements

The regional intergovernmental agreements reviewed—for SADC, COMESA, and ECOWAS—hardly take account of emergency in their seed rules. Harmonised rules can support emergency preparedness by facilitating cross-border movement of certified seeds, which is important, including in emergency situations. However, the rules for the formal seed sector may withhold national regulators from complementing these rules with national arrangements for seeds that normally do not cross borders (e.g., Quality Declared Seed and Standard Seed classes) or local arrangements among smallholder farmers, including seed fairs and community seed banks. Note that discussions about more pluralistic approaches to seeds to support countries are ongoing in the frame of the African Union and its African Seed and Biotechnology Partnership Platform. Also, it appears relevant to more clearly identify seeds as a critical response issue in regional disaster risk reduction platforms and connect this issue with the offices responsible for seed harmonisation.

3. National Seed Laws/Policies for Six African Countries

The review of the national seed policies of Ethiopia, Mali, Nigeria, South Sudan, Uganda, and Zimbabwe showed that their attention to emergency is limited to few cases, notably Ethiopia and South Sudan. All reviewed seed laws focus mainly on the formal seed sector providing certified seed of officially released varieties. Some also give space to (semi)formal sector exemptions, and some provide legal space through ministerial decisions that allow for exceptions in emergencies. However, official guidance toward the range of possible seed aid approaches (including more market-based ones) is often lacking. From the review of national documents, it appears important to: promote affirmative policies that support the best emergency responses in a given situation; avoid overly restrictive ones that could impede responses; and develop preventive measures to discourage negative actions (e.g., around biodiversity and biotechnology). This guidance would go beyond select current practices that might have de facto waivers and informal relaxation of rules—neither of which provides the policy guidance or the legal certainty that operators in an emergency situation need.

4. Donors

Donors may have an important role in advising the implementing organisations they support financially to optimally focus their emergency seed interventions. Donor guidance may include possible seed sourcing options as well as extensive guidance on process aspects, such as the *Ten Guiding Principles for Good Seed Aid (10P)*, that shape implementation issues such as assessment, crop and variety choice, and feedback. In addition, donor countries need to strictly uphold their quality standards for seed that is exported as humanitarian aid and avoid the risk of de facto “seed dumping” by some suppliers.

Overall, the review contends that emergency preparedness (guidance) is first a policy issue, and that seed preparedness strategies need to be supported by the country’s laws and regulations. Given that emergencies differ, this review also suggests including openings in the law that can be used in emergencies-- rather than explicit or overly prescriptive additional rules.

Finally, the details of the review show positive examples of guidance as well as shortcomings. There seem to be important and current opportunities for governments to fill critical gaps in guidance and take a stronger lead in shaping better emergency seed aid practice. Therefore, the review closes with a modest mapping of possible steps forward for some of the key stakeholders.

Review of Actions Towards Governing Emergency Seed Assistance

Organization	Action Type	Description
Aid Organisations	Policy	Take processes (like the *10P*) and the diversity of humanitarian seed options into account to make responses more effective in the short run; support seed-related institutions (at local/community and market levels) during and after the emergency.
	Planning	Take regulatory issues into account and discuss with governments.
National Governments	Preparedness	Include seed in all its diversity and complexity as an essential component of emergency responses, including at the regulatory level. Develop an explicit policy on the topic. Consider focus on both the seed material and the allied seed security response processes (*10P*) when crafting policy guidance.
	Regulations	Use existing articles in the law to effectuate policies and rules for emergencies. When such clauses do Not exist, take temporary legal and policy measures and include them in a next policy/legal review. Make sure that articles in other regulations (e.g., on biodiversity, intellectual property, and biotechnology) do not run counter to the emergency seed policies.
Regional and International Organisations	Awareness and policy coherence	Discuss policy space for emergency seed issues. Include seeds in disaster preparedness. In the frame of regional seed rules, share experiences and advise member governments on regulatory solutions.
Donor Organisations	Policy	Develop emergency seed guidance and share with both humanitarian organisations and governments in affected countries. Strengthen connections more generally between humanitarian and development offices within donor, partner, and collaborating organisations.

I. Introduction

Seed is a critical component of all food supply with several specific intricacies; farmers need good seed of adapted varieties for every cropping season. Seed aid is a major type of agricultural assistance offered to stressed farmers during emergency or early recovery periods. Such aid serves as a powerful assistance tool as it can quickly help farmers to sow and harvest food themselves and potentially yield important gains (e.g., 1 kg of sorghum seed can produce more than 150 kgs of food four months later).

Seed aid is a relatively new form of humanitarian assistance. While isolated cases were documented in Ethiopia (response to drought) and Cambodia (response to conflict) in the mid 1970s, it is only since the 1990s, and particularly in Africa, that relief agencies have engaged in seed aid as a routine complement to food aid (Sperling, et al., 2008). Seed aid implementation has escalated quickly. For instance, in 2023, the Food and Agriculture Organization of the United Nations (FAO) alone spent US$470 million on such aid (SeedSystem and Mercy Corps, 2024), with top current recipients including Sudan, South Sudan, Ethiopia, Burundi, Central African Republic, Chad, Nigeria, Mozambique, Madagascar, Lesotho, Niger, and Mali. Along with its geographic widening, such aid is sometimes repeated in the same countries and among the same farmers (e.g., Ethiopia has been involved in seed aid delivery for more than 42 years).

Hundreds of seed aid intervention cases have been gathered during the last three decades (ODI, 1996; FAO, 2004; SEADS, 2022; Sperling, et al., 2025). Various “how-to” manuals have also been issued for the major approaches: direct seed distribution (ODI, 1996); seed vouchers and fairs (CRS, et al., 2002 and 2017); and cash and seed (Keane, et al., 2019; Longley, et al., 2023; CRS, 2025). Further, overview guidelines, developed mostly by nongovernmental organisations (NGOs) and independent think tanks, have been posted in the public domain since nearly the very start of such aid. Not all instances of seed aid have been shown to be effective, and some might even have made farmers more vulnerable. The practice of seed aid is littered with examples of seed aid doing harm, e.g., agencies providing long-maturing varieties when fast-maturing varieties were needed, introducing tons of seed totally unadapted to the stress area (Rohrbach, et al., 2004), or distributing seeds so unacceptable that farmers used the subsequent crop as fodder (Rohrbach, et al., 2004; FAO and WFP, 2004). These errors seem to be due to bad technical decisions. Beyond these concerns, this report investigates whether the official guidance through policies, laws, and regulations could also potentially constrain optimal seed aid practice.

The seed sector in normal times is highly regulated, yet little attention has been given to how policies, laws, and regulations shape seed actions during emergencies.

This study focuses on what seem to be critical gap areas in seed aid knowledge and guidance. Commonly, the seed sector in normal times is highly regulated (Louwaars and de Jonge, 2021). However, there has been little analysis of the policies, laws, and regulations that might guide or affect seed actions during emergency periods. This study looks at the governmental policies and laws—global, regional (Africa), and national (six key African countries)—which might govern and shape (directly or indirectly) seed aid practices on the ground. Our base questions are: Do such policies exist?; and do regulations positively guide or obstruct effective seed aid assistance? Box 1 shares some anecdotal examples from practitioners which suggest that policies and laws can constrain or enable better seed practice.

Box 1. Examples Where the Policy and Laws Have Affected Seed Aid Implementation*

This list includes constraining and enabling examples.

Crop type: Across much of southern Africa (multiple countries), maize seed is a staple in emergency relief, although sorghum might be more appropriate for the drought-prone areas. A major reason is the availability of certified maize seed—and not sorghum. That a key crop cannot be supplied in an emergency due to the seed certification requirement occurs in many relief interventions.

Variety restriction: In South Sudan, seed procurement has focused mainly on certified seed, narrowing the range of varieties, with a single variety dominating for maize and two for sorghum. More recently, as quality declared seed (QDS) is recognised, a wider range of varieties (e.g., for maize, sorghum, rice, cowpeas, green gram, groundnut) is available from national producers. This shows added flexibility.

Variety mistakes: There have been cases where long-maturity sorghum variety seeds have been distributed in short rain farming systems, providing no yield at all as the crop dried out in the dry season.

Delays: National seed companies in Sudan used to have their certified seed (sorghum, sesame, groundnut) registered and inspected, and they had processed and bagged stocks ready in their stores. However, procurement regulations required final stock sampling by National Seed Authority inspectors, who were difficult to reach as the war approached Khartoum. This requirement delayed response.

Delays: In the Democratic Republic of the Congo (DRC), suppliers are mostly small farmer-led groups, and the process of evaluating tenders and allied documents from very many small suppliers may be lengthy. If, by the time implementors are ready to start shipment, the official lab report (*Bulletin d'Analyse* from the National Seed Authority) is more than 45 days old, it is no longer valid. The authority then must do a new lab analysis (paid for by the supplier), adding a lot of time—which may be scarce in emergency response.

Seed multiplication source: In Northeast Syria, the local agricultural authority tightly controlled wheat seed circulation. Only certified seed produced by the authority could legally be distributed, but the supply was far too small for the number of farmers who needed it. Rather than pushing for exemptions for imported certified seed, the implementor negotiated a temporary arrangement in which selected farmers were supported to multiply wheat seed locally. The authorities could then either buy that seed for wider distribution or allow those farmers to get their seed certified and sell it in local markets.

Seed multiplication source: Uganda has fairly recently (2020) adopted a QDS standard. This has proved important for relief responses. QDS seed has been on offer during seed voucher and fair responses. Additionally, some humanitarian agencies and private sector companies have occasionally procured from localised seed businesses for emergency interventions in nearby districts (possibly stretching beyond the boundaries of QDS).

Seed quality processes: In the DRC, an NGO worked with the SENASEM seed quality experts on quality management protocols (QMP, similar to QDS) to validate cassava cuttings (primary and secondary fields). This planting material was then used in emergency response/post-conflict settings in North and South Kivu with several local NGO partners. There was no formal policy/regulatory change, but SENASEM did endorse a QDS protocol.

* *While these are actual cases, names of organisations and dates are omitted to avoid notions of "blame."*

Going beyond these anecdotal examples, this study reaches out more widely. It aims to review a range of existing laws and regulations to identify critical gaps in seed aid guidance This study also seeks to explore potential areas for flexibility that could allow for, or even guide, emergency seed actions. The study does not intend to formulate blueprint solutions to identified gaps since the types of emergency and needs can be very variable. Nor does the study consider that specific regulations are always necessary for governments to guide the most effective emergency seed aid responses. Our premise is that clear policy and legal guidance could help aid agencies and enable governments to remain in charge of making very key strategic decisions and to better maneuver, even during volatile emergency periods.

II. Methods

II.1. Reviewed documents

This study is based on written documents only. The majority of intergovernmental and national government documents reviewed were accessible via the internet, with an additional few procured, sometimes in draft form, directly from the issuing offices. Most documents relating to humanitarian technical guidelines are in the public domain. Files that predated the internet or that are no longer posted were sourced from one of the author's professional library.

The following three broad types of documents were reviewed for this analysis, each having the potential to steer emergency seed assistance but at different levels and with different degrees of detail.

Humanitarian Technical Guidelines for Seed Aid

Humanitarian technical guidelines for seed aid have been largely developed by international nongovernmental organisations (INGOs) and the intergovernmental organisation, FAO, an agency involved in extensive seed aid implementation.

The full set of humanitarian technical guidelines gathered can be found in Annex 1. The intensive review of the guidelines focused on the seven more comprehensive ones (Box 2). Four of these are recognised by practitioners as among the more comprehensive emergency seed assistance resources available (ODI, 1996; Johnson,1998; FAO, 2010; Sperling, et al., 2022). The other three have been included in this technical review as they contain seed assistance advice but analyse seed issues through the lens of either a singular type of humanitarian intervention—e.g., seed vouchers and fairs; and cash and seed (CRS, 2017, 2025)—or by covering crop-related interventions more generally (SEADS, 2022).

The seven technical guidelines reviewed embrace diverse formats and goals, ranging from 1-4 pages to over 80, and with varied scope. Several only focus on seed assistance; others insert a seed section in a larger manual on humanitarian guidance or agricultural development. The shared feature is that they all contain specific technical guidance on seed assistance. They commonly have no pre-determined general geographic or specific focus, although select documents may draw examples from targeted regions, such as the Seed Emergency Response Tool (SERT) (Sperling, et al., 2022), with examples mainly from Africa.

Box 2. Set of Reviewed Humanitarian Technical Guidelines for Seed Aid

1) ODI, 1996. *Seed Provision During and After Emergencies*.
2) Johnson D., 1998. Oxfam. *Distributing Seeds and Tools in Emergencies*.
3) FAO, 2010. *Seed in Emergencies: A Technical Handbook*.
4) Sperling, L., A. Mottram, W. Ouko, and A. Love, 2022. Mercy Corps/SeedSystem. *Seed Emergency Response Tool: Guidance for Practitioners*.
5) CRS, 2017. *Agricultural Fair and Voucher Manual*. (Also 2002 version).
6) SEADS, 2022. *Standards for Supporting Crop-related Livelihoods in Emergencies*. Practical Action.
7) CRS, 2025. *Cash for Seed: Technical Note*.

