

In October 2006 the Turkish Grand National Assembly (parliament) passed a far-reaching law on seeds which, if it is fully implemented, will erode the farming practices of all those who work on the land: more than 35 per cent of Turkey's population.¹ The new law is part of a drive to bring the country's legislation into line with the European Union, which Turkey's government hopes eventually to join.

Turkey's new seed law

New controls, old struggles

GRAIN

Turkey's Law No. 5553 is generally referred to as the seed law, but this is misleading, for its scope is far broader. The new legislation will regulate seeds, not only of field crops and vineyard and garden plants, but also of forest plant species and all propagation materials. Moreover, the law introduces a new and highly pernicious distinction between "genetic resources" and "plant varieties". "Genetic resources"² are defined as both naturally found wild species and those developed by farmers from which plant breeders and scientists can extract genes with "important characteristics". In other words, the assumption is that the original farmers, who have developed and improved seeds over millennia, are no more than suppliers of the raw material from which official breeders can produce "improved" seeds, which are considered "plant varieties" and which can then be sold (*see table*).

This mindset permeates the whole law: Article 1 states that the main objective behind the new legislation is to improve the quality of plant production and to restructure the seed sector. Just as in many other countries in the world that are going through similar processes, farmers' varieties are not considered to be of good enough quality to be sold on the market – where both "good" and "quality" are defined by industrial criteria of "high productivity". For the government, quality control in seed supply means ensuring the availability of planting material that is standard and displays constant characteristics. This leaves no room for variability and adaptability; both of these qualities, possessed by traditional varieties, are extremely positive for farmers, yet they are turned into negatives by the government. This mentality is leading to the loss of farmers' rich diversity of landraces and their replacement by company-developed hybrid or transgenic varieties. Already

¹ An English translation of the legal text is available on the GRAIN website: <http://www.grain.org/br/?docid=277&lawid=2886>

² Article 3(9) of the new law.



Table: How “Genetic Resources” and “Plant Varieties” are differentiated

GENETIC RESOURCES	PLANT VARIETIES
Naturally present	Bred
Selected by farmers	Developed by breeders and scientists
Landraces, local varieties	Hybrids, transgenics, etc.
To be listed in a log	List of registered seed varieties to be maintained
Criteria of registration to be specified	VCU & DUS criteria ¹
No sale	Sale allowed after registration and certification
Exchange among farmers allowed for personal use, as long as there is no commercial activity with the seeds	Exchange among farmers allowed for personal use, as long as there is no commercial activity with the seeds
Dominated by the unorganised sector made up of small farmers	Dominated by the formal seed sector of companies and unions

1 All varieties submitted to be registered need to be tested for DUS (distinctiveness, uniformity and stability) and, for some crops, VCU (value for cultivation and use) over a minimum two-year period.

those companies represented by TURK-TED – the seed industry association of Turkey – have a commanding position in seed production.

The law is patterned on European Union (EU) seed laws, and this segregation of Turkey’s seed supply into two – one considered to be an economically viable industrial activity, while the other, made up of informal exchange among peasants under prescribed restrictions, is merely tolerated by the law – is in line with the rest of Europe. The European Commission (EC) has approved a special directive³ to cover the second category: for “conservation varieties” – these lie outside the official seed catalogue, and will be governed by less strict marketing conditions to allow for their conservation *in situ* on the farm. It is clearly in the interest of the seed industry to keep these varieties alive, for they might be useful in the future.

The new law replaces the old seed law⁴ and makes it compulsory for the first time to both register and certify seeds before they can be sold. The detailed criteria to be used in registration will only be known later, when the implementation rules are announced, but the general lines of the system are already clear. To be registered, a seed will have to be recorded in an official log book. The Variety Registration and Certification Centre of the Ministry of Agriculture and Rural Affairs (MARA) will conduct the variety registration trials (DUS/VCU) and provide the seed and sapling certification services, as well as cooperate with ISTA,⁵ OECD⁶ and UPOV.⁷

It is also proposed that a new body – the Turkish Union of Seed Producers – be set up. It will be independent of the government and will advise MARA over key questions, such as the import and

export of seeds. Under the new law MARA may assign any of its powers to this seed association or to an agricultural university or to any other public institution. Many observers are afraid that this will lead in practice to the outsourcing of the state’s regulatory roles to the private sector, with the authorities washing their hands of the responsibility to control the latter in the interest of small farmers.

