

CO-OPERATION - II

Legal Environment for Co-operatives.

Chapter 1

The Co-operative movement in India - A Brief history.

- Co-operative movement in India - originated after the enactment of Co-operative Credit Societies Act 1904.
- In western countries the development of Co-operatives is
1st → Co-operators, 2nd → those Co-operators formed Co-operatives & last → Co-operative legislation passed.

In India

- 1st → Co-operative Societies Act, 2nd - organisation of Co-operatives & last → find out real Co-operators.
- movement in India is called an official movement rather than a spontaneous democratic movement.
- Co-operative Credit Societies Act, 1904 - The first Incorporation
 - 1st act to provide a legal basis for Co-operative Societies.
 - The Educated Law Committee with Mr Nicholson was appointed by the govt to examine & recommend a course of action.
 - On the recommendations of the Committee, the Co-operative Societies Bill was enacted on 25th March 1904.
 - This Act applicable only to credit Societies.
 - By 1911 → 5300 Societies exist with Membership of Over 3 lakhs.

● Cooperative Societies Act, 1912.

- developments in terms of growth in the number of Cooperatives, 1912 Act became a necessity & Co-operatives could be organized under this Act for providing non-credit services to their members.
- This Act also provided for federations of Co-operatives.
- After the enactment of this Act, the credit sector Urban Co-operative Banks converted into Central Co-operative Banks with Primary Co-operatives & Individuals as their members.

Non credit Sector

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Organised as Purchase & Sales Unions, marketing

Societies.

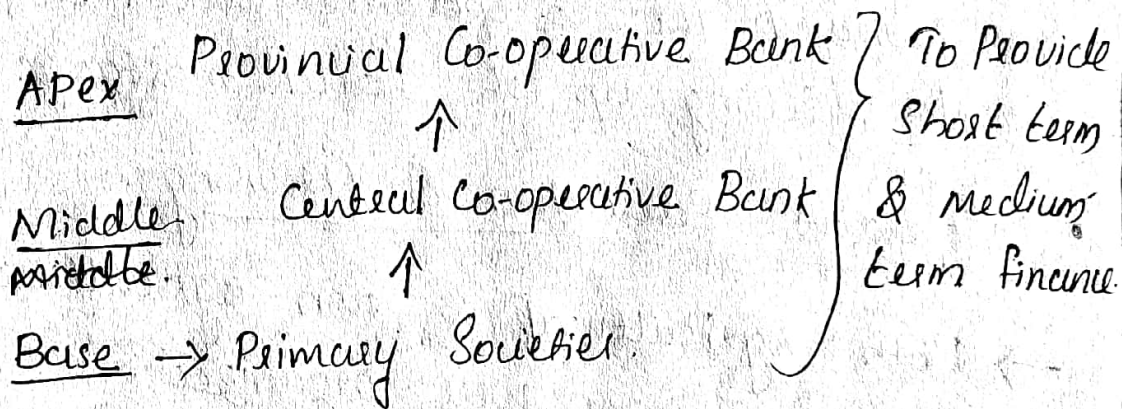
Non Agricultural Sector.

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handloom weavers & other artisans.

● MacLagen Committee On Cooperation (1914)

- 1st world war & Banking Crisis both affected the growth of Co-operatives.
- Although member deposits increased & the war affected the export & prices of cash crops adversely → resulting increased over dues of loans of primary Agricultural Societies.

- To Over come this Situation, the govt appointed a Committee on Co-operation & Under chairmanship of Sir Edward Maclagen (1914).
- The purpose ~~is~~ is to study the State of Co-operatives and provide recommendations for the future.
- The Committee's recommendations are basically related to Credit Societies.
- recommendation is Strong 3 tier Structure in every Areas with.



- After 1912 Act, the 1st Co-operative housing Society the Nucleus Co-operative Union in 1914, the Bombay Central Cooperative Institute in 1918 & Similar in Various Areas.
- non-Agricultural credit Co-operatives performed well & grew in strength & operations during this period.

