

The State, Cooperatives and Cooperative Legislation in India : Changing Contexts and Emerging Trends

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Through a century of various committee reports and multiple cooperative legislations, the State in India has played a major role in the promotion and sponsorship of cooperatives, with resultant progressively draconian elements in the cooperative statutes. In recent years, however, changing global contexts have forced the State to reposition itself with regard to cooperatives.

The century old fine-tuning of the cooperative statutes is a reflection of the changing historical contexts, perspectives and developmental goals of the State. The paper examines how the changing contexts affected the role played by the Indian State in shaping the cooperatives and the legislation pertaining to them. The discussion focuses on the effect all this has had on the decreasing functional autonomy of the cooperatives and tightening state control over them. That despite this, there have been cases of genuinely successful cooperatives are noted, and the factors underlying their emergence examined. New laws relating to cooperatives are however under active consideration; their implication on the future growth of cooperatives is dealt with.

Introduction

The history of cooperatives in India is also the history of many eminent minds and their thought processes. Perhaps rarely has a subject that affects so many aspects of the life of so many people received so much attention. As evidence of this pre-occupation with the subject of cooperation, is a plethora of reports of Committees that have been set up beginning with colonial times in the late 19th century, and through the 20th century of pre independence and post independence governments, to deal with various aspects of cooperatives in India. Naturally, the economic, political and cultural contexts of the times, which often threw up philosophical and ideological debates, were bound to have an impact on the nature and content of solutions offered. Our concern presently is with cooperative legislation and their fine-tuning over the years in the context of changing ideological thought on the one hand, and the politically driven goals of a

colonial state giving way to the developmental ambitions of a newly independent Indian State, on the other. The paper is structured as follows:

Section I looks at the historical developments in cooperative statute and policy over three distinctly identifiable periods viz., the pre-planning period, a large part of which coincides with the pre-Independence period; the period after the initiation of planning up to 1990, and the period after 1990 when the Indian economy was opened up and unshackled of state controls. Section II presents a discussion of cooperative legislation and analyzes its effects on the growth of cooperatives. Cases of cooperative successes, notwithstanding restrictive laws, are also discussed. Section III looks at the way forward; and Section IV presents summary and conclusions.

I

Cooperative Statute and Policies

Cooperative activities had been in existence prior to their being formalized by the passing of a law. Village communities collectively created and maintained permanent assets like village tanks or village forests; instances of group pooling of resources, like food grains after harvest to be lent to needy members before the next harvest, or small contributions in cash collected at regular intervals for lending to members were fairly common. In some parts, farmers impounded water by putting up bunds, and collectively managed its equitable distribution: elsewhere there were instances of collective harvesting and transporting produce to the market, or even joint cultivation.¹

¹ R.V. Nadkarni (2007). "Origin and Development of Cooperation in India", 1904-1951, in *Hundred Years of Cooperative Development in India*, NCUI (under publication).

However, the absence of institutional arrangements to provide finance to agriculturists was a perennial cause of distress and discontent. The Deccan Riots had led to the Deccan Agricultural Relief Act of 1870, Land Improvements Loans Act 1883 and Agricultural Loans Act of 1884, but these legislative measures hardly answered the problem.

At the highest levels of Indian Government, there were some strong cooperative advocates, and also some members of the Indian Civil Service believing in liberal thought². What they sought was a cooperative solution to the malaise of rural indebtedness.

In March 1892, Mr. Frederick Nicholson, enquiring into the possibility of introducing a system of agricultural or land banks, concluded that what was required for the credit work were small, local, locally worked institutions on the lines of the European village institutions, since these would satisfy the postulates of proximity, security and facility. At around the same time, Mr. H. Duperneux studying the local situation in respect of advisability of setting up Agricultural Banks had presented his recommendations in 1900.

The 1901 Famine Commission also pleaded for the establishment of Rural Agricultural Banks. In the establishment of Mutual Credit Associations, the Commission saw hope for the future of agriculture in India.

² R.Rhodes (2005). "British Liberalism and Indian Cooperation", in H. Munkner (Ed.) *100 Years Cooperative Credit Societies Act, India, 1904*, ICA, pp. 30-49.

