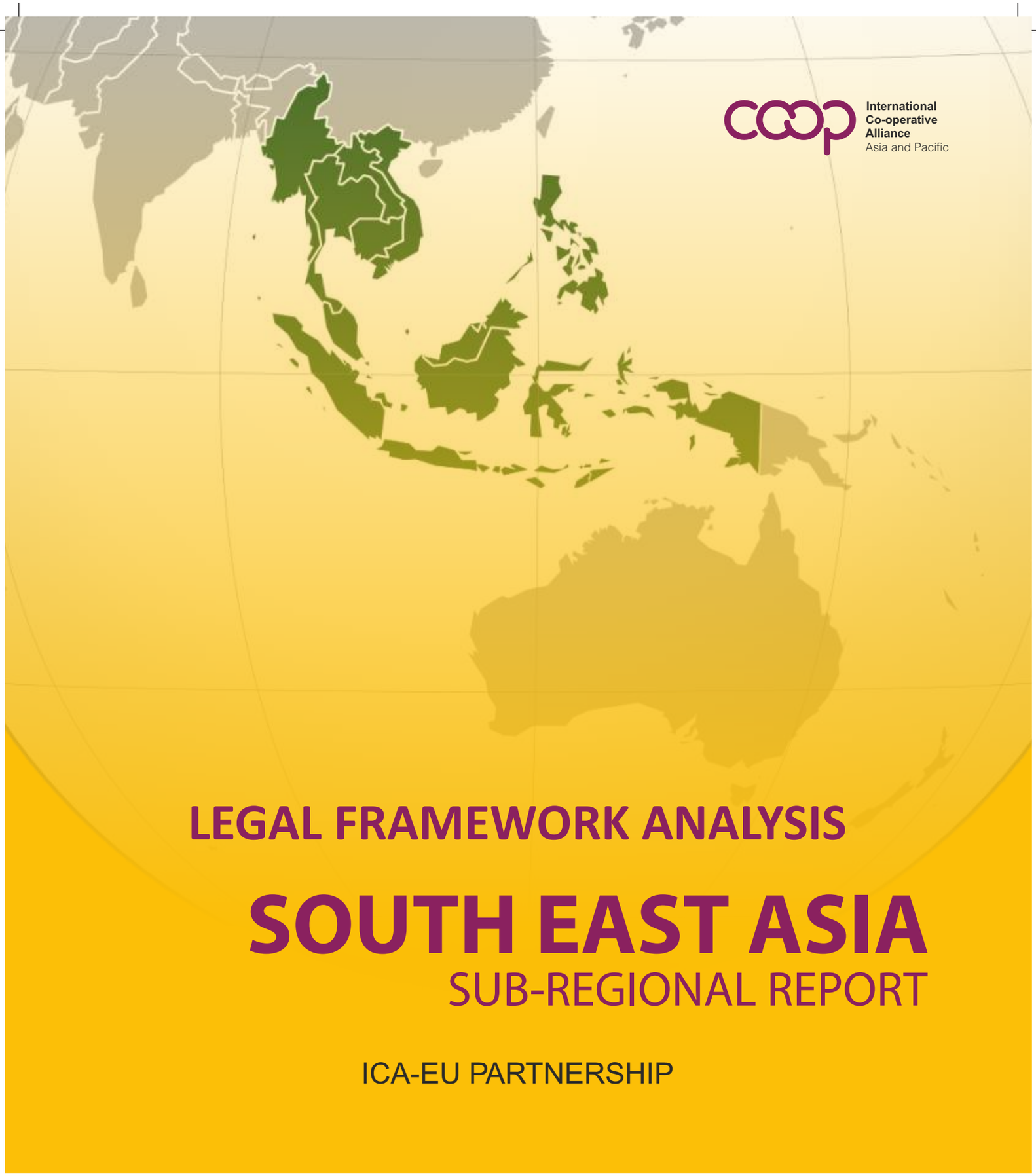

International Co-operative Alliance
Asia and Pacific

LEGAL FRAMEWORK ANALYSIS

SOUTH EAST ASIA

SUB-REGIONAL REPORT

ICA-EU PARTNERSHIP

#coops4dev

International Co-operative Alliance

Co-funded by the European Union

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LEGAL FRAMEWORK ANALYSIS

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Contents

ABBREVIATIONS

ACO	ASEAN Co-operative Organization
ASEAN	Association of South East Asian Nations
APCMC	Asia Pacific Co-operative Ministers Conference
BOD	Board of Directors
CCF	Central Co-operative Fund
CDA	Co-operative Development Authority
EU	European Union
GA	General Assembly
ICA	International Co-operative Alliance
ICA AP	International Co-operative Alliance - Asia Pacific
ICA ROAP	International Co-operative Alliance, Regional Office for Asia and the Pacific
ICIS	International Co-operative Identity Statement
ILO	International Labour Organization
LFA	Legal Framework Analysis
MOALI	Ministry of Agriculture, Livestock and Irrigation
MACCOPS	Malaysia Carnivalof Co-operatives' Products and Services
NATCCO	National Confederation of Co-operatives
NTUC	National Trade Union Congress
R.A.	Republic Act
SEA	South East Asian
SNCF	Singapore National Co-operative Federation
VCA	Vietnam Co-operative Alliance

LEGAL FRAMEWORK ANALYSIS
within the ICA-EU Partnership
Sub-Regional Report: SOUTH EAST ASIA

I. INTRODUCTION

This sub-Regional report of the South-East Asian nations represents a compendium of four comprehensive reports on Legal Frameworks received from Indonesia, Myanmar, Philippines, and Vietnam, supplemented with an analysis of secondary data and information compiled from Malaysia, Singapore and Thailand. There are eleven countries in the South East Asia (SEA) sub-Region, with ten of them formally associated under the ASEAN (Association of South East Asian Nations) Secretariat, with Timor Leste as the only non-member. Three other three members of ASEAN not included in this report are Brunei, Cambodia, and Laos.

Co-operative Legal frameworks in the SEA countries are palpable products of their respective eco-systems, with distinct and vibrant socio-political and socio-economic environments which duly shaped those eco-systems. In the late 1980s, ICA in the Asia Pacific region (ICA AP) was prompt in grasping prevailing circumstances that led to the adoption of a multitude of inimical co-operative legal frameworks at that time. ICA AP thus began in earnest its public-policy intervention in 1989, in an attempt to help reshape a number of legislative frame works in a significant way. It started with a policy dialogue among policymakers in charge of co-operative development, held in Singapore in 1989, followed by a series of Co-operative Ministers' conferences[1], as well as a number of Registrars' Conferences since 1990. All these conferences were well attended by ICA members and high-ranking government officials - in charge of co-operative development - from the Asia Pacific region, but notably so from South-East Asia.

The selection of country experts for this LFA was done methodically and effectively by the ICA AP, ensuing in the following individuals and/or institution from this sub-Region: (a) Messrs. Untung Tri Basuki, Suroto Ph, and Ilham Nasai, a Team of experts from Indonesia, with Tri Basuki representing the Ministry of Co-operatives and SMEs, Suroto representing the National Federation of People-based Co-operative enterprises (INKUR), and Ilham Nasai from the National Institute of Co-operative Research and Development (LSP2I); (b) *Kyaw Thu Win*, national expert from Myanmar, who is a national business advisor for the organization working for co-operative sector development in Myanmar;

© *Cresente Paez*, national expert from the Philippines, served as a former member of the National Congress for twelve years, and has been a co-operative leader for the last four decades in regional and well as national co-operative federations the Philippines, (d) *International Co-operation Department,* Vietnam Co-operative Alliance (VCA), the national Apex body for co-operatives in Vietnam. Unlike the designation of experts in the former three countries, the legal framework analysis in Vietnam has been prepared by a team of VCA, composed of staff members within its international co-operation department.

[1]Successive Asia Pacific Co-operative Ministers' Conferences (APCMC) have been conducted by the International Co-operative Alliance for Asia Pacific (ICA AP) over all these year ssince 1990, with the first one held in Sydney in 1990, and 10th Conference being the last one held in Hanoi, Vietnam, in 2017.

The role of ICA over the past many years in convening ministers and registrars, in charge of co-operatives, has been verysignificant in terms of creating a more enabling environment for co-operative development in the sub-Region, notably in Singapore, the Philippines, Thailand, and Malaysia. A major shift has subsequently taken place in the mindset of governments in this sub-Region, about their distinct roles in promoting co-operation and co-operatives, including in Indonesia, Myanmar, and Vietnam. There are obvious variations in these trends given the political, social and economic milieu of each individual countries. But this cannot take away the discernible fact that the direction and thrust of impending changes in co-operative policy and legislation are positive and indeed desirable.

A quick observation of what political predicament could ensue within each country to create sound co-operative laws rests with the fact that the co-operative ministry or authority in charge of co-operatives is but one subset. There is a natural propensity to create bottlenecks if cross-sectoral coordination among ministries in these countries do not measure up and thus fail to reach a mutual understanding of what a good co-operative legislation and policy should represent. As well, the noticeable absence of legislators from legislative bodies (congress/parliaments) from these countries during these high-level events, resulted in the dilution of enacting co-operative legislation, on account of their insufficient grasp of what a genuine co-operative identity actually denotes. Furthermore, the unescapable fact that the tenure of Co-operative Ministers has its limitation on account of political turnarounds, has made it difficult to implement the positive resolutions of APCMCs in a consistent manner into the legislative processes.

The pursuit for a sound and supportive legal framework is thus incumbent upon the autonomous and independent ICA members in the sub-Region to play a pivotal role by advancing their advocacy roles and thus spearhead and oversee the processes towards the creation of an enabling co-operative legislation.

One good example in this sub-Region is the annulment of Co-operative Law no 17 of 2012 in its entirety in Indonesia, after autonomous and independent co-operative leaders advocated the urgency of a judicial review of that law by the Constitutional Court.

The ICA-EU Partnership program on Co-operatives in Development "People centred Business in Action" signed in 2016 between the European Commission and the International Co-operative Alliance (ICA)[2], is therefore, and especially, critical and timely to embark on more relevant and strategic legislative pursuits in this sub-Region (and in fact in the entire region). Deducing that all recommendations and conclusions of the LFA[3] are indeed instrumental in improving legislative frameworks that are still "not friendly" or "less friendly" for co-operative development, a joint advocacy by ICA and the EU would generate a much greater impact for legislative reforms in this sub-Region (and indeed in the entire region of Asia Pacific).

Legislative reforms are also critical for the pursuit of a level-playing field for co-operatives[4]. Co-operatives are economic enterprises with a distinctly social purpose because they are established by

[2]https://www.icaap.co-op/icanews/ica-eu-partnership-program-co-operatives-development-people-centred-business-action

[3]LFA being the Legal Framework Analysis as the headline of this paper connotes.

[4]Extract from the recommendations of the 5th Co-op Ministers' Conference held in Beijing, China, 11 to 15 October 1999, underpinning its relevance for the current LFA.

people or entities to gain the market leverage, they otherwise would not have if they acted individually. Co-operatives are instruments of members to improve their economic and social situation. This is their unique contribution to development. And this is where governments can utilize the advantage of co-operatives when pursuing their development objectives. When co-operatives are recognized for what they are and what they can do, they can occupy their rightful place among the important sectors of the economy. In an open market economy, they succeed like any other autonomous economic enterprises, delivering products and services in response to the demand of their market. When they fail, it is because they cannot meet and satisfy this external demand. But special privileges cannot make up for this failure, and often these considerations of subsidizing co-operatives with free financial support led to organizational complacency and operational inefficiencies, and in the final analysis distort the market as well. However, it does not mean that support from governments is not required.

In providing support, government sought to first consider priority areas in the development of the national economy. For this reason, it provides certain privileges and temporary incentives to economic sectors able to contribute to its overall development plan. Co-operatives deserve this special consideration, just like other economic enterprises, only because they can provide a distinct contribution – and this contribution is sufficiently recognized by all stakeholders.

II. OVERVIEW OF COUNTRIES COVERED: SOUTH EAST ASIA – SUB REGION

As mentioned earlier, this sub-Regional report represents a compendium of four comprehensive reports on Legal Frameworks received from Indonesia, Myanmar, Philippines, and Vietnam, supplemented with secondary data analysis from Country Snapshots compiled by ICA AP as well as other sources on Malaysia, Singapore and Thailand.

Indonesia

Indonesia is by far the largest country in South East Asia with more than 270 Million people. It is the fourth most populous country, with the largest Muslim majority, in the world. Indonesia is also the largest archipelagic state in the world encompassing more than 17,000 Islands, with more 700 languages and over 1,300 ethnic groups. Indonesia is a republic with a presidential system. Following the fall of the New Order in 1998, political and governmental structures have undergone sweeping reforms, with four constitutional amendments revamping the executive, legislative and judicial branches. Chief among them is the delegation of power and authority to various regional entities while remaining a unitary state.

Some scholars misconstrued the onset of the co-operative movement in Indonesia as being promoted by Raden Aria Wirjaatmadja. Wiraatmadja established the Savings-Help Banking scheme (*"De Purwokertosche Hulp en Spaarbank der Inlandsche Hoofden"*) on 16 December 1895. Based on this initiative, the Assistant Regent of Purwokerto, Wolf van Westerode, led this organization and intend to promote this as a credit co-operative based on the Raiffeisen model in Europe. (Djojohadikusumo 2013: 2-7, Soedjono 1997: 1, Henley, 2010: 105-106).

However, due to socio-political forces at play with dual policies by the colonial government to use the co-operative as a tool for increasing community welfare and at the same time to bolster their loan

capital with government funds, self-help efforts as championed by the Raiffeisen model was totally defeated[5]. Instead, the "Hulp en Spaarbank" promoted by Wiraatmadja grew as an embrio of a commercial bank currently becoming one of the largest State Banks in Indonesia called "Bank Rakyat Indonesia (BRI)". The Raiffeisen model promoted by Wolf van Westerode was picked up only in 1969, when a group of pioneers started the Credit Union movement in Indonesia, and currently growing as member-based co-operative movement from the ground up with over 3.2 million members and assets of close to 3 Billion USD, mostly among the less privileged in rural areas.

This historical fact has not been widely publicized on account of a strong bias permeating the mindset of the government and government-sponsored co-operative structures which tend to put quantifiable figures ahead of qualifiable characteristics for the sake of political expediencies. History from the onset has also shown that colonial powers under the Dutch "suspected the co-operative as a political tool to encourage the people to live independently in the economic sphere and not dependent on the colonial government. The Co-operative Law of 1915 was similar to the Co-operative Law in the Netherlands of 1876, hence the Indonesian Co-operative Law was not based on local customs and needs.[6]" The unfortunate trend continues until now, because successive co-operative laws, other than the a conducive one enacted in 1967 (Law no 12/1967), have been designed and promoted by the government without sufficient consultation with practitioners and co-operators as well as genuine co-operatives at grassroots level.

Co-operatives developed genuinely from the ground up at the grassroots were quite suppressed during the "New Order" era under President Suharto, on account of the Presidential Decree that prioritizes the Village Unit Co-operatives (popularly known as KUDs – Koperasi Unit Desa) as the only legitimate co-operative institution in rural areas. Hence people-driven co-operatives had to be incorporated into these KUDs. The Presidential Decree supersedes Law no 12/1967, and when replaced in 1992 with Co-operative Law 25/1992, features of the latter is better than the Presidential decrees and is better oriented towards overall co-operative development.

However, *'friendliness'* to the co-operative ideals remains sporadic and the definition is more akin to a corporate-oriented one. An attempt to replace Law no 25/1992 with law no 17/2012 was pursued and well received by the government and parliament, hence enacted in October 2012. However, co-operative activists from various regions, representing genuine co-operatives in Indonesia, launched a judicial review at the Constitutional Court, and as a result the co-operative law no 17/2012 was annulled in 2014. Co-operatives in Indonesia are once again regulated under Law no 25/1992.

Up until now the regulation of co-operatives in Indonesia are based on a 'lex-generalis' make up, where as the sectoral segments are subjected to other general laws, and most recently confirmed under the Omnibus Law[7]. This Omnibus Law aims to attract investment, create new jobs, and stimulate the economy by, among other things, simplifying the licensing process and harmonizing various laws and regulations, and making policy decisions faster for the central government to respond to global or other changes or challenges. The Omnibus Law has amended more than 75 current laws in Indonesia and the central government is in the process of issuing more than 30 government regulations and other implementing regulations at this very moment (February 2021).

[5]Tulus & Suroto, 2017, «State of Co-operatives in Indonesia, a historical perspective», page 3

[6]Sharma, 1997, *"Co-operative Laws in Asia and the Pacific"*, page 74

[7]The PresidentofIndonesia, JokoWidodo, officiallyenactedthejobcreationlaw - commonlyknownasthe "Omnibus Law" on November 2, 2020.

