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SOUTH AFRICA

biodiversity | food sovereignty | agroecology | social justice

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Portfolio Committee on Agriculture, Land Reform and Rural Development

Attention: Ms Albertina Kakaza and Ms Phumla Nyamza

By email: PCALRRD@parliament.gov.za

Biowatch SA Comments on the Preservation And Development of Agricultural Land Bill [B8-2021]

Thank you for the opportunity to provide input on the Preservation and Development of Agricultural Land Bill.

Our submission follows below and consists of:

1. Introduction to Biowatch South Africa
2. Comments on the Bill

Yours sincerely

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Director

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Board Members: Dr David Fig (chairperson), Prof. Loretta Feris, Dr Mvu Ngcoya, Mr David Ntseng,
Ms Beni Williams, Ms Rose Williams, Prof. Rachel Wynberg, Ms Stha Yeni

1. Biowatch South Africa

Biowatch is a non-governmental organisation established in 1999, which strives for social and environmental justice within the context of food sovereignty. Biowatch works to challenge unsustainable agricultural practices and to advocate for agroecology as an ecologically viable alternative that safeguards people and land. This includes supporting smallholder farmers; working with civil society to create joint understanding and action; and constructively engaging with government in implementing policies and practices that promote, facilitate, and actively support agroecology and farmers' rights. We have a long track record of working on policy issues concerning agriculture, biodiversity, and indigenous knowledge systems.

2. Comments on the Preservation and Development of Agricultural Land Bill [B8–2021]

Biowatch supports the overall general intention (Preamble, para one) of the Bill to preserve and promote the **sustainable** development of agricultural land for the primary purpose of **sustaining and enhancing human life** for the benefit of present and future generations.

However, we have the following additions and comments:

We are very concerned that the way the Bill interprets and intends to implement the above general intent appears to be solely focused and framed from the perspective of sustaining large-scale commercial agriculture. While commercial agricultural production is important and is threatened by urban sprawl, industrial activities such as mining etc. this is not the only approach to agricultural production.

In 2021 around 3.1 million households in South Africa were practicing some form of agriculture with 86.5% doing this as a main or secondary source of food¹. These mostly small producers are vital for securing food security and adequate nutrition in South Africa², and in many cases are also custodians of agricultural and biodiversity but are not acknowledged or provided for in the Bill. Although the majority of small producers have been historically displaced to land that is not optimal for production and practice agriculture in conjunction with other land uses, their agricultural land and practice also needs recognition, support and protection. It is therefore a concern that the Bill (including in definitions of agricultural land, agricultural purpose, and viable farming units and the emphasis again of productivity and viability in the principles, objects and elsewhere) may serve to exclude smallholder production systems from agricultural sector plans, and thus support programmes and protection from conflicting land uses. The Bill is silent on communal land where land has concurrent and diverse uses for housing and livelihoods, including food cropping and livestock; gathering medicines, fibre and building material; micro manufacturing and business; and cultural and spiritual practices.

The intent of the Bill to “prevent fragmentation of agricultural land” and emphasis on “economically viable farming units” could be read as obstructing the agrarian transformation, and further entrenching the commercial industrial agriculture approach and its inherent ecological and social impacts in the country. The emphasis in the Bill’s Objects and Purpose on preventing and discouraging fragmentation and even prohibiting subdivision of agricultural land is a grave concern. Does this mean that existing smallholder production will continue to come under pressure to

¹ See

www.statssa.gov.za/?p=16235#:~:text=In%202021%2C%203%2C1%20million,non%2Dmetro%20and%20rural%20areas.

² See our recent Biowatch publication “*Stories of resilience built through agroecology*” accessible at <https://biowatch.org.za/download/stories-of-resilience/>

consolidate land parcels under cooperatives and to switch to single commodity production to access any support? This also seems to imply that land reform will not tackle the issue of equitable redistribution of overly large landholdings by agribusiness entities.