The certification, which will become mandatory under the new law for all seedlings before they can be sold, implies field testing, laboratory controls and compliance with seedling standards, including those governing packing and labelling. There is also to be a “recommended list”, which will name the regions suitable for seed production. Anyone found growing their own crops inside the designated seedling production areas will be fined 3,000 Turkish Liras⁸ (about US\$2,000). No compensation will be paid to farmers for this prohibition. Instead, any illegal plantings will be uprooted at the cost of the growers. So, in practice, the government will not only determine what is to be sold – only registered and certified seed – but also where it is to be grown.

The law will also allow ministry officials to inspect farms, though it does not specify which farms and why. There are grounds for concern, for in India there has been a furore over the wide-ranging powers that will be given to seed inspectors to search and seize farmers’ premises under that country’s new Seed Bill.⁹ Another worrying aspect of the new law is the failure to spell out corporate liability for non-performance of company seeds, except that those firms causing loss will be “responsible for recompensing joint damages”.¹⁰ Individual farmers will also have to pay fees to

3 Directive 98/95/EC

4 Law No. 308 of 1963

5 International Seed Testing Association, which establishes the procedures for sampling and testing seeds, and promotes the uniform application of these procedures for seeds being traded internationally. <http://www.seedtest.org>

6 Organisation for Economic Co-operation and Development, which represents the world’s most developed countries. <http://www.oecd.org>

7 The International Union for the Protection of New Varieties of Plants, which encourages the development of new varieties of plants by granting breeders an intellectual property right on the basis of a set of clearly defined principles. <http://www.upov.int>

8 Article 12 on Penalties.

9 For more on India’s draft Seed Bill, see <http://www.grain.org/seedling/?id=338>

10 Article 11.



comply with registration requirements, for only unions and sub-unions set up as co-operatives will be eligible for fee exemptions, as set out in the law on co-operatives.¹¹ In the only article in the text which explicitly mentions Europe, it is stated that the seedling sector is allowed support as decided by the Ministry in order to improve the sector in compliance with European Union standards.¹²

Transgenic seeds

Turkey's civil society is firmly against the genetic modification (GM) industry that threatens Turkish genetic resources, and has organised a "No to GMOs" platform.¹³ It is asking why a country that is almost self-sufficient in food needs GMOs, and firmly believes in the wealth of the country's natural richness to provide for all the needs of its people. The platform is a voice against agricultural policies based on ecologically and nutritionally deficient principles that merely play to the market. Even so, it seems only a question of time before GM seeds are legally sold in Turkey. Monsanto and Pioneer have already conducted field trials of GM varieties. The country's General Directorate of Agricultural Research (TAGEM),¹⁴ which has itself been involved in testing GMOs, is leading the development of a National Biosafety Framework.¹⁵ Once the biosafety structure is in place and pending field applications are cleared, GMOs in agriculture will be authorised. But the new seed law makes no mention of GM seeds (although an earlier draft did). So it is not at all clear how GM seeds will be treated or how this new law will relate to biosafety regulations.

"Freedom" for Farmers?

Many Turkish landraces are alive and in use today, thanks to small landholdings, mountainous terrains and Turkey's location within a centre of diversity. Farmers have maintained and developed their seeds for centuries, with no support from the government. Turkey's farmers have far more diversity to defend than private seed producers will ever be able to "manufacture". Yet all this is threatened by the new seed law. When it was under discussion, farmer groups, non-governmental organisations (NGOs) and supportive academics came together to warn legislators against passing a new "slavery" law that would make farmers dependent on the private sector for seed.

As in other farming cultures, farmers in Turkey have traditionally bartered planting material. Indeed, their success in surviving and adapting to their environment depends, to no little extent, on their

freedom to control their own seeds. If they become dependent on either the state or private producers for their seeds, they will lose the power to decide what is to be sown, where, why and with what inputs. As the Turkish Confederative Platform of the Farmers' Union put it, "the state should work to ensure that farmers – not firms – control the entire food chain".