Myanmar

Myanmar is the largest country in Mainland Southeast Asia and the 10th largest in Asia by area. As of 2017, the population was about 54 million. Its capital city is Naypyidaw, and its largest city is Yangon (Rangoon). Burma, as it was called before, was under British colony in the late 19th Century and was part of British India until 1937. While agriculture sector, including livestock, contributes to 28.6 percent of gross domestic product (GDP), agricultural productivity and income for farmers are among the lowest in Asia. Myanmar is also one among the South East Asian Nations that has witnessed a plethora of ethnic and political problems, and an arduous struggle to political normalcy and democracy.

Myanmar's first constitution was enacted for the Union of Burma in 1947. After the 1962 Burmese coup d'état, a second constitution was enacted in 1974. The country has been ruled by military juntas for most of its history.

The 2008 Constitution, the country's third and most current constitution, was published in September 2008 after a referendum[8]. The Indian co-operative Act of 1904 was applied during the British colony in Myanmar, and the first Agricultural credit society was registered in January 1905. However, during the economic depression from 1929 onwards, a number of co-operatives had to be liquidated under the co-operative act of 1927[9]. This act of 1927 continued for almost 30 years when it was replaced by Co-operative Act of 1956. When the Revolutionary Council came into power in 1962, it replaced Law of 1956 with co-op law of 1970, where co-operatives were formed based on territorial demarcations and fundamentally lost their voluntary character to become part of the socialist economy. It was again repealed in 1992 and a new law was enacted on December 22, 1992, which was much more democratic in nature[10].

Philippines

Similar to Indonesia's geographic clusters, Philippines is also an archipelagic state of 7,641 islands that are broadly categorized under three main geographical divisions from north to south: Luzon, Visayas, and Mindanao. It is an incredibly diverse nation in terms of language, religion, ethnicity and also geography. Ethnic and religious fault-lines that run through the country continue to produce a state of constant, low-level civil war between north and south.

Because Philippines was under Spanish rule for 333 years and under U.S. tutelage for a further 48 years, the Philippines has many cultural affinities with the West. English is an official language and one of only two predominantly Roman Catholic countries in Asia (the other being East Timor). Despite the prominence of such Anglo-European cultural characteristics, the peoples of the Philippines are Asian in consciousness and aspiration. Contemporary Filipinos continue to grapple with a society that is replete with paradoxes, perhaps the most obvious being the presence of extreme wealth alongside tremendous poverty. Rich in resources, the Philippines has the potential to build a strong industrial economy, but the country remains largely agricultural[11].

[8]https://en.wikipedia.org/wiki/Constitution_of_Myanmar

[9]Sharma, 1997, "Co-operative Laws in Asiaandthe Pacific", page120

[10]Ibid, page 120.

[11]https://www.britannica.com/place/Philippines

Co-operative development in the Philippines rallied under the American occupation with the enactment of the Corporation Law of 1906.

This law provided the legal framework for all private organizations, including co-operatives. However, the first law patterned after the Raiffeisen-type of credit co-operatives is the Rural Credit Co-operative Association Act (PA No. 2508) in 1915. The second co-operative law was the Co-operative Marketing Act 3425 in 1927. The third law that influenced co-operatives' growth was the Commonwealth Act No. 565, in 1940, followed by the creation of the National Co-operative Administration (NCA) in 1941. The legislative framework culminated in the post Martial Law era of President Ferdinand Marcos with the enactment of Republic Act No. 9520, otherwise known as the "Philippine Co-operative Code of 2008", and the Republic Act No. 11364, or the Co-operative Development Authority (CDA) Charter of 2019. Unlike in other South East Asian countries, the latter is a distinct government agency to promote co-operatives as enshrined in the Constitution. The CDA is the only government agency authorized to register all co-operatives, including amendments to the Articles of Co-operation and Bylaws (ACBL), division, merger, and consolidation. The CDA created under Republic Act No. 6939, hereinafter referred to as the Authority, is hereby strengthened and reorganized to carry out the provisions of this Act and those of Republic Act No. 6938, as amended by Republic Act No. 9520, otherwise known as the "Philippine Co-operative Code of 2008"[12].

Vietnam

Vietnam, with a population of over 96 million has a long history of adapting a host of dominant civilizations, institutions, and technology into the current Vietnamese existence. This was already evident in Vietnam's historical relations with China, and it reappeared as descendants of mandarins responded to the challenge of the West by rejecting tradition and becoming communists to combat colonialism. Since the 1980s it has been the driving force behind the Vietnam Communist Party's embrace of economic liberalization and integration into the world economy. Such strategic absorption and adaptation have helped propel Vietnam to become one of the world's most populous countries, with one of the most rapidly expanding market economies[13].

During the centrally-planned economy i.e., before the Doi Moi or market-based reforms in 1985s, co-operatives in Vietnam were organized as collectives governed by government regulations.

These collectives resembled more like pre co-operatives governed under by-laws that must be approved by the corresponding authorities at that time. Co-operatives remained as collectives until the law on co-operatives was passed by Parliament in March 1996, and became operational on January 1, 1997. The International Co-operative Alliance (ICA) Regional Office for Asia Pacific (ROAP) was actively involved in consulting co-operative sympathizers in Parliament at that time in drafting the co-operative law. The fact that this co-operative law was enacted in early 1996, it occurred just one year after the Statement of the Co-operative Identity (ICIS) was adopted by ICA Centennial Congress in Manchester in September 1995. The ICIS could not be accommodated in the Law in as much as the law-making process had already begun a few years earlier. That being said, the preamble of the Law signified the trend towards promotion of a co-operative economy, based on a "socialist-oriented and

[12] https://thecorpusjuris.com/legislative/republic-acts/ra-no-11364.php, Section 3.

[13] Joseph Buttinger, Freelancewriter, in «https://www.britannica.com/place/Vietnam».

state-regulated market mechanism" in accordance of the 1992 Constitution of the Socialist Republic of Vietnam. A Co-operative is defined in this Law as "(a) self-control economic entity, (b) based on common needs and interests, (c) that contributes capital and labour voluntarily, (d) that promotes the strength of collectives, (d) that carries out manufacturing and business service activities, (e) in order to improve the living standard (of members) and hence contribute to the socio-economic development of the country.

However, the seven Principles adopted by ICA Congress of 1995 has been incorporated in Article 7 of the Co-operative law of 2012 No. 23/2012/QH13, albeit in more descriptive form that only reflect the spirit of the ICIS. No doubt, the Co-op Law of 2012 provided a much more favourable legal corridor for the development of the co-operative sector following the original one in 1996 and also a subsequent revision in 2003.

Malaysia

ANGKASA as the apex body of Co-operatives in Malaysia, and as a prominent member of ICA, has not produced a Legal Framework Analysis based on the outline presented. However, this segment on Malaysia provides relevant data and information, following a research and citations from Secondary sources, including a collection of pertinent data and information furnished by ICA Asia Pacific.

Malaysia is a founding member of ASEAN[14]. It is located just north of the Equator, is composed of two non-contiguous regions: Peninsular Malaysia also called West Malaysia which is on the Malay Peninsula (adjoining Thailand), and East Malaysia which is on the island of Borneo (adjoining Indonesia). Malaysia is a multi-ethnic, multi-cultural and multilingual society, consisting of 65% Malays and other indigenous tribes, 25% Chinese, 7% Indians[15]. Malaysia's population is estimated at 32.7 Million in 2020[16].

The co-operative movement in Malaysia had its roots in addressing the problem of indebtedness in rural areas in the early twentieth century. Being a member of the Commonwealth, at which point Singapore was still included, the Federal Legislative council passed the first Co-operative Societies Act in 1922 based on the Indian Co-operative Societies Act of 1912, and further replaced by the Co-operative Societies Ordinance of 1948 regulating all types of co-operatives. This ordinance was amended many times. However, since the enactment of Farmers Organization Authority Act of 1973, the Director General under this Act has appointed as Registrar with legal authority to oversee all agricultural-based co-operative societies along with farmers associations. The Co-operative Societies Act (Akta Koperasi) was adopted in 1993, and in this Act the Registrar General has the authority to register and revoke Co-operatives, and to encourage the establishment and development of co-operatives in all sectors of the economy[17].

Over time, they have become an important pillar in advancing economic growth in Malaysia. The government seesco-operatives as a crucial vehicle, along with the public and private sector, to drive and boost economic development and growth. Malaysia has played an important role in

[14]ASEAN stands for «The Association of Southeast Asian Nations», a regional inter-governmental organization comprising ten countries in SoutheastAsia.

[15]https://simple.wikipedia.org/wiki/Malaysia

[16]https://www.dosm.gov.my/v1/index.php?r=column/cthemeByCat&cat=155&bul_id

[17]Extra polated from «*Co-operative Laws in Asiaandthe Pacific*», by G.K. Sharma, page 114 and 115.

strengthening the regional co-operative movement. ANGKASA was one of the founding members of the "ASEAN Co-operative Organization" (ACO), established in 1977, to create an integrated network amongst co-operatives in the South East Asian region. ANGKASA was elected as the Chair of ACO in 2014. The Malaysia Carnival of Co-operatives' Products and Services (MACCOPS) is organized by ANGKASA to connectco-operative businesses and promote inter-co-operative trade.

MACCOPS provides a platform for co-operatives to exhibit their products and services, conduct business matching sessions, and learn from local and international speakers through seminars and business talks[18].

Singapore

Same as Malaysia, Singapore has not produced a Legal Framework Analysis based on the outline presented. However, this segment on Singapore provides relevant data and information, following research and citations from Secondary sources, including a collection of pertinent data and information furnished by ICA Asia Pacific.

Singapore has a population of 5.704 million in 2019. The population is diverse, the result of considerable past immigration. Chinese predominate, making up some three-fourths of the total. Malays are the next largest ethnic group, and Indians the third. Heavily urbanized, Singapore has a high population density, but it also has been a regional leader in population control. Its birth and population growth rates are the lowest in Southeast Asia.

It has the largest port in Southeast Asia and one of the busiest in the world. It owes its growth and prosperity to its focal position at the southern extremity of the Malay Peninsula, where it dominates the Strait of Malacca, which connects the Indian Ocean to the South China Sea. Once a British colony and now a member of the Commonwealth, Singapore first joined the Federation of Malaysia on its formation in 1963 but seceded to become an independent state on August 9, 1965[19].

The co-operative movement in Singapore began in the 1920s as a response to the social and financial needs of the times. Credit co-operatives were the first co-operatives to be registered in 1925. They were established as an alternative source of funds for workers to meet their basic financial needs. After separation from Malaysia in 1965, Singapore continued to use the old Malaysian Co-operative Law. It was not until September 28, 1979, that a separate Co-operative Societies Act was enacted, composed of 102 Articles.

1969 was actually the turning point in the co-operative movement when the late Deputy Prime Minister Dr. Goh Keng Swee, then Finance Minister, formulated key plans on founding the co-operative movement to assist common workers. Within a span of nine years (1970 to 1979), thirteen co-operatives were established by the National Trade Union Congress (NTUC) and its affiliated unions. Today, co-operatives in Singapore are involved in many sectors, including supermarkets, childcare, eldercare, healthcare, education and training, insurance, financial services, security, food, and hospitality, making positive social and economic impact[20].

[18]"Co-operatives in Malaysia", 2019 Country Snapshot, a publication by the ICA Asia Pacific

[19]Annajane Kennard, Straits Times Press, Malaysia, in «https://www.britannica.com/place/Singapore»

[20]"Co-operatives in Singapore", 2019 Country Snapshot, a publication by the ICA Asia Pacific

Strongly rooted in acknowledging people and their needs, the co-operative movement in Singapore has grown vastly; from serving the financial needs of workers in the past and present to addressing growing healthcare needs of an ageing society in contemporary times. The movement is vibrant and characterised by responsiveness, innovation anddrive. SNCF, as the apex organisation, provides strong institutional support and leadership. Today, Singapore's co-operative movement is focusing on two important strata of society - youth and senior citizens; and its activities cutacross the country's diverse social, economic and cultural backgrounds[21].

Thailand

Siam, as Thailand was officially called until 1939, was never brought under European colonial domination. Independent Siam was ruled by an absolute monarchy until a revolution there in 1932. Since that time, Thailand has been a constitutional monarchy, and all subsequent constitutions have provided for an elected parliament. When the modern political boundaries of Thailand were fixed at the end of the 19th century and in the first part of the 20th, the country included peoples of diverse cultural, linguistic, and religious backgrounds. This diversity is characteristic of most Southeast Asian countries, where shifting political boundaries have done little to impede the centuries-long migrations of people. Thailand's central position on the mainland has made it a crossroads for these population movements. The overwhelming majority of people of Chinese descent in contemporary Thailand have assimilated to Thai culture, largely by adopting Standard Thai as their primary, or even exclusive, language. These assimilated Chinese are known in English as Sino-Thai, and have come to play a preeminent role not only in the economy but also in politics[22].

Co-operatives in Thailand have a rich history and play a prime role in assisting the poor and marginalised. The co-operative movement in Thailand, unlike its other Southeast Asian counterparts, had been a state sponsored initiative rather than a continuing policy of the colonial era. The movement began in 1916 with the government setting up small village credit co-operatives for severely indebted farmers who suffered from the brunt of a transitioning economy, natural disasters and money-lenders foreclosing their lands[23].

III. SUB-REGIONAL CO-OPERATIVE LAWS: SOUTH EAST ASIA

I. Sub-Regional Context

South East Asia (sub) Region has a diverse mix of economies from the highly developed and globally competitive financial market of Singapore, which ranks highly worldwide in education, healthcare, human development, life expectancy and quality of life, to the much less developed economies such as Cambodia, East Timor and Myanmar, while also including medium-sized economies such as Indonesia, Malaysia, Thailand and Vietnam. The largest and most populous country in Southeast Asia is Indonesia, and the largest city is Jakarta.

[21] Ibid, 2019 Country Snapshot

[22] E. Jane Keyes, Writer/editor,'*Siam and World War II',* in «https://www.britannica.com/place/Thailand»

[23] "Co-operatives in Thailand", 2019 Country Snapshot, a publication by the ICA Asia Pacific

The diverse mix of economies, and indeed of social, cultural and political diversities in the sub-Region as well, translate itself to the co-operative realities in these respective countries. Co-operative legislation varies from countries that were colonized in the past such as Malaysia, Myanmar, and Singapore by the British, Philippines by the Spanish and American colonial powers, and Indonesia by the Dutch. Then we have the conquest of Vietnam by France, which also included Laos and Cambodia. Vietnam is unique in many ways because when Ho Chi Minh declared independence from France in 1945 and was rejected, Vietnam guerrilla warfare aroseand Vietnam was split between the North and the South. Then came the Vietnam war which represented a dynamic reconciliation communism in the North and Liberal-democracy in the South.

When communism prevailed after the war, subsisting co-operatives were legally governed under existing by-laws, and the co-operative legal framework came about only after the Doi Moi (market reforms) in 1985.

Thailand is another unique case because this country has never been colonized. Yet the legal framework in Thailand, together with other past British colonies (Malaysia, Singapore and Myanmar), were very much influenced by the Indian Co-operative Societies Act of 1904. Indonesia's co-operative law was predisposed to the "Staatsblad" (Act in the Bulletin of Acts and Decrees) of the Netherlands, whereas the Philippines was influenced by the Spanish rule and US hegemony in the archipelago. However, the cultural and traditional norm of 'co-operation', called 'Gotong Royong' in Indonesia and 'Bayanihan' in the Philippines, preceded the era of colonization in both countries.

Despite the mixed and diverse state of affairs in South East Asian countries, the (sub) Region enjoys the benefit of social, economic, cultural and political cohesion through an intergovernmental organization comprising ten countries called the Association of South East Asian Nation (ASEAN). ASEAN promotes intergovernmental co-operation and facilitates economic, political, security, military, educational, and socio-cultural integration among its members and other countries in Asia. It is home to over 700million people—more than the European Union, Latin America or the Middle East. Its economy, were it just a single country, would be the fourth-biggest in the world after adjusting for the cost of living, behind only China itself, America and India. And it is growing fast. The economies of Indonesia and Malaysia have been expanding by 5-6% for a decade; those of the Philippines and Vietnam by 6 to 7%. Poorer countries in the region, such as Myanmar and Cambodia, are growing even faster.

Despite the relative cohesion of countries under the ASEAN Secretariat, recognition of co-operatives by the respective governments is still considered disparate. One could witness a strong recognition of the co-operative identity in countries like Singapore and the Philippines, displaying a clear distinction from other types of business organizations, which distinctiveness is exemplified by, but not confined to, its tax regulation pertaining to co-operatives. Other countries represented in this report such as Indonesia, Myanmar and Vietnam, show greater preponderance of government involvements, which to some extent still hamper the development of co-operatives from the ground up, and reveal the degree to which "co-operative friendliness" could be demarcated.

