

**Role of Functionaries in Cooperative
Management in Asian Countries:
An Analysis**

D. N. Upadhyay



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334:65 (5)
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International Co-operative Alliance
Regional Office for Asia and the Pacific
New Delhi, India

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in Asian Countries: An Analysis**

By

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June, 1994 (350)

Layout and computer typesetting by P.Nair at the ICA Regional Office for Asia and the Pacific, New Delhi. Printed at Document Press, H.S.14, Kailash Colony Market, New Delhi 110 048 (Telephone : 643-2836)

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FOREWORD

1. Cooperatives have been recognised as effective instruments for socio-economic transformation. In view of this potential in all economic reconstruction programmes, thrust has been towards development of cooperatives. Further, cooperatives constitute people's programmes and envisages people to stand up by themselves and help each other on the principle of equality. In view of these characteristics, there cannot be a better system seeking involvement of the people and harnessing their unified efforts for their economic development than the cooperatives. Thus, so long as the menace of poverty exists and exploitation of masses continues, the relevance of cooperatives would be felt more and more. People shall also look forward to an enhanced and effective role for the cooperatives.
2. Though cooperatives have been in existence for a long time, these have not been able to acquire a status they deserve in several Asian countries. The reasons for low levels of performance may be broadly attributed to:
 - a) Absence of democratic processes in cooperative management or their denial;
 - b) Inadequate devolution of power in favour of the real and legitimate users and functionaries or existence of restrictive provisions hitting at the autonomy of the cooperative bodies charged with an atmosphere of distrust towards people; and
 - c) Lack of financial resources, dependence on government assistance, resulting in excessive government role and interference.
3. Unless the above short comings are remedied and people get results in terms of improved production, productivity, better employment opportu-

nities and shelter from exploitation, the cooperatives' impact may not be felt. Essential pre-requisite for such results envisages growth of self-reliant and genuine cooperatives with full involvement of members, adherence to the core principles of self-help and mutual-help in all the socio-economic efforts. As cooperatives are members' institutions, democracy is the very soul of genuine cooperatives. Accordingly, they need democratic control and functioning.

4. At present in many countries, cooperatives have been reduced to the level of subordinate government agencies, under the pretext of decentralisation of power, whereas powers have been really crippled by simultaneous introduction of highly restrictive provisions in various cooperative laws and their frequent use by governments, reducing the autonomy and functioning of cooperatives to ridiculous levels. We are thus passing through an era of crisis in the domain of cooperatives. Continuation of such an atmosphere cannot lead to the desired results.

5. Viewed in this context, the decision taken by the regional conferences of the Ministers of various countries on cooperative development as held in **Sydney** in February, 1990, followed by another conference in **Jakarta** in June, 1992, laying emphasis on development of genuine, independent and self-sustaining cooperative institutions is a highly welcome and timely step. It was also inter-alia suggested by the conferences to review the existing legislations of various countries for laying down realistic and appropriate cooperative development policies, according to which the governments and institutions may be required to initiate further necessary steps for strengthening the management of respective cooperative organisations and their business performances. The present study on the 'Role of functionaries in management of cooperatives' has been undertaken as a sequel to above decision at the behest of ICA ROAP, New Delhi.

6. The study focusses on examination of the roles of (a) general body, (b) management committee/board of directors, (c) chairman, and (d) the chief executive, who happen to be the main functionaries involved in the process of cooperative management. With this purpose, the legal framework of cooperatives of various Asian countries have been analysed.

7. The precise object of examination of the legal framework being:

- a) to study the roles of functionaries as prescribed in various cooperative laws so as to identify the deficiencies and lacunae persisting in the statutes of respective countries which may be responsible for their ineffectiveness and also to identify the related restrictive

provisions tending to retard the growth and development of healthy and genuine cooperatives.

- b) to suggest suitable measures for creation of a better legislative climate which may help the growth of genuine cooperatives which is certainly the need of the day.

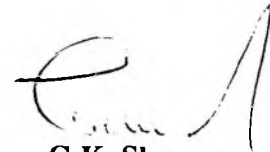
8. The study covers related aspects of the subject under separate chapters and it has all the relevance in view of the burning issue relating to the ineffectiveness of cooperatives, which has been agitating the minds of all those who believe that cooperatives have a role to play in economic reconstruction programmes and amelioration of the masses. The study leads to important findings and valuable suggestions for cleaner legislative environment ensuring better performance and growth of genuine cooperatives.

9. The study reveals that the roles of functionaries as provided under various enactments declare and uphold the supremacy of the general body by assigning policy making and other important cooperative functions to it. Similarly, in all the countries, the elected board of directors happen to be the principal functionaries with crucial executive functions to perform through hired or elected managements. In regard to management, there is variance in some of the south-asian countries including India, where provision for appointment of government officers as chief executive is clearly visible. This provides scope for interference by government. However, the malady also appears to be due to the excessive role of the government and the registrar. The author has discussed the powers given to the functionaries and also the restrictive provisions existing simultaneously, whose operations completely nullify the cooperative efforts of the people. The suggestions for removal of the identified restrictive provisions are logically supported and weighty. A review of such provisions by all concerned may go a long way in creating a legislative climate favourable to the growth of genuine and effective cooperatives. It is very pertinent to note that the cooperative performance is at its best, where such restrictive provisions are absent in the statutes. It is high time the policy makers deviate from the colonial legacies and give a fair chance to the people by reposing trust in them in managing their affairs.

10. I would like here to place on record our appreciation for the work done by Mr. D.N. Upadhyay for this indepth study in respect of the 'Roles of functionaries in the field of cooperative management' in various Asian countries and lucid presentation of the report.

11. I hope that the documentation will be useful by all those who are interested in the development of cooperative legislation to meet not only the needs of the day but also the challenges of the future and particularly the participants of the third Cooperative Ministers' Conference to be held in Colombo, Sri Lanka, in the last week of July, 1994.

ICA ROAP, New Delhi
June 20, 1994



G.K. Sharma
REGIONAL DIRECTOR

PREFACE

1. Cooperatives have been recognised as effective instruments of socio-economic transformation and as shield for those who are prone to exploitation by stronger sections of society. In view of this potentiality, so far the thrust has been to build up cooperatives as an important part of all the schemes for planned economic development in various countries. More so because cooperatives envisage people to stand up by themselves and help each other with political and religious neutrality on the one hand and to harness their inherent strength of people through unified efforts for their economic development on the other. Cooperatives are thus groups of individuals who have common economic interests which could not be achieved if they acted individually and severally, but the same could be achieved smoothly through interdependence and mutuality. Above all, the cooperative movement ensures human dignity and that is why it is regarded as one of the least noticed 'economic miracles' of the 20th century. Cooperation has emerged as a new philosophy, a new way of life and a new economic system pitched against capitalism and irrational economic inequality. The people therefore, look forward to an enhanced role for the cooperatives.

2. Basically, the cooperatives constitute people's programmes and involve a continuous process of value addition, benefits of which have to flow back to the members of the societies, who enjoy equality of status. Though the term '*cooperation*' has not been defined in the statutes, however, the cooperative principles have been well enunciated and appreciated by all concerned.

3. International Cooperative Alliance has long back recognised the following as the basic cooperative principles:

- a) Voluntary and open membership.
- b) Democratic control.

- c) Limited interest on capital.
- d) Equitable distribution of surplus.

Cooperation amongst cooperatives and cooperative education are the additional aspects to be followed like the principles.

With these principles and objective of economic development of the people in view, one can easily identify the essential ingredients required for sound functioning of the cooperatives as:

- a) Democratic functioning and control, and,
- b) Efficient management and autonomy.

As cooperatives are people's institutions democracy is the very soul of any genuine cooperative.

4. Over the years, the movement has registered progressive expansion and diversification and has acquired strong rural base all around the world. In spite of remarkable progress and achievements in almost all sectors of economy, structural weaknesses along with decline in the share of cooperatives in different economic activities are getting visible. Even the ethos of the movement appears to be degenerating.

5. Due to the huge dimensions and multiplicity of activities, management of the cooperatives has become very complex and a matter of concern for all the cooperative thinkers and policy makers. In view of these considerations, it is relevant to study the organisational patterns and styles of management as they exist in different countries under the respective cooperative laws, acts, rules, regulations and where cooperative programmes find place in national economic development efforts, so as to identify the reasons for low levels of performance of cooperatives. Such a study may enable those concerned to assess the comparative merits of the different patterns in achieving the objectives.

The importance of such a study could be further appreciated in view of the fact that cooperatives have to face many challenges in future and this requires strengthening of their institutional structure at all levels so as to equip them to provide access to all concerned, i.e., the farmers, workers and artisans to modern inputs and technologies for raising production, productivity and ensure better returns for their produce, ultimately leading to a better life for them.

6) The present study originates from an important decision taken by the regional conference of the ministers of various countries on cooperative development held in **Sydney** in February, 1992 followed by another

conference at **Jakarta** in 1992. The conference laid emphasis on the 'development of genuine, independent and self-sustaining cooperative institutions.' It was accordingly suggested that a review of the existing cooperative legislations be undertaken for laying down realistic and appropriate cooperative development policies according to which the institutions will be required to initiate further steps for strengthening management of organisations and their business activities. This study entitled, "Role of functionaries in the management of cooperative societies" is being undertaken accordingly at the behest of ICA (ROAP), New Delhi so as to present a clearer perspective of the issues involved.

7. The study concentrates on examining the roles of the following who are the main functionaries involved in cooperative management:

- a) The chairman
- b) The general assembly/general body
- c) The board of directors/management committee
- d) The management (the chief executive)

8. For the aforesaid purpose, the legal frameworks of co-operatives of various countries are being studied. By legal framework we mean:

- * The cooperative societies acts.
- * The rules framed under the cooperative societies acts.
- * The bye-laws framed by the societies.

9. As stated earlier that over the years, the activities under the movement have multiplied and diversified manifold. During this period, the different governments have also amended the respective acts to give more powers to the government representatives nominated on the board of directors of the cooperatives. Such powers to government representatives even go to the extent of vetoing the board decisions. Many provisions to the detriment of smooth, autonomous and democratic functioning of the societies have also be introduced. The movement seeks to establish economic democracy. But all efforts in such direction appear to have been frustrated due to progressive erosion of the autonomy of the cooperative bodies. It is in this background that an attempt is also being made through this study to identify the areas of structural weaknesses and restrictive provisions, which violate the democratic processes and cause undue interference in the autonomy of the cooperatives. The study shall reveal the possible causes of degeneration which may be due to political interference or vested interests or due to programmes introduced as a corollary to increasing governmental aid.

10. The object of the above stated examination of the legal frameworks of respective countries has been therefore:

- a) to study the roles of functionaries and their adequacy for effective functions;
- b) to identify the problematic provisions, as also the anomalies which tend to retard the progress and development of genuine cooperative institutions.
- c) to suggest measures for creation of better legislative environment conducive to growth of genuine cooperatives.

11. The study acquires all the relevance and importance as it may help the cooperative leaders and international cooperative bodies to redefine the strategies and think of ways and means to restructure the organisational wings and assist in providing adequate powers to the cooperative functionaries so that the movement musters enough strength for the growth of genuine, dynamic and efficient cooperatives to carry on the tasks of economic reconstruction lying ahead particularly in the Asian countries.

12. The movement has to be self-reliant, strong and effective. We have to see how far this is possible under the existing legal frameworks, through the roles assigned to the different functionaries. Cooperatives have also to imbibe an organisational culture based on material and technical efficiency now that the cooperatives will have to necessarily compete with private and public sectors in days to come. In the light of the above, the organisations have to be strengthened by eliminating provisions causing weaknesses, which strike at the very roots of cooperative ideology resulting in managerial inefficiency. Thus, the findings of the study would be ultimately helpful in:

- a) removing restrictive provisions from the law so as to ensure efficient management of the cooperatives.
- b) improving managerial competence at different levels. Such steps may prove helpful in building cooperatives as powerful and dynamic instruments of economic development.

13. Presently, the legislative provisions of following Asian countries have been examined through this study.

- i. South Asia India, Pakistan, Sri Lanka, Nepal and Bangladesh.
- ii. South-East Asia Indonesia, Thailand, Philippines, Singapore and Malaysia

- iii. East Asia China
- iv. Far East & Pacific Japan, South Korea.
- v. Middle East Iran and Afghanistan.

14. The study is an analytical desk - research work undertaken on the basis of ICA publications, books, and periodicals, besides relevant documents and correspondence, etc.

15. The study has covered following aspects under separate chapters for proper appreciation of the issues involved:

- * Role of cooperatives in economic development as perceived in different Asian countries.
- * Cooperative management - Roles of functionaries- Country-wise profiles.
- * Cooperative management - Conceptual aspects.
- * Roles of functionaries - An analysis.
- * Towards genuine cooperatives - Legislative measures required to strengthen the roles of functionaries.

16. It is expected, the study shall benefit all those who believe that cooperatives have an important role to play in the economic development of the masses and that they do have an agenda for the future.

D.N.Upadhyay

"The past does not exhaust our duty or obligation. We owe a duty to the future also and perhaps that obligation is even greater than the one we owe to the past. For the past is past and done with, we cannot change it, the future is yet to come and perhaps we may be able to shape it a little."

*Jawaharlal Nehru
(The Discovery of India)*

ACKNOWLEDGMENTS

Today the humanity is aghast. It is standing at the cross roads, with the fear of nuclear holocaust and menace of terrorism on one side and extreme conditions of poverty prevailing on the other side. Millions of people in Asian countries are struggling for their existence, what to talk of better living.

There are big powers and their satellites spending billions of dollars on heavy armament year after year, for developing nuclear capabilities and supremacy under the pretext of security but really these efforts are for faster annihilation of masses, most of whom are unconcerned with any of the ideologies and conflicts and for whom deprivation, scarcity and misery are destined. Who has the time to think about the amelioration of the conditions of these teeming millions? Who has the resources to divert for their cause in comparison to the priorities for the games of destruction? Cooperatives provide appropriate answers to their problems.

Cooperatives are in essence "economic democracies" immune from caste, colour, religion and politics. They aim at providing economic justice to the millions. Cooperatives strive to gain strength simply on the basis of self-help and mutual-aid, for providing better economic deal to the needy. They mobilise their resource and build up potential to shield the economically weaker lot from exploitation. What an individual cannot do, becomes possible through the 'cooperative efforts' of all. It is high time serious efforts are undertaken to enhance the capabilities of such cooperatives, to focus on their effective functioning and excellence in performance.

ICA's efforts for promoting the cause of cooperatives has always been praiseworthy. It has been a proud privilege to undertake this study to identify lacuna in the roles of functionaries as they appear in the legal

framework of various countries and think about setting up genuine cooperatives by perfecting the management structures of such institutions and organisations. The causes, which have been identified and steps proposed to be undertaken to remove the hurdles may help in initiating suitable measures to improve and strengthen the coop. legal frameworks of various Asian countries. It is also very essential to bring the cooperative enactments in harmony with the cooperative ideology so as to make them purposeful. It will be pertinent to mention that cooperatives have already touched a high level of performance and carved a place of pride in the national economies. At this stage, these bodies provide a ray of hope for the large population suffering due to hunger, want and deprivation. Under the present circumstances, there could be no compromise on principles which have universal appeal and no need to slow down the process of reform in the field of cooperatives, which provide an effective weapon for solving the economic problems of millions. Vigorous steps alone could help in rapid improvement of the cooperative environment and growth of genuine and self-reliant cooperatives, which may finally lead to the fulfillment of desired objectives.

I am deeply indebted to Mr. G. K. Sharma, Regional Director, ICA, New Delhi for reposing trust in me and providing valuable guidance for undertaking this study. Hearty thanks are also due to Dr. Daman Prakash, Project Director, ICA Regional Office, New Delhi for providing guidance and helping in locating source material for this study. Mr. B.D. Pandey, Chief Librarian, ICA Library, New Delhi, and his staff extended whole hearted library assistance for the study without which the work could not have been accomplished. Thanks are due to Mr. Pandey and his staff.

On this occasion, I cannot resist from expressing my high sense of gratitude to Dr. R. C. Dwivedi, the eminent cooperative thinker, who has always been a source of guidance and inspiration to me.

Lastly, it is hoped that the study shall prove helpful in bringing some of the burning issues and restrictive provisions existing in the cooperative laws of various Asian countries, which appear to obstruct the progress of these peoples bodies, in focus. Early removal of such provisions may help in creation of a more congenial environment for the growth of genuine and effective cooperatives, which may be able to render help to the poor and needy, for whom life is a suffering in silence.

D.N.Upadhyay

**SUMMARY
OF
THE STUDY ON
ROLE OF FUNCTIONARIES IN COOPERATIVE
MANAGEMENT IN ASIAN COUNTRIES**

1. The findings and suggestions which emerge on the basis of the study on the 'Role of functionaries in management of cooperatives' undertaken at the instance of ICA-ROAP, New Delhi are summarised as under:

- 1.1 Relevance of cooperatives in the process of economic development has been recognised in all the asian countries. No doubt cooperatives are recognised as voluntary organisations functioning on principles of self-help and mutual assistance, yet expectations from cooperatives in different countries do vary. In some countries like Indonesia and Bangladesh constitutional status has been given to the cooperatives, in many others like India they have been given prominent place in national development plans recognising them as shield for the poor, instruments for socio-economic change and employment generation. In brief in every country of the Asian region, the cooperatives have been assigned important place in national development plans and strategies with due recognition of their efficacy for economic development of the masses. In Japan, cooperatives have achieved phenomenal success and have become an indispensable part of the society. Cooperation is almost recognised as a way of life.
- 1.2 The expectations are high and cooperatives are supposed to play a very important role in the economic reconstruction programmes of asian countries which are mostly less developed and have a long history of domination by Western Imperial powers. For ensuring, that cooperatives play their role effectively, it is necessary to build up cooperatives on sound lines and enhance their capabilities for rising to the occasion.
- 1.3 Genuine cooperatives can be ensured if the members also develop a sense of awareness and honesty alongwith basic understanding of the

elementary principles of cooperatives. The cooperatives are essentially democratic bodies and require full autonomy. Their functioning on sound democratic lines without interference by any one, cannot be over-emphasised. Obviously, the societies have to be member-led business organisations and not government controlled bodies.

1.4 Every country has its set of cooperatives laws and rules and every society has its own bye-laws. The enactments provides judicial status to the cooperative bodies and legal sanctity to the process of management carried out through its well defined functionaries. In each country, the law provides for (a) general body/general assembly (b) management committee/board of directors (c) chairman (elected) and (d) chief executive (elected or appointed) as the main functionaries for each cooperative body.

1.5 It is interesting to note that the legal frameworks, management structures and cooperative procedures in almost all the countries are similar. The legal frameworks and provisions in India, Bangladesh, Pakistan, Singapore, Iran, and Afghanistan have close similarity, may be because the frame works derive their origin from the period of British domination. Whereas, the provisions under the Japanese framework (followed by Republic of Korea) have a liberal orientation befitting a free nation, placing full trust in the people and their representatives. Recent enactments introduced in Philippines, Indonesia and Sri Lanka clearly reflect their awareness to the fact that they are free nations. Such an awareness is not visible in other asian countries. Even in India, where the cooperative coverage (in terms of number of societies and membership) which can be taken as the largest in the world. the cooperatives appear to be breathing under imperial shadows based on distrust towards people, despite the country having won freedom with democratic government at the helm of national affairs.

1.6 Conceptual aspects relevant to cooperative management as they should be, particularly because cooperative management has distinct elements to be taken care of are distinguishable from management in corporate sector or other business organisations so far as the principles, objectives, process of decision-making and pattern of accountability are concerned.

2. Management profiles of various countries have been analysed to see how far they:

- a) provide for democratic functioning and autonomy.
- b) help in achieving the objective of the society.

THE CONCLUSIONS ARE:

2.1 Supremacy of the general body of the cooperative is duly recognised under the cooperative laws of all the different countries under study. This is an essential requisite for cooperative functioning which envisages democratic management and functioning. It is needless to state that in democratic setup all power flows from the people, who are the masters of the respective cooperative bodies.

2.2 In every country the functions of the general body are provided in the law itself, giving them statutory support. The functions include responsibility for programme formulation, approval of the annual budget, examination of annual accounts and audit reports, disposal of net surpluses, election of members of managing committee and amendment of bye-laws. Decisions regarding amalgamation/division of societies are also the concerns of the general body.

2.3 The executive functions and administration in every society is prescribed to be the responsibility of the managing committee/board directors, which is duly elected by the general body. In some countries like India, Singapore, Indonesia and Pakistan, the functions of management committee are provided in the act itself. Whereas in countries like Sri Lanka, Afghanistan and Nepal, these are required to be prescribed by the general body or left for inclusion in the bye-laws. In China, South Korea, Japan and Iran the board of directors exercise powers as may be entrusted by the general body. In rest of the countries these are prescribed under the rules framed by government.

2.4 The rules/bye-laws provide the procedural details to be observed by the committee of management during the conduct of the business of the society. This includes the details regarding quorum, accounting procedures, etc.

2.5 The chairman in each society is duly elected and constitutes a vital part of the cooperative structure, but in no country the law prescribes any specific duties or functions to the chairman, except that he has to preside over the meetings, exercise a casting vote whenever the need arises. Rightly too, in a democratic set up, no distinct powers can be conferred on the chairman, who is one amongst the equals, decisions have to be on democratic basis and he has to share the collective responsibility for performance of results.

2.6 The management committee does need competent professionals as executives for implementation of the programmes and day today functions.

To achieve this every law provides for a chief executive to be appointed and hiring subordinate staff, whose terms and conditions are required to be decided by the society. In some of the countries, like India, and Indian States the terms and conditions of the chief executive are prescribed by the government as a corollary to government assistance. Such provisions affect the autonomy of the society and its functional ability as well.

2.7 Leaving aside this aspect related to appointment/terms and conditions of the chief executive which interferes in the autonomy of the society, the management structures/procedures in almost all countries appear to be similar and as may be broadly needed for democratic functioning.

2.8 Every society is frequently confronted with situations requiring amendment of bye-laws in view of the developmental needs. In countries like Japan, Republic of Korea, Indonesia, Philippines, Thailand and Nepal the amendment of bye-laws is the exclusive concern of the general body of the society only the proposed amendment is required to be registered. But in several other countries like India, Indian States, Sri Lanka and Pakistan the society proposes the amendments, which may be registered by the registrar only if the same are approved by him.

2.9 Similarly in countries namely Republic of Korea and Japan the general body has supreme authority regarding amalgamation or division of societies in view of the situations. whereas in Philippines, Singapore, Malaysia, India and Indian States the proposal has to be approved by the registrar before its registration.

2.10 There are countries like India, Bangladesh, Malaysia and Sri Lanka, where the government and registrars have the powers to suo-motto amend the bye-laws of the society and take decision regarding amalgamation/division of societies as well. Such provisions hit at the roots of autonomy of the society besides amounting to usurping the legitimate functions of the society by external agencies who are non members.

2.11 An analysis of roles of functionaries under different cooperative legislations reveals that the management structures consisting of the general body, management committee, chairman and chief executive ensure democratic functioning by and large, with some good points in one pattern or some weak points in another pattern which may be reviewed and remedied but in no way suffer from any deficiency or lacunae. Thus, the existing roles of functionaries under various legislations can not be held responsible for the present state of crisis in cooperatives.

3. An effort has been made to identify **legal provisions** existing in the statutes, which **obstruct** the smooth functioning of cooperatives despite

clearly defined roles of the functionaries. Which otherwise appear to be adequate. It appears that such provisions obstruct the free performance of societies and render the roles of functionaries ineffective, leading to stalemate and inertia. Politicisation, officialisation and state control have changed the image of the movement from being a 'people programme' to that of a subordinate government department.

3.1 Leaving aside 'Japan' where the democratic functioning in cooperatives has strong roots and at its best, the situation in most of the countries like-India ,Bangladesh, Pakistan, Malaysia, Singapore, Iran and Afghanistan the cooperative functioning is highly charged with government control. The cooperatives have hardly any scope for freedom of action and the registrar's presence is dominant in all areas of cooperative management and functioning. This is highly disappointing a situation. As compared to aforesaid countries, even the Chinese cooperatives appear to function with freedom and as per democratic will of the members. The government also reposes full confidence in the wisdom of the members. In Indonesia, Sri Lanka and Philippines, realising the potential of cooperatives for socio-economic development, the respective governments have recently taken lead to reform their cooperative laws. Steps taken in these countries aim at exclusion of the political and vested interests and also to cut the power of the registrar to let the cooperatives function smoothly and let the movement breath freely.

3.2 Original concepts was that the cooperative law should be simple, helpful and supportive of democratic and autonomous functioning also capable of strengthening the ideological content of the cooperative movement. On the contrary, the cooperative laws in most of the countries appear to have become highly complex. Besides other reasons, the diversification of cooperative activities alongwith increasing state aid is also responsible for bringing in provisions resulting in very tight government control and interference much against the cooperative ideology.

3.3 State participation in the management of cooperatives was contemplated as a device for providing professional advice, guidance and counselling to the cooperatives in the situations created by the rapidly growing developmental needs. Government should have continued its benevolent support and supervision by confining its role to:

- i) the administration of cooperative law, and
- ii) the developmental aspects of cooperatives, recognising them as instruments of economic development,an objective common with all the welfare governments.

However, the governments far exceeded their roles and shifted from developmental aspects to financial and managerial responsibilities.

3.4 Cooperatives have grown but without cooperative character. Cooperative leadership has weakened and cooperatives present a picture of government agencies, people's efforts not being visible anywhere. In brief, cooperative as a system based on some ideology has not developed, the basic elements have been sacrificed in the target oriented approach, and race for political patronage.

3.5 Some of the glaring **restrictive provisions** which could be spotted easily are as follows:

- i) Provision for compulsory amendment of bye-laws by the Registrar.
- ii) Power of government to nominate directors.
- iii) Registrar's powers to veto, annul or rescind resolutions of cooperative societies.
- iv) Registrar's powers to suspend/supersede board of directors/committee of management of the cooperative institutions.
- v) Powers of registrar/government to issue directives.
- vi) Powers to exempt cooperatives from application of any provision of the cooperative law.
- vii) Power to make rules for functioning of societies.
- viii) Powers for compulsory amalgamation and division of societies by the Registrar.
- ix) Provisions supportive of vested interests, which include:
 - a) Provision obstructing the regular process of election in cooperatives,
 - b) Provision permitting holding office for more terms without any limit,
 - c) Provisions permitting holding more than one office at a time.

4. Provisions needed for Strengthening Democratic Control and meeting the future challenges

4.1 Though cooperatives are recognised as effective instruments for rapid economic development, yet they have not been assigned any constitutional status or recognition in any country so far, except Indonesia and Bangladesh, who have taken some lead to do so. As cooperatives constitute a distinct sector of economy, they deserve to be given proper constitutional status. This may help in timely conduct of elections as well.

4.2 The cooperative laws of various countries refer to cooperative principles frequently but the principles have not been enunciated anywhere in the respective laws. A statement of cooperative principles which form the very basis of the movement must be clearly made in the laws/acts of the respective countries.

4.3 Cooperative laws should be brought in harmony with the cooperative principles wherever they are lacking.

4.4 Cooperatives are 'economic democracies' therefore envisage democratic functioning coupled with autonomy. The legal framework should be therefore reviewed and straightened by making clear and effective distribution of functions and responsibilities of the various functionaries of the cooperatives i.e. the general body, the board of directors, the chief executive and the functional committees in the law itself so that all doubts are removed and all the controversies may be eliminated.

- a) One of the ways in which cooperative law can assist in observance of democratic control is to insist on a reasonably **high quorum** for the conduct of business of the general meeting. This step may help in ensuring **better participation** of members. Such a step may also include provision to cancel membership of **sleeping members** say, those who are absent in three consecutive meetings of the general body and also to introduce a provision to retire or recall up to 1/5 membership every year on grounds of inactivity and indifference towards cooperative affairs.
- b) The role of cooperative legislation is particularly important when it comes to making specific provision for the functions and responsibilities of the board of directors. Unfortunately, this is an area, where most of the cooperative acts are silent, as these matters are usually left to be determined by cooperative bye-laws where they are mostly available. The result is that the board of directors is unable to arrogate to itself even those essential functions which should normally vest in the chief executive body and the other managerial personnel. This can be easily remedied. A carefully worded list of the functions and powers of the board of directors in the cooperative act itself therefore seems to be necessary. It is suggested that the cooperative legislation may invest the board of directors with the essential powers which appear to be adequate for covering various management functions like planning, finance, executive control, programme implementation and review of progress in the cooperative body.

- c) Constitution of committees on standing or adhoc basis should be liberally undertaken. The committee system ensures better accountability of the board of directors to the general body through detailed consideration and thorough examination of the matters entrusted to the committees. Such a device strengthens democratic functioning and equips the executive wings (board of directors/ committees of management) with a more meaningful democratic support. Such committees may be entrusted with specific functions towards the management of the society like planning, finance, projects, business activities, implementation and review and disciplinary matters etc. In the absence of thorough scrutiny of the pending proposals in cooperatives major aberrations and defaults come to surface bringing bad name to the much advocated democratic system of functioning.

The committee system will also help the general body and the board of directors to take a more informed view of the proposals and issues. Such a system shall strengthen the cooperative management by investing it with meaningful democratic support leading to higher efficiency and enhanced organisational capacity to deliver goods.

Constitution of functional committees covering various areas of the cooperative management shall also ensure greater involvement of the members so badly needed for success of cooperatives.

- d) With regard to the chief executive, a statement of powers and responsibilities in the legislation itself (presently left to be included in bye-laws or to be separately decided by the board of directors) seems to be highly desirable to put an end to frequent controversies regarding this functional domains.

4.5 It would be very necessary to ensure proper synthesis of provisions for democratic control with those for efficient business management. Cooperatives are now leading towards multidimensional growth. The diversified profile has converted cooperatives into a unique sector of economy all around, with no parallel. This necessitates professionalisation of the management to effectively meet the new challenges coming before the cooperatives. Appropriate legal provisions for facilitating such a process seems necessary therefore.

4.6 In order to facilitate involvement of women and youth, which constitutes a very large proportion of the population and for whom no space appears to have been assigned, definite percentage should be reserved in

the board of directors and other functional committees. Such a step will lead to a more representative character of the cooperatives and provide safeguard to their interests. Such a provision has been made in Sri Lanka.

5. Redefining Government Role: While planning to set up cooperatives on genuine lines, it is very necessary to now think about the role of the government. Government is no doubt charged with the responsibility of administration of the cooperatives laws, yet it should be made clear that its role would be more like a supporter and that it should create a helping environment by taking following positive steps to ensure sustained growth of the movement.

- i) to encourage and stimulate leadership from within the movement and itself playing the role of a catalyst, guide and a benevolent onlooker instead of usurping and substituting its own managerial role.
- ii) to ensure smooth transition of official leadership by installing democratic leadership, wherever and whenever necessary.
- iii) to ensure timely election.
- iv) to enact laws which not only strengthen the hands of cooperative leadership and help democratic functioning but indicate the parameters and inter-relationship between the elected leadership on one hand and the executives and the management wings of the cooperatives on the other.
- v) As a safeguard, to take steps for balancing autonomy at various levels by fixing accountability. (Autonomy relates to operations whereas accountability relates to results of operation).
- vi) To intervene in cooperative affairs only as a measure of last resort after appropriate consultations with the apex bodies/federations and giving opportunity to the concerned cooperative body in all fairness.

In short, the government should address itself only to commanding heights of the economy and take a lead in encouraging democratic and participative leadership in the cooperative sector.

6. De-politicisation of Cooperatives: Of late, politicians are finding the cooperative as quite congenial and fruitful for providing the frustrated partymen and the fresh careerists. This is an unfortunate trend. Cooperatives have to be immunised from the considerations of caste, colour, creed, religion and politics. Cooperative should not be involved in the electoral politics. Such a game will always be a serious threat to the cooperative

process. Political parties seldom atone for their sins and the best contribution that could be made by them would be to keep off the cooperative affairs.

7. The provisions striking at the autonomy of cooperatives and principles of democratic control as identified earlier as a result of the study have been enumerated above to answer the question as to what is responsible for the maladies and failures of the cooperative systems, if the roles prescribed under statutes and bye-laws appear to be in order.

8. Aforesaid measures shall help in cleansing and strengthening the legal frame works of cooperatives and help in building an environment conducive to the formation of genuine cooperatives. Such bodies shall be self-reliant people's bodies functioning on the eternal principles of self-help and mutual-aid through democratic means.

Such cooperatives focusing on value-orientation of members and value-addition of products are bound to succeed in achieving their objectives of rendering necessary help towards economic emancipation of the masses for whom life is a suffering in silence and may also be able to face the challenges thrown by economic liberalisation programmes.

I

ROLE OF COOPERATIVES IN ECONOMIC DEVELOPMENT AS PERCEIVED IN DIFFERENT ASIAN COUNTRIES

1. When government lays down a programme for economic development, it has also to think of appropriate ways for its effective implementation. In this context the importance of cooperatives cannot be under estimated, particularly because development requires involvement of the people for its success and cooperatives provide the best device for peoples involvement to the fullest extent.
2. The cooperatives are democratic bodies and function on the cardinal principal of self-help and mutual aid. If genuine cooperative can be ensured, cooperatives can do a marvelous job and the lot of the people can be improved faster with least dependence on government. It is very clear that government alone cannot plan or remove the poverty of every citizen, people shall also have to rise themselves to the occasion and that can be possible only through their own efforts i.e., self-help and also mutual-help.
3. Presently, the cooperative net work has spread over the entire Asian region with growing realisation that these bodies are constituted by the people and that they work for the people. Cooperatives can thus prove to be effective levers for improving the economy of the members and in turn boost the national economy as well. However during the last couple of decades, though the expansion of cooperatives has been under taken on a large scale, there has been a decline in their performance. For achieving the economic objectives, formation and growth of genuine cooperatives with correct type of leadership and a legal framework providing for an autonomous and a democratic set up for functioning of such bodies is a necessity.

4. In different countries cooperatives have been assigned roles in developmental programmes with specific objectives to be achieved by them. In **India** cooperatives are considered as major instruments of decentralised labour-intensive and rural oriented economic development. They are treated as 'shield for the weak'. It is proposed to develop a net work of agriculture, marketing, consumer, processing, industrial, housing, dairying and other types of cooperatives, on the basis of enlightened membership free from vested interests. Cooperatives are thus closely involved in the process of national planning and social change. The cooperative development plan reflects national priorities which include (a) reduction of poverty; (b) creation of employment opportunities (c) raising productivity level of economy, (d) improving quality of life of the people.

5. Thus cooperative movement has become an important sector of Indian economy and finds specific mention under the directive principles of the national constitution. No doubt constitutional status to cooperatives would be a highly desirable step.

6. In **Pakistan** the present government is convinced that the cooperative movement which represents, a system of economic democracy has great potential in the process of national development and therefore, it is given full support and assistance in all fields of economic activities. A large majority of people in Pakistan are men of small means who live in poverty and ignorance.

