



Review on the New Ethiopian Seed Proclamation (1288/2023)

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Abstract

Seeds are important inputs for agricultural productivity. The Government of Ethiopia has progressed and applied seed sector policies to improve the country's seed industry and increase overall crop production. However, there are constraints that hampered the development of the seed sector in the country. There is also limited awareness about the seed legal issues among the various stakeholders in the value chain. The objective of this review is to assess the improvement areas of the new seed proclamation (1288/2023). To achieve the objectives of this research reviewing and to compare the existing seed legal framework, recent literature and personal communications were used. The new seed proclamation number 1288/23 offers strategic direction for the seed regulatory framework in Ethiopia. Seed proclamation accommodates the needs of various components that has to be functional in the seed industry and addresses most of private sector challenges in the country. Awareness creation on new seed proclamation and strengthening implementers at all levels is critical in the future.

Key Words: Awareness, Implementers, Legal, Private Sector, Stakeholders

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1. Introduction

Seed is an indispensable input in crop production. The use of quality seed of improved varieties contributes up to 50% of the increase in yield per hectare (Duvick, 2005; Zhao and Zhang, 2005; CGIAR, 2015). Ethiopia follows a pluralistic seed system: -formal, intermediate, and farmers' seed systems. All are recognized in policy documents, namely the Pluralistic Seed System Development Strategy (Hundesha, 2021). Seed system operationalization involves strong coordination across stakeholders both internal and external to the agricultural sector, as well as strong leadership and

oversight (Sombilla & Quilloy, 2017; MoAAIF, 2015).

The seed sector in Ethiopia is not well developed yet and is mainly led by the traditional smallholders' supply system. The supply of improved seed is dominated by public seed enterprise by cooperatives, and the private seed sector in which the involvement of domestic and international seed companies is very low. To ensure the development and sustainability of this sector, it is quite important to identify key challenges and the role and responsibilities of the stakeholders in the supply chain. Primarily, it is decisive to strengthen the policy and legal frameworks in an enabling environment in general, that also support the private seed sector to play its role to the desired level (Ethiopian Seed Association, 2018).

The overall performance of the sector mentioned above is supported by policy and legal frameworks. This includes seed policy, seed and Plant breeding right proclamations, seed, and service fee regulations, and issued directives. The proclamation 782/2013 is replaced by 1288/2023. The new seed proclamation has six main parts, namely, General, Variety Release and Registration, Seed Production, Processing and Marketing, Seed Quality Certification, Administration of Certificate of Competence and Miscellaneous Provisions. In Ethiopia, only a few studies have looked at policy aspects of the seed industry, and existing policies have limited a full understanding of the Ethiopian seed sector's difficulties (Mohammed, 2017). Kumulachew (2015) noted that in most cases, the policy remains on paper, and several proclamations are being updated ahead of their implementation. Seed Stakeholders understanding of these laws and regulations is still quite limited. The existing national seed policy, seed law proclamation, and seed regulation articles and provisions should be reviewed and updated to support and encourage the development of formal and informal seed systems, as well as small-scale farmers and cooperatives (Tekeste et al., 2022).

There is limited awareness about the seed legal issues among the various stakeholders in the value chain. The objective of this review is to assess the improvement areas of the new seed proclamation. To meet the objective, reviewing and comparing the existing seed legal framework documents, reviewing the literature of recent journals and personal communications were utilized.

2. Results and Discussions

The improvement areas focus mainly on seed production, registration and release of new varieties, import and multiplication of unregistered varieties, seed quality control and seed sector

coordination. Besides this, illegal seed trade and national seed reservoir issues were also addressed.

2.1. Seed Production

The proclamation stipulates that any person who wants to be a seed producer and wants to engage in seed production can produce seeds on his own land or on the land of other producers based on a contract, and Details shall be prescribed in a Directive.

2.2. Variety release and registration

The country lacks an independent coordinating and responsible body to look after the national seed governance. The variety release and registration system lacks independence and impartiality. In other words, the neutrality and inclusiveness of the variety release and registration system of Ethiopia is in doubt (World Bank Group, 2015, 2016). Recently the Ministry of Agriculture (MoA) has established a Seed Unit which is supported with a national seed advisory council, representing all seed value actors with a role to review the current scenario and advise MoA for action, but lacks a legal mandate to run what is desired to function in the sector. Therefore, there was a need to establish an independent body like National Seed Industry Agency that can guide and monitor the overall regulatory function of the national seed system (Ethiopian Seed Association, 2018).