The aim in reviewing this set is to assess what types of guidance they contain, not to make any judgements on whether the advice is rigorous or "good/bad." The documents were written with different goals and

audiences in mind. A key difference between this body of technical humanitarian guidance and the instruments presented in the seed law and policy sections is that the technical guidance is not legally binding; it simply offers advice on what the different organisations consider to be more effective practice. Such guidance may not have official or legal government approval or be tested against intergovernmental obligations. For strict legal guidance, INGOs tend to respond most immediately to the specific donor requirements.

Intergovernmental Agreements

Intergovernmental agreements and instruments were reviewed that are relevant to seed systems. These include major international and Africa-regional treaties that might shape seed systems, including through regulating seed qualities, intellectual property, biodiversity and living modified organisms (Box 3). The intergovernmental documents are global with no specific geographic focus. Not all counties have ratified or implemented them. Some have a more direct impact on national laws affecting seeds than others. Similarly, most of these do not have direct effect at the operational level but have influence through national laws of member states. In screening the set, the salient thrust revolved around determining whether and what kind of reference has been made to seed systems in emergency situations.

Box 3. Intergovernmental Agreements Reviewed in the Study

Global intergovernmental agreements and instruments:

1) OECD Seed Schemes: www.oecd.org/en/topics/seeds.html#schemes
2) ISTA International Rules for Seed Testing: www.seedtest.org
3) IPPC on Plant Health: www.ippc.int/eN/About/convention-text
4) UPOV Plant Variety Protection: www.upov.int/edocs/pubdocs/en/upov_pub_221.pdf
5) Convention on Biological Diversity: www.cbd.int/doc/legal/cbd-en.pdf
6) Cartagena Protocol on Biosafety: https://bch.cbd.int/protocol/text
7) International Treaty on Plant Genetic Resources for Food and Agriculture: https://www.fao.org/plant-treaty/overview/text-treaty/en
8) UNDROP on Peasant Rights: https://docs.un.org/eN/A/HRC/RES/39/12&lang=en

Regional intergovernmental agreements:

1) SADC Harmonized Seed Regulatory System (2007): SADC Harmonized Seed Regulatory System & Guidelines - SADC Seed Centre
2) COMESA Seed Trade Harmonization Regulations (2014): COMESA-Seed-Trade-Harmonisation-Regulations-English.pdf
3) ECOWAS Regulation C/REG.4/05/2008 on Harmonization of the Rules Governing Quality Control, Certification and Marketing of Plant Seeds and Seedlings (2008): https://africanlii.org/eN/AkN/Aa-ecowas/act/reg/2008/5-4/eng@2008-05-18

National Seed Policies, Laws, and Regulations

National seed policies, seed laws, and seed regulations together prescribe what kind of seeds (varieties, qualities) may be made available in regular and, also, in emergency conditions. A national seed policy provides a broad overview of what a government wants to achieve in the development of the overall seed domain. National seed laws and regulations together provide the governance and technical framework for how seed is developed, produced, traded, and used. They provide guidance on what is allowed or not. Policies are commonly prepared by governments and discussed with a wide variety of stakeholders. Laws undergo detailed scrutiny by Parliament, which make them difficult to amend, as legislative processes are time-consuming. Seed laws usually delegate authority to ministers to prepare regulations, which can therefore be amended more quickly. In some countries, broader agricultural policy documents were also screened for seed-related aspects.

Documents reviewed were in English, with the exception of those from Mali, which were published in French. The documents reviewed are listed in Box 4. Major questions revolved around whether the documents mention emergencies and, if so, whether they provide actionable guidance. If the documents do not mention emergencies explicitly, we looked for clauses that allow for exemptions that might be called in at the time of an emergency.

Box 4. National Documents Reviewed in the Study

Ethiopia: Seed Proclamation No.782/2013; Emergency Seed Guidelines 2016; Plant Breeder's Right Proclamation 1068/2017; Access to Genetic Resources and Community Knowledge, and Community Rights 169, 2009.

Mali: Loi Orientation Agricole 2006; Loi 10-032 Relative au Semences D'origine Végétales, 2010; Politique Semencière du Mali (Sous Secteur Agriculture), 2009.

Nigeria: National Agricultural Seed Decree; Decree No.72 1992; National Seed Policy 2014; National Agricultural Seed Council Act 2019; Plant Variety Protection Act, 2021.

South Sudan: The Republic of South Sudan Seed Policy 2013; Seed Policy Status in South Sudan by G. Tadu and C. Oketayot; South Sudan Seed Policy 2025-2030 (Final Draft), November 2024.

Uganda: The Seeds and Plants Act 2006; Uganda National Seed Strategy 2014/15 – 2019/20; National Seed Policy 2018; The Seeds and Plant Regulations 2016; The Seeds and Plant (Quality Declared Seed) Regulation, 2020.

Zimbabwe: Seeds Act 19:13, 2011; Plant Breeders Rights Act 18:16, 2001; Seeds (Certification Scheme) (Amendment) Notice, Statutory Instrument 142, 2016.

The national document set draws from African countries as this review was done under Integrated Seed Sector Development (ISSD) Africa, where substantial and increasing amounts of seed are involved in emergency assistance actions. The documents of six African countries were specifically selected: Ethiopia, Mali, Nigeria, South Sudan, Uganda, and Zimbabwe (Box 4). These countries were chosen as: 1) they have implemented seed aid extensively through time; 2) they embrace examples from eastern, western, and southern Africa; 3) they include anglophone and francophone examples; and 4) each country has issued seed policy and/or law documents in the public domain. In addition, the seed laws in FAO-Lex, covering 129 countries (https://www.fao.org/faolex/en/), and FAO (2018) were subjected to a quick scan, searching for words like "emergency," "crisis," and "disaster."

Certainly, the policies and laws of other countries in Africa could have different features and may be subjected to more in-depth analyses in the future. This initial work is exploratory and not exhaustive.

II.2. Criteria for screening documents

The categories of reviewed documents are diverse and embrace broad realms (e.g., emergency or not) and specific issues (e.g., types of seed) that might be relevant for emergency situations. To better understand both the full scope of what the documents include as well as the specific emphases in each category, one standard set of criteria was used in screening all the document types. The overall criteria set includes: 1) definitions; 2) seed material issues (e.g., crops, varieties, quality, sourcing, and rights); 3) central emergency issues (e.g., declaration, timing, organisations); and 4) specific seed aid emergency process issues (e.g., assessment, types of response, farmer choice, feedback). The list aims to be comprehensive, recognising that more criteria can always be added and that some are more central than others. The full, detailed set of criteria used for screening is presented in Table 1. Documents were screened for the absence or /presence of each criterion (or including specific formulations) and the analyses documented variations within a criterion (e.g., seed quality, certification, QDS, truthfully labelled). The screening process included over 35 criteria and gave a concrete idea of the thrust of these various documents in relation to a) seed, b) emergency, and c) emergency seed assistance. Not all the criteria were identified in each document.

Table 1. Criteria for Screening Documents*

1	GENERAL SCOPE	Humanitarian Guides	International	National
1a	Definition of “seed”			
	Definition of “market”			
	Definition of “variety”			
	Other relevant definition			
1b	Is there mention/recognition of other than formal seed systems? If so, how is it dealt with?			
1c	Is there room for alternative seed system oversight (e.g., QDS)?			
1d	Which crops/crop groups fall within the main requirements (field crops vs vegetables; listed crops only or also; “underutilised” species; etc.)?			
1e	Are there seed classes beyond Prebasic/Basic/Certified or Breeders’/Foundation/Registered/Certified seed classes?			
1f	Are Breeders’ Rights included?			
1g	Are Farmers’ Rights included?			
1h	Is there space for a link with biodiversity legislation *(biodiversity issues)*?			
1i	Is there space for links to plant health regulations?			

1j	Are there import restrictions/permits applicable?			
2.	**EXCEPTIONS TO SEED LAW/POLICY**			
2a	Is there any mention of varieties that are not distinct, uniform, and stable (DUS)?			
2b	Are there geographic or quantity restrictions mentioned for seeds?			
2c	Are there seed quality and identity requirements and procedures for the non-seed class lots?			
3.	**EMERGENCY FOCUS: GENERAL EMERGENCY and SEED SECURITY SPECIFIC**			
3a	Is there any mention of emergency, disaster in overview document?			
3b	Are there seed-linked procedures to declaring emergency?			
3c	Are there specific persons/organisations who declare emergency?			
3d	Are timeframes prescribed for emergency duration (beginning/end)?			
3e	Are there technical clauses-that open possibilities to divert rules?			
	If so: do they relate to seed class/quality/quantity restrictions?			
	If so: do they relate to seed quality/identity for non-seed class lots?			
	If so: are there crop specifications (*crop choice)*?			
	If so: are there variety specifications (*variety choice)*?			
3f	Are there process clauses to guide responses?			
3f.1	Is there stipulation that assessment is required?			
3f.2	Is there seed timeliness requirement/guidance?			
3f.3	Is there mention or guidance on market-based approaches?			
3f.4	Is there any stipulation for farmers needing choice?			
3f.5	Is feedback required/programmed? Evaluations?			
3f.6	Are gender considerations mentioned or incorporated?			
4.	**EMERGENCY FOCUS: FURTHER OBSERVATIONS**			
4a	Coordination of agencies			
4b	Coordination of programmes (seed/non-seed)			
4c	Targeting of recipients			
4d	Labelling and packaging, transport, storage			

* Columns would be filled in with absence/presence (Yes/No) with more detail sometimes added.

III. Findings

This section starts with a brief analysis of the humanitarian technical guidelines for emergency seed. Humanitarians have issued seed-linked guidance for decades and their advice can be charted to show some evolution over time. That said, the analysis of formal (inter-)governmental documents comprises the lion's share of this section. The increasing range of seed aid actions is a necessary basis for this analysis of laws and regulations. The analysis aims to identify whether there is policy space for shaping this increasing range of actions in emergency situations; and whether current legal formulations provide governments with room for better steering or advising implementing organisations.

This section is organised by document type studied, with separate findings on: humanitarian technical guidelines (III.1); intergovernmental agreements and instruments (III.2); African regional seed regulations (III.3); and national policy and law for six key African countries (III.4).

III.1. Humanitarian technical guidelines on emergency seed assistance

The technical guidelines for humanitarian seed actions have generally been developed by INGOs and the FAO. They have been shaped specifically in response to widespread practice and lessons learnt (see Annex 1 for full list reviewed). These guidelines have not been subjected to official or legal international or national governmental approval and, hence, may have more leeway than formal seed policy or law to elaborate on a range of practices. They may also be more dynamic as they can be updated simply by issuing new versions.

The development of published humanitarian technical guidance started relatively early in the history of seed aid. The first comprehensive volume, by ODI in 1996, was spurred by the humanitarian response after the Rwanda genocide/war in 1994-95. Over thirty aid organisations distributed seed across quite a small country and there was particular concern about the volumes and types of seed being given. Several other humanitarian technical guidelines have also been spurred in response to specific events or stresses. For example, technical guidelines have been issued in reference to the war in Afghanistan (ICARDA, 2002); drought in Southern Africa (Rohrbach, et al., 2004); and the war in Tigray, Ethiopia (Tigray, 2025).

Review of the full set of guidelines suggests the following marked trends over the 30-year period of their publishing.

First: The earlier humanitarian technical guidelines (e.g., ODI, 1996; Johnson, 1998; Preston, 2000; Pinney, 2000) focused exclusively on direct seed distribution (DSD), as that was the only approach in widespread use. Technical guidelines for seed vouchers and fairs (SVF), pioneered by CRS, were first published in 2002, but were considered an anomaly at the time, since DSD remained the dominant approach.

Second: Approaches to enhance client (farmer/beneficiary) buying power, such as voucher-based response approaches, started to gain traction post-2010, while cash-based assistance for farmers—linked to seed—is quite recent (see CRS, 2025). Market-based approaches for seed security focusing on the supply side, either to the formal or informal seed sectors, are still relatively rare. The literature review found no technical guides for market-based approaches to seed security on the supply side, even though there are recent papers that describe them more fully (Muench, et al., 2025; Longley, et al., 2023; and Walsh and Sperling, 2019).

Table 2 sketches these diverse approaches. The newer approaches may meet with conflicting regulations and would require updated and specific policy and legal space to be implemented (Sections III.2, III.3, III.4).

Table 2. Typology of the Major Humanitarian Seed Aid Responses

APPROACH	DESCRIPTION
Direct Distribution	
DSD, *also known as:* + "Emergency seed provision" + "Seeds and tools"	Procurement of quality seed from outside the affected region (national or imported) for delivery to farmers. Variants: procurement within region (farmers' or modern variety seed)
Market-based Approaches | Demand Side: Clients/Farmers	
Seed fairs, combined with vouchers for farmers	Fairs are convened to provide an ad hoc marketplace where farmers can access seeds of varied crops and varieties (usually in conjunction with vouchers). Variants (seeds as part of a broader focus): + Diversity for Nutrition + Enhanced Resilience (DiNER) fair + Livelihood fair + Input trade fair
Cash	Cash is provided physically or via digital transfer, to give recipient farmers more purchasing power.
Vouchers	Vouchers provided physically or via digital means, to give the recipient farmers more purchasing power for seeds from sources of their choice.
Market-Based Approaches | Supply Side	
Support to formal seed sector	e.g., credit to agro-dealers to increase supply during emergency period, or support to companies to pack in small sizes
Support to informal seed sector	e.g., support traders to move local seed from one region to another, or support for better seed selection and storage management

Third: There is more emphasis on process guidance. Earlier technical guidelines focused heavily on the seed materials, as this emphasis is warranted by the core attention to DSD. Guidelines centred on issues linked to seed material: type of seed and variety, seed quality, procurement issues, permits, and storage. FAO, in 2010, still had a similar focus tied to its emphasis on DSD throughout the core body of the document. Beyond the seed material, some generic emergency issues are discussed; for example, beneficiary targeting.