However, there is no linked or harmonized Regional Legislative Framework for co-operatives in the South East Asia (sub) Region as a whole. There is the ASEAN Co-operative Organization (ACO) that has been in operation since 1977. ACO was established with the purpose of implementing the 6th Co-operative Principle of Co-operation among Co-operatives within the sub-Region. It was mostly an

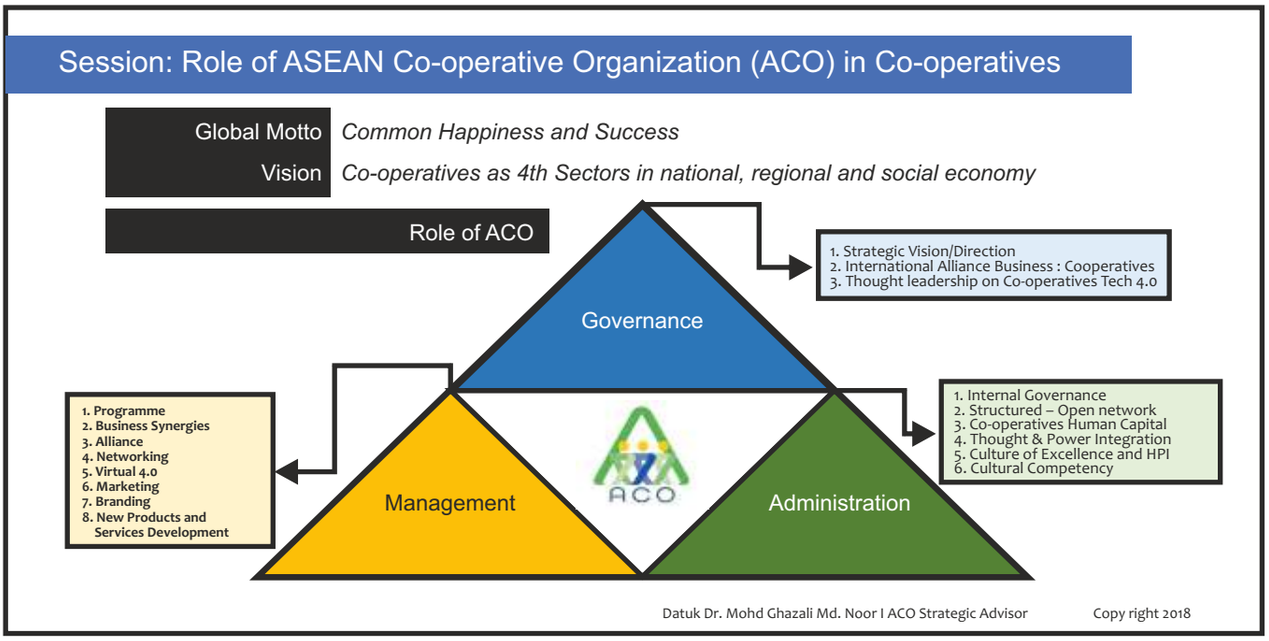
exchange of experiences among co-operators and co-operative leaders at the outset, facilitated by the first Chair of ACO, the late Mr. Eddiwan as Chair of DEKOPIN, the Apex co-operative organization of Indonesia, and a Secretariat led by Mr. J.K. Lumonon as the Secretary General of ACO. The organization remained dormant for quite some time, and reinvigorated when The ASEAN Free Trade Area (AFTA) was fully established in 1992. It was spearheaded by the late Adi Sasono, Chair of DEKOPIN who was also former Minister of Co-operatives and SMEs of Indonesia.

The Secretariat was moved to Malaysia under the auspices of ANGKASA when the implementation of the CEPT-AFTA Scheme was significantly boosted in January 2004 by Malaysia. During that period Malaysia announced its tariff reduction for automotive units to gradually meet its CEPT commitment one year earlier than schedule[24].

ICA will undoubtedly work closely with ACO to monitor its progress in trying to enhance the Co-operative Trade network in this (sub) region, but no less significant would be to monitor and assess the progression of the legal framework in South East Asia that would spur further growth of co-operatives in member countries of this sub-Region, or the lack thereof.

The following Diagram provides a birds' eye view of the role of ACO:

Diagram 1



In short, ASEAN as a group of ten nations in Southeast Asia ought to be considered a powerhouse as it continues to work together to promote political, economic and cultural growth as well as solidarity. This fairly cohesive powerhouse boasts the world's third-largest labour force of more than 600 million people just behind China and India, but ahead of the European Union and the United States.

[24]https://www.aseanbriefing.com/news/aseans-free-trade-agreements-an-overview/

The prospect for co-operative development in this sub-Region, therefore, could be bright and massive if co-operatives are progressing towards greater autonomy and independence, more member-driven and with less political interference by their respective governments. As the emphasis of ASEAN itself, as a formal association, is on consensus to resolve issues, this is a trait that augurs well for co-operative movements in the sub-Region in implementing the Sixth Co-operative principle in the socio-economic sphere. This will be a challenge worth confronting if ACO could be strengthened, and alongside ICA AP become an accredited associate member of the ASEAN Secretariat.

II. Overview of National Contexts

The diagram below will illustrate the legal context nationally of seven countries in the sub-Region of South East Asia.

Diagram 2

Country	Co-operative Legislative Frameworks	Sectors covered	Special elements
Indonesia	1933: "Algemene Regeling op de Co-operatieve Verenigingen" no. 21/1933	Primarily Banking/Savings & Loan	Under Dutch Common Law – Staatsblad 1881
	1927: Co-operative Law no. 91/1927	Idem Ditto	Meant only for indigenous Indonesians onlyUnder Japanese Occupation
	1942: Co-op Law no. 23/1942	Various	
	Post Independence: Constitution 1945 Article 33. 1949: Co-operative Law no. 179/1949	Various	Provisional Co-op Law, more akin to 91/1927
	1967: Co-operative Law no. 12/1967 (ICA Co-op Principles 1966 included)	All sectors	Best legislation based on Article 33 of Constitution
	Presidential Decrees superseded Co-op Law 12/1967 between 1968 - 1984	Agriculture & Rural All sectors	Co-ops became political tool
	2012: Co-op Law no 17/2012	All Sectors	Annulled by Constitutional Court
	2020: Omnibus Law		Still in process

Philippines	1915: Rural Credit Co-operative Association Act (PA No. 2508)	Credit & Agriculture	1926: 541 credit co-ops registered in 42 provinces
	1927: Co-operative Marketing Act #3425; Commonwealth Act No. 565 in 1940 helped with Trading	Producers & Marketing	Govt Initiated and controlled farmers' marketing co-ops
	1957: Non-agricultural Credit Act, a.k.a. Republic Act 2023	Credit Unions/Savings & Loans	Parish-based CUs organized
	1970-1980s: Presidential Decree 175 (Martial Law period)	Multipurpose Co-ops	All co-ops collapsed except for CUs & Electric
	1990: Constitution of 1987 enacted R.A. No. 6938 (Co-op Code) & and R.A. No. 6939 (CDA) – Post Martial Law	All types of Co-ops	Co-ops instruments of equity, social justice, and economic development under the principles of subsidiarity and self-help.
	2008: RA 9520, a.k.a. Co-op Code of 2008"	Idem Ditto	
	2019: RA 11364, CDA Charter of 2019.	Idem Ditto	Idem Ditto
Myanmar	1904: Co-ops introduced based on Indian Co-op Act of 1904	Savings & Loan (farm credit)	To combat usury. Co-op Department set up
	1956: New Co-op Act enacted, replaced in 1970	Various	In 1970 Law replaced by Revolutionary Council & became part of socialist economy
	1992: Law of 1970 repealed. New Co-op Act has 39 articles	Idem ditto	Law of 1992 is more democratic, not in conflict with co-op principles of 1996
Vietnam	1996: First Co-op Law enacted by National Assembly (Improved in 2003)	Various	This follows the first National Congress of Vietnam Co-operatives in 1993.

	2012: Co-operative Law No. 23/2012/QH13 passed. 2013: Government Decree No. 193/2013 / ND-CP 2017: Government's Decree No. 107/2017 /ND-CP	Idem ditto Idem ditto	Elaborating articles of Law no. 23/2012/QH13 Amending/supplementing articles of the Gov't Decree # 193/2013 /ND-CP
Malaysia	1922: The Co-operative Societies Act passed as first law on co-operatives. 1948: The Co-operative Societies Ordinance replaced the 1922 CSA 1993: The Co-operative Societies Act passed 1995: The Co-operative Societies Act was amended (Specify development role of DCD) – Amended again in 1996 and 2001 2007: Last amendment to tighten regulations and oversight of co-operatives.	Savings & Loans All types of co-ops Idem ditto Idem Ditto Idem Ditto	Based on Indian Co-op Societies Act of 1912 Based on studies of Indian & Burmese Co-op Acts Focus on self-reliance, self-regulation, and improve accountability and transparency. Minimum requirement of members reduced from 100 to 50.
Singapore	1979: The first Co-operative Societies Act 2008- Amendment to the Co-operative Societies Act of 1979 2018: Second amendment to the Act to enable smooth co-operative operations.	All types Idem ditto Idem ditto	Provision of central funding for co-op dev't. Enhancement of co-op governance & accountability. 2018: Strengthening of governance standards & Registrar interventions

Thailand	1914: "The Amended Association Act"	Credit & Agriculture	First Law enacted in Thailand
	1916: First amendment was made to the law.	Idem ditto	To register indebted rice growers (like India/Burma)
	1928: New Co-operative Societies Act passed (1914 Act repealed)	All types of co-ops	To accommodate sectors other than rural credit
	1968: First amendment to the Co-operative Societies Act (CSA)	Idem ditto	Amalgamation to form large scale agri-co-ops
	1999: Second amendment to the CSA, with structural changes	Idem ditto	Creation of Co-op Development Fund & National Co-op Development Board
	2010: Third amendment to the CSA,	Idem ditto, with 7 types only	Settling 7 types of co-ops, i.e. agriculture, fisheries, land settlement, consumer, thrift and credit, service and credit union.

From the regulatory and legislative framework seen in all seven countries in South East Asia, it is amply clear that the colonial past has had a great influence in how laws have been enacted in these countries, with the exception of Vietnam. The co-op legislation in Thailand, for example, was by and large influenced by the co-operative society act of India and Burma that was designed during the British colony, despite the fact that Thailand has never been colonized. However, the implementation of the first law was markedly initiated by their own national government rather than by colonial masters or their adherents like in other neighbouring countries.

Therefore, *cross-national legal frame works* did exist in the past on account of the Indian Co-operative Society Act of 1904 that permeated the adoption of legal frameworks in Burma (currently Myanmar), Thailand, Malaysia, and Singapore. As already mentioned earlier, the Philippines was singularly influenced by the American legislation, whereas Indonesia by the Dutch prior to their respective independence periods.

The assortment of co-operative laws in each and every country also serves to show that no legislation is well-standardized or perfect, albeit close approximations exist when it comes to the role of government in each and every country. The residual impact of colonization is therefore quite

apparent, and the speed and quality of economic reforms in each country serve to indicate the intensity of growth and development co-operatives in terms of quality and quantity. Once can witness the impressive growth of co-operatives in Singapore, for instance, commensurate with its economic growth and quality of governance. The level of growth of co-operatives in Malaysia, Indonesia, Thailand and the Philippines are relatively similar, although the role of government tend to be less interventionist in the Philippines owing to its progressive co-op legislation, as compared to the former three countries.

Vietnam is apparently different because official co-operatives were inexistent during the era when communism still prevailed, and only promoted after Doi Moi in mid-1980s under its socialist-oriented market economy by converting past collectives. With the government playing a proactive role, the shift from a highly centralized command economy to a mixed economy has seen rapid economic growth for both co-operatives and the private sector.

Diagram 3 below will specify further national contexts as to how co-operative Laws are associated with the respective CONSTITUTIONS in each country, as well as with the ICA's Co-operative Identity Statement (ICIS). Co-operative Laws in four countries (Indonesia, Myanmar, Philippines and Vietnam) are more specific to responding to questions 1 to 3 in the LFA, whereas Malaysia, Singapore and Thailand are derived from assessing Secondary data and information.

Diagram 3

Questions:	Indonesia	Myanmar	Philippines	Vietnam
Section 1: National co-operative law: sources and general features				
Q1: Are co-operatives specifically regulated in your country? In a separate actor General Act/Code? Are Co-operatives dealt with in the Constitution of the country?	Co-ops are specifically regulated under a general Co-op Law (25/1992). Co-op basics is enshrined in the **Constitution of 1945** Article 33.	The 1992 Co-operative Law is currently active in Myanmar. Co-op Society Rules (2013) was the latest and more progressive and sustaining than CSR 1998. No reference was made to the **Constitution of 2008.**	Republic Act (RA) No. 9520, a.k.a. "Philippine Code of 2008," for co-ops and RA No.11364 for CDA (Co-operative Development Authority), enshrined and mentioned 5 times in **Constitution of 1987**	The Law No. 23/2012/QH13 on Co-ops is the only law governing co-opactivities in Vietnam. Reference is made to the **1992 Constitution.** Co-op Law was passed by the National Assembly.

Q2: Are there special laws on particular types of co-operatives? Importance and scope of these laws? Relationship between the sespecial laws and the general law/regulation on co-operatives?	All types of co-operatives are accommodatedwithin the Co-op Law. Coherence still needed tointeract with other laws (State Enterprises, banking, taxation, women, hospital, food, fisheries, agriculture etc.) incl. Governmental &Ministerial regulations. Current OMNIBUS Law will do the interactions.	There are no special laws for particular types of co-operatives. However, typesof a co-operative society can be determined according to the business they are in.	There are no special laws for special types of co-ops, but 20 types of co-ops specified in RA 5920. Coherence also needed with (a) RA 10744 (Credit Surety Fund Co-operative Act of 2015); (b) Revenue Memorandum Order 7-2020 (Taxation), (c) Tariff Commission.	Co-op Law No. 23/2012/QH13 istheonly law that regulates the establishment, organization and operation of co-ops and co-operative unions. Resolution by National Assembly No 32/2016 & Government DecisionNo 461/QD-TTG of 2018 enlarged scope of Law 23/2012/QH13.
Q3: Is the ICIS explicitly or implicitly referred to in the law? For whats pecific purpose, and does it concretely affect the interpretation/application of the law?	Law no. 25/1992 was enacted just before ICIS was adoptedin 1995. Co-op definition is corporate-oriented. But ICA principles are reflected in law, albeit not all 7 principles.	The ICA principles are explicitly referred to in the preamble of the Co-operative Societies Law 1992. While there are only seven principles in ICA, there are ten principles in Myanmar Co-operative Laws. Wordings are different.	Article 4 of RA 9520 has clear reference to ICIS with the inclusion of all seven co-opprinciples of ICIS 1995. Definition is more broad-based (seebelow) and co-op values are not incorporated.	Article 7 of Co-op law No. 23/2012/QH13 alludes to a large extent the 7 Co-op Principles of 1995. However, principle 4 on Autonomy and Independence, andprinciple 6 on Co-operation among Co-ops is basically missing.

Indonesia

Co-operative Law no 25/1992 was formulated during a period when the process of structural adjustment and deregulations were being instituted by the Bretton Woods Institutions to formally reduce the role of governments in developing nations. Ironically, it was a time when the Liberal Government of President Suharto was actually increasing its role by forcing other types of co-operatives to merge and integrate with the government-controlled Village Unit Co-operatives (called KUDs).

Co-operative Law no 25/1992 on Co-operatives failed to emphasize the genuine co-operative character, wherein a co-operative is defined as a Corporate Body, not as an autonomous association of persons.

The preamble of the Law states that "Co-operative Development is the duty and responsibility of the government and the people", with the logical consequence that the "development", not "regulation or supervision", of co-operatives is left in the powerful hands of the government. It implies a top-down approach, making co-operatives dependent on government facilities and control.

Article 3 and 4 of the Co-op Law 25/1992 are quite idealistic, as much as they are normative. Idealistic and lofty, as co-operatives are developed to create community welfare, and in doing so build a just and prosperous society based on the Pancasila Ideology as well as the 1945 Constitution of Indonesia. Normative because co-operatives are positioned to help nation building instead of creating its own strong institution to improve members' welfare. The co-operative law provides ample space for membership promotion, but on the other hand the broad objective to help build the nation is hampering the process of building their internal capacity on account of external pressures and incentives.

There is only one general Law on Co-operatives, which covers all types of co-ops. Co-ops can transact with non-members with the exception of savings and loan co-ops. The latter can only transact with members and is regulated by government regulation no. 9/1995. Cross-sectoral policies among various Ministries with the Co-op Ministry are absent, resulting in the subordination of the co-operative sector because of the propensity to form private corporations or state enterprises rather than co-ops in the sector of health, rural development, tourism, etc. is very dominant.

But as already explained earlier, an Omnibus Law has been enacted. It has amended more than 75 current laws in Indonesia and the central government is in the process of issuing more than 30 government regulations and other implementing regulations at this very moment (February 2021).

Myanmar

There are no special laws for particular type of co-operatives. However, the following business types are included in the different levels of co-operative societies: (a) Commodity production co-operative society; (b) Service co-operative society; (c) Trade co-operative society; (d) General co-operative society. The report from Myanmar made no special reference to the Constitution of 2008, but it is assumed that the Law falls under the constitutional mandate.