• Government of India Act, 1919

- In 1919, passing of the Reforms Act, Cooperatives as a Subject matter of Provinces.
- The Bombay Co-operative Societies Act of 1925 is the 1st provincial Act passed with the Principle of One man One Vote.
- At this time Various Committees looked the Problems of Co-operative banks in Various provinces.
- The Royal Commission of Agriculture in 1928 → reviewed the Co-operative Sector & recommended the setting up of land mortgage banks.

• Co-operative Education & Training

- Both Agricultural & non agricultural non credit Sector Societies were organized.
- But most of them faced difficulties in operation because of competition from private agencies & inexperience of employees.
- So the main focus ~~for~~ on Co-operative Education & Training.
- The main development was setting up of the All India Association of Co-operative Institutes in 1929.

• Reserve Bank of India

- Setting up of RBI in 1935 was major development in agricultural credit.
- RBI Act 1934 required the RBI required the RBI to set up an Agricultural Credit Department
- In 1935, Co-operative societies were to be channels for rural development, so government provide programmes were drawn up rural indebtedness
- Mehta Committee appointed in 1937 → recommended reorganisation of Co-operative credit societies as multi purpose societies.

• Multipurpose Societies

- 2nd world war increase the price of Agricultural Commodities so increased returns to farmers leads to reduction in overdraft to the Co-operatives.
- At this time, people face shortage of essential Commodities, so the govt decided to utilize the Co-operatives for procurement of Commodities from Producers & rationing.

→ This provide a growth of multi purpose co-operatives

• Urban Co-operatives

- period between 1939-1945 provided further growth of the urban Co-operative credit structure.
- Many Societies started banking functions, grown in size & operations, diversification of activities etc.

• Multi Unit Co-operative Societies Act 1942

- To regulate the Co-operative Societies having an area of more than One State.
- The need was felt for an enabling Co-op law
- ∴ Act was passed in 1942
- Act delegated the powers of the Central Registrar to State Registrar for all practical Purposes.

• Gradgil Committee (1944)

- Compulsory adjustment of debts & setting up of Agricultural Credit Corporations wherever Co-op Societies not strong.

• Co-operative Planning Committee (1945)

- Chairmanship of Shri R G Sarda → 1945
- found Co-op Societies to be the most suitable medium of economic planning & examined each area of economic development.

PRE - INDEPENDENCE DEVELOPMENT

In 1946

- Bombay govt provide grand monopoly procurement rights to Polson (a private dairy)
- As a result Sardar Vallabhbhai Patel & Shri Moraji Desai, Shri Tribhuvan Das Patel, the milk producers of Khera district of Gujarat went 15 days strike.

- As a result, two primary Village milk Producers Societies were Registered in October 1946.
- On 14 Dec 1946 Khera District Co-operative Milk Producers Milk Union (AMUL) registered.
- The Registrars Conference in 1947 recommended that the Provincial Co-op Banks reorganised to give greater assistance to primary Societies through Central Banks.
- For the 1st time provide credit with marketing, liberal loans & subsidies for establishment of a large number of godowns & Processing Plant.
- Bombay Co-operatives gives more importance for Co-operative development.
- Shri Vankunth Bhai Mehta Minister Incharge of Co-operation in the Bombay govt - gives more importance to the development of Co-op Sector.
- Then a Committee formed (Co-op Education & Training) Under chairmanship of Sir Janardan Madan recommended for Co-operative education programme & setting up of an education fund.
- Another Committee formed (The Agricultural Credit Organisation Committee) chairmanship of Sir Manilal Nanavati recommended state Assistance in agricultural Finance & Convert all credit Co-operatives into multi purpose Co-operatives.

→ Also recommend a three tier co-op credit banking system & various subsidies.

Development in the Post Independence Era.

- After independence co-operative movement get boost.
- Vital role in the various plans formulated by the planning commission.

The First Five Year Plan (1951-56)

- emphasis given to the co-operative sector (economic & political development)
- Adopt co-operative method of organisation to cover all aspects of community development.
- Provide for setting up of urban co-operative banks, industrial co-operatives of workers, consumer co-operatives, housing co-operatives
- Provide co-operative training & education & recommend every government department follow the policy of building up co-operatives.

