A Review Paper on the Application of Cooperative Laws (With Reference to Cooperative Proclamation No.147/1998) by the Appropriate Authority (The Case of Gambella Cooperative Agency)

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Abstract: This article is a review of the studies conducted on the performance and status of cooperatives established in Gambella regional state. The objective of this review is to assess the application of cooperative laws with a special reference to cooperative society’s proclamation no.147/1998 by the appropriate authority in the case of Gambella regional cooperative. To investigate the application of proclamation by the agency, ten articles were selected from the same proclamation that ought to be implemented by the agency using structure interviews and documents analysis to collect both primary and secondary data that analyzed and presented in the form of textual analysis by the researcher. The results of this review revealed that the regional cooperative agency of Gambella is not implementing the proclamation no.147/1998 drafted and provide for the establishment of cooperative societies in the country appropriately. Therefore, failure of the agency to implement the proclamation had its own direct contribution for the failure of cooperatives established in the region and lack of members’ awareness on the purpose of forming new cooperatives.

Keywords: Agency, Cooperative, Proclamation and Gambella.

1. Introduction

Ethiopia is one of the developing countries where peoples depend on agriculture. Its agriculture sector accounts for about 43% of the country’s GDP, 90% of exports and 85% of employment (ACSDS, 2012). About 90% of the country’s agricultural output is generated by subsistence smallholder farmers who use traditional tools and farming practices. These smallholder farmers face uncertain production environment and enormous constraints. Intervention to trim down these uncertainties and other problems to bring the farmers out of poverty could be realized through the formation of members based cooperatives (Berhane, 2008).

Cooperative being a global movement prevails in both developed and developing nations and viewed as change agents in terms of social and economic development. ICA (1995) defined cooperative as an autonomous association of persons united voluntarily to meet their common economic, social and cultural needs and aspiration through jointly owned democratically controlled enterprise.

In Ethiopia, the formation of modern cooperatives had started in 1960 during the reign of Emperor Haileselasie. Even though modern cooperative societies existed in the country above 55 years back, there were no modern cooperative societies except the traditional ones in Gambella region until 2002. Ethiopia has identified the cooperative form of business organization as instrument to socio-economic development in the country by creating legal basis known as cooperative proclamation (Ochan, 2015).

Modern cooperatives were introduced in Gambella region in 2002 when the agency for cooperative promotion was established in the region. Agency (Appropriate Authority) is defined as an organ established at federal level, or a bureau or an organ established for the same purpose at regional or city administration level, to organize and register cooperative societies and to give training, conduct research and provide other technical assistances to cooperative societies (Proclamation No.147/1998). Soon, the existed traditional cooperatives changed their forms to the modern being organized according to the cooperative society’s proclamation No.147/1998 (Gnigwo, 2010).

Since the establishment of Cooperative Promotion Agency in Gambella Regional State, there have been over 800 primary cooperatives registered in the region (FCA, 2015). From the registered cooperatives, only less than 200 could be identified.
in their areas of operation due to the failure of the agency to monitor and follow the cooperatives and implement cooperative laws and proclamation no.147/1998 accordingly (Ochan, 2015).

Do cooperatives exactly fail due to the failure of Gambella Regional Cooperative Agency to implement cooperative laws? This is the main question that motivated the researchers to carry out this review to assess the application of cooperative laws with a special reference to cooperative society’s proclamation no.147/1998 by the appropriate authority in the case of Gambella Regional Cooperative Agency.

Therefore, to explore the application of cooperative proclamation no.147/1998 by the Gambella Regional Cooperative Agency, structure interviews and documents analysis were utilized to collect both primary and secondary data that were analyzed and presented in the form of textual analysis by the researcher.

2. Cooperative Societies’ Proclamations in Ethiopia

Modern cooperatives started in Ethiopia in 1960 during the regime of Emperor Haile Sellassie. Before the stated year and still today, people have been organized through traditional cooperatives. In 1960, the first legislative no.44/1960 called “Farm workers Cooperative Society Bureau” was declared for the establishment of modern cooperative society. After completion of the first five years of economic plan, the second additional five years plan was drafted. In this plan the government paid a due attention for the establishment of cooperatives. As a result, the second cooperative proclamation no.241/1966 was declared to establish cooperatives with objectives: i) to reduce interest cost on any loan given to cooperative society, ii) to share any losses and damages among members that a single member could not held alone and iii) to implement technical knowledge on the work. When the Derg regime came to power in 1974, all the cooperatives established under proclamation no.241/1966 were dissolved except saving and credit cooperatives (Alemayehu, 2002).