Like in Indonesia, Co-operative Law of 1992 was promulgated before the Co-operative Statement of Identity was adopted at the ICA Centennial Congress in 1995. Instead of the seven principles, there are 10 principles enshrined in the law and still valid until now. The 10 principles as related to the ICIS Principles are as follows:

(a) To form the society with persons who wish to participate of their own volition (ICIS Principle 1: *Open and Voluntary membership*);

(b) A member or a representative to have an equal right of one person being able to give one vote and to administer all transactions of the society only according to the wishes of the majority (ICIS Principle 2: *Democratic Member Control)*;

(c) To restrict the benefit to be derived for the share subscribed in the society (ICIS Principle 3: *Member Economic Participation*);

(d) To apportion the net profits accrued from the business of the society according to the decision of the members (Related to ICIS Principle 3);

(e) To carry out dissemination of co-operative concept and technique (ICIS Principle 5: *Education, Training and Information*);

(f) To ensure effective co-operation among co-operative societies in and outside the country (ICIS Principle 6: *Co-operation among Co-operatives*);

(g) To enable the society to be only an organization carrying out economic and social activities of the society (ICIS Principle 4: *Autonomy and Independence*);

(h) To raise the standard of living of the members and member societies by working with the objective of the interests of the same (Related to ICIS Principle 5?);

(i) To enable the members or member societies to become participants in the economic and social activities of the society (ICIS Principle 7: *Concern for Community*);

(j) To enable the society to become an organization administering according to the wishes of the majority by combining service and property in the interests of the members, member societies and equity business partners (Outside the realm of ICIS?).

In 2013 further rules were created and adopted to grant more autonomy to co-operatives. With 39 articles distributed in ten Chapters, the 1992 Co-operative Law in Myanmar could be considered the most concise law in the South East Asia sub-Region, if not the entire Asia Region, despite the more elaborate principles contained within.

Philippines

The 'Philippine Co-operative Code of 2008' is generally upheld as a landmark piece of co-operative legislation, in which co-operatives are well-integrated into the legal environment of the Philippines.

Among its important features, the Code clarified the tax exemptions and privileges of co-operatives. The new Code also spelled out in specific terms these exemptions and privileges, allowing little or no room for other interpretations of the tax treatment of co-operatives. Provisions of the Code were made current to strengthen and ensure co-operative success in today's competitive and open environment.

Seven major strengths of the Code are, but not limited to, the following: (a) To tighten the requirements for co-op registration, including making pre-membership education seminar (PMES) mandatory for new members; (b) To improve access of co-ops to support from National Government Agencies, Government-Owned and Controlled Corporations, and Government Financial Institutions; (c) To recognize the vast potential for co-operative association thus expanding the types of co-operatives defined in the Code; (d) To provide for the conversion of credit co-operative to financial service co-operative and afforded incentives to qualified financial service co-operatives; (e) To increase the vote requirement to amend co-operative bylaws and pass general assembly decisions; (f) To strengthen the Co-operative Development Authority's capacity to regulate; (g) To allow the sector to regulate its ranks and set up its protection mechanisms such as deposit insurance system, co-operative stabilization fund and other such mechanisms such as the credit surety fund co-operative law.

Vietnam

The preamble of the Co-operative Law 23/2012/QH13 signified the trend towards promotion of a co-operative economy, based on a "socialist-oriented and state-regulated market mechanism" in accordance of the 1992 Constitution of the Socialist Republic of Vietnam. A Co-operative is defined in this Law as "(a) self-control economic entity, (b) based on common needs and interests, (c) that contributes capital and labour voluntarily, (d) that promotes the strength of collectives,

(d) that carries out manufacturing and business service activities, (e) in order to improve the living standard (of members) and hence contribute to the socio-economic development of the country.

The Co-operative Law No. 23/2012/QH13 is the only law that regulates the establishment, organization and operation of co-operatives and co-operative unions of all economic sectors in society. Compared to the 1996 and 2003 Co-operative Law, The Law on Co-operatives No. 23/2012/QH13 has expandedon the subjects of co-operatives which are individuals, households and legal entities. In addition, legal documents guiding the implementation of the co-operative law No. 23/2012/QH13 are also issued, including: (a) Government's Decree No. 193/2013 / ND-CP issued on November 21, 2013: elaborating on certain articles of the Law on Co-operatives; (b) Government's Decree No. 107/2017 / ND-CP: Amending and supplementing a number of articles of the Government's Decree No. 193/2013 / ND-CP.

There are no special laws on any of the different types of co-operatives that exist in Vietnam. However, Vietnam's National Assembly issued Resolution No32/2016 dated 23 November 2016 and Government issued a Decision No 461/QD-TTg dated 27 April 2018, in which defining the goal and missions up to 2020, Vietnam will have 15.000 effective agricultural co-operatives and co-operative unions; strengthening the effective linkage and co-operation in agricultural sector.

Article 7 of the Co-operative law No. 23/2012/QH13 reflects the Seven ICA Principles of 1995. While these principles inferred to all ICA Principles, the statements of these principles need to be further clarified,

especially Principle 2 and 4). The following shows the association of those Principles contained in Law 23/2012/QH13 with the ICA Principles of 1995:

1. Individuals, households and legal entities establish, join or leave co-operatives voluntarily. Co-operatives shall be established, joined and leave unions of co-operatives voluntarily (*ICIS Principle 1 on 'Open and Voluntary Membership'*)

2. Co-operatives and unions of co-operatives shall widely admit members and affiliated co-operatives (*ICIS Principle 1?)*

3. Members and affiliated co-operatives have equality and equal vote regardless of contributed capital in determining the organization, management and operation of co-operatives and unions of co-operatives;

   they are provided information completely, promptly and accurately on production activities, sales, finance, income distribution and other contents as prescribed by the charter (*ICIS Principle 2 'Democratic Member Control', and ICIS Principle 5, 'Education, Training and Information').*

4. Co-operatives and unions of co-operatives shall control and take responsibility for their activities before the law by themselves (*ICIS Principle 2 'Democratic Control', and ICIS Principle 4 'Autonomy and Independence'*).

5. Members and affiliated co-operatives and unions of co-operatives have responsibilities to carry out their commitment under service contract as prescribed by the charter. The income of co-operatives and unions of co-operatives shall be distributed by the level of use of products or services of the members and affiliated co-operatives or by members contributed labour for worker's co-operatives. (*ICIS Principle 3 "Member economic Participation'*)

6. Co-operatives and unions of co-operatives shall pay their interest in education, training and retraining for their members and affiliated co-operatives, managers, employees of co-operatives and unions of co-operatives and give information about the nature and benefits of co-operatives and unions of co-operatives (*ICIS Principle 5 'Education, Training and Information'*)

7. Co-operatives, unions of co-operatives shall care for the sustainable development for member community, member co-operatives, and work together to develop the co-operative movement on the local, regional, national and international scale (*ICIS Principle 6 'Co-operation among Co-operatives and ICIS Principle 7 "Concern for Community'*).

Malaysia

The Co-operative Societies Act of 1992 was last amended in 2007, has a clear reference to the Federal Constitution.

A recent analysis *in a letter to the News Media "Malaysiakini",* clearly showed this relationship between the Act and the Constitution. However, this letter maintained that *"Co-operators feel aggrieved by*

several of the provisions which unreasonably restrict the fundamental liberty of members of co-operatives to associate under Article 10 of the federal constitution".

The writer, T. Shan[25], further alluded to the following restrictions under the Federal Constitution as it relates to the Co-operatives:

(a) that the fundamental liberty of co-operatives to be deprived of its property for the use of the government without adequate compensation in accordance with Article 13 of the federal constitution;

(b) The fundamental liberty of the officers of co-operatives to be subjected to arbitrary arrest under Article 5 of the federal constitution;

(c) Section 43 (1) of the Malaysian Co-operative Societies Commission Act 2007 requiring all co-operative societies to deposit their funds not immediately needed for operations or investments into the Co-operative Deposit Account and Section 42(2) of the Act requiring co-operative societies to pay a percentage of its share capital, subscription capital and assets to the Central Liquidity Fund without providing for adequate compensation for the compulsory acquisition for use of the funds is inconsistent with Article 13 (2) of the federal constitution and is therefore invalid pursuant to Article 4 (1) of the federal constitution;

(d) Section 42 (1) of the Malaysian Co-operative Societies Commission Act 2007 enables the Malaysian Co-operative Societies Commission to compel any co-operative society by order in writing to contribute to the Central Liquidity Fund established under Section 42 of the Act and money howsoever raised or received by the federation and ought to be paid pursuant to Article 97 of the federal constitution to the Federal Consolidated Fund from which withdrawals are permitted in the manner stated in Article 104 of the federal constitution and Section 42 (1) of the Act is therefore invalid under Article 4 (1) of the federal constitution for being inconsistent with the federal constitution ;

(e) Section 54 of the Malaysian Co-operative Societies Commission Act 2007 which stipulates that every offence punishable under the Act, the Co-operative Societies Act 1993 or any other written law enforced by the Malaysian Co-operative Societies Commission shall be a sizable offence and that a police officer not below the rank of inspector or an Investigating Officer may arrest on reasonable suspicion without being required to state the reasons for the arrest is inconsistent with Article 5 (1) and (3) of the federal constitution which provides that no person shall be deprived of his life or personal liberty save in accordance with the law and further requires that the person arrested shall be informed as soon as may be of the grounds of his arrest and be allowed to consult and be defended by a legal practitioner of his choice and the said Section 54 of the Act is therefore invalid under Article 4 (1) of the federal constitution.

(f) Section 43 (2) of the Co-operative Societies Act 1993 (as amended by the Co-operative Societies Amendment Act 2007) requires that a co-operative society shall, prior to the appointment or re-appointment as a member of the board of a co-operative society, seek verification from the Malaysian Co-operative Societies Commission on whether such person satisfies the fit and person criteria as, seek verification from the Malaysian Co-operative Society be specified by the Malaysian Co-operatives

[25]Thuraisingham Shan, 2016, co-operative & management consultant, in «https://www.malaysiakini.com/letters/332510»

Societies Commission is inconsistent with the citizens' fundamental right of freedom of association guaranteed by Article 10 (1) of the federal constitution and not excepted by Article 10 (2), 10 (3) or 10 (4) of the federal constitution.

While the above comments and statements are subject to further legal interpretation and scrutiny, it is an analytical piece derived from a publicized assessment which associates the Co-operative Societies Act with the Federal Constitution.

ANGKASA, member of ICA, states that the Co-operative Societies Act amended in 2007 tightens regulations and oversight of co-operatives. It promotes the development of co-operatives in accordance with the co-operative values of honesty, trust worthiness and transparency in order to contribute towards achieving the socio-economic objectives of the nation[26]. The Amendment also (a) Reduces minimum number of persons required to register a co-operative, from 100to 50. (b) Permits co-operatives to use the Statutory Reserved Fund to pay for the shares or subscription and issue bonus shares to members based on the approval of MCSC; (c) Allows co-operatives to utilize their net profits towards the welfare of members and community as against the previous law which allowed only ten percent to be used; (d) Allows MCSC to verify the appointment or re appointment of Board of Directors and members of the internal audit committee, and (e) Imposes penalty on co-operatives in case of non-compliance with the law.

Singapore

Within a span of nine years (1970 to 1979), thirteen co-operatives were established by the National Trade Union Congress (NTUC) and its affiliated unions. The significant contributions made by NTUC co-operatives continue to this day with some becoming Singapore's largest and well-known co-operatives such as NTUC FairPrice, NTUC Health and NTUC First Campus.

In 1979, the first Co-operative Societies Act provided for the registration and control of co-operative societies, and encouraged co-operative development by the provision of services to co-operatives. It also established the provision of central funding for co-operative development and audits. The Amendment to the Co-operative Societies Act was made in 2008 to provide for enhanced co-operative governance and accountability, implementation of risk-focused co-operative regulatory regime, establishment of inter-agency co-operative review team, training to co-operatives, consultations with industry and public on policy recommendations, and removed outdated regulatory provisions. The law also provided for the establishment of grants for new co-operatives for promotion of co-operatives through financial assistance. In 2018 it was once again amended to provide for strengthening the competency and governance standards of co-operative officers, ensures timely intervention by Registrar in the case of distressed or errant co-operatives, and enables co-operative operations.

The Constitution of the Republic of Singapore of 1965 has 166 articles, and co-operatives are not specifically mentioned in the Constitution. However, the Co-operative Societies Act of 1979 is subjected to Article 162 of the Constitution, which says that "*All existing laws shall continue in force on and after the commencement of this Constitution and all laws which have not been brought into force by the date of the commencement of this Constitution may, subject as aforesaid, be brought into force on or*

[26]ICA Country Snapshot, Malaysia.

after its commencement, but all such laws shall, subject to this Article, be construed as from the commencement of this Constitution with such modifications, adaptations, qualifications and exceptions as may be necessary to bring them into conformity with this Constitution[27]*".*

Key highlights of the latest amendment in 2018 of the Co-operative Societies Act are as follows: (a) Promotes inclusiveness in the co-operative sector; (b) Provides for reduced minimum membership in co-operatives criteria from 10 to 5;

(c) Removes restriction on the membership of convicted and bankrupt individuals; (d) Reduces age limit for management committee from 21 to 18 years; (e) Directs the availability of annual report, audited financial statements and audit reports be made to members at least 15 working days in advance from the general meeting.

Thailand

The first Co-operative Law in Thailand was called the Amended Associations Act in 1914. The first co-operative was established in 1916 with the aim to improve the livelihood of small and indebted farmers who were affected by the shift from self-sufficient economy to trade economy. The first amendment to the law was also made this year (1916) to register farmers' co-operativein order to help rice growers and indebted farmers. In 1928 Co-operative Societies Act was passed and the 1914 Act was repealed. It was replaced by Co-operative Societies Act of 1928 which allowed other types of co-operatives to be organized such as land settlement, consumer, marketing and service co-operatives. Since then, co-operatives have been playing an important role in agriculture, credit, and services sector.

There are three amendments to the Co-operative Societies Act of 1928[28].The first amendment to the Co-operative Societies Act was made in 1968 to focuson businessoperations and organisation of co-operatives. The amendment allowed for an amalgamation program which combined the small village credit co-operatives, land improvement and land settlement co-operatives into a large scale co-operative, which were officially categorized as agricultural co-operatives. The second amendment to the law was made in 1999 to provide for the establishment, registration, operation and management of all co-operatives in Thailand. It also provided for financial assistance to co-operatives through the creation of Co-operative Development Fund and creation of National Co-operative Development Board for promoting the viability and growth of co-operatives. The third amendment to the law was made in 2010 which consisted of eighteen sections that amended the previous Act.

Key highlights to the latest Amendment in 2010[29] are as follows: (a) Assigns the power and duty to the National Co-operative Development Board to make recommendations to the Minister of Agriculture and Co-operative on matters of policy and guidelines for the development of co-operatives.

(b) Provides that the formulation of policies and plans for the development of co-operatives will be in accordance with the duration of the social and economic development plan. (c) Promotes setting up of co-operatives in all seven sectors- agriculture, fisheries, land settlement, consumer, thrift and credit, service and credit union. (d) Limits the co-operative membership to only Thai nationals.

[27]CONSTITUTION OF THE REPUBLIC OF SINGAPORE, (Original Enactment: S 1/63),Current version as at 09 Mar 2021, in https://sso.agc.gov.sg/Act/CONS1963.

[28]ICA Country Snapshot, Thailand, page 3

[29]Ibid, page 4

Analyst's Remarks:

Legislation should therefore be continuously scrutinized through the application of collective intelligence. Based solely on the enacted laws and their amendments in South East Asia sub-Region, it is apparent that the gradual amendments to these laws seem to have made the likely shift towards a more enabling, rather than coercive, environment for co-operative development. What remains to be seen is whether the residual impact of colonial influences in the past has perpetuated these laws to bemade FOR, rather than WITH, the co-operative movements themselves. Large bureaucracies, be they Ministries or Agencies in charge of co-operative development such as in Indonesia, Malaysia and Thailand, are continually receiving regular state budgets for co-operative development. Therefore, policies on co-operative development are, advertently or inadvertently, skewed towards their interest to preserve their existence, notwithstanding the shift towards a more enabling legislation.

The CDA in the Philippines tend to be less domineering in contrast to other bureaucracies in the sub-Region as it is structured under the office of the President with less power and resources compared to ministries, revealing a recognition by the government to the subsidiarity principle attached to co-operative development. While bureaucracy is much less in Singapore, the*"Registry of Co-operative Societies' work furthers the Ministry's mission of building social capital and making Singapore home through the promotion of active citizenship"*[30], private initiatives are linked to the mission of the government of Singapore. The Registrar wields strong powers, having no less than 22 enumerated powers, and can be compared to the 'friendly neighbourhood Spiderman[31]' that "*helps society and committee members when they are stuck in an imbroglio, prevents any wrongdoing by greedy middlemen, intervenes when the society is slacking in its duties and without the mask or the costume acts as the legally appointed supervisor who can be counted on for resolutions and redressals*".