The new response approaches have come with the broadening of technical guidance. Additional issues mentioned in the newer sets are often around process. They include the need for assessment; timeliness in delivery; matching type of response to context; farmer choice; and feedback from multiple stakeholders. This

newer set of process guidelines has been elaborated in a recent document as the *Ten Guiding Principles for Good Seed Aid* (SeedSystem and Mercy Corps, 2024) and summarised in Box 5.

Recent technical guidance on seed response approaches focuses on process–assessment, timely delivery, context fit, farmer choice, and feedback–as articulated in the Ten Guiding Principles for Good Seed Aid (10P).

Evidence for these marked trends has been mapped in Annex 2. The focal set of seven technical guideline documents (listed in Box 3) was reviewed against the 35-plus screening criteria. It is noted that the earlier three documents centred on DSD (ODI, 1996; Johnson, 1998; and FAO, 2010) have a heavy focus on seed material and less on surrounding processes. The more recent four documents go well beyond DSD (CRS, 2017; CRS, 2025; SEADS, 2022; Sperling, et al., 2022-SERT) and contain the 10P process elements, although in varied places and formats. Their seed material focus tends to be less detailed. Uniquely, a recent official seed security guidance document for the Tigray region of Ethiopia (2025) contains both very specific guidance for the seed material itself and also embraces the 10P process elements for shaping practice on the ground. The framework is a detailed preparatory document which includes concerns towards: “disruption and erosion of farmers’ resilience,” “disruption of local seed markets,” “mismatched or poor-quality seed,” “weakening of informal seed systems,” “poor accountability and weak monitoring,” and “missed opportunities for seed system strengthening.” Since the Ethiopian federal seed policy and law are quite open towards different seed systems and situations (as referred to below), the regions have an opportunity to fill in towards specific situations.

This review of humanitarian technical guidelines has shown that they have a history of 30 years; their focus has widened over time in terms of the type of seed security interventions suggested; and that process variables—a well-defined core set—have been gaining in visibility and importance, especially in the last five years. The humanitarian technical guidelines issued mainly by INGOs and FAO have been dynamic and have broadened significantly in the face of expanding emergency seed security practice.

Box 5. Ten Guiding Principles for Good Seed Aid (10P)

1. **Seed System Security Assessment:** Where people are at risk of seed insecurity, assessments must be conducted to identify possible seed security problems among the diverse groups affected (e.g., men and women). An SSSA should guide a decision to undertake any relief intervention.
2. **Response Type:** The type of response chosen should address the type of seed security problem(s) identified.
3. **Goal of the Intervention:** The seed security intervention should be designed to meet a clear goal.
4. **Context:** The type of response chosen can actually be implemented in the given context and adheres to the "do no harm" principle.
5. **Timeliness:** Any intervention proposed can be completed in time for farmers to have seed in hand for their normal planting period.
6. **Market-based Assistance:** Humanitarian assistance should support, not undermine, critical market functions.
7. **Crop and Variety Choice:** The crops and varieties selected for the intervention should suit the context and user needs.
8. **Seed Quality:** The quality of the seed involved in the intervention must meet the minimum standards of farming communities, practitioners, and donor organisations.
9. **Farmers' Choice:** Wherever possible, farmers should be able to choose among crops and variety options.
10. **Feedback at Multiple Key Stages:** Client groups, farmers, and suppliers must have the opportunity to give feedback at the end of the season and afterwards.

III.2. Intergovernmental Agreements

Seed systems are subject to a variety of intergovernmental agreements and instruments related to components of the seed value chain. Some target the seed systems directly; others may have different primary objectives but impact seed systems. These instruments commonly operate through national law, which means that their impact on humanitarian seed actions is at the most indirect. Still, as they do impact reality on the ground, it is relevant to know and understand the concepts that they stand for. The main ones relate to seed quality and identity and to different rights. A major finding from this study is that they do not explicitly refer to seed emergency situations. The agreements and instruments that are briefly introduced indicate their relevance to this report. Some more information on the objectives and content of each agreement is presented in Annex 3.

Varietal Identity

Varietal certification is internationally harmonised through the **Seed Schemes** of the Organisation for Economic Development and Cooperation (OECD) since 1958. These operate through an OECD Variety List and procedures for certification systems that guarantee varietal identity throughout the seed production chain from breeder to farmer. These include set seed classes and detailed rules for seed labels (colour, information to be printed, etc.). Countries (OECD member or not) can join specific schemes. In Africa, Burkina Faso, Egypt, Kenya, Nigeria, Senegal, South Africa, Tanzania, Uganda, Zambia, and Zimbabwe subscribe to one or more of such (crop-dependent) schemes. Even though the formal application of the

Schemes in Africa is limited, they are very relevant since they inspire regional and national seed certification laws and regulations.

Relevance for humanitarian seed actions

The OECD Seed Schemes regulate the formal seed system, with registered varieties and tested and certified seed. They aim at facilitating the international movement of seeds, including in emergency situations. Even though the Schemes allow for the certification of local varieties, importing such local variety seeds in emergency situations is not likely to happen as they are not available in the official seed market. Few African countries officially subscribe to the OECD Seed Schemes, and those that do so only apply it to certain crops (e.g., Senegal for maize to be able to produce seed in the winter season for use in Europe). The direct impact of the Seed Schemes on humanitarian seed actions is therefore limited.

Seed Quality

Processes to determine seed germination, purity, and health, including sampling procedures and testing methodologies, are established by the **International Seed Testing Association (ISTA)**. Seed testing laboratories that comply with these rules can issue an International Orange Certificate, which facilitates international seed trade. ISTA does not prescribe seed standards, such as germination percentages, though. Through the ISTA rules, countries can validate the test results and identify whether the seed meets the national standards. Countries in Africa that have ISTA-accredited laboratories include Egypt, Kenya, South Africa, Tanzania, Uganda, and Zimbabwe. In addition, Ethiopia, Rwanda, Tunisia, and Zambia have non-accredited member laboratories. All other laboratories aim at applying ISTA rules in official and also non-official (e.g., in-company) seed testing as much as possible.

The **International Plant Protection Convention (IPPC)** furthermore provides rules to check for the health of (among many other products) seeds. This is a most critical aspect that countries look at when importing seeds, as they need to avoid the introduction of new diseases and pests into their country.

Relevance for humanitarian seed actions

Neither ISTA nor IPPC rules refer to emergency situations. They may not have to because seed quality is always important for farmers, and so is the testing of seed, whether certified or not, including in emergency situations. Avoiding the influx of new pests and diseases is also of utmost importance both in regular and in emergency situations. ISTA does not directly influence seed systems apart from supporting mutual recognition in international seed trade, which is relevant when seed crosses a border to cope with shortages. The International Orange Seed Lot Certificates, guaranteeing that the seed has been tested according to ISTA rules, is commonly obligatory when importing seeds. The direct impact of ISTA and IPPC on humanitarian seed actions is limited apart from supporting cross-border movement of seed.

Intellectual Property Rights

The **Trade-Related Aspects of Intellectual Property Rights (TRIPS) Agreement under the World Trade Organization (WTO)** has been an important instrument for international trade since 1994, with which all WTO members have to comply. It prescribes minimum rules for intellectual property rights at the national level. For the seed sector, this particularly relates to plant variety protection. This is internationally harmonised by the **Union for the Protection of New Varieties of Plants (UPOV)** since 1961, although

some countries (e.g., Ethiopia) have implemented their own sui generis protection system. Plant variety rights provide exclusive rights to the breeder with respect to multiplication and trade. Protection, which commonly lasts 20 to 25 years, applies to new varieties that are distinct, uniform, and stable. Non-uniform (traditional or new) varieties cannot be protected this way. The system aims at encouraging the breeding of new plant varieties.

Countries in Africa that are members of UPOV include: Egypt (2019), Ghana (2021), Kenya (1999), Nigeria (2025), Morocco (2006), South Africa (1977), Tunisia (2015), and Tanzania (2015). In addition, the **African Intellectual Property Organization (OAPI)** became a member in 2014 on behalf of its members: Benin, Burkina Faso, Cameroun, Central African Republic, Chad, Comoros, Congo, Côte d'Ivoire, Equatorial Guinea, Gabon, Guinea, Guinea Bissau, Mali, Mauritania, Niger, Senegal, and Togo. OAPI registrations officially extend automatically to all member states. Other regional agreements are under development: the SADC Protocol for the Protection of New Varieties of Plants and the African Regional Intellectual Property Organization (ARIPO) Arusha Protocol. Unlike OAPI, these agreements, covering eastern and southern African countries, will require member countries to have national laws that are in line with these protocols.

Countries may also have other intellectual property rights laws that may affect rights on seeds, notably patents on biotechnological inventions and plant traits, as well as trademarks (e.g., on seed packet design).

Relevance for humanitarian seed actions

The TRIPS Agreement includes in its Article 31, referring to the use of a patented subject matter without authorisation of the patent holder: "This requirement (that consent need to have been sought) may be waived by a Member in the case of a national emergency or other circumstances of extreme urgency or in cases of public non-commercial use." UPOV's plant breeders' rights (PBRs) do not explicitly refer to emergency situations. However, "public interest" may override the rights of the breeder (but he/she has to be financially compensated in such cases).

Apart from the public interest exception, plant variety rights may affect humanitarian seed initiatives in rare cases: The explicit approval of the breeder is required when seeds of protected varieties are multiplied, traded, and exported. Breeders have the right not to allow export of a protected variety seed to a country where it is not protected; they may also obstruct imports into a country where the variety is protected without the involvement of their agent. In practice, this may not often create limitations because i) most modern varieties of major food crops in the Global South originate in public breeding and are commonly not protected; and ii) in the case of vegetable seeds, most standard varieties are not protected anymore. It is furthermore unlikely that breeders will block exportation of their varieties when this is important to relieve affected farmers. The rights may play a role though when governments or relief organisations want to multiply seeds on a significant scale. Consent of the breeder needs to be sought in such cases. Under UPOV, this relates to new and uniform varieties. Ethiopia also provides for the option for the protection of farmers' and community varieties, for which consent needs to be sought for multiplication and trade.

Patents on plant traits are much stronger rights, which are likely to affect humanitarian seed actions more directly than PBRs. Currently, patents that may impact seeds are mainly granted on genetically modified organism (GMO) traits in some African countries, but this may change in the near future.

Living Modified Organisms

The **Cartagena Protocol** under the Convention on Biological Diversity (CBD) prescribes rules for the release into the environment of "living modified organisms," and particularly the cross-border movement of such organisms. This includes genetically modified (GMO) crop seeds. All African countries have ratified the CBD; all have ratified the Cartagena Protocol except for Equatorial Guinea, São Tomé and Principe, and South Sudan. GMOs are highly regulated but rare in Africa. Modification is particularly used for herbicide tolerance and insect resistance (ntably Bt in crops like cotton, maize, and some vegetables). Article 13 (1b) includes a general exemption clause, which, however, requires an advance notification.

Relevance to humanitarian seed actions

The international movement of GMO seeds may well be restricted when the particular GMO is not registered in the receiving country based on its obligations under the Cartagena Protocol. In addition, for insect-resistant Bt-crops there are commonly special rules, either by law or by the patent holder, that farmers have to comply with, such as the planting of refuges. These are not likely feasible in emergency conditions. So, great extra care must be taken when handling GMO seed in humanitarian seed actions.

Rights on Biological Diversity

Biological diversity and, for the seed sector, most relevant "plant genetic resources," are regulated through two intergovernmental instruments: **the Convention on Biological Diversity (CBD)** and its Nagoya Protocol, and the **International Treaty for Plant Genetic Resources for Food and Agriculture (ITPGRFA)**. These aim to promote i) the conservation of biological diversity, ii) the sustainable use of its components, and iii) the fair and equitable sharing of benefits arising from such utilisation. They provide for national sovereign rights, including the right to regulate access to genetic resources. The ITPGRFA has created a facilitated regime for access and benefit sharing for the most important food crops. Relevant for this report is that the CBD explicitly recognises rights of indigenous and local communities; the ITPGRFA introduced Farmers' Rights that are to be implemented at the national level. These include, among others, rights on the protection of traditional knowledge and receiving a share of the benefits.

Intergovernmental Agreements do not explicitly refer to seed in emergency situations.