Most of them are farmers, workers and craftsmen with little or no resources. In this background the utility of cooperative functioning is being appreciated all the more during these years. Cooperatives are recognised as a sub-sector of agriculture. Government are supporting the cooperatives by giving them subsidies, contributing to their share capital, with preferential treatment in issuing permits and licenses for setting agro-processing units as also a major share in distribution of chemical fertilizers and housing activities.

7. In **Sri Lanka** the following broad objectives are laid down for the cooperatives to achieve:

- i. to improve the living standards of the people;
- ii. to achieve self sufficiency in such items of agricultural and industrial produce which can be produced within the country;
- iii. Optimum utilisation of the country's human and natural resources for the benefit of the total population.

8. Various developmental programmes in the country are finalised accordingly, keeping the potential of cooperatives in view.

9. In **Bangladesh** the government has constitutional obligation to promote cooperatives to ensure balanced economic growth of the country, with special emphasis on involvement of poorer segments of the society in an organised manner in the process of their development. Initially the movement was confined to agriculture banking and consumer cooperatives but now it has covered almost all the sectors of economy. The cooperative movement is considered as one of the important means for rapid economic development and is treated as '*social equaliser*'. All government efforts are directed towards shaping the movement accordingly.

10. In **Nepal** cooperatives are being realised as potential instruments for socio-economic development of the people, and all governmental efforts are being directed towards that.

11. In **Indonesia** the National Development Plan documents assign a specific role for cooperatives. Article 33 of the constitution of Indonesia states as under:

- i) the economy shall be organised as a joint endeavor based upon principle of brotherhood;
- ii) branches of production which are important for the states and which affect the life of most people shall be controlled by the state;
- iii) land, water and natural riches contained there in shall be controlled by the state and shall be used for the maximum prosperity of the people.

12. Accordingly, the cooperative programmes in Indonesia include activities covering distribution of agricultural inputs, agricultural extension services, development of animal husbandry and fisheries, plantation and forestry sectors. Cooperatives also embrace small industries, handicrafts, transportation and rural electricity areas. The 1945 Constitution of Indonesia stated that three types of sectors of economy, i.e., public sector, private sector and the cooperative sector, shall grow on the principle of brotherhood.

13. In **Thailand** the farmers cooperatives are clearly recognised and encouraged under the constitution. Section 67(2) of the constitution of Thailand states that "the state shall encourage farmers to organise themselves into cooperative form of organisations"

14. In the **Philippines** cooperatives are considered as a part of private sector. They are specifically assigned roles in agriculture and transport and selectively in other sectors. In general they are given equal opportunity

with other sectors of economy in the national development programmes. In rural electrification, agricultural credit for small farmers, rationalisation of the transport system and development of sugar industry, cooperatives have specific role to play.

15. In **Singapore** cooperatives like the trade unions have become an indispensable part of the modern society. They serve to curb and temper the excesses of our free enterprise system. It is through cooperation and mutual-aid that the ordinary wage earners have the best chance of protecting themselves from being exploited and paying exorbitant prices for consumer goods as also very high rates of interest on consumer loans. Cooperation ensures that they get maximum benefit out of their hard earned wages.

The main object of thrift and loan societies generally defined in the constitution of the societies are as below:

- i. to encourage thrift;
- ii. to prevent indebtedness of its members by enabling them to obtain loans on reasonable terms;
- iii. to assist members to reduce the cost of living and to improve their economic position.

16. In **Malaysia** the cooperative movement is classified in three broad categories (a) non-agricultural cooperative societies (b) agriculture-based cooperative societies (c) fishermen cooperative societies. In recent years cooperative movement has covered a number of other sectors covering rubber plantations, poultry and general welfare cooperative societies, where social activities like cleaning of villages, construction of roads, bridges and schools etc. are also carried out. Though the cooperative movement suffered a severe set back during Japanese occupation in Malaysia, it has come up again in view of its potential for economic upliftment of the weaker sections. Now almost all areas of economy appear to be covered through varied cooperative activities. The main objectives provided for cooperatives in Malaysia, are as under:

- i) to raise the socio-economic standard of the producers of primary products;
- ii) to increase employment opportunities in industries and non-agricultural industries; and
- iii) to utilise the members capital to carry out the various economic activities in line with the new economic policy adopted by the country.

17. Cooperative profile of **China** is unlike that of other neighbours. In China cooperatives used to be a non-government sponsored activity till 1920 when the Chinese workers, peasants and students started to organise themselves into consumer, producer, credit, transport and other types of cooperatives. The purpose was to overcome their economic difficulties and to improve their productive and living conditions. Due to civil wars and poor social development such cooperatives were scattered and there was no nationwide coverage. In other words, development of cooperatives was very limited. As the years passed the cooperative activities also underwent several changes. However after 1960, the government attitude underwent a lot of changes in the socio-economic field giving re-birth to cooperative activities with greater vigour. Now the cooperatives cover various sectors of economy besides agricultural production and consumer activities. Realising their potential for saving the poor people from exploitation, the members of the cooperatives have been given more decision making powers for better performance of the societies and making them self-reliant.

18. In **Iran and Afghanistan** the cooperative activities are gradually picking up. Presently, the societies are mostly farmers agricultural cooperatives or soldiers consumer, credit and thrift societies. After the formation of central organisation for rural cooperatives, the number of cooperatives is increasing day by day with coverage of more and more person.

19. In **Japan**, the cooperative performance is at its best not only for the farmers, but for all categories of the people, the Japanese cooperatives have successfully crossed the usual economic business activities level and have now entered a more advanced phase embracing activities of guidance for home life improvement, which includes:

- * home economy planning,
- * improvement of diet, clothing and housing,
- * cultural activities,
- * health control and sanitary education etc.

20. Commencement of this phase is an indication of the tremendous success achieved in Japan under cooperative performance, a level through which most of the Asian countries have yet to pass.

21. In **the Republic of Korea** agricultural cooperatives are farmer's voluntary organisations to promote agricultural production and elevate their living standards through close cooperation under spirit of mutual help amongst them. The Koreans have been following Japanese model closely.

22. The objectives of the agricultural cooperatives consist in providing all help for increasing productivity, improving the social and economic status of farmers, promoting the cultural betterment of farmers and assuring a balanced development of the national economy. In fact, agricultural cooperatives have substantially contributed towards developing agriculture and enhancing farm income since their inauguration in 1961.

23. Aforesaid description presents a very brief picture of the expectations from cooperatives in the different Asian countries. Obviously, the expectations are high and cooperatives are supposed to play a very important role in the economic reconstruction programmes of most of these countries which are mostly less developed and have a long history of domination by western imperial powers. For ensuring that cooperatives play their role effectively, it is necessary to build up cooperatives on sound lines and enhance their capabilities for rising to the occasion.

24. Genuine cooperatives can be ensured if the members also develop a sense of awareness and honesty alongwith basic understanding of the elementary principles of cooperatives. The cooperatives are essentially democratic bodies and require full autonomy, accordingly their functioning on sound democratic lines without interference by any one, cannot be over-emphasised. Obviously, the societies have to be member-led business organisation and not government controlled bodies.

25. Simultaneously, the present cooperative legislations as applicable in various countries have also to be examined minutely, so as to eliminate the restrictive provisions and make the enactments helpful to the cause of cooperatives. The legal enactments should provide for perfect democratic functioning. Such of the provisions, which may be obstructive should be excluded from the statute books forthwith. It will not be out of place to state that the entire region was till recently under foreign domination and the existing cooperative provisions appear to be out of context. The colonial authorities had designed and drafted the cooperative legislations assuming that the local population would not be able to manage cooperatives. Not only this, they did not want the people to come close to each other and develop amongst them the spirit of self-help and mutual-aid as the same might threaten the government existence. Therefore the approach followed in drafting the cooperative laws and rules was top down and paternalistic with seeds of anti cooperative approach engrained in them closely. The colonial powers were basically interested in collecting the agricultural produce and siphoning off the economic gains by drafting cooperative laws providing sluices for active government interference on

one side and in superficially patronising people's cooperatives which were sponsored by them, controlled by them and worked for their selfish ends through their agents and stooges and such a background has led to the present shape of things. The cooperative law as it exists in the Asian countries is dotted with provisions through which distrust towards the people is clearly reflected. All this is now a matter of history, but it is high time that cooperative legislation in most of the countries under study which is at present a colonial inheritance is reviewed abinitio and so amended or drafted afresh that it takes shape in accordance with the peoples aspirations, projecting a structure contemplating the process of planning at the grass root levels coupled with sound democratic functioning and trust in people, who are none else but citizens of the respective countries. Restrictive provisions should be identified and scrapped. Such a process of reformation may take some time but efforts made shall have the credit to recognise and protect the potential of cooperatives in improving the lot of the people while ensuring their dignity by equipping people to improve quality of their lives by their own efforts.

26. Aforesaid objectives shall require a multi-pronged attack on the problem. One of the essential steps is related to the legal frameworks wherein several anti cooperative provisions are in existence. A review of the legislative provisions obtaining in different Asian countries appears essential so far as the role of functionaries under the legal provisions is concerned. The modified provisions may make the functionaries more effective in their performance.

Even otherwise it is very necessary to consider and initiate steps for strengthening the cooperatives to face the challenges thrown by forces of economic liberalisation. If cooperative have to survive, such steps can not be postponed any longer.

II

COOPERATIVE MANAGEMENT - COUNTRYWISE PROFILES

INDIA

(India occupies a prominent place in the Asian continent in view of its size, population and other geo-economic considerations. India is a federation of several states. Some of the territories are directly administered by the centre. In case of multi-state cooperatives, central act applies. Under these circumstances, for proper understanding of the cooperative scenario study of some of the state acts alongwith the Central Cooperative Act known as Multi-State Cooperative Societies Act ,1984 appears necessary. Accordingly, the multi -state cooperative societies act 1984, alongwith the acts of two Indian states namely Rajasthan and Maharashtra (as chosen by the ICA) shall be examined. The provisions applicable to two national level apex cooperative bodies i.e. KRIBHCO and NAFED shall also be looked into for proper appreciation of the Indian cooperative scenario.)

1. In India, cooperation being a provincial subject the provincial governments are responsible for enacting, administering and supervising the functioning of cooperative law in the respective provinces. The National Parliament is empowered to enact laws only for such cooperatives, which have jurisdiction over multiple states. The Indian Constitution provides the directive principles under article 39 for the state policy. They favour cooperative approach for development. Every state has a department of cooperatives, which attends to the requirements of cooperative law, i.e. registration of societies, re-organisation and amalgamation of cooperatives, inspection and supervision, enquiries, supercessions, winding up and liquidations, audit, elections, settlement of disputes, hearing of appeals,

cooperative information and compilation of statistics for administration, alongwith the task of growth ad development of cooperatives.

2. The broad objectives of the national economic development policy in India have been discussed in the earlier chapter.

3. The first law relating to cooperatives in the country was enacted in 1904 with special focus on the agricultural development. After independence, the various cooperative societies acts were enacted in different states of India on the basis of the recommendations of various committees constituted by the central government for suggesting amendments so as to impart fresh orientation to the cooperative laws keeping in view the principles of cooperation and requirements of the people. The latest committee known as 'committee of cooperative law on democratisation and professionalisation of the management of cooperatives' submitted its report in the year, 1990, which made recommendations for deleting several legal provisions affecting the democratic functioning and also suggested measures for the development of genuine cooperatives which should be autonomous, efficient and democratic bodies.

4. As stated above, the cooperatives being a provincial subject, each province has its separate cooperative law which provides the following pattern of democratically oriented administrative set up for cooperative societies.

- a) General body of the society;
- b) Board of directors;
- c) Functional committees created by the board of directors, and
- d) The chairman and the chief executive of the societies.

5. This pattern is also followed in the multi-state cooperative societies act 1984 framed by the Government of India for societies having jurisdiction over more than one state. This act was made effective from 16th September, 1985 after repealing the earlier law. Chapter IV of the MSCS Act provides for "Directions and Management of Multi-State Cooperative Societies". According to the act the **general body** of the MSCS consists of all the members of the society and has the ultimate authority of a MSCS (subject to other provisions of the act). Wherever in any multi-state cooperative society, the board of another MSCS is to be represented, it shall be done through the chairman or the chief executive of such society, in case there is no board for such a cooperative society, the representation shall be through the administrator. Every MSCS, after the close of the year shall call a general meeting of the members within the prescribed manner

and within such period as may be prescribed for the purpose of policy making and ensuring proper functioning of the society. Precisely the following functions are assigned to the general body of any MSCS:

- a) Consideration of the audit report and annual report;
- b) disposal of net profits;
- c) approval of the programme of activities for the ensuing year;
- d) amendment of bye-laws;
- e) elections if any, of the members of the board, other than nominated members, subject to the provisions of Section 35 and Section 30.

6. In the event of the society failing to call the general meeting within the prescribed time, the central registrar or any person authorised by him, shall be competent to call such meeting and that meeting shall be called a general meeting duly called by the society. The minutes of the general body shall be recorded and a copy of the same shall also be sent to the registrar. decisions of the general body shall be final. Here it will not be out of place to mention that the MSCS does not confer any powers on the chairman of the society nor assign any functions to him. He is supposed to preside over the meetings and exercise the casting vote. He is like any other member in the process of decision-making by the governing body or the board of directors. He is however the chief spokesman, for the society and in the best democratic traditions, doesnot hold any special powers /duties to eliminate arbitrariness and cleavages in the body where equality of status provides the basis for the cooperative superstructures.

7. Subject to the provisions of this act and rules made thereunder, there shall be a board of directors for every MSCS consisting of such a number of members as may be provided under the bye-laws. In each such society representatives of the employees of the society shall also be involved in the management and decision making process. This is a unique provision available in the MSCS Act '84. The elections to the board of directors shall be according to directions and control of the central government to be intimated through general or special order. As per section 41(1) of the act when the central government or a state government has subscribed to the share capital of a MSCS or has guaranteed the repayment of the amount of the loan with interest, the central or the state government shall have right to nominate on the Board such number of persons as may be prescribed.

8. Section 42(2) prescribes the powers and functions of the board which are as under:

- a) to admit members;
- b) to interpret the organisational objectives and set up specific goals to be achieved towards these objectives;
- c) to make periodic appraisal of operations;
- d) to appoint a chief executive and such other employees of the society (out of the list of persons referred to in section 50) as are not required to be appointed by the chief executive.
- e) to make provisions for regulating the appointment of employees of the multi-state cooperative society and the scales of pay, allowances and other conditions of service of, including disciplinary action against such employees;
- f) to approve annual and supplementary budget;
- g) to acquire or dispose of immovable property;
- h) to raise funds;
- i) to sanction loans to the members; and
- j) to take such other measures or to do such other acts as may be prescribed or required under this act.

9. The chief executive of the society convenes the meetings of the boards at the instance of the chairman of the society. The board is supposed to meet atleast once in every quarter.

10. In every society there shall be a chief executive, appointed by the board, who is a full time employee of the society. He shall be a member of the board and the executive committee or any other committee constituted under section 46(1) of the act. The functional directors shall also be members of the board. While appointing a chief executive, where more than half of the share capital of a society has been subscribed by the central government; prior approval of the central government for appointment of the chief executive and the functional directors shall be obligatory.

11. Section 45 of the act lays down powers and functions of the chief executive which are listed below:

- a) day-to-day management of the business of the multi-state cooperative society;
- b) operating the accounts of the multi state cooperative society and be responsible for making arrangements for safe custody of cash;
- c) signing the documents for and on behalf of the multi-state cooperative society;

- d) making arrangements for the proper maintenance of various books and records of the multi state cooperative society and for the correct preparation, timely submission of periodical statement and return in accordance with the provisions of this act, the rules and the bye-laws;
- e) convening meetings of the general body of the multi-state cooperative society, the board and the executive committee and other committees or sub-committees constituted under sub-section (1) of section 45 and maintaining proper records for such meetings;
- f) making appointments to posts in the multi-state cooperative society in accordance with the rules made under clause(s) of sub-section (2) of section 42 expect the posts in relation to which the power of appointment vests in the board under clause (d) of that sub-section.
- g) assisting the board in the formulation of policies and objectives and planning;
- h) furnishing to the board periodical information necessary for appraising the operation and functions of the multi-state cooperative society;
- i) performing such other duties and exercising such other powers as may be prescribed in the bye-laws of the multi-state cooperative society.

12. The board may constitute an executive committee or any other committee or sub committee for specific purposes in accordance with the bye-laws of the society. For different acts and activities the functionaries are accountable to the general body ultimately. Thus the management pattern in any MSCS appears to be democratic but the set up and delegation of powers are subject to the other provisions of the act, which contains provisions striking at the autonomy in one way or the other. These are being mentioned below:

- The registrar is entitled to attend the general body meeting even without being invited.
- The cooperative law generally emphasizes a regulatory and restrictive relationship between the government and cooperatives. Most of the powers are concentrated in the hands of either the central registrar or the central government, these include powers regarding election, audit, inspections and enquiries, etc. Cooperative law also contains restrictive provisions such as:
 - * Amendment of bye-laws shall be subject to registration, i.e. scrutiny by the registrar (refer section 10 MSCS act).
 - * Compulsory amalgamation and re-organisation of cooperative societies (refer section 15 MSCS act). The order for compulsory

amalgamation and re-organisation by the registrar shall not be applicable (refer section 91-B MSCS act).

- * Appointment of government nominees (refer section 41(1) of MSCS act).
- * Power for **supercession** of board of management and appointment of administrator in place of the board (refer Section 48(1) of MSCS Act). An order for supercession of the board shall not be applicable in view of section 91-C of the MSCS Act.
- * Provision for removal of an elected member by the Central Registrar also exists (refer Section 40 of the MSCS Act).
- * Central government has retained powers to make rules for election of members to the board (refer Section 35(5) of the MSCS Act).
- * Central Government has retained powers to issue directions to a multi-state cooperative society u/s 47 of the MSCS Act.

13. Other features of the MSCS Act, which attract attention are:

- i. In this act, vide section 33 provision has been made for association of employees in the decision making process. The MSC societies are required to provide for such participation in the bye-laws, subject to administrative instructions which may be issued by the central government in this behalf.
- ii. The rules framed under the act provide that where the central/state government have contributed to the share capital, they can nominate upto one third of the strength of the board or three, whichever is less. The bye-laws of a society may, however, provide for nomination of persons in excess of these limits.
- iii. Where the central government have subscribed more than half the share capital of a national cooperative society, such society shall have to seek the prior approval of the central government to the appointment of chief executive and the functional director.
- iv. Selection of chief executive and other management posts in national cooperative societies shall be made through a selection committee to be constituted by the government for the purpose. The MSCS Act also provides for framing rules and procedures for such selections vide section 50.
- v. The MSCS Act provides for voting rights to the employees also (refer section 22). This does not appear to be a desirable provision as it may help in manouvering during the process of elections.

14. The aforesaid provisions have been continued despite protests by the Indian Cooperative Movement. It would have been certainly better if cooperatives would have been allowed to function as independent bodies full of self regulation and self control. In view of this concept the powers of audit, supervision and control that vest, presently, in the central registrar of cooperative societies too should have been passed on to an independent apex level cooperative authority to be specially constituted.

KRIBHCO (INDIA) (Krishak Bharti Cooperative Ltd)

15. In pursuance of the provisions of the multi-unit cooperative societies act, a society "Krishak Bharti Cooperative Limited" was registered as a multi-unit cooperative society on 17th April, 1980. Today, it is a giant cooperative enterprise and a matter of pride for the Indian cooperative movement.

16. The objectives of KRIBHCO include promotion of economic interests of its members by undertaking manufacture of chemicals, fertilizers and allied products conducive to the development of agriculture and rural development. The organisation could undertake appropriate activities in furtherance of these objectives. Its membership is constituted by Government of India, N.C.D.C., IFFCO, Tribal Cooperative Marketing Federation, apex cooperative federations of states, consumer cooperatives, primary agriculture cooperative societies, regional and district level cooperative credit societies, dealing with the different agricultural activities of the states and national level bodies alongwith other cooperative organisations/undertakings engaged in fertilizer, or agriculture development programmes. With much wide and high level membership and authorised share capital of Rs. 500 crores, it is also provided that the final authority shall vest in the general body, constituted in accordance with the bye-laws. Provision for a representative general body of KRIBHCO also exists. The procedure for election of delegates to the general body from various states of Indian Union shall be in accordance with the rules framed by the board of directors with the approval of the central registrar. The task of election and removal of the members of the board of directors (except those nominated by Government of India) and other government bodies alongwith any amendment or repeal of existing bye-laws and enactment of new bye-laws shall require approval of Government of India till such time the share capital subscribed by the government is fully retired. These provision of bye-laws thus strike against the supremacy of the general body. Other powers of the general body are however as under:

- i. Consideration and adoption of annual report and accounts of previous year, review activities of the current year and approval of programme of activities of ensuing year as presented by the board of directors;
- ii. Consideration of audit report;
- iii. Expulsion of members;
- iv. Distribution of net profits.

17. The bye-laws provide the procedure for convening a meeting of the general body. For conducting regular business, a board of directors consisting of 6 directors is required to be elected by the general body as per bye-laws No. 37. Meetings of the board of directors shall be held in accordance with the provisions made in the bye-laws. Bye-law No. 46 specifies powers of the board of directors which are as under:

- i. to admit members, to authorise convening of meeting of the general body and to fill any vacancies in the board amongst the elected directors by co-option also to fill vacancies in the general body; among the elected delegates by co-option;
- ii. to approve annual and supplementary budgets, and to recommend to the general body distribution of profit;
- iii. to appoint, suspend or remove the managing director and the finance director subject to the prior approval of the Government of India and to remove, suspend or appoint other functional directors whose maximum pay exceeds Rs. 2750/- p.m.;
- iv. to frame regulation regarding recruitments, scales of pay and service conditions of employees of KRIBHCO and to sanction posts for the administration of the affairs of KRIBHCO whose maximum of pay scales exceed Rs. 2750/- p.m.;
- v. to raise funds for the business of KRIBHCO and determine the terms and conditions with prior approval of Government of India. To decide matters relating to withdrawal, transfer and forfeiture of shares;
- vi. to determine terms and conditions of collaboration with cooperatives and others in India and abroad. To authorise persons to sign on KRIBHCO's behalf, bills, notes, receipts, acceptances, endorsements cheques, releases, contracts and documents;
- vii. to sanction contracts of all values unless otherwise provided for in the bye-laws;
- viii. to delegate all or any of the powers, authority and discretion vested in the board to the managing director or other employees or employees of

KRIBHCO subject to the ultimate control being retained by the Board;

ix. to exercise all or any of the powers of authority vested in the general body till a general body is duly constituted;

x. to appoint such committees, sub-committees or standing committee as may be necessary and delegate to them such powers as may be appropriate.

18. Thus, all aspects of administration of KRIBHCO i.e. personnel management, financial management, resource mobilisation, election procedures, monitoring/reviews, appointment of committees, committees and standing committees for controlling and transacting business and day today affairs of the organisation appear to have been taken care of with necessary authorisation in favour of the functionaries. Even after this, the general body may further confer any power or authority to be exercised by itself to the board of directors or any sub-committee.

19. The board of directors is supposed to elect a chairman and a vice-chairman. The chairman and in his absence the vice-chairman presides over the meetings of the general body and the body of directors.

20. The bye-laws provide for constituting executive committees of the board of directors in accordance with bye laws No.51(a), with well defined functions and responsibilities subject to the overall control and authority of the board of directors. The bye-laws also define the powers of the managing director who acts as the chief executive of the society and who shall be responsible for the conduct, supervision and management of the day-to-day business and affairs of the society.

21. The bye-laws appear to be in order and ensure smooth democratic functioning but do include some provisions for exercise of control by the government at crucial stages, in view of the contribution to the share capital of the organization. Liberalization in respect of such provisions would go a long way in strengthening the roots of cooperative functioning in the society.

22. The chief executive is an important functionary of a cooperative. In KRIBHCO, he is selected through a selection board constituted by the Government of India as per the bye-laws and is designated as managing director. His powers and functions are as under:

i. to have a general control over the administration and act as chief executive of the society;

ii. to convene the meetings of the board of directors/executive committee/or any other committee/sub-committee of KRIBHCO at the instance of the chairman or, in his absence, the vice-chairman.

- iii. to be responsible for the general conduct, supervision and management of the day-to-day business and affairs of KRIBHCO.
- iv. to receive all money and securities on behalf of KRIBHCO and to make arrangement for the proper maintenance and custody of cash balance and other properties of KRIBHCO.
- v. to endorse and transfer promissory notes, government and other securities and to endorse, sign, negotiate cheques and other negotiable instruments on behalf of KRIBHCO.
- vi. to sign all deposits, receipts and operate on the account of KRIBHCO with the bank.
- vii. to be the officer of KRIBHCO to sue or to be sued on behalf of KRIBHCO and sign all bonds and agreements in favour of KRIBHCO.
- viii. to create, subject to budget provision, posts, whose maximum of pay scales are below Rs.1700/- and to appoint, suspend or terminate employment of personnel in respect of these scales.
- ix. to determine powers, duties and responsibilities of the employees of KRIBHCO.
- x. to institute, conduct, defend compound or abandon any legal proceeding by or against KRIBHCO.
- xi. subject to the regulations, if any, which may be framed by the board of directors to enter into negotiation and sanction contracts and incur expenditure upto the value of Rs.1 crore in each case during the construction phase.
- xii. to delegate all or any of the powers, authorities and discretions vested in him to any employee or employees of KRIBHCO subject to the ultimate control and authority being retained by him.

23. Thus the powers appear to be quite comprehensive taking care of all types of situations which may arise in day-to-day affairs of a cooperative organisation. However, one aspect that needs mention is that the chief executive is selected by a panel constituted by the Government of India and is also removable after the specific approval of the government. This procedure dilutes his sense of accountability towards the society and may need some reconsideration to brand the functioning of the cooperative as fully autonomous.

NAFED (National Agricultural Coop Marketing Federation Ltd)

24. NAFED is a national level cooperative federation of India of all the state level cooperative marketing federations. It is an example of a very

successful agricultural cooperative marketing institution of apex level of the country. It is exciting to state that its annual business turn over is of the order of Rs. crores. It is also governed by a well organized legal framework providing for a sound management set up and cooperative traditions.

25. NAFED has its operational area spread over all the states in the country and has therefore been registered by the Central Registrar of cooperative of India. It has its own bye-laws, providing for clearly defined objectives and procedures. The objects of the NAFED shall be to organize, promote and develop marketing, processing and storage of agricultural (including horticultural and forest) produce, distribution of agricultural machinery, implements and other inputs, undertake inter-state and intra-state, import and export trade (wholesale or retail as the case may be) and to act and assist for technical advice in agricultural production for the promotion and the working of its members and cooperative marketing, processing and supply societies in India. In furtherance of these objectives, the NAFED is free to undertake one or more of the related activities as specified in the bye-laws No. 3.

26. NAFED being an apex level national body has been constituted by State level Marketing Federations' Cooperative Marketing Societies, NCDF, NCCF and Government of India as its members. Accordingly, there is provision for membership representing all the categories of the members, the bye-laws provide the procedure to be followed by electing members by the general body and also for censuring of membership. The board of directors is the final authority to take decision about inclusion of any applicant as a member and in the event of refusal, an appeal can be presented to the general body whose decision would be final. Thus, there is no scope for interference by any agency outside the organization in regard to membership issues and the decision of the general body is final.

27. The general body of NAFED consists of one representative each of the members admitted under the bye-laws and the directors of other organisations on the board of directors of NAFED under bye-law 20 including the two co-opted directors.

28. The annual general meeting of the general body shall be called within a period of six months after the date fixed for making up of its accounts for the year. A special general body meeting could be called at any time by the managing director on receipt of a requisition from 1/5 of the total No. of members or from the central registrar, of cooperative societies. Convening of the special general meeting may require one month's notice, whereas the AGM may require 21 days notice in advance. The presence of at least 1/2

or a minimum numbers of 20 members shall be the quorum needed for conducting necessary business. However, no quorum shall be required for adjourned meetings and the chairman shall have the casting vote in the event of equality of votes. Any member having arrears of share money shall not be allowed to vote. The general body shall have a chairman and two vice-chairmen elected by the general body in which the supreme authority in all matters relating to the administration of NAFED vests. The minutes of the general body shall be recorded and signed by the chairman. Without prejudice to the general provisions under the bye-laws, duties and powers of the general body shall be as under:

- i. to elect, suspend or remove the members of the board of directors, excepts those nominated by the Government of India (NCDC - National Cooperative Development Corporation).
- ii. to consider and adopt the annual report of NAFED, its audit report and audited balance sheet and profit and loss account and its programme of activities prepared by the board of director for the ensuing year.
- iii. to dispose of profits in accordance with the act, notified rules and these bye-laws.
- iv. to fix the maximum borrowing limit which shall be subject to the approval of the registrar.
- v. to amend the bye-laws.
- vi. to expel members.

So far as amendment in bye laws is concerned, a resolution of the general body to undertake the amendment, could be passed by a vote supported by not less than 2/3rd of the members present.

29. The bye-laws provide for a board of directors to be elected by the general body once in three years; (as per bye-law 20). The election procedure has been clearly laid. The board shall elect a chairman and the vice-chairman whose terms will also be co-terminus with the general body. The meetings of the board shall be ordinarily held once in every quarter, but in the case of urgency decisions could be taken by circulation and such decisions shall also have the same force as other decisions of the board. Seven directors present in the meeting shall constitute the quorum, however, there shall be no condition of the quorum in the case of adjourned meetings and the directors present shall trasact the business. The bye-laws provide that the chairman and in his absence the vice-chairman (senior in age) shall preside over the meetings. Each member shall have one vote. A member of the board of directors shall cease to be a member under specific

conditions (bye-law 27). The board of directors has been conferred with adequate powers for conducting the affairs, covering all the areas i.e. related to finance, business, personnel, framing of rules, appointment of committees, distribution of profits, investment policy, admission and suspension of members etc.

30. It will be seen that all the powers and directions needed for effective functioning, division of work, chain of commands, control and maintaining efficiency appear to have been conferred on the board, ensuring a sound structure and delegation of powers needed for smooth and quick decision making in a cooperative organization of this type.

31. The board of directors shall be free to constitute executive committee, consisting of the chairman, vice-chairman, six directors and managing director with specific powers and functioning as provided under bye-law 32.

32. The board shall also constitute a business committee consisting of the chairman, 5 members out of the elected directors, one representative from Government of India, and the managing director. The business committee shall laydown the general policy about the conduct of overall business of the federation and shall prescribe appropriate terms and conditions and review the same on quarterly basis.

33. So far as the managing director is concerned, he shall be the chief executive of the organisation and appointed by the board of directors on specific terms and conditions as may be decided by the board. He shall be responsible for the conduct of the business and shall exercise control over the administration of the NAFED subject to the overall control of the chairman. He shall advise the board of directors, executive committee, business committee and other committees in framing the policies and programmes of the federation and implement the same after approval. Bye-law No.36 specifies the duties and functions of the managing director quite precisely.

34. Bye-law No. 42 provides for settlement of disputes and provides that such disputes shall be referred to the Central Registrar for being settled in accordance with the cooperative societies act.

35. From the aforesaid picture, it is evident that the structure of NAFED appears to have been based on sound cooperative ideology and traditions. Provision for framing necessary working rules and procedure for effective decision making process have been made under the bye-laws. Apparently

there are no provisions adversely affecting democratic functioning of the organisation or supremacy of the general body as may be available in some other apex cooperative organisations. It may be mentioned that there is no provision for referring any of the decisions of NAFED to the Government of India or to any external agency for approval. The regulations and bye-laws do not provide for any in-roads for interference in the regular functioning of the body.

RAJASTHAN (A State of the Indian Union)

36. Cooperative legislation in Rajasthan has a long history. A review of historical development being not very relevant for the present study, we proceed to examining the present Cooperative Societies Act of Rajasthan, which was promulgated in 1965 by the state legislature and the rules as notified by the state government subsequently in 1966.

37. In pursuance of the national policy to modify the cooperative laws by removing anti-democratic provisions prevailing in different states, necessary steps were initiated in Rajasthan also. Accordingly, the state laws were liberalised in many respects. However, several provisions still continue which act as levers for putting hurdles in smooth functioning of cooperative bodies.

38. Under the existing legal framework the final authority of the cooperative society vests in the general body of the members, subject to the provisions of the act and the rules (refer section 29 of the R.C.S. Act, 1965). The general body is authorised to constitute a smaller body consisting of delegates of members of the society elected in accordance with the bye-laws for a specific function. The general body is supposed to hold its annual meeting. Provision exists for calling a special general meeting for considering urgent matters also. The functions assigned to the AGM (under section 30 of the act) are as under:

- a) Approval of the programme of the activities of the society as prepared by the committee for the ensuing year;
- b) Elections, if any, (in the prescribed manner) of the members of the committee other than nominated members;
- c) Consideration of the audit report and the annual report;
- d) Disposal of the net profits.

39. Provided that, if no such meeting is called within the prescribed time, the registrar or any person authorised by him may call such a meeting in the

manner prescribed and that meeting shall be deemed to be a general meeting duly called by the society.

40. Provided further that the registrar may order that the expenditure incurred in calling such a meeting under the foregoing proviso shall be paid out of the funds of the society or by such person or persons who, in the opinion of the registrar, were responsible for the refusal or failure to convene the general meeting in time.

41. It is provided that all members in the society shall have equal opportunity to serve the organization and its various committees on the principle of "*one member one vote*".

42. It would appear that the prescribed agenda for consideration of the AGM confers all necessary authority to the general body, but the provisos to section 32 simultaneously provide channels for the registrar to interfere and control the free functioning of the society. In this context section 32 is also noteworthy which confers powers on the registrar to rescind resolutions taken by the general body or management committee of the society.

42(a) The autonomy of the society so far as framing its bye-laws, amendment of bye-laws and powers to decide about amalgamation, division and re-organisation of societies are concerned, the same are nullified by registrar's power under section 14 and 17 of the act empowering him to direct such action on compulsory basis. Registrar is also empowered to issue orders for removal of a member or suppression of a management committee vide section 36 of the act. He is also responsible for conduct of audit under section 71, enquires and inspections under section 73 and resolution of disputes under section 75 of the act. Thus, registrar's hands are prominently visible in all areas of cooperative functioning.

The state government also has the power to appoint government nominees on the board of directors under section 33, frame rules for functioning of the societies under section 148 and exempt societies from the application of specific provisions of cooperative law under section 139 of the act.

These provisions appear to be clearly detrimental to the autonomy and democratic functioning of the society. With the existence of the sub provisions the autonomy of the society is rather reduced to a mockery.

43. The general body of the cooperative society is authorised under section 33 of the act to constitute 'committee of management' or 'board of

directors' for conducting the affairs of the society in accordance with the bye-laws. This is done through the process of election. As per the state act the functions of the managing committee shall be as under:

- i. To observe provisions of the act, rules or bye-laws in all its transactions.
- ii. To maintain true account of the money received and spent.
- iii. To maintain accounts of the assets and liabilities of the society.
- iv. To Facilitate inspection of books by those authorised to do so.
- v. To prepare and present to the general meeting the profit and loss account annually.
- vi. To admit persons as members and to maintain members register up-to-date.
- vii. To watch utilisation of the amounts of loans and perform all functions in regard to their recovery.
- viii. To call the special general meeting on receipt of requisition according to the provisions of the act and bye-laws.
- ix. To request the registrar cooperative societies to recover instalments or part thereof as arrears of land revenue in appropriate cases.