Phase 1: 1904-1951

Taking cognizance of these developments and the necessity of providing a legal basis for cooperative societies, the Edward Law Committee was appointed by the Government to examine the issue and recommend the course of action. The Cooperative Credit Societies Bill, based on the recommendations of this Committee, was enacted on 25th March, 1904. The debate on the Bill in the Viceroy's Council reflects the conviction of Indian leaders such as Sir Pherozeshah Mehta and Gopal Krishna Gokhale in cooperatives as institutions to initiate the process of solving the problem of indebtedness, through peoples' participation.³ The thinking of the times favoured the enactment of a special law to cover the registration of cooperatives to "confer upon them special privileges and facilities, in order to encourage their formation"⁴ as against allowing them to be registered under the existing Companies Act.

As its name suggests, the Cooperative Credit Societies Act was restricted to credit cooperatives as it was perceived that in India "among relatively backward populations, the difficulties involved in the management of production and distribution business are likely to prove a stumbling block in the way of progress"⁵. The Act was not restricted to agricultural credit and made a distinction between rural and urban societies requiring the former to have unlimited liability on the Raiffeisen model. To overcome the problems of initial financial resources, the Government provided for loans to these societies equal to the capital raised by them, but not exceeding Rs 2,000. This Act has been described as a "Development Law" by

³ M.V. Madane (2005). "A Century of Indian Cooperative Legislation" in H. Munkner (Ed.) *100 Years Cooperative Credit Societies Act, India, 1904*, ICA, pp. 50-75.

⁴ B.D. Sharma (2007). "Cooperative Legislation: From State Control to Autonomy and Independence of Cooperatives", in *Hundred Years of Cooperative Development in India*, NCUI (under publication).

⁵ R.V.Nadkarni, op.cit

Prof. Hans Munkner⁶ as it provided an instrument in the hands of the government for development of farmers and others of limited means in urban areas. The proposed model, based on the European values of equality and democracy, gave Government a role in “generating social cohesion and stimulating joint socio-economic action with some degree of autonomy and liberalism.”⁷ The institution of Registrar of Cooperatives was also a creation of this Act, on whom the success of the scheme was seen to depend, and who was expected to function as a friendly advisor rather than an inspector, with the “dry nurse” element of his functioning gradually disappearing.

With the growth of cooperatives far exceeding anticipation, the Cooperative Societies Act of 1912 became a necessity to allow cooperatives to provide non-credit services to their members and to federate. With this enactment, urban cooperative banks converted themselves into Central Cooperative Banks with primary cooperatives and individuals as their members. Similarly, many non-credit activities were also cooperatively organized such as marketing of produce, etc.

The Banking Crisis and the First World War both impacted the growth of cooperatives. Owing to the association of cooperatives with government, member deposits in cooperatives increased sharply but exports and prices of cash crops being adversely affected by the War resulted in increased over-dues of primary agricultural societies.

To take stock of the situation, a Committee on Cooperation under Sir Edward Maclagen was appointed by the Government, in October 1914, to study and recommend for the future of

⁶ H.Munker (2005). Introduction” in H. Munkner (Ed.) *100 Years Cooperative Credit Societies Act, India, 1904*, ICA, pp. 1.

⁷ Cited by B.D. Sharma, op. cit.

cooperatives. It suggested building up a strong three-tier structure in every province basically for providing short-term and medium-term finance and ensuring their cooperative character, while providing for member education and training, including that of Registrar and his staff.

In 1919, with the passing of the *Reforms Act*, Cooperation as a subject was transferred to the provinces, so that cooperatives could develop in accordance with local circumstances and requirements. Various provinces then enacted their own cooperative Acts. The *Bombay Cooperative Societies Act of 1925*, the first provincial Act to be passed, introduced the principle of one-man one-vote.

By the late 1920s, the increase in over-dues of cooperatives was a matter of concern, attributed among other reasons to the fact that these institutions were issuing loans to members for debt redemption, which required a longer period for repayment.

At the same time, the non-credit societies were facing difficulties as a result of opposition by private marketing agencies and also due to inexperience of their office bearers. This focused attention on strengthening of cooperative institutes and unions for education and training. The agricultural credit scenario was a matter of concern and various committees including the Provincial Banking Enquiry Committee looked into the problems of cooperative banks in various provinces. The Royal Commission on Agriculture in 1928 also reviewed the cooperative sector and recommended the setting up of land mortgage banks and accordingly the first such banks were established in Madras and Mysore in 1929.

