

## Indonesia Legal Framework Analysis: Key Highlights

This one-pager aims to provide a brief overview of the most notable features of Indonesia's national cooperative legal framework, based on the work of national legal expert and ICA member input. The cooperative legislation that is in existence in Indonesia is the Co-operative Law no. 25/1992 passed in the year 1992. Though a new legislation – the Co-operative Law no. 17 in the year 2012 was passed as a mere reproduction of Co-operative Law no. 25/1992 in terms of substance, it was later abolished as the result of Judicial Review at the Constitutional Court.

Cooperative Law no 25/1992 on Co-operatives, which is still in effect, emphasises the cooperative character as a Corporate Body, hence not in accordance with the universal definition enshrined in the ICA Co-operative Identity Statement. Since the amendment of the Constitution of 1945 - first in the 2000 and then the fourth and last one in the year 2002 - the Peoples' Congress of Indonesia deleted the special description of a cooperative in the Constitution. The annotation of Article 33 in the original Constitution which stated "The appropriate enterprise (for mutual cooperation) is a Co-operative" was abolished, hence opening the door for a host of other interpretations.

**Cooperative Friendliness:** The degree of 'cooperative friendliness' of the legislative framework in Indonesia is essentially '*more cooperative unfriendly than friendly*'. Co-operatives are subordinated, discriminated and even eliminated in most legislations dealing with economic and societal affairs in the country. This also pertains to national policies dealing with economic and social issues. In many legislative and policy frameworks, co-operatives are considered legal bodies which need direction from the government and become instruments of government programs. One of the most obvious legislations which discriminates and trivializes cooperatives is namely the National Law on Capital Investment, which only permits Investment Oriented Firms (or private enterprises) to partake, apart from the Hospital Law and the Law on Public Enterprises. Cooperatives are also subject to the general taxation regime for business enterprises and given no distinction in provisions of the Tax Law.

**Key recommendations for improvement:** Recommendations for more adequate for the development of cooperatives in Indonesia are:

- (a) The philosophical underpinning is important, and must be supported by an epistemological, ontological, and axiological overview that serves as the preamble of the Law and the ICA cooperative Identity Statement must be incorporated as a recognition of the universal definition, values and principles of a Co-operative.
- (b) The Law must contain a theoretical analysis that clearly shows the distinct nature of a cooperative as compared to capitalistic forms of enterprises.
- (c) Cooperatives being a manifestation of an economic democracy system, the law must in the first place recognize practices of successful cooperatives, such that the Law must be designed together with representatives of the successful cooperative enterprises and not just a "top-down" mechanism dictated by government representatives.



(d) Since most co-operatives in Indonesia are related to Savings & Loans, there must be a special Law designed mainly for Savings & Loan/Credit Unions, and a separate law for other types of cooperatives. The number of member-founders for the latter could be as low as 2 or 3 members, giving room for the development of workers' co-ops, health co-ops etc. Changes are thus necessary regarding specific sectors or types of co-operatives.

**Conclusions:** Cooperatives in Indonesia need an enabling environment which allows for their development. There is potential for revising or replacing the existing legislation with a more forward looking law in the interest of focused promotion of cooperative enterprises.