The ongoing initiative by ICA AP to hold conferences among registrars as well as ministers is still a commendable pursuit, as it has all along been aimed at improving the quality of legislation that will continuously strengthen the autonomy and independence of co-operatives in particular, and the adherence to ICIS in general. The ICA-EU Partnership has brought this initiative one step further, because current assessment of the Legal Frameworks Analysis under the ICA-EU Partnership will undoubtedly offer important pathways to a more enabling environment for co-operative development in the sub-Region. Further recognition by the governments and co-operative movements to implement these pathways will lead to a fairer playing field for co-operatives, and to augment the "friendliness" of legislation for co-operative development in this sub-Region.

[30] «https://www.mccy.gov.sg/sector/co-ops», and «https://www.sncf.co-op/form-a-co-op/co-op-societies-regulations»

[31] https://mygate.com/blog/powers-of-registrar-of-co-operative-societies/

III. Specific Elements of the Co-operative Law

I. Definition and Objectives of Co-operatives

Diagram IV below will provide a snapshot of the differences and trends towards Questions 4 to 7 dealing with the Definition and Objectives of Co-operatives

Diagram 4

Section 2. Definition and objectives of co-operatives				
	Indonesia	**Myanmar**	**Philippines**	**Vietnam**
Q4. Does the law precisely define co-operatives? How exactly? If not, how is it defined? What are distinguishing features with other sectors (business etc.)?	In Co-op Law 25/1992, co-op is defined as a Corporate Body, not as a voluntary association of persons. Designed during the deregulatory period, co-ops are distinguishable from private enterprises, but its development is said to be the responsibility of the government. Persistent neo-liberal policies make co-ops more subservient to private enterprises.	The law precisely defines a Primary Co-operative Society, Co-operative Syndicate, Union of Co-operative Syndicates and Central Co-operative Society. Main distinction is the voting right, one-member-one-vote, and AGM as supreme authority.	This definition captures the nature and character of a co-operative, i. e. "owned, controlled and run by and for the irmembers" with One member-onevote. Associate member is allowed but with no voting rights. It distinguishes itself from other sectors with focus on **members** as owners and controllers of the enterprise.	The definition leans more towards 'collectives', as an institution, *quote: "Co-operative is a collective economic organization …… based on self-control, self-responsibility, equality and democracy in management of co-operative."*. It distinguishes itself as an ENTERPRISE like private enterprises, but with membership base.
Q5. What is the objective of co-operatives according to the law? Does the law promote membership	The objective is to increase members' welfare (Art. 3), but articles are mostly written normatively to place co-ops as instruments of government	The Co-op Law in Myanmar does not assign the co-operative objectives. Purpose of each type of societies is incorporated in the by law of each	Article 6 specifies 14 member-focused purposes of the Co-op, and Art. 7 states that the objective of every co-operative is to help improve the quality of life	Article 3 states that co-operatives are established on a voluntary basis by and for members to meet their needs in a democratic manner. It is thus

? How? Are members obligated totransact with their co-operatives or vice versa?	policies, and not in the interest of members. Not clearly stated if transaction of members is **obligatory** with co-ops.	society. Member promotion is under taken by Co-op Department through member education programs.	of its members. Art 2: The government respect the **subsidiarity principle** & fosters the creation and growth of co-ops	understood that co-operatives are established to promote members' interests. State intervention could make member transaction obligatory with co-ops
Q6. Co-op pursue objectives other than member-promotion, and acts in the interestof non-members or community at large? Any particular type designed for social/ general/com munity interests?	The co-op law does not specifically prohibit transactions with non-members, except for savings & loans co-ops (credit unions) that only deals with members based on government regulation no 9/1995. The law can accommodate social/community interests.	Co-ops in Myanmar can pursue objectives other than member promotion by transacting business with members.	The lawal lows co-operatives to transact business with non-members and the general public to support the interests of the members, with the exception of credit, housing & workers' co-ops.	Article 8 allows co-operatives to provide products, services, and jobs for members and to non-members, but ensuring benefits are for members and affiliated co-operatives. By laws limit provision of product to non-members up to 50% max, and salaries up to 30% max.
Q7: May a co-op carry out any economic activity or does the law exclude co-ops from some economic activity or sector	Co-ops may carry out any economic activity, but top-down processes prompted pseudo co-ops to emerge and undertake fraudulent economic activity. Co-ops are discriminated, sub-ordinated to other sectoral laws, e.g. banking, health etc. Omnibus Law may correct these flaws to some extent.	Co-ops in Myanmar can carry out any economic activity. However, they need approval of Co-op Department. For instance, they need to get approval from Finance/Planning Ministry & Central Bank).	Articles 6, 7, and 23 specifies what activities co-op scan carry out based on theirtypes (20 types plus discretionaryones) . Restrictions are imposed only on co-op banks and insurance. Also, NEA regulates Electric Co-operatives, and Workers' co-ops must abide by the labour code as well	The co-op law does restrict co-operative activities to specific sectors. However, it is generally understood that co-operatives have to comply with all current cross sectoral regulations from other ministries. People's credit funds, for example, is monitored by the State Bank of Vietnam.

As described in the aforementioned chapter, co-operative laws in South East Asian (SEA) countries have gained momentum in terms of shifting towards a more enabling environment. This chapter underlines the improvement of these laws even further as the co-operative principles are better understood, albeit scripted into their own language without adopting the exact wordings of the ICA (or International) Co-operative Identity Statement (ICIS). Only Indonesia went backwards to its old Co-op Law of 1992 because of the cancellation of its new but retrogressive Law of 2012 by the Constitutional Court.

The **definition** of a co-operative as written in the ICIS -adopted universally in 1995 during the Centennial Congress of the ICA - is not fully reflected in the co-operative laws or their amendments which came after 1995. It serves to show that either the co-operative movement, who took part in the adoption of the ICIS in 1995, was not consulted during the law-making or amendment processes, or that the government's interpretation of what defines a co-operative was (super) imposed from the top-down on the co-op movement despite its participation in these processes.

SEA sub-Region does not have regional co-operative Laws such as the OHADA[32] Uniform act for 17 States in Africa or the European Union Council Regulation on the Statute for a European Co-operative Society (SCE)[33]. It makes the interpretation of the co-operative definition looser with only two major global references, i.e., the ICIS and the ILO Recommendation 193[34]. The latter incorporates the Alliance's definition of a co-operative and states that: "*for the purposes of this recommendation, the term 'co-operative' means an autonomous association of persons united voluntarily to meet their common economic, social and cultural needs and aspirations through a jointly owned and democratically controlled enterprise". Governments should consult co-operative organizations, as well as the employers' and workers' organizations concerned, in the formulation and revision of legislation, policies and regulations applicable to co-operatives*[35]. ILO Recommendation 193 calls for governments to create an enabling environment in which co-operatives can flourish, and represents a major achievement in asserting the principle of autonomy and independence following the adoption by the Alliance of the Statement on the Co-operative Identity. It also provides clear guidelines for nations to review co-operative law and policy.

Most countries in South East Asia adopt neo-liberal policies, i.e., a "*model that encompasses both politics and economics and seeks to transfer the control of economic factors from the public sector to the private sector*[36]", with Vietnam being the exception that adopts a socialist-oriented market economy. However, in all these countries the process of law-making of co-operatives are approximated to, or generally influenced by, the pre-eminence of the prevalent capitalistic model. Such alignment is quite apparent in the Indonesian and Vietnamese cases, and to some extent in the Philippine case where government programs could be more aligned to private sector undertakings, so that "*in many instances, co-operatives' creation is built around government programs that defeat the value of self-help – the very foundation of a successful co-operative organization.*[37]"

[32] «https://www.ohada.org/en/general-overview/»

[33] https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32003R1435

[34] https://www.ILO.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:R193, Art. 2

[35] Ibid, Article 10.(2)

[36] https://www.investopedia.com/terms/n/neoliberalism.asp

[37] Legal Framework Analysis, National Report – Philippines, Page 10

According to the 'Guidelines for Co-operative Legislation' "*The alignment of co-operative law with stock company law has more complex effects.*

On the one hand, it helps co-operatives to become more competitive in the narrow econometric, financial sense of the term, i.e., to grow economically, to increase their capital through mergers, to lower their costs, to create economies of scale, to increase their reserves and to increase their profit, at times also their surplus.

However, by impacting on, at times by changing the co-operative specific capital structure, management and/or control mechanisms, the differentiation between co-operatives and stock companies fades and lawmakers violate their obligation under public international co-operative law to (re-) establish and maintain the identity of co-operatives[38]*".*

II. Establishment, co-operative membership and governance

The following Diagram 5 summarizes country differences and trends to Q8-Q11.

Diagram 5

Section 3. Establishment, co-operative member ship and governance				
	Indonesia	**Myanmar**	**Philippines**	**Vietnam**
Q8. Is there a specific register for co-op and is registration necessary for the establishment of co-ops? What are the main legal requirements? Does the law provide for a minimum number of members? What is the minimum number? What happens if number falls below minimum?	A co-op can register online via a **Public Notary** to gainits legal status. Article 6: Minimum number for registrationis 20 persons. Omnibus Law has changed minimumto 9 persons. For secondary co-op 3 primaries are required. Article 12: any disqualification of registration will befurther dealt with bya government regulation.	Registration is with Co-op Dept., except for Insurance & Banking. Six detailed steps are involved. Minimum member required is 5 persons, specifed for Agricultural Co-op. It is implied that co-op can not be formed with less than 5 members.	**CDA** is the only government agency authorized to register all co-ops. Minimum requirementis 15 persons. Article67 will cancel registration if number of members fall below the minimum of 15.	Article 6: Co-opsregister at the finance and planning departments of the district level/ peoples' committees. The co-op union and people's credit fund register at business registration office under heplanning and investment department. Minimum number is 7 members. Article 54: Co-op will be dissolved if number falls below 7 within 12 months.

[38]Henry, Hagen, 2012, "Guidelines for Co-operative Legislation", third revised edition, page 15

Q9: How is admission of new members regulated? Obligated to accept Third Parties (open door principle)? Are there limitations in by-laws for members to leave?	There is no discrimination in so far as membership admission is concerned. Article 18 (a) Members must be Indonesian citizen. (b) Special/ extra-ordinary members can be admitted but with no voting right and with duties spelled out in By laws. Members' right to leave is also specified in By laws	Members admitted based on 4 qualifications. Cessation of membership is based on 7 conditions, with no condition for voluntary withdrawal.	Member must benatural Filipino person, of legal age (18 yrs or older), and have taken pre-membership education seminar.Third-party membership is not allowed under the Code. Yet open-door policy for membership is encouraged, although not mandatory. Article 30: member can withdraw with valid reasons and by giving a sixty (60) day notice to BOD.	Article 13: Member must be Vietnam citizen or foreigner residing legally in Vietnam. Minimum age of membershipis 18 years. Article 7: "Co-operatives and unions of co-operatives shall widely admit members and affiliated co-operatives". Articles 16 specifies 6 conditions when members can leave, a.o. Voluntarily, Bankruptcy, contribution ceased, or expelled.
Q10: How is voting regulated? Is one-member one-vote mandatory, or are there exceptions?	Article 20: Member has voting right. One-memberone-vote is not spelled out (but implied). .	One member-one vote; non-members can not vote or run as Director.	Article 4: One Member – One Vote. Article 36: At secondary level: 1 basic vote+ incentive votes but not exceeding 5 votes (ruled in By laws)	Article 34: One member- One Vote», with no exceptions.
Q11: Internal structure of Co-op (governance)? How are internal bodies of administration , member control,	Article 21: AGM (highest authority) elects a BOD & Supervisory Committee. Management is appointed by the BOD. Article 38: Supervisory	General meeting is highest authority of society. 'Leading Committee' formed (as BOD?) The executive committee manages affairs of Society and	General Assembly is highest policy-making body. BOD in charge of direction and management of a co-operative's affairs (min 5 max 15 members). Non-member can be	Article 29 to 41: General Meeting (GM) of members is highest authority. GM elects BOD, Union of Co-ops, and Supervisory Board, by secret ballot. Director (General

directors from non-members, duties/ responsibilities & ethical/legal standards for non-performance?	Committee will over see governance and audit financial records based on ethical standards & performance. Result will be reported to AGM.	responsible to the general meeting. Salaried staff appointed and could join asmember. Leading & Executive Coms. Undertake supervision.	appointed dirctor solely for technical assistance (no voting right). Art 39 Director with conflict of interest will be disqualified. Committees could be set up based on bylaws.	Director) is hired by BOD or by Union of Co-ops. Director implement tasks as specified by BOD/U of C, and also under labour contract. Ethical & legal standards not specified in Law.

Registration of co-operatives differ from country to country, so legal status of co-ops is acquired through the ministry or administrative structure of the respective governments, with the exception of Indonesia where the Public Notary will be the first line for registration before being sanctioned by the government. Minimum number of persons required for registration ranges from 5 in Myanmar to 20 in Indonesia, although the recently enacted Omnibus Law in Indonesia decreased the number to 9 persons. That leaves the Philippines as having the highest required number of 15 persons to form a co-operative.

The issue of minimum number of members is quite critical in view of the fact that co-operatives such as a workers' co-op or a platform co-op could start with as small a number as 3 or 4 members.

The Philippines requires a minimum of 15 members, whereas Indonesia 20 members, hence it would not be easy for innovative founders of new age co-ops to establish their co-ops, making room only for traditional co-ops such as savings and loan or consumer co-ops. This provision will hamper the emergence of new age co-ops among the young that are innovative. Young co-op activists in Indonesia have been advocating the change of minimum number of members from 20 to 3 persons, and the Government responded in the recently sanctioned Omnibus Law by reducing the number from 20 to 9 persons. The latter is still open for debate, despite the recognition that a smaller number of founding members is indeed required. This could be a valid subject matter to be objectively debated within the regional LFA of Asia and beyond.

Admission if new members are quite standard, in the sense that Co-operative members are confined to those who are citizens of the respective country, with the exception of Vietnam where foreign citizens could become a member for so long as they are legal residents in Vietnam. The latter has apparently an 'open door principle' in admitting membership for foreign nationals, but the Co-op Code in the Philippines goes one step further.

Article 26 of the co-op Code admits both 'regular members and associate members.[39]' *"A regular member is one who is entitled to all the rights and privileges of membership. An associate member has no right to vote nor be voted upon and shall be entitled only to such rights and privileges as the bylaws may provide. Furthermore, an associate member who meets regular membership requirements continues to*

[39]National report, Philippines, Page 11

patronize the co-operative for two years and signifies his/her intention to remain a member shall be considered a regular member[40]*".*

However, there is no mention in the co-operative laws in this sub-Region that promotes the open-door principle for disabilities, indigenous or young people to partake as members. This, presumably, could be stipulated in the internal bylaws. Other requirements include records of the foundation meeting (with the minimum number of founding members) alongside their signatures, proof of citizenship, founders, by-Laws, and in some cases a workplan and initial balance sheet. In so far as a member leaving the co-op is concerned, stipulations in the laws in SEA sub-Region are pretty standard. i.e. members could leave voluntarily by giving valid reasons to leave, and co-ops could expel a member if he/she violates ethical/legal provisions specified in bylaws.

Voting power of members is regulated in all laws in the SEA sub-Region, with "one member-one vote" regardless of the amount of capital invested in the co-op. In the Philippines, as described above, an associate member has no right to vote until he/she becomes a regular member.In post-colonial environments, "one member one vote" as a democratic principle is often construed as self-serving by elites, and hence remain a mere co-operative slogan. While the law guarantees this democratic principle, "managerialism" attitude of the elites., i.e., Board members, often motivates them to take financial advantage of members they are serving, hence reducing the quality of democratic policymaking of the co-operative. Demutualization often occurs in cases when BOD undermines this democratic principle. A number of case studies in SEA sub- Region (and indeed all over the world), bear evidence of these unfortunate occurrences.

The General Assembly (some in this sub-Region call it General Meeting or Annual General Assembly) is recognized as the highest authority and highest policy-making body in a co-operative. The GA has exclusive powers, which cannot be delegated, to determine and approve amendments to the articles of co-operation and bylaws and to elect the members of the Board of Directors (BOD). In the Philippines, the Co-op Law give permission to the GA to appoint (not just elect) members of the Board. In Myanmar the BOD is called the 'Leading Committee'. The BODs are elected from among the members, although in the Philippines the co-operative may admit as director or committee member one appointed by any financing institution from which the co-operative received financial assistance. This appointed director shall solely provide technical knowledge not available within its membership. *"Such a director or committee member need not be a co-operative member and shall have no powers, rights, or responsibilities except to provide technical assistance as required by the co-operative.*[41]*"*

In Indonesia and Vietnam, the Law stipulates that GA also elects a Supervisory Committee (In Vietnam it's called the Supervisory Board), hence internal control is assured. External audit is generally required. It is also customary that the BOD recruits a fulltime General Manager or a CEO. Ethical and legal standards are not specified in the co-op Law and most apparently in the statutes or bylaws, except for the Philippines.