To strengthen and expand the new socialist system, the Derg government drafted and implemented different strategies including the expansion of cooperative societies. For the execution of this program, cooperative proclamation no.138/1978 with the aims of bringing socialist agriculture transformation and expansion of socialist marketing system in both urban and rural areas was declared. After the down fall of the Derg regime in the year 1991, the transitional government of Ethiopia declared the free market economy. During the mixed economy, which was followed by Derg in 1990, the cooperative movement was getting retarded. This retardation continued up to 1994 and in this year the transitional government provided proclamation no.85/1994 for the establishment of cooperative societies that can play a great role in the free market. According to this proclamation, the responsibility to promote and monitor agricultural cooperative societies was given to the Ministry of Agriculture and regional agriculture bureaus. But the improvements seen were very limited because of many reasons. In the history of cooperative movement in Ethiopia, the government has taken serious measures after 1995. The measures includes, organizing different types of cooperative societies under one umbrella and establishing cooperative promotion bureaus and registrar in each region. Finally, in the Federal government the cooperative promotion desk under the Prime Minister office has been established and proclamation to provide for the establishment of cooperative societies, proclamation no.147/1998 with 60 articles has also been established by the Federal government and amended in 2004 with cooperative societies (Amendment) proclamation no.402/2004 (Birhanu, 2011).

3. Procedures of Organizing Cooperative Societies

In Ethiopia, the responsibility to organize and manage cooperative societies was given to the Federal Cooperative Agency at federal level and Regional Cooperative Promotion agency at regional level.

“Cooperative management may be defined as the efficient and effective utilization of the resources of a cooperative as a business organization for the purpose of serving the needs of its members within the context of the accepted cooperative principles - By E.V. Mendoza”

The procedures to organize (form) new cooperative societies, which need to be implemented by the regional cooperative promotion agency are as follow: i) holding an organizing meeting, ii) establishing steering committee, iii) conducting a feasibility study, iv) holding a meeting on feasibility report, v) incorporating articles and byelaws, vi) preparing business plan, vii) registering and other procedures, viii) securing finance, ix) recruiting/admitting members, x) appointing management and staff, xi) holding the first meeting of members and board and xii) starting operations (Proclamation no.147/1998).

4. Results and Discussions

This review was carried out to examine the application of cooperative laws with special
Reference to cooperative society’s proclamation no.147/1998 by the Regional Cooperative Agency of Gambella. For the purpose of the review, ten articles that ought to be implemented by the agency according to proclamation were selected and investigated by the researcher to understand their application by the regional cooperative agency.

Before the registration and provision of license to a new cooperative society as per article 9 of cooperative society’s proclamation no.147/1998, the agency must conduct feasibility study to get enough information to decide whether the cooperative to be established will benefit members or not. Therefore, results of the selected ten articles reviewed from cooperative society’s proclamation No.147/199 are discussed as follow:

**Registration and Feasibility Study:** Article 2(7) defined appropriate authorities as organs established at federal level, or a bureau or organs established for the same purpose at regional or city administration level, to organize and register cooperative societies and to give training, conduct research and provide other technical assistances to cooperative societies. In Gambella Regional State, there are over 800 primary cooperative societies registered by the regional cooperative agency. No feasibility study conducted prior to registration of these cooperatives. The study conducted by Ochan and Gnigwo (2016) to assess members’ participation in fishery cooperatives in Gambella regional state, not only problem of feasibility study but the agency never conducted research and provide any training as a result of the research findings. On the other hand, since 2005, the agency failed to provide technical assistance to cooperatives formed in the entire region. So, when individuals formed their cooperatives without capacity to finance, manage and participate, their cooperative will fail in short run since they were not active.