The great Depression of the 30s aggravated the situation in respect of cooperative over-dues, which in some cases were as high as 80% in Bengal. Unlike America and Europe at that time, no support to cooperatives in India was forthcoming. Coercive recovery, particularly where there was unlimited liability, severely affected the cooperative movement, although in some provinces a more flexible approach was adopted and rehabilitation was considered.

The setting up of the Reserve Bank of India in 1935 was a major development in the thrust for agricultural credit with the setting up of an Agricultural Credit Department. As cooperatives had to be harnessed for rural development, with the establishment of popularly elected governments in 1935, programmes were drawn up in which rural indebtedness received priority. The Mehta Committee appointed in 1937 specifically recommended reorganization of Cooperative Credit Societies as multi-purpose cooperatives. To cover the emergence of cooperatives having membership from more than one state, the Multi Unit Cooperative Societies Act was passed in 1942.

The Second World War affected the prices of agricultural commodities positively and over-dues of the cooperatives came down. The Government also utilized cooperatives to counter shortages of essential commodities, providing a momentum to the growth of multi-purpose cooperatives.

The Cooperative Planning Committee, set up in 1945, found cooperative societies to be the most suitable medium for democratization of economic planning and recommended their extension to all areas of economic activity as also the reform of primary agricultural credit cooperatives as multi-purpose cooperatives.

With the end of the War in 1945, popularly elected Ministries again assumed office in the Provinces and considered the recommendations of this Committee. In 1947, many of its recommendations got approved, and for the first time an effective linking of credit with marketing and of providing assistance by way of liberal loans and subsidies for establishment of a large number of godowns and processing plants was thought of.

A development in Bombay at about this time deserves mention. The Bombay Provincial Industrial Cooperative Association was set up in 1946. It was the first instance of State participation in the share capital of a cooperative in the country, followed by share capital participation in three Industrial Cooperative Banks and the first cooperative sugar factory in 1948. This was a forerunner of things to come, as we shall see.

After India attained Independence in 1947, cooperative development received a boost, with cooperatives being given a vital role in the various plans formulated by the Planning Commission.

Phase II: 1951-1990

The potential of cooperatives as instruments for implementing plan goals was central to government thinking over the next few decades up to the Eighth Five Year Plan.

The *First Five Year Plan* outlined in detail the vision of the cooperative movement in India and the rationale for emphasizing cooperatives as a preferred organizational form for economic development.

A watershed initiative at this time was the appointment of the oft-quoted All India Rural Credit Survey Committee (AIRCS), whose recommendations were to have far-reaching consequences for the subsequent development of cooperatives. The Committee recommended introducing an integrated system of rural credit and more importantly, State partnership in the cooperatives. The Government and the non-official cooperative opinion accepted its major recommendations and a National Cooperative Development and Warehousing Board was set up and the Reserve Bank of India Act amended to enable it to play an active role in building up of cooperative credit institutions.

The *Second Five-Year Plan* emphasized “building up a cooperative sector as part of a scheme of planned development” as being one of the central aims of National Policy and drew up programmes of cooperative development based on the recommendations of the AIRCS. Partnership with cooperative institutions at various levels, the essential basis of which was to be assistance and not interference or control, was recommended. For facilitating State partnership in cooperatives, the Plan recommended the establishment of a National Agricultural Credit Long-term Operations Fund. The National Cooperative Development Fund was also established by the Central Government during this period, to enable states to borrow for the purposes of subscribing to the share capital of non-credit cooperative institutions in the country.

Major thinking around this time favoured using cooperatives as a tool for achieving developmental goals. The Industrial Policy Resolution of 1956 affirmed the need for State assistance to enterprises, organized on a cooperative basis for industrial and agricultural purposes and the National Development Council Resolution of 1958 stressed that cooperatives should be

organized on the basis of the village community as the primary unit and as primary agencies for the Community Development Programme.

There was now a frontal attack to encourage cooperatives in every sector of economy. Cooperative marketing and processing of agricultural produce formed an important part of the Integrated Scheme of Cooperative Development in the Second Plan. About 1900 primary marketing societies were set up and State Marketing Federations were established in all the states, as well as the National Cooperative Marketing Federation at the Centre. Financial assistance from government and share capital and subsidy towards managerial costs, capital subsidy for construction of godowns etc. were given. Cooperative sugarcane processing was also substantially supported.