We have argued and presented evidence over many years that these “massification” approaches are not benefitting the majority of South Africans and do not meet the criteria for a just transition in our food system. Industrial commercial agriculture, with its largescale land holding and monocultures grown with synthetic fertilisers and a range of pesticides, threatens good agricultural land and other natural resources such as water systems and biodiversity with its toxic pollution. It also contributes substantially to climate change³, and has encroached on and replaced natural ecosystems. This approach violates many human rights and is steadily contributing to greater inequity and dispossession, and rising hunger, malnutrition and related disease in our society.

To meet the objectives of sustainable agricultural production the Bill must look at other approaches to supporting diverse agroecological landscapes where communities, natural ecosystems and food production are integrated. The assessments of what is viable agricultural land and what is the ‘optimal use’ of an agricultural area (Clause 8b) must include diverse measures of value (communal, social, spiritual, cultural, ecological etc) beyond economic value alone. There must also be planned and intentional support for transitioning to more agroecological, diverse, small-scale production that is so needed for the equitable redistribution of land, a reduction in hunger and malnutrition, and protection of constitutional and human rights in South Africa.

The following detailed comments flow from these overarching concerns:

PREAMBLE (Page 1)

In the second paragraph add the following indicated in italic highlight:

RECOGNISING FURTHER the need for a national regulatory framework to coordinate the preservation and development of agricultural land in a proactive manner, to prevent the fragmentation of agricultural land, to minimise the loss of agricultural land, to promote viable farming units, to encourage the optimal use of agricultural land, *to stem the loss of agricultural biodiversity*, and to provide for food *and water* security;

CHAPTER 1: INTERPRETATION AND OBJECTS

Definitions

“Agricultural potential” (page 5, line 30)

Who will analyse and calculate this potential? The emphasis on productivity per unit area in time with *specified management inputs for a given crop* implies monocultural production. Assessment of other approaches to production, such as agroecology and traditional farming using polycultures that produce diverse yields (not only of food) should also be considered.

If the definition for “agriculture” (page 5, line 40) includes the use of animals, fungi, trees, etc. then the definition of “agricultural potential” also needs to include these.

³ See <https://biowatch.org.za/download/factsheet-climate-change-and-food/>

The definition of “agricultural purposes” (page 5, line 35) specifically links dwelling units and buildings on the land to the agricultural use of the land. How will the tenure rights of farm dwellers be protected, if they have historically lived on the land but the agricultural use changes or the farm owner chooses to no longer employ them.

“Optimal agricultural use” (page 6, line 40)

This definition is open to a lot of interpretation – who decides what a best suited or adapted farming practice is? This will be wholly dependent on one’s perspective on what is valuable (e.g., this could be profit/ nutrition/drought resilience etc). What unit of time would be used to measure progress? Agroecological systems, for example, may take longer to establish but become more productive and self-sustaining from year to year.

We agree with many aspects of the definition for “Sustainable agriculture” (page 7, line 5) however this must also include the social aspects related to local democratic decision making around production systems and equity and redress of past injustice.

“Viable farming unit” (page 7, line 20)

We suggest the framing of viability also takes a longer-term approach and not only that of short term economics, where revenue may be impacted by very variable prices resulting from global commodity trading. Viability should include the dimensions of land care and ecological viability over time, social and cultural appropriateness, and contribution to longer term food sovereignty.

It is not clear if the meaning of being “economically viable” in the current definition is that the operation generates sufficient revenue to cover the costs described in a) b) and c)? If so, replace the “and” after the words “economically viable” with “, **that is that the unit** generates enough...”

CHAPTER 2: AGRICULTURAL LAND MANAGEMENT

Principles (page 8)

4.1. (b) Principle of Productivity

As per the comment on agricultural potential above, the assessment of what is “productive” has and continues to be contested. In particular these assessments tend to overlook diverse production systems – where the combined harvest of all food and other products (fibre, medicine) should be added together – and instead tend only to be able to assess the quantity in tons/ hectare of a single crop. (In other words commercial farmers may compare maize yields per hectare and say that smallholder have low yield, but they haven’t counted the additional beans/pumpkins/greens etc that are also harvested from the same space). We are concerned smallholder production may thus not be seen as needing protection from other land uses and inclusion in provincial agricultural plans and support.