The Plant Variety Release, Protection and Seed Quality Control Directorate was structured as an ad-hoc directorate under MoA, lacking capacity and competence to undertake DUS and NPT tests. Transforming this public operation into a competitive system was the challenge. The Authority is established under proclamation number 1263/2021 and council of minister's regulation number 509/2022 as an autonomous federal government organ having its own legal personality. The establishment of the authority is a big step forward in the Ethiopian agricultural regulatory system. With regards to the seed sector, there are a lot of expectations from the authority, mainly related to variety release and registration, as the issue of seed quality is largely taken care of by regional authorities (EAA, 2023).

According to 1288/23 article 4, three options of variety release and registration systems are employed namely,

- a) conducts candidate variety performance trial and variety examination by itself, hosts evaluation by the National Variety Evaluation Committee and get final approval by National Variety Release Committee; or

- b) enable the applicant of the candidate variety to conduct variety performance or adaptation trials or variety description trial or both; and evaluation by National Variety Evaluation Committee; and final approval by National Variety Release Committee; or
- c) accepts a DUS report of an authorized foreign regulatory body and locally conducted adaptation trial report of the applicant.
- d) According to the article 4 (1b) indicated above, applicants are now empowered to conduct variety performance or adaptation trials, DUS test, or both. This is followed by an evaluation from the National Variety Evaluation Committee and final approval by the National Variety Release Committee. This progressive approach opens doors for private seed companies to actively engage in the registration of crop varieties, thereby contributing to the overall growth of the sector. Improving the variety registration process, which takes up 30% of private seed sectors time and budget, frees them to focus on the important work of promoting the registered varieties.

2.3. Import and multiplication of unregistered varieties

Currently there is no seed export, while in 2016; the value of vegetable seed imports was 7 million USD. However, there is potential to produce vegetable seed for import substitution and export, given Ethiopia's diverse agro-ecology and its proximity to international markets; and companies are sitting on the fence, waiting for a relevant and functional policy environment. In particular, this calls for the endorsement of directives for the import of unregistered varieties for export only, and an efficient phytosanitary service. There is an opportunity for the development of private plant breeding and seed companies in the future, which could generate a substantial amount of revenue—as is the case in Uganda, Zambia, South Africa, and Zimbabwe (MoA, 2019).

Importing and multiplication of unregistered varieties is exclusively for export purposes and provided under Article 4/6/ letter “B” of the new proclamation. Previously, there was a similar Directive registered by Ministry of Justice # 456/2021. The key objective of this directive is to allow high value variety seeds to be multiplied locally without being registered or even listed, but fulfilling biodiversity and quarantine laws, and directly exported to areas of interest of the company (Zeray and Seed Proclamation, 2023). Un registered varieties will not be distributed to the farmers and will not enter the farming system.

The proclamation defined “A Variety of Significant National Interest” means a variety identified through special study by the Ministry, with an agreement of the Authority, for its development interest specific to improvement of export trade, import substitution, supply of raw materials for

agro-industries, food & nutrition security.

2.4. Seed Quality Assurance and Certification

Reliable seed quality is a shared concern across seed systems, and many regulatory systems are designed to monitor the quality of seeds before they reach the market. Different approaches have emerged to balance policymakers' interest in guaranteeing the quality of seed in the market while encouraging market entry for high quality traditional varieties. These can include systems that blend formal seed certification with more flexible models (including quality declared seed (QDS), self-certification, and truth-in-labeling approaches) and those in which the certification process has been fully or partly privatized (including authorization of private seed inspectors) (Kuhlmann & Dey, 2021).

Institutionally, the quality assurance services are provided by three regional regulatory authorities and the Ministry of Agriculture. Three regions (Amhara, Oromia, and SNNPR) have established their own fully-fledged seed regulatory authorities, while Tigray region has organized a directorate that provides regulatory services. The Services are supported by seed labs located in 18 strategic sites across the country. Another regulatory flexibility is the use of quality declared seed (QDS).