The *Third Five Year Plan* stressed the importance of cooperatives as an essential pre-requisite for democracy and socialism and proposed that “Cooperation should become, progressively, the principal basis of organization in branches of economic life” The Agricultural Refinance Corporation was set up, in 1962 for long-term loaning to cooperatives and in 1963, the National Cooperative Development Corporation, whose establishment gave a great boost to the growth of cooperative marketing and processing societies. Other significant organizational developments were the setting up of various National Cooperative Federations and re-organization of the National Cooperative Union of India, as well as several training initiatives.

Around this time, the achievements of the so-called Anand Pattern Dairy Cooperatives in Gujarat caught the attention of the Government of India. While on a visit to Anand in October 1964,

impressed by the socio-economic transformation brought about by milk cooperatives, Shri Lal Bahadur Shastri, the then Prime Minister of India, spoke of the desirability of setting up a national level organization, which could replicate the Anand pattern throughout the country. The National Dairy Development Board was set up in 1965.

Growth of consumer cooperatives was also an important development of this period, emerging from the National Emergency in 1962, which threw into sharp focus the need to hold the price line and provide essential commodities at fair prices. Simultaneously, the growth of Land Development Banks also accelerated during this period. Rural electric cooperatives and programmes relating to dairy, poultry, fishery cooperatives and labour cooperatives were also initiated.

The development fostered by the first three Plans was carried forward and successive Plans made necessary provisions for management subsidy and share capital contribution; and in the seventies and eighties recommended strategies for correction of regional imbalances and reorienting the cooperatives towards the under-privileged; and the formulation of Farmers' Service Cooperative Societies.

The fast but artificial spurt in growth of cooperatives arising from this planned State sponsorship also resulted in undesirable elements entering the cooperative arena. In 1965, the Mirdha Committee recommendations regarding determining genuineness of cooperative societies and measures to weed out non-genuine societies and eliminate vested interests resulted in amendments in cooperative legislation in most states, which went overboard in their anxiety to

introduce perceived necessary stringency in laws, and in the process destroyed the autonomous and democratic character of cooperatives.

In the meantime, the cooperative set up, particularly on the credit front, was not without its problems. A Committee to Review Arrangements for Institutional Credit for Agriculture and Rural Development (CRAFICARD) was appointed by the RBI in 1981 and made a number of recommendations for toning up the credit structure. The National Bank for Agriculture and Rural Development was set up in 1981 as a result.

Phase III: Post 1990

The process of privatization and liberalization of the economy was initiated in 1990. With a few Committees having put their minds to find solutions to various cooperative issues, there was a growing concern about cooperatives and the need for them to be given a level playing field if they were to compete with the private sector. The Brahm Parkash Committee, appointed by the Planning Commission to suggest future directions for the cooperatives and finalize a Model Bill, submitted its report in 1991, which along with the draft Model Cooperative Law, was circulated to all State Governments for their consideration and adoption.

In tune with the changed scenario, the *Eighth Five Year Plan* laid emphasis on building up the cooperative movement as a self-managed, self-regulated and self-reliant institutional set-up. From the *Ninth Plan* onwards, there has been no important mention about cooperatives as a part of the Plan.

As a result of the growing realization about the disruptive effects of state patronage and politicization of the cooperatives, which resulted in poor governance, exhibited by non-conduct of elections for long times, frequent supercessions of boards, delay in audit and state intrusion in administrative and financial management, impaired management due to deputation of government officials to the top position in many cooperatives, setting up of common cadre systems etc. and consequent impairment of the financial health, nine states had enacted laws based on the Model Act, largely as parallel Laws by 2002.

In 2000, the Government of India also enunciated its National Cooperative Policy to ensure cooperatives functioning as autonomous, self-reliant and democratically managed institutions, accountable to their members. The Multi-State Cooperative Societies Act was modified in 2002, in keeping with the spirit of the Model Act.

Another important development was the enactment of the Producer Companies Bill in February, 2003, which provides an alternative to the institutional form that is presently available to cooperative enterprises. It is based on the principles of mutual assistance that emphasize voluntary membership, democratic decision making, distribution of surplus based on patronage rather than capital and education of members, and permits voluntary transformation of cooperatives into Producer Companies.