The **United Nations Declaration on the Rights of Peasants (UNDROP)** reaffirmed these farmers' rights for peasants. It also includes obligations of states to "ensure that seeds of sufficient quality and quantity are available to peasants at the most suitable time for planting, and at an affordable price." The responsibility for the implementation rests on the member countries. All African countries subscribe to the CBD. All African countries are contracting parties to the ITPGRFA except Botswana, Comoros, Equatorial Guinea, and Gambia. Cabo Verde has signed the Treaty but has not (yet) ratified it. All African countries voted in favour of UNDROP, except Burundi, Kenya, and Nigeria, which abstained. Several countries have translated such rights into national law, including rights of communities and farmers.

Relevance to humanitarian seed action

These intergovernmental documents do not explicitly refer to emergency situations that affect seed systems. However, UNDROP gives governments important responsibilities regarding availability of

seeds for farmers, which could/should increase government support to humanitarian seed actions. Rights over genetic resources generally relate to access for research and development but may in rare cases negatively affect the purchasing and distribution of local variety seeds. Farmers' Rights might—at the national level—be formulated to include benefit sharing on the use of farmers' varieties. The authors have, however, no knowledge of cases where these rights have ever affected humanitarian seed initiatives.

III.3. Regional Agreements

Regions in Africa have developed systems to harmonise seed laws with the objective of facilitating regional seed trade. These focus on variety registration and on seed testing and certification. These regions are SADC, COMESA, and ECOWAS. The ECOWAS rules have direct effect; the other seed rules have to be implemented through national law of the member countries. Similar to the OECD Seed Schemes at the global level, the regional harmonisation agreements include regional variety lists and harmonise national seed laws in the member countries. Only the ECOWAS regulation mentions emergencies. However, SADC recently launched a SADC Humanitarian and Emergency Operations Centre, which should support countries towards disaster preparedness and coordinate response. ECOWAS explains in a 2024 statement that it "is committed to enhancing disaster risk reduction (DRR) efforts across the region." Seeds are, however, not explicitly mentioned in this respect. Other regional organisations, such as the Intergovernmental Authority on Development (IGAD), have shown special interest in the importance of seeds in recent years but have not developed explicit rules such as the three mentioned here.

Among the African regional agreements, only ECOWAS references emergencies, though SADC recently launched a regional Humanitarian and Emergency Operations Centre to support disaster preparedness and coordinated response.

The **SADC Harmonized Seed Regulatory System** was approved in 2007, but few member countries make active use of it in regional seed trade. SADC has a joint seed catalogue for a number of field crops that can be available throughout the region. It furthermore focuses on the harmonisation of phytosanitary standards and rules that are important for transboundary seed movement. Similarly, SADC Seed Labels have been used for some intra-regional seed trade.

The **COMESA Seed Trade Harmonization Regulations, 2014,** harmonise seed rules among member countries that implement these rules into their national laws and introduced a COMESA regional list of varieties that have been identity described (DUS) and tested for their value for cultivation and use (VCU).

The **ECOWAS Regulation C/REG.4/05/2008 on Harmonization of the Rules Governing Quality Control, Certification and Marketing of Plant Seeds and Seedlings** was established in 2008. It has a regular structure for variety registration and seed certification and quality controls. A particularity, compared to COMESA and SADC, is that it recognises that farmers use farm-produced (non-certified) seeds, and it mentions "*force majeure*" situations.

Relevance to humanitarian seed actions

The three harmonised systems are relevant when humanitarian seed actions involve transboundary movement of seeds. The regional arrangements aim at facilitating seed trade in the region, which may be important in emergencies. This is done through mutual recognition of the official variety lists in the member countries and their certification systems. This means that the regional systems only deal with certified and tested seeds. No explicit exemptions, such as the "Standard Seed" class, or a recognition of (heterogeneous) farmers' varieties are part of the harmonised systems.

However, COMESA may allow other than the standard rules to operate. Article 12(2) reads, "The Seed Committee may … (f): perform any other relevant function the Committee may deem necessary." Furthermore, Article 13 states: "The Council shall adopt Seed Certification Rules to implement the System relating to …: (i) any other matters the Council may deem necessary." These articles may provide an opening for the introduction of emergency exceptions and for emergency procedures.

ECOWAS does have more explicit text for emergency situations. Article 24 states, "However, in the case of difficulty of supply of certified seed owing to force majeure in one member state, the other member states may authorise the delivery and marketing of seeds from the last authorised R2 generation to address the crisis situation." And Article 67 ("Exemptions") reads, "The official service … may exceptionally issue, in the case of emergency … certification labels for non-conforming seed batches after … evaluation of viability." This provides space for additional quantities of seed of registered varieties to be internationally traded.

III.4. National Seed Laws/Seed Policy

Seed policy documents and seed laws of six countries, available to the team, have been studied to investigate whether they contain specific rules pertaining to seeds in emergency situations and whether such rules give specific guidance to aid interveners. The policies and laws were studied as to the guidance that these may give towards the range of humanitarian seed actions typologies, discussed in Section III.1.

All reviewed seed laws have a clear focus on the formal seed sector, providing certified seed of officially released varieties, although some give space for informal sector exemptions. The scope of the national policies and laws relevant to emergencies is briefly described, followed by an analysis of the space they give to specific humanitarian seed actions. Their attention to emergencies is limited in most cases and, where mentioned, centre on quantities and qualities of seeds and hardly ever on the processes involved in humanitarian seed actions.

III.4.1. Findings from national seed policies and laws

Ethiopia: The Seed Proclamation No. 1288/2023 focuses primarily on the formal seed sector. It, however, states that, "This Proclamation may not be applicable to: the use of farm-saved seed by any person; the exchange or sale of farm-saved seed among smallholder farmers and locally exchanged seed are excluded from the law" (Article 3.2). The proclamation does make explicit reference to emergencies, stating that the Minister of Agriculture can call for an emergency (Article 18) and supply emergency seed, defined as "seed of known provenance." The seed strategy recognises formal, informal, and intermediate seed systems, giving policy space to diverse initiatives. Smallholders are exempted from various rules**.** Regarding

emergencies, it speaks about establishing an "emergency reserve strategy." The Emergency Seed Guidelines of 2016 state that when an emergency is declared, "seed from formal sources may not be able to meet the demand," thus providing a basis for underlying guidelines as to sourcing of other seeds. Ethiopia has a number of "local seed businesses" operated by farmer groups and cooperatives, multiplying a variety of food crop seeds.

The Plant Breeder's Right Proclamation No. 1068/2017 creates space, next to protection of new and uniform varieties, for the Minister to allow for the protection of farmers' and community varieties.

Mali: The Loi Semences (2010) focuses exclusively on certified seeds. The seed market is defined to include all "diffusion and commercialization" of seed and plant parts "intended for reproducing a crop." Article 9 states that only seed of varieties of the official catalogue are allowed to be marketed. It, however, also refers to traditional varieties as a national heritage and that genetic resources shall not be exported. New varieties are the property of the breeder (Articles 15-16). The law does not refer to a Standard Seed class or Quality Declared Seed.

The agricultural law mentions seed once, i.e., in relation to the need for food (and seed) supply in structurally (!) deficit regions. The seed policy refers to a fund to be established for security stocks in emergencies and subsidies for certified seeds.

Nigeria: The only reference to emergencies in relation to seeds is the policy to maintain reserve stocks of seed. Article 4.7.1 of the seed policy reads: "The Government through the National Agricultural Seed Council (NASC) shall establish a buffer stock for seed to meet seasonal changes in demand or to replace crops lost during times of natural disaster as well as to preserve seeds at a time of glut." Also, "private sector agencies shall be required and encouraged to maintain reserve stock." The seed policy (Article 9.2) does furthermore refer to other seed systems: " … the informal seed sector, made up of community seed production and farmer-saved seeds and exchanges as well as supplies from local markets as a predominant source of seeds in Nigeria, the NASC will support and enhance the informal seed sector … ." And (Article 4.6.1) states: "Farmers will maintain their right to use, exchange, share or sell their farm-saved seed… without being hampered by compulsory registration provided they do not commercialise production emanating from proprietary varieties." This recognition of informal seed systems may create policy space towards certain humanitarian seed actions.

The Seed Council Act, as opposed to the policy, does not make any specific reference to emergencies or to exemptions from the general rules in such situations. The Seed Council Act, however, explicitly refers to "seed for commercial purposes." It does not define the boundaries with non-commercial ones, but it appears to provide space for the informal seed systems as referred to in the policy.

South Sudan: The country does not have a seed law. The latest seed policy explicitly mentions "dependencies on relief seed distribution, which may lead to loss of genetic resources," and "most often, varieties and seed quality standards are usually unknown, which is a concern." It explicitly calls for seed security assessments as an early warning system to prepare and respond to disasters. The policy recognises the importance of informal, farmers' seed systems and Quality Declared Seed next to formal seed systems. It stresses that, "Unless farmers' rights are guaranteed, traditional seed varieties and local knowledge are likely to disappear." Also (Article 9.3) notes that, "The intellectual property rights to seed and genetic resources must be recognised," and refers to the freedom to sell "non-branded seed." It is furthermore the only document in this review that explicitly mentions the importance of gender in seed systems. The policy has not been operationalised in a seed law, which would need to provide clarity about the different policy objectives.

Uganda: There is no explicit mention of emergencies in the seed law, but the Minister may, "… exempt any person or class of persons from the provisions of this Act." In addition, the seed regulations stipulate that "standard seed" (not certified but laboratory tested) may be used in case of shortage of certified seed. The seed policy recognises informal seed systems even though the Seed Act reads in Article 21(1): "All seed offered for sale shall be properly labelled and sealed in accordance with the specifications set out in regulations made under this Act." The concept of Quality Declared Seed was introduced in 2020 in a special act, which aims to enhance the availability of locally produced seeds of registered varieties. These legal tools may provide for emergency responses. Uganda provides for plant breeder's rights and recognises community rights (at the policy level).

Reviewed seed laws primarily regulate the formal seed sector and certified varieties, allow limited informal-sector exemptions, and give little attention to emergency contexts or humanitarian seed processes.

Zimbabwe: Neither law nor policy explicitly mention humanitarian/emergency situations and seed-related responses. The law focuses on the formal system; there is no recognition of other seed systems (e.g., a "seller" has to be registered and is defined as anybody transferring seed). However, Section 10 reads: "… the Minister may prescribe classes of seed which shall be exempt from this section if sold subject to such conditions as may be prescribed." This may provide options that could be used (by the Minister) in emergency situations.

Finally, the quick scan of seed laws in FAO-Lex did not result in references to "emergency" or "disaster" or generally unstable situations. It did not focus on the presence of "escape clauses" such as in Uganda and Zimbabwe.

III.4.2. Policy space for particular emergency seed actions

The rules may differentially affect the range of emergency seed actions mentioned in Section III.1. This section provides a general overview of their possible impact.

- *Direct distribution of certified seed*

  Direct distribution of certified seed appears to be allowed in all national seed laws in the study. It is important to note, however, that the Ethiopian policy states that in emergencies, certified seed will be in short supply, so that other mechanisms have to be looked at, for which policy space is provided.

- *irect distribution of imported seed*

  When certified seed is in short supply, countries may consider imported seed that may be used for direct distribution. Regional transboundary movement of seed is facilitated by the regional harmonised seed systems. Imported seed has to be of varieties on the national list (or the regional COMESA, ECOWAS, SADC variety lists) and certified and tested in the country of origin. There is in most cases no mention, though, that varieties of imported seed have to be adapted to the specific regions where the distribution is meant to take place. Such transboundary trade is limited to licensed importers and exporters.

  All countries are clear about the phytosanitary controls that have to be applied; importers commonly require the seed quality to be assessed on the basis of ISTA procedures.

- *Direct distribution of tested grain/local seed of local varieties*

The views on distribution of local variety (non-certified) seed in normal and/or emergency conditions are quite different across countries. Mali appears nt to allow this at all. Neither do Uganda and Zimbabwe, even though the minister can decide to provide exemptions. Nigeria has openings for informal seed, but not in commercial quantities. It is not clear how Ethiopia applies the term “seed of known provenance” in emergency situations. It may apply to geographical provenance or to provenance of the seed itself, i.e., to the next generation produced from certified seed of released varieties. South Sudan seems to support local variety seed distribution partly as there are concerns of reducing genetic resources through large-scale emergency seed distributions.

- *Providing vouchers to be used with registered seed merchants*

Such initiatives clearly fall within the seed regulations of all countries as long as such merchants are registered as seed merchants and are stocked with Certified Seed, Quality Declared Seed, or Standard Seed in countries that have such options (Uganda, South Sudan, Ethiopia). This also applies to farmers using the cash they received with such merchants.

- *Providing cash to farmers to purchase seeds/graded grain from local farmers*

It is possible for smallholders to sell to other smallholders without interference of the seed regulations in Ethiopia and Nigeria. In Uganda, these sales appear to fall within the seed policy, but not the seed law (and the PVP rules); selling farm-saved seed to other farmers is not legal in Zimbabwe and Mali. Farmers’ right to exchange and sell seed is not explicitly mentioned in most seed laws, with the exception of Ethiopia, and this may be severely challenged by the seed regulations. It is furthermore not fully clear whether the plant variety rights rules may allow farmer-to-farmer exchanges and sales of seed of protected varieties (under the “private and non-commercial use exemption”) in these countries.