(The duties of the members of the management committee shall be as prescribed in the bye-laws). The appointment of officers and employees shall be as per Rule 41 of the rules and their conditions of service shall be specified by the Registrar.)

The general body of the society shall be free to constitute one or more sub-committees for different functions or activities, these may be standing committees or adhoc committees. It is very relevant to mention that decisions of the committee of management are also governed by section 32 under which the registrar has been conferred the powers to rescind resolutions. Thus the set up envisaging democratic functioning and autonomy of the society under the act remains on paper only and is reduced to a mockery by the exercise of powers by the registrar under section 32.

44. It is further noteworthy that the government or the registrar are empowered to nominate the full board of directors of some societies under the provisions of the bye-laws although, no such provisions, authorising the registrar to appoint the full board of directors, exist in the act. Such a provision under the bye-laws goes much beyond the act and is thus highly objectionable.

45. After having discussed the provisions hitting the concepts of democratic functioning as above, we proceed to identify other provisions of the

act which have restrictive or negative impact from the angle of cooperative ideology.

- i. Rajasthan Cooperative Societies Act, 1965 does not define the principles of cooperation. Although a society is required to promote the economic interest of its members in accordance with the cooperative principles. It would be advisable to embody the principles of cooperation also in the act so that they get the statutory force.
- ii. The act defines cooperative society as a society registered under the act. This definition is very superficial and hardly conveys the true meaning. A proper definition should be provided, so that the concept may be clearly understood.
- iii. The responsibility for convening the AGM is conferred on the board of directors of the society. Timely holding of AGM is very essential as besides considering the annual accounts and audit report, decision regarding holding elections to the committees is also required to be taken by the AGM. Vested interests go on postponing the steps to convene AGM on grounds of non-preparation of the annual accounts and the audit reports so that decision regarding elections may also be postponed. Such a strategy is usually adopted by vested interests who manage to perpetuate their influence and continuation by maneuvering the delay in holding elections. As it is very necessary to hold the elections regularly and in time, the process of holding elections should be delinked with other activities like presentation of annual accounts and audit reports. It should be ensured that annual accounts are submitted necessarily within say one/two month of the closing of the financial year and holding elections a month before the expiry of the term of the out-going management should also be made mandatory. Such a step shall eliminate chances of maneuvering by '*vested interests*' and also bring about regularity in holding elections, so necessary for maintaining freshness and vitality of cooperatives.
- iv. The problem of vested interests has also to be tackled firmly by imposing restrictions on holding office say for more than two terms and prevent the services of cooperatives from being monopolised by a few persons.
- v. Under the existing provisions of the act, the government is empowered to appoint a board of directors of a society, under specified circumstances. These provisions should be reviewed so

as to eliminate possibilities of maneuvering. Such a step shall plug the channels for political interference. Similarly, provisions for simultaneously holding more than one office should also be reviewed.

- vi. Existing provisions for settlement of the disputes should be reviewed and so designed that the executive interference in settlement of disputes becomes impossible. This could be achieved by constituting cooperative tribunals and conferring necessary powers on them.
- vii. Section 139 of the Rajasthan Act provides that the government may by general or special order exempt any cooperative society from any of the provisions of the act and may direct that such provisions shall apply to such societies or class of societies with such modifications as may be specified. This innocently worded provision is capable of being subjected to gross misuse by the state government, which may be beyond imagination. The state government has been using this provision to exempt the societies from the very normal process of election and appointment of government officers as administrators for indefinite periods, whenever political need or exigencies arise. There can be no more anti-cooperative and disastrous a provision than this. Despite the slogans and drives for removal of restrictive provisions from the cooperative acts, this provision has survived on account of its potentiality for high mischief and political interference. Such a provision should be scrapped forthwith so as to purify the cooperative law.

46. It would thus appear that though the management of the society vests in bodies whose character and appearance is democratic yet, despite the aforesaid provisions and democratic set up envisaged under the law, there do exist several provisions which are undemocratic and have a reverse effect.

47. Such provisions lead to strengthening of vested interests, political and bureaucratic interferences making cooperative functioning a farce and a subject of mockery. An eminent cooperative thinker Dr. R. C. Dwivedi even remarked on one occasion in Rajasthan that *“such provisions have not only reduced cooperative functioning to a farce, but Rajasthan has been converted into a graveyard of cooperatives.”*

48. Appropriate corrective/remedial steps in the light of above comments may lead to emancipation of the cooperatives and their resurgence as dynamic bodies for the good of the people.

MAHARASHTRA (A State under the Indian Union)

49. Cooperation being a state subject, as per constitution of India, every state of the Indian Union had its own cooperative law. The framework provided for cooperative management in different states remain the same, yet there are several variations depending upon local practices, culture and government orientation towards the cooperatives.

50. Maharashtra is one of those Indian states, where cooperatives have touched the highest level of success and excellence in performance. It is a matter of pride to state that 56% of the nation's sugar production is by the cooperative sugar mills of Maharashtra. Mostly the legal provisions in Maharashtra are helpful to cooperative development and encourage initiative of the members. The state has a vibrant and forward looking cooperative culture, supported by enlightened leadership and faith in cooperative principles alongwith high democratic traditions.

51. The legal framework of Maharashtra provides for supremacy of the general body of the members and management is ensured through properly elected bodies on democratic lines. The organisational structure consists of the general body, the board of directors, the chairman, all elected in accordance with act, rules, and bye-laws and the managers/executives as paid employees of the cooperative societies. The functioning of the aforesaid team under the provision of the act does not leave much for comments in regard to the role of functionaries but some of the provisions of law appearing restrictive and highly damaging to the cause of co-operatives may be enlisted below:

- i. The law provides for open membership and free registration of the societies on application by atleast 10% of the resident of the areas of the operation of the society (refer section 6 of MCS Act). The law provides for nominal, associate and sympathiser members also (section 24 of the Act). Such members are however not entitled to any share in the profits or assets of the society and do not have any privilege or rights of a member. In the event of Registrar refusing to registrar the society, the law provides that he shall submit a report to the government, whose directions thereon shall be final (refer section 9). Such a provision has a delaying effect.
- ii. However, before registration, the registrar is supposed to discuss the proposal with the promoters and give them an opportunity to fulfill the deficiencies and observe the required formalities expected from the promoter members.

iii. In Maharashtra the law confers all supremacy for conducting the affairs of the society on the general body of the society (refer section 72). The general body being the final authority possesses over-riding powers on managing committee, constituted under the bye-laws. It has been held by the Bombay High Court that the general body of cooperative society is the supreme authority and is free to do what is not prohibited by the act, rules, bye-laws and the general law of the land. As per section 73, the management of the society vests in a committee, constituted according to the provisions of the act, rules, and bye-laws. The committee shall exercise powers and perform such duties as may be conferred or assigned by the act, rules and bye-laws. According to the rules, the first meeting of the general body is supposed to transact following business:

- Election of a president for the meeting.
- Admission of new members.
- Receiving a statement of accounts and reporting all transactions entered into by the promoters upto 14 days before the meeting.
- Constitution of a provisional committee until regular elections are held under the bye-laws. The provisional committee shall have the same powers and functions as the committee elected in accordance with the bye-law.
- Fixing the limit upto which the funds may be borrowed.
- Any other matter which has been specifically mentioned in bye-laws.

52. All the general meetings of the society excepts the first shall be convened by the secretary or any other officer authorised by the bye-laws under intimation to the registrar. The rules provides for 'quorum' and voting in person on the basic principle of '*one member one vote*'. At regular meetings of the general body the committee shall lay annual statement of accounts including balance sheet within 45 days of the close of the cooperative year appended by explanatory comments of the committee. If any default is made in calling a general meeting within the prescribed period, the Registrar may order and ask any officer or member of the committee, whose duty it was to call such a meeting and who without reasonable excuse failed to comply with the provisions of the law (refer section 75), he may disqualify such a officer or a member for a period not

exceeding three years, from functioning as such and may also impose a penalty as prescribed in the law. These provisions provide sufficient safeguards to the supremacy of the general body, but provision for interference by the register is clearly visible. Some alternative democratic arrangement ensuring the same action could be thought. Section 77-A of the Maharashtra Act provides that if at the first constitution of the management committee, the society fails to elect all or any of the members of the committee, registrar may pass orders constituting another committee consisting of not more than 3 members or appoint an administrator who may not be a member, to manage the affairs. Provisions under section 79A of the act are also significant, which empower the government to issue directions to the society for securing proper management. With this object in view, the registrar is authorised to remove any member of the committee and appoint any other person for the remaining term of office, declaring the expelled member as disqualified upto a period of six years. Thus the registrar has very strong powers under law to intervene and take action to enforce obligations. Such provisions are quite detrimental to the democratic functioning and traditions. Such provisions need review and amendment.

53. Like provision under section 139 of the Rajasthan Act, the Maharashtra Act also provides section 157 conferring powers on the state government to exempt a society or class of societies from operation of any of the provision of the act or rules made thereunder, or issue of directions to the society that a particular provision of law shall not apply or apply with such a modification. These provisions provide a lever for gross misuse and interference by politicians, damaging the cause of cooperatives.

54. So far as the powers to amend the bye-laws are concerned, the society is free to amend its own bye-laws but what is the sanctity of such powers in the face of registrar's supreme authority to amend bye-laws, issue directions, rescind resolutions and supersede the management of the society. This is the general picture of the cooperative legal framework not only in Maharashtra but in almost all the other Indian states.

55. Under the aforesaid circumstances, though outwardly democratic functioning of the cooperatives is propagated but presence of highly undemocratic and restrictive provisions in the respective acts are clearly visible, mention of which shall be taken up in latter chapter. Such provisions kill member's initiative and help in political interference and malfunctioning leading to erosion of peoples faith in the movement obviously, such provisions need review and amendment.

PAKISTAN

56. The cooperative movement in Pakistan started functioning initially with the inception of the credit societies. Pakistan inherited the old structure and legal framework of cooperative movement which existed in the British India, i.e., prior to 1947. Amendments have been made by the government to re-organise the structure keeping in view the responsibilities assigned to the cooperatives from time to time. However, the movement is still mostly credit-oriented.

57. The legal framework of cooperative societies in Pakistan consists of::

- i. The Cooperative Societies Act, 1925 and the Cooperative Rules, 1927.
- ii. Multiple-unit Cooperative Societies Act, 1942.
- iii. Cooperative Farm Act, 1976.
- iv. The Federal Bank of Cooperative Act, 1976.

58. The supreme authority in the cooperatives vests as per law in the '*general body*' of the society constituted by the members. In every society the general meeting (SGM) is held in the first quarter of the agricultural year and afterwards when the session for sowing and harvesting of the crops arrives. However, a special general meeting could be held on receipt of requisition in writing from 1/5th of the members of the society for considering questions of urgent nature.

59. The SGM has also the authority to decide about all such matters which have to be decided by the AGM under the bye-laws. General meeting is held after a notice of 15 days for which a proper notice specifying the date, place, time and agenda of the meeting is required to be issued. If the President of the society fails to call the special general meeting within the said time limit, the Registrar is authorised to order holding of such a meeting on the request of the members, if the president does not comply with the directions of the registrar, then the registrar himself can call a special general meeting and such SGM shall have the authority to take decisions about all matters which may be decided by the AGM under the provisions of bye-laws.

60. Unless otherwise provided in the act, rules or the bye-laws the quorum for the general meeting shall be one-half of the total number of members or 30, whichever is less. If at the time of general meeting, the quorum is not forth coming, the meeting shall be adjourned and another date for the adjourned meeting shall be notified.

61. As per Section 21 of the Cooperative Act, the final authority in all matters relating to the affairs of the society vests in the general body. The

law specifies following matters to be transacted in the general meeting in particular:

- i. Election and removal of the members of the managing committee including the president, one or more vice-presidents, treasurer and the secretary. Nomination of the representatives to cooperative federation;
- ii. Approval of the joint farming plans for the coming year and confirmation of the evaluation of land, orchards and wells, etc., given to members for joint cultivation;
- iii. Consideration of the annual statements of accounts balance sheets and the audit report, inspection reports, etc.;
- iv. Disposal of profits in accordance with the law/rules and bye-laws.
- v. Amendment of bye-laws;
- vi. To alienate and sell lands and other immovable properties belonging to the society;
- vii. Fixing maximum credit limits of the society;
- viii. Other financial matters including fixation of TA/DA of members of the executive committee and other representatives;
- ix. Any other business to be attended to by the general body in accordance with the act, rules and the bye-laws.

The Managing Committee: The managing committee of the society consists of at least 7 or at the maximum 11 members of the society, including the president, vice president, treasurer and secretary. The members of the managing committee shall hold office for 2 years and shall be eligible for re-election, subject to two terms in succession.

62. The managing committee shall exercise all powers and discharge all the duties of the society, except those reserved for the general meeting as per the provisions of the act, rules, bye-laws or and regulation laid down by the general body. The functions of the managing committee have been specified under section 28 of the act. As per section 28, the managing committee shall exercise all powers and discharge all duties relating to the affairs of the society, except those reserved for general meeting, subject to the provisions of the act. As per section 28, the managing committee shall exercise all powers and discharge all duties relating to the affairs of the society, except those reserved for general meeting, subject to the provisions of the act, rules, bye-laws and any regulations and restrictions laid down by the general meeting in particular. The managing committee shall

have mainly the following powers and duties:

- a) Keeping correct and up-to-date register of members and to admit new members;
- b) Maintaining true and accurate accounts of money received and paid and of all stocks, assets and liabilities;
- c) Preparing and laying before the annual general meeting an audited balance sheet and profit and loss account of the year;
- d) Consideration of the audit and inspection notes and to take necessary action thereon;
- e) Summoning general meeting in accordance with rules laid down;
- f) Contracting loans subject to the act/rules/bye-laws and the decisions of general meeting;
- g) Undertaking business along with all related activities;
- h) Appointing suspension and dismissal of employees subject to service conditions;
- i) Settlement of disputes;
- j) Placing before general meeting the details regarding farming places for the coming year and replacement of the same after approval of the general meeting;
- k) Investment/deposit of the surplus funds of the society as per law;
- l) Carrying on the business of the society.

63. As per section 29, the committee may transfer such of its powers to any member of the executive committee or any other officer of which approval has been accorded by the general meeting. The managing committee is authorised to frame rules for conduct of business of the society and also the service rules for its employees. The rules have to be consistent with the bye-laws but these rules could be effective only after the approval of the general body. The proceedings of the meeting are required to be recorded in the minutes which shall be signed by the chairman of the meeting and members of the managing committee who may have been present in the meeting. In conducting the affairs of the society, the committee is supposed to exercise all prudence and shall be responsible for any loss sustained through acts contrary to the law.

64. The law defines the powers and the duties of the secretary of the society vide Section 33 which are as follows:

- i. To conduct correspondence on behalf of the society;

- ii. To summon the general meeting of the society in accordance with the decision of the managing committee, or in the absence of such a decision under the instructions or with the approval of the president of the society;
- iii. To summon the meetings of the managing committee in accordance with the decision of the managing committee, or in the absence of such a decision, under the instructions or with the approval of the resident of the society;
- iv. To attend the meetings of general body and of the managing committee, to put up the agenda of the meeting and relevant papers before the chairman and to record the proceedings of the meeting.
- v. To sign or thumb mark the proceedings of the meetings of the general body and the managing committee;
- vi. To supervise the work of the staff of the society under the authority of the managing committee;
- vii. To incur contingent expenditure subject to the limit fixed by the managing committee; and
- viii. To perform such other duties as are entrusted to him by the managing committee from time to time.

The managing committee may appoint a manager if necessary and also determine his powers and duties. The manager is answerable to the society.

65. In Pakistan, cooperatives are playing increasing role in the socio-economic development of the country in general and in the agricultural sector in particular. However, the performance of cooperatives in Pakistan is reported to be a lesser than the optimum potential, with high dependence on government finance. Thus an image of cooperatives being a government managed activity is projected. The autonomy provided to cooperatives is also nominal. The provisions of law are reflective of tight government control and excessive powers appear to have been conferred on the registrar of cooperative societies. These must be curbed if the movement has to be made responsive to people's need.

NEPAL

66. The Cooperative Act of Nepal came into existence in June, 1992. The salient features of the Act of Nepal are that people are free to constitute a cooperative society and can get their society registered, however registration is done by the registrar of the societies after a preliminary scrutiny of the application by the promoters and the bye-laws proposed by

the society. The registrar has to see whether the proposed bye-laws are in accordance with cooperative principles. The registrar may register the society and issue a certificate of registration or refuse to register in the event of his non-satisfaction. In the latter case, the applicants would be free to appeal to the government. The society shall be a body corporate with limited liabilities.

67. The supreme authority of every society vests in its general body. All the members of the society shall be its members. The general body shall have necessary powers to manage its affairs. The society shall be free to amend its bye-laws on a resolution by a majority of 2/3 of the members present at the meeting of the general body of the society, but the same shall be enforceable only on the approval of registrar. The society shall have an accounts committee (by election) who shall be answerable to the general body. The general body can constitute sub-committees for conducting specific tasks as provided in the bye-laws. The functions of the general body include:

- a) Consideration of the financial statements, balance sheets and the audit reports for the year;
- b) Disposal of profits in accordance with the law and rules;
- c) Amendments of bye-laws;
- d) Finalising programmes for the following year;
- e) Election of the members of the managing committee;
- f) All policy matter relating to the functioning of the society;

68. The managing committee constituted by duly elected members by the general body is authorised to appoint employees and advisors as per procedure approved by the general body. The conditions of the service of such employees shall be in accordance with the bye-laws of the concerned society. The act and bye-laws lay down the functions and powers of the managing committee which appear to be adequate for carrying on the affairs of the society on democratic lines.

69. Conduct of elections within six months from the date of expiry of the term of a committee, shall be the responsibility of the registrar and not of the society. The registrar may also conduct an enquiry in the affairs of the society, if so demanded by not less than 5% of the members of the society. The findings of enquiry shall be forwarded to the society for appropriate action. The registrar is authorised to carry out the inspection of the society at his discretion. So far as the powers of amalgamation and divisions of society are concerned, section 31 provides that a resolution for amalga-

mation of two or more societies or divisions of the two or more societies could be passed by two third (2/3rd) majority of each society and the registrar shall implement the same.

70. The general body could take decision regarding dissolution and cancellation of registration on the basis of resolution taken by 2/3rd of the members of the general body.

71. Vide section 48 of the Cooperative Societies Act, the government has retained powers to frame rules to implement the provisions of the act.

72. Thus the societies appear to act in a democratic manner but channels for control by government by retaining powers to hear appeals, undertaking suo-motto inspections of the societies and powers to frame rules are clearly visible as provided in the law itself. Such provisions strike at the democratic functioning and autonomy of the society. They appear to be objectionable and need review so as to make the law more helpful to the cause of cooperatives by bringing the same in tune with the cooperative ideology.

SRI LANKA

73. The cooperative law of Sri Lanka dates back to the year 1904. The movement is thus not new, it is almost as old as that in India. During the last few decades there have been many developments leading to the present structure and shape of the cooperative movement in the country. The latest law is entitled as "The Cooperative Society Law (No. 5 of 1972)" This law was enacted by the National Assembly of Sri Lanka. But it has also undergone amendments vide Act No. 32 of 1983, and then recently by Act No. 11 of 1992.

74. The Special features of the present law so far as the management aspects are concerned are as under:

- i. Even recent amendments of 1992 do not incorporate the principles of cooperation. The registrar is supposed to recognise the principles for the purposes of registration of the cooperative societies as per section 3(1) and the Rule 153 reproduced below.

According to the amendment of 1992, Section 3 has been replaced providing that "*a Society*" which has its object, in accordance with the cooperative principles of specified services contributing towards the economic, social, educational and cultural welfare of its members may be registered under this law with or without limited liability.

- ii. Section 4 of the principal amendment has also been amended providing that:
 - a) The activities proposed to be undertaken should be economically feasible;
 - b) Its proposed bye-laws should not be inconsistent with the provisions of law or any rules made there under;
 - c) Whether the proposed bye-laws have been adopted at a general meeting duly summoned for the purpose;

Thus role of the general body has been made specific so far as the incorporation of the bye-laws and their amendments are concerned.

75. The cooperative structure has the usual management components of a cooperative society i.e. (i) general body; (ii) board of directors (iii) functional sub-committees created by the board of directors and the (iv) chief executive. The main functions of the general body include:

- i. Elections of the board of directors and their dismissal.
- ii. Decision on appeals on admission of membership and temporary suspension/expulsion of a members.
- iii. Decision regarding the ratio between a members share and his individual maximum credit limit.
- iv. Empowering the board to acquire purchase, mortgage, rent, lease property and to put up buildings, demolish, repair or alter them or take other action regarding buildings.
- v. Determination the maximum credit limit of the society.
- vi. Amendment of the bye-laws.
- vii. Consideration of the audited statement of accounts and balance sheet and the auditor's report.
- viii. Waving any debts which are irrecoverable.
- ix. Decision on the disposal of surplus.
- x. Approval of rules regarding funds created by the society.
- xi. Appointment of sub-committees.
- xii. Approval of regulations governing housing groups, commodity groups and other such groups.
- xiii. Consideration of proposals put up by the board of branch committees concerning the business of the society.

- xiv. Approval of rules regarding payment of incentive bonus to branch committee staff and members, empowering branch committees to make such payments.
- xv. Take any other decision for the achievement of objects of the society. Care has to be taken to see that the general body may not usurp the powers conferred on the board of directors by the bye-laws.

The annual general meeting is required to perform following functions:

- a. Consideration of audited statement of accounts, balance sheet and auditor's report.
- b. Election of board of director's, once every three years or elect a board where the board has been removed (by negotiation) or has resigned before its terms expired.
- c. Decision regarding the disposal of profits.
- d. Consider matters referred by delegates to the general meeting or by branch committees as tabled by the board.

The aforesaid items cover almost all aspects of cooperative functioning and also ensure supremacy of general body.

76. The committee of management is constituted by members elected by the general body and the bye-law 35 (b) confers essential powers required for conduct of the affairs of the society independently. The principal functions include election of the president and vice-president for the board, convening annual and special general meetings, deciding appeals in regard to the admission of members, appointing general manager and other employees required by the cooperative society alongwith the personnel charged with management functions, making rules for granting loans to the members, deciding the policy matters concerning collections, banking matters & security of cash etc. Preparation of budget, development plans and presenting them to the general meeting alongwith other matters are also the functions of the committee.

77. So far as the constitution of '*committee of management*' is concerned, a new provision has been introduced through the 1992 amendment. According to this provision, atleast two members of the committee of a registered cooperative society shall be persons who are between the age of eighteen and thirty-five. This has been introduced for purposes of encouraging youth participation in cooperatives and also to provide opportunities for them to prepare themselves towards assuming cooperative leadership roles.

78. The board of directors is authorised to constitute functional sub-committees and also decide about their powers and duties. Such committees are meant for specific purposes and therefore no general provision regarding their role appears to have been made.

79. The chief executive as such has not been mentioned in the law or the bye-laws. There is provision for the general manager, who is responsible to the board. His duties are defined under bye-law 38. The general manager is appointed by the board of directors for efficient management of the society's affairs in accordance with the policy laid down by the board, the law, rules and the bye-laws. He is responsible for finalisation of annual accounts and balance sheets within specified period and advise the board on matters relating to policy and planning as also about their implementation. He has to furnish to the board-all informations regarding performance, finalisation of targets, feasibility reports and utilisation of funds, preparation of the budget, etc., 3 months before the commencement of the financial year and plan, organise, supervise, coordinate and control all the departments of the society besides maintaining liason with the apex institutions and the members of the society.

80. In order to wean cooperatives totally from political intervention of any kind an amendment has been introduced barring members of parliament, members of provincial councils or members of any local authority from holding office in the committee of management of any cooperative society.

81. The cooperative law of Sri Lanka with the latest amendments appears to be shaping in the right direction and presents a democratic profile of the cooperatives. The provisions also appear to provide autonomy in functioning. With the latest amendments, the registrars' grip appear to be loosening, though the same continues in India, Pakistan and Bangladesh all of whom happen to be the former components of the Indian sub-continent under the British regime.

82. An analysis of the evolution of cooperative law in Sri Lanka shows that prior to the coming of the Cooperative Law No. 5/72, there has been a rapid growth of authority of the registrar, which naturally reduced the exercise of members rights. In pursuance of the objective of making the cooperative movement of Sri Lanka more autonomous, self-responsible and development oriented as people's organisation, action has been taken to improve the self-management and self-development capability by revising the Cooperative Law No. 5 of 1972 to suit the needs of the time. Now, the following objectives are to be achieved under the new amendments:

- * allowing and facilitating the cooperative movement to grow freely as an independent movement;
- * weaning cooperatives totally from party political interventions of any kind;
- * qualitatively improving member participation and strengthening the democratic process.

Developments which have taken place in Sri Lanka appear to be in the right direction and may strengthen the roots of cooperative movement in the country.

BANGLADESH

83. As stated earlier cooperative legislation in most countries of Asia was initiated by the colonial rulers, who found in cooperatives an agency which could provide some relief to farmers and workers and enable them to work together on the basis of self-help and mutual assistance. This is true for Bangladesh also. Bangladesh was part of British India, as it existed prior to 1947. Therefore the cooperative scenario of Bangladesh has almost the same pattern as that had been prevailing in India. In Bangladesh, cooperatives have now been recognised in the constitution of the country, as a distinct sector of economy along with the public and private sectors. The government thus has the constitutional obligation to promote cooperatives for ensuring balanced economic growth of the country.

Like India, the role of the government is confined to guiding and keeping the movement on proper footing through the development of local initiative and spirit of self-help. Initially, Cooperative Societies Act, 1940 was in force, but after the formation of Bangladesh, cooperative societies ordinance was promulgated in 1984 and subsequently rules framed under the act were promulgated in 1987. During the sixties the government declared a national policy on the organisation and management of cooperatives in the country. Under this policy cooperatives were declared as one of the important means of social equaliser and government assured to provide all out support to the cooperatives by participating in their share capital, and providing development assistance with preferential treatment to the cooperatives, but it appears benefits of development did not reach the target groups due to inherent defects and restrictive provisions in legislation and lack of institutional discipline.

84. Keeping in view the challenges, the Ordinance of 1984 was further amended in May, 1986 and a 'national council' for the cooperatives with

the President of Bangladesh as its chief patron, was constituted, which included intellectuals, professionals cooperators, members of parliament, and leading farmers as members. However, the cooperative sector continued to suffer from insufficient government help.

85. As per the latest enactments, a cooperative society can be registered only when a minimum of 10 persons above 18 years of age submit application in the prescribed proforma alongwith a draft of bye-laws for registration.

86. **Management Pattern:** So far as any cooperative society is concerned, the general meeting has the supreme authority for the society. It has the powers to approve the annual programmes and the budget. The general meeting also considers the annual audit report and statement of accounts, as prepared and submitted by the managing committee. It is also required to take decision on distribution of surpluses.

87. The management of the society lies with the managing committee and the members of the managing committee are elected directly in the general meeting.

After registration, the bye-laws of the cooperative society cannot be amended without the approval of the majority of the members.

The society works as an independent body.

88. The chairman or in his absence the vice-chairman, presides over the general meeting and disposes all urgent affairs on behalf of the managing committee subject to rectification if any by the managing committee.

89. As against the aforesaid provisions for democratic functioning there exist specific provisions, for nomination of government officials in the management as on deputation particularly in cooperatives with investment of government funds. Powers of dissolution of the elected managing committee without reference to the general body of the society, and appointment of management committee by government (sections 22 to 25 and section 28) removal of directors, restrictions on borrowings, loaning, financial transactions, distribution of profits, transfer of shares and property, investment of funds, use of reserve funds and above all compulsion for contribution from the net profits to cooperative development fund, to be administered by a government nominated committee can be clearly termed as undemocratic and anti-cooperative provisions.

90. Cooperative leaders and thinkers of Bangladesh are of the opinion that cooperative legislation should provide full autonomy with punitive provisions for violation of bye-laws, rules and acts, misuse of powers and corrupt practices. From the legal provisions, it is clear that development

of a cooperative is highly dependent on the initiative and patronage of the government.

91. The flow of government aid has resulted in hindrance to the cooperative autonomy and democratic functioning. Many of the activities, which the government has retained under its powers, could be considered for transfer to the apex bodies of the cooperatives and the flow of assistance could also be liberalised, government aid should be provided without any conditions, reposing full trust in the people. In view of wide spread poverty conditions and low level of literacy it is difficult to imagine cooperative bodies becoming self-reliant in regard to resources and therefore conditions necessitating government aid and assistance shall have to exist for long years to come.

Thus there is no alternative but to permit government assistance with least conditions so that people may stand up and learn to help themselves. Beside this, following steps also may be considered for speedy development of the cooperatives on sound footing:

- i. The objective of cooperative legislation should be to ensure maintenance of genuine character of cooperative and should include provisions which would enable smooth democratic functioning. The law should clearly specify the privileges and protections available to the societies.
- ii. Cooperatives should be treated as a way of life. If people want to organise themselves into a cooperative, they should not be discouraged or refused registration, if the proposed bye-laws are in accordance with the cooperative principles. Only when they seek government assistance some essential conditions as may be laid down by the state for ensuring proper utilization of funds and return of the capital could be enforced, without disturbing the autonomy and democratic character of the society.
- iii. Provisions which may infringe upon the basic character of a cooperative should be excluded.
- iv. Government has retained powers to exempt a society from operations of any of the provisions of the act, as per Section 8 of the act. This provision is parallel to Section 139 of the Rajasthan Cooperative Societies Act, where its mischief potential has been well noticed. Such a provision can be subjected to gross misuse and therefore deserves to be excluded.
- v. Powers of inspection, enquiry, rescinding the resolutions resolving disputes, audit, dissolution of societies and issue of directions, etc.

have been conferred on the registrar. So much delegation of powers to the registrar appears to be excessive and need to be moderated.

- vi. Holding timely annual general meeting, elections, preparation of annual accounts and audit should be the responsibility of the managing committee and the chief executive.
- vii. Government should not take over management, in case it becomes unavoidable it should not continue for more than three months except with the specific approval of the general body of the society, or when government money may be at stake.
- viii. Government role should be that of a watch dog ensuring that no one misuses the resources of cooperatives for self-interest.
- ix. Cooperative which do not seek any assistance from the government should not be directed and supervised by the government except in case where they infringe the provisions of the law of the land including the cooperative law. Appointment of employees in cooperatives should not require approval of the government. It should be the prerogative of the cooperative.
- x. The cooperative ordinance of 1984 may be examined for suitable amendments to democratise the cooperative management.
- xi. Government should ensure as a matter of declared policy that cooperatives have to function independent of government influence and in accordance with the cooperative principles. Government nominees in a cooperative should not continue beyond a specified period.

INDONESIA

92. In the Indonesian economic system, the cooperatives play an important role, these are based on the principle of self-reliance aiming at supporting, guiding and improving the lot of the economically weaker groups of the society. The cooperatives are allowed to participate in the process of national development in a big way. As stipulated in the Constitution of 1945, cooperatives get extensive encouragement to play an effective role in the process of the national development. Cooperatives work for the grass root levels of the community and are encouraged in activities related to agriculture, industry, civil construction, trade, transportation, tourism and electrification. The involvement of the government in cooperative promotion and their development has been stipulated by the article 33 of the Constitution of 1945.

93. The government is responsible only to the extent of the providing guidance, provisions, protection and facilities to the cooperatives. Articles 9, 10 and 11 of the Cooperatives Act provide that the membership of the cooperative shall be comprised of persons or cooperative legal bodies subject to the condition that one is legally capable to contract and adhere to the cooperative principles and also capable of fulfilling the duties and rights as members as stipulated in law, rules and bye-laws of the society. Membership of the society shall be based upon mutual interest and shall not be transferable. All members shall have equal duties and responsibilities in the eyes of the cooperative principles, laws and resolutions undertaken by the general body. All members shall have freedom to attend meetings, express their views, elect the members to the boards of the directors and to receive services. Any twenty or more persons fulfilling the requirements of law can form a society for some common economic interest. However, the minister has the right to relax, refuse or accept registration of society:

- a) If the required number of persons cannot apply [Article 14(12)].
- b) If for the benefit of efficiency, the cooperative society intends to incorporate any secondary society also [Article 15(5)].
- c) If the area of operation of the society is not acceptable [Article 16 (2)].

94. The old Indonesian law has used the word '*Government of the Cooperatives*' for the general assembly, board of directors and board of supervision [Refer Article 19 (1)]. This type of terminology reflects high government regard for the autonomy of the cooperative bodies. The society would also be free to constitute its board of advisors. The supreme authority in the society vests in the general assembly. The resolutions of the general assembly are finally decided on voting, if consensus of opinion is not reached. The law prohibits attendance and voting by proxy.

The cooperative law has been amended recently. Cooperative core values and cooperative principles have been included within the act itself. the roles and tasks of the society, obligations and rights of members have been more specifically defined without altering the basic framework.

95. It is to be noted that the legal frame-work provides for constitution of general body/general assembly, board of directors and board of supervision to carry on the business of the society on fully democratic lines with full regard for autonomy and a policy of non-interference.

96. The functions of the aforesaid bodies are briefly as under:

- a) *Members Meeting:*

Framing bye-laws (including their amendments), framing general policy

and implementation of the decision of the higher level cooperative bodies.

Election/dismissal of the board of directors, the board of supervisors and the board of advisors.

Workplan, budget, rectification of the balance sheet and policy of the board of directors in the organizational and business fields.

97. The functions of the board of directors shall be to lead the organisation and business of the cooperative society and represent the society in and out of court of law in accordance with the decisions of the member's meeting. the board of directors shall be entitled to appoint one or more persons to do daily jobs. The board of directors shall be responsible to the member's meeting and obliged to report to it regarding all matters relating to the life of the cooperative society. The board of directors is obliged to organise annual member's meeting in accordance with the provisions stated in the bye-law. As per Article 24 the board of directors shall have the authority to carry out actions and efforts to the interest and benefit of the cooperative society in accordance with their responsibilities and the decisions of the members meeting and maintain harmony amongst the members.

98. As per Article 28, the board of supervision shall have the following duties:

- i. to inspect all the aspect of cooperative life, including the organisation, business and implementation of the policies made by the board of directors;
- ii. to make written reports on the output of inspection. At any time the board of supervisor shall have the necessary authority.

99. The supremacy of the general body has been specifically emphasized with the equality of status being provided to all the members. The task of the general body includes almost all activities for improving the living standards, to develop economic democracy without sacrificing cooperative principles and values. The cooperatives are treated as business entities. The government advocates that cooperatives should become strong and self-reliant. Under article 37, it shall be competent for the government to render guidance, inspection, protection and facilities in favour of the cooperatives and enable the movement in realization of the requirements stated in the article 33 of the constitution of Indonesia which provides for economic democracy and prosperity for the people.