Overtime, the financial position of the system had become weak and was further deteriorating. In the early 1990s, the cooperative credit system had accounted for over 60% of total institutional credit to agriculture, which had fallen to about 20%. The loan waiver scheme of the Government

of India in 1990 aggravated the situation and a spate of waivers of loan repayment and delay of suspension of recovery by several State Governments, created financial indiscipline.

In August 2004, the Government of India set up a Task Force to suggest an action plan for reviving rural cooperative credit institutions and legal measures necessary for facilitating this process. Recommendations of the Task Force are being currently implemented. A High Power Committee of the Government of India is also currently looking into various problems affecting cooperatives including the legislative aspects.

II

Cooperative Legislation – A Critique

Unlike the West, where the growth of cooperatives was a spontaneous movement, in India cooperative legislation preceded the development of cooperatives. Indian cooperative law and cooperative policy have been the most influential factor in determining the direction and the pace of cooperative development.

Any law that seeks to protect, safeguard or enable cooperatives must be rooted in the cognition of the voluntary, democratic and autonomous nature of cooperatives, stated expressly or otherwise. Starting from this basic premise, one needs to take a look at India's cooperative legislation, vis-à-vis its democratic content.

In the words of the Co-operative Credit Societies Act of 1904, it was “An Act to provide for the constitution and *control* of co-operative credit societies”. Usage of words is often the most

telling of statements, and the word “control” reveals the intent underlying the legislation, from its very initiation. The provisions that support this contention include: right to refuse registration and sole right to dissolve a cooperative; sole right to conduct audit, which had to be paid for; unrestrained power to hold inquiry and inspection; supercession of elected managements and appointment of persons to take over management; requisitioning and calling a general meeting; arbitration; attachment and sale of properties; power to sanction investment by a cooperative; refusal to register amendment of by-laws; power to force compulsory amendment of by-laws etc.⁸

The 1912 Act was to “facilitate” formation of cooperative societies, which if it were to be carried from letter to action could have been a major change. The older controls, however, remained and a few new ones were added and the 1904 Act with 29 sections having grown to a 50-section Act by 1912⁹.

Subsequent to these Acts, a myriad committees, (not all referred to here) appointed to examine and make recommendations with regard to various aspects of cooperative functioning, are witness to the preoccupation of successive governments with cooperatives and their recognition of the potency of cooperatives as a tool for development, for funnelling aid to the rural populations. The tone of most Reports is one of a patronizing recommendation of what cooperatives should do, and in the ultimate analysis what government should do to help cooperatives and so on and forth. The presumption always is that they who form the committee

⁸ S. Rajagopalan (2004). “Cooperative Legislation in India”, in S.K. Datta (Ed.) *State of the Indian Farmer*, Ministry of Agriculture, Government of India, pp. 103-121.

⁹ S. Rajagopalan – *ibid.*

know better than those who form the cooperative, and are better qualified to pontificate on the latter's needs.

The result was that between 1959 and 1995 a panoply of cooperative laws kept building upon the framework provided by pre-Independence laws, “making the Registrar the centre piece of the legislation, and the members on the periphery,”¹⁰ projecting cooperatives as instruments of government for public good. As against the earlier Acts, which had also emphasized thrift, self-help and cooperation etc., the Maharashtra Act of 1960 departed, for the first time, in suggesting a role for cooperatives in implementing State policies, and this was soon replicated, if not bettered by other State Acts. The impact of the restrictive provisions of cooperative laws reached its peak in 1977 when mass supercession of democratically elected management committees of nine states was carried out on account of political changes in the government at the Central level. Ever since, in Tamil Nadu, special government officers have been managing cooperatives in place of democratically elected management committees and in many states, elections have been suspended for long periods following political changes. So sharply and effectively had this transformation in the legal status of cooperatives come about that a judgement of Supreme Court in 1985 held that they were “creatures of statute and of the state,”¹¹ and could not therefore avail of the right to form associations and unions under the Article 19(1)(c) of the Indian Constitution.