- *Providing vouchers to be used in seed fairs*

The option for emergency affected farmers to obtain seeds in seed fairs is likely similar to the previous section. This means that under a strict reading of the seed law, seed fairs are not allowed when non-certified seed is shared (or sold) among farmers in several countries. However, in several cases, such local initiatives are not acted against in practice in non-emergency situations as a way to maintain crop genetic diversity among smallholders. The practicability of such practice in an emergency situation—when large numbers of farmers are handed vouchers to obtain seed in such a venue—is unclear, and advice from authorities would need to be investigated. There have been cases, though, where government inspectors have been invited to monitor seed fairs and visually inspect the stocks on offer.

IV. Discussion

IV.1. General

Seed is broadly recognised as an important component of a wide range of humanitarian actions. The ways that seed aid has been organised have evolved over the past few decades from a DSD paradigm to a toolbox of methods that can be applied, often including market-based approaches, and increasingly with detailed guidance (e.g., 10P) on the processes that should be followed to identify better response types and to implement them more effectively. The different response options and recommended processes may put some pressure on national governments in relation to disaster preparedness and related seed policies, particularly now that international aid budgets are under pressure.

The seed sector is highly regulated in all countries in this study. In most countries in the world, specific seed laws regulate the release requirements for (new) varieties, the quality testing and identity certification of seeds in the market, and the seed market infrastructure in one way or the other. Such rules have been developed to create transparency in the seed market for farmers and others. Even though seed regulations have such objectives for normal, stable farming periods, the formulation of many seed laws has a wider application. The definition of "seed" may include only true seeds or any plant material that could be used to reproduce a plant or that is intended for that purpose. "Marketing" or "sale" may include all transactions, both commercial and local exchange of seeds, or only the cash transactions of formal seed. Also, the definition of "seed" may include any material "capable of" or "meant for" producing a new crop.

Emergency situations can strain standard seed regulations, as compliant seed supplies may fall short of rapidly increasing demand. In many countries, this leads to use of a "soft policy space" in which rules are informally relaxed during crises.

Emergency situations call for special regulatory options, partly because the amounts of seed that conform with the regular rules may not suffice to deal with a quickly increasing demand from affected farmers. There may be a "soft policy space" practice in many countries that allows for informal relaxation of rules and that may be appreciated at a time of crisis. However, clear policies on how to act in emergencies that are consistent with prevailing laws would provide for more consistent government guidance and the legal certainty that operators in an emergency situation need.

The seed policy of Ethiopia explicitly indicates that, in emergencies, the supply of certified seed is often insufficient to cope with shortages in particular regions of the country. In a situation where farmers who commonly do not use certified seed are affected, emergency responses may need the option to make non-released variety seeds available, which may be better suited to their specific agroecological conditions. The South Sudan documents even warn of a loss of plant genetic diversity when emergency seed aid does not take account of local varieties.

The analyses in this study indicated that although emergency actions towards seed provision and implementation processes are included in some seed policies, they are absent in the seed-related intergovernmental documents and in almost all national seed laws. Even where emergencies are not explicitly mentioned, several laws have clauses, "escape valves," that could be used to provide flexibility in

case of emergency. It is beyond the scope of this study to assess whether or how such clauses have explicitly been used in emergencies.

This study deals with official seed-related documents from selected countries in Africa, the intergovernmental agreements, and humanitarian aid agencies. It is worth mentioning that general disaster preparedness and response policies have not been studied in full detail, but those covered (e.g., from African regional organisations) did not mention seeds specifically.

IV.2. International Agreements and Instruments

Seed-related intergovernmental texts do not explicitly mention emergency situations. They may include specific exceptions to their rules, which could create some leeway in case of emergencies. The OECD Seed Schemes has the “Standard Seed” class in addition to the “Certified Seed” classes. This allows for tested but non-certified seeds in the market. This is, however, only included in the Seed Scheme for vegetables. Kenya has included the concept of Standard Seed in its Seeds and Plant Varieties Regulations of 2017 without limits to vegetables. Furthermore, OECD countries may have the option to divert from the rules in case of seed shortages, such as the derogation system in the European Union. After a poor seed harvest, a temporary reduction of standards may be granted.

Breeders’ Rights may intervene, particularly in the case of exports and in some cases local exchanges of seed (i.e., beyond the “private and non-commercial” use exemption). The situation may be more complex with patents resting on (GMO) seeds, though. The other reviewed instruments do not include any specific direction towards emergency seed provision either. Intergovernmental documents on biodiversity (CBD, ITPGRFA, UNDROP) do not appear to have strongly influenced national seed laws apart from aspects of Farmers’ Rights on the reuse and sales of farm-saved seeds in some countries, such as in Ethiopia.

A major relevance of the absence of emergency issues in these intergovernmental documents is that regional and national regulations are commonly (and logically) tightly connected to the intergovernmental agreements subscribed to by national governments.

Possible actions

Most intergovernmental agreements have to be implemented through national policies and regulations. Emergencies occur almost by definition in individual countries or regions, but it might be useful at the international level to provide guidance at the national level concerning emergencies. The intergovernmental rules should at least not block the best responses at the national level. It must be clear, though, that phytosanitary rules are important to reduce the chances of future emergencies, notably those related to food security challenges by new pests and diseases. Relaxing such rules is clearly not advised. The main opportunity may lie in the frame of the OECD Seed Schemes, since strict focus on the concepts underlying the Schemes at the national level (even in countries that are not part of the Schemes) appear to limit the options for governments and their humanitarian aid partners to optimally respond.

Attention to emergency seed actions at the level of intergovernmental agreements may be beneficial for governments. The OECD Seed Schemes may discuss the role of derogations, or the use of other than OECD seed labels for seed aid, and governments may discuss options in their instruments to avoid undue limitations to emergency responses. It may furthermore be relevant to put seeds on the agenda of

international fora that focus on emergency preparedness and responses, such as the United Nations Office for Disaster Risk Reduction (AU et.al, 2004).

IV.3. Regional Seed Rules

Analysis of the regional Plant Variety Protection system in West Africa and draft rules in other regions shows that they are implementing the UPOV rules. There is no reference to emergencies.

Similarly, most regionally harmonised seed rules in Africa do not mention emergency situations. These rules have been drafted to facilitate movement of seeds across countries in the region. The link with the principles guiding the OECD Seed Schemes is therefore logical. Furthermore, harmonisation of seed quality standards makes logical sense.

In emergency situations, transboundary movement of seed may be essential to improve seed security in affected areas. The option of using derogations as explicitly included in the ECOWAS system seems useful to meet a sudden increase in the demand of specific varieties in a neighbouring country. The single focus on formal seed systems, including registered varieties and certified and tested seeds, may have some limitations though. Making farmers' variety seeds available in affected areas may require transport of such seed across borders to neighbouring communities that are used to similar materials in their farming systems.

Possible actions

Regionally harmonised rules can support emergency preparedness by facilitating cross-border movement of seeds, which is important, including in emergency situations. However, the focus on regional seed trade, and thus harmonised rules for the formal seed sector, may withhold national regulators from complementing these rules with national arrangements for seeds that normally will not cross borders, including non-certified seed of released and heterogeneous farmers' varieties (Quality Declared Seed, Standard Seed, exemptions for local arrangements among smallholder farmers such as seed fairs and community seed banks). Such arrangements do not oppose subscription to the OECD Seed Schemes, as the European Union shows. The EU rules include formal derogations in cases of seed shortages and allow for heterogeneous "conservation varieties" in the market. The EU is also contemplating additional openings for heterogeneous materials (non-DUS varieties). Such arrangements furthermore contribute to the implementation of (inter-)national objectives towards the on-farm management of plant genetic resources. The African Union (AU) through its African Seed and Biotechnology Partnership Platform (ASBPP) currently discusses more pluralistic seed strategies, which will likely provide member countries with tools to provide more flexibility at the level of national seed policies (FARA, 2024).

The regions do pay attention to, and even have offices that deal with, disaster preparedness and responses. Except for West Africa, such offices do not seem to have identified seed as a critical response issue, or their discussions have not found their way to the regionally harmonised seed regulations. It may be important to connect the institutions within those regional offices to develop policies for seeds beyond the promotion of cross-border seed trade and to create a platform for national governments to discuss seed issues in emergency situations.

IV.4. National Seed Rules

IV.4.1. General Policies and Laws

Emergency seed assistance has become an increasingly applied component of humanitarian aid. Different models are used, with varying short- and longer-term effects on the target farming communities and the sustainability of seed systems. Few countries have explicit policies to that effect, which reduces the possibilities for governments to take a lead and avoid undue effects of well-meant interventions. Some national seed policies, like those of Ethiopia and Mali, do indicate that, in emergencies, the supply of certified seed is often insufficient to cope with shortages in particular regions of the country. One policy response in these countries is a call for the establishment of strategic seed reserves. However, given the fact that seed loses viability with time, and that the geographies of emergencies and thus demands for certain varieties cannot always be predicted, this strategy rarely covers all needs and can be very costly.

In some other national seed policies, emergencies are mentioned, most extensively by South Sudan, but implementation of such issues in the seed laws are scarce. In several countries, translation of such policies into laws and regulations is limited, potentially because legislative processes take quite some time, and the rapid expansion of humanitarian seed aid is relatively recent. Moreover, international obligations and regional agreements have an important role in national policy development. It appears, however, quite complex to combine the diversity of international policies into operational national seed regulations. This may be illustrated by the absence of explicit links between the biodiversity policies and the actual seed regulations in most laws analysed.

Several national seed laws implement the regionally harmonised rules at the national level both for variety protection and formal sector seeds. Other countries, though, follow these rules at the national level but at the same time complement them with local arrangements, such as recognising the informal or intermediate seed systems and providing rules for QDS. Many countries also encourage seed fairs, responding to (inter-)national biodiversity policies. As long as such non-formal seeds are not traded across borders, there is no conflict with the regionally harmonised seed rules and intergovernmental instruments on seed quality and identity.

IV.4.2. Regular, non-emergency rules

National seed laws and regulations primarily or exclusively focus on the formal system. They prescribe the variety release procedures, seed quality control and certification processes (the standards are commonly left to implementing regulations), and the governance with a national seed board and committees. Some countries, such as Uganda, include specific rules for QDS, which is based on increased responsibilities of the seed producers with respect to seed quality, and less strict field inspections in the certification process This is specifically geared to farmer cooperatives producing seeds of important basic food crops with a lower interest by the regular commercial sector. In most cases, other than formal seeds are not legal in the market even though some countries explicitly restrict the rules to the commercial market, leaving most of the informal seed systems untouched. Some countries, however, implicitly (Nigeria) or explicitly (Ethiopia) recognise the existence and importance of farmers' seed systems. This policy is a component of the ISSD concept, supported by the African Union (Louwaars, et al., 2013). Such recognition, backed by space in the seed regulatory systems, would support seed security and agro-biodiversity.

IV.4.3. Sourcing seed in emergency situations

- *Certified Seed*

In the absence of specific rules for emergencies in the seed laws, and where general clauses for exemptions are not present, certified seed is the only legal option for humanitarian seed actions. In case of severe shortages, the main option then is to bring in certified seeds from other countries, which is facilitated by regional seed law harmonisation initiatives. All released varieties in the region are then allowed to cross borders, even if not all varieties will be suitable for farmers hit by natural disaster or unrest.

Another option could be to purchase "seed" produced from Certified Seed. This could be an option in countries that operate a "Standard Seed' class in their seed quality control regulations. Basically, this is food grain turned into seed after quality testing. The identity may not be fully certified, and off-type counts may be higher than the officially prescribed standards, but such seed may still be useful for farmers in stressed situations. Legal openings for this strategy are available in Ethiopia ("seed of known provenance"); temporarily introducing an additional generation in the certification system, as the rules in Mali refer to, may also increase the availability of seed manyfold. Such seeds may either be distributed directly or through market-based (e.g., vouchers) strategies. Countries like Uganda and Zimbabwe, where the minister has explicit rights to divert from the normal seed rules in particular situations, could also operate this option.

- *Farmer-produced seed*

In some situations, farmers are better served with locally adapted-variety seeds, which may not be of officially released varieties. This is particularly true in resource-poor and ecologically diverse areas where farming communities have developed their own selections of their crops. The option to use emergencies to force farmers to use high-yielding varieties as an agricultural modernisation strategy is bound to fail when the ecological conditions of the affected farmers are very different from those where the varieties had been tested. Sourcing locally produced food sources in or close to the affected areas is an option to make local variety seeds available. Obviously, these need to undergo some basic processing and germination testing before being distributed to farmers or local agro-input dealers. Such actions commonly do not comply with the basic seed regulations of the country (and certainly not with the regionally harmonised seed laws). In the absence of an emergency preparedness plan, the government either needs to provide for ad-hoc derogations to allow this or simply allow aid interveners to disregard the existing laws. Both options may lead to uncontrolled actions, with risks as mentioned in the South Sudan policy documents (poor-quality seed and loss of genetic resources).

- *Other strategies*

Depending on the scale of the emergency, there may be other options to support seed security with affected farmers that do not entail large-scale sourcing of seed by humanitarian actors.