100. The provisions stated above present a picture portraying democratic functioning (wide membership base, equality of rights, supremacy of the general assembly, freedom of expression, providing for a distinct setup for

'Government of Cooperatives' and permit the society to pursue the economic activities chosen by the members) with complete autonomy in functioning. The minister has only retained limited powers for considering cases arising out of refusal for registration of society and about amendments relating to the areas of operation. The powers appear to be related more with administrative considerations. Thus the government has not reserved any powers to interfere in cooperative functioning. On the contrary, it has left everything to the wisdom of the "*cooperative government*" with supreme authority vested in the general body of the society.

THAILAND

101. Thailand is an agricultural country in South-East Asia. At present the Royal Thai Government is putting in great efforts in improving the life of its small farmers. Accelerated support is being given to agricultural cooperatives and farmers associations through direct government assistance. This is being done according to the national policy on cooperatives. The policy aims at increasing support for farmers institutions and encourage the role of peoples organisations to achieve self-reliance. There are specific development programmes also like development of the agriculture in arid lands in the five north-east provinces of the country, paddy price stabilization programmes, and land reforms programme to be implemented through farmers cooperatives. Cooperative sector formulates its own plan of development keeping in view the members expectations.

102. The first Cooperative Law in Thailand was enacted in 1916 which remained in force till 1928. In 1968 the previous act along with amendments was abolished and a fresh enactment "Cooperative Society Act B.E. 2511" was introduced, providing comprehensive provisions for various types of cooperatives to suit the changing needs of the country. Further amendments were introduced in 1972 and then in 1981 in consultation with coop, league of Thailand.

103. The principles of cooperation are implied in the cooperative law in accordance with those laid down by ICA. There are no pre-conditions for registration of the cooperative societies, but if registration of any society is considered detrimental, to the system of cooperative (vide section 15), then in such cases the authority is obliged to notify the refusal to the applicant. The order of registering authority is however appealable to the Minister of Agriculture and Cooperatives (vide section 3). Every cooperative society should have written bye-laws for regulating its day-to-day functioning.

104. The general meeting of the members is the competent authority for amendment of bye-laws, however initially the bye-laws are drafted by the founding committee when a cooperative is proposed to be registered (section 12). There is no legal provision for framing model bye-laws for any type of cooperative society, nor any provision for adoption of bye-laws.

105. Similarly, the cooperative law does not provide for rule making power.

Following important management organs exist in every cooperative society as per the cooperative law:

- a) General body
- b) Board of directors
- c) Functional sub-committees created by board of directors
- d) Chief executive.

106. Powers, functions, duties, and responsibilities of the aforesaid management organs are as follows:

- a) The general body has supreme powers which include formulating policies or making decisions affecting the functioning of the cooperative in accordance with laws, regulations and its bye-laws, giving direction to fulfill its objectives of promoting its member's interest.
- b) Board of directors is an agent of the cooperative acting on its behalf in relation with the third party. It formulates policies, plans and programmes of cooperative enterprise in accordance with the legislation, regulation and bye-laws of the cooperative. It is responsible to the general body for administration and management of the cooperative.
- c) Functional sub-committees derive their powers for specific purposes from board of directors. They have specific functions and duties according to assignment given to them by board of directors towards which they owe the responsibility.
- d) Chief executive is appointed as head of cooperative personnel who is responsible for administration and day-to-day management of the cooperative. He is accountable to the board of directors.

107. The general body is provided full authority in respect of amendment of bye-laws, (section 41-42), dissolution of a cooperative (section 70), appropriation of the net profits (section 31), approval of audited annual balance sheet (section 38) and approval of annual reports on business operations (section 39), establishment of cooperative federation (section

73), and then amalgamation of cooperatives (section 81).

108. The decisions in regard to the following categories of cases are required to be approved by the registrar before registration:

- Amendment of bye-laws.
- Establishment of the cooperative federations
- Amalgamation of cooperative societies.

109. Besides above, the registrar is also authorised to convene an extraordinary general meeting, if the board of directors does not call it on demand within 30 days. The act does not provide for declaring any meeting of the general body as invalid, nor the minutes of the general body required to be sent to any other authority.

110. The board of directors is constituted from amongst the members of the general body through the process of elections (section 24) whereas the manager and other cooperative personnel are employed in accordance with the bye-laws. The general body meetings, board of directors, the manager, and the personnel are linked with each other for coordinated functioning under the provisions of bye-laws and regulations prescribed by the cooperative.

111. There is no provision for creation of any distinct or separate authority for elections in cooperative. The existing board of directors is declared as competent to conduct the elections and it may seek help of adhoc committees, responsible for the elections.

112. The chairman of the society does not have any independent powers or functions to perform, he has to chair the meetings of the general body, board of directors and other committees. The law provides for accountability of individual paid officers, and also the directors of the board.

113. When the board of directors has caused undue-performance of its duties to extent that it becomes detrimental to interest of the cooperative or its members; the board or any of its members who has been involved therein, shall be dismissed (section 47).

114. The government retains power for rescinding or cancelling the resolution of the board of directors as also the annual general body of the society. Government is authorised to supersede the elected management of any society and issue a directive to the cooperative society. The registrar is also authorised to participate in the meeting of the society, undertake inspections and issue directives to the board to rectify the damage or defects within 30 days of his directions.

115. The provisions empowering the registrar and the power retained by government are really loaded against the autonomy of society and have anti-democratic impact on the functioning of the society.

116. In brief, the Thai provisions provide for a democratic set-up apparently but excessive powers in favour of registrar and as retained by the government appear to be a matter of concern and need re-consideration to put the cooperative movement on democratic lines. Many powers could be assigned to the apex cooperative organisations.

PHILIPPINES

Attempts for setting up and development of cooperatives started in Philippines as early as 1916, when the national government enacted Rural Credit Cooperative Association Act. The task of promotion and organisation of cooperative was then entrusted to the "Bureau of Agriculture". In 1927, cooperative marketing law was promulgated and "Bureau of Commerce" was entrusted with the task of organisation and promotion of the consumer and marketing cooperatives.

117. It is pertinent to mention that in Philippines a national programme for cooperative development was drawn up with special focus on agricultural sector and village associations called "**Samahang Nayan**", which were like pre-cooperative bodies which were got organised by the government. The programme includes training to the members for laying a firm foundation for cooperative way of life. Efforts of cooperative development were interrupted by World War II. records were destroyed and the entire life in the country was upset. However, in June, 1986, the first National Cooperative Congress was held which took up the following fundamental issues:

- a) inclusion of the cooperative in the national constitution,
- b) identification of government agencies dealing with cooperatives; and
- c) rationalisation/codification of cooperative laws.

118. As a result of continuous efforts, the subject of cooperatives has now been included in the national constitution (Section 15 of Article 12 of the Constitution). Presently the Philippines cooperative movement envisages a Cooperative Development Authority (CDA) in place of several agencies handling cooperatives till now. The CDA has been constituted by an Act of the Parliament (Republic Act No. 6939), while promulgating this Act the government policy towards the cooperatives has been once again redefined and specified clearly.

The CDA is an autonomous body and attends to the following functions:

- a) the registration of societies;
- b) development of policy initiatives;
- c) framing and issuance of regulation (if considered necessary but with the participation of movement); and
- d) rendering assistance when requested by the movement.

119. It is commented that under the new system, the cooperative organisation have gained strong foundations and interest of the masses is getting best served by their enlightened participation.

120. The declared policy of the state is to foster creation and growth of cooperatives as strong vehicle for promoting self-reliance and harnessing people's power towards ensuring economic development and social justice. The government now encourages people to undertake formation and organisation of mass-based, people-oriented economic enterprises and thus create an atmosphere that is conducive to the development of cooperatives.

121. The government provides technical and financial assistance besides other services to help the growth of cooperatives. The government assistance is free from any restrictions and conditions that may infringe upon their objectives and character. The government follows the policy of non-interference in management and operation of cooperatives. The new enactment lays emphasis on the adoption of accepted cooperative bodies to provide goods and services for economic development of its members. Any 15 citizens may constitute a cooperative. While applying for registration of the cooperative, the proposed cooperative is required to present "*Articles of Cooperation*" (Article 14) and adopt bye-laws consistent with the provision of the cooperative code. Every cooperative society shall have the following organs for proper management:

- a) General Assembly
- b) Board of directors
- c) Committees

122. **General Assembly:** The general assembly is the supreme policy making body of the cooperative and shall exercise such powers as are set in the code, in the article of corporation and bye-laws of the cooperative. The general assembly shall have the following powers which cannot be delegated:

- i. to determine and approve amendments to the article of incorporation and bye-laws.
- ii. to elect or appoint the members of the board of director and to remove them for cause.
- iii. to approve developmental plans of the cooperative and
- iv. such other matter supported by two-third (2/3) votes of all the members of the general assembly and provided in this code.

123. The general assembly meeting shall be held annually in accordance with the bye-laws and a written notice shall be sent to all the members intimating the date, time and place for the meeting. A special meeting of the general assembly may also be called at any time by a majority of vote of the board of directors for which a notice shall be issued one week in advance. If there is a request from at least 10 percent of the members, then also a meeting of the general assembly could be called for transacting specific business to be mentioned in the call. If the board fails to call a regular or special meeting within the given period, the CDA may issue an order directing that a meeting of the general assembly may be convened within the specific period. Each member of the primary society shall have one vote and no member of the primary cooperative is permitted to vote by proxy.

124. **Board of Directors:** The conduct and management of the affairs of the society shall be on democratic basis and vest in a board of directors which shall be composed of not less than 5 and not more than 15 members to be elected by the general assembly for the term specified in the bye-laws. No director shall serve for more than two consecutive terms. The board of director shall direct and supervise the business, manage the property of the cooperative and undertake resolution by exercising all such powers of the cooperative as are not reserved for the general assembly under the cooperative code or the bye-laws. Regular meetings of the board of directors shall be held monthly and special meeting of the board of directors may be held at any time upon the call of the president as provided in the bye-laws. A majority of the members of the board shall constitute a quorum for the conduct of business; voting by proxy at board meetings being disallowed under the law.

125. The bye-laws also create an executive committee to be appointed by the board of directors with such powers and duties as may be delegated to it. The bye-laws provide for creating an 'audit committee' as may be considered necessary for conducting the audit affairs of cooperatives.

Specific provision for realisation of the losses and damages caused due to negligence and dereliction of duties by the directors or officials or committee members are available in the law along with a well defined procedure for the removal. Managerial staff appointed by the society is made accountable to the cooperative (board of directors and general assembly).

126. It is very pertinent to mention that the enactment of Philippines “The Cooperative Code of Philippines” (Act No. 6939 of 7/1989) creating the “Cooperative Development Authority” to promote the viability and growth of cooperatives as instruments of equity, social justice and economic development is a very positive step to ensure non-interference by government or any other authority and help effective functioning of the cooperative bodies on democratic lines. The law not only declares the cooperative policy but provides for penal action for those found guilty of direct contempt, interference or misconduct.

127. Accordingly, it is so clear that the Government of Philippines is very emphatic about giving cooperative functioning a sound democratic character and effectiveness. The Philippines pattern should serve as good model for other countries also.

SINGAPORE

128. The cooperative concept was introduced in Singapore in 1924, when the cooperative societies ordinance was introduced for the first time. As elsewhere initial start was by way of credit movement. There has been no national policy statement relating to cooperative in the Republic of Singapore and cooperative are neither represented in the National Parliament nor directly involved as agencies to implement the national economic programmes, however they are given recognition by the government. The Singapore pattern is unique and carries with it an aroma of distinctiveness.

129. In 1979, the Parliament passed the Cooperative Societies Rules, 1979 to give the movement a new lease of life with freshness of outlook. Now it is an accepted policy of the government to encourage cooperative functioning and citizens are free to constitute cooperatives for any economic purpose.

130. The supreme authority of the society vests in the ‘General Meeting’ of its members at which every member has a right to attend and vote. The society makes its bye-laws and lays down the method for election. The registrar may also on application by a primary society with less than 3000

members, allow the society to replace the general meeting by a meeting of the delegates, if it is considered fit and appropriate to do so. Such an enabling provision gives the required flexibility, needed for speedy development on democratic lines.

131. Every society in its bye-laws has to provide for annual general meeting to be called by the committee of management which shall be held once every year but not later than six months after the end of the financial year. The registrar can permit holding of AGM even after the expiry of six months. Such a provision appears to be detrimental to democratic functioning as it gives an edge to the vested interests and official interference.

As per cooperative law the functions of AGM shall be as under:

- i. to consider and confirm the minutes of the last annual general meeting alongwith the minutes of any other intervening general meeting;
- ii. to consider the auditors report, the reports of the committee of Management and any report made by the Registrar or his representative;
- iii. to approve the financial statements;
- iv. to consider and resolve the manner in which any available net surplus shall be distributed, or invested subject to the provisions of this act and the bye-laws;
- v. to consider and adopt any amendments to the bye-laws;
- vi. to elect members of the committee of management;
- vii. to appoint, where necessary, the auditors of the society;
- viii. to consider and determine the maximum amount the society may borrow; and
- ix. to transact any other general business of the society of which due notice has been given to members.

132. The law provides for convening of an extraordinary general meeting of the society at any time for considering urgent matters by the committee of management after giving a prior notice of clear 7 days. For the purpose of considering amendments of bye-laws, a notice of 15 days is needed.

133. An extraordinary meeting can be convened by the committee of management on a requisition by atleast one fifth of the members or delegates of the society (whichever is less). The notice should specify the objects clearly, except as provided in the bye-laws. Decision at the general meeting shall be taken by the members on the basis of majority of votes. In case of motion being lost, the chairman shall have no casting vote. The

minutes of the meeting shall be entered in the minutes book and shall be read over before the meeting or shall be circulated before being confirmed.

134. The Law provides that every society shall have a '*committee of management*' consisting of not less than five and not more than thirty members. This number shall include the chairman, vice-chairman, secretary and treasurer, who shall be elected by the members of the committee of management from among themselves, except that the committee of management may be empowered under the bye-laws of a society to appoint a secretary and a treasurer who in such case, shall not be a member of the committee of management but shall have the right and the duty to attend all meetings of the committee of management.

135. The election, appointment, term of office, suspension or removal of the members of the committee of management shall be in accordance with the bye-laws of the society. If, during the term of office of a committee of management, a vacancy occurs in the committee, the committee may, if the number of members fall below five, co-opt a member of the society to serve on the committee of management until the general meeting of the society.

136. The functions of the committee of management are as under:

- a) to consider and approve or reject applications for membership of the society;
- b) to call for and regularly examine reports from persons employed by the society which will disclose the true position of the society, its operations and financial conditions;
- c) to appoint sub-committees;
- d) to keep members informed of the progress of the society and encourage interest and a sense of ownership on the part of the members.
- e) to prepare and present to the annual general meeting of the society a proposal for the distribution of any sort surplus accrued during the preceding financial year, in accordance with act and the bye-laws of the society.
- f) to make a report to the annual general meeting of the work of the committee of management during preceding financial year with such recommendations as they deem necessary to maintain improve the services provided by the society to its members; and
- g) to consider and take immediate action on matters reported by the registrar or auditor.

137. The committee of management is authorised to appoint a manager to administer and manage the affairs of the society and his terms and condition would be finalised by the committee itself. The committee is supposed to meet as often as required by the exigencies but at least once in three months, the quorum for the meeting shall be half the number of the members and decisions shall be taken on the basis of simple majority of votes with chairman having no casting vote. The minutes of the meeting shall be recorded by the secretary giving full details of the proceedings along with names of members present and whether the decision was taken unanimously or by majority.

138. The present legislation i.e. 'The Cooperative Societies Act, 1979' is the revised act promulgated after taking into account social and economic developments since 1955. The act also makes provision for an apex organisation known as Singapore National Cooperative Federation to guide and promote the cause of cooperatives. The role of guidance assigned to the apex level federation is a welcome feature which other countries may also like to follow so that democratic cooperative get strengthened.

139. The Singapore pattern is of a distinct type and since seventies tremendous progress has been made with excellence in performance. Modern cooperatives in Singapore known as INCOME, COMFORT, SILO, and WELCOME have now become house-hold names. All the cooperative bodies ensure democratic management with no interference from the side of the government or the bureacurates. The revival and dynamic expansion of the cooperativemovement in Singapore should be a matterof guidance and encouragement to all. However, registrar is equipped with all draconian powers against cooperative functioning under section 93 and 94 of the act.

MALAYSIA

140. The cooperative movement was introduced in Malaysia by the British in response to the growing needs of the rural farmers who were deeply indebted, to the land owners and money lenders. The legal enactment was promulgated for the first time in july 1922. Since then the movement has acknowledged that the cooperative movement is really useful in uplifting the socio-economic status of the people. The government there fore continues to foster and encourage the development and expansion of the co-operative movement. The Cooperative Development Department as established in 1922 is charged with the responsibilities of promoting and monitoring the development of the movement, with the

objectives of improving the socio-economic standards of the people, and encouraging formation of viable cooperative societies with strong membership, sufficient capital and efficient management.

141. The government, however, holds the view that state aid to cooperative is essential and government involvement in cooperative development is also indispensable. Though the government desires, cooperative to thrive and develop, it has been reviewing the cooperative laws and tighten its control and enforcement. The government views that some loopholes exist in the cooperative legislation which enable unscrupulous leaders to take advantage of the cooperatives as an institution, to serve their ulterior motives.

142. However, the present law known as cooperative societies Act, 1948 provides for the cooperative principles vide section (42) and free registration of the societies, by the registrar general on an application by atleast 10 persons, alongwith the proposed bye-laws for the society. The powers for framing the bye-laws are assigned to the society. But in the event of any doubt, the matter may be referred to society itself. However if the society does not amend the bye-laws, vide section 10(A) (2), the registrar is empowered to amend the bye-laws of his own motion. He may also amalgamate one society with the other.

143. The act provides that every society should intimate the registrar general about the meetings of the society and also convey its decisions. The registrar shall also have the right the attend any such meeting and part in the business of such meeting.

144. Under the law the registrar general has been conferred with vide powers for controlling the affairs of the society. The government retains powers under section 51 to make rules for the purpose of carrying out the provisions of this act. The rules are supposed to provide for:

- i. the extent to which a registrar society may limit the number of its members.
- ii. the withdrawal and expulsion of members and issue of directions for the payments, if any, to be made to members who have to withdraw or are to be expelled, and for the liabilities of past members.
- iii. general meeting of the members alongwith the procedure to be adopted and the power to be exercised at such meetings.
- iv. provide for the appointment, suspension and removal of the members of the board and other officers, for the procedure to be followed by the

board along with the powers to be exercised and the duties to be performed by the board and other officers.

v. prescribe the matters in respect of which a society may be or shall make bye-laws and for the procedure to be followed in making, altering and rescinding bye-laws also the conditions to be satisfied prior to making such alteration or recession.

vi. regularise the manner in which funds may be raised by means of share or debentures or otherwise; prescribe the conditions to be observed by a registered society applying for financial assistance from government and provide for the formation and the maintenance of statutory reserve funds. The object for which such funds may be used. The manner in which investment of funds under the control of any registered society may be made.

vii. prescribe the condition under which profits may be distributed to the members of a society with unlimited liability and the maximum rate of dividend which may be paid by societies.

viii. prescribe the accounts and books to be kept by a registered society, and for the periodical publication of a balance sheet showing the assets and liabilities of a registered society.

ix. provide for the audit of the accounts of registered societies and for the charges, if any, to be made for such audit.

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x. prescribe the returns to be submitted by registered societies to the registrar general and the persons by whom and the form in which the same are to be made.

xi. provide for the formation and maintenance of a register of members, and where the liability of members is limited by shares, of a register of shares.

xii. provide for the inspection of documents and registers at the registrar-general's office and fees to be paid therefore and for the issue of copies of such documents or registers

145. When we look into the rules, it appears rule 8 provides for making bye-laws by the society. Rule 8-A provides for representation at the general meeting, which shall be by delegates elected by individual members at their regional or area general meetings and by delegates of members societies.

146. Regarding membership, Rule 10 provides that no person shall be admitted as member of a registered society, who does not satisfy the requirements of the ordinance or who is legally or mentally disabled or

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bankrupt or against whom a conviction stands, but in case of doubt the decision of the registrar general shall be final. This includes powers of removal also. Further, Rule 10A provides as under: Not with standing anything to the contrary contained in the rules or the bye-laws of a registered society, the minister may if he deems it necessary in the interest of the society so to do, remove or suspend any member of the board or other officers, for such period as he shall specify.

147. Viewing other provisions regarding summoning of the general meetings, suspension of the members of board or employees of the society and various other powers to be normally exercised by the members or director of the society the powers given to the registrar general are really excessive.

148. Powers provided to be exercised by the registrar general appear to make the cooperative movement as a perfect government department. The climax of these restrictive provision are reflected in Rules 27, 28 and 29 where in it is provided that there can be no appeal against the order of the registrar general, he may rescind any resolution or action of an officer of the society and further special powers have also been conferred on the minister to exempt societies from the application of the provisions of the rules.

149. With the aforesaid powers retained by the government or conferred on the registrar it will not be fair to call the cooperative movement in Malaysia as people's movement. Nor it is possible for the cooperatives to function on democratic lines, what to talk of autonomy? The provision in Malaysia appear to highly restrictive and anti-democratic.

CHINA

150. The cooperatives in China date back to early 1920 when the Chinese workers, farmers and students started to organise themselves into credit, consumer, producer and transport activity oriented cooperatives. Their purpose was to overcome economic difficulties, to improve productivity and finally ensure better living conditions. Due to wars and several other factors, the co-operative activities got scattered and disorganised. With various historical developments, the cooperative movement also received set backs. However, since December, 1978, a turning point came in the development of co-operatives when the economic policy of China was re-oriented.

151. Under this policy, a system to boost agriculture production and which enabled the farmers to have greater decision making power over

their activities was introduced. “**The Supply and Marketing Cooperatives**” have been declared as independent economic units to serve local people in rural areas and cooperatives have been recognised as the best instruments to help agriculture production with full support to farmers. The present scenario of the cooperatives has following three special features:

- i) Primary societies have been allowed to increase investment by members and re-register the members according to the new policy. The farmers now have a feeling that the cooperative are owned by themselves.
- ii) Members of cooperatives elect people to the board of directors and a supervision committee. The cooperatives recruit their staff. This has helped in improvement of the relationship between the cooperatives and their members.
- iii) The primary cooperatives (SMC) now provide over-all services covering the whole range of farm production process and organise specialized production associations. They also undertake training programmes for their member farmers.

152. Though the SMC's have to go a long way; yet steps for introducing changes in the organisational structures with greater role for the member farmers to play have been initiated. This may lead to a better cooperative scenario.

153. In the chinese pattern, the cooperative law derives its strength from government policy through the decision of the central committee of the chinese party. It appears that the general body and the board of directors are the principal organs in the cooperative management system.

General Body: The general body of the member is considered to be the highest body of any cooperative. Its meeting are convened by the board of directors after giving atleast 7 days written notice to the members specifying the reasons and the agenda for the meeting. The board of directors can also call an extraordinary meeting of the members. Over one fifth of the members can also ask the board of directors to call a general meeting. For such meeting, a notice will have to be issued to the board of directors by members stating reasons and purpose of calling the meeting. If the board of directors fails to convene a meeting within 10 days, the members may call a meeting directly after intimating the government department concerned with the cooperatives. The general meeting of the members shall have a quorum not less then 50 percent by the total

membership of the cooperative and a resolution could be adopted by a majority of the members present.

154. In a general meeting, each member shall have one vote. However, if a member cannot be present at the general meeting, he may ask by writing another member can serve as his proxy. No member can serve as proxy for more than two members.

155. The term of the office of the directors ranges from one year to three years and that of the supervisors by one year. Both the directors and supervisors are eligible for re-election. The directors are supposed to carry out their duties in accordance with the law and regulations of the cooperatives as also the decision of the general meeting of the members.

Board of Directors: A meeting of the board of directors shall be called by its chairman. The chairman of the board of the directors shall be elected by the directors from amongst themselves. The board of directors shall have quorum of not less than a majority of total number of directors and a resolution could be adopted by not less than a majority of the members present.

156. The business meeting of a cooperative shall be called by the board of directors and its chairman shall be chosen from amongst the directors and supervisors. At a business meeting of a cooperative, an expert, technical person or an employee may be asked to be present to express opinion on the particular item of agenda.

157. As per Article 36, the board of directors should at the end of each fiscal year submit a business report, a statement of assets and liabilities, a profit and loss account, an account of assets and accounts showing the distribution of profits. After preparation, these documents should be sent to the board of supervisors for being audited properly at least 10 days before the annual general meeting of the cooperative. A meeting of the board of directors is required to be held once in three months and a general meeting of the member is to be held once every year. An extraordinary meeting may be held as per procedure at any time.

All amendments of the bye laws of the cooperative are required to be passed by the general meeting of its members. (Refer Article -9).

158. When the directors and supervisors of any cooperative violate law and regulations they could be relieved of their duties at the general meeting of the members, which is attended by a majority of the total membership. When the directors and supervisors are found to be derelict of their duties they may also be relieved of their duties in a similar manner.

A cooperative may employ persons and technicians through the board of directors as per requirements of the business.

159. It would thus appear that the Chinese pattern provides for supremacy of the general body of the members of the cooperatives, independence in functioning to the board of directors under the guidance and direction of the general body. The employees are also to be appointed by the board of directors. Obviously, the elected bodies and appointed persons are acceptable to the supreme body. There are no provisions for government or its agencies to interfere in the functioning for the cooperative or approve of their doings except in the beginning when the cooperative is to be registered at the local supervising government office.

The supervisors are elected by the members (general body) and are given complete functional autonomy.

160. The Chinese cooperative framework lets the cooperatives function on democratic lines and also in an autonomous manner with suitable provisions ensuring a sound cooperative culture, but the overall functioning is shadowed by an authoritarian political system.

JAPAN

161. In view of the phenomenal success that cooperatives have achieved in Japan, it is exciting to study the Japanese pattern of cooperative management. For proper appreciation of the Japanese pattern, one should also review the Japanese cooperative development briefly.

162. With the out-break of World War II the cooperatives were reorganised into compulsory organisations so as to meet the demands of a war time controlled economy. Coupled with this step the policy of obligatory membership substantially altered the cooperative nature of the movement. In 1947, the cooperative societies law was promulgated in Japan with a view to sustaining and developing farm management of the owner farmers who got lands after the World War II through the process of land reforms. The law provided that agricultural cooperatives be managed on the basis of cooperative principles. Immediately after this decision the agricultural cooperatives and their federations were established at village/town/city, prefectural and national levels.

In 1951, a law for rehabilitation and consolidation of the agricultural, forestry and fisheries cooperatives, came into effect in order to help societies to overcome their difficulties and a 3 year plan for renovation and expansion of agricultural cooperatives was introduced. Efforts were also made to create cooperative farming complexes.

163. In Japan, the primary agricultural societies (PACs) are organised with farmers as a regular members, and non-agricultural inhabitants as associate members.

Presently all the farm house-holds are enrolled. The primary societies are mainly classified into two categories: multi-purpose and single purpose. The multi-purpose cooperatives form the main current in the Japanese agricultural cooperative movement. In some specific sectors such as fruits, vegetables, sericulture and livestock, there are single purpose societies.

164. The primary societies have their corresponding federation on the prefectural level, which are organised according to the specific functions. The prefectural unions do not perform any business activity, but they function in areas of guidance, coordination, research, education information and auditing on behalf of the PAC's. They also represent the interest and will of the cooperative movement in each pre-fecture.

Democratic Control and Management System: A multi-purpose agricultural cooperative society is composed of regular members and associate members (without voting rights) The former are farmer and the latter are non-farmer inhabitants living in the locality where the cooperative society in question is situated. In order to manage and control activities of the society there are four organs:

- a) General Meeting
- b) Board of Directors.
- c) Auditors (Elected)
- d) Executive Staff.

General Meeting: General Meeting is the supreme decision making body for any cooperative society, its meeting is held annually. In case of a large-scale agricultural cooperative society having a considerable membership, a representatives' meeting is also constituted with authority for decision making. In addition to the annual (representative) meeting, an extraordinary general (representatives) meeting can also be held when board of directors deems it necessary and more than one fifth of regular members request or auditors deem it necessary. The following items are required to be submitted for decision and resolution at the general meetings:

- i) Amendments to the articles of incorporation.
- ii) Dissolution.
- iii) Expulsion of a member.
- iv) Dismissal of an officer.

- v) Establishment of and amendment to the business plan for each business year.
- vi) Method of assessment and collection of the expenses.

165. In principle, the general meeting constitutes a quorum with attendance of a majority of members and also resolves with consent of majority of the attendance.

166. The term of office of the officers is determined by the articles of incorporation, but does not 3 years. The president shall have supervisory authority over the business. The directors give assistance to the president including vice-presidents and stand proxy for the president, in the case of a vacancy in any eventuality.

Board of Directors: Board of Directors is elected at the general meeting for a period of three years. At least three fourth of directors must be elected from among regular members. The board of directors performs the services of the society along the policy lines adopted by the general meeting. President and managing directors (s) are elected by the board of directors from among the members for full time service. The board of directors lays down the policy for the cooperative 's business and management as per law and articles of association. The matters that are resolved at the board of directors are:

- Qualification review in respect of members,
- Formulation of regulations,
- Decision on basic policy of business,

167. On the other hand, the board of directors at the federation level as composed of the President, executive vice-president and vice-presidents (form three to five), take up following matters for consideration:

- Decision on basic policy of business,
- Review of qualifications of the members,
- Formulation and amendment of regulations,
- Imposition of expenses and collection method.

The employees working for the federation are appointed or dismissed by the president and they are accountable to the society.

168. **Auditors:** The general meeting elects more then 2 auditors for a term of three years. The auditors have to maintain a check on the status of services by the board of directors as well as on the assets of the society and to point out any defaults, so as to ensure that the society is moving in the right direction.

169. In addition, each multi-purpose agricultural cooperative society has a local organisation at the hamlet level, which provides a forum for the society and its members for maintaining communication and mutual understanding. More recently, the members have become organised for each sector of farming, so that, the same could be a useful arena for the society and its members to promote communication and to disseminate information relating to farming techniques and farm management.

170. **Management:** Management of an agricultural cooperative society is entrusted by the members to the board of directors. The general body formulates the basic policy and specifies programmes to be executed. The president and managing director of the society take the responsibility of implementation coordination and control of further detailed work programmes according to the policy decided at the board of directors meeting.

171. Work programmes are usually divided into several departments according to their services, such as guidance, marketing, supply, credit, mutual-insurance etc. for implementation. Recently, more agricultural cooperative societies have structured their service machinery according to specific sectors of farming. Responsible for daily services are a full-time manager and other employees.

172. It would thus appear that the cooperative law in Japan provides for complete democratic control by the farmer members of the agricultural cooperatives and they are given a fully autonomous role in improving productivity and management of the affairs of the society. This has led to rural democratization and removal of social unrest resulting in economic rehabilitation of the farming community with key role assigned to the cooperatives. The government has retained no powers for any interference in the affairs of the cooperatives and all such activities including guidance, supervision, audit, etc., are exercisable by the apex level cooperative bodies in the respective prefectures.

173. In view of sound democratic functioning, autonomy and the excellent level of performance, achievements of the Japanese cooperatives may be classified as praiseworthy and can be easily viewed as model for adoption.

The Japanese system is basically characterised by:

- i) *Whole Family Membership:* The article of association limit the area on qualification of membership. It is entirely upto the farmers living in the areas to make decisions regarding becoming members or not. However as matters stand now, it is based upon whole

family membership and joint use of facilities. The non-agricultural inhabitants living in the area become associate members.

- ii) In Japan primary societies are of two categories - single purpose and multi-purpose societies. The multi purpose cooperative societies form the main current in the Japanese agricultural cooperative movement having large powers. The multi-purpose cooperatives are formed by not only the farmers as regular members but by non-agricultural inhabitants also as associate members.
- iii) The Japanese movement is structured on a three tier basis forming a pyramid like shape namely primary level, prefectural, and national level. This pattern is derived from the fact that government, political and administrative system is also structured into such three levels i.e., village/town level, prefectural level and national level.
- iv) Agricultural cooperative law envisages that general manager shall be responsible for management practices however in most of the primary societies, the articles provide that they may adopt full time services of president and managing director. It is customary to select top management from among the regular members being composed of farmers, at the mutual elections of the board of directors, inspite of the fact that they are not management experts.
- v) The form of employment system commonly practiced in Japan is based upon life employment. The merit of this system is to keep workers loyal to the organisation, to which they belong.
- vi) One of the special features of the agricultural cooperatives in Japan is that of firm belief in the principle of mutual aid resulting in smooth flow of funds and cost control. The cooperative culture believes in modern management concepts also which include planning, organisation, motivation, coordination and review/assessment with proper systems developed to help the actual performance.

174. The cooperative movement in Japan is conscious of the fact that it is not easy to improve the managerial performance of the primary bodies unless moral of the members which includes guidance, credit needs, subsidy for setting up grassroots organisation, etc., is also raised by seriously upgrading the degree of performance of leadership and capability of top management elected by the members in the movement. The top management in Japan does not usually commit itself to the actual business activities. The employees with professional skills play the actual role in performance, efforts for raising whose efficiency are continuously taken by the organisation.

175. According to the cooperative law the primary level general manager chosen by the directors on the basis of majority is to be entrusted with the management function. The top management confines itself to the formulation of policy and the broad business plans and implementation of the same is entrusted to the managers with full confidence in him. These practices are suitably coupled with proper internal checking system and auditing. Thus there is proper delegation of authority and function coupled with the consideration for accountability.

176. In the Japanese cooperative cultural the federations have a distinct responsibility towards primary bodies and also clear functions to perform. The federations provide guidance, financial assistance, and all help needed for making the cooperative efforts a success. The federations take the lead in transfer of technology, upgrading the levels of performance and rendering help to lower bodies in specified areas.

REPUBLIC OF KOREA

177. In the Republic of Korean pattern, every cooperative has a general assembly constituted by the members of the cooperative. The president of the cooperative is empowered to call a regular meeting of the general assembly once in each year. An extraordinary meeting may be called at any time with prior notice to the members. Any members with the concurrence of one-fifth (1/5th) of the entire membership giving reasons and purpose, may request the president for calling an extraordinary meeting of the general assembly. In the event of such a demand it shall be the duty of the president to call the extraordinary meeting within 2 weeks of the receipt of the request. In the event of the president being absent or away, such a meeting could be called by the auditor (an elected person) within 5 days and the authority of the president shall be exercised by the Auditor. If the Auditor is also not available the meeting shall be called by any of the representatives of the members who made such a request and he shall be treated as the chairman of the assembly.

178. The minutes of the general meeting are always recorded and signed by the president and 'five examiners' elected by the assembly for the purpose. The law provides that the proceedings of the general assembly should be resolved by the majority of votes by the members.