All India Rural Credit Survey Committee (1951)

- Government appointed Goswala Committee (All India Rural Credit Survey Committee) in 1951
- Report submitted its report in 1954.
- The committee observed that large of the country were not covered by co-operatives

- So they recommend to cover all areas & provide credit facilities to all members.
- The Committee recommended introducing an integrated system of rural credit & patronship of government in the share capital of the co-operatives & also appointment of govt nominees on their boards, participating in their management.
- Importance provided to financing & creation of SBI.
- Govt accepted this approach.
- The Union govt acquired a major interest in the imperial bank (converted to SBI)
- A National Co-operative development & Warehousing board was setup.
- RBI Act - Play an active role in building up of Co-operative Credit Institutions.
- The All India Co-operative Congress, held at Patna in 1956 Accepted the Principle of State participation & govt representation on BOD of Co-operatives.
- In 1953 Government of India & RBI jointly appointed a Central Committee for Co-operative Training.

The Second Five-Year Plan (1956-1961)

- emphasized "building up a Co-operative Sector as part of a scheme of planned development".
- This 5 year plan drew up programmes of co-op development based on the recommendations of the All India Rural Credit Survey Committee (AIRCS)
- The Industrial Policy Resolution of 1956 emphasised State assistance to enterprises for industrial & agricultural purposes.
- The Committee on Co-operative Law under the chairmanship of Shri S. P. Raja in 1956 recommended a Model bill for consideration of State govt.
- Development of National Development Council Resolution (1958) → on the Resolution Co-operatives organised on the basis of Village Community as a primary Unit & close co-ordination between Village Co-operative & panchayat.
- At this time 1960 primary marketing Societies were set up & State Marketing Federations were established in all the States as well as National Co-operative Marketing Federation at the Centre.

The Third five Year Plan (1961-1969)

- From mid Sixties onwards agro processing co-operatives (sugar & spinning) grew in number.
- Setting up NDDB (National Dairy Development Board)
- After the Indo-China war in 1962, both Consumer Co-operative structure & the Public Distribution System (PDS) was strengthened.
- growth of Public deposits in Urban Co-operative Credit Societies, ∴ insure these under the Deposit Insurance Scheme of Reserve Bank of India.
- Selective provisions of RBI Act 1935 & later Banking Regulation Act 1949 were applicable to co-operative banks w.e.f March 1, 1966 to regulate banking business & facilitate insurance coverage of deposits.

Some National Institutions which came into existence

In 1960's

- The Agricultural Refinance Corporation was set up in 1962 to provide long-term loans to co-operatives, through Central Land Mortgage Banks.
- In 1963, the National Co-operative Development Corporation (NCDC) → great boost to growth of Co-operative Marketing & Processing Societies.
- In 1964, Anand converted to National Dairy Development Board (NDDB)

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→ Setting up National Co-operative Federations & reorganization of the National Co-operative Union of India (NCUI)

→ In 1967, the Vaikunth Mehta National Institute of Co-operative Management was set up in Pune.

→ Growth of Land Development Banks

→ Rural electric co-operatives & programmes for dairy, Poultry, fishery & labour co-operatives were set up.

The fourth five Year Plan (1969-1974)

→ Provide high priority to the reorganization of co-operatives to make short term & medium term structure.

→ provide provision to co-operatives with Management subsidy & share capital contribution & resetting of central co-operative banks.

→ make policies in favour of small cultivators.

→ The Mishra Committee in 1965 - set a standard to determine the genuineness of co-operative societies and suggest measures to eliminate non-genuine societies.

→ The recommendations of the committee resulted in amendments in the co-operative legislation in most states, which destroyed the autonomous & democratic character of co-operatives.

The fifth five Year Plan (1974-1979)

- took note of the high level of Over-dues.
- Expert Group appointed by the planning Commission in 1972 recommended the formation of farmer's Service Co-operatives has envisaged by the National Commission on Agricultural.
- stressed the need for Professional Management of Co-operatives.