A strategy to support local seed systems and offer farmers a diverse option of seeds is the organisation of seed fairs. In normal situations, farmers can obtain small quantities of seed of other varieties than their own, for example, from neighbouring communities. This is increasingly relevant given that climate change may turn varieties that are traditionally grown in a particular area less adapted. Supporting seed fairs can become a strategy in emergency situations as well, where affected farmers can turn to buying (using cash or vouchers) slightly larger quantities of seed to restart their farming or to select the best varieties for their conditions after seed distributed in a first response to the emergency appears less optimal.

Actions such as seed fairs, which may be supported by external agents, may be implemented within the law. This could be true in countries where the term “marketing” or “sales” of seed is restricted to commercial markets, like in Nigeria, or where smallholders are excluded, such as in Ethiopia. In countries with broad definitions that include local exchange and sales of seed among farmers themselves, such seed fairs may not operate within the law. They may, however, be allowed to operate in normal conditions. When, however, humanitarian agencies come in to support them at some extended scale, the distinction between legal (certified) and local seed markets may become diffused, challenging legal certainty of the aid practitioners.

IV.5. Donors

Finally, donor countries have an important role to play in advising the implementing organisations that they support financially towards optimally focusing their emergency seed interventions. Such governments may—ideally together with the humanitarian agencies that they support—develop procedures that can be followed in emergency situations. Such guides may include both process aspects such as the *Ten Guiding Principles for Good Seed Aid*, discussed above, and the seed-sourcing options. Such policies can then serve as discussion topics with development partners in the Global South both before and during emergencies.

In addition, donor countries need to strictly observe their seed quality standards for seed that is exported as humanitarian aid and thus avoid “seed dumping” by some seed suppliers. The Norwegian Ministry of Foreign Affairs indicated its intention to “… deplore international dumping of food and seed in vulnerable countries and encourage a broader debate on the effects of large-scale seed distribution” (Norway, 2008).

IV.6. Possible actions: Emergency preparedness and the law

Emergency seed actions have been on the increase during the past decade. Actions have been either limited by the existing seed laws, thus foregoing optimal responses, or these laws have been set aside temporarily. Such practice with de facto waivers and informal relaxation of rules does not provide the legal certainty that operators in emergency situations need—nor provide for consistent guidance. Emergency preparedness official guidance should give governments the tools to guide actions in emergency situations and to strategically steer both the range of response types and implementation processes.

Emergency preparedness is firstly a policy issue. When would emergency seed actions be necessary and which responses are optimally suited to a particular situation? How to alleviate an emergency situation, while at the same time avoiding disruption of existing seed systems, are issues that require careful consideration. Distributing certified seeds in a particular region may be a very good option, including a good step towards sustainable (semi-)formal seed systems, but it may in other situations lessen the range of genetic resources which may be essential for a longer-term rehabilitation of farming systems in the region. Furthermore, prolonged distribution of free seeds to the same farmers may create dependencies and may reduce the recipients’ understanding that seed is a valuable input. Distributing seed while bypassing an existing agricultural input infrastructure, either community-based or commercial, may destroy an important base for future development.

Emergency seed preparedness strategies need to have a legal basis. This does not necessarily mean that additional regulations need to be developed. Since emergencies may greatly differ, it is not likely that including detailed rules at the level of the seed law is a viable option. The main goal would be to have affirmative policies that support better emergency responses in any given situation and that avoid

unnecessarily rigid regulations as governments and implementers may need to strategise and have greater flexibility. And at the same time, it is important to prepare for preventative measures that can be deleterious to the farmers.

Affirmative connections can be framed under specific clauses in some of the analysed laws: i) Uganda seed act Article 27: “The Minister may, on written recommendation from the Board, exempt any person or class of persons from the provisions of this Act”; ii) Zimbabwe, Section 10: “ … the Minister may prescribe classes of seed which shall be exempt from this section if sold subject to such conditions as may be prescribed”; and iii) Ethiopia’s Article 18 is more explicit: “Supply of Emergency Seed: In case of an acute seed shortage in Ethiopia, the Ministry shall have the power to announce officially a seed shortage emergency and to authorise the supply of emergency seed to affected areas.”

Rather than detailed legal prescriptions, emergency seed preparedness requires an enabling legal basis that supports governments and implementers to pursue flexible, context-specific responses.

Forward-looking clauses in the law can also be used to develop explicit emergency policies and guidelines. A recent example is the *Framework for Restoring Seed Security and Agricultural Livelihoods* of the interim government of Tigray in Ethiopia (Tigray, 2025). That framework is a detailed preparatory document which includes concerns towards: “disruption and erosion of farmers’ resilience,” “disruption of local seed markets,” “mismatched or poor-quality seed,” “weakening of informal seed systems,” “poor accountability and weak monitoring,” and “missed opportunities for seed system strengthening.” Since the Ethiopian federal seed policy and law are quite open towards different seed systems and situations, the states can fill in towards specific situations.

Finally, there may be emergency preparedness units within a government that may have developed policies for food security responses, including views to restart agricultural production and rural development. The study focuses on the rules around seeds per se and concludes that even if such preparedness is part of government policy, the seed aspects have not been implemented in the seed regulations in most countries. In such cases, interdisciplinary connections within governmental agencies might have to be strengthened.

V. Moving Forward: possible actions towards better governing emergency seed assistance

It is important that humanitarian aid practitioners are vigilant in shaping their seed security response actions in ways that address the seed-specific issues and allied processes that are essential for effective planning and implementation (e.g., assessment, farmer choice, matching the response to the specific seed security constraint). Anticipating the longer-term effects of their response actions on existing seed system structures, whether community/local or more formal seed markets, is also crucial, especially as responses may be repeated or have extended effects over many seasons. A bottom line is that aid interveners inform themselves of the seed regulations in the country and region and that they become knowledgeable partners in discussing the most effective actions and the regulatory options that are needed to enable better practice.

Donors may also develop policies on how they expect the aid practitioners that they support to approach humanitarian seed actions, both in terms of processes and types of seeds, in line with recipient country policies. Donor countries might also support their fellow governments to develop their policies and regulatory environment in order to effectively lead in any assistance operations needed.

In taking steps forward on seed emergency guidance, Table 3 suggests that actions might need to unfold at multiple levels, with continuing co-supportive consultations and refinements among stakeholders. The exact content of the guidance might vary by country and governmental body—and might even evolve through time, with greater experience in emergency seed security management. The ASBPP under the African Union, possibly leveraging its links with ISSD Africa, could provide a relevant platform to share knowledge and experiences among AU members and with stakeholders.

Table 3. ***Review of Actions Towards Governing Emergency Seed Assistance***

Organization	Action Type	Description
Aid Organisations	Policy	Take processes (like the *10P*) and the diversity of humanitarian seed options into account to make responses more effective in the short run; support seed-related institutions (at local/community and market levels) during and after the emergency.
	Planning	Take regulatory issues into account and discuss with governments.
National Governments	Preparedness	Include seed in all its diversity and complexity as an essential component of emergency responses, including at the regulatory level. Develop an explicit policy on the topic. Consider focus on both the seed material and the allied seed security response processes (*10P*) when crafting policy guidance.
	Regulations	Use existing articles in the law to effectuate policies and rules for emergencies. When such clauses do not exist, take temporary legal and policy measures and include them in a next policy/legal review. Make sure that articles in other regulations (e.g., on biodiversity, intellectual property, and biotechnology) do not run counter to the emergency seed policies.
Regional and International Organisations	Awareness and policy coherence	Discuss policy space for emergency seed issues. Include seeds in disaster preparedness. In the frame of regional seed rules, share experiences and advise member governments on regulatory solutions.
Donor Organisations	Policy	Develop emergency seed guidance and share with both humanitarian organisations and governments in affected countries. Strengthen connections more generally between humanitarian and development offices within donor, partner, and collaborating organisations.

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Annex 2. Humanitarian Technical Guidelines: Screening Form

Set 1 | Humanitarian Technical Guidelines: Completed Screening Form

	SET 1	ODI 1996 (Cromwell, Sperling and Tripp)	Oxfam 1998 (Johnson)	FAO 2010 (Osborn leading)
1	**GENERAL SCOPE**			
1a	Definition of "seed"	Yes	Yes	Yes, very detailed attributes. Formal sector and QDS
	Definition of "market"	No (but discussion of local and formal markets)	No	
	Definition of "variety"	Yes (local or modern)	Yes (local modern)	Yes (local and modern; traditional and improved)
	Other relevant definition			
1b	Is there mention/recognition of other than formal seed systems? If so, how is it dealt with?	Yes (formal and informal systems Local markets) Seed companies Grain markets	Yes, formal and local	Yes (in passing), that informal systems and formal should not be damaged in emergency relief
1c	Is there room for alternative seed system oversight (e.g., QDS)?	Yes (even suggests users to germination tests)	Yes (but need quality control independent of supplier	Yes, whole section on QDS, according to FAO standards
1d	Which crops/crop groups fall within the main requirements (field crops vs vegetables; listed crops only or also; "underutilised" species; etc.)?	All crops farmers use	All crops farmers use	Large range (suggest self or open-pollinated for emergency operations)
1e	Are there seed classes beyond Prebasic/Basic/Certified or Breeders'/Foundation/Registered/Certified seed classes?	Yes (local seed)	Yes (local seed)	Yes - quite formal QDS
1f	Are Breeders' Rights included?	N/A	N/A	No
1g	Are Farmers' Rights included?	N/A	N/A	No
1h	Is there space for a link with biodiversity legislation *(biodiversity issues)*?	Yes (discussion on number and diversity of varieties/variety erosion	Yes, recognizes diversity but suggests distribution be limited to 2 or 3 types	Yes, small annex PGRFA

	SET 1	ODI 1996 (Cromwell, Sperling and Tripp)	Oxfam 1998 (Johnson)	FAO 2010 (Osborn leading)
1i	Is there space for links to plant health regulations?	N/A	N/A	Yes, strong focus on plant health
1j	Are there import restrictions/permits applicable?	Yes, discussion of import permits generally		Yes, simple mention that important permits may be required by gov't
2.	**EXCEPTIONS TO SEED LAW/POLICY**			
2a	Is there any mention of varieties that are not distinct, uniform, and stable (DUS)?	Yes (local)	Yes	(DUS term not used)
2b	Are there geographic or quantity restrictions mentioned for seeds?	N/A	N/A	No
2c	Are there seed quality and identity requirements and procedures for the non-seed class lots?	N/A	N/A (except author suggests any material can be screened for quality- need independent screener)	No
3.	**EMERGENCY FOCUS: GENERAL EMERGENCY and SEED SECURITY SPECIFIC**			
3a	Is there any mention of emergency, disaster in overview document?	Yes, whole document	Yes, whole document emergency	Yes
3b	Are there seed-linked procedures to declaring emergency?	N/A	N/A	No (this is different type of doc) focus on physical material
3c	Are there specific persons/organisations who declare emergency?	Yes, partly (discussion of international agencies and agreements)	N/A	No
3d	Are timeframes prescribed for emergency duration (beginning/end)?	Yes, partly (guidance on when to stop DSD)	Yes, partly (asks that DSD respect agricultural calendars)	No
3e	Are there technical clauses-that open possibilities to divert rules?	N/A	N/A	No
	If so: do they relate to seed class/quality/quantity restrictions?	Yes, general guidance, not restrictions (even doing germ tests)	Yes, range of quality monitoring procedures	No
	If so: do they relate to seed quality/identity for non-seed class lots?	N/A	Yes (could be local seed)	No
	If so: are there crop specifications (*crop choice)*?	Yes	Yes (farmers' needs/priorities	No
	If so: are there variety specifications (*variety choice)*?	Yes (local or modern)	Yes- meeting farmers' needs	Focus on self and open-pollinated

	SET 1	ODI 1996 (Cromwell, Sperling and Tripp)	Oxfam 1998 (Johnson)	FAO 2010 (Osborn leading)
3f	Are there process clauses to guide responses?	Yes- many	Yes- many	No
3f.1	Is there stipulation that assessment is required?	No	Yes (whole chapter)	Yes, says SSA should be done
3f.2	Is there seed timeliness requirement/guidance?	Yes (for all stages planning and delivery for the NGO and getting seed to farmers on time)	Yes	No
3f.3	Is there mention or guidance on market-based approaches?	No	No	Yes! whole section
3f.4	Is there any stipulation for farmers needing choice?	Yes, farmers need range of varieties	Yes, and farmers should lead the choice	Choice is mentioned in the context of market-based approaches, esp. SVF.
3f.5	Is feedback required/programmed? Evaluations?	Yes, recommended. Evaluation short and after several seasons. Evaluation from different viewpoints. Timing of interview. Guide questions	Yes, evaluations	No
3f.6	Are gender considerations mentioned or incorporated?	Yes	Yes	No
4.	**EMERGENCY FOCUS: FURTHER OBSERVATIONS**			
4a	Coordination of agencies?	Yes	Yes	No (but Not operations)
4b	Coordination of programs (seed/non-seed)?	Yes	Yes	No
4c	Targeting of recipients?	Yes	Yes	No
4d	Guidance- amounts of seed to give per beneficiary?	Yes		No
4e	Labelling and packaging, transport, storage?	Yes	Yes	Yes (strong focus technical qualities of seed)
4f	Guidance on strengthening local seed systems, including production?	Yes	Yes	Yes, supporting farmers' groups and local production
4g	Differentiation of contexts?	Yes (conflict/natural disaster)	Yes, conflict	Yes, agro-ecological
4h	Differentiation of clients?	Yes, stable, IDP Refugees	Yes	No