Seed quality assurance in Ethiopia can be characterized as highly fragmented, fully controlled by the public sector, lacks clear leadership champion at the MoA, has weak regional government back up by respective regional Seed Certification Authorities', suffers from lack of sufficient qualified, trained, and experienced personnel, in addition to a parallel absence of consistently functional transport and laboratory testing facility capacity (ATA and MoA, 2017).

There were many gaps in terms of institutional capacity to undertake the huge task of variety registration, plant variety protection and seed certification to the level of regional or international norms where investment is required in infrastructure and human resources. There are also implementation gaps to ensure effective and efficient certification and quality control system that contributes to the success of the private seed sector development (Ethiopian Seed Association, 2018).

The new proclamation recommends that the quality assurance to be applied on breeder seed, pre-basic seed, basic seed, and on certified seed class 1st, 2nd, 3rd, quality declared seed and emergency seed and may be carried out with the following quality assurance options: a) fully by

the Authority or Regional Authority; or b) quality declared seed certification scheme; or c) self-seed certification scheme; or d) third-party seed certification scheme.

The purpose is to build a market governed seed sector and to empower trustworthy seed companies to certify their seeds by themselves with regulatory authority focused on system check (Tefera, 2023). The Regional Authority should issue a certificate of competency for self-seed certification or for a person who apply for a third-party seed certification service and controls its implementation; details shall be prescribed in a Directive.

These alternate seed quality assurance mechanisms will also provide a greater private sector involvement in other quality assurance schemes. These are Authorization of private seed inspectors by the relevant federal and regional institutions to conduct field, Authorization of private seed laboratories that meet international ISTA standards to conduct laboratory and Introduction of self-quality seed certification.

The proclamation states that it will work cooperatively to establish an internationally accepted national seed laboratory, to regularly ensure that the state or private or association seed laboratories in the region are up to standard, and to take samples to assess the test performance of regional authority seed laboratories to ensure the consistency of the national inspection system. In contrast to the proclamation, Quality declared seeds especially of potato tuber seeds are distributed without geography limitation from Region in that risk of dissemination of seed borne diseases.

2.5. Illegal Seed Trade control

In addition, to control illegal seed trading, it is stated that the authority and each regional authority will appoint private or government seed inspectors as necessary to ensure the implementation of the regulations and guidelines issued in accordance with this proclamation, and these seed inspectors will take seed samples to ensure compliance with seed quality standards. Submission to the seed laboratory, relevant certificates, import permits, records is mandatory. Inspectors are empowered to request and inspect other documents and make copies, enter any seed production site, seed warehouse or seed processing facility at any time during government working hours or stop any vehicle carrying seeds and carry out inspection at any time (Seed Proclamation, 2023).

2.6. Administration of Certificate of Competence

In addition, anyone engaged in the production of seeds for the market must establish an internal seed quality control system to obtain a Certificate of Competence (CoC) and is obliged to inform

the authority or regional authorities of the seed source, seed class and other quality requirements of the seeds they produce. A seed producer who has been issued a certificate of qualification can obtain registered breeder seed, pre basic seed and basic seed from breeding institutions, subject to the provisions of any other relevant law. The proclamation states: in multiplication of EGS (breeder and pre-basic seed) shall acquire a certificate of competency (CoC) from the Authority or Regional Authority established. This is a separate CoC for early generation seed production (Kuhlmann, et al. 2022).

In relation to import and export of seed, the authority will provide a Certificate of Competence (CoC) that the imported seed should be: a) obtained from a variety registered in the National variety registration book; b) imported by a seed importer who has been issued a Certificate of Competence (CoC); c) produced according to the seed law and meets the seed quality standards. At the same time, the authority must verify that the seed to be exported is a species registered in the National Breed Registry or is a species that is allowed to be propagated and exported without registration.

It is worth monitoring how many of those who hold the license have actually taken action. In my recent professional conversation with Ethiopian Agricultural Authority, out of 100 private companies registered as vegetable importers, only 17 have been implemented. It is necessary to check whether it is for the sector or for another purpose.

2.7. Seed Sector Coordination

The performance of the seed sector in Ethiopia is below the desired level. one of the major factors of the weak performance of the seed system is limited commitment – the lack of ownership to implement endorsed strategies and legal frameworks at all levels of government structures. Other limiting factors identified by MoA include: lack of role differentiation, lack of accountability, limited capacity across institutions, and a less favorable business and investment environment (KIT, 2020).

