

Regulatory Politics and Farmers' Rights

Legislative Developments in the Pakistani Seed Sector

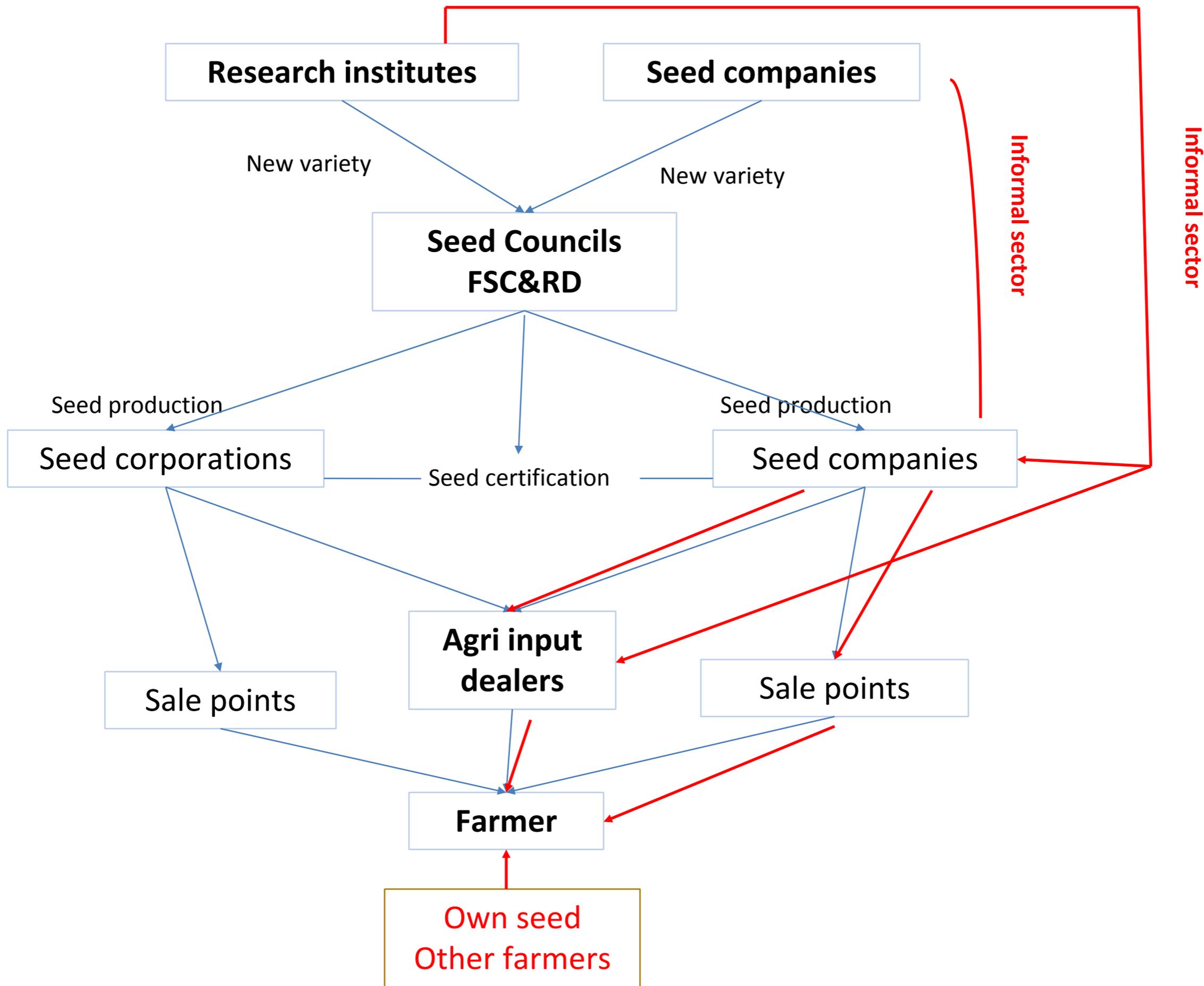
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Legislative Developments in the Seed Sector

- Significant legislative developments in Pakistan during the last couple of years
- Largely marginal to seed sector issues
- Unresolved tensions between interests of various stakeholders
 - These tensions are playing out at the implementation stage

Development of the Seed Sector in Pakistan

- Four phases of seed sector development
 - 1947-1960
 - Very little R&D; no formal procedures
 - 1960s
 - New institutions set up for research and agricultural supplies
 - 1970s
 - The Seed Act of 1976
 - FSC&RD and Seed Corporations were set up
 - 1980s onwards
 - First seed company registered in 1981
 - Seed business declared an industry in 1994



Overview of the Seed Sector

- Certified seed meets only 1/3rd of the total seed requirement for major crops
- Private sector is the principal provider of certified seed
 - Mostly local
 - Role of public sector has been declining
- 755 seed companies registered with FSC&RD
 - 5 are multinational
 - No. of active companies not known
 - Not much known about seed company operations
- A very large informal sector
 - Legal sanction, rather than quality characterises the informal sector
 - Most actors simultaneously operate in the formal and the informal sectors