**Objectives of a society:** Article 4(1) states that any society to be established under proclamation no.147/1998 shall have the objective of solving problems collectively which members cannot individually achieve. According to the same study conducted by Ochan (2015), he found many certificates granted to cooperatives by the agency and were left in the hands of individuals who used to be leaders in their respective cooperatives.

This happened because their cooperatives were not formed with the objectives to solve common problems rather than to run their own businesses using cooperatives’ names to be exempted from taxes. On the other hand, Gnigwo (2010) found few saving and credit cooperative societies that organized by family members. Had the regional cooperative agency monitored and followed the activities of these cooperatives, they would have not been registered since they established their cooperatives to maximize their families’ profit rather than provision of service to poor members.

**Guiding Principles of Cooperative Societies:** Article 5(5) says cooperative societies provide education and training for their members, elected representatives, managers and employees so as to enable them to contribute effectively to the development of their societies. They inform the general public, particularly the youth about the nature and benefit of societies. Different studies conducted in the region revealed lack of access to training as a challenge for the success of cooperatives organized in the region. In the study conducted by Ochan (2015) on the role of cooperative agency in promoting agricultural cooperatives, the result showed that only 13.5% of the members undergone through training where some trainings were provided by the different non-governmental organizations that supposed to be provided by the agency itself.

**Formation of Cooperative Societies:** Article 6(2) of cooperative society’s proclamation no.147/1998 is all about establishing primary cooperative society by persons who live or work within a given area. But the reality in Gambella regional state is opposite. In this region cooperatives organized in the area of gold mining are found in Dimma district, which is located at a distance of more than 400km from the main town of the region. Since these types of cooperatives require more capital, there are individual members living here in Gambella town who simply have shares in area of operations. They need only profit without any participation in the activities taking place in the areas.

**Payment of Shares:** Article 16(3) says no member shall hold more than 10% of the total paid up share capital of the society. The proclamation limits the amount of shares to avoid domination within the cooperative societies. In a family based organized cooperative societies, 100% of the capital required for share is covered by an individual who is leading the family. So, such type of cooperatives should not suppose to be given any legal certificate of being cooperatives by the agency. They are sole proprietorship businesses that are managed and controlled by the individuals.

**Supreme Organ of a Society:** Article 20 of cooperative society’s proclamation no.147/1998 states that the supreme organ of any society shall be the general assembly and given the following powers and duties of passing decisions after evaluating the general activities, approving and
amending the bylaws and internal regulations, electing and dismissing the members of any committee, determining the amount of shares, deciding on how the annual net profit of the society is distributed, giving decision on the audit report, hearing work reports and give proper decision, deciding that a society either be amalgamated with another society or be divided in pursuance of this proclamation, approving the annual work plan and budget and deciding any issue submitted by any management committee. The same is true to what happening in the payment of shares where these family members with more shares hold more powers in the decisions of their respective cooperatives.

Audit: Article 36(1) written that the appropriate authority shall audit or causes to be audited by a person assigned by it, the accounts of any society at least once a year. According to Ochan (2015), none of the cooperatives established in Gog district of Gambella regional state had audited since they were established and registered by agency for more than five years. When the experts of cooperatives in the agency were asked about the problems of audit, they said that lack of finance to conduct auditing activities in all districts was the main challenge in addition to poor attention given to cooperative societies by the regional government. Not only Gog district, even in Jor district, none of the cooperatives formed was audited until December, 2016.

Inspection: Article 37(1) of the same proclamation says the appropriate authority may make or cause to be made by such person to be assigned by it an inspection to the organization, work execution, documents and financial condition of a society. Like auditing problem, the same is true for inspection. One good example, Ochan and Gniigwo (2016), conducted research which focused on the factors affecting members participation in fishery cooperative formed in Gambella Regional State and the researchers witnessed that the list of cooperatives found in the office of the regional cooperative agency is quite different from the lists of cooperatives that existing in the five selected districts for the study. This shows that there was no inspection undertaken by the agency in recent years. On the other hand, during data collection, it was found that out of sixteen fishery cooperatives, only six were functioning. Therefore, had there been inspection done, the agency would have known the existing cooperatives in the region.