Set 2 | Humanitarian Technical Guidelines: Completed Screening Form

	SET 2	SERT 2022 (Sperling lead)	CRS 2017	CRS Cash for Seed 2025	SEADS 2022
1	**GENERAL SCOPE**				
1a	Definition of “seed”	Yes	Yes	No	Yes
	Definition of “market”	Yes	Yes	Yes	Yes
	Definition of “variety”	Yes	Yes	No	Yes
	Other relevant definition	-	-	-	
1b	Is there mention/recognition of other than formal seed systems? If so, how is it dealt with?	Yes	Yes	Yes	Yes
1c	Is there room for alternative seed system oversight (e.g., QDS)?	Yes	Yes	Yes (indirectly recognizes practice of local seed)	No (No QDS)
1d	Which crops/crop groups fall within the main requirements (field crops vs vegetables; listed crops only or also; “underutilised” species; etc.)?	“all” farmers use. Not specified	“all farmers use”	All farmers use	
1e	Are there seed classes beyond Prebasic/Basic/Certified or Breeders’/Foundation/Registered/Certified seed classes?	Yes	Yes	indirectly	No?
1f	Are Breeders’ Rights included?	No, N/A (*focus on practice/ not policy/law)*	No, N/A	No, N/A	N/A
1g	Are Farmers’ Rights included?	No, N/A	No, N/A	No, N/A	N/A
1h	Is there space for a link with biodiversity legislation *(biodiversity issues)*?	No, N/A	No, N/A	No, N/A	N/A
1i	Is there space for links to plant health regulations?	No, N/A	No, N/A	No, N/A	N/A
1j	Are there import restrictions/permits applicable?	No (No discussion)	No (No discussion)	No, N/A	N/A, although mention that permits often delay seed

	SET 2	SERT 2022 (Sperling lead)	CRS 2017	CRS Cash for Seed 2025	SEADS 2022
2.	**EXCEPTIONS TO SEED LAW/POLICY**				
2a	Is there any mention of varieties that are not distinct, uniform, and stable (DUS)?	N/A, No discussion of policy law	N/A, No discussion of policy law	N/A, No discussion of policy law	N/A
2b	Are there geographic or quantity restrictions mentioned for seeds?	N/A	N/A	N/A	N/A
2c	Are there seed quality and identity requirements and procedures for the non-seed class lots?	N/A	N/A	N/A	Some refs to guidelines
3.	**EMERGENCY FOCUS: GENERAL EMERGENCY and SEED SECURITY SPECIFIC**				
3a	Is there any mention of emergency, disaster in overview document?	Yes- central focus	Yes (but generic, not different kinds) mentions drought (Not war)	Yes- generic "disaster" but some cases presented	Yes
3b	Are there seed-linked procedures to declaring emergency?	No (No discussion how emergencies declared)	No (No discussion how emergencies declared)	No (No discussion how emergencies declared)	No
3c	Are there specific persons/organisations who declare emergency?	No (No discussion how emergencies are declared	No (No discussion how emergencies are declared)	No (No discussion how emergencies are declared)	No
3d	Are timeframes prescribed for emergency duration (beginning/end)?	No, N/A	No, N/A	No, N/A	Yes
3e	Are there technical clauses- that open possibilities to divert rules?	N/A. Laws and policies not addressed. Focus: action on the ground. Geared to implementors	N/A. Laws and policies not addressed. Focus: action on the ground. Geared to implementors	N/A. Laws and policies not addressed Focus: action on the ground. Geared to implementers. Says that seed quality has to be assessed	No
	If so: do they relate to seed class/quality/quantity restrictions?				No
	If so: do they relate to seed quality/identity for non-seed class lots?				Yes
	If so: are there crop specifications (*crop choice)*?				Not really
	If so: are there variety specifications (*variety choice)*?				Not really
3f	Are there process clauses to guide responses?	Yes	Yes	Yes. Notes 10P and SERT in reference link	Yes
3f.1	Is there stipulation that assessment is required?	Yes	Yes	Yes	Yes

	SET 2	SERT 2022 (Sperling lead)	CRS 2017	CRS Cash for Seed 2025	SEADS 2022
3f.2	Is there seed timeliness requirement/guidance?	Yes	No	Yes	Yes
3f.3	Is there mention or guidance on market-based approaches?	Yes, extensive	Yes	Yes	Yes
3f.4	Is there any stipulation for farmers needing choice?	Yes	Yes	Yes	Yes
3f.5	Is feedback required/programmed? Evaluations?	Yes	Yes	Not explicitly, but showed feedback in practice	Yes
3f.6	Are gender considerations mentioned or incorporated?	Yes	Yes	No	Yes
4.	**EMERGENCY FOCUS: FURTHER OBSERVATIONS**				
4a	Coordination of agencies?	No	Yes	No	Yes
4b	Coordination of programs (seed/non-seed)?	No	Yes	Yes- like SILC	Yes
4c	Targeting of recipients?	Yes	Yes	No	Yes
4d	Guidance- amounts of seed to give per beneficiary?	No	Discusses voucher amount, not seed amount	Discusses cash transfer amount	Yes, indirectly (amount of seed/cash)
4e	Labelling and packaging, transport, storage?	No	Yes	N/A	Yes
4f	Guidance on strengthening local seed systems, including production?	Yes- strengthening market systems	Not really (although discusses local seed business)	No- but does recognize local producers exist (and sell at fairs)	Mentions support to different types of seed systems
4g	Differentiation of contexts?	Yes	Not really (but different cases presented. Also mentions choosing seed for different goals)	Not really (but different cases presented)	Yes
4h	Differentiation of clients?	Yes, but clearly smallholder focused; gender, IDPs, etc.	Yes, esp. M/F, IDPs	Not really	Yes
4i	Supplier accountability	No	No	No	Yes

Annex 3. Further Reading on the Intergovernmental Agreements Relevant to Seeds

A. Varietal Certification: The OECD Seed Schemes

- General: www.oecd.org/en/topics/seeds.html#schemes
- Rules and regulations: https://www.oecd.org/content/dam/oecd/en/topics/policy-sub-issues/seeds/rules-and-regulation-eng.pdf

The OECD Seed Schemes (1958) provide detailed rules for the varietal certification of seed, which allows countries to adopt imported seed lots as if they were produced under the national seed certification rules. There are schemes for i) grasses and legumes, ii) crucifers and other oil or fiber species, iii) cereals, iv) maize, v) sorghum, vi) sugar and fodder beet, vii) subterranean clover and similar species, and viii) vegetables. Countries (OECD member or not) can join specific schemes. In Africa, Burkina Faso, Egypt, Kenya, Nigeria, Senegal, South Africa, Tanzania, Uganda, Zambia, and Zimbabwe subscribe to one or more such (crop-dependent) schemes.

Varieties

Two types of variety are recognised in the Schemes: a) local and b) bred. A local variety (where recognised) derives from a defined region of origin which has been shown by official tests to have sufficient uniformity, stability and distinctness to warrant recognition, but has not been produced as a result of breeding work. A bred variety is one which has been produced by a plant breeder as the result of breeding. Bred varieties can be non-hybrid (open-pollinated, synthetic, composite) or hybrid variety. Hybrids can be single-cross, double-cross, three-way cross, top-cross, or inter-varietal hybrid. The OECD "List of Varieties Eligible for Certification" is an official list of varieties which have been accepted by national designated authorities as eligible for certification in accordance with the rules of the OECD Seed Schemes, which includes details of the maintainer(s) of the variety and the name of the country(ies) where the variety has been registered.

Seed classes

Parental material is the smallest unit used by the maintainer to maintain a variety and from which all seeds of the variety are derived through one or more generations: Pre-Basic Seed; Basic Seed; and Certified Seed. Depending on the crop, different generations may be allowed within such classes. Certified, 1st, 2nd, 3rd generation is printed on the seed label. Basic seed class can also be applied to local varieties. Hybrid varieties seed is the first generation of a cross between Basic Seed of a female parent and a male parent. For vegetables, the term "Standard Seed" can be applied for seed that has been tested, but it is the supplier that guarantees the varietal identity and purity, which may be tested by authorities in post-control trials.

Labels

The Seed Schemes prescribe the following information to be shown on the seed labels, which have specific size, shape, and colour schemes that identify the different seed classes. Name and address of National Designated Authority: Species (Latin name); Variety denomination (or synonym); Category (Pre-Basic, Basic, or Certified Seed, 1st, 2nd, or other generation); Lot Reference Number; Date sealed; Declared net or gross weight or declared number of seeds; Unique serial number identifying each label; Country of production; Region of production (for local varieties); Statement of repacking and relabelling (if applicable). On the label for not finally certified seed shall appear the statement: "Not Finally Certified Seed."

Analysis

The OECD Seed Schemes are meant to promote transboundary movement of seed through harmonisation and mutual recognition of national varietal certification systems. This should facilitate the provision of seed in emergency situations when there is insufficient certified seed available in the country. Even though it allows for the certification of local varieties (depending on national law), the limitation of production within a prescribed region likely has little effect on this facilitation of international movement of seed. Few countries in the Global South subscribe to the OECD Seed Schemes, and those that do only apply it to certain crops (e.g., Senegal for maize to be able to produce seed in the winter season for use in Europe). Non-membership of OECD Seed Schemes does not necessarily hinder different forms of emergency seed initiatives.

The rules derived from the OECD Seed Schemes regulate the formal seed system, with registered varieties and tested and certified seed. Humanitarian seed actions that use certified seed deal with these systems.

B. Seed quality: International Seed Testing Association (ISTA)

- Website: www.seedtest.org

ISTA (established 1924) produces internationally agreed rules for seed sampling and testing, accredits laboratories, promotes research, provides international seed analysis certificates and training, and disseminates knowledge in seed science and technology. This facilitates seed trading nationally and internationally.

ISTA Rules include procedures for i) sampling, ii) purity and identification, iii) germination, iv) viability, v) vigour, vi) seed health, vii) verification of species and variety, viii) moisture content, ix) 1000-seed weight, x) size grading, xi) X-ray testing and xii) testing for GMO. It focuses on procedures, not on standards such as germination percentage.

Membership

Countries in Africa that have ISTA-accredited laboratories include Egypt, Kenya, South Africa, Tanzania, Uganda, and Zimbabwe. In addition, Ethiopia, Rwanda, Tunisia, and Zambia have non-accredited member laboratories.

Analysis

ISTA does not directly influence seed systems apart from supporting mutual recognition in international seed trade. An ISTA-accredited laboratory provides seed producers and traders, and thus also farmers, and guarantees that seed lots have been tested according to harmonised procedures and that test results can thus be relied upon. In international trade, countries commonly require International Orange Seed Lot Certificates that guarantee the importing country seed quality as tested through ISTA procedures, thus facilitating international movement of seed. However, seeds may move across borders without such a certificate, which may involve retesting in the destination country. Non-membership of ISTA does not necessarily hinder different forms of emergency seed initiatives. Humanitarian seed actions commonly use seeds quality tested through ISTA or ISTA-related tests for germination, purity and other criteria.

C. Plant Variety Rights: Union for the Protection of New Varieties of Plants (UPOV)

- General: www.upov.int
- Convention text: www.upov.int/edocs/pubdocs/en/upov_pub_221.pdf
- South Africa is a member of an older version: www.upov.int/edocs/pubdocs/en/upov_pub_295.pdf

UPOV was established in 1961. UPOV's mission is to provide and promote an effective system of plant variety protection, with the aim of encouraging the development of new varieties of plants, for the benefit of society. To achieve this, it aims at harmonizing national PVR laws and implementation systems. Notably in Asia, there are several countries that implement their PVR law without acceding to the UPOV system. Rights can be granted for a limited number of years to the breeder of new varieties that are Distinct, Uniform, and Stable. Non-uniform farmers' varieties cannot be protected this way.

The (i) production or reproduction (multiplication), (ii) conditioning for the purpose of propagation, (iii) offering for sale, (iv) selling or other marketing, (v) exporting, (vi) importing, (vii) stocking for any of these purposes of reproductive materials of the protected variety requires authorisation of the right holder (the breeder). Important exemptions apply to farmers and breeders. The former creates space for the use of farm-saved seed (countries differ significantly in their implementation); the latter provides the right of plant breeders to use protected varieties for breeding and freely market their new variety (subject to EDV rules). Further exclusions to the right include the "private and non-commercial use" and the use for experimentation and for breeding. Countries may also have other intellectual property rights laws, which may affect rights on seeds, notably patents on biotechnological inventions and plant traits, and trademarks (e.g., on seed packet design).

Membership

Countries in Africa that are members of UPOV include: Egypt (2019), Ghana (2021), Kenya (1999), Morocco (2006), Nigeria (2025), South Africa (1977), Tanzania (2015), and Tunisia (2015). In addition, the African Intellectual Property Organization (OAPI) became a member in 2014. OAPI includes Benin, Burkina Faso, Cameroon, Central African Republic, Chad, Comoros, Congo, Côte d'Ivoire, Equatorial Guinea, Gabon, Guinea, Guinea Bissau, Mali, Mauritania, Niger, Senegal, and Togo. OAPI registrations officially extend automatically to all member states. It is neither necessary nor possible to designate individual member states. The OAPI law extends to all member states. Member states do not have their own national laws. A decision issued by a national court of any member state on the provisions of the OAPI law is binding on all other member states. However, it is questionable whether the system is fully operational.