The central challenge of the seed sector coordination is the lack of well-aligned seed-related coordination structures within the MoA at the federal and BoAs at regional levels, which are expected to be responsible for leading the seed sector to achieve sector efficiency and effectiveness and fulfill its core mandate to serve smallholder farmers (Dawit et al, 2023). Bishaw and Atilaw

(2016) argued at length about the need for coordination of the national seed system and suggested that a council or board be constituted from federal and regional states bringing in stakeholders not only from the agricultural sector but from a wide range of institutions involved in the investment, financial, trade and legal sectors.

Article 26(3) endorses the establishment of seed coordination and seed advisory bodies at federal and regional state levels, that will be accountable directly to the Minister of MoA at the federal level and the Heads of BoA at regional levels, with a clear working model among the different sectors of the Ministry/BoA and their affiliated institutions (Dawit et al, 2023).

2.8. National seed reserve operation and administration

The proclamation recommends this regulation under Article 11. The seed market is strongly subject to the inconsistent nature of small holder farmers seed demand which is highly affected by social factors. As a result, it has been difficult to predict their demands in advance which makes the seed marketing system unpredictable and difficult to lead it. Moreover, there has been frequent production failures due to repeated drought occurrences and hence, it has been leading to seed shortages. This calls for the government to have a seed reserve like grain reserve system which requires a regulation that engages more than one Ministry (Zeray,2023).

2.9. Farmers or Semi-Pastoral Variety

Farmers or Semi-Pastoralists will take the responsibility of registering Farmers or Semi-Pastoral Variety. Farmers' variety registration systems can generate benefits including faster and cheaper variety releases, improved farmer incomes, and a larger diversity of well-adapted varieties in the market—but some important issues are still to be resolved (De Jonge *et al.*, 2021).

Farmers' variety registration system refers to the process of officially recognizing and documenting farmer-selected or farmer-bred plant varieties by a regulatory authority, entrusted with variety and seed regulation in a country. In general, it is important to note that the registration of farmers' variety may differ from the registration process of commercially bred varieties developed by professional plant breeders (Halewood and Lapeña, 2016).

Ethiopia has taken bold steps and developed its national seed policy in 2020 and regulatory frameworks (e.g., Plant Breeder's Rights Proclamation No 1068/2017; Seed Proclamation No.

1288/2023) to provide space for registration of farmers' varieties and commercialization of seed production and marketing of seeds of such varieties (Bhramar and Amsalu, 2023).

3. Conclusion and Recommendation

The Government of Ethiopia has progressed and applied seed sector policies to improve the country seed industry and increase the overall crop production. However, there are constraints that hampered the development of the seed sector in the country.

The seed proclamation number 782/13 has been replaced by 1882/2023. The new Proclamation is more broad and starts a stronger legal background for the safety and interests of all players in the seed value chain in the country.

The basic changes in the new proclamation from the existing ones are: Ethiopia accepts continental agreements on variety release and registration system, the existence of options for variety release and registration, there is a way for a registered variety to enter the country without carrying out an adaptation test for the purpose of re-export, removal of the outdated variety from registration system, will be facilitated. Seed quality control options such as self-certification and third-party involvement, qualification certification at the seed class level, indicating that breeder seed should be inspected, establishment of cooperative seed system, and forest seed also included in the new proclamation.

Except for lack of foreign exchange, all other main challenges of private sectors such as long registration process, high cost of registration fee, unable to get organization working adaptation trial, it takes a long time to take samples and submit laboratory results of imported seeds. This shortcoming will be addressed by this new proclamation, but keep in mind that it has to be implemented properly.

Currently imported vegetable seeds are tested for only germination parameters. There are issues that have received little attention such as Phytosanitary Services. There is no legal framework on CoC for varietal development and no flexibility on CoC for small seed producers in the informal seed system.

Since ensuring breeding efficiency and seed quality is very extensive and involves many actors, it

requires a coordinated approach and many resources. Therefore, it is imperative that all stakeholders work together to do their part.

In practice there is a weak linkage in implementing the legal framework in the country. The main reason for weak implementation is poor awareness created among the seed value chain, lack of enforcement, limited back up of the administrators and little participation of the private sectors. So, creating awareness by government departments from federal to district level and application of laws and regulations that support policy implementations will improve the seed industry.

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