179. As per law following matters are considered by the general assembly:

- * Amendment of the articles of incorporation;
- * Dissolution, amalgamation or member and separation of the cooperative;

- * Election and expulsion of a member and dismissal of officers;
- * Use of the reserve funds;
- * Enactment, amendment or repeal of covenants and regulations;
- * Drawing up and alteration of the business plan and the budget;
- * Method of imposition and collection of the expenses;
- * Decision regarding maximum limit of the borrowing;
- * Business reports, inventory, balance sheet, statement of profit and loss, and proposals regarding disposal of surplus funds and losses;
- * Matters relating to be a promoter of a 'Gun' cooperative and admission to and withdrawal from membership in 'gun' cooperative;
- * Other matter deemed necessary by the president or the board of directors;

Amendment of the articles of incorporation shall not be effective unless approved by the competent minister.

180. The general assembly is supposed to take decision in regard to matters duly notified and in exceptional cases it can take up matters of extreme importance, but a resolution could be passed only by 2/3 or more of the members present.

181. A cooperative with a membership of more than 100 members can have a representative meeting to substitute for the general assembly. In such a case, the representatives are supposed to be regular members of the society and shall have a term of two years.

182. Every cooperative shall have a board of directors with following functions to be performed:

- a) Examination of the membership qualifications.
- b) Matters entrusted to the board of directors by the general assembly and to be presented to the general assembly.
- c) Matters provided in the laws and regulations or the articles of incorporation.

183. The meeting of the board of directors shall be valid when a majority of the directors are present and a resolution could be adopted by a majority vote by the directors present.

184. The chairman of the board of directors shall have a vote and in case of a tie vote, the chairman shall cast the deciding vote.

185. It is interesting to note that in the South Korean pattern, the president, directors and auditors, who are elected from amongst the members of the board by secret ballot are called as '*officers*' of the society and hold positions on honorary basis. The president of the society represents a cooperative and executes the operations in accordance with the provisions of the bye-laws. The president presides over the general assembly and also at the meeting of the board of directors. The directors are supposed to assist the president. The auditor's function independently and report their findings to the general assembly. Such provisions regarding accountability are clear indication of the trust reposed in the elected persons and supremacy of elected bodies of the cooperative.

186. The term of office of the president and directors shall be three years and that of the auditors only two years.

187. As per article 54, the officers of the cooperative exercise their functions according to law, orders/decrees issued under law and articles of incorporation (bye-laws). Law also provides that the officers shall be jointly responsible to indemnify damages incurred in the cooperative by any officer through internal acts or negligence during their performance.

188. The provisions in the Republic of Korean pattern appear to be fully democratic as all the functions required to be performed are confined to the different bodies of the society, constituted by the members of the cooperative and no decision involves government interference or by any external agency except amendment in the articles of association which become effective only after the approval of the minister. The government should not be worried much for retaining such a power to approve amendments particularly when it is provided that the bye-laws (including amendments) have to be in accordance with the act. However bye-laws being matters of internal functioning of the society should be the exclusive concern of the society. Such an approach shall be in the best democratic traditions. The functioning of the movement appears to be autonomous, democratic and based on bottom-up system and ensures positive participation of the members.

189. The Government of the Republic of Korea has played an ideal catalytic role in the development of cooperatives without any government intervention or control.

AFGHANISTAN

190. As per the Afghan law the following bodies constitute the main functionaries of a cooperative society:

- The general meeting;
- The managing committee.

191. The cooperative society is also free to appoint a 'supervisory committee' in accordance with the bye-laws.

192. Article 17 of the law provides that the '*general meeting*' shall have the supreme authority of a cooperative and shall be composed of all the individual members of a primary society, or all the authorised representatives of the members cooperatives in respect of a secondary cooperative.

193. The general body shall have ordinary meetings periodically. Provision for the specially convened extraordinary general meeting on the basis of the managing committee or on a demand submitted by 20% of the members or on issuance of an order by the registrar also exist.

194. The ordinary general meeting shall be convened once in a year within 120 days from the end of the financial year and it shall have following matters for consideration and decision:

- i) Election or dismissal of members of the managing committee;
 - ii) Election or dismissal of representatives to secondary cooperatives;
 - iii) Consideration and decision upon financial accounts, balance sheets and reports concerning the activities of the cooperatives.
 - iv) Determination of ceiling on borrowings, extension of loans to the members and related procedures.
 - v) Disposal of the net annual surplus of the cooperative.
6. Consideration of all other matters on the agenda of the meeting.

195. The extraordinary general meeting is authorised to decide in regard to the following matters:

- a) Amendment of the bye-laws;
- b) Amalgamation or merger of cooperatives;
- c) Applying or withdrawing from the membership of a secondary cooperative;
- d) Any other matter as specified in the bye-laws.

196. The Afghan act provides for quorum and other procedural matters also. These provisions could be better placed in the bye-laws, as these are matters of procedure.

197. **Managing Committee:** The general meeting elects from amongst the members, a managing committee of atleast 5 members for a period of 3 years. The managing committee shall be jointly responsible to the general meeting in matters concerning the affairs of the society. The managing

committee shall hold meetings at least once every month and decisions will be taken on the basis of simple majority. The decisions of the managing committee shall be binding on the cooperative society, so long as they are in accordance with the bye-laws and directions of the general body meeting of the cooperative. The managing committee shall elect a chairman, vice-chairman, secretary and a treasurer whose duties and the responsibilities shall be defined in the bye-laws of the society.

198. The managing committee shall carry on administration of the affairs of the society in accordance with the laws, bye-laws and directions of the general body and it shall have following responsibilities and powers:

- i. To act as the legal representative of the cooperative.
- ii. To keep and maintain the accounts, books and other properties of the cooperative.
- iii. To prepare the income and expenditure account the balance sheet and the annual report of the fiscal year.
- iv. To undertake all other duties and powers as specified in the bye-laws of the cooperative.

199. The managing committee is free to appoint the staff required for running the day-to-day affairs of the society and their terms of appointments have to be determined by the managing committee.

200. The aforesaid provisions ensure democratic functioning by the society without any external control. The affairs of the society are left to the society for being managed.

IRAN

201. The object of constituting cooperative societies in Iran is to help in improving the economic and social status of the people (share holders.) through the process of self-help and mutual-aid and promotion of thrift in accordance with principles laid down in the Iranian law. Membership is open to all persons, who reside in the operational areas of the society and who need its services.

202. The organisational pattern consists of a '*general assembly*' of all the members of the society, entitled to one vote each on the principle of equality. A member of the cooperative society, is free to vote by proxy, but no member can exercise two votes. As per article 7 of the Cooperative Law, the general assembly is the highest organ in regard to taking decision, and express collective views of the members for the management of the affairs of the society. All members are entitled to attend and give their vote in regard to the matter's included in the agenda placed for consideration

of the assembly. As per article 33, the function of the general assembly are prescribed as follows:

- i. Electing the board of directors and inspector or inspectors and/or any replacement thereof;
- ii. Reviewing and resoving the society's balance sheet and profit and loss accounts, after hearing the report of the board of directors and that of the inspectors;
- iii. Adopting decisions regarding the reports and proposals of auditors based on the society's auditing results;
- iv. Determining the policy and programmes of the society; approving the budget and determining the necessary basis and criteria for salaries and wages and the extent of guarantees required from the managing director and the employees of the society (upon proposal of the board of directors);
- v. Adopting decisions with respect to the reserves of the society, payment of the share interest, the patronage refund and the distribution thereof in conformity with the status;
- vi. Adopting decision regarding the proposals of the board of directors with respect to the credit requirements and/or investments of the society;
- vii. Approving bye-laws governing the transactions and other internal affairs of the society;
- viii. Adopting decision in respect of the complaint of any member, who has been dismissed and/or a persons whose application for membership has not been accepted by the board of directors, or referring the matter to a committee composed of five members of the general assembly. Decisions adopted by the general assembly or the five members committee shall be considered final.

203. The general assembly can be convened by a resolution of the members of the board of directors, by the following, as per article 26:

- i) The Inspector or the majority of inspectors;
- ii) One fifth of the society's members;
- iii) Ministry of cooperation and rural affairs;
- iv) Ministry of Labour and Social Affairs in respect of the worker's cooperative cocieties.

204. In case the board of directors refrains from calling the general assembly, the Ministry of Cooperation and Rural Affairs (or the Ministry of Labour and Social Affairs in respect of worker's cooperative societies)

may directly call the meeting of the general assembly for the purpose or purpose notified. Notice of call to convene general assembly, stating the agenda, date, time and place of the meeting is required to be published in the local press and/or affixed in public centers and passages within society's operational zone and its headquarters, or be extended in the form of written invitation at least fifteen days prior to the date on which the general meeting is to meet.

205. The interval between the publication of a second notice of call to convene a new meeting and the date specified for the meeting having failed to convene shall not exceed ten days.

206. As provided in article 28, the meeting of the general assembly shall be inaugurated by the chairman of the board of directors and in his absence by a member of the board of the directors. The general assembly shall first proceed to elect a chairman, a vice-chairman, a secretary and three supervisors from amongst the members present. The general assembly which is called and convened in conformity with the provisions set forth under article 26 of the law shall be inaugurated by the eldest member present at the meeting.

207. As per provision in article 29, the minutes of the deliberations and resolution of the general meeting shall be prepared by the secretary of the meeting and shall be signed by the chairman, the secretary and the supervisors of the meeting and a copy thereof shall be forwarded to the board of director by the chairman of the meeting. Minutes of general assembly are considered as official documents and shall be preserved at the society's office permanently and in genuine form.

208. General assemblies of the cooperative societies are convened in any of the following manners as per article 31:

- i) The statutory general assembly, as described under chapter-III of the present law;
- ii) The ordinary general assembly;
- iii) The extraordinary general assembly.

209. **Board of Directors:** By virtue of the statutes, the affairs of the cooperative society are administered by a board of directors consisting of at least three principal members elected at the ordinary general assembly from amongst the members by means of secret voting and for a tenure of three years. The general assembly shall simultaneously elect two alternate members under similar terms and in the same manner. Re-election of any of the principal and or alternate members shall be permissible.

210. In case of resignation, death, withdrawal from membership and/or legal disqualification obstructing the discharge of any of the principal members' directorship function, one of the alternate members shall fill the vacancy and attend the board of directors' meeting for the remainder of the specified period of tenureship.

211. The board of directors elects chairman, vice-chairman and a secretary from amongst the members. Minutes of the discussions and deliberation of the board of directors are recorded in the minutes book and the resolution of the board are adopted on the basis of majority of the members present at the meeting. Functions of the board members are honorary in nature and mainly include all the executive responsibilities for conducting the affairs of the society.

212. The board of directors may appoint a person to administer the affairs of the society from amongst the members and also from outside the society, if capable persons can be picked up for appointment as managing director, who may have to function under the supervision of the board of director and in conformity with the statutes of the society and the resolution of the general assembly.

213. The board of directors discharges its functions in a collective manner and it is considered as a legal representative of the society. On expiry of the term of office the responsibilities regarding management of the society continue till such time as the new board of directors has been appointed and they intimate their acceptance.

214. It is to be noted that as per article 129, the work of supervision, promotion of the activities of the society, and audit of the accounts of the society vests with the Ministry of Cooperation and Rural Affairs of the Government of Iran. This provision amounts to allowing a channel for political interference in the functioning of the society. The function of the audit should be entrusted to some independent agency or should be conducted through qualified auditors rather than being a governmental function.

Roles of Functionaries under Bye-Laws

215. Cooperative bodies constitute a distinct category of organisations particularly because they furnish economic services without enterprenuerial profit. These are owned and managed by the persons for whom they render service. Being peoples organisation with social objective and managed in accordance with democratic principles, cooperative have an altogether different ideological base. The cooperative laws aim at preserving the

cooperative character and also at ensuring purity and autonomy in their functioning. In view of the aforesaid characteristics cooperative legislations provide for adoption of bye-laws by each society for regulating its internal functioning. The bye-laws are required to be presented by the promoter-members at the time of registration of the society. Thus bye-laws constitute a self imposed code formulated and adopted by members for working of their society.

216. Functioning of a cooperative body has to be dynamic. It should keep in tune with the changing needs. Accordingly, the bye-laws may require amendment from time to time. Therefore, provision for enabling amendment of bye-laws has also been provided in all the acts, but the amendment of bye-laws should be the exclusive concern of the society (i.e. its general body) and not that of any authority outside the society. Although cooperative laws of the countries under study mostly provide for framing and adopting bye-laws by members themselves, in some countries namely India, Bangladesh, Srilanka, Malaysia, Singapore and Pakistan the cooperatives departments in the government have also been authorised to frame model bye-laws. In these countries, the registrar has even been empowered by the act to effect amendment of bye-laws compulsorily if it is considered necessary by him to do so, in the interest of cooperative. Such provision empowers registrar or the government to interfere in the functioning of the society and strike against its autonomy. Actually the society should have full freedom to frame, adopt and amend its bye-laws. The registering authority should confine functions to examining them in the light of the law of the land, and the cooperative principles and suggest changes whenever considered necessary. In brief:

- a) Bye-laws contain provisions for regulating internal affairs of the society which bind only the members. Bye-laws constitute a private agreement between the members.
- b) Bye-laws must not go beyond or be repugnant to the cooperative act.
- c) Bye-laws may supplement the provision of the act, but can not prohibit what the act allows or legalise what the act disallows.
- d) Amendment of bye-laws has to be the exclusive concern of the society.

217. While studying the rules of functionaries as provided in the framework of cooperative legislations of various countries, it would be essential to examine the provisions regarding the roles of the functionaries as contained in the bye-laws of Asian cooperatives to adjudge the extent of

harmony between the statutory provisions and the bye-laws adopted by the society. Accordingly, bye-laws of some representative cooperative bodies of the countries under study have been examined and the roles as projected in the bye-laws are presented vide statements appended (Refer Appendix IV). It is revealed that in all countries, the bye-laws fully recognise the supremacy of the general body and the concept of democratic functioning through elected management committees or board of directors according to the statutory provisions. For day to day management, provision for appointment (or hiring) of suitable persons has been mostly followed. In all the bye-laws, the function and duties of the general body, the board of directors and management have been clearly laid down in accordance with accepted norms and principles of democratic functioning. No where any element of disharmony between the bye-laws and the corresponding legal provisions appear to exist.

218. Accordingly, one comes to the conclusion that the malady for cooperative ills lies not in the roles assigned to the functionaries under the statutes or the bye-laws of the various countries but elsewhere.

III

COOPERATIVE MANAGEMENT - CONCEPTUAL ASPECTS

1. The development and functioning of cooperatives in almost all the countries in the world are governed by well defined cooperative laws of the respective countries. The cooperative laws are in tune with the social, political and economic conditions prevailing in the country. These considerations may include:

- a) History, traditions and culture of the country;
- b) Type and level of the national economy;
- c) Perception of the policy makers in regard to cooperatives and their place in the national development programmes.

2. The cooperatives are by nature voluntary organisations and belong to non-governmental sector of the economy. The ILO and the ICA have always emphasized that the role of the government in relation to the cooperatives should be one of the active help with the clear objective of encouraging the cooperative enterprises and to guide them so that such institutions of the people may thrive and prosper and people get attuned to the concept of self-help and mutual-aid. Government should therefore formulate policies under which the cooperatives receive aid and encouragement, without in any way, affecting their independence and autonomy, because democratic functioning is the very essence of cooperation, cooperatives being people's bodies. Cooperative democracy is the key word, used in definite relationship between the cooperatives and the people on the other. It will be therefore relevant to look at the fundamental aspects of cooperative democracy. In this regard, the first two principles of cooperatives as laid down by the ICA are very relevant. These are as under:

- i. Membership of a cooperative society should be voluntary and available without artificial restriction or any social, political and

religious discrimination amongst persons who can make use of its services and are willing to accept the responsibilities of membership;

- ii. Cooperative societies are democratic organisations. Their affairs should be administered exclusively by persons elected or appointed in a manner agreed upon by the members of the society and such persons should be accountable to the society;

3. Thus in brief, the administration of the cooperative should be conducted on democratic lines by the members themselves. In the aforesaid situation, following aspects are important and assume basic importance so far as the management of the cooperative is concerned :

- a) Membership participation;
- b) Democratic administration.

4. Further, the members constitute principal structure of the cooperative democracy. Efficient working of a cooperative would thus depend on conduct of timely elections, on the interest taken by the members and extent of their involvement in the affairs of the cooperative. Members must be aware of the fact that observance of the cooperative principles in right earnest is their duty and it will always be to their advantage to make use of their democratic rights as members. The members must be interested in knowing and discussing the financial aspects, details of functioning assess progress or performance of the society. Thus, it is active participation of the members which can ensure correct democratic status of the society. Any indifference may lead to unhealthy developments and subsequent decline of the society.

5. The primary purpose of a society is to promote the interests of its members. What are the interests of the members, can be best defined and appreciated by the members themselves, hence the need to entrust supreme authority to the general body of the members.

6. Cooperatives will therefore work well and prosper only if consultations among the members as a body are carried out freely by providing as much opportunity of expressing their views to the members as may be possible. Supremacy of the 'general body' of the cooperative society has to be therefore recognised fully. Appropriate legal framework, procedures and practices should be developed to make the members participate and freely exchange their views on every matter relating to the society. For ensuring healthy practices those who are supposed to administer the day-to-day affairs of the society must be chosen by the members and they should also enjoy full confidence of the members, with the further condition that

such persons (managers) would be accountable to the members for their activities. If the members are not satisfied with the functioning, they should be free to express their dissenting views and suitable steps against the delinquent or defaulters including their removal and replacement by others should be possible forthwith.

7. Development of cooperative societies on proper lines also envisages strict adherence to the cardinal principle of '*one member - one vote*'. This process contemplates equality of status, conferring on the members equal rights in conduct of the affairs of their society.

8. Further, democratic management of the cooperative organisations implies 'autonomy' that is independence from external control. In an ideal cooperative society, the management therefore must rest in the hands of the members and all decisions must be taken by the members without getting influenced by external agencies and factors.

9. **Role of Government:** At this stage, it is very relevant to discuss the recent trends associated with the government involvement towards the development of cooperatives. In the context of Asian countries, it would be visible that the recognised ways of government involvement vis-a-vis cooperatives are through:

- a) Cooperative legislation and policy formulation; and
- b) Financial assistance in the implementation of the cooperative programmes or activities.

10. It is generally noticed that often governments lay down provisions for financial assistance and provide assistance too but simultaneously assume more and more powers for regulation and control over the cooperatives. In this regard, a noted cooperative leader from Sri Lanka had observed: "Laws which vest the final decision in regard to certain financial and administrative matters in a government official and give powers to the government official to nominate directors on the board of the cooperative bodies and to supersede boards of management, who may even impose bye-laws on the cooperative are most damaging to the cause of cooperative development".

11. The validity of this observation cannot be overemphasized in the context of present state of cooperatives. The presence of government officials as executives of the society tend to create inattention and indifference amongst the members towards the cooperative ideals and cooperative functioning. Thus, seeds for inattention and indifference in the minds of cooperative members are sown by the law itself,

12. Democratic and autonomous functioning means that internal management has to be necessarily a concern and responsibility of the members of the society. Such steps like framing rules by government in addition to bye-laws adopted by the society for internal functioning of society amounts to trespassing the areas of exclusive concern of the society and therefore strikes against the autonomy of the society, whereas 'autonomy' is a necessary corollary of cooperative democracy. No movement can grow from the top downwards, least to think so about cooperative movement, because as stated earlier 'voluntary membership' and 'democratic control' constitute the essence of the cooperative system.

13. In most developing countries, keen interest and enthusiasm is being shown towards promotion of cooperatives for involving the people in the programmes of development taken up by the government. But it is noted that cooperative plans and programmes are usually framed within the four walls of government offices - a typical way of planning from above, hardly appreciating as to what are the problems and needs of the people and what are their expectations? In such situations, planning or execution of development programmes from top to bottom will be completely devoid of the benefits of cooperation. Under such planning i.e., government sponsored cooperative programme, a package of financial and technical assistance usually follows, which appears to help the cooperatives superficially, but in fact, it acts like poison for them. People do not stand up themselves and the spirit of self-help and mutual-aid gets completely crushed. With the financial flows, the government nominees enter these institutions carrying with them government directions and start acting arbitrarily under the pretext of safeguarding government interests linked/ associated with such financial assistance. In this regard the Late Prime Minister of India, Jawaharlal Nehru, once observed "*Nothing can be more fatal than government control which is like embracing death and I want to emphasise I will go on repeating, I dislike the association of government in cooperatives, except as an agency helping them*".

These observations have lasting validity so far as cooperatives are concerned.

14. There is a belief in government circles that supervision of cooperatives will serve the purpose of ensuring proper use of government funds but this does not happen rather retards the growth of cooperatives. Better alternatives to the appointment of government officials in the management of the cooperatives should therefore be considered. Finally, it is also necessary to appreciate that government aid and assistance may be necessary and serve

asseed money/capital in the development of cooperatives for making them viable socio-economic instruments. But such assistance should be provided with clear understanding that cooperative democracy shall be preserved. Under these circumstances, an atmosphere of better relationship and understanding between the government and the cooperatives should be developed so that the people may get the best results out of their mutual cooperation.

15. Accordingly, fair demarcation of responsibilities between the government and the cooperative sector should be thought of. The same could be outlined by way of suggestion as follows:

A) Responsibilities of Government Sector

- a) Cooperative legislation;
- b) Proper enforcement of cooperative laws and regulations;
- c) Registration and liquidation of co-operatives;
- d) Prosecution of erring cooperative officials and employees;

B) Responsibilities of the cooperative sector

i. Society Level

- a) Organisation, management and operation of cooperatives;
- b) i) Promotion and adoption of bye-laws;
ii) Election of boards of management and other officials;
- c) Appointment of employees;
- d) Planning and management of business operations;
- e) Disposal of savings and surpluses.

II Apex Level

- f) Guidance and close supervision of cooperatives;
- g) Auditing of cooperative transactions.

C) Responsibilities of both

Area of concurrent jurisdiction:

- a) Cooperative education and information;
- b) Training of officials and employees;
- c) Formulation of policies and programmes on cooperative development;
- d) Financial assistance, whenever and wherever needed.

The aforesaid demarcation is in very broad and general in terms.

16. Object of Cooperative Laws: The purpose of cooperative laws is to provide guidelines for regulating different matters related to cooperative functioning in accordance with the cooperative principles and ideology. The major purpose of cooperative law should be to promote growth of self-reliant cooperatives. Many of the laws presently applicable in different countries have been drafted on the analogy of state controlled models of the cooperative and this is one of the main cause of distortion and mal-functioning noticed in cooperative functioning these days. Under the circumstances, it would be advisable to encourage and stimulate fresh ideas for the refinement of the laws, to amend them in accordance with the co-operative principles and developing them on indigenous traditions, with due regard to modern management techniques.

17. It may be once again repeated that neither law should prove to be an obstacle to true cooperation nor bureaucracy should be imposed on persons who simply want to work together for their common economic needs on the basis of self-help and mutual-aid. It should be left to the members to decide what their objective would be for the proposed cooperative activity, how they would function and how they will apportion the gains of their joint efforts/enterprise.

18. Framework of Cooperative Laws: In many countries with successful cooperative development the law relating to cooperatives is confined primarily in the following three documents:

- i) The act, ordinance or law as passed by the Parliament or the highest law-making body of the country;
- ii) Rules or regulations as made by the government under the statutory powers conferred by the act;
- iii) Bye-laws as framed by each cooperative, which may be binding on that cooperative and its members for its internal regulation and functioning.

19. The act should contain matters of principle, which are important and which the legislature adopts after proper debate. Any amendments in the act should also be approved by the national parliament or the appropriate law-making body of the country.

20. The regulations/rules contain matters of details which the government lays down. In an ideal system, there should be no need to frame rules/regulations so that chances of interference by government subsequent to enactment of the law are eliminated completely. Every thing should be left either for legislation to define or for the cooperative to decide, but not for rules or regulation to be issued by the government.

21. Here it is pertinent to mention that while framing the law government often keeps an innocent looking provision in the Act providing that: government shall have the power to frame rules under the act which may be notified later at appropriate time. Such rules under the provisions of act when promulgated by the government carry statutory force but interestingly do not always have the approval of the legislature in view of their sudden and delayed promulgation, nor can they have a binding force like law as the legislative approval is missing being matters of subordinate legislation. The rules reflect the intention of the government and not that of the legislature. The problem gets further aggravated by frequent amendment of such rules as per needs of the government from time to time, in utter disregard of the society. The rules framed by government obviously carry greater force and precedence as compared to bye-laws because of the apparent statutory support, and lead to dual system of control resulting in conflicting situations apart from causing interference in the functioning of the society.

22. Bye-laws are creation of the society, they are like regulations for guidance of the society and constitute a code for internal functioning. They govern the relationship between the society and its members.

23. Bye-laws are supposed to have an objective character. They form an essential element of the cooperative law. As the society members are bound to work in accordance with the bye-laws the same being subject to law and therefore these should be framed and properly understood by them for their group activity.

24. As against the above pattern of framing bye-laws by the membership, quite often, the bye-laws are imposed by government or its agencies upon the cooperatives in the form of ready made model bye-laws. These model bye-laws are accepted or deemed to have been accepted by the cooperative society under specific provisions of the act, without being understood or adopted by the members. This is done specially to meet the immediate requirement for registration, to save time and also to eliminate the trouble to formulate and understand the same. Thus, cooperators' initiative is neither encouraged by the registering authority nor even tolerated. Instead of helping the members in framing the bye-laws for their society, model bye-laws are made by the government and the members are supposed to agree, through legal provisions and thus bye-laws are almost thrust on them. This amounts to clear violation of the concept of autonomy - so basic to cooperatives.

25. Taking into account the fact that members are usually people of limited

means, who are not well versed in drafting legal documents and who cannot even afford to seek costly legal advice, it has been taken for granted that the government agencies or apex cooperative organisations would help persons in drafting their bye-laws, but this is rarely done.

26. This type of procedure and functioning reduces the autonomy of the society for making their own bye-laws to a mockery. When rules of working together are not known, they can not be properly applied or respected by the members.

27. In brief, it is necessary that members frame their bye-laws and understand them clearly so that they can operate them according to the spirit of the cooperatives. There should be hardly any need to promulgate rules in areas relating to internal working of the society.

28. Cooperative Principles and Bye-Laws

Cooperative principles constitute the backbone of the cooperatives. These principles are nothing but ideas accepted to guide the policy formulation or conduct of the activity of any kind. The basic principles are like ideas which are independent of time and circumstances. Cooperative principles are derived from the general ideas about cooperation and the cooperative practices are based on such principles. In formulating bye-laws clear understanding of the cooperative principles is very necessary and commitment of the society to these principles is essential. In formulating bye-laws therefore, the following aspects must be given due consideration:

- a) The bye-laws should reflect the nature and composition of the group alongwith the nature of economic activity being undertaken and the procedure to be followed by the society;
- b) It contends to establish a jointly operated enterprise;
- c) It ensures the rights of the members of the society.

29. Cooperatives in many countries (under study) are tightly controlled by the government and their affairs are not only handled but closely monitored as well. Hence, it would be ideal if the task of framing the bye-laws is left exclusively to the promoter members of the society. In the event of difficulties, if model bye-laws approach is followed then it should be very clear that model bye-laws provide a tentative format or draft and the same could be used as sample for making the bye-laws of any particular society. In no case, the spirit of 'self-help' and 'mutual-aid' should be hit or harmed and this arrangement of framing bye-laws on the pattern of model bye-laws should be viewed truly in a positive manner and not just mechanically.

30. The bye-laws of a registered society should specify the following:
- a) place of its registered office and postal address;
 - b) The area of operation to which membership will be confined.
 - c) The objects of the society.
 - d) The purposes for which its funds may be used;
 - e) The manner of disposal of its accumulated funds;
 - f) Qualifications for membership;
 - g) The procedure for admission of members and their terms;
 - h) The procedure and conditions for withdrawal and expulsion of members;
 - i) The rights, liabilities and obligations of members;
 - j) Procedure for the transfer of shares or interest to members;
 - k) The manner of raising funds alongwith rate of interest;
 - l) The general meetings, the procedure and quorum for such meetings and voting in such meetings;
 - m) The manner of appointment, suspension and removal of the members of different committees and officers alongwith their powers and duties;
 - n) The authorisation of officers to sign the legal documents for and on behalf of the society;
 - o) The procedure regarding settlement of dispute.

31. Management Structure of Cooperatives: Fundamental requirement of a cooperative is to provide a proper organisational set up. The management structure of cooperatives is made up of the following three components:

- a) The general body constituted by all the members, with a duly elected chairman;
- b) The board of directors or the management committee - elected by the general body of the members;
- c) The hired management.

32. Initially, the quality of management in cooperatives is determined by the members themselves. The principal role of members in management (i.e. through the general body) is to lay down the basic guidelines for effective administration of the affairs of cooperative, keeping in view the objectives, the board of directors has to manage the cooperative as per

directions of the general body and the hired management has to implement the directions and actually perform the day to day functions within the cooperative as per decisions of the board and or general body. The general body being the supreme authority frames bye-laws confers essential powers and assigns functions to the board of directors. These are formal powers with legal force. The board also derives informally some powers in the form of trust and confidence of members. An imperative to successful management for any kind of society would be that these three components work in unison and as a team. There are tendencies to qualify cooperatives as non-profit business institutions to distinguish them from the corporate sector where principle aim is profit making. A cooperative is therefore like a corporate body allowed to be constituted by the state to provide services to its members with no profit motive.

33. The board of directors may constitute special committees or advisory bodies to assist and advise. In some countries enabling statutory provision exists for appointment of such committees. The responsibility of each of the aforesaid bodies in regard to management and effective functioning of the cooperative can be enumerated as follows:

34. General Body: The following functions should be assigned to the general body as they cover almost all the matters which deserve to be decided or finalised at the level of the supreme body of the society:

- i. To consider and adopt the annual report of the cooperative as also the audit report and the audited balance sheet and profit and loss account along with the annual programme of activities and progress submitted by the board of directors;
- ii. To define the capital structure and to fix the maximum borrowing limit;
- iii. To finalise annual programmes of the society;
- iv. To provide basic foundation for effective management;
- v. To amend the bye-laws;
- vi. To elect, suspend or remove the members of the board of directors, and to expel members;
- vii. Any other business with the permission of the chairman.

The board of directors should manage the cooperative for and on behalf of the members. This body is responsible for ensuring implementation of the programmes given by the general body. The main functions therefore would be:

- a) Planning;
- b) Organising;
- c) Directing;
- d) Co-ordinating;
- e) Controlling;
- f) Reporting.

These functions represent the chain of activities that holds the key to successful management of any organisation and therefore necessary powers must be conferred on the board of directors for performance of aforesaid functions.

35. The board of directors is in a sense the body to take active part in direction, co-ordination and execution of the cooperative business.

a) It should be the principal legal responsibility of the board of directors to act as trustee for the members. The major concern of the board is planning for implementation of the objectives of the society, with focus on establishment and maintenance of healthy and stable financial status of the society. This pre-supposes judicious management of assets, safeguarding of members equity and decisions regarding investments.

b) The board of directors is responsible for implementing the basic objectives and broad policies of the society. The board of directors is supposed to think well in advance about the services that may be needed by the members and therefore the board should develop realistic long term plans and programmes to ensure the supply of these needs.

36. The board is responsible for selection of a suitable person to function as a 'manager'. The board may also reserve the right to approve the appointment of good staff. Selection of competent manager who acts as spearhead of the management team is one of the most important responsibilities of the board because a good manager acts like a pivot, on whom the success or failure of the cooperative revolves.

37. The board should delegate sufficient authority to the manager and staff for smooth and efficient conduct of business of the society. The duties and functions of the manager and other officers are usually provided in the bye-laws. However, the board should be prepared to further delegate powers whenever considered necessary for effective discharge.

38. The board has to participate actively in the function of 'control and review' of the performance periodically.

39. The board has to ensure that the affairs and the business of the cooperative are conducted in accordance with the law, rules and bye-laws.

This is a condition extremely essential for the preservation, maintenance and strengthening of the cooperative nature and character of the cooperatives. The directors should be well conversant with the cooperative principles, objectives of the society, programmes of the society, law and expectations of the members while participating in the process of decision-making.

40. It is the responsibility of the board to ensure that a sound accounting system is adopted and followed by the management. This may include laying down rules for financial management and periodical reviews of the financial status and programmes of the cooperative.

41. The board of directors should have continuous dialogue with the members. For this a suitable system has to be developed to maintain a channel of communication with the members. The channels should permit two-way flow of the communications.

42. The board of directors is vested with the authority to direct and supervise the affairs and business of the society. With this authority is linked the responsibility for effective management of the society. The authority emanates from two sources:

- a) the member, and
- b) the law.

43. Hence, the board of directors enjoys powers delegated by the members and also the law. The accountability of the board of directors towards the members i.e., the general body is thus obvious.

The Hired Management: The executive staff, (chief executive to be appointed by the board of directors is generally included in the category of hired management) he actually manages the day-to-day affairs of the cooperative in accordance with the authority delegated by the board of directors and is accountable to the board and the general body. While reviewing the cooperative movement in the United Kingdom, the Cooperative Independent Commission observed that if efficiency can be correlated with any single factor, it is probably the calibre of the chief executive. The observation is true for all cooperatives (major or minor) anywhere in the world. It is the general manager or the managing director as a chief executive, who determines the quality and pace of performance in his cooperative, other organs of the cooperative being in no way less important. The chief executive has to provide a lead in all the activities of the cooperative. The effectiveness of the chief executive will depend on

delegation of powers commensurate with his responsibilities for undertaking management decisions. In view of this, clear demarcation of his functions vis-a-vis the board is necessary. Statutory support for some essential functions may be desirable.

IV

ROLES OF FUNCTIONARIES: AN ANALYSIS

1. Principle functionaries in a cooperative society are its general body, board of directors, chairman and the chief executive. In this chapter, an attempt is being made to analyse the roles of these functionaries in the process of management of cooperatives and their mutual relationships.

General Body and its Supremacy

2. According to the concept of autonomy and democratic control of a cooperative society, the general body is the supreme authority in regard to the conduct of the affairs of the society. The perception behind the supremacy of the role of the general body is to create a structure and a system which may best appreciate the needs of the members. The source and exercise of powers in respect of any body must rest with those, whose needs have led to the formation of that society. Cooperative laws of all the countries in one way or the other therefore provide that the general body shall be the supreme authority of the society and rightly too.

3. The cooperative laws of Bangladesh (vide section-15), Indonesia (vide article-20), Phillipines (vide section-35), Thailand (vide section-49) under the respective cooperative acts, make provisions for vesting supreme and final authority regarding affairs of the society in the general body or general meeting as it may be called. (This body is termed as 'general assembly' in the Republic of Korea and 'government of cooperatives' in China). In India slightly different provisions regarding the authority of the general body have been incorporated. The Multi-state Cooperative Societies Act, 1984, which is the latest enactment of the Government of India covering the multi-state cooperative societies, vide section 29(2) of the act makes following provision:

“Subject to the provisions of this act, rules and bye-laws the ultimate authority of a multi-state cooperative society shall vest in the general body of its members.