Under the new law, farmers will be able to continue to save seeds for their own use and to exchange with other farmers without having to register them. But any activity on their part which hints of "trade" will invoke penalties. The monitoring of farmers' activities is likely to be intense, for the private sector views farm-saved seed as competition. Already Turkey's Plant Variety Act,¹⁶ in force since 2004, has begun to erode the rights of small farmers by stipulating that, if they plant protected varieties of 21 species that come under the plant variety protection (PVP) laws, they cannot exchange the seeds with other farmers.¹⁷

Not surprisingly, many farmers are extremely suspicious of the new law. In an open letter to parliamentarians, groups of Turkish farmers' unions reiterated the rights that peasant communities ought to enjoy, including the right to use native seeds. They disapproved of the draft law in its totality, insisting that mere amendments would not improve it. They have the support of European small farmers' groups.¹⁸

Global pressures

Before the 1980s the seed trade was heavily regulated by the public sector, but then the Turkish government began to adopt the economic liberalisation policies in vogue worldwide, and to make concessions to the private sector in its seeds policy. The World Bank-sponsored reforms under the Agricultural Reform Implementation Project (2001–2005) also marked a radical change towards a more market-driven food and farm sector, one more in line with the EU.

There is no doubt that Turkey's wish to join the EU has strengthened the move towards market economics. This is not the first law related to agriculture to be copied from the EU in an attempt to become more acceptable. The organic farming law¹⁹ and the PVP law²⁰ are other examples.

Most Turkish farmers are deeply concerned about the prospect of their farms being turned into Europe's kitchen garden. They fear that the stronger this trend, the stronger the pressures will

11 Law 1163 of 1969.

12 Article 5 on Seedling Production.

13 From Arca Atay in communication with GRAIN, February 2007.

14 <http://www.tagem.gov.tr/>

15 The Cartagena Protocol on Biosafety was adopted by the Turkish Parliament on 17 June 2003.

16 Article 17, on Derogation for Farmers.

17 In the PVP Law a "small farmer" is one who grows a maximum of 92 tonnes of wheat or comparable quantities in respect of the 21 plant species listed therein. An "own holding" is defined as the land s/he actually uses for plant growing.

18 For more on this, see grain.org/bio-ipr/?id=494

19 Turkey's Regulation on the principles of organic farming and their implementation, dated June 2005, amended October 2006.

20 Law No. 5042 of 2004, <http://tinyurl.com/2fwan2>



21 See the World Bank's report on Turkey's Agricultural Reform Implementation Programme (ARIP): "The second initiative under the programme will encourage farmers to stop producing crops which are currently heavily over-produced by offering one-off payments to cover the cost of switching to alternative activities."

<http://tinyurl.com/2op37n>

Also read

<http://tinyurl.com/3x3fdz>

become to provide only what the market demands, and that those who argue for the preservation of local varieties for local people will progressively lose clout.

What next?

If this law goes ahead, Turkey will be restricting still further the space for farm seed varieties and traditional crops. As a result of this, many farmers, who do not fit in with "modern" agriculture, may be forced off the land.²¹ It is a daunting thought and one that is encouraging farmers and community organisers to sustain their resistance, even though public protests failed to stop the seed law from being passed by parliament. These groups are now considering multi-pronged approaches. As farmers' leader Abdullah Aysu explains, "Farmers' groups

will need to think globally, but organise locally in order to go on farming in the way they want." He says that to maintain space for their seeds, farmers will need to "shorten the distance between the grower and the consumer, and the only way to do this is to find ways in which farmers can bring their own produce to the final consumers." As well as direct marketing, direct action is also contemplated. Farmers and consumer groups, with the support of other organisations, are also challenging the seed law in Turkey's supreme court.

The new law will not compel registration immediately, as a transition period is envisaged. Groups of farmers and consumers are planning to use this time to mobilise more effectively and to devise new strategies of resistance. The struggle to save farm seed and those who sow it continues. 