Availability of Certified Seed (2016-17) metric Tonnes

Crop	Seed requirement	Certified seed availability				Certified seed as % of imported seed
		Local		Imported	Total	
		Public	Private			
Wheat	1,085,400	86,200	335,415	-	421,615	38.8
Cotton	40,000	687	28,677	-	29,364	73.4
Rice	44,800	3,322	43,097	619	47,038	105.0
Maize	33,270	656	17,078	9,302	27,036	81.3
Pulses	47,496	704	2,436	0	3,140	6.6
Oilseeds	10,582	3	529	99	631	6.0
Vegetables	5,570	96	874	6,872	7,841	140.8
Fodders	40,138	5	7	16,054	16,065	40.0
Potato	372,725	-	-	6,839	6,839	1.8
Total	1,679,981	91,673	428,112	39,784	559,569	33.3

Key Features of the Seed Act of 1976

- A federal law
- Creates FSC&RD as the principal regulator
- Envisages minimal role for the private sector
- 2015 amendment extends regulatory oversight to a larger set of seed sector activities
- Requires compulsory registration of new varieties and seed businesses
- Prescribes requirements for variety registration
 - Bureaucratic and lengthy procedures
- Requires seed to meet prescribed standards and to be sold in labelled containers
- Prohibits sale of misbranded seed
- FSC&RD certifies seed after field inspections
- Agnostic about farmer seed saving

Issues with the Current Legal Framework

- Regulation of the seed sector an almost exclusive federal responsibility
- An overly regulated system
 - Compulsory registration of new varieties/hybrids
 - Mandatory registration of all seed business including retail
 - Regular recourse to the regulator required
- Quality control at the production stage
- The same regulatory regime applies to seeds of all crops
- Will require a huge institutional infrastructure for effective enforcement
- Unreasonable requirements regarding GM varieties

The Legal Framework Issues (Contd.)

- Very large informal sector mainly due to the anachronistic legal framework
 - Bureaucratic and lengthy procedures for variety approval
 - Takes at least two years in evaluation and testing
 - Exposes breeder to risk of piracy by competitors
 - Variety registration or seed certification add little value to seed business
 - Weak enforcement of seed laws
- Consequently, companies and breeders often market their new varieties without registering them with FSC&RD
 - Such seed often sold under company label
 - Brand names have started to emerge
 - Uncertified seed is not necessarily of poor quality

Draft Punjab Seed Act of 2017

- Seeks to amend the Seed Act of 1976 to the extent of Punjab
- Variety enlistment, rather than registration
- Voluntary seed certification
- Truth-in-labelling
- Quality control shifts from production to point of sale
- A new regulator to be created for the Punjab province
- Mandatory registration still required to do seed business
- No change in requirements regarding GM varieties

Plant Breeders Rights Act of 2016

- Pakistan's obligations under TRIPS to legislate PBRs
- Bureaucratic politics between FSC&RD and IPO Pakistan
- Ambivalence from seed companies
- PBR Act modelled on UPOV 1991
- Provides for protection of varieties for 20 years (25 years for trees and vines)
 - If they are novel, DUS, and have an acceptable denomination
 - Protection also available to EDVs
 - 2-year transition period for existing varieties
 - Farmers' right to save seed recognised
- Rights to be enjoyed by public sector institutions, rather than breeders
 - A research incentives fund to be created; 40% royalty for breeders
- Compulsory licensing

Preliminary Comments on the PBR Act of 2016

- A little too early for giving an assessment of the PBR Act
- VCU not part of the criteria for grant of protection
- The Advisory Board has no stakeholder representation and its role is merely advisory
- Some duplication with the Seed Act of 1976
 - DUS testing required for variety registration as well as protection
 - Same requirements for GM crops
- New variety vulnerable to leakage during processing of application
- Farmers' role as breeders not recognised
 - No mechanism for benefit sharing with farmers
- No protection to farmers against innocent infringement or false claims by breeders

Policy Reform

- Policy to recognise institutional failures and support development of private seed industry
- Allow companies to sell new varieties with as little restriction as possible
 - Regulator to maintain a register of varieties
 - Government to specify and enforce minimum standards
 - Farmers' buying choices to decide what stays in the market and what exits
- Seed to be sold under a truth-in-labelling regime
 - Explore ways of utilising ungraded or substandard seed (properly declared to be so) at discounted prices
- Seed certification to be voluntary and a paid-for service
 - Private companies to also certify seed
- Seed regulator to provide a set of support services
 - Databases and training, rather than approvals and licenses

Policy Reform (contd.)

- Farmers to be supported in seed saving
- Seed business to operate autonomously without having to seek licenses and approvals from officials
- Farmers and breeders to be meaningfully represented in the governance structure
- Duplication between PBR Act and the Seed Act to be removed
- Breeders must gain confidence that their varieties will not leak during trials and processing
- Balancing breeders' rights with farmers' rights
- Only those varieties to be granted PBR, which are superior in some respect to the existing lot

Thanks