The Code in the Philippines lists down the liability of directors, officers, and committee members, quorum requirements, and penalties for disloyalty, and procedures for the removal of an elected officer.

[40]Ibid, page 11

[41]Ibid page 14

III. Co-operative financial structure and taxation

Diagram 6 below summarizes the co-operative financial structure and taxation:

Diagram 6

Section 4: Co-operative Financial Structure				
	Indonesia	**Myanmar**	**Philippines**	**Vietnam**
Q12: Minimum share capital? Which rules govern capital contribution by the members? Equalor diverse? Proportional to volume of transactions? Can it be returned upon cessation of membership?	Article 41: Capital is mobilized from members and through loans. Member minimum share is not prescribed in Law. However, every member has to shell out fixed saving and will only be deemed full member after filling its name in the member registry and completing its fixed saving. Obligatory savings are encouraged. Shares proportionally returned to members during liquidation.	Minimum share capital isn't prescribed by law for co-op establishment, but the minimum amount of capital and the number of shares with which the society is formed shall be specified in the bylaws of the society. During liquidation members are compensated to the extent of their shares subscribed. No mention about voluntary cessation of membership in the Co-op Societies Act of Myanmar.	Article 14: requires that at least 25% of the authorized capital should be subscribed, and at least 25% of the total subscription should be paid, provided that in no case shall the paid-up share capital be less than P 15,000. Article 73: member's capital holdings limited to no more than 10% of the co-operative's Share Capital. Article 31: share capital and refund to members specified in bylaws. Article 69: Assets returned to member upon lawful dissolution.	Minimum issued capital not prescribed by Law. Article 17: Contributed capital by a member shall comply in accordance with charter and permits individual members to own a maximum of 20% of the charter capital of the co-operative. Article 18: Co-op shall return contributed capital to members and affiliated co-operatives upon termination of status of members and affiliated co-operatives.
Q13: How must profits be allocated by the co-operative? Profits distributed in proportion to capital or	Article 45 stipulates that surplus of the co-op, after deduction for reserve fund, education and social funds, will be distributed to	Profits are first allocated for: a) Depreciation of capital assets; b) Payment of all forms of taxes. The following dividends are allotted at the end	Article 86: distribution of net surplus: a) 10% Reserve Fund; b) 50% to ensure the co-op's stability; c) 10% - Education & Training fund; d) More than 3% for	Article 46: Income of co-op: a) 20% deductedfor development investment funds b) 5% for reserve fund; c) Other funds as decided by the

volume of transactions? How about patron age refunds as distinguished from dividends?	members in the form of dividends based on members' shares. This distinguishes from patronage refund which is returned based on members' patronage/ transactions The amount/percentage set aside for reserves and other funds will be decided by the General Assembly.	of financial year: a) Dividend on shares, investment, and for executive committee members and staff. b) refund for purchase or sale of goods.	Community; e) Development Fund for projects or activities; f) Less than 7% - Optional Fund for Land & Building; g) The remaining is available to members in the form of Dividends & Patronage Refund; h) The rest goes to Reserve Fund	general meeting of members; d) Remaining income distributed to members & affiliated co-op based on labour effort contributed by members for job creation (Patronage Refund); f) Balance is for dividends based on contributed capital;
Q 14: May a co-op issue financial instrument? Are investor-member admitted through capital contribution?	Article 41: The Law allows co-op to issue bonds and other financial instruments. No clause specified for admitting Investor-member.	Co-op cannot issue financial instrument. capital can be had from shares, savings & Investments, but "investor-member" is not admitted.	Co-ops can issue preferred share instruments to raise capital, but only from and for members. "Investor member" is admitted as long as the investment does not exceed 10% of the co-op share capital.	People's credit funds are able to issue financial instruments as licensed by authorized agencies. Loans from members are permitted, which assumes that it is similar toan investor-member.
Q15: What happens to capital/assets in case of dissolution or conversion? Residual assets to be distributed to members?	Article 54/55: In case of dissolution, every member is liable to forfeit their equity shares, but liquidator will determine who should first be given priority; after reimbursing creditors, any balance left would then be redistributed to members.	In case of liquidation, members and member societies will be compensated to the extent of their shares subscribed; liquidator shall issue a certificate of termination of the liability to compensate to the relevant members and member societies.	Rule 9 of IRR re. dissolution: any assets remaining after the payment to creditors, shall be distributed to the members based on their respective share capital. If remaining asset is not sufficient, the distribution shall be done in proportion to their share capital.	Article 49: Handling of remaining assets, excluding undivided assets upon dissolution: a) Payment of dissolution expenses, b) Payment of salary debt/allowances/ social insurance of workers; c) Payment of secured debts d) Of unsecured debts; e) Remaining assets to be returned to members and affiliated co-operatives.

Section 5: External Control				
	INDONESIA	**MYANMAR**	**PHILIPPINES**	**VIETNAM**
Q16: Are co-ops subject to external control by the State or any other public authority? Isself-control promoted by Law? May self-control replace public control or maythe State delegatethe power of control to representative organizations of the co-operative movement or other organizations?	Articles 60 to 63 show prevalence of government direction and control of co-ops, despite the intent" to create an enabling environment". The regulatory regime gives more emphasis on directing the operations of the co-ops than on supervising it.	The Co-op Law in Myanmar stipulates that societies shall be managed and supervised according to the wishes of the members, member societies and member of the leading committees based on resolution of the general meeting.	The government regulates the co-operative through the CDA. While the co-operative is subject to public control, the State recognizes the principle of subsidiarity. Co-op initiates and regulates its own activities, with government assistance where necessary.	According to Articles 3 of the Co-op law, Co-ops and Co-op Unions are subject to self-control. Co-op and Co-op unions are collective economic organizations, co-ownership with legal entity, established voluntarily by at least 07 individual members and 04 primary co-ops respectively.
Section 6: Co-operation among Co-operatives				
Q17: Is this sixth principle co-operation among co-op simplemented in legislation? Are there special rules on secondary co-operatives or on representative organizations of the co-operative movement?	Article 5 of the co-op law specifically recognizes this sixth principle and promotes co-operation amongst co-ops, inasmuch as secondary structures are established, hence the need to co-operate amongst themselves.	The principle of co-operation among co-operatives is institutionally implemented in the national as well as state legislation, with four-tier co-operative structure as adopted by the 1992 Co-op Society Law.	Article 24 of the Code makes explicit the operationalization of the principle of co-operation among co-operatives through the formation of secondary and tertiary co-operatives.	Article 7 promotes co-ops to co-invest in enterprises to create value chains, in addition to respecting the sixth Co-op principle. It encourages co-operation through the formation of central co-operative organizations, sectoral co-operative unions, and tertiary co-operative organizations.

With regard to**Section 4** on **"Co-operative financial structure",**there is a common strand that the minimum share capital paid by members is not prescribed in the law itself but basically stipulated in the statutes or bylaws. It is presumed that bylaws of co-operatives would incorporate a clause that all contributed capital by members, equally or diverse, shall bereturned upon cessation of membership. During dissolution or liquidation, however, i.e., in response to **Question 15** Section 4, the co-op Lawspresent differing descriptions as to how the share capital contributed by members will be compensated.

In **Indonesia**, every member is liable to forfeit their equity shares, but priority should first be given to reimburse the creditors and any balance left would then be redistributed to members.

In **Myanmar**, the Director-General may liquidate the relevant co-operative society based on events contained in section 25 of the Law. If such an order for liquidation is passed, a liquidator must be appointed and his duties and powers determined under section 26 of the Law. A liquidator will be appointed by the Director General and, if necessary, a separate body may be established to assume this duty.

Members and member societies will be compensated to the extent of their shares subscribed, for compensation by the society. The liquidator shall issue a certificate of termination of the liability to compensate to the relevant members and member societies.

In the **Philippines**, rule 9 of the Implementing Rules and Regulations (IRR), states that any assets remaining after the payment of the co-operative's obligations to its creditors shall be distributed to the members in payment of their respective share capital. But if the remaining asset is not sufficient to pay the members' full share capital contribution, the distribution shall be done in proportion to their share capital.

In **Vietnam**, the Co-op Law stipulated a more rigorous manner by which members could receive their capital contribution during dissolution and bankruptcy. First, they recover the assets of the co-operatives and unions of co-operatives; then they liquidate the assets, excluding undivided assets, followed by payment of liabilities payable and financial obligations of the co-operatives and unions of co-operatives.

The remaining assets, excluding undivided assets, will be distributed based on the following priorities: a. Payment of dissolution expenses, including expenses for the recovery and liquidation of assets; b. Payment of salary debt, allowances and social insurance of workers; c. Payment of secured debts as prescribed by law; d. Payment of unsecured debts; e. Remaining value of asset to be returned to members and affiliated co-operatives. The Government of Vietnam shall then stipulate the handling of undivided assets of the co-operatives and unions of co-operatives.

On the question of **allocation of profits/surplus of a co-operative** (**Question 13**, Section 4), all co-op Laws in the sub-Region specify deduction of common elements such as reserve funds and education funds, before dividends are calculated and paid to members, as well as patronage refunds offered to members based on their transactions/patronage.

Article 45 of the Co-op Law 25/1992 in **Indonesia** stipulates that the surplus of the co-operative, after deduction of the reserve, education and social funds, will be distributed to members in the form of

dividends based on members' share contribution, and a patronage fund paid in accordance to members' transactions/patronage. The General Assembly will decide how much will be set aside for reserves and other funds. There is, however, no stipulation for the distribution of surplus to non-members. The latter may create opportunism on part of some co-operative leaders to enlarge transactions with non-members.

The co-op Law also gives permission to co-operatives to enlarge their capital structure with loans from members and other co-operatives, even from banks, financial institutions, and other legitimate sources.

In **Myanmar**, the Law stipulates that the co-operative society has to determine various dividends according to the financial year: a) dividend on the share; b) dividend on the investment; c) dividend for the executive committee members and staff of the society; d) refund for purchase or sale of goods. The law does not distinguish dividends from patronage refunds.

In the **Philippines**, Article 86 of the Co-operative Code lists down the distribution of net surplus as follows: a) 10% Reserve Fund (in the first five years of the co-op, this should not be less; b) 50% to ensure the co-op's stability; c) 10% - Education & Training fund geared towards growth of the co-operativemovement;

d) More than 3%+ for a Community Development Fund for projects or activitiesbenefiting the community where the co-operative operates; e) Less than 7% Optional Fund for Land & Building. The remaining Net Surplus shall be made available to members in the form ofinterest on Share Capital and Patronage Refund. And whatever remains at the end will be added to the Reserve Fund. In Vietnam, Article 46 of the Co-op Law stipulates that "Income of the Co-op" will be distributed as follows: a) Deduction for development investment funds at a rate not less than 20% of income; b) Extraction for the financial reserve fund at the rate of not less than 5% of the income; c) Deduction for other funds as decided by the general meeting of members; The remaining income shall be distributed to members and affiliated co-operatives: a) Products and services used by members and affiliated co-operatives and with labour effort contributed by members for job creation co-operatives (Patronage Refund); b) Remaining income is distributed to members based on their contributed capital. All rates and modes of distribution are specified by the charter of co-operatives and unions of co-operatives.

In **Singapore**, Article 71 of the Co-operative Societies Act stipulates that a fund shall be established known as the Central Co-operative Fund (CCF) which shall be used to further co-operative education, training, research, audit and for the general development of the co-operative movement in Singapore. Thus every co-op shall contribute (a) 5% (or such other rate as may be prescribed in substitution) of the first $500,000 of the surplus resulting from the operations of the society during the preceding financial year to the Central Co-operative Fund; and (b) 20% (or such other rate as may be prescribed in substitution) of any surplus in excess of $500,000 from the operations of the society during the preceding financial year either to the Central Co-operative Fund or to the Singapore Labour Foundation as the society may opt. This very special stipulation in the Act is very crucial for the advancement of co-operative development in Singapore, and it also implies that there is no taxation involved (reference to Section 7 below) because the CCF is redistributed within the movement for their own development purposes.

With regard tothe Issuing of **Financial Instruments** (**Question 14**, Section 2), with the exception of Myanmar, all other three countries are allowed to issue these instruments. In **Indonesia**, co-operativesare allowed to issue bonds and other debentures. Other capital instruments include equity participation from other sources, including the government, are admitted and specifically regulated under Government Regulation no 33/1998.

In the **Philippines,** it is permissible for a co-operative to issue time deposit and preferred share instruments to members to raise money, but not from non-members, except borrowings from financing institutions. Co-operative Code, however, is not clear about allowing co-operative to borrow money from its members. The term used as practiced in the Philippines is not "borrowing from members," generating investment from members. The Co-operative Code does not restrict any member to buy share capital as an "investor member" who does not participate in patronizing the services with the co-operative, as long as he does not own or hold more than 10% of the share capital of the co-operative.

In **Vietnam**, the people's credit funds (similar to credit co-operatives) are able to issue financial instruments if they desire, but must comply with all the requirements and conditions specified in legal documents and licenced by the authorized agencies. Regarding "investor-member", it is permissible for co-operatives to take loans from members.

On Question 16, **Section 5. Co-operative external control**, all co-op Laws in South East Asia respect self-governance and self-control of co-operatives. More explicit is the practice in the Philippines where the subsidiarity principle if enshrined in the Law, and practiced by the CDA. However, in the other SEA countries a study was conducted in 1996[42] wherein questions were raised by private co-operative advocates: *(a) Do governments really want strong co-operatives? (b) Which type and what kind of co-operatives? These questions were raised because co-operatives (and people empowerment) could be viewed by some governments as a double-edged sword: one blade as the cutting edge for national development and as a levelling tool against social inequities; while another blade is seen as a threat to political stability if used by "misguided elements" for political ends. Strong governments are usually uncomfortable with growth and strength of an independent movement, preferring to exercise political patronage to perpetuate their political dominance*[43].

The above analysis is mostly relevant fora number of SEA countries these days where governments are still perpetuating large bureaucracies, or positioning a strong registrar, to make certain co-operatives remains responsive to government policies as they become more autonomous and independent. Top-down co-operative formations also tend to spur external control, especially when such formations are accompanied with subsidies from the government or the agencies involved. The latter usually began with meeting the agenda of the external agencies as opposed to fulfilling the real and felt needs of people in the community. It is therefore important that the principle of subsidiarity be explicitly incorporated in the Co-op Law.

[42]Soedjono & Cordero, 1996, *"Critical Study on Co-operative Legislation and Competitive Strength"*, an ICA ROAP Publication, page 17

[43]Ibid, Page 17, a critical analysis by Ibnoe Soedjono and Mariano Cordero during assignment by ICA Regional Office for Asia Pacific in 1996 covering 5 South East Asian Countries (Indonesia, Malaysia, Singapore, the Philippines and Thailand), in advance of the Co-operative Ministers Conference in Chiangmai, Thailand, in 1997.

Insofar as **Indonesia** is concerned**,** the study was conducted during the New Order government in 1996, as Co-op Law no 25/1996 was just promulgated. It is fair to admit that external control has continued since then, inasmuch as the regulatory regime is giving more emphasis on directing the operations of the co-operatives than on supervising it. The supervisory function is actually more important in order to protect the public interest. However, co-operative development has been subsumed under neo-liberal policies of the government ever since. With a large bureaucracy in place within the Ministry of Co-ops & SMEs, co-operatives came under control of the government to ensure co-operative responsiveness to these corporate-oriented policies. Coupled with the lack of supervision, co-operatives are opening windows for moral hazards which could lead to the erosion of co-op values andprinciples in their actual practices.

In **Myanmar**, the Co-operative Societies Law maintained that "The co-operative societies shall be managed and supervised according to the wishes of the members, member societies and member of the leading committees", hence no external control is perceptible. A careful study or analysis of how the political dynamics in Myanmar andits fluctuating rapport with the international community are impacting the co-operative movement at present, would certainly afford a clearer answer to the question of external control.

In the **Philippines**, the government regulates the co-operative through its regulatory agency, the Co-operative Development Authority (CDA). As described in the Code, the co-operative is subject to public control i.e., the State. However, the government recognizes the principle of subsidiarity under which the co-operative sector will initiate and regulate within its ranks the promotion and organization, training and research, audit and support services relative to co-operatives with government assistance where necessary. At the moment, the CDA has not yet been able to provide guidelines to federations for self-regulating their member co-operatives through supervision, examination, and auditing.

In **Vietnam**, Articles 3 of the Co-operative law, Co-operatives and Co-operative Unions are subject to self-control. A primaryCo-operative is a "collective economic organization, co-ownership with legal entity, and is established voluntarily by at least 07 members and mutually co-operates and assists in the production, sales and job creation to meet the general needs of all members, on the basis of self-control, self-responsibility, equality and democracy in management of co-operative."