Missing principles

There needs to be a principle that supports decision-making to resolve conflicts between competing interests. For example, the definition of “agriculture” (page 5, line 40) necessarily includes the production of biofuels and fibre. We suggest though that non-food production (timber, biofuels, sugar) should have a lower priority than primary food production. Decision making should also reflect the impacts of these forms of agriculture on other critical resources such as water and be seen as the extractive industries these are.

There needs to be a principle reflecting a necessary and more transformative approach to a just agroecological transition of our farming systems that supports more equitable access to land, and more democratic, integrated, small-scale and biodiverse production for local food security.

Part 4: Protected agricultural areas (page 10)

11 (2) (b) provides conditions under which the Minister may declare a national protected agricultural area.

“iv) irrigated agricultural land” – does this mean that all irrigated agricultural land will be declared? Should this condition be qualified? Does it include government and private irrigation schemes? Could this be abused – for example, establishment of private irrigation schemes to block other land uses, such as government housing schemes or biodiversity conservation? We don’t agree that irrigation is a reason for declaring a protected agricultural area. Commercial agriculture needs to reduce the use of freshwater resources.

We request that an additional reason is added to 11 (2)(b):
“(v) areas of unique agricultural biodiversity and heritage”

Procedure to declare protected agricultural areas (page 11)

This section outlines the procedures for the Minister or MEC to declare protected agricultural areas. In this regard the public are only afforded the opportunity to participate in objecting to declarations of protected agricultural areas. We propose that there should also be a procedure outlined for making requests or petitions to have areas of agricultural value declared (that include their unique biodiversity and heritage value).

CHAPTER 3: AGRO-ECOSYSTEM MANAGEMENT

General objectives of agro-ecosystem management (page 12)

We agree with the general objectives outlined for agro-ecosystem management in Section 14, but would like it explicitly stated that impact assessments should include the impact of the agricultural activities themselves, which depending on the approach, may have impacts on the climate, water use and pollution, land degradation and toxic load, etc. This impact assessment should also consider the cumulative impacts of combined activities in an agroecosystem and not just single projects or developments (such as the combined impacts of crops across several land holdings being routinely aerial sprayed with pesticides).

Nowhere in the chapter on agro-ecosystem management, including the sections on listing activities or considering applications for authorisations in agroecosystems, is there any procedure for resolving conflicting priorities. Although the Principles are intended to guide the provisions of this Act, these also provide little guidance on which have greater weight. It would be useful to add procedures for resolving conflicting interests between ministries (represented by their Ministers or MEC’s) when considering approval for listed activities impacting agroecosystems, and to guide public interest in contesting decisions made by the competent authority. We also propose that when weighing up between competing interests, ensuring food and water security and the integrity of natural ecosystems should be a priority.

CHAPTER 6: APPEALS, COMPLIANCE AND CONTRAVENTIONS

Appointment of advisory appeal panel (page 17)

We request that the Advisory appeal panel contemplated in clause 28 (2) must include a person with expert knowledge in ecology with respect to agroecosystems.

CHAPTER 7: GENERAL AND MISCELLANEOUS PROVISIONS

Offences (page 22)

How will compliance with these provisions and offences be monitored? We note that ensuring compliance is a weak point in many aspects of South African law and that these may be difficult offences to monitor. By way of illustration, we note the inability to limit the unwanted spread of trees from timber plantations resulting in 1.5 million hectares of rogue plantation trees in South Africa.

MEMORANDUM

8 .PARLIAMENTARY PROCEDURE

Clause 8.7

We cannot understand how the State Law Advisors could not refer the Bill to the House of Traditional Leaders in that the Bill may result in the exclusion of or other impacts on smallholder farmers and communal land, directly affecting traditional cultural practices relating to food production and its cultural value.