Pre-Independence legislation had already vested a host of powers in the Registrar. Since Independence in 1947, the powers of the Registrar over cooperatives had further tightened. In

¹⁰ S. Rajagopalan – *ibid.*

¹¹ S.Rajagopalan et al (2005). *Report of Study Team on Self-Reliant Cooperative Laws*, Canadian Centre for International Studies and Cooperation, Delhi, mimeograph, pp. 9.

addition to the Registrar's powers, the State Governments too abrogated powers to dispose off applications for registration; prevent a society lending money; subscribe to the share capital of society; reserve seats on management committees for certain categories; issue directions; constitute or reorganize federal authority for supervision; sanction of debentures; make rules etc.

If the cooperatives members could thus be prevented from forming themselves into a cooperative, taking decisions regarding their business, appointing and dismissing their own staff, or for that matter dissolving themselves if they so desired, and if all this is in fact relegated to being decided by someone else, what remains of cooperatives as voluntary and autonomous associations of members. Cooperatives came into existence and functioned at the behest of and for fulfilling the role cast upon them by State Governments: and they could be dissolved by a government fiat. The final nail in the coffin of their democratic nature was the famous power of veto of the government, which could in fact be put to use to override, at any point in time, the vote of genuine members and went against the grain of cooperative ideology.

“indeed it does not mean that the Governor of Andhra Pradesh.....has precisely the same role to play in a cooperative, where he says because government money is there, I have the veto, but although your money is there, you don't have a vote”.¹²

Politicization of cooperatives has been another major deficiency eroding their democratic and cooperative working. An extension of this has been the practice of “amalgamating and dividing cooperatives as per the will of the State Government. If by definition, the cooperative is a voluntary organization, it will voluntarily decide its area of membership. But if a cooperative is told that it will be derecognized unless it amalgamates with another or unless it reduces its

¹² M.S. Aiyar (1994). “Cooperative and the Need for Constitutional Amendment”, *P.L.N. Raju Memorial Lecture*, Cooperative Development Foundation, mimeograph.

membership, it ceases to be a voluntary association of persons, it becomes a body that comes into existence as a result of somebody else's will, somebody else's volition."¹³ The practice of forced federalization, government nominees enjoying a veto, which a voluntary member does not have, Registrars issuing directives to cooperatives, all these are the very antithesis of an association voluntarily established, functioning on a democratic basis with autonomy. Added to this is the power of rescinding, even annulling resolutions passed, supersession of Boards, which militates against the very notion of democracy.

The picture, however, has not been as uniformly dark as it might appear. Despite such draconian provisions in laws, in many parts of the country, there have been a sizeable number of success stories, largely nurtured by extraordinary leadership, which has managed to confront the powers that be and maintain the cooperative identity of their units. Some of these are mentioned here.

Twenty cooperative societies in Gujarat and West Bengal, the former a relatively congenial area for cooperative development and latter not so, were studied in terms of leadership factors affecting cooperative success.¹⁴ The more salient ones were found to be: existence of internal "interest-cum-entrepreneurial group"; capability for envisioning cooperative activities compatible with members' resources and endowments; back-up knowledge and grasp over application of innovative technology; vision and capacity to conceptualize activities for strengthening member loyalty and rope in potential members; ability and willingness to groom future leadership; evolution and institutionalization of a sustainable governance structure.

¹³ M.S.Aiyar – *ibid.*

¹⁴ S.K.Datta, S.Kapoor (1995). *Collective Action, Leadership and Success in Agricultural Cooperatives*, Oxford and IBH Publishing Co. Pvt. Ltd.

Seven out of the twenty cooperatives were found to have a high overall cooperative performance rating. In many of these cases, there are some deficiencies with regard to the characteristics other than the leadership characteristics, but all these cases have strong direct leadership and internal organizational design, which have helped them overcome these limitations.

It is revealing indeed that after the passage of fifteen years, only nine States have so far gone in for legislation following the Model Act, largely in the form of parallel Acts, to cover such cooperatives as do not ask for or have government equity. However, even the sanctity of such Acts is doubtful. Andhra Pradesh, the first State to enact its own parallel law, is also a State which has presently made a travesty of this Act by removing dairy cooperatives from coverage under this Act through a special state injunction. The moral one draws is that any government, at any point of time, can, if it so desires, go so far as to change these laws introduced with much forethought, to suit narrow, political and sectarian ends.