Other regional agreements on Plant Variety Rights have been under development.

1) **SADC – Protocol for the Protection of New Varieties of Plants.** This will be operational when two-thirds of the SADC member countries have ratified it (currently nine members have done this). In that case, Angola, Botswana, Comoros, Congo (DR), Eswatini, Lesotho, Madagascar, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, Tanzania, Zambia and Zimbabwe will have a regional system for the protection of plant varieties. Currently, this is not the case.
2) **ARIPO – Arusha Protocol for the Protection of New Varieties of Plants.** The Protocol of ARIPO provides for a regional system providing intellectual property rights, currently operational for patent, trademark, and registered design protection in member states. The current ARIPO member states are Botswana, Eswatini, Gambia, Ghana, Kenya, Lesotho, Liberia, Malawi, Mauritius, Mozambique,

Namibia, Rwanda, Sao Tome e Principe, Sierra Leone, Somalia, Sudan, Tanzania, Uganda, Zambia, and Zimbabwe. The Arusha Protocol for the Protection of New Varieties of Plants was adopted in 2015. Only Rwanda (2019) and Sao Tome e Principe (2020) deposited their instrument of ratification. Some more countries have (only) signed.

Unlike OAPI rules, which have a direct effect in the member countries, both the SADC Protocol and the Arusha Protocol will provide a regional system for protection of PBRs, which will be effective only when the signatory states have their own national PBR legislation.

Analysis

PVRs may affect humanitarian seed initiatives in the following rare cases:

1) When protected variety seeds cross borders, approval from the holder of the rights is required for such export. This is particularly relevant when protected variety seeds are exported to a country where the breeder has no rights, as he/she may lose control over (the further multiplication and movement of) their varieties. Such concerns arise specifically when such exports concern the newest varieties with substantial commercial value in third countries.
2) When protected variety seeds are distributed, approval from the holder of the rights is required. The rights holder may want to avoid the distribution, undercutting the interest of his commercial distributors.
3) When the initiative involves the multiplication of the seed locally, a license needs to be obtained.
4) Countries likely have broad interpretations of the Farmers' Exception, allowing farmers to reproduce the seeds for their own use. In addition, national interpretation of the "private and non-commercial use exception" may not avoid sanctions when smallholders exchange seeds of protected varieties locally.

In practice, this will not often create limitations because i) most modern varieties of major food crops distributed in the Global South originate in public breeding, and are not protected in several countries, ii) or—in the case of vegetable seed—most standard varieties are not protected anymore, iii) in many countries listed above, PVRs are not operationalised, even when included in the law. But, particularly, in the third activity above, particular care needs to be taken not to bypass the rights of the breeder!

Patents on plant traits (often biotechnology-induced) provide much stronger rights, which are likely to affect humanitarian seed actions more directly than PBRs. Currently, patents are only granted on GMO-traits, but this may change in the near future.

D. Plant Genetic Resources 1: Convention on Biological Diversity (CBD)

- General: www.cbd.int/convention
- Convention text: www.cbd.int/doc/legal/cbd-en.pdf

The CBD (1993) has three objective i) the conservation of biological diversity, ii) the sustainable use of its components, and iii) the fair and equitable sharing of benefits arising out of the utilisation of genetic resources. It covers all biological diversity in nature and their use in any human activity, including agriculture. The CBD puts responsibility for its implementation on the member countries (all with few exceptions, such as the USA and the Vatican). It furthermore provides for national sovereign rights over biological diversity,

including the right to make access to genetic resources conditional on “Mutually Agreed Terms” and “Prior Informed Consent.”

In the frame of this report, it is relevant to note that the CBD explicitly recognises “the close and traditional dependence of many indigenous and local communities embodying traditional lifestyles on biological resources.” Several countries have translated that into national law, that such communities have rights over access requests to local genetic resources, including farmers’ varieties. Also, the Cartagena Protocol on Biosafety may, in selected cases, be relevant. The Protocol under the CBD contains rules on the international transfer of living modified organisms, including GMO-crop seeds. The Nagoya Protocol under the CBD looks after national responsibilities in user countries to implement benefit sharing. “User” means in the case of seed systems: research and breeding.

Membership

All African countries have ratified the CBD; all have ratified the Cartagena Protocol except for Equatorial Guinea, Sao Tomé and Principe, and South Sudan.

Analysis

In rare cases, national law may prescribe how rights of Indigenous and local communities are to be implemented with respect to access to farmers’ variety seeds. Such rules may, in rare cases, also apply to the organisation of seed fairs and community seed banks when the scope of sharing of such materials goes beyond the community or national borders. We have no knowledge of cases where this has occurred in the frame of humanitarian seed-related initiatives. There are cases, however, where community seed banks are very hesitant to share their genetic resources with national genebanks.

E. Plant Genetic Resources 2: International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA, or “Plant Treaty”)

- Text: https://www.fao.org/4/i0510e/i0510e.pdf

Within the general rules of the CBD, the ITPGRFA (2001) was established specifically for plant genetic resources for food and agriculture within the mandate of the FAO towards food security. A major aspect of the ITPGRFA is its multilateral system for access and benefit sharing, facilitating access to genetic resources for plant breeding, and benefit sharing. The Benefit-sharing Fund particularly supports farmers who develop and continue to use and conserve their farmers’ varieties.

Another relevant component is the recognition of Farmers’ Rights, which give farmers “*inter alia*” (the right), in relation to PGRFA, to participate in policymaking, the protection of local knowledge, and a share of benefits. In addition, Article 9.3 reads: “Nothing in this Article shall be interpreted to limit any rights that farmers have to save, use, exchange and sell farm-saved seed/propagating material, subject to national law and as appropriate.” The last part of the sentence provides legal consistency with Plant Breeders’ Rights (under UPOV), but political debates continue.

Membership

All African countries are contracting parties to the ITPGRFA except Botswana, Comoros, Equatorial Guinea, and Gambia. Cabo Verde has signed the Treaty, but not (yet) ratified it.

Analysis

Farmers' Rights may have limited impact on humanitarian seed actions even though farmers may have rights to be involved in seed policies with respect to such actions. The Benefit-sharing Fund supports farmers' seed systems using high degrees of genetic diversity.

F. United Nations and Human Rights (UNDROP)

- Text: www.un.org/en/about-us/universal-declaration-of-human-rights

The Universal Declaration on Human Rights (1948) guides a lot of humanitarian actions, notably Article 25: "Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care." Moreover, Article 27 affirms: "Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author" (as implemented through intellectual property rights).

Relevant for this report may be the UN Declaration on the Rights of Peasants (UNDROP – https://docs.un.org/en/A/HRC/RES/39/12&lang=en). It reaffirmed and strengthened the Farmers' Rights of the ITPGRFA, leaving out the text of Article 9.3, starting with "subject to …." It also includes obligations of states to "ensure that seeds of sufficient quality and quantity are available to peasants at the most suitable time for planting, and at an affordable price," "recognize the rights of peasants to rely either on their own seeds or on other locally available seeds of their choice," and "ensure that seed policies, plant variety protection and other intellectual property laws, certification schemes and seed marketing laws respect and take into account the rights, needs and realities of peasants …."

Analysis

Many African countries voted in favour of UNDROP in the UN General Assembly in 2018. Its effect on national seed policies and laws seems to be limited to date, but it certainly has has an impact on discussions about seed policies and plant variety rights, notably instigated by members of La Via Campesina, and certain development NGOs.

Annex 4. National Laws Review

		Ethiopia	Mali	Nigeria	South Sudan	Uganda	Zimbabwe
1	**GENERAL SCOPE**						
1a	Definition of "seed"	Generally, all plant parts that could be or that are intended to be used for reproduction					
	Definition of "market"	Excluding transactions among smallholders	Diffusion and commerciali-sation	Commercial markets	Only sales	No	Any disposal – only by registered persons
	Definition of "variety"	Basically: group of plants with retaining distinguishing characteristics after reproduction					
		Incl. farmers' variety	No	No	No	No	Incl F1 hybrid
	Other relevant definition	QDS; smallholder; community	No	No	No	Standard seed, QDS for certain crops	No
1b	Is there mention/ recognition of other than formal seed systems? If so, how is it dealt with?	No	No	No	No	No	No
1c	Is there room for alternative seed system oversight (e.g., QDS)?	Yes	No	? (Minister may designate)	QDS	QDS	No
1d	Which crops/crop groups fall within the main requirements (field crops vs vegetables; listed crops only or also; "underutilised" species; etc.)?	No	All for which varieties are registered	All	Field crops	Prescribed crops (excl. vegetables)	Prescribed
1e	Are there seed classes beyond Prebasic/Basic/Certified or Breeders' /Foundation/ Registered/ Certified seed classes?	No	No	Minister may recognise classes	QDS – non-certified	Standard	No
1f	Are Breeders' Rights included?	Yes	Yes	Yes	No	Yes	Yes

		Ethiopia	Mali	Nigeria	South Sudan	Uganda	Zimbabwe
1g	Are Farmers' Rights included?	Aspects of	Customary rights mentioned	Yes, local exchanges	Yes	No	No
1h	Is there space for a link with biodiversity legislation *(biodiversity issues)*?	Yes – relating to PIC & MAT	Yes – incl benefit sharing	No	No	No	No
1i	Is there space for links to plant health regulations?	Yes	Yes	Yes	Yes	Yes	Yes
1j	Are there import restrictions/ permits applicable?	All countries have some import restrictions: identity of seed; plant health; and/or import permits; some refer to regionally harmonised systems; others mentioned ISTA certificates					
	Other specific rules			PVS to speed up variety release	No		
2.	**EXCEPTIONS TO SEED LAW/POLICY**						
2a	Is there any mention of varieties that are Not distinct, uniform, and stable (DUS)?	Yes	No	Yes	Yes	No	Minister may prescribe
2b	Are there geographic or quantity restrictions mentioned for seeds?	No	No	No	No	Yes - QDS	No
2c	Are there seed quality and identity requirements and procedures for the Non-seed class lots?	No	No	No	No	No	No
3.	**EMERGENCY FOCUS: GENERAL EMERGENCY and SEED SECURITY SPECIFIC**						
3a	Is there any mention of emergency, disaster in overview document?	Yes, incl buffer stocks	Yes (shortages) Buffer stocks	Yes – buffer stocks	Yes	Yes (shortages)	-
3b	Are there seed-linked procedures to declaring emergency?	Yes	No	No	No	No	No

		Ethiopia	Mali	Nigeria	South Sudan	Uganda	Zimbabwe
3c	Are there specific persons/organisations who declare emergency?	Minister of Agric	No	No	No	No	No
3d	Are timeframes prescribed for emergency duration (beginning/end)?	No	No	No	No	No	No
3e	Are there technical clauses-that open possibilities to divert rules?	No	No	No	No	Minister may prescribe	Minister may prescribe
	If so: do they relate to seed class/quality/quantity restrictions?	No	No	No	No	Yes – standard seed may be used	No
	If so: do they relate to seed quality/identity for Non-seed class lots?	No	No	No	No	No	No
	If so: are there crop specifications (*crop choice)*?	No	No	No	No	No	No
	If so: are there variety specifications (*variety choice)*?	No	No	No	No	No	No
3f	Are there process clauses to guide responses?	No	No	No	Conduct seed security assessments as an early warning	No	No
3f.1	Is there stipulation that assessment is required?	No	No	No	No	No	No
3f.2	Is there seed timeliness requirement/guidance?	No	No	No	No	No	No
3f.3	Is there mention or guidance on market-based approaches?	No	No	No	No	No	No
3f.4	Is there any stipulation for farmers needing choice?	No	No	No	No	No	No

		Ethiopia	Mali	Nigeria	South Sudan	Uganda	Zimbabwe
3f.5	Is feedback required /programmed? Evaluations?	No	No	No	No	No	No
3f.6	Are gender considerations mentioned or incorporated?	No	Yes	No	Yes	No	No
4.	**EMERGENCY FOCUS: FURTHER OBSERVATIONS**						
4a	Coordination of agencies?	No	No	No	No	No	No
4b	Coordination of programs (seed/Non-seed)?	No	No	No	No	No	No
4c	Targeting of recipients?	No	No	No	No	No	No
4d	Guidance- amounts of seed to give per beneficiary?	No	No	No	No	No	No
4e	Labelling and packaging, transport, storage?	No	No	No	No	No	No

Contacts

Wageningen University, Fellow at the Law Group:
Niels Louwaars niels.louwaars@wur.nl

SeedSystem: Louise Sperling
sperling@seedsystem.org

Mercy Corps: Kristin Lambert
klambert@mercycorps.org

ISSD Africa: Geoffrey Otim
geotim@mercycorps.org

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Swiss Agency for Development and Cooperation SDC

ISSD Africa

seed system Strengthening smallholder farmer seed systems

MERCY CORPS