Address of a Society: Article 53 of cooperative societies proclamation no.147/1998 states that any society shall have an address registered pursuant to article 9 of this proclamation. All services of process, notices and other communications shall be sent in such address. The society shall inform the appropriate authority of any change in such address within thirty days. In Gambella Regional State, there are over 800 primary cooperatives registered by the regional cooperative agency until March of 2017. The agency does not know the exact address of the cooperatives organized in the region. For instance, in Gambella town, where the agency is found, there are many certificates of registration issued by the agency that are available in the hands of individuals whose cooperatives were dissolved. When you receive their list from the agency, you would never see them since they were dissolved and failed to return the license to the appropriate authority.

Depositing of this Proclamation, Regulations and the Bylaws: Article 56 says every society shall deposit at its address copies of this proclamation, the regulations and the bylaws, to be accessible free of charge. According to Ochan (2017), in Abobo and Gog districts, out of 248 members who were asked about awareness of cooperative societies’ proclamation no.147/1998, 45.16% of them have awareness on the existence of the proclamation but in terms of its availability in their offices to be accessible free of charge, only 23% agreed that there were proclamations and bylaws available in the offices of their respective cooperatives. The remaining 77% said there were no proclamations available in the office of their cooperative societies.

5. Conclusion and Recommendations
In Ethiopia, the formation of modern cooperative societies was started in the year 1960 during the reign of Emperor Haile Selassie when the first cooperative legal action known as Decree no.44/1960 was enacted for the establishment of agricultural cooperatives in the country. Even though modern cooperatives started in the country in 1960, they were introduced after four decades during the current regime when cooperative promotion agency was established in Gambella Regional States in the year 2002 with the purpose to organize and register new cooperatives according to proclamation no.147/1998; a proclamation provide for the establishment of cooperative societies. Since no progress was seen, different studies were conducted on cooperatives established in Gambella region for academic purposes. Among these studies, one was Ochan (2015) on the role of cooperative agency in promoting agricultural cooperatives in Gog district and the findings revealed the existence of poor
performance of the agency in promoting cooperatives.

In addition to poor performance of the agency, the study also identified lack of awareness about cooperative laws and principles. Based on the findings of the study, the researcher was motivated to undertake a review to assess the application of cooperative laws by the agency with especial reference to cooperative society’s proclamation no.147/1998 by selecting ten articles such as registration and feasibility study [Art.2(7)], objectives of a society [Art.4(1)], guiding principles of cooperative societies [Art.5(5)], formation of cooperative societies [Art.6(2)], payment of shares [Art.16(3)], supreme organ of a society [Art.20], audit [Art.36(1)], inspection [Art.37(1)], address of a society [Art.53] and depositing of proclamation, regulations, and the bylaws [Art.56] that must be implemented by the agency.

The findings of the review revealed that the agency never did any feasibility study and simply registered cooperatives without good understanding about individual members to either have common problems or for business purpose. There were cooperatives established by family members with some with shares more than 50% that witnessed from few consumer cooperatives in Gambella town. When these family members organized their cooperative, they violated the objective which cooperative must be organized by people who share the same problem to serve themselves instead of being profit oriented. Except for few, none of cooperative members got training for the last two years. On the other hand, decision making powers in majority of the societies were exercised by the management committee or managers. There are also members who joined cooperatives in Dimma district while they live in the main town of the region.

More than 75% of the registered cooperatives were not audited and inspected for the last five years and no adequate proclamations and bylaws that are accessible to the members at their offices. It is a mandatory for the agency to provide proclamation no.147/1998 to all the established and registered cooperatives in the region. It can be concluded that the regional cooperative agency of Gambella Regional State is not implementing the cooperative society’s proclamation no.147/1998 appropriately and members of the established cooperatives in the region misunderstood the main purpose of forming cooperatives. They considered cooperatives as business entities and expecting profit rather than service provision among themselves. Therefore, to overcome the problems of cooperatives in the region, the agency should conduct inspection throughout the entire region in order to indentify the existing cooperatives and provide them with training to get awareness about the current proclamation that guides cooperatives or re-establish the existing ones by studying their feasibilities. Because, few stronger cooperatives are better than many weaker cooperatives that do not bring any change to the members as well as their communities. Finally, the agency should provide proclamation no.147/1998 together with the amended one to all cooperatives and implement them for the betterment of cooperatives organized in the region.

6. References