Provided that nothing contained in this sub-section shall affect the exercise by the board or any officer of a multi-state cooperative society of any power conferred on such officer by this act or rules or the bye-laws”.

4. Above provisions indicates that although ultimate authority vests in the general body of a cooperative society, it does not affect the powers and roles of other management functionaries defined in the cooperative law. Such a provision contradicts with the concept of supreme authority of the general body and appears contrary to the principle of democratic control. So far as the states in India are concerned, the respective state laws provide for the supremacy of the general body (refer section 29 of Rajasthan Act and section 72 of the Maharashtra Act).

5. In Sri Lanka, bye-law No. 32 of multi-purpose cooperative societies says that supreme authority of the society lies with the ‘general meeting’ consisting of delegates of branch committees and the board of directors elected under the bye-laws. Thus Sri Lanka cooperative law also does not provide for vesting supreme authority in its general body, actually the supreme authority lies in a differently constituted body of the cooperative.

6. When we look at the laws of other countries, we find that in Pakistan, the cooperative laws clearly provide for the supremacy of the general body. Pakistan Cooperative Societies Act states (vide article 21) that the supreme authority of the society shall vest in the general body of the members and that it shall be the final authority in regard to the affairs of the society. The law also provides statutorily for holding a meeting of the general body (called as general meeting) in the first quarter of each agriculture Year.

7. In Afghanistan, article 17 of the act provides that the general meeting shall be the supreme authority of the cooperative and shall be composed of all the individual members or the authorised representatives of member cooperatives in the case of secondary societies.

8. Similarly, in Iran also (vide article 7), the cooperative law provides that general assembly would be the highest organ in regard to taking decisions and expressing collective views by members for the management of the affairs of the society. (In Iran the general body is designated as the ‘general assembly’). In all the aforesaid countries the general body is fully authorised

to decide in regard to amendment of bye-laws, amalgamation or merger of the societies, withdrawal from membership of a secondary cooperative society, election of the members of managing committee, approval of policies and annual programmes, distribution of net surpluses, consideration of annual audit reports and other matters as specified in the bye-laws. Matters regarding approval of the annual budget and service conditions of the managing directors and employees of the societies are also considered and decided by the general body.

9. It is interesting to look to the Chinese pattern which appears to be of ethnic origin i.e. without any past legacy or any colonial shadow. The cooperative law derives its strength from government policies laid down by the decisions of the Central Committee of the Chinese Party and not through any Parliamentary act. (In China, the general body, board of directors and the chief executives constitute the government of cooperatives). The general body of the cooperative is considered to be the highest body and treated as an important component of '*government of the cooperative*'. In any general meeting, matters are decided on the basis of majority, each member having one vote and provision for voting by proxy exists, if a member requests in writing for such permission, in view of his inability to attend. All amendments of bye-laws of the cooperatives have to be passed by the general meeting of its members. The Chinese pattern apparently provides a democratic system and functional autonomy to the general body without any interference from any agency.

10. In Japan, the general body is the supreme decision making body of a cooperative society and no other authority has any powers to interfere in its affairs or resolution. In this regard Japan presents the best pattern accompanied with sound traditions.

11. The Malaysia, cooperatives are far away from democratic management. In Malaysia everything rests in the hands of registrar general of cooperatives (a government officer). He frames the rules for the general body meetings and controls their affairs. He is even authorised to rescind the resolutions of the general body.

12. In South Korea, every cooperative has a general assembly constituted by the members of the cooperative, and the president of the society is empowered to call the meetings of the general Assembly, once every year. There is provision for representative meeting to substitute for the general Assembly, If the membership is over 100. The general assembly has all the powers for expulsion of members, election and dismissal of officers, final decisions in regard to business-plan, approval of budget and financial

matters, dissolution, amalgamation of the society, etc. All the decisions are taken on the basis of majority of votes. Thus, the provisions appear to ensure autonomy of the society and freedom of working except that the amendments in bye-laws have to be approved by the minister.

13. The Singapore pattern also ensures complete supremacy of the general body and functional autonomy with essential powers conferred on the general body for disposal of business. In the Kingdom of Nepal too, the general body of the cooperative is the supreme authority with all the necessary powers, to let the organisation function independently as an autonomous body. However, the registration of the society if refused, by the registrar is to be agreed on obtaining orders of His Majesty's Government on presenting an appeal by the aggrieved promotor-members. Excluding this provision, rest of the provisions ensure the autonomy of the general body and its supremacy with adequate powers to manage the affairs of the society.

14. If we look at the enactments, it would be noted that besides declaring it as a supreme body, the general body is also assigned definite functions to guide the activities of the society, which are performed through the annual general meeting - a statutory requirement. In all the countries the functions generally assigned include:-

- a) formulation of the policy/programme of the society,
- b) consideration of the position of finances and accounts alongwith the annual audit reports,
- c) election of members for constituting the committee of management.
- d) admission of new members.
- e) decision regarding disposal of surpluses.

Countrywise details of the functions of general body are presented for a quick glance in a tabular form at Appendix I.

15. The general body being the supreme body is also empowered to resolve about the following cooperative matters in all the countries through special general meetings, to be convened specially in the manner specified under the bye-laws:

- * amendment of bye-laws.
- * amalgamation, division and reorganisation of societies.
- * other matter of urgent and important nature

(The number of members required to make a demand for a special general meeting, as also the quorum for resolving issues, through SGMs. vary from country to country).

16 Amendments to bye-laws: The working of a society has to be in tune with changing needs and situations, the bye-laws may therefore need amendment from time to time. Hence, provision for amendments in bye-laws of the society, by the society itself, who knows its needs best has been kept for ensuring dynamic performance. In all the countries powers to amend bye-laws vest in general body of the society for which a special meeting of the general body is required to be called. However, the cooperative laws of Bangladesh, Malaysia, Srilanka and India provide for compulsory amendments of bye-laws of the cooperative societies or a class of cooperative societies by the government or the registrar, which the government of the country deems fit in the interest of the cooperative movement and public interest despite the society having made no proposal for such an amendment. The section 13 of the Bangladesh Cooperative Societies ordinance, 1984 empowers even the financing bank or the registrar of cooperatives to direct the amendments in the bye-laws of the society. If the society fails to make amendment within the specified time frame, registrar of cooperative society is authorised to affect amendment of bye-laws of the cooperative society compulsorily. In India, most of the state cooperative laws even empower the government to draft model bye-laws (refer section 14 of the Rajasthan Cooperative Societies Act, 1965 and section of the Maharashtra Act). In Sri Lanka the government is empowered to affect amendment of bye-laws stating and justifying such amendments to be in the interest of the cooperative society and in national interest. In other countries covered under study viz. Japan, Singapore, the Republic of Korea, Indonesia, Philippines and Thailand law does not provide any authority to the government for amendment of bye-laws on compulsory basis even or otherwise.

17. It is very pertinent to mention here that even at the initial stages when the society is required to present its application for registration, it has also to submit a draft of its proposed bye-laws. These bye-laws are integral part of the legal framework and their formulation is the responsibility of the membership, as these bye-laws constitute a self imposed code for internal functioning of the society but in many countries the department of cooperatives frames model bye-laws and offers it to the prospective promoter-members for guidance. Such model bye-laws are usually adopted by the promoter members without examining their implications in respect of their society, in hurry or out of inexperience. For such a practice it may be stated that so far as formulation of '*model bye-laws*' by the government department is concerned, it does not have any authority to frame model bye-laws under cooperative law of any country. It appears to be only an

administrative device for helping in completing the formalities for registration of the society as fast as possible but at the cost of hitting the well thought democratic system of formulation of the bye laws by the members themselves. Such a practice is followed in India, Sri Lanka and Bangladesh and a few other countries as well. Such a practice appears to be against the autonomy of the society. Not only this, in several countries cooperative acts also contain provisions for framing rules by the government for the implementation of the provisions of the act and conducting the affairs of the society. Such rules are framed by the government or powers for the same are delegated to the registrar.

18. If we examine the legal frameworks of different countries regarding framing rules the situation emerges as under:

i) In countries of Indian sub-continent, i.e., India, Pakistan, Bangladesh, Nepal and Sri Lanka, it transpires that the cooperatives are required to frame their bye-laws. Yet, government has also retained powers for framing detailed rules for the functioning of the societies. Following statement depicts the country-wise position where the rule making powers have been retained by the respective governments.

<i>S.No.</i>	<i>Country</i>	<i>Relevant Provision of the Act.</i>
i.	India	Section 109 (1) V of the M.S.C.S. Act, 1984. Section 148 (2) III of the Rajasthan Cooperative Societies Act, 1965 Section 165 (2) III of the Maharashtra Cooperative Societies Act, 1980.
ii.	Sri Lanka	Section 61 (i) K (j) of Cooperative Societies Law (Act No. 5/72) of Sri Lanka.
iii.	Pakistan	Section of Pakistan Cooperatives Societies Act.
iv.	Indonesia	Article 21, 41 and 43 - Sub-Section 2 of Indonesia Cooperative Law.
v.	Philippines	Section 15 of Cooperative Code of Philippines.
vi.	Thailand	Powers to frame regulations are now exercised by Cooperative League of Thailand vide Section 109 of the Act.
vii.	Malaysia	Section 51(1) of the Cooperative Societies Act.
viii.	Singapore	Section 95 of the Cooperative Societies Act.
ix.	Bangladesh	Section 140 (1) (IX) of the Bangladesh Cooperative Society Act.
x.	Nepal	Section 18.

19. It is pertinent to mention that framing rules for functioning of the society by the government includes laying down procedure for the conduct of affairs of the society, which is a legitimate function of the general body of society as per principles of democratic control and autonomy. Thus, this function ought to be left exclusively for being performed by the society itself. Any step to frame rules for conduct of affairs of the society by the government would therefore amount to trespass into the domain of the society. Framing rules by the government for the society simply amounts to duplicating the functions resulting in conflicting situations. The rules framed by government also provide channels for exercise of government control over the cooperatives. Any provision empowering the government to frame rules for functioning of the society sows the seeds for interference by government, leads to conflicts and needs to be deleted from the cooperative acts for ensuring autonomy of the cooperatives.

20. In Indonesia, Philippines and Thailand no rules have been framed under the cooperative laws (though the power to frame rules by government exists). Here it is appropriate to comment that in these countries need to draft rules separately and in addition to the bye-laws, is hardly felt by the government, reflecting thereby a higher regard for democratic values and trust in the members of the cooperatives.

21. So far as the East and west Asian countries, i.e., China, Japan, Republic of Korea, Afghanistan and Iran are concerned there does not exist any provision to frame rules by the government.

22. The cooperative laws of these countries provide for complete supremacy of the general body and confer full authority regarding framing the bye-laws and also to make amendments in them. In this regard article 9 of the Chinese act and article 7 of the Iran act are relevant.

23. In view of the above exposition, it would be in the best cooperative traditions to modify the various cooperative acts so as to exclude the rule making powers in regard to areas to be covered by the bye-laws for which exclusive authority should remain with the society. Further, the powers regarding compulsory amendment of the bye-laws as available in many acts (to be exercised by the registrar of cooperatives or the respective government) should also be scrapped. Such amendments shall be very helpful in ensuring the democratic functioning and autonomy to be cooperatives.

Board of Directors (or Managing Committees)

33. **Constitution:** Board of directors (also known as managing committee or committee of management) is constituted by the general body through

the process of election. While the general body reflects the aspiration and expectation of the members, the task of the board of directors is to give them a concrete shape and get them implemented. Thus the board of directors becomes the most crucial functionary of a cooperative society and has important executive function to perform. Cooperative laws of the countries covered under study therefore make specific provisions for the constitution, powers and function of the board of directors.

34. The Cooperative Societies Act 1940 of Bangladesh vide section 23 makes provision for constitution of a managing committee through direct election by the general body. The term of the committee is two years and after the expiry of the term it stands dissolved. If the managing committee is not reconstituted before the expiry of the term, the affairs of the society would be conducted by a person or a managing committee to be appointed under section 26(1) of the act by registrar who shall also convene a special general meeting to hold elections of the committee.

35. Indian cooperative law also provides for constitution of the board of directors through election. The term of the board is generally three years. Section-32 of the Multi-State Cooperative Societies Act makes it obligatory on the cooperative society to have board of directors consisting of such persons as may be provided under the bye-laws. Another important feature of the board of directors in India is representation of government on the board by nomination of a specific number of officers as directors. Similar provisions exist in the cooperative acts of the Indian states also, in the other words, members are elected for being included in the board and the state governments also nominate state representatives for functioning as directors. The number of directors to be elected and the number of directors to be nominated shall be in accordance with provision contained in the provision contained in the respective bye-laws.

36. Articles 21 and 22 of Indonesian Cooperative Law deals with the board of directors through election. The term of the board stipulated in the law is 5 years. However some interesting features in relation to Indonesian management of cooperative are:

- i) Election of board of supervisors and board of advisors in addition to those of the board of directors: these bodies are directly responsible to the general body. While board of supervisors is elected from amongst the members of the general body, the board of advisors consists of experts who may be outside the membership of the society. The board of advisors has advisory role to perform;
- ii) If the general body fails to elect the required number of member of the

board, It has the authority to appoint one or more non-members may be required, but not exceeding one third of the total number of the board members;

iii) Before occupying their position, the board members are required to take an oath/pledge which is another unique feature in Indonesia. In no another country any provision for taking such pledge/oath exist.

37. Cooperative code of Philippines vide section-38 specifies the following characteristic features:

- i) Constitution of the board of directors is through election of the general meeting;
- ii) Membership of the board shall not be less than five and more than fifteen;
- iii) Term of the board will be four years;
- iv) No directors can continue to be the board member for more than 4 consecutive terms;
- v) Interim vacancy in the board can be filled by the board of directors through a special meeting called for the purpose.

38. In Sri Lanka and Thailand also the general body elects the board of directors. However, the new cooperative law of Thailand (section 61) makes provision for retirement of one third members every year. The term of office of the board of directors is regulated by the bye-laws. In no other country such a provision for retirement of members every year exists. The provision appears to be good as it helps in keeping all the members always alert to their duties/responsibilities.

39. In China, at the first meeting of the founder members of the cooperative, the general body has to undertake the election of the directors, supervisors and formation of the executive committee. As per article 9 of the act, the cooperative shall have no less than 3 directors and 3 supervisors to be elected out of the members at the general meeting. The term of the directors shall have a chairman, a vice-chairman and a secretary. Functions assigned to the board are honorary and without any remuneration. The board of directors is supposed to hold its meeting once every month as per article 45.

40. In Pakistan, the managing committee of any society shall consist of at least 7 and the maximum eleven members duly elected by the general body. The directors include the president, vice-president, treasurer and a secretary. The members of the managing committee shall hold office for two years and they shall be eligible for re-election, as per article 28.

41. In Nepal the, managing committee is the executive body elected by the general body in accordance with the provisions of bye-laws.

42. In Iran, by virtue of the law the affairs of the society are administered by the board of directors composed of atleast three members elected by the general assembly for a period of three years. The general assembly shall elect two alternate members also who may be required to fill up the position in the event of any duly elected director's resignation, death or withdrawal. The board of directors shall elect its chairman, vice-chairman and secretary. Resolutions of the board shall be adopted on the basis of majority of board members present in the meeting. All function assigned to the board shall be honorary.

43. In Afghanistan, also the board of directors is elected by the members of the general body in accordance with the provisions of the bye-laws.

44. In Japan, board of directors is composed of directors elected at the general meeting for a period of three years. At least three fourth of directors must be elected from among regular members. The board of directors performs the service of society along the policy lines adopted by the elected meeting. President and managing director (s) are elected by the board of directors from amongst its members for full time service.

45. In the Republic of Korea, the officers of the cooperative shall include the president, 4 directors and two auditors, all elected. The president shall be elected from amongst. The members of the board of the directors ,who shall be elected from amongst the members of the general assembly. The directors shall assist the president in taking final decision and the president shall preside over the general assembly as also, in the meeting of the board of directors.

Powers and Functions of Board of Directors:

46. As regards the incorporation of provisions for powers, functions and responsibilities of board of directors different provisions exist in the countries covered by the study. Management functions in a cooperative encompass activities like planning and organisation of resources, appointing suitable personnel, directing employees appropriately, coordinating various activities of the cooperatives and controlling its functioning. Planning being first and foremost, involves establishing the organisation's objectives and selecting the most feasible course of alternatives available to achieve these objectives.

47. In India, Indonesia and Thailand cooperative law itself defines the powers and responsibilites of the board of directors. The Multi-state

Cooperative Societies Act, 1984 in India, vide section 42 mentions following powers and functions of the board:

- i. The board may exercise all such powers as may be necessary or expedient for the purpose of carrying out its functions under this act;
- ii. Without prejudice to the generality of the foregoing power, other powers shall be as mentioned earlier in Chapter II (para 9) which are quite conclusive.

48. In Indonesia, powers, duties and responsibilities of the board of directors are regulated according to the provisions contained in article 23, 24 and 25 of the regulations relating to cooperative. These duties include leading the organisation and its business in accordance with the decisions of the members meeting; taking care of members' needs in accordance with article 13 and furnishing necessary informations to the members. Vide article 24, the board has authority to carry out actions and to make efforts in the interest and benefit cooperative societies in accordance with the cooperative societies and decision of the member's meeting.

49. The new cooperative law of Thailand defines specifically the functions of board of directors. The same are quoted below:

- i. "The board of directors shall be responsible for the conduct and management of the affairs and business of the society and subject to any restrictions contained in the bye-laws or in any resolution taken at a general meeting of members, the board of directors may exercise all the powers required to ensure the full and proper administration and management of the affairs, business and property of the society, except those powers reserved for the general meeting of members. The board of directors shall have the legal and juridical representation of the society before all competent authorities and in all dealings with parties. Provided that, subject to the provisions of the act and the bye-laws of the society, the board of directors may delegate to any one or more of its members any of its powers or functions under this act. Provided further that all cheques and bills of exchange shall be signed by one of the members of the board of directors and by the secretary or the manager of the society.
- ii. Without limiting the generality of the provisions of sub-section (1) of this section, the functions of the board of directors shall include the following powers and duties:
 - To consider and approve or, subject to the provision of section 37 of this act, reject applications for membership of the society;

- To open and operate banking accounts;
- To appoint sub-committees;
- To keep members informed of the progress of the society, to encourage interest and sense of ownership on the part of the members and to carry out educative work among the members with respect to principles and practices of cooperation and the objects of the society.
- To prepare and present to the annual general meeting of the society, a proposal for the distribution of any net surplus accrued during the preceding financial year in accordance with the provisions of this Act and the bye-laws of the society.
- To prepare a work plan and policy guidelines for the conduct of the business of the society during the following financial year.
- To make a report to the annual general meeting on the work of the board of directors during the preceding financial year and containing such recommendations as they deem necessary to maintain or improve the services provided by the society to its members.
- To take immediate action to correct mistakes, errors or malpractices which disclosed in the reports of the supervisory committee, the auditor or the registrar.

50. In Bangladesh, Philippines and Sri Lanka, the cooperative law and rules make enabling provisions providing guidelines with regard to powers, function and duties of managing committee. The cooperative societies ordinance, 1984 of Bangladesh make enabling provision vide its section 18 (6) which says that managing committee shall exercise such powers and such function as are specified in this ordinance or as maybe prescribed by rules or bye-laws. The Cooperative Societies Rules, 1987 of Bangladesh vide rule No. 48 and rule No. 49 specifies the following powers vested in the managing committee of a cooperative society:

- * admission of new members;
- * raising and investment of funds;
- * appointment of employees;
- * disposal of application of shares;
- * application of shares application for loans;
- * appoint staff and duties.

51. Rule No.49 defines the duties of the managing committee which include the following:

- to take care of all the financial matters such as receiving and disbursement of money, maintenance of accounts of money receipts, assets and liabilities;
- to prepare and submit to the general body annual report and financial statements; and
- to convene annual general meeting; and
- to maintain all the records.

53. Cooperative Code of Philippines makes enabling provisions vide its section 39 to define powers of the board of directors authorising it to exercise all such powers of cooperative as are not received for the general assembly in this code from the bye-laws. Similarly in Sri Lanka also powers, function and responsibilities of the board of directors are defined in bye-laws.

54. From the foregoing discussions it is revealed that in these countries the powers of the board are part and parcel of the law it self, while other laws provide enabling guidelines for defining the powers of the board in the bye-laws. The essence of the principle of democratic control is that the affairs of the society should be conducted in accordance with the democratically expressed will of the members. Since board of directors is a creation of the general body i.e., by the general membership of the cooperative society, they are expected to function within the parameters and according to the expectations of the members. The will and expectation of the member are reflected in the bye-laws which are framed by the members themselves. Therefore, it seems appropriate that powers functions and duties of the board of directors/managing committee should be provided in the bye-laws of a cooperative society instead of providing the same in the cooperative law and rules, etc.

55. **China:** The board of directors is responsible for administration of the affairs of the society by virtue of the statutes (article 39). The board of directors shall be considered as the legal representative of the society and may apply this representation at courts, and other organisations directly and/or by attorney with the right of substitution. The responsibility of the board of directors vis-a-vis the society is identical with the attorney's responsibility vis-a-vis the client.

56. The board should make a business report at the end of the financial year and a statement of assets and liabilities, profit and loss account and an account showing the distribution of profits. This has to be sent to the board of supervisors atleast ten days before the general meeting for audit.

57. All the obligating agreements and documents of the society, with the exception of those for which the board of directors have made special arrangements for the purpose of administering the current affairs of the society, shall be valid when bearing two authorised signatures of the society after the approval of the board of directors.

58. The board of directors shall discharge their function in a collective manner and no board member shall have the right to severally use the authorities conferred to the board of directors unless in special cases and as the authorised proxy or representative of the board of directors.

59. The board of directors may appoint a qualified person to conduct administration of the society from amongst the members of the society and/or a managing director, who may have to function in accordance with the bye-laws (article 45).

60. Members of the board of directors are jointly responsible for the indemnification of any losses inflicted on the society as a consequence of their conduct and/or non-observance of the provisions stipulated in this law.

61. In the Chinese pattern the '*supervisors*' are a distinct type of functionary, elected by members with following duties assigned to them by law:

- To supervise and check over the finance and property of the cooperative;
- To supervise and check over the directors in the latter's execution of their duties;
- To examine the books and reports and accounts as provided in article 35 and 36 of the present law;
- To represent the cooperative when the latter is going to conclude an agreement with, to take legal action against directors;
- To carry out their duties mentioned in the foregoing, the supervisors' may if consider necessary or authorised to call general meeting of the members.

62. **Iran:** By virtue of the law the affairs of the society are administered by the board of directors composed of at least three members elected by the general assembly for period of three years. The board of directors shall be considered as a legal representative of the society. All the agreements and documents of the society shall be valid when it bears two authorised signatures of the directors of the society after the approval of the board. The board shall discharge function in a collective manner and shall be

jointly responsible for the indemnification of the losses inflicted on the society due to their conduct or lapses. The Iranian pattern appears to be quite democratic in the sense the affairs of the society are to be administered by the board of directors as provided by the statutes itself and the board shall be elected by the general body.

63. Philippines: As per section 38, every cooperative is required to be managed by board of directors consisting of not less than five and not more than fifteen directors elected by the general assembly, in the manner and for the term as provided in the bye-laws. The board may appoint directors or committee members for technical guidance but their number shall not exceed one third (1/3rd) of the total number of the directors on the board. The duties and the responsibilities of the directors shall be as prescribed in the regulations and bye-laws of the cooperative society. The directors shall be responsible for the damages caused to the society on account of their omissions and commissions.

64. The board of directors is free to create an executive committee with such powers and duties subject to the general directions and control of the board as bye-laws may prescribe and permit.

65. Pakistan: The managing committee shall exercise all powers and discharge the duties of the society, (as per article 28) except those reserved for the general meeting subject to the provisions of act/rules and bye-laws and restrictions laid down by the general meeting.

66. The main functions of the board, as provided in section 28 have been listed earlier in Chapter II (para 62), which appear to be quite comprehensive and hardly need any supplementing, for conducting the affairs of the society.

These powers are quite elaborate and take care of all types of administrative exigencies.

67. It is interesting to note that the executive committee may transfer such of its powers to any member of the executive committee or to any other officer with the approval of the general body. The managing committee shall also frame its business rules, for the conduct of business of the society and service rules for the employees, but the same shall require the approval of general meeting. The managing committee shall be responsible for any loss sustained through acts, contrary to law and the bye-laws.

68. Proper record of the meeting of the managing committee shall be recorded in the minutes book which shall be signed by the chairman and all the member present.

69. Republic of Korea: In the Republic of Korea following matters shall be decided by a resolution of the board of directors:

- i) Matters entrusted to the board of directors by the general assembly and to be presented to the general assembly;
- ii) Examination of the membership qualification;
- iii) Matters provided the laws and in the regulations or the article of incorporation.

70. Officers of the cooperative shall exercise their function in accordance with the law, decrees and articles of the incorporation and they shall be jointly responsible to indemnify and damages caused to the society through their acts of negligence etc.

71. It will be the business of the board to approve the business plan, budget and settlement of accounts for each financial year as also the matters entrusted by the general assembly.

72. In the Korean pattern, there is provision for a board of administration in the federation, which will be concerned with the business management and operations of the federation within the frame work of the law, and resolutions of the general assembly. But these provisions are meant for the federation of cooperative.

73. Afghanistan: In the Afghan pattern there is a provision for a managing committee (duly elected by the general body) for administering the affairs of the cooperative in accordance with the law, bye-laws and directors of the general meeting. Its function are provided as under:

- To act as the legal representative of the cooperative society;
- To prepare the income and expenditure account, the balance sheet and annual report of the fiscal year;
- To keep and maintain the accounts, books and other properties of the cooperative;
- To undertake all other duties and powers as specified in the bye-laws of the cooperative.

74. The managing committee is required to the hold its meeting at least once every month and take decision by the simple majority of members of the managing committee with the chairman having a casting vote.

75. Nepal: The managing committee is the executive body with all the necessary powers required for executive functioning and control over the affairs of the society. The managing committee, besides having essential powers can also constitute a sub-committee for conducting affairs of the

society. Its function, duties, powers and operational procedures are provided in the bye-laws of the society.

76. As per section 17, the general body also constitutes by election an 'accounts committee', consisting of 3 members including a convenor. This committee conducts internal audit of the society and makes appropriate suggestions to the managing committee thereon. The accounts committee shall submit its report on finance and accounts to the general body.

77. Section 18 provides that and if 5% of the general body members resolve for removal of an elected member or for dissolution of the committee with reasons thereof, such elected member or committee may be removed or dissolved as the case may be and the general body shall make alternative arrangements. This procedure holds good, for the accounts committee also. This is an important provision, as it ensures sincerity and alertness on the part of elected representatives .

78. **Japan:** In Japan the board of directors performs the services of the society along the policy lines adopted by the general meeting. President and directors are elected by the board of directors from amongst the members for full-time service.

79. Management of an agricultural cooperative society is entrusted to the board of directors by its members, and which formulates the basic policy and programme of management and executes the same after the approval of the general meeting and evaluates the results. The president and managing director of the society take the responsibility of formulation, implementation, coordination and control of further detailed work programmes according to the policy decided at the board meeting. Responsible for daily services are a full-time manager and other employees.

The Chairman : Powers and Duties

80. The chairman of the board of directors of a cooperative is elected from amongst the members of the board and he holds office during the tenure of the board. Thus, the chairman is also one of the members and enjoys equality of status vis-a-vis other members, specially because cooperatives envisage democratic functioning with equality of status. In view of this, there are no powers specially or separately attached with the office of chairman. As soon as the special powers are assigned the seeds of vested interests, sense of superiority and autocratic functioning shall be sown, from which it is contemplated to save these people's bodies.

81. In the absence of any specific duties under the cooperative law, the duties of the chairman are generally considered to be as under:

- a) to preside and maintain order in the meetings;
- b) to take care that the proceedings of the meeting are conducted in a proper manner;
- c) to ensure that the views of all the directors are explicitly known on each item of the agenda;
- d) to see that the proceeding of the meeting are recorded, correctly;
- e) to adjourn the meeting, if necessary; and
- f) to declare the meeting as closed.

82. The chairman is responsible for the overall control, supervision and guidance in respect of the affairs of a cooperative and shall exercise such powers and perform such duties as may be conferred on him by the act, rules and bye-laws. While exercising such powers and performing his duties, the chairman should exercise prudence expected of a man of business and he should not perform any act which may be prejudicial to the interests of the cooperative or is contrary to the provisions of the law in force.

83. Thus, there are no powers for chairman to exercise independently except that he presides and has a casting vote. If in urgent situations he takes any decision, regarding affairs of the society, it has to be approved by the board as early as possible.

84. It will be pertinent to mention here that for a society to be dynamic there has to be a chairman, who can stimulate the board to have vision, new ideas and enthusiasm towards achieving the objectives of the society. In this context, the following observations from the management literature has all the relevance:

“A company can only be as good as its managing director; a managing director can only be as good as the board of directors will allow him to be; and a board can be as good as its chairman”.

This observation applies to the cooperative management as well.

85. In this context, it is also worth mentioning that in the legal frameworks of the different countries, the chairman has not been defined anywhere. The legal enactments define ‘the general body’, ‘board of directors’/management committee and the ‘chief executive’ along with their duties and functions but the chairman has not been defined anywhere. In Philippines, chairman has been included amongst the ‘officers of the society’ and besides presiding over the meetings and exercising the casting vote, he has no other specific function to perform. The multi-state cooperative societies act of India simply mentions that chairman is authorised to preside over the meeting of the board only. No function or duties are assigned to him

independently. In Indonesia powers and duties of the chairman and other office bearers are defined in the bye-laws of cooperative society. In Philippines, president/chairman is also the chief executive officer of a cooperative society. Therefore, he is the head of the organisation. The New Cooperative Law of Thailand vide section 66, sub-section (1) defines the powers of the chairman as subject to the provisions in the bye-laws.

86. In Bangladesh, the cooperative societies rules define the powers and duties of the chairman, vide rule No. 50, which states, “unless otherwise provided in the ordinance, rules or the bye-laws, the chairman or the vice-chairman, in the absence of the chairman, shall for the transaction of business of a cooperative society in case of urgency shall exercise all powers and perform duties required, except the power to sanctioning loans. Provided that the chairman shall not act in opposition to or in contravention of any order given or decision taken by managing committee at a meeting. Rule 51 makes it obligatory on the chairman to place all his orders and acts done by him, for confirmation before the managing committee meeting. A minute study of this provision would reveal that while rule-50 vests authority in the chairman, who acts as the head of the organisation, bye-laws define his duties and powers specifically.

87. No doubt, by force of his dedication, understanding, or personality the chairman can swing the decision one way or the other looking to the interests of the society and raises himself in other members esteem. But he has no other specific function to perform. He is only like other members in the process of decision making and has only to act as per the decision of the board of directors.

Chief Executive

88. The chief executive of a cooperative is the key man for its success or failure. The chief official is the servant of the board and the leader of management, yet often in the act of serving the board he must lead it. He must not only inspire his managers but also the board, he must understand and talk the language of both, so that he is able to harness the democratic principles to the requirement of trade in a competitive situation. The reason for this is that he is normally the sole link between the executives of the cooperative and board directors who are not involved in the day to day problems of the organisation. It is chief executive who translates the ideas and policy formulated by the general body and the board of directors into action. He is appointed by the board and is therefore accountable to the board and the society and to none else, on his efficiency depends the efficiency of the entire institution.

Appointment of Chief Executive

89. Cooperative laws of various countries covered by this study make provisions for the appointments, functions and responsibilities of the chief executive.

90. Varied type of provisions exist in cooperative laws under study, about the concept and definition of the chief executive. The Bangladesh Cooperative Societies Rules, 1987 accords to the chief executive of a cooperative society, the status of principal officer. His designation may however be chief executive officer or executive officer or managing director or general manager or secretary.

91. In India, Multi-state Cooperative Societies Act, 1984 defines chief executive as a chief executive appointed under section 44 of the act. It is obligatory on every cooperative society to have a full time paid chief executive to be appointed by the board. Article 32(2) of Indonesian Cooperative Law stipulates the appointed of chief executive, who is named as manager. In Philippines, chief executive is the president, who must come from among the directors. He is both the chairman and the chief executive. The Cooperative Code of Philippines recognize president as chief executive officer of the cooperative society vide section 52. In Sri Lanka, chief executive is appointed and defined under the bye-laws. The New cooperative Law of Thailand, vide section 69, makes provision for appointed of paid manager. Thus, two types of chief executive are contemplated in the cooperative law (a) chief executive as the fulltime paid employee of the society appointed by the the board of directors; and (b) elected president of a cooperative society as chief executive of the organisation.

92. In all the cooperative laws powers to appoint a chief executive for the society vests in the board of directors or the managing committee. In India and its neighboring countries, a chief executive can be taken on deputation from government or the department of cooperatives of government. Alternatively, the board of management of a cooperative society may appoint a chief executive through the process of direct recruitment. In India another provision also exists for national level cooperative federations and the multi-state cooperative societies. The cooperative law provides for constitution of a panel for for selection under the chairmanship of secretary to government to make selection for the post of chief executive or for any other senior level officer for the society.

Powers and Responsibilities of Chief Executive:

93. As regards the powers and responsibilities of the chief executive, while in *Sri Lanka* these powers are enumerated in the bye-laws, in some other

countries these are provided in the cooperative laws and rules. In Bangladesh, rule 53 defines the duties of chief executive as follows:

- To receive all money on behalf of the cooperative society and issue receipts other than receipts likely to create fresh obligations on the part of the society;
- To pay all costs of management and working expenses out of the funds of the cooperative society, for example salaries of the staff, travelling and other contingent expenses to be incurred in the administration and day to day working of the society;
- To deposit or invest all money received on behalf of the cooperative society, as also the securities and other effects as specified in rule 99;
- To maintain proper and accurate records and accounts in regard to working and expenditure of the cooperative society;
- To call meeting of the managing committee as may be necessary for the proper conduct of business;
- To place from time to time before such of its member or the managing committee, statements of receipts and disbursements of money for examination and approval; and
- To be responsible for the day-to-day business and transactions of the cooperative society and also for financial propriety of all such transactions.

94. The Multi-State Cooperative Societies Act of India makes provision for powers and functions of chief executive vide section 45. According to this section the chief executive, apart from exercising the powers relating to day-to-day affairs and office management is also authorised to convene the meeting of various management organs and making appointments to the subordinate posts as per the rules framed by the board. Besides, chief executive is also expected to assist the board in formulation of policy, objectives and plans for the cooperative society. Cooperative law of Indonesia, vide Article 23 (para 2) defines powers, functions, duties and responsibilities of chief executive in the field of planning, personal management, business, financial and inventory management, controlling and reporting. However details of his powers and functions are also given in the bye-laws of cooperative society.