III

The Way Forward

Cooperation has been a State subject under the Indian Constitution. Although the constitution guarantees the right to form associations or unions as a Fundamental Right, the Supreme Court itself has held that cooperatives are not implicitly covered by this provision and hence not truly justiciable, unlike Trade Unions for instance, which fall under the concurrent list. The only way then, in which the states can be forced to adhere to the principles of democracy and voluntarism would appear to be through a suitable Constitutional Amendment. The Constitutional

Amendment Bill to take care of these contradictions has been introduced in Parliament and referred to a Parliamentary Standing Committee for its recommendation.

In the interim period, and for that matter as a long-term viable option, the Producer Companies Act is a provision which cooperatives can take recourse to. However, there seems a general reluctance to consider this option. A few companies have been registered under this law, but there is no documentation available regarding their experience under the new format, and it is as yet too early to pass any judgement in this regard.

IV

Conclusion

Cooperatives in India, from colonial times to date grew essentially as a result of State action. As economic and contextual situations changed, so did the expectation from cooperatives by the State; and towards this end were brought about changes in policy and statute.

The government during the British period was gravely concerned with the rising unrest and discontent in the vast stretches of the countryside. But it was perceived largely to be a result of the chronic indebtedness of the farmers having been victims of usury at the hands of private moneylenders. The answer to this malaise was thus seen to lie mainly in the creation of an institutional mechanism for providing rural credit, and the cooperative mechanism came as an ideal choice. But the growth of cooperative practice was widely divergent from its European counterparts and kept throwing up problems to which the Government kept seeking momentary

solutions. The result was a maze of cooperatives of different kinds, around which was built a tenuous fabric of cooperative legislation.

With the new patriotic zeal, the cooperative dream was seen as a way of speeding up the development process. India's first prime Minister, Jawaharlal Nehru spoke of "convulsing India" with the cooperative movement making it a way of life. As the State got more and more involved, the very character of these institutions changed and the period between 1951 –1990 was one of increasing state controls and bureaucratization of the cooperatives with its accompanying ills. Committee after committee addressed various issues and structural problems, but the solutions were in most cases also responsible for the growing malaise.

The post 1990 liberalization has however resulted in a major shift in policies, although the process of letting cooperatives go free of state control has been tardy and in certain cases even rescinded. The Constitutional Amendment, which is under consideration might hopefully restore to cooperatives, their essential character as institutions, voluntary and autonomous, economically democratic, egalitarian and equitable.

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Bibliography

1. B.D. Sharma (2007). “Cooperative Legislation : From State Control to Autonomy and Independence of Cooperatives”, in *Hundred Years of Cooperative Development in India*, NCUI(under publication).
2. K.V.Raju, et al (2007). “Evolution of Cooperative Development – Post Independence Period, 1951-1991, in *Hundred Years of Cooperative Development in India*, NCUI (under publication).
3. M.S. Aiyar (1994). “Cooperatives and the Need for Constitutional Amendment”, *P.L.N. Raju Memorial Lecture*, Cooperative Development Foundation, mimeograph.
4. Ministry of Agriculture, Government of India (1987). *Ardhnareeswaran Committee on Democratization and Professionalization of Cooperative Management*, Dept of Agriculture and Cooperation, Ministry of Agriculture.
5. Planning Commission, Government of India (1951 onwards). *Five-Year Plan Documents*, Government of India.
6. Planning Commission, Government of India (1991). *Report of the Committee on Model Cooperatives Act*, Government of India.
7. R.C. Dwivedi (2005). *Hundred Years of Cooperative Movement in India*, Vol. I, Centre for Promotion of Cooperatives.
8. R.Rhodes (2005). “British Liberalism and Indian Cooperation”, in H. Munkner (Ed.) *100 Years Cooperative Credit Societies Act, India, 1904*, ICA.
9. R.V. Nadkarni (2007). “Origin and Development of Cooperation in India”, 1904-1951, in *Hundred Years of Cooperative Development in India*, NCUI (under publication).
10. S. Rajagopalan (2004). “Cooperative Legislation in India”, in S.K. Datta (Ed.) *State of the Indian Farmer*, Ministry of Agriculture, Government of India.
11. S.K.Datta, S.Kapoor (1995). *Collective Action, Leadership and Success in Agricultural Cooperative*, Oxford and IBH Publishing Co. Pvt. Ltd.