The Sixth five Year Plan (1979-1985)

- Co-operative efforts being more systematically directed towards the economic condition of the rural Poor.
- Plan recommended to re-organising Primary Agricultural Credit Societies into strong & Viable multi purpose Units.

NABARD Act, 1981

- The National Bank for Agriculture & Rural Development Act was passed in 1981
- Set up to provide refinance support to Co-operatives & to supplement the resource of Commercial Banks & Regional Rural bank to enhance credit flow to the Agricultural & rural Sector.

Multi-state (Co-operative) Societies Act, 1984

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→ Introducing a Comprehensive Central legislation to facilitate the organization & functioning of genuine multi-state Societies & to bring uniformity in their administration & management, MSCS Act of ~~1988~~ 1984 was enacted.

→ The Multi Unit Co-operative Societies Act 1942 was removed.

Model Cooperatives Act, 1990.

→ In 1990, an expert Committee headed, Under the chairmanship of Choudhary Brahm Pankaj, was appointed by planning Commission to review of broad status of the Co-operative movement, suggest future directions & finalize a Model Co-operatives Act.

→ due to competition, government provide liberalized economic policies for strengthening Co-operative Sectors.

The Eighth five Year Plan (1992-97)

→ building up the Co-operative movement as a self managed, self regulated & self reliant Institutional set up by giving it more autonomy & democratizing the movement.

Co-operative Movement After 1991.

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→ 1991 is a turning point on account of global economic reforms.

1991 & After

→ Brahma Prakash Committee appointed by the Planning Commission, to prepare a Model Co-operative Bill to restore genuine character of Co-operatives. (1991)

→ The report was submitted in 1992 (State Co-operation Ministers & Registrars of Co-operative Societies)

→ The government of India reformed Multi state Co-operative Societies Act 1984 & enacted a new Act in 2002.

→ After that the govt implementing a Comprehensive Package of deregulation of the economy through Structural Adjustment Programme at macro level.

→ The object was to transform the national economy from a closed one to an open, liberalised & globalised competitive market economy.

→ This means a gradual disengagement of the government from the economic & business activities & Privatisation of the Public Sector & expansion of the Private Sector.

→ another feature is encourage foreign direct involvement & multi national corporations for linking the Indian economy with the world economy.

→ There was no mention of the co-operative sector in the policy statement made by the then finance Minister in the Parliament.

→ ∴ enormous pressure on co-operatives from

i) free, liberal & competitive market.

ii) Restrictive co-operative legislation.

→ Then the Government Policy is not adopted for co-operative business Management, then the co-operatives have to be transformed from state supported into member based & member controlled organisation.

→ So this requires a close look at the strengths and weaknesses of the co-operatives.

Strengths

1. Wide coverage of Indian population.
2. A strong network of institutional framework (more than 5,00,000 co-operatives & 230 million membership)
3. ~~See~~ Strong network of training & educational institutions.
4. Commanding presence in credit & banking, fertilizers production & distribution, sugar production, dairy, agricultural, marketing & housing.

Weakness

1. Lack of Professional Management
2. Weak Infrastructural facilities.
3. excessive control of the government
4. Slow pace of Technology Application
5. weak management information system.
6. high Cost of management & transactions.

→ Issue of autonomy give development of Co-operative Services.

→ This Issue directly Connected with Corporate Governance.

→ Corporate governance has 3 aspects.

* Political — members have the right to elect representatives.

* Supervisory — accountability of Professional executives to conduct efficiently the operation of the enterprise.

* Regulatory — legal provisions to ensure the Preservation & protection of their functions set out in their bye-laws.

→ In view of the above the important aspects of autonomy of Cooperatives therefore means,

- a) Visibility & quality of self regulation
- b) Freedom from external control & interference.
- c) Compliance of regulatory framework
- d) Code of conduct for elected directors.
- e) Accountability linkage within the management.
- f) Formulating a code of business based on cooperative values & principles.
- g) Empowerment of the CEO to form & implement operational plan of action in conformity with the policy decisions of the Board.
- h) Accountability of federations to their constituent members
- i) Functioning of the entire organisational structure as one entity (Cooperative Solidarity)
- j) Continuous communication with the members obtaining their feedback.