95. In *Philippines*, chairman/president is also the chief executive of the cooperative, therefore, he is the official and legal representative of the cooperative and has powers to supervise, direct and implement decision of

the board and the policies chalked out by the general assembly. He reports to the board. The cooperative code of Philippines further recognises the post of the general manager also who is the chief operating officer to manage the day-to-day operations of the cooperative society. He reports to the president/chairman of a cooperative society.

96. Earlier law of *Thailand* made provisions for formulation of regulations and rules to define the powers of chief executive. Based on this, necessary provisions were made in the bye-laws of the cooperative societies. However, new law vide section 69 defines the duties of the manager also. It says that the detailed duties of the manager will be specified in the bye-laws which among others, will include the following items in his duty chart:

- * management of the business and property of the society;
- * implementation of the decision of the board of directors;
- * be regularly present in the society; and mention the record of transaction conducted by the society.

97. The duties of the secretary or treasurer can be suitably modified or altered by the board of directors at any time.

98. Almost all the cooperative laws define the officers/office bearers involved in the management of cooperative. Cooperative laws of Singapore, Bangladesh, and India define that 'an officer' of the society includes a chairman, vice-chairman, secretary, joint-secretary, assistant-secretary, manager, treasurer, member of a managing committee, auditor elected from amongst the members and any other person empowered under the rules or bye-laws to give directions in regard to business of the society. While the manager is a paid employee, other officers are generally elected from amongst the members of the board of directors.

99. In *India*, provisions further differ from state to state. Although the term 'officers' has been clearly defined in the definition clause of cooperative societies act, duties and powers of office bearers are specified in the bye-laws of the respective cooperative society.

100. Provision on similar lines exist in the cooperative laws of Sri Lanka. Cooperative law of Indonesia does not define the officers of a cooperative society as done under Bangladesh cooperative laws. However, the bye-laws of cooperative societies in Indonesia recognise chairman, vice-chairman and chief executive as 'important' officers of a cooperative society. Cooperative Code of *the Philippines*, vide its section 42, recognises chairman and vice-chairman or officers of cooperatives to be

elected from amongst the members of the board. The old cooperative law of Thailand of 1967 also did not define the officers of the society. But a new law provision exists on the lines of Indian and Bangladesh cooperative laws. The law does not confer any powers on the managing director. This has been left to be included under the bye-laws as per approval of the general assembly. Similarly the duties and function of lower employees and technicians are also decided by the board.

102. In *Pakistan*, every society shall have a secretary with powers and duties as per section 33 of the act, which have been stated earlier in Chapter II (para 64). The powers conferred on the secretary are exhaustive. The functions of the manager of a society are at the discretion of the managing committee and he has to perform duties as may be entrusted to him by the managing committee from time to time. Thus no further delegation of powers appear necessary.

103. In *Malaysia*, the rules made under the Cooperative Society Act, provide for framing bye-laws regarding appointment, suspension and removal of the officers of the society along with the other duties and power [Refer Rule 8(1) (g)] accordingly they provide the functions of different officers as may be required in the process of management of the society. As per bye-laws 11(c), when an employee is removed by the order of the registrar general under the provision of the Act and the order is not set aside by the appellate authority such employee shall not remain eligible for appointment any more by any registered society.

104. As per section 65 of the Cooperative Societies Act of *Singapore* the committee of management elects a secretary and treasurer from amongst its members except when the management committee appoints a full time manager. It is upto the management committee to elect or appoint only one person to perform functions of both, the secretary as also a treasurer. The managing committee may appoint, as required, the employees and advisors, following such procedure as may be approved by the general body, Their terms and conditions for services of the persons so appointed shall be in accordance with the bye-laws of the concerned society or union.

105. In *Iran and Afghanistan*, the board of the directors and the managing committee respectively are free to appoint the secretary and staff required for running day to day affairs of the society and their terms of appointment have to be determined by the board of directors or the management committee as the case may be. These functionaries discharge their duties under the guidance of the board and subject to the act, rules and bye-laws.

106. In *Japan and the Republic of Korea*, subordinate staff may be appointed in the services of the cooperative as per requirements and they are accountable to the board. Their functions and duties shall be as per bye-laws of the respective societies.

107. Thus in most of the countries the **statutes** do not specify the powers and functions of the chief executive, these are covered under the bye-laws or left to be decided by the general body. Only in India (Multi-state Cooperative Societies' Act) and Pakistan, powers and function of the chief executive are provided in the acts. A statement showing the power/functions of the chief executive in India (MSCS Act), Pakistan and Sri Lanka may be seen at Appendix-III.

108. As a result of analysis of the roles of the functionaries of the cooperative institutions i.e., the general body, the management committee (or the board of directors) and the chief executive, as provided in the legal frameworks of different Asian countries, the position emerges as under:-

- a) The general body (constituted by the members) is recognised as the supreme body of a cooperative society under the cooperative acts of all the countries under study i.e., India, Pakistan, Bangladesh, Sri Lanka, Nepal, Indonesia, Philippines, Thailand, Singapore, Malaysia, Japan, Republic of Korea, China, Iran and Afghanistan. However, in India (under Multi-state Co-operative Society Act) and Sri Lanka, the provisions are slightly different. In Sri Lanka, the general body is constituted by all the members of the society along with delegates of branch committees. In India (in case of the M.S.C.S) the general body, though provided to be the final body, carries powers which are subject to powers of the other functionaries/officers operating under the act. Thus in these two cases the supremacy of the general body is not recognised in clear and unambiguous terms and some variations are visible.
- b) The functions of the general body which uniformly find mention in the cooperative acts of the countries include:
 - formulation of the policy/programmes of society;
 - consideration of the position of finances and accounts along with the annual audit reports;
 - election of the members for constituting the committee of management or board of directors (as it may be called);
 - decision regarding disposal of surpluses.

These functions cover all the essential matters relating to affairs of the society and carry statutory force.

- c) Apart from these matters the general body is also empowered to resolve about following cooperative matters:
 - amendment of bye-laws;

- amalgamation/division and reorganisation of society;

The position in respect of these matters is not uniform. In some countries resolution by a cooperative is final and amendments in the bye-laws on the basis of resolution by the general body are registered straightway. In others the resolution is first approved by the registrar and then registration of the amendment is undertaken. In few countries like India, the registrar is also empowered to direct amendment of bye-laws and amalgamation/division of societies compulsorily. In normal course, in India, Indian States, Bangladesh and Nepal the amendments are registered subject to approval of the registrar.

109. Thus, in most of the countries, the resolution of the general body is final and registration of amendment of bye-laws is done accordingly. Bye-laws which include matters relating to internal working of the society should be the exclusive concern of the society. What is required to be ensured is that the amendments should be in harmony with the provisions of the Acts and should not be violative of cooperative principles.

110. Similarly, in all the countries the proposal to amalgamate/divide a society is accepted and registered on the basis of resolution passed by general body. In India, as stated above provision exists for such action being taken on compulsory basis at the direction of the registrar. In view of the development needs of the society, quite often decisions have to be taken for amalgamation/division of the societies and decisions in such matters could be left to the wisdom of the societies concerned. Registrar's approval even in such simple cases amounts to lack of trust in the members and denial of autonomy against the envisaged concept of self-rule by the societies. The powers of the compulsory amendment as conferred on the registrar in India are really excessive and lead to frequent interference by him in course of normal cooperative functioning. In most of the countries, powers for compulsory amendment do not exist, yet the work appears to go on smoothly.

111. Enactments of all the countries provide for equality of status and adoption of the principle of *one member - one vote* for the members.

112. All the members meet annually or whenever special meeting is convened according to the prescribed procedure. In the former case the meeting is known as annual general meeting and in the latter case it is termed as special general meeting. In different countries distinct functions are assigned to the annual general meeting and special general meeting. The provision in regard to general body meetings are more or less the same, in

all the countries the variations may be only in regard to the nomenclature and the quorum required for different types of situations.

113. The annual general meeting or special general meeting are meetings of the general body and are convened as per procedure provided under the law/bye-laws. In Indian states, Pakistan, Bangladesh and Singapore powers to summon AGM/SGM have also been conferred on the registrar. Such a provision appears violative of the autonomy of the society. Any alternative system with democratic orientation to provide for summoning of AGM/SGM on the failure of normal system, could be considered, so that registrars intervention in such matters of exclusive concern of society could be eliminated.

114. In all the countries, provision exists that the general body shall elect specified number of members for being included in the '*committee of management*' or board of directors as it may be called under the law, for a specified term. Such a committee is equipped with necessary powers for planning, organising, staffing, direction, coordination and controlling the conduct of affairs of the society. The functions and powers of the committee of management are specified in the cooperative acts of Nepal, Bangladesh, Pakistan, India, Afghanistan, Republic of Korea, Malaysia and Indonesia, whereas, in Japan, China, Philippines, Lanka and Singapore, the acts provide that the board/committee shall exercise powers as may be given under bye-laws or as may be assigned by the general body.

115. An important aspect that needs mention here is that in Indian cooperative acts (MSCS as also the state acts) provision also exists for nomination of specified number of government officers as state nominees on the board of directors. These government nominees are empowered to even veto the resolutions of the board of directors, and also to refer them for being rescinded/annulled. Such powers in favour of government nominees appear to be really excessive and unjust. Nomination of director by government amounts to providing entry to persons who are outside the category of members and not elected by the members. Apart from this the government nominees are equipped with some powers which are not possessed by others. Such a system tilts the functional equilibrium and above all leads to extreme demoralisation of the 'members of the committee' in particular and that of other members in general. To what extent, such provisions helps democratic control and autonomy could be anybody's guess?

116. So far as the procedural aspects are concerned, these are provided in the bye-laws of each society uniformly.

117. In all the countries under study distinct provisions are available in the law for constituting additional committees or functional committees or sub-committees of members, by the general body or the board of directors for assisting the board in specific matters or functional areas. Such a provision helps in detailed examination of issues/matters involved and ensures participation by more members in the management of the affairs of the society.

118. Regarding functions and powers of the chief executive, these are specified in M.S.C. Societies Act of India, but invariably in the bye-laws of respective societies. The chief executive is appointed in all the countries except India, Indian States, Malaysia and Bangladesh by the board of directors of the society. The terms and condition are also decided by the board. Thus the appointment of the chief executive is left to the discretion and wisdom of the society. In India and few other countries mentioned above, selection of the chief executive and other staff is done in accordance with the rules framed by the registrar. Quite often selection has to be made out of a panel of officers, prepared by the government authorities for specific assignments under cooperative. In several cases government takes the liberty to depute an officer of the government to the cooperative society, on terms and conditions decided by the government. Under such circumstances the question of loyalty towards the society always becomes doubtful. Such appointees consider them more accountable to the authority, who selected and deputed them rather than the society to which they have been deputed to work. Such a system is quite demoralising for the members, but it is very rampant in India.

119. So far as the role of chairman is concerned, the analysis at paras 80 to 87 is quite clear. In very brief he has not been assigned any statutory powers except to preside, conduct the proceedings of the meeting and exercise his casting vote, whenever the necessity arises.

120. From the description of roles presented in earlier chapter and analysis presented in the foregoing paras it would appear that so far as the roles of general body, board of the directors, chairman and chief executive are concerned, there is no ambiguity or confusion. The roles assigned to the functionaries appear to be in harmony with democratic principles and practices. If cooperative functioning is allowed to proceed in accordance with the powers and functions assigned to various organs of cooperative in the countries under study, there may not be any serious problems. However, cooperative are facing a crisis. On close examination, the malady appears to have been created mostly by conferring excessive powers on the

registrar or retention of such powers by the government which strike at the autonomous functioning of the society and the principles of democratic control. Such provisions may be identified as follows:

- *Registrar's authority to convene meetings of the annual general meetings/special general meeting:* Such provision exists in India, Singapore, Bangladesh and Pakistan. It amounts to interference by an external agency, in the democratic functioning of the society and its autonomy;
- *Registrar's authority to issue directions as may be considered appropriate by him:* Such a provision hits the democratic functioning. Such a provision exists in India, Singapore and Malaysia.
- *Registrar's authority to rescind resolutions taken by the General body or board of directors whenever he considers the resolution to be inappropriate:* Such provision are available in the cooperative acts in India, Malaysia and Singapore.
- *Registrar is empowered to supercede the management of the society, and appoint administrators, whenever he is dissatisfied with the co-operative functioning:* Such provision is available in Bangladesh, Sri Lanka, Malaysia, Singapore and India alongwith Indian States and is obviously against democratic traditions.
- *Timely elections of cooperative are very essential for keeping the democratic spirit active:* In India, Indian States and Bangladesh, cooperative acts contain provision for exempting the cooperative societies from the application of one or more provision of the acts. Frequent use of such provisions is made for supersession of the management, appointment of administrators and postponement of the normal process of elections.

[Statement at Appendix V depicts the provisions which have the adverse impact]

121. From a perusal of the above statement, it is abundantly clear that in Japan, Republic of Korea, where cooperative functioning is at its best, no provisions similar to the identified restrictive provision exist. Even in China such provisions are missing. Such a scenario is mostly visible in India (including the Indian States), Malaysia, Singapore, Bangladesh and partly in Sri Lanka. In Sri Lanka, the process of reforming the laws has been initiated and the present scenario appears comparatively better. In Philippines and Indonesia new enactments have been introduced, which are helpful to the concept of democratic management and are also bereft of restrictive clauses though there is scope for lot more to be done. In India,

Malaysia, Pakistan, Bangladesh and Singapore the movement revolves round the registrar, an officer of the government. Bold reforms are needed making the cooperatives people-oriented and effective with full realisation that power and authority in genuine cooperatives shall flow from the people and that their control should vest in the people.

V

TOWARDS GENUINE COOPERATIVES

1. Over the years, the cooperative laws in various Asian countries have become restrictive in character and rigid in approach. Politicisation and officialisation has changed the image of the movement from being a peoples programmes to that a government department. Leaving aside **Japan and the Republic of Korea**, where the democratic functioning in cooperatives has strong roots and at its best, the situation in most of the countries like - India, Bangladesh, Pakistan, Malaysia, Singapore, Iran and Afghanistan the cooperative functioning is highly charged with government control. The cooperative have hardly any scope for freedom of action and the registrar's presence is dominant in all areas of cooperative management and functioning. This is highly disappointing a situation. As compared to aforesaid countries, even the Chinese cooperatives appear to function with freedom and as per democratic will of the members, no doubt according to the framework of the policy guidelines of the party. The government also reposes full confidence in the wisdom of the members. In Indonesia, Sri Lanka and Philippines, realising the potential of cooperatives for socio-economic development the respective governments have taken lead to reform their cooperative laws. Steps taken in these countries aim at exclusion of the political and vested interests and also cut the powers of registrar to let the movement breath freely. Original concept was that the cooperative law should be simple, helpful and supportive of democratic and autonomous functioning also capable of strengthening the ideological content of the cooperative movement. On the contrary, the cooperative law appears to have become complex. The diversification of cooperative activities alongwith increasing state aid is responsible for bringing in provisions resulting in very tight government control, much against the cooperative ideology.

2. The prevailing complexion of cooperatives deserves to be favourably oriented in larger interest of the people and for enhancing the utility of the movement. This could be achieved by suitably amending and providing a proper content to the existing cooperative legal framework:

- a) by weeding out such provisions, which are identified to be restrictive in character and supportive of vested interests,
- b) by supplementing the existing framework by introducing provisions, which may strengthen the functioning of cooperatives on democratic lines besides raising their capabilities to face new challenges,
- c) by raising cooperative federations to guide and facilitate the operations of primaries with large turnovers and diversified activities (like processing of cotton and sugar, manufacture of fertilizer etc.) emphasize the need for orienting managerial structures to the new situations and principles,
- d) by redefining the role of the government vis-a-vis cooperatives.

3. Aforesaid steps may give a fresh look to the cooperative law needed for imparting a proper and genuine character to the cooperatives, capable of removing the present maladies and helpful in raising the cooperative capabilities by strengthening the roles of the functionaries.

4. It will not be out of place to mention here that the cooperative movement in the Asian region commenced as a result of initiative taken by the foreign governments in the earlier half of this century. Necessary legislations were also introduced by the respective governments. As most of the countries of this region like India, Pakistan, Bangladesh, Indonesia, Malaysia, Sri Lanka and Afghanistan inherited the patterns of economy previously shaped by the colonial powers primarily to serve their interests, the need to correct the legal frameworks after independence so as to bring them in consonance with people's needs has been even otherwise, a priority exercise in these countries.

5. By the time many of the countries in Asia got independence, the concept of government involvement in the promotion and supervision of cooperatives adopted by the colonial powers, who could not trust people's initiative had become so deep-rooted that even the newly formed national governments, while on the one hand encouraged and promoted the cooperatives with liberal finance and administrative support, simultaneously tightened their control on the cooperatives, pursuing the old legacies. This was rather an unfortunate trend.

6. Really speaking, state participation in the management of cooperatives was contemplated as a device for providing funds, professional advice, guidance and counselling to the cooperatives in the situation created by the rapidly growing developmental needs. Government should have continued its benevolent support and supervision by confining its role to:-

- i) the administration of cooperative law; and
- ii) the developmental aspects of cooperatives, recognising them as instruments of economic development, an objective common with all the welfare governments.

However, the governments far exceeded their roles and shifted it from developmental aspects to financial and managerial responsibilities. The universally accepted principle of cooperation is that the affairs of the cooperative institutions should remain in the hands of their duly elected representatives. The representative character of the committees of management of cooperatives being an essential pre-requisite for the growth of healthy cooperatives should not have been disturbed or interfered with. Entry of government representatives into cooperatives with powers to veto resolutions and emergence of registrar as a super power who could direct, take or reverse any decision on behalf of the cooperatives, over and above the duly authorised cooperative bodies, are the most devastating features of the prevalent cooperative laws. Such provisions do not reconcile with the principle of democratic functioning. The word '**Democracy**' is derived from two greek words, meaning thereby '*People*' and '*Power*'. It literally means rule of the people and nothing else. The dignity of the individual, the sacredness of human personality, the right of the individual for self-rule and development, are the cherished goals of democracy. Any effort to play with them, without thinking of the consequence can't be termed as a proper step. It is really tyrannical that today parliamentary forms of government (based on democratic principles) are functioning in almost all the countries of the region and even they are silent spectators of the decline of cooperative values to be observed by '*smaller democracies*' functioning in their respective countries, striving for nothing else but socio-economic development of the people, an objective to which every welfare government also stands committed.

7. In this context, it is very pertinent to mention that proper care for the upkeep of this instrument for socio-economic development through timely and regular conduct of elections to the board of directors or committees of management of cooperatives, ensuring effective member participation in the decision-making process and freedom of functioning to the societies

were matter of prime importance. On this front several countries including India have failed. During last two decades, presumably demoralised by the excessive government interference, the cooperative performance in general has touched the lowest level. Cooperative have grown but without cooperative character. Cooperative leadership has weakened and cooperatives present a picture of government agencies, the people's efforts not being visible anywhere. In brief, cooperative as a system based on some ideology has not developed, the basic elements have been sacrificed in the target oriented approach, under political patronage.

8. It appears fault lies on both the sides. Governments have exceeded the role and the members too have lost their alertness and dedication towards their own society. They have been more or less waylaid.

9. In this background, efforts for removal of the restrictive provisions as pointed out from time to time by the cooperative forums in different Asian countries, namely, India, Sri Lanka, Indonesia, Philippines, Bangladesh, appear to have been going on, but still a number of such provisions 'restrictive' in nature from the angle of cooperatives do continue. In India a new cooperative societies act has been promulgated but even this law is not free from objectionable provisions. Similarly, in Bangladesh, Nepal, Sri Lanka, Indonesia, and Philippines, new enactments and amendments have been introduced, but still they do not appear to be in the perfect shape. Leaving aside Japan, which has a distinct background leading to rise and success of cooperatives, followed by Republic of Korea, the situation in other countries under study is found to be more or less the same. Some of the glaring restrictive provisions which could be spotted easily even now are as follows:

A) Provisions Restrictive by Nature

i) Provision for compulsory amendment of bye-laws:

Framing bye-laws of a society is the first concern of its members similarly amendments of bye-laws as per needs of the society is also its sacred responsibility. Obviously this is the responsibility of the general body of the society. In several countries like, Bangladesh and Malaysia (vide section 18 and 10-A of the respective cooperative acts) and in Indian States, Rajasthan and Maharashtra vide section 14 in each of the respective states, provision exists empowering government or registrar of cooperatives to amend the bye-laws of the society compulsorily. Registrar exercise the powers for compulsory amendment under the pretext of public interest. This does not appear to be fair. Power to amend the 'bye-laws' which

constitute a code for self-regulation framed by the society for its use, should also rest with the members i.e., general body of the society, Such a provision providing for unilateral action strikes against the autonomy of the society, which is one of the basic requirements of cooperative functioning. Such a provision also strikes at the voluntary character of the contract between the members and the society and therefore needs to be rescinded.

In Japan, Republic of Korea, Indonesia and even in China, where cooperative functioning is far more successful such a provision for compulsory amendment does not exist and full reliance is placed on the wisdom of the members.

ii) Power of government to nominate directors:

In India, Bangladesh, Malaysia, and Pakistan the respective governments have retained powers to nominate government officers as directors against reserved number of directors as government nominees on the board of management of the societies, where *state capital* is involved. In these countries, large powers have been retained by the government for management of societies which go to the extent of nominating the entire board of directors including appointment of the managing director. Such provisions amount to complete denial of the principle of self-regulation and prevent the development of democratic leadership, dampens initiative and have converted cooperatives into play grounds for politicians.

iii) Powers to veto, annul or rescind resolutions:

In India (including Indian States), Malaysia and Bangladesh, the acts authorise the government nominees to refer any decision, taken by the board of management to the government on grounds of being against '*public interest*'. On such a reference the government decision stands final.

In India, Malaysia and Thailand, even the registrar of cooperative societies has the powers to rescind resolutions of cooperative bodies. Such legal provisions provide excessive powers to the government nominees who often, in the name of safeguarding the interest of public, meddle with the democratic functioning of the cooperative institutions. Such powers amount to complete denial of functional autonomy to the society and amount to virtual assumption of the management by government.

iv) Suspension/supercession of board of directors:

In various countries like Sri Lanka, Bangladesh and mainly India, provisions for suspension/supercession of board of directors initially incorporated for checking mismanagement and abuse of office have been

frequently used for 'extra-cooperative' considerations and furtherance of political interests. Often under political exigencies even the normal safeguards such as issue of show cause notice to the society before superseding its management or consultation with financing institutions and limiting the period of supersession are also abandoned and various provisions are sidetracked to gain the ulterior ends achieved wrongfully. The cooperative acts of several states in India add further rigors to such provisions by empowering the registrar to suspend the committee of management even during the pendency of the action initiated for the supersession of the committee. These steps virtually negate all the safeguards that may have been provided in the act by way of reasonable opportunities to explain before any action is taken. This is simply disastrous. In India, during last two decades, liberal use of these provisions in various states has caused tremendous damage to the cooperatives.

v) *Powers of registrar/government to issue directives:*

In some countries namely India, Singapore, Malaysia, and Bangladesh the government are equipped with wide powers to issue directives to cooperative societies. Through such provision the government or their representatives usurp the rightful jurisdiction of the elected management of cooperatives to formulate their policies, programmes and decisions and shelve the programme formulated by the society because after the receipt of registrar's directions, there is no alternative but to comply with the directions. Under such situation democratic functioning and autonomy are reduced to a farce.

vi) *Powers to exempt cooperatives from application of any provisions of the cooperative law:*

In India, Singapore, Malaysia, and Bangladesh power to exempt cooperatives from any or more provisions of the cooperative law exists. Though such provisions appear to have been made to meet with the sudden needs of developmental programmes, to smoothen the way of cooperatives for undertaking new challenges and activities, but these provisions have been used more for superseding the regularly elected board and appointing administrators in the societies on flimsy grounds rather than for any useful purpose. Government orders are issued making different provisions of the cooperative law inapplicable to the societies during the period of supersession. Thus, holding in abeyance the entire process of elections and normal functioning of the society. In several states in India, due to the application of this provision, the process of elections in societies was delayed by 10-15 years during last two decades and the government

representatives ruled as administrator in thousands of societies, playing havoc of immeasurable dimensions.

vii) Power to make rules:

In almost all the countries (except Japan, Republic of Korea) government retains the power to frame rules for the functioning of the cooperative law (whereas there is hardly any need to do so). Actually speaking, the societies are required to frame their bye-laws and adopt their own code for day to day functioning. Promulgation of rules on these very items amounts to duplication and create problems in their observance. As the rules are framed by the government, they carry greater weightage and precedence over the bye-laws framed by the society, causing conflicting situations and working difficulties. It would be advisable to eliminate the provision to frame rules by transferring such part of the rules to the law, which may be substantive in nature and remaining part, which relate to the procedural aspects be left for being included in the bye-laws.

It is also necessary to mention that the rules (being categorised as subordinate legislation) do not carry the scrutiny of the legislature and therefore lead to complicated situations regarding their applicability.

viii) Compulsory amalgamation and division of societies by the registrar:

In India cooperative acts contain provisions which empowers the registrar to effect division and amalgamation of cooperative institutions on compulsory basis, if it is considered by the government or registrar to be in the interest of the cooperative movement. The power to effect amalgamation or division on compulsory basis, as contained in the cooperative act in India, is highly undemocratic and in practice has been often used even without taking the institutions affected into confidence in utter disregard to their individual needs.

In Singapore, very large powers have been given to the registrar under the head “*extra-ordinary power*” under section 94 (1) of the act, besides those under section 93 of the act.

B) Provisions Supportive of Vested Interest:

The existing laws contains several provisions capable of promoting vested interests. Such provisions need to be stemmed for ensuring wide dispersal of economic benefits. For achieving this objective, deletion of following provisions may be suggested:

- i. Provisions obstructing the regular process of election in cooperatives.

- ii. Provision permitting holding office for more terms.
- iii. Provisions permitting holding more than one office at a time.

Since continuation of above mentioned provisions is not at all helpful for the growth of the movement, rather they have a retarding impact, as the experience goes. Such provisions deserve to be reviewed, and removed from the statutes so that cooperative laws may get cleansed and be able to achieve expectation of the people.

C) Provisions needed for Strengthening Democratic Control and Meeting the Future Challenges:

- i) Though cooperatives are recognised as effective instruments for rapid economic development, yet they have not been assigned any constitutional status or recognition in any country so far, except Indonesia and Bangladesh, who have taken some lead to do so. As cooperatives constitute a distinct sector of economy, they deserve to be given proper constitutional status. This may help in timely conduct of elections as well.
- ii) The cooperative laws of various countries refer to cooperative principles frequently but the principles have not been enunciated anywhere in the respective laws. A statement of cooperative principles which form the very basis of the movement must be clearly made in the law/acts of the respective countries.
- iii) Cooperative laws should be brought in harmony with the cooperative principles wherever they are lacking.
- iv) Cooperatives are economic democracies, therefore envisage democratic functioning coupled with autonomy. The legal frame works should be therefore reviewed and straightened by making clear and effective distribution of functions and responsibilities of the various functionaries of the cooperatives i.e., the general body, the board of directors, the chief executive, the functional committees in the law itself so that all doubts are removed and all the controversies may be eliminated.
 - a) So far as the general body of members is concerned, it is customary for cooperative legislation to describe it as the supreme organ. Illustratively, the following functions may be assigned under the law itself to a general meeting:
 - Election of members of board of directors.
 - Amendment of bye-laws.
 - Approval of the policies and programme of activities for the next year.

- Consideration of audited accounts and annual report.
- Disposal of net profits.

One of the ways in which cooperative law can assist in observance of democratic control is to insist on a reasonably high quorum for the conduct of business of the general meeting. This step may help in ensuring better participation of members. Such a step may also include provision to cancel membership of sleeping members say, those who are absent in three consecutive meetings of the general body and also to introduce a provision to retire or recall upto 1/5 membership every year on grounds of inactivity and indifference towards cooperative affairs.

b) the role of cooperative legislation is particularly important when it comes to making specific provisions for the functions and responsibilities of the board of directors. Unfortunately, this is an area, where most of the cooperative acts are usually silent, as these matters are usually left to be determined by cooperative bye-laws. The result is that the board of directors is unable to claim to itself even those essential functions which should normally vest in the chief executive body of the society and the other managerial personnel. A carefully worded list of the functions and powers of the board of directors in the cooperative act itself therefore seems to be necessary. It is suggested that the cooperative legislation may invest the board of directors with the following essential powers which appear to be adequate for covering various management functions like planning, finance, executive control, programme implimention and review in a cooperative body:

- To admit members.
- To interpret the organisational objectives and set up specific goals to be achieved towards their objectives;
- To make required changes in the long tern objectives and plans;
- To make periodic appraisal of operations;
- To appoint a chief executive and such other employees of the society directly responsible to the chief executive.
- To frame recruitment rules regarding recruitment, scales of pay and service conditions of the employees of the society.
- To take necessary decisions regarding implementation of the programmes and achievement of objectives;
- To constitute committees as may be required from time to time.

- c) Constitution of committees on standing or adhoc basis should be liberally undertaken. The committee system ensures better accountability of the board of directors to the general body through detailed consideration and through examination of the matters entrusted to the committees. Such a device strengthens democratic functioning and equips the executive wings (board of directors/ committee of management) with a more meaningful democratic support. Such committees may be entrusted with specific functions towards the management of the society like planning, finance, projects, business activities, implementation and review and disciplinary matters etc. In the absence of thorough scrutiny of the spending proposals in cooperatives major aberrations and defaults come to surface bringing bad name to the much advocated democratic system of functioning.

The committee system will also help the general body and the board of directors to take a more informed view of the proposals. Such a system shall strengthen the cooperative management by investing it with meaningful democratic support leading to higher efficiency and enhanced organisational capacity to deliver goods.

Constitution of functional committees, covering various areas of the cooperative management, shall also ensure greater involvement of the members so badly needed for success of cooperatives.

- d) With regard to the chief executive, similar statement of essential powers and responsibilities in the legislation itself seems to be highly desirable to put an end to frequent controversies regarding functional domains. The statement may be as follows:
- Day-to-day management of the business of the society as per policies of the society;
 - Operating the accounts of the society and be responsible for making arrangement for safe custody of the cash;
 - Signing the documents for and on behalf of the society;
 - Making arrangements for the proper maintenance of various records and books of the society and for the correct preparation, timely submission of periodical statements and returns in accordance with this act, the rules and the bye-laws;
 - Convening meeting of the general body, the board of directors and the executive committee and such other committee or sub-committees and maintaining proper records for such meeting;

- Making appointments to posts in the society except posts, for which powers of appointment vests in the board;
 - Assisting the board in the formulation of policies and objectives and planning;
 - Furnishing to the board periodical information necessary for appraising the operations and functions of the society;
 - Performing such other duties and exercising such other powers as may be specified by bye-laws of the society or as may be entrusted by the general body or the board of directors from time to time.
- e) It would be very necessary to ensure proper synthesis of provisions for democratic control with those for efficient business management. Cooperatives are now leading towards multidimensional growth. The diversified profile has converted cooperatives into a unique sector of economy all around, with no parallel. This necessitates professionalisation of the management to effectively meet the new challenges coming before the cooperatives. Appropriate legal provisions for facilitating such a process seems necessary therefore.
- f) In order to facilitate involvement of women and youth, which constitutes a very large proportion of the population, definite percentage should be reserved for them in the boards of directors and other functional committees. Such a step will lead to a more representative character of the cooperatives. Such a provision has been made in Sri Lanka.

D) Redefining Government Role:

While planning to set up cooperatives on genuine lines, it is very necessary to now think about the role of the governments. Government is no doubt charged with the responsibility of administration of the cooperative laws, yet it should be clear that its role should be more like a supporter and that it should create helping environment by taking following positive steps to ensure sustained growth of the movement:

- i) to encourage and stimulate leadership from within the movement and itself playing the role of a catalyst, guide and a benevolent onlooker instead of usurping and substituting its own managerial role.
- ii) to ensure smooth transition of leadership by installing democratic leadership, wherever and whenever necessary.

- iii) to ensure timely election.
 - iv) to enact laws which not only strengthen the hands of cooperative leadership and help democratic functioning but indicate the parameters and inter-relationship between the elected leadership on one hand and the executive and the management wings of the cooperatives on the other.
 - v) As a safeguard, to take steps for balancing autonomy at various levels by fixing accountability.
 - vi) To intervene in cooperative affairs only as a measure of last resort after appropriate consultations with the apex bodies/federations and giving opportunity to the concerned cooperative body in all fairness.
- In short, the government should address itself only to commanding heights of the economy and take a lead in encouraging democratic and participative leadership in the cooperative sector.

E) De-Politicisation of Cooperatives:

Of late, politicians are finding the cooperative as quite congenial and fruitful for providing the frustrated partymen and the fresh careerists. This is an unfortunate trend. Cooperatives have to immunised from the considerations of caste, colour, creed, religion and politics. Cooperative should not be involved in the electoral politics. Such a game will always be a serious threat to the cooperative process. Political parties seldom atone for their sins and the best contribution that could be made by them would be to keep off the cooperative affairs.

Aforesaid measures shall help in cleansing and strengthening the legal frame works of cooperatives and also help in building an environment conducive to the formation of genuine cooperatives functioning on the eternal principles of self-help and mutual-aid through democratic means which could help in building an institutional framework for ensuring development with social justice.

Such cooperatives are bound to succeed in achieving their objectives. After all, **God** helps those who help themselves!

REFERENCES

1. Cooperative Laws in Asian Countries - Hans J. Esderts-Asean Cooperative Organisation, 1988.
2. Cooperative Legislation in Asia - A Study - Part One & part Two, Singh V.P., Pub. ICA, 1991.
3. Role of Government in Promoting Cooperative Development in Asia - R.C. Dwivedi, Pub. ICA, 1989.
4. Handbook to the Industrial and Provident Societies Act 1965 - W. J. Chappenden, 1966.
5. Recent Changes, Trends and Developments of the Cooperative Movement in South-East Asia - ICA, 1979.
6. Jawaharlal Nehru - His Vision of Co-operatives - R. C. Dwivedi, The Coop. Times, 1989.
7. Management of Cooperative Enterprises (Principles & Practcies) - By S. K. Sinha and R. Sahai, 1981.
8. The Cooperation (Indemnities and Guarantees) Amendments Act 1987 - New South Wales.
9. Glimpses of Co-operatives Through Press - R.C. Dwivedi - Coop. Times Press, 1990.
10. Bye-laws of NAFED India.
11. The Agricultural Cooperative Law - National Agricultural Cooperative Federation, Republic of Korea, Seoul.
12. Fisheries Cooperative Law, Presidential Ordinance and Articles.
13. Law for Cooperatives - R.D. Bedi, NCCT, 1982.
14. How to make Bye-laws - by Chris Gachanja, 1989.
15. The Agriculture Cooperative Law - 1993 National Agricultural Cooperative Federation, Seoul.