On the secondary level, aco-operative union is a collective economic organization, co-ownership with legal entity and is established voluntarily by at least 04 co-operatives and mutually co-operate and assist in the production, sales to meet the common needs of member co-operatives. Since Vietnam maintains a Socialist Market-Oriented economy, a critical analysis of how relationship between of the socialist policies of the government vis-à-vis the principles of democracy, autonomy and independence of a co-operative is currently ensuing, could well determine the extent to which external control still exist or otherwise. In Singapore, Part VIII of the

Regarding **Section 6**, **Question 17, on "Co-operation among Co-operatives"**, this important sixth principle is explicitly mentioned in all co-operative laws, albeit more implicit in the Vietnamese case. They all have structures from primary, secondary all the way to apex structures. In the Philippines, some national federations only have a two-tier structure, whereas in most cases in the sub-Region they are have three tiers.

In **Indonesia,** the co-op Law promotes the sixth principle of 'Co-operation amongst Co-operatives'. The establishment of secondary structures are meant to promote co-operation among its members and also among the secondary structures themselves. However, the law does not spell out the subsidiarity principle and thus secondary co-operatives are not necessarily co-operating on behalf of the needs of primary co-operatives but mostly to promote business dealings amongst themselves. This weakens the organic nature of co-operation.

In **Myanmar,** the principle of 'Co-operation among Co-operatives' is institutionally implemented in the national as well as state legislation. Myanmar adopted a four-tier co-operative structure in accordance with the 1992 Co-operative Society Law, composed of Primary, Township, Union Co-op Syndicate, and the Central Co-operative Society.

In the **Philippines,** the Code makes explicit the operationalization of the principle of 'Co-operation among Co-operatives' through the formation of secondary and tertiary co-operatives. Article 24 of the Code defines the functions of a federation of co-operatives and its composition such as three or more primary co-operatives, doing the same line of business, organized at the municipal, provincial, city, special metropolitan political subdivision, or economic zones created by law, registered with the CDA to undertake business activities in support of its member-co-operatives.

In **Vietnam,** stress is given to co-operatives to co-invest in enterprises that promote co-operative value

Diagram 7

Section 7: Co-operative Taxation				
	Indonesia	**Myanmar**	**Philippines**	**Vietnam**
Q18: Are co-ops subject to specific tax regime or to the general tax regime applicable to all other business organizations? Is the tax regime of co-operatives consistent with their particular legal nature? Is it supportive of co-operatives? Does the law provide for tax exemption of profits allocated to legal reservesor non-distributable assets?	Co-operatives are subject to the general taxation law and regime for business enterprises. There is no distinction given to co-operatives in provisions of the Tax Law. The imposition of taxes is a double burden for co-operatives because co-operatives are taxed as legal bodies, and patronage refunds to members are also taxed.	Co-operative Societies are liable to pay tax like individuals and other organisations. But according to co-operative rules, the payment of duties and taxes, the expenses spent for restitution of wear and tear of capital assets, appropriation for bad debts, general provident fund for staff of the society are included in the expenditures of the co-operative society.	Article 60 and 61 of the Code states that "co-operatives that do not transact any business with non-members or the general public shall not be subject to any taxes and fees imposed under the internal revenue laws and other tax laws." Only co-ops doing business with non-members shall be taxed based on accumulated reserves and net savings of more than 10 million pesos.	Articles 6 of Co-op Law states: "State has preferential enterprise income tax policies and other tax policies in accordance with the law on tax". However, at the moment, agricultural co-ops are paying 10% as enterprise income tax, equal to companies doing business in agricultural sectors. Co-op member has to pay 5% as personal income tax from income derived from their share capital in the co-operative.

Co-operative Taxation is a very important yet a complicated issue at the same time. Tax authorities in some countries, accustomed to corporate tax laws who assume co-operatives are doing "business" similar to private enterprises, often align private business tax principles to co-operatives. This obviously occurs in some SEA countries as well. Co-operatives deserve special tax treatment, not special privileges, because they operate differently from private enterprises. Retained patronage refunds and per unit capital retains in a co-operative should not be equated with profit of a private business corporation. They are fundamentally capital formation in the co-operative by "members" as owners and users. Thus, the term 'Surplus' or 'Net Savings' ispreferred to differentiate it from 'Profit'. After all, co-operatives are agents of economic development and social justice, particularly those organized by the poor and less privileged. The propensity for most governments, however, is to levy taxes on co-operatives equal to those of the private companies or investor-oriented firms. In the SEA sub-Region, this inclination is more than obvious.

In **Indonesia**, co-operatives are subject to the general taxation regime for all business enterprises. There is no distinction given to co-operatives in provisions of the Tax Law. Co-operatives ought to gain the moral right to receive distinct treatment because of the nature of their business with members only, and also because of their distributive justice. The tax situation is a double burden for co-operatives because co-operatives are taxed as legal bodies, and patronage refunds to members are also taxed.

In **Myanmar**, under the provisions of the Union of Myanmar'sIncome Tax Law of 2011 (amended), co-operative societies are liable to pay taxes like any individual and other organisations. However, the payment of duties and taxes, the expenses spent for restitution of wear and tear of capital assets, appropriation for bad debts, general provident fund for staff of the society, are all included as expenditures of the co-operative society. The balance, after paying all expenditures, is the net profit of the society which is subject to taxes.

In the **Philippines**, the Code does not mention a specific tax regime for co-operatives. Co-ops are subject to the general tax regime applicable to all other business organizations. Because of this, tax agencies, both local and national, treat co-operatives the same with other business establishments without taking into account the unique legal nature of co-operatives, resulting in complexities of interpretation of the co-operative law on tax exemptions by implementing agencies. However, Article 60 and 61 in the Code specifically states that *"co-operatives that do not transact any business with non-members or the general public shall not be subject to any taxes as well as fees imposed under the internal revenue laws and other tax laws."*

Thus, transactions of members with the co-operative shall not be subject to any taxes and fees, including but not limited to final taxes on members' deposits and documentary tax. This tax exemption is based on the premise that co-operatives are instruments of economic development and social justice. Co-operatives dealing with non-members that shall enjoy tax exemptions based on accumulated reserves and undivided net savings of not more than ten million pesos. Also, the Code provides that the net surplus shall not be construed as profit but as an excess of payments made by the members for the loans borrowed, or the goods and services availed by them. Therefore, allocations of the net surplus such as reserves, co-operative education & training fund, community development fund, optional fund, and patronage refund and dividends are not subject to tax[44].

[44]Abbreviated from National Report, Philippines, on the issue of taxation. Page 17 and 18

In **Vietnam** the government set up tax policies based on the prevailing Tax Law. Articles 6 of the Co-operative law states: *"State has preferential enterprise income tax policies and other tax policies in accordance with the law on tax"*. Agricultural co-operatives are currently paying 10% enterprise income tax, equal with companies doing business in the agricultural sector. Co-operative membershave to pay 5% personal tax from income derived from their legal contributionto the capital of co-operatives.

The tax treatment in **Singapore** is very specific as already described in Section 4, Q13, re. allocation of profits/surplus of a co-operative. Co-operatives are not tax because the allocation from their surplus is ploughed back into the CCF for the advancement by and for the co-op movement itself.

IV. DEGREE OF "CO-OPERATIVE FRIENDLINESS" OF THE LEGISLATION IN THE REGION

Diagram 8

PART II: Degree of "co-operative friendliness" of the SEA Sub-Regional legislation				
	Indonesia	**Myanmar**	**Philippines**	**Vietnam**
Q19. Are there precise legal obstacles or barriers (deriving from a co-operative specific regulation or any other source of law including tax law, public procurement law, etc.) to the development of co-operatives? What particular legal provisions damage co-operatives or hamper their development?	There is systemic misinterpretation in Indonesia of what a genuine co-operative actually is. Subordination of co-operatives could be seen in the Tax Law, Hospital Law and the Law on Public Enterprises. Co-op Law no 25/1992 was passed before the ICA Congress in Manchester in 1995, hence ICIS is not reflected in it.	No legal obstacles are encountered due to merger of three Ministries. The Ministry of Agriculture, Livestock and Irrigation (MOALI) became the responsible ministry for co-operative sector development after merging the former three ministries, i.e., Ministry of Agriculture and Irrigation, Ministry of Co-operatives, and Ministry of Livestock, Fishery and Rural Development, into one ministry in April 2015..	Certain barriers exist, such as a) prohibition of Co-op Federations to conduct audit; b) no state budget for co-op development; c) self-regulation hampered by CDA's quasi-judicial power; d) Taxes still levied for transaction with non-members; e) Reform Act 2013 weakens autonomy and independence of co-ops; f) CDA's special mandate is being challenged, especially on the question of taxes by the BIR.	Many policies supporting co-ops are not effective and feasible, among others: a) the determination of non-divided assets, handling of undistributed assets after conversion or dissolution of co-operatives; b) guidance on conversion of co-operatives to other types of organizations; c) guidance on procedures for supporting infrastructure investment for co-operatives.

Q20. Which are the best practices of co-operative legislation in your country? What legal measures stand out and could constitute an example for legislators and law-makers? Is the promotion of co-operatives a public function? Are there incentives to co-operatives in the legislation on public procurement or elsewhere?	It is difficult to cite best practices of co-operative legislation in Indonesia because Co-op Law no 25/1992 was passed before the ICA Congress in Manchester in 1995, hence the co-operative definition, values and principles in the Co-op Law are not congruent with the ICIS.	The best practices of co-operative legislation in Myanmar are the democratic governance and at the same time regulation by the Co-operative Department. The promotion of the co-operatives in Myanmar is a public function.	The CO-OP-NATCCO Party List was a prime mover in the passage of the Code. The new Code spelled out in specific terms tax exemptions and privileges. The Code also provided for the creation of a Joint Congressional Oversight Committee on Co-operatives (JCOCC)	The 2012 Co-op Law: a) represents a fundamental change in awareness about the nature and role in the development of co-operatives as different from social & private enterprises; b) focuses on bringing benefits to members' needs; c) Co-op develops local and household economy.
Q21. In conclusion, what do you think about the degree of "co-operative friendliness" of your legislation?	The degree of "co-operative friendliness" of the legislative framework in Indonesia is essentially "more co-operative unfriendly than friendly".	Since no barriers are encountered, Myanmar has not specified any of the six degrees but, instead, quoted all of them.	The existing legislation is quite or rather significantly friendly.	
Q22. If you compare your national legislation with a foreign legislation, which foreign	Indonesia states that the Republic Act 9520 or Philippine Co-operative Code of 2008 is a source of inspiration	In Myanmar, the Netherlands' legislation is a source of inspiration. There is only one legislation for	NATCCO Network espouses the German, Canadian, and Korean models. The federations in these countries	Dutch legislation is the source of inspiration because it is very flexible. There are no regulations on minimum number

legislation do you think could be a source of inspiration for your national one, and why?	because it provides a clear distinction of co-operatives based on the ICIS and there exist a special tax treatment for co-operatives. The establishment of CDA is also more conducive for co-operative development as compared to a full-fledged Ministry like in Indonesia.	business entities in Netherlands, i.e. the Company Law. The Dutch community trusted on co-operative societies when they consumed the products of co-operative societies.	have the power to allow the opening of co-operatives and their branches, provide safety nets, enforce standards on co-operative products and services. The State's federations are empowered to play a self-regulatory role and provide fiscal budgets to support the promotion of co-operatives.	of co-operative members, any person and legal entity can become co-operative members. There is almost no limitations on the operational and business activities of the co-operatives.Voting rights are also flexible, depending on the value or quantity of commercial transactions with the co-operatives over a certain period of time.

Preface

It is conceivable that the degreeof "co-operative friendliness" of legislation in the South East Asia sub-Regionhas been delineated to a large extent by the robustness of ICA's legislative interventions since 1990. The catalytic influence of the Co-op Ministers' Conferences since 1990 could not be underrated.ICA ROAP has been actively consulted during the process of drafting co-operative laws in Indonesia and Myanmar,which inopportunely occurred prior to the adoption of the ICIS in 1995. Consultations with VCA and the government of Vietnam started in early 1994, and the ICIS was discussed just as the co-op Law was close to getting enacted in 1996.

ICA ROAP was also consulted during the second amendment of the co-op Law in Thailand. In the Philippines, discussions were held in earnest between ICA ROAP, NATCCO and the CDA during the drafting of R.A. 9520 just as the new millennium kicked in.

In theory, therefore, co-operative legal frameworks in the South East Asia sub-Region could be considered "FRIENDLY" insofar as adherence to the ICIS, or just to co-operative principles, is concerned.

That being said, the extent to which co-operative legislation in SEA countrieshad been formulated are for the most part side-stepped from comprehensive public policy debates and deliberations. Legal experts from Important government departments or ministries such as agriculture, state enterprises, treasury and finance, and relevant cabinet members are often not involved in the process of drafting the co-operative law.

With more propensities towards corporate-driven policies such as in Indonesia, Thailand and the Philippines, including in the socialist market-oriented policies in Vietnam, greater importance wasoften directed by government constituents to legislation and policies that support free-market competition.

Co-operative law-making is therefore left at the behest of the Co-operative Ministry or Department, and to some extent with participation of the co-operative movement as well. When the draft co-operative law reaches the legislative body, where multi-sectoral issues from various ministries are already encapsulated, the substance of the draft law is further subjected to the overwhelming influences of neo-liberal thoughts and practices, leaving the final draft more acquiescent to laissez-faire and free market economics.

Thus, ICA Ministers Conferences needto find broader legitimacy in the development and implementation of public policy, so as to achieve greater recognition in the process of co-operative law-making. It is therefore imperative that key ministers/officials and parliamentarians driving national public policy development be represented at future Co-operative Ministers Conferences. In such a manner co-operative legislation and regulation will have a higher degree of "FRIENDLINESS" towards genuine co-operative development.

The following analytical descriptions by national experts in the SEA sub-Region reveal a mix of the degree of "Friendliness" of co-operative legislation. Juxtaposed against the aforementioned "theoretical" friendliness as well as the deficiency in public policy participation, there ought to be ample room for future legislative reforms that will make co-operative laws much more friendly towards genuine co-operative development.

In **INDONESIA**, co-operatives tend to be subordinated, discriminated and even eliminated in most legislation dealing with economic and societal affairs in the country. This also pertains to national policies dealing with economic and social issues. In many legislative and policy frameworks, co-operatives are considered legal bodies which need direction from the government and become instruments of government programs. Subordination of co-operatives could be seen in the Hospital Law and the Law on Public Enterprises. It is difficult to cite best practices of co-operative legislation in Indonesia because Co-op Law no 25/1992 was passed before the ICA Congress in Manchester in 1995, hence the co-operative definition, values and principles in the Co-op Law are not congruent with the ICIS. A new Co-op Law no 17/2012 was introduced and passed in 2012, but its contents are deviating even further from the ICIS, and hence contested by co-op activists at the Constitutional Court, and ultimately cancelled in 2014 in its entirety. The promotion of co-operatives as a public function remains much to be desired. There is systemic misinterpretation in Indonesia of what a genuine co-operative actually is. The image of co-operatives has deteriorated due to practices of moneylenders using co-operatives as their legal shield. Since many of these loan-shark businesses - using co-operatives as their legal entity - have been captured and penalized, the public in general have little trust in co-operatives because they equate co-ops as illegal moneylending businesses. More recently the Omnibus Law in Indonesia comprehensively amends various sectoral laws with the aim of improving the investment ecosystem in Indonesia, attracting investors and creating job opportunities. Major elements of the co-operative law have been incorporated in this harmonized Omnibus Law. Critics argued that the Omnibus Law is also biased towards the neo-liberal policies of the government.

In conclusion, the degree of "co-operative friendliness" of the legislative framework in Indonesia is essentially "more co-operative unfriendly than friendly".

In **MYANMAR,** no precise legal obstacles or barriers are encountered in the Societies . The reasons pointed out by the national expert are as follows: The Ministry of Agriculture, Livestock and Irrigation (MOALI) became the responsible ministry for co-operative sector development in Myanmar after merging the former three ministries, i.e., Ministry of Agriculture and Irrigation, Ministry of Co-operatives, and Ministry of Livestock, Fishery and Rural Development, into one ministry in April 2015. One of the key objectives of MOALI is: "To improve the livelihood and income generation of the rural people through the development of co-operative enterprises and system". The Agriculture Policy (2016) has been developed by MOALI for a second five-year short-term plan. One of the key objectives of Agriculture Policy (2016) is to: "Advance and upgrade the agricultural sector by organizing farmers' associations and co-operatives inclusive of small holders and subsistence farmers with promotion of gender role". The Co-operative Department laid down a policy to organize one co-operative in each village under the previous regime.The best practices of co-operative legislation in Myanmar are the democratic governance and at the same time regulation by the Co-operative Department. The promotion of the co-operatives in Myanmar is a public function.