→ In the wake of globalisation, the issue of competitiveness of cooperatives has become more important.

→ Competitiveness includes the dispensation of cost effective services to the members, technology upgradation & development of new products through the adoption of smooth production processes & satisfaction of their members, active role of

Professional managers & Cooperative leaders.

→ So autonomy & Competitiveness are inter-related issues. They are Complimentary as well as Supplementary each other.

1. For developing autonomy of Cooperatives.

- Provide education for the members, employees & leaders.
- Continuous Communication among the members.
- Cooperative Values & development of knowledge of the Principles of Co-operation as well as of the Provisions of Cooperative laws & bye-laws.
- Conduct business ~~or~~ based on the needs & requirements of the members that is based on the Cooperative values & principles.
- Creating parity between the rights & obligations of members with their business transactions.
- Formulating a Code of business based on Cooperative values & Principles.
- Implementing government programmes on the basis of clearly defined terms & Conditions.
- Redemption of government Capital.

2. For building up Competitiveness of Co-operatives.

- Formulating a clear vision & mission about the objectives & requirements of the Community.

- assessing continuously the needs of the Community.
- Establishing workable balance between members requirements & expectations & market situation.
- Introducing need based business planning
- Define key indicators for evaluating Performance & reviewing the business.
- Raising its own resources from members & financial institutions rather than government.
- Introduce Technology for effective decision making and developing production processes.
- Focus on quality of the products & their cost effectiveness.
- Evolving specific market strategy keeping in view the position of the competitors.
- Formulating & Implementing appropriate HR Policies for continuous development of professional management.

Parallel Co-operative Legislation

- From the Ninth Plan (1997-2002) onwards there has been no mention about cooperatives.
- ∴ Societies feel difficulties with the existing State Co-operatives Act.
- A section of Co-operators & Civil Society initiated action to put in place parallel Co-operative legislation for self-reliant Co-operatives.

→ Self reliant Co-operatives are those which have not received any assistance from the government in the form of equity contribution loan & guarantees

Multi-state Co-operative Societies Act, 2002

→ Multi State Cooperative Societies (Mscs) Act 1984 was modified in 2002.

National Co-operative Policy (2002)

→ In 2002, Government of India enacted a National Cooperative Policy.

→ The Objective of the Policy is to facilitate an all round development of Cooperatives.

→ It provide necessary Support, encouragement & assistance, to ensure their functioning as autonomous, self reliant & democratically managed Institutions, accountable to their members & making a significant contribution to the national economy.

→ Based on the recommendations made at a Conference of State Ministers for Cooperation, the Govt of India in 2002 constituted a Ministerial Task force to formulate a plan of action for implementing National Co-operative Policy.

→ The Task force suggested a single law instead of parallel laws should be introduced in the states.

→ Other recommendations are, depoliticize cooperatives, Members of Parliament or Members of Legislative Assemblies should not be allowed to hold office of any Co-operative Societies.

The Companies Amendment Act, 2002.

- Chairmanship of Dr Y K Alagh - recommend the amendment of the Companies Act 1956.
- Recommendation from the Committee, Producer Companies bill was introduced became law on 6 Feb 2003 as part IX A - Producer Companies in the Co's Act 1956.
- Based on the Co-op principles of mutual assistance it provides an alternative to the Institutional form.

NCDC Amendment Act, 2002.

- Improve the scope of lending & bring changes in funding NCDC Act was amended in 2002.
- enable to cover notified services, livestock & Industrial activities & directly fund Co-operatives against suitable securities.

Task force on Revival of Cooperative Credit Institutions.

- Govt of India set up a Task force in Aug 2004 (headed by Prof A Vaidyanathan)
- suggest an action plan for reviving rural Co-op credit institutions & legal measures for facilitating this process.

- Recommendations are any financial restructuring which did not address the root causes of the weaknesses of the system.
- Revival of Rural Credit Cooperatives for which it suggests a financial package.
- model Co-operative law that can be enacted by the state governments.
- long term cooperative credit structure.