16. Cooperatives in India & Pakistan - Saxena - ICA Domus Trust, 1992.
17. The Cooperative Societies Act, Sri Lanka.
18. The Cooperative Societies Act, Nepal, 1992.
19. The Cooperative societies Law, Japan - IDACA.
20. Consumer Cooperation in South-East Asia - by ICA, 1976.
21. Enhancing Cooperative Capability - by ICA, 1984.
22. Indian Cooperative Laws vis-a-vis Cooperative Principles - by P. E. Weeraman, 1986.
23. General Report to the 9th Indian Cooperative Congress (in 4 parts) - by National Cooperative Union of India, 1992.
24. Management : Tasks, Responsibilities, Practices - P. Drucker, 1978.
25. Cooperative & Rural Development in India - Suresh & Joseph, 1990.
26. The Business Executive in a Changing World - William Norman Mitchell, 1977.
27. New Cooperative Laws RA 6938/6939 - Coop. Union of the Philippines, INC, 1979.
28. Cooperative Law in Practice - Peter Yeo, 1989.
29. The Story of the White Revolution - M.V.Kamath, 1989.
30. Decision Styles and Organisational Effectiveness- B.L.Maheshwari, 1980.
31. The Agricultural Cooperative Society Law - IDACA, 1986.
32. Cooperatives Today : Their Basic problem - Hiromichi Nishimura.
33. Agricultural Cooperatives in Japan - ICA, 1992.
34. Agricultural Cooperaitive Credit in South-East Asia - ICA, 1967.
35. Cooperative Leadership in South-East Asia - ICA, 1963.
36. Report of the CRAFTICARD - Reserve Bank of India, Bombay, 1981.
37. Cooperative Ministers Conference, Sydney, Australia - R. C. Dwivedi, ICA, 1990.
38. Managing Business Enterprises- S.K.Bhattacharya & N. Venkataraman - Vikas, 1973.
39. Decision Making in Developing Countries- Alfredo Sfeir Younis & Daniel W. Bromley - Praeger Publishers, 1977.

40. Jawahar Lal Nehru - His Vision of Cooperatives - R. C. Dwivedi - Coop. Times Press, 1989.
41. Rajasthan Cooperative Societies Act, 1965 - S. R. Bhansali, 1981.
42. Multi-State Cooperative Societies Act, Govt. of India Publication, 1984.
43. The Maharashtra Cooperative Societies Act - by K. L. Sethi, 1980.
44. Essentials of Management - Koontz & O'Donell - Tata McGraw Hill, 1975.
45. Quality Circles in India - Participation for Progress - S. R. Upda, Tata McGrawHill Publishing Co. Ltd., New Delhi, 1986.
46. World Development Report - 1992 World Development Indicators - W. B. Publication, 1992.
47. National Convention on Youth Involvement in Cooperative Movement - Report & Background Papers - NCUI, New Delhi, 1977.
48. Proceedings of Ninth Indian Cooperative Congress, New Delhi - NCUI, 1993.
49. Cooperative Democracy vis-a-vis Members Education - Daman Prakash - Coop. Times, New Delhi, 1988.
50. Participative Management in India - N.S. Bhisht, 1986.
51. Agricultural Cooperatives in Japan - Dynamics of Their Development - M. V. Madane, ICA, 1992.
52. Economic Systems - A Comparative Analysis - George N. Helm, 1967.
53. A Moral Commitment - by Nils Thedin
54. Leading Issues in Economic Development - by Gerald M. Meier.
55. Principles of Management - Dr. M.M. Varma & R.K. Agarwal.
56. Cooperative Movement Vs. Politics (Profiles of Indian Situation) - by R.C. Dwivedi.
57. Cooperatives Today: Their Basic Problems - by Hiromichi Nishimura.
58. International Economic Problems, 3rd Edition - by Jones Ingram - John Wiley & Sons.
59. Organisation Development, 1991, Wendell French & Bell - Prentice Hall of India, New Delhi.
60. Cooperative Government Relationship, 1992 - ICA ROAP, New Delhi.

Cooperative Publications

Cooperative Ministers' Conference-1990. Sydney (Australia). ICA Publication. 1990. pp. 383. Rs. 400/US\$ 60.

Cooperative-Government Relationship. Jakarta Conference 1992 Report. Edited by Daman Prakash. ICA Publication. Rs. 400/US\$ 60.

Towards Genuine Cooperatives by Karl Fogelstrom. ICA Publication. 1992. pp. 15 Rs. 20/US\$ 3.

Environment and Cooperatives by G.C. Shrotriya and daman Prakash. ICA Publication. 1992. pp. 215. Rs. 300/US\$ 25.

Sustaining Environment Through Cooperative Action by Daman Prakash. ICA Publication. 1992 pp. 31 Rs. 100/US\$ 10.

Cooperative Legislation in Asia - A Regional Study. Consists of two parts. Part-I contains cooperative laws in Bangladesh, India, Indonesia, Philippines, Sri Lanka and Thailand. 1991. pp. 276. Part-II contains analysis made by national consultants from India, Indonesia, Philippines, Sri Lanka and Thailand. 1991; pp. 235. ICA Publication. Price of complete set : Rs. 400/US\$ 60.

Facilitation of Effective Cooperative Legislation in Selected Countries of Asia - A Regional Study Report. V.P. Singh. ICA Publication. 1990. pp. 83. Rs. 100/US\$ 15.

Agribusiness Cooperatives - Case Studies conducted in India, Indonesia, Bangladesh and Thailand. S.P. Seetharaman and M.P. Shingi. ICA Domus Trust Publication. 1992 pp. 210. Rs. 225/US\$ 35.

Cooperatives in India and Pakistan : Some Aspects. Dr. S.K.Saxena. ICA Domus Trust Publication. 1992 pp. 170. Rs. 250/US\$ 25.

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POWERS OF THE GENERAL BODY
(As provided under the enactments of various Asian countries)

	India	Indian States (Rajasthan & Maharashtra)	Pakistan	Sri Lanka	Bangladesh	Nepal
1. General body is Supreme	u/s 29(2) MSCS Act	u/s 14 of Rajasthan Act	u/s 21 Pakistan Act (Includes delegates of branch comtee. also)	u/s 32 of Lanka Act	u/s 15 of B'desh Act	u/s Nepal Act
2. Powers	<p>a. Consideration of the audit report and statements annual reports</p> <p>b. Approval of programme of activities for the ensuing year</p> <p>c. Amendment of bye-laws</p> <p>d. Elections, if any</p> <p>e. Disposal of net profits</p> <p>2. NAFED a. Elect/suspend/remove members of the Board of directors (except govt. nominated directors)</p> <p>b. Consider and adopt the annual report of NAFED, its audited balance sheet & profit and loss a/c</p> <p>c. Dispose of profits as per act.</p> <p>d. To amend bye-laws</p> <p>e. To expel members</p>	<p>Rajasthan :</p> <ol style="list-style-type: none"> 1. Approval of programmes for the ensuing year 2. Election of members of directors 3. Consideration of audit report and annual report 4. Disposal of net profits <p>Maharashtra</p> <ol style="list-style-type: none"> 1. Election of president for the meeting 2. Admission of new members 3. Constitution of provisional committee till regular elections are held 4. To fix borrowing limits 5. Any other matter as per bye-laws <p>Other functions of General Body include consideration of audit report, annual reports, approval of annual programmes, amendment of bye-laws and disposal of net profits</p>	<ol style="list-style-type: none"> 1. Elections and nominations of representatives to coop. federations 2. Removal of members of the managing committee. 3. Approval of joint farming plans for the ensuing year 4. Consideration of annual statements of accounts, balance sheets, audit reports 5. Disposal of net 6. Amendments to bye-laws 7. Fixing maximum credit limit to societies 8. Various financial matters 9. To alienate and sell lands and other immovable property belong to society 	<ol style="list-style-type: none"> 1. Elections to Board of directors and their dismissal 2. Decision on appeals regarding administration in respect of members, temporary suspension/expulsion of members 3. Decision regarding maximum credit limits 4. Amendment of bye-laws 5. Distribution of net surplus 6. Waving of irrecoverable debts. 7. Consideration of audited a/c, balance sheets, audit rpts. 8. Approval of rules regarding funds created by the society 9. Empowering board to acquire/purchase/mortgage/rent landed properties. 10. Appointment of sub-committees 11. Approval of regulations regarding housing groups/commodity groups, proposals regarding business of society. 12. Approval of rules regarding payment of bonus. <p>AGM</p> <ol style="list-style-type: none"> 1. Consideration of audited statement of accounts, balance sheets, audit reports 2. Elections 3. Decision regarding surpluses 4. Matters referred by branch committees. 	<ol style="list-style-type: none"> 1. To approve annual programmes and annual budget 2. Consider annual audit report & statement of a/c 3. To take decision regarding distribution of surpluses 	<ol style="list-style-type: none"> 1. Consideration of financial affairs of the society its balance sheets and audit reports 2. Disposal of profits in accordance with the law and rules. 3. Amendment of bye-laws. 4. Finalising programmes for the ensuing year 5. Election of members to the managing committee 6. All policy matters relating to the the affairs of the society.

	Indonesia	Thailand	Philippines	Singapore	Malaysia
1. Supremacy of General body	Article 20(1) of Cooperative Law No.12/67	Yes u/s	Yes u/s 34 of New Law of 1979	Yes u/s 50 of the Act	No provision to declare supremacy of General Body
2. Powers	<ol style="list-style-type: none"> 1. Framing bye-laws 2. Framing general policy 3. Election & dismissal of board of directors, board of supervisors and board of advisors 4. Consideration and approval of work plan, annual budget, rectification of balance sheet, decision regarding policy of board of directors in the organisational and business fields (General body is called members' meeting) 	<ol style="list-style-type: none"> 1. Amendment of bye-laws (section 41/42) 2. Appropriation of net profits (u/s 31) 3. Approval of audited balance sheet (u/s38) 4. Approval of annual report on business operations (sec.39) 5. Establishment of cooperative federations (sec.73) 6. Amalgamation of societies under sec.81 	<ol style="list-style-type: none"> 1. To determine and approve amendments to the articles of incorporation and bye-laws 2. To elect or appoint the members of the board of directors and to remove them. 3. To approve the development plans of the cooperative 4. Other matters proposed/ supported by 2/3 strength of the members. 5. Under sec.81, two or more societies may be amalgamated by resolutions of general bodies of the societies, but registration will be subject to approval by registrar 	<ol style="list-style-type: none"> 1. To consider auditors' report and reports of management committee 2. To approve the financial statements. 3. To decide about distribution of net surpluses 4. To consider/adopt amendments to bye-laws 5. To elect members for the management committee 6. To appoint auditors 7. To determine borrowing limits. 8. Any other business subsequent to notice. <p><u>Under section 54</u> Two societies may resolve to amalgamate subject to approval by registrar (u/s74)</p>	<ol style="list-style-type: none"> 1. General body meeting to be convened at the orders of the registrar general 2. Give information about general meeting to registrar general 3. Only rules framed by minister u/s 51(1) provide for the procedure and powers of the general body. 4. Every activity controlled by the registrar general.

	Afghanistan	Iran	Japan	Rep. of Korea	China
1. Supremacy of General body	Yes	Yes	Yes	Yes	Yes
2. Powers	<ol style="list-style-type: none"> 1. Election and dismissal of members of managing committee 2. Election/dismissal of reps. to secondary cooperatives. 3. Consideration and decision upon financial accounts, balance sheets, & reports concerning cooperative activities. 4. Determining ceiling on borrowing extension of loans to members and related procedures 5. Disposal of net surpluses 6. Amendment of bye-laws, amalgamation of societies. 	<ol style="list-style-type: none"> 1. Election to board of directors 2. Review of societies' balance sheets, profit & loss a/c 3. Adopting decisions regarding audit reports. 4. Determining policy/programme of society. 5. Adopting decision regarding reserves of society. 6. Approving bye-laws 7. Complaints of members 8. Any proposal submitted by board of directors 	<ol style="list-style-type: none"> 1. Amendments to articles of (section 41/42) 2. Decision regarding dissolution of society. 3. Dismissal of expulsion of members. 4. Dismissal of officers 5. Establishment & amendment of business plans 6. Method of assessment and collection of expenses 7. Financial matters including audit reports 	<ol style="list-style-type: none"> 1. Amendment of articles incorporation 2. Disolution/amalgamation/ separation of societies. 3. Election/expulsion of members and dismissal of officers. 4. Use of reserve funds. 5. Enactment/amendment/ repeal of covenants and regulations 6. Drawing up business plans 7. Method of imposing and collection of expenses. 8. Decision regarding maximum borrowing limits 9. Business reports, balance sheets, Profit & loss a/c and disposal of net surplus 	

APPENDIX - II

POWERS/FUNCTIONS OF BOARD OF DIRECTORS

	India	Indian States	Pakistan	Nepal	Bangladesh	Sri Lanka
1. Provision	u/s 32 MSCS Act	u/s 33 of Rajasthan Act	u/s 28 Pakistan Act		Provided under rules to be framed by govt.	Under bye-law 35(b)
2. Powers/functions/duties /responsibilities	<ol style="list-style-type: none"> 1. To admit new members & interpret organisation objectives and set-up specific goals to be achieved towards objectives. 2. To make periodic appraisal of operations. 3. To approve annual and supplementary budgets 4. To appoint chief executive and other employees, to make provision for regulating appointment of employees of the society and fixed their scales of pay, allowances, & other conditions of service including disciplinary actions 5. To delegate powers to executive committees, chief executive and president. 6. To acquire and dispose of immovable property 7. To consider and accept the resignations of president, vice-presidents, or any other member of governing council and executive committee or other committees. 8. To take such measures or undertake acts as may be prescribed under the act/law. 	<p>Rajasthan :</p> <ol style="list-style-type: none"> 1. To observe provisions of act/rules/bye-laws in all transactions 2. To maintain true account of the money received and spent 3. To maintain account of the assets/liabilities of society books by those authorised to do so. 5. To prepare and present to the general meeting the P & L a/c annually. 6. To admit persons as members and maintain members' register 7. To watch utilisation of amounts of loans and perform functions in regard to recovery. 8. To call SGM on receipt of requisition. 9. To request registrar to recover instalments or part thereof as arrears of land revenue. 	<ol style="list-style-type: none"> 1. Exercise all powers and discharge duties relating to the affairs of the society as provided under act/rules/bye-laws 2. Keeping correct & upto-date registers of members & to 3. Maintaining true & accurate account of money received and paid, as also of all stocks, assets and liabilities. 4. Preparing & laying audited balance sheet and P & L a/c before the AGM. 5. Consideration of audit & inspection reports and take necessary action thereon. 6. Summoning General Body as per law. 7. Undertake business as per policy of GB 8. Contracting loans, subject to act/rules/bye-laws & decisions of the Gen.Body 9. Settle disputes 10 Investment/deposit of the surplus funds as per law. 11 Seeking approval of GB on new farming plans. 	<ol style="list-style-type: none"> 1. The managing committee constituted by the duly elected members in the general body is authorised to carry on business of society, appoint employees & advitions of service shall be as per bye-laws of the society. The bye-laws lay down the functions/powers of managing committee. 	<ol style="list-style-type: none"> 1. The govt. has retained powers to frame rules u/s 140 of the act which includes (clause xvi) framing procedure for the meetings of the managing committee, its powers and duties 2. In the event of supercession of elected board & appointment of nominated comtte. such committee shall carry on business as per directions of the government. 	<ol style="list-style-type: none"> 1. Elect President & vice president from amongst members. 2. Decide appeals relating to admission of members. 3. Convene AGM and SGM. 4. Enquire branch meetings regarding expulsion of members. 5. Appoint general manager, secretary, branch managers and other employees. 6. Personnel mgmt. functions. 7. Policy matters regarding collectn. and banking of cash and other property matters. Frame policy on commercial/financial, administrative matters.. 8. Frame working rules with approval of GB. 9. Appoint of sub-committees. 10 Prepare annual budget, dev.plans & seek approval of GB. 11 Prepare report on working & finances of society. 12 Examine monthly accounts. 13. Make rules for grant of loans 14 Take steps for mbr. education, prosecutions. 15 Authorise Pres., GM, Sec. to sign

APPENDIX - II

	Indonesia	Thailand	Philippines	Singapore	Malaysia
1. Constitution	Duties defined in Indonesia in the Act- article 23	Provided under regulations framed by the Minister		Provided u/s 60	U/S 51(2) of the ordinance 1948 the Minister makes rules for the powers & functions of the board of directors, officers and conduct of the business of the society Rule 8(1), 8(2) & 9
2. Powers	<ol style="list-style-type: none"> 1. The duties of the board shall be to lead the organisation and business of the society in and out of the court of law as per decisions of members meeting [Art.23(1)] 2. The board shall be responsible to the members' meeting (GB) regarding all matters relating to affairs of the Society [Art.23(3)] 3. The board of directors may appoint one /more persons to do daily jobs [Art.23(2). 4. The board of directors shall be responsible for organising AGM. 5. The board shall maintain register of members and take care of the harmony among members. 6. The board shall have the authority to carry out actions and make efforts in the interest of and for the benefit of the society in accordance with the responsibilities given and decisions taken by the members' meeting. 	<ol style="list-style-type: none"> 1. Under section 14 of the coop. societies act, regulations are formulated for appointment term, powers, duties and responsibilities. Such regulations are framed by Minister 	<ol style="list-style-type: none"> 1. The board of directors shall direct and supervise the business, manage the property of coop. and may by resolution exercise all such powers of the society as are not reserved for the general assembly under the count and bye-laws 	<ol style="list-style-type: none"> 1. To represent the society before all competent public bodies, direct/supervise the business & property of the society and exercise all powers to ensure full/ proper administration and management of the affairs of the society. 2. To consider/approve or reject applications for membership of society. 3. To call for reports from persons employed by the society to know the details regarding operations and financial condition from time to time. 4. Appoint sub-committees. 5. Keep members informed on the progress of society. 6. To prepare and submit performance report to AGM with recommendations. 7. Prepare/present to AGM proposals of distribution of net surpluses as per provisions of act/bye-laws. 8. To consider & take action on reports made by registrar/auditors. 9. The comtte. may appoint a manager to administer/ manage affairs of society on terms and conditions it may deem fit. 	

	Iran	Afghanistan	China	South Korea	Japan
1. Constitution					
2. Powers	<ol style="list-style-type: none"> 1. To act as legal representative of the society 2. Board elects chairman, vice-chairman and secretary 3. Board may appoint a person to administer affairs of the society from amongst the members or outside. 4. The board has to function as per law and resolutions of the general assembly (GB) 	<ol style="list-style-type: none"> 1. To act as legal representative of the cooperative 2. To keep and maintain the accounts, books and other properties of the cooperative. 3. To prepare the income and expenditure account, the balance sheet and annual report for the fiscal year. 4. To undertake all other duties and powers as specified in the bye-laws of the cooperatives. 	<ol style="list-style-type: none"> 1. To carry out duties as per law and regulations and also according to the decisions of the general meeting. 2. To submit business reports at the end of the year along with statement of assets and liabilities, profit & loss a/c, distribution of profits through the board of supervisors. 	<ol style="list-style-type: none"> 1. Examination of membership qualifications. 2. Matters entrusted to the board and gen. assembly and to be resubmitted to general assembly (GB) 3. Matters provided in the laws and regulations or the articles of incorporation. 	<ol style="list-style-type: none"> 1. The board of directors has to perform the services of the society along the policy lines adopted by the gen. meeting. 2. The board of directors lays down the policy on cooperative business and management as per law and articles of association. 3. The board is empowered to consider: <ul style="list-style-type: none"> - Qualification review in respect members. - Formulation of regulations. - Decision on basic policy of business. - Imposition of expenses and collection method.

POWERS/FUNCTIONS OF THE CHIEF EXECUTIVE

	India	Pakistan	Sri Lanka
	MSCS Act		
	Section 45 of the act	Section 33 of the act	Bye-law 38
1. Provision			
2. Powers/ function	<ol style="list-style-type: none"> 1. Day to day management of the business of the society. 2. Operating the accounts of the society and to be responsible for making arrangement for safe custody of cash. 3. Signing documents for & on behalf of the society. 4. Making arrangement for proper maintenance of various books/records of society and for correct preparation and timely submission of periodical statements/returns as required under law/rules / bye-laws. 5. Convening meetings of the General Body, Board of Directors & the executive committees & other committees u/s 45(1) and maintaining records of such meetings 6. Making appointment to posts under the society in accordance with rules and powers given. 7. Assisting the board in formulation of policies, objectives and planning. 8. Furnishing periodical information to the board for appraisal of operations/functions. 9. Performing such other duties as may & be prescribed or specified in the byelaws of the society. 	<ol style="list-style-type: none"> 1. To conduct correspondence on behalf of the society. 2. To summon the General Meeting of the society as per decision of the Board of Directors. In the absence of such decision, with the approval of president of the society. 3. To summon meetings of board of directors as per decision of the board. 4. To attend the meetings of general body, board of directors, to put up agenda for the meetings with relevant papers before the chairman and record proceedings of the meeting 5. To sign the proceedings of the meeting of the general body and the managing committee(board of directors). 6. To supervise the work of the staff of the society under the authority of managing committee (board of directors). 7. To incur contingent expenditure subject to limit fixed by the managing committee. 8. To perform such other duties as may be entrusted by the managing committee from time to time. 	<ol style="list-style-type: none"> 1. To attend to all business matters efficiently & in terms of law. Ensure safe custody of the books/ducoments/other movable property by interesting their custody to respective employ and obtained the acknowledgement for such proper 2. To ensure that annual statement of accounts and balance sheets submitted to the auditor within three months of the end of financial year. 3. To advise the board on policy & planning and ensure implementation efficiently. . 4. To prepare budget and submit three months before commencement of the financial year. To secure funds for implementation of programmes. 5. To furnish the board with necessary informance to enable them to compare performance against targets. 6. To provide to the board feasibility reports, estimates&details regarding utilisation of fun as approved by the board. 7. To plan, organise, supervise, coordinate& control departments of the society & provide staff. 8. Approve loans as per regulations. 9. To ensure that branch managers are given necessary responsibility and authority. 10. Ensure submission of reports to higher authorities as per law/byelaw. 11. To develop and maintain good relation with apex unions, delegates, and members.

INDIA	SRI LANKA	AFGHANISTAN	PHILIPPINES	INDONESIA	THAILAND
<p>Main Organs:</p> <ul style="list-style-type: none"> - General Body - Board of Directors - Chief Executives 	<ul style="list-style-type: none"> - General Body - Board of Directors - Chief Executives 	<ul style="list-style-type: none"> - Congress of Representatives - Central Council - Executive Committee - Supervisory Board 	<ul style="list-style-type: none"> - Membership Meeting - Board of Directors - General Manager 	<ul style="list-style-type: none"> - General Body - Board of Directors - Financial Committee - Chief Executive 	<ul style="list-style-type: none"> - General Body - Board of Directors - Chief Executive
<p>Status: General Body is Supreme (22)</p>	General Body is Supreme	Congress of Rep. is Supreme body	Membership Meeting is the supreme authority	General Body (Members' Meeting) shall be supreme	General Body is supreme
<p>Functions:</p> <ol style="list-style-type: none"> 1. Consider annual report, audited statements of a/cs, approve appropriation of profits. 2. Consider and approve amendments to bye-laws. 3. Approve programme of work as recommended by board. 4. Consider official resolutions, budget and matters & cases of expulsion of members. 5. Appoint auditors and fix their fees 6. Fix allowances to be paid to board members and other matters. 	<ol style="list-style-type: none"> 1. Elect board of directors and to remove members from board. 2. Consider audit report, statement of a/cs and b/sheet. 3. Consider reports submitted by board, approve annual programme and budget proposal submitted by the board. 4. Amend bye-laws of the federation. 5. Approve credit limits of member societies 6. Admit new members/expel members. 7. Consider proposals to be submitted to the Gen.Body 8. Perform various functions for achieving the objectives of the federation. 	<ol style="list-style-type: none"> 1. Consider reports of the Ex. committee, supervisory board, and evaluation of their activities. 2. Issuance of concrete instructions for improvement of the activities of the Union. 3. Amendments, supplements, to and approval of Constitution. 4. Election of members of the central council & supervisory boards. 5. Hearing complaints against central council and supervisory board. 	<ol style="list-style-type: none"> 1. Lay down programmes/policies for NATCCO 2. Consider financial reports, statement of accounts, and annual audit reports. 3. Election of members of the board of directors. 4. Appointment of auditors & approval of constitution 	<ol style="list-style-type: none"> 1. It shall stipulate by laws, general policy, implementation of decisions of higher cooperative bodies. 2. Elections/dismissal of board of directors, board of supervisors, board of advisors. 3. Work plan, budget ratification of balance sheet and implementation of policy of the board of directors in the organisations and business fields 	<ol style="list-style-type: none"> 1. Consider progress report of past year's business, financial reports on statement of revenue/expenses and balance sheet. 2. Election of new board of directors. 3. Appointment of auditors. 4. Approval of yearly plans and budget. 5. Amendment of bye-laws.
<p>Powers/Duties of the Board of Directors</p> <ol style="list-style-type: none"> 1. Admit new members, raise and invest funds, constitute programme committees relating to development & marketing of milk and milk products. 2. Approve budget for next year, frame service conditions, conduct rules and regulations for staff. 3. Appoint managing director 4. Frame rules, carry out financial & admn.functions, maintain accounts and sanction expenditure. 5. Perform and convene general meetings. 6. Delegate power to chairman/managing director and transact business relating to affairs of federation. 	<ol style="list-style-type: none"> 1. Elect president/vice-president from amongst mbrs. 2. Attend all matters pertaining to implementation of programmes approved by the General body subject to budget allocations. 3. Propose work programmes and budget for ensuing year. 4. Submit accounts, balance sheet and audit report to the general body. 5. Admit new members, fill vacancies in the board and summon meetings of the general body. 6. Plan for development of member societies. 7. Appoint sub-committees, assign functions and give powers to them. 8. Appoint secretary/general manager and other employees for conduct of business of the Federation, act as their disciplinary authority. 9. Perform necessary actions to achieve objectives 	<p>Functions of Central Council/ Board of Directors</p> <ol style="list-style-type: none"> 1. Elect chairman/dy. chairman from the membership and specify members of the executive committee. 2. Consider dismissal of mbrs. of central council, executive committee & supervisory board 3. Recognise balance sheet. the supervisory board on sharing the profit/compensation for the loss incurred. 4. Attend to complaints against the executive board and take steps for removing shortcomings. 5. Issue instruction on convocation of sessions of the Congress and election of representatives. 6. Confirmation of guidelines/directions issued by the president and central office and lay down duties of experts, etc. 	<p>Board of Directors</p> <ol style="list-style-type: none"> 1. Appoint general manager for managing affairs of the organisation. 2. Ratify appointments and remuneration of managers. 3. Formulate programme of work and budget for operations of the organisation. 4. Take decisions regarding ... and consider suggestions of and enter into contracts. 5. Submit reports on admn. & operations to the membership assembly. 6. Exercise powers/duties entrusted by members during various meetings. 	<p>Board of Directors</p> <ol style="list-style-type: none"> 1. Shall lead the organisation and business of the society represent society in and out of the law courts as per directors of general body. 2. Shall appoint persons for different jobs 3. Shall be responsible to general body. 4. Shall organise members' meetings and maintain 5. Submit inspection reports of supervisors to general body. 	<p>Board of Directors</p> <ol style="list-style-type: none"> 1. Employ/dismiss the General Manager. 2. Appoint advisors and sub-committees. 3. Have power/duties as stipulated by bye-law or assigned by general body. 4. Issue regulations in accordance with act, rules, bye-laws. 5. Maintain harmony amongst members.

INDIA	SRI LANKA	AFGHANISTAN	PHILIPPINES	INDONESIA	THAILAND
<p>Functions & Powers: MD</p> <p>MD shall have necessary power to attend meetings of board for carrying on business activities and admn. of the federation, subject to control/authority of the board of directors (bye-law 34) (National Cooperative Dairy Fed. of India Ltd)</p>	<p>Gen. Manager</p> <p>shall be given necessary powers to enable him to function as Chief Executive of the organisation. He shall be accountable to the board of directors. (Federation of Thrift and Credit Cooperative Societies Ltd., Sri Lanka)</p>	<p>General Manager</p> <ol style="list-style-type: none"> 1. Leadership of economic and social activities of the Union. 2. Monitoring, implementation of approvals by the Congress and Central Council. 3. Charting of financial and economic plans of the Union and implementation of plans. 4. Appointment/dismissal of I/C of central office & subordinate cooperative bodies. 5. Resolution of controversial matters between members and unions. 6. Rectification of rules of the central office. 7. Co-operative with farmers, craftsmen & others in various cooperative activities. 8. Election of the members of the Secretariat of the Executive committee. <p>(Union of Cooperative of Farmers of the Islamic State of Afghanistan)</p>	<p>General Manager</p> <ol style="list-style-type: none"> 1. The General Manager shall be responsible for implementation of policies and programmes of the organisation. 2. He shall have powers to appoint/dismiss subordinate employees. 3. To keep record of all meetings and attest them. 4. To disburse funds within the budget limits. 5. To attend correspondence and perform duties/functions entrusted by Board. <p>(NATCCO- National Confederation of Cooperatives, the Philippines)</p>	<p>General Manager</p> <ol style="list-style-type: none"> 1. The GM shall be responsible to the Board of Directors. 2. Manager has responsibilities in the fields of planning, personnel, business, financial and inventory management, controlling and reporting. 	<p>General Manager</p> <ol style="list-style-type: none"> 1. To attend the meetings of the board of directors without voting power. 2. To be responsible for society's assets. 3. To plan/control operations of the association as per policy framed by general body/board, submit progress reports, suggestions to the board. 4. To be incharge of associations employees and manage office as per bye-laws and regulation framed by general body/board of directors. <p>(Association of Asian Federation of Credit Unions, Thailand)</p>

**STATEMENT SHOWING LEGAL PROVISIONS SUPPORTING DEMOCRATIC CONTROL
VIS-A-VIS CONTRARY POWERS CONFERRED ON THE REGISTRAR**

S.No. Legal provisions ensuring Democratic control by: The Societies	Legal Provisions contrary to the Provisions Supporting democratic control as prevailing in some of the Asian countries Role of the Registrar.
1. Supremacy of General Body. (Recognised in all the countries under study).	<ul style="list-style-type: none"> - Registrar is authorised to convene meetings of the General Body. As SGM in Indian states (Raj. -u/s 31(2), in Pakistan u/s 7, in Bangladesh u/s 22(2&3) and Singapore u/s 55(4) of the Respective Co-operative Societies Act. - Registrar is authorised to rescind any resolutions of the society. In Singapore u/s 93(H) & Indian States -Raj. under section 32 of the respective Acts. - Registrar is authorised to supersede the committee of Management and appoint an Administrator or nominate a management committee. In India (MSCS) u/s 39. Indian States -Raj. u/s 36, Maharashtra u/s 78. In Bangladesh u/s 25, 26(1), 28, Sri Lanka u/s 48, Indonesia u/s 38(3), Malaysia u/s 37 A (1). Singapore u/s 94 (4). In Malaysia Administrator can be appointed u/s 37A(3) . - Registrar can issue directions to any society. In India (MSCS) u/s 47, Indian states -Raj. u/s 17, Rule 102 and Maharashtra u/s 79 A.
2. General body of be the final authority to amend bye-laws and be able to decide about amalgamation/ division of the society. (In all the countries the General body empowered to resolve about these matters, with specified level of quorum & Registration is done by the Registrar accordingly)	<ul style="list-style-type: none"> - Registrar can convene General Body meeting and can issue directions. (Details regarding legal provisions wherever available have been given above) - Registrar is authorised to frame rules. In India (MSCS) U/S 109 (1), Rajasthan u/s 148 (2), Maharashtra u/s 165 (2), Sri Lanka u/s 61 (1), Pakistan u/s , Indonesia u/s 21, 41 and 43, Philippines u/s 15, Thailand u/s 46, 47 Malaysia u/s 51(1), Singapore u/s 95, Bangladesh u/s 140 (1) and Nepal u/s 18. - Registrar can order amendment of bye -laws and amalgamation /division of societies and get the orders implemented. In India (MSCS) u/s 15, Indian States u/s 13/14 & 16/17, in Malaysia u/s 10 A(2) and Bangladesh under section 17, 18, in Maharashtra (India) u/s 14/18 of the respective acts. - Registrar can rescind resolution if taken by the General body and if found contrary to his expectations. (Details regarding legal provisions for rescinding resolution have been given above.)
3. Resolutions are taken by the Board of Directors for management of the affairs of the society.	<ul style="list-style-type: none"> - Registrar is empowered to rescind the resolutions. - Directions may be issued by the Registrar. - The Board of Directors consists of Govt. nominees, who have powers to over rule the resolutions. (such provisions are available in India only) - The Board of Directors can be dissolved, superseded and as administrator may be appointed. (Details regarding legal provisions are the same as given under item 1 above).
4. Observance of Cooperative Law. (There is a rationale in the legal enactment, which is required to be observed by the cooperatives for whom the law has been framed.	<ul style="list-style-type: none"> - Registrar and Govt. are empowered to exempt a society from application of any of the provision of law. (In Bangladesh u/s 8, in Malaysia u/s 53, 54, in Singapore u/s 96/97, in Indian States - Raj. u/s 139/ Rule 110.)
5. The society should have the freedom to get the annual audit conducted as per law. (Powers to get audit conducted should be left to the discretion of the society but through qualified Auditors or an Independent Audit Authority should be constituted).	<ul style="list-style-type: none"> - The authority to get the audit conducted has been given to the Registrar. (In Bangladesh u/s 76, Sri Lanka u/s 44 (33), Singapore u/s 78, India (MSCS) u/s 67, Indian States - Raj. u/s 68 & Maharashtra u/s 81 of the respective Acts. In Malaysia Audit of a society would be conducted by person approved by the Registrar u/s 11 A.)
6. Inspections and Enquiries (For autonomous bodies and organisations, It should be the concern of the respective body or an Apex organisation or a Federal body of the societies)	<ul style="list-style-type: none"> - Registrar is empowered to conduct inspections and enquiries in following countries : Inspections : In India (MSCS) u/s 68, States - Raj. u/s 71, Maharashtra u/s 84, Bangladesh u/s 82, Nepal u/s 36, Malaysia u/s 37 (1), Singapore u/s 80. Enquiries : In India (MSCS) u/s 69, States - Raj. u/s 70, Maharashtra u/s 83, Bangladesh u/s 84, Nepal u/s 35, Singapore u/s 79, Malaysia u/s 37 (1) and Sri Lanka u/s 35/36 of the respective acts.
7. Disputes (The disputes should be referred to and decided by some independent authority).	<ul style="list-style-type: none"> - The Registrar has been authorised to settle disputes arising during the course of Management of the society. In India (MSCS) u/s 74, States - Raj. u/s 75, Maharashtra 91, in Bangladesh u/s 86, in Sri Lanka u/s 58, Malaysia u/s 49 & Singapore u/s 91.

From this Statement, it would be abundantly clear that law provides for democratic functioning of the the society and defines the role of functionaries accordingly but existence of parallel provisions capable of reversing the effect of co-operative functioning have also been provided simultaneously, which restrict co-operative functioning on democratic lines.