There are no incentives to co-operatives in the legislation on public procurement. In conclusion, Myanmar has not specified any of the six degrees of "Co-operative Friendliness" but, instead, quoted all of them. However, given their description, It is fair to assume that the friendliness of the Societies Act in Myanmar is "significantly so".

The National Expert of the **PHILIPPINES** stated that in general, the Philippines' co-operative sector is satisfied with the Philippine Co-operative Code of 2008 or R.A. 9520, as well as its companion law, R.A. 6939, an Act creating the Co-operative Development Authority. Despite some weaknesses, it is generally hailed as a landmark piece of co-operative legislation by the co-operative sector and the legislators. These Codes respond to the co-operative sector's clamour to make the CDA more responsive to the sector's needs and further promote co-operative as a useful tool in achieving inclusive growth.The CO-OP-NATCCO Party List was a prime mover in the passage of the Code. The new Code spelled out in specific terms tax exemptions and privileges, allowing little or no room for other interpretations of the tax treatment of co-operatives. Aside from tax exemption, Article 63 of the Code lists down nine privileges of co-operatives registered with the CDA.The Code also provided for the creation of a Joint Congressional Oversight Committee on Co-operatives (JCOCC).

It states that the JCOCC 'shall review and approve the implementing rules and regulations of the Code and monitor its proper implementation. The amended Code also sought to modernize the law on co-operatives and attune its provisions to co-operatives' changing needs in the new environment. *Hence, the friendliness of existing legislation is quite or rather "significantly so".*

Notwithstanding, many legal framework issues also need to be addressed by the government vis-à-vis the co-operative movement: (a) Co-op Federations should be allowed to audit member co-ops, especially based on the principle of subsidiarity, despite lobbies by the Philippine Independent Certified Public Accountants (PICPA) to disallow Federations to offer such services; (b) Current enabling laws on co-operatives have no budgetary provisions on co-operative development, resulting in lopsided development across sectors, especially those having no active federations/unions; (c)

Principle of subsidiarity is a double-edged sword. It allows self-regulation but CDA has been given quasi-judicial powers to intervene to settle disputes; (d) Co-operatives are discouraged from allocating more of their net surplus for reserve funds, because co-operatives have to pay taxes for transactions with non-members when reserve funds are more than 10 million; (e) Reform Act 2013 regarding operations of electric co-ops have weakened the co-operative's foundation as an autonomous and democratic organization; (f) Other government agencies often challenge the mandate of the CDA as theonly government agency to promote co-operatives as enshrined in the Constitution, especially pressures from the Bureau of Internal Revenue for co-ops to pay taxes.

The Philippines' agricultural co-operative sector is the weakest subsector of the co-operative movement. The martial law regime in the 1970s were designed to create and strengthen agricultural co-operatives, mainly Samahang Nayons (village-based pre-co-operatives), but the whole agricultural-based co-operative system of the country collapsed.

In **VIETNAM, the** VCA acknowledges that the co-operative law is certainly not perfect (no piece of legislation ever is), but it contains several elements that reflect good practices and measures that are useful in the current context. After 6 years of implementing the Co-operative Law, it became clear that "co-operatives" constitute the core of the collective economy, initially by showing changes in quality and efficiency, and subsequently by playing a more important role in the economic, politicaland societal domains.

The most important impact of the 2012 Co-op Law are: 1)Fundamental change in public awareness about co-operatives in terms of its role and nature that is distinguishable from other business and social organizations, 2) Benefits reaped by members through steady supply and consumption of products, services and jobs according to the needs of the member; 3) The successful role of co-operatives in developing local and household economic advantages in particular, and the overall economy in general.

There are, however, a number of weaknesses and obstacles in the legal framework governing co-operative that stands in the way of co-operative development. Some regulations have not been specifically instructive, such as: a) the determination of non-divided assets, handling of undistributed assets after conversion or dissolution of co-operatives; b) the guidance on conversion of co-operatives to other types of organizations; c) the guidance on procedures for supporting infrastructure investment for co-operatives.

Many policies meant to support co-operatives are not effective and feasible. The Law on Co-operatives in 2012, Decree No. 193/2013 / ND-CP stipulates 11 preferential policies and support mechanism for co-operatives, but these policies are in fact insufficient. Specific policies to support co-operatives are for the most part integrated into the general policies. Policies on training and development of co-operative cadres, on infrastructural investment for agricultural co-operatives, are devoid of any capital, and must be integrated or mixed into other national targeted programs such as the New Rural Construction and Sustainable Poverty Reduction.

Some weaknesses are also apparent in the implementation of the Law. Not sufficient attention is being given to co-operatives by party committees and local administrations in the orientation and development of policies, and in providing problem solving mechanisms. Many do not understand the

role of co-operatives in the socio-economic development of the locality, and only stayed at thepolicy level. Hence many localities are still unable to implement a number of new regulations of the Law, making it hard to disseminate and replicate the co-operative model effectively.

All in all, the 2012 Co-operative law in Vietnam is quite progressive and could be a source of inspiration for others, particularly in relation to the one-member, one vote principle, surplus allocation, and the degree to which it aligns with the co-operative principle. At the same time, some modifications in the national legislation could be introduced to strengthen its alignment with the ICIS.

Although the VCA did not specify the degree of "Friendliness" of the Co-op Law in Vietnam, the last paragraph suggest that it is *"more co-operative friendly than not".*

Regarding Foreign Legislation,**Indonesia** states that the Republic Act 9520, also known as the Philippine Co-operative Code of 2008, is a source of inspiration because it provides a clear distinction of co-operatives based on the ICIS, in addition to the special tax treatment accorded to co-operatives. The establishment of CDA is also more conducive for co-operative development as compared to having a full-fledged Ministry like in Indonesia, so bureaucracy could be minimized and interactions becoming more effective.

In **Myanmar**, the Netherlands' legislation is a source of inspiration. There is only one legislation for business entities in Netherlands. All co-operative societies are under the company law. Netherlands has already sped up the development of co-operative sector. The Dutch community trusted on co-operative societies when they consumed the products of co-operative societies.

In the **Philippines,** the NATCCO Network espouses the German, Canadian, and Korean models. The federations in these countries have the power to allow the opening of co-operatives and their branches, provide safety nets, enforce standards on co-operative products and services. The State's federations are empowered to play a self-regulatory role and provide fiscal budgets to support the promotion of co-operatives.

For **Vietnam**, the co-operative law of Holland is a source of inspiration. The law is very flexible, and there are no specific regulations on members, i.e., the minimum number of co-operative members, so any person and legal entity can become co-operative members. There are almost no limitations or regulations on the operational and business activities of the co-operatives. Voting rights could also be flexible, depending on the value or quantity of commercial transactions with the co-operatives in a certain period of time.

V. RECOMMENDATIONS FOR THE IMPROVEMENT OF THE LEGAL FRAMEWORK IN THE SUB-REGION

Diagram 9

V. Recommendations for the improvement of the legal framework in the region				
	INDONESIA	**MYANMAR**	**PHILIPPINES**	**VIETNAM**
Q23. What changes are necessary to make your national legislation more adequate for the development of co-operatives?	The philosophical underpinning of the law is very important, and must be supported by an epistemological, ontological, and axiological overview in the preamble of the Law.	The 1992 co-operative society law and the 2013 co-operative society rules must be reviewed to fit current policy landscape so amendments and substitutions could be made. The law should include adequate punishment for violation by members.	The dual roles of CDA as a regulator and developer should be revisited. The provisions in the Code on consolidation and merger of co-operatives should be strengthened.	Article 3 should be added: "co-ops operate as a type of enterprise as defined in the 2003's Co-operative Law. Abolish the listing of co-operatives' business activities in Clause 6 Article 4. Article 6 needs to be supplement with insurance policies. Remove the phrase "Co-op members" in Article 7, so enterprises or other legal entities can be admitted as members.
Q24. What general modifications and/or specific changes would make your national law more co-operative friendly?	The ICA co-operative Identity Statement must be incorporated as a recognition of the universal definition, values and principles of a Co-operative.	The tenure of elected BOD should be limited so new members of BOD could be elected.	The government may provide funding support to federations for education, training, and technical assistance through its General Appropriations Act.	Following principles needs consideration in the Law: a) The creation of a favourable legal environment and developing co-operative ecosystems; b) Policies that encourage co-operatives to connect and integrate regionally and

				globally; c) Inclusion of a digital system for co-ops in this digital era; d) Policies for co-ops to penetrate global markets.
Q25. Are there changes you think are necessary regarding specific sectors or types of co-operatives?	There must be a special Law designed mainly for Savings & Loan/Credit Unions, and a separate law for other types of co-operatives.	A legal framework to establish farmer co-ops is necessary, allowing farmers' organizations to lobby government in the process.	Registration of Electric Co-ops should be with the CDA. Public Market Co-operatives be allowed to own and operate their own marketplace. Housing Co-ops should no longer be required to have a "license to sell" since they own the land.	"Co-operatives, co-operatives unions are allowed to form enterprises of co-operatives, co-operative unions. Enterprises of co-operatives and co-operative unions operate under the Enterprise Law".
Q26. Do you have any additional comments or suggestions that were not addressed above?	The number of member-founders for co-ops other than savings &loans should be as low as 2 or 3 members, so workers' co-ops, health co-ops etc. could be more easily formed.	"Co-operatives, co-operatives unions are allowed to form enterprises of co-operatives, co-operative unions. Enterprises of co-operatives and co-operative unions operate under the Enterprise Law".	More programs for co-operatives from government agencies; Retention of tax exemptions for co-operatives; Higher budget allocation for the co-operative regulator – the CDA; A seat in the Cabinet of the President, which will mean the establishment of a Department of Co-operatives; Automatic seats in the legislature; Appointment of co-op leaders in key positions or Board seats in government institutions	Minimum number of members to establish co-ops could just be 5 members. Article 16 is not reasonable: "Members do not use the co-operative's products or services for more than 3 years must terminate membership". Legal frameworks for co-operatives must ensure to create a fair level playing field for all enterprises in the national economy.

From the sub-Regional analyst (of the South East Asian legal framework) viewpoint,a key recommendation would be to improve the legal framework for leaders of the co-operative movements to be more proactive in advocating the inclusion of the ICIS into the co-operative legislation (Laws/acts/ordinances).

Such an insertion should not remain as a jargon, neither should it be just an acknowledgement of the merits and worth of the ICIS, but (a) to use it as an important guidelinetowards improving all other elements of the co-op legislation, and (b) to use it as an educational and/or promotional tool for by government officials in charge of co-ops,together with leaders of the co-opmovements, to show why co-ops are different from both private business and state enterprises. The latter is crucial for other government officials as well as the public at large to understand why co-ops should be treated differently in defining policies such as taxation, fair playing field, capitalization, and self-regulation based on the concept of economic democracy.

What is interesting to deduce from the above 'recommendations for improvement of the legal framework' of all four countries is the fact that none of these laws have incorporated the ICIS its entirety into their respective co-operative laws, and only refer to its spirit in a fractional way. To think that the adoption of ICIS was an overwhelming consensus of all co-operative movements worldwide under theflagship of the ICA. Even in the Philippines, with a more supportive government structure under the CDA, and a member of Congress under the NATCCO Party List, this presumed coalition could not succeed in advocating the worth and advantages of the ICIS for inclusion in the Co-op Code.

Regardless, whether these co-operative laws were designed prior or after the 1995 Centennial Congress of if ICA or not, it became apparent that all governments have broader policy objectives to which co-operative development is subordinated. In agrarian countries such as Indonesia, Malaysia, Vietnam and Thailand, government intervention and support is very pronounced among agricultural co-operatives. Yet agricultural co-operatives continued to remain weak. Coupled with free-market orientation these governmentsare being predisposed to on account of their neo-liberal or socialist market-oriented policies, priorities are understandably directed towards building more investors-driven private sector enterprises.

Thus, co-operative laws in these countries are designed to make sure they fit the ecosystem and less concerned about understanding the merits of the ICIS. Community-led initiatives such as credit unions and rural-based co-ops in these countries are thriving despite these weaklegislative frameworks, due to the fact that comprehend the ICIS in both theory and practice.

VI. CONCLUSIONS

1. This LFA for South East Asia Region postulates that past colonial powers, with interspersed approaches of varied European colonialists, sustained a longstanding dent in the economic, social, and political realities in this Region. It suggests that Laws and regulations of colonial past translated themselvesinto the co-operative realities in these respective countries of SEA as well. Unlike countries in the West where governments tend to take a back seat in the promotion and development of co-operative due to self-regulation, governments in SEA Countries have continued to predominate. Legislation in *Malaysia, Myanmar, and Singapore* are,inarguably, affected by land revenue system enforced by the British empire, and reflected in the Indian Co-operative Societies Act of 1904 and 1912. *Philippines* was colonized by Spain and America, although the latter has the ultimate influence in enacting the Agricultural Credit Associations Act in 1915 and Co-op Marketing Law in 1927[45].

   *Indonesia*was colonized by the Dutch, and the co-operative legislationcalled "Verordening Op de Co-operatieve Vereenegingen" no. 431 in the year 1915, followed by "Algemene Regeling op de Co-operatieve Verenigingen" no. 21 in 1933, was preordained only for the indigenous people in Indonesia. Then we have the conquest of *Vietnam* by France, which also included Laos and Cambodia, but which co-operative legislation of the latter was more influenced by the Communist collectives, where property and resources are owned by the community and not individuals.

2. Subsequently, during most decades in the twentieth century, co-operatives in South East Asia, with the exception of Singapore, were organized at the behest of the dominant policies of the government, and in many cases used by political leaders for their own political interest as well.

3. There is no standardization of the co-operative laws for the sub-Region, albeit close approximations exist when it comes to the role of government in each and every country. The residual impact of colonization is therefore quite apparent, and the speed and quality of economic reforms in each country serve to indicate the intensity of growth and development co-operatives in terms of quality and quantity.

4. Large bureaucracies that have power over the working of co-operatives are quite evident in the sub-Region, with the exception of Singapore. However, these bureaucracies, be they at cabinet or departmental levels, remain to be a subset of the larger political structure of the government. There is thus a natural propensity for co-operative laws to be subsumed into the larger political agenda of the government, hence the resourcefulness to create co-op laws that promotes genuine co-operatives is being compromised.

5. The ingenuity of ICA AP to stage Co-operative Ministers' Conferences is well received and appreciated by both government authorities and co-operative leaders in the SEA sub-Region (and presumably in all the Asia Pacific Region). However, the absence of legislators from legislative bodies (congress/ parliaments) from these countries during these high-level

[45]Sharma, G.K., Co-operative Laws in Asia and the Pacific, page 133.

events, resulted in the dilution of enacting co-operative legislation that is conducive to co-operative development due to their insufficient understanding.

6. Unlike in East Asia, namely Japan and Korea, where co-operative laws are separate and based on sectors they are engaged in, all laws in SEA are general in nature covering all sectors.

7. Although co-operative development is deliberatelyor inadvertently linked to, or spelled out in, the Constitution of these respective countries, co-operatives have not had the ubiquitous weight and influence in the region to gain a level playing field with private and state enterprises.

8. The issue of 'minimum number of founding members' to form a co-operative is to be reviewed in current co-operative laws in the SEA sub-Region, because the old view that co-ops require 15 to 20 members to start a co-op defeats the notion of forming innovative co-ops such as workers Co-ops, platform co-ops, or shared services co-ops, especially among the young, which could start with as small a number as 3 or 4 persons.

9. It is discernible that ICA AP's Ministerial Conferences have contributed to the gradual reforms of co-operative laws in the SEA sub-Region, and governments are shifting away from being too commanding and thus taking a more supportive role in co-operative development. The 10th Co-operative Ministers' Conference held in Hanoi in 2017 declared the shift even further from that of a 'supportive relationship' between the government and the co-op movement to that of a "sound partnership' between them. In spite of many deficiencies in current co-op laws in the sub-Region, the catalytic influence of the co-op Ministers Conferences has upgraded previous "unfriendly" co-op laws into a "friendlier" degree for co-operative development.

10. Based solely on all enacted laws, and their amendments, in South East Asia sub-Region, it is apparent that the gradual amendments to these laws seem to have made the likely shift towards a more enabling, rather than coercive, environment for co-operative development. What remains to be seen is whether the residual impact of colonial influences in the past has perpetuated these laws to be made FOR, rather than WITH, the co-operative movements themselves.

11. In the final analysis, co-operative laws in this Sub-Region could only reach a "more than Friendly" degree if a national government policy on co-operatives could be developed with full consensus of ministries relatable to co-operative development in the country, and with full participation of the co-operative movement throughout its deliberations.

VII. ANNEXES

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Published: February 2021

The legal frameworks analysis is a tool developed underthe ICA-EU Partnership #coops4dev. Itis an over view of the national legal frameworks at the time of writing. The views expressed within this report are not necessarily those of the ICA, nor does a reference to any specific content constitute an explicit endorsement or recommendation by the ICA.

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9, Aradhana Enclave, Sector 13, R. K. Puram,
New Delhi - 110066, India
www.icaap.coop