

LEGAL FRAMEWORK ANALYSIS

within the ICA-EU Partnership

National Report - Sri Lanka

I. Introduction

International Cooperative Alliance for Asia and the Pacific has initiated a study on the current status of cooperative legislation in Sri Lanka with the objective of identifying the areas of improvement to make it more responsive to the current developments in the socio-economic conditions within the framework of Cooperative Identity Statement. Eventually, country studies and recommendations from selected countries would form a Regional Study to reflect on the situation in Asia and the Pacific with a view to support updating and improvements in cooperative legislation.

ICAAP engaged the services of Mr. Upali Herath, who is having more than 40 years of experience in overall aspects of cooperatives, particularly being a Regulator of Cooperatives in Sri Lanka as a member of the Sri Lanka Administrative Service and also an Advisor serving the ICAAP for 12 years up to 1998, to undertake the study and author a national report on Sri Lanka.

During the study on the current status on cooperative legislation in Sri Lanka, the author had discussions with the leaders and the Chief Executives of the National Cooperative Council of Sri Lanka (NCC) and the Consumer Cooperative Federation of Sri Lanka (COOPFED) who are members of the ICA and officers in the Department of Cooperative Development on the basis of the questionnaire provided as a guideline. The contents as appearing in the report are the consensus on the findings and suggestions, excepting the neutrality shown by the Department on the form of future legislation to be adopted. The NCC, COOPFED and the Central Department of Cooperative Development supported the ideas and analysis in legal provisions in the current legislation and also providing resources in form of documentation needed for the study, especially the documents concerning the previous work on the National Policy and the Draft Law. I would like to express my gratitude for them.

More specifically, the stated objectives of the study are as follows:

- general knowledge of the national cooperative legislation and of its main characteristics and contents, with particular regard to those aspects of regulation regarding the identity of cooperatives and its distinction from other types of business organizations, notably the for-profit shareholder corporation

- to evaluate whether the national legislation in place supports or hampers the development of cooperatives, and is therefore “cooperative friendly” or not, and the degree to which it may be considered so, also in comparison to the legislation in force in other countries of the ICA region (or at the supranational level).
- to provide recommendations for eventual renewal of the legal frameworks in place in order to understand what changes in the current legislation would be necessary to improve its degree of “cooperative friendliness”, which is to say, to make the legislation more favourable to cooperatives, also in consideration of their specific identity.

As a logical result of the study undertaken, the form of legislation to be adopted in the future has been:

1. Formulate a model Cooperative Societies Act to be adopted by the Provincial Councils of Sri Lanka to formulate their own Cooperative Statutes;
2. Formulate a Multi-Provincial Cooperative Societies Act to be executed by the Central Registrar of Cooperatives for his functions as the Registrar and the Coordinator with the Provincial Council Cooperative Systems.

Any one cooperative law to oversee the functioning of the cooperatives in the entire country would not fit into the current constitutional system in Sri Lanka as the 13th Amendment of 1987 to the Constitution of Sri Lanka has devolved the subject of cooperatives to the Provincial Councils, where the Provincial Councils are expected to formulate their own cooperative statutes. There is no unanimity in the lay out and contents of the Statutes already in force in terms of interpretation, governance system inclusive of regulatory powers of the Registrars and the Minister. Sometimes they contradict the practices of cooperative principles and values and also UN conventions. In the absence of a National Policy on Cooperatives, the situation is further complicated. As per the Constitutional Amendment, the creation of National Policies is reserved with the Central Government, which means that the devolved subjects in the Provincial Councils should follow the guidelines provided. Creation of a Model Cooperative Act with an attached National Policy would serve this purpose.

However, the subject of Cooperatives is also stated as a concurrent subject of the Central Government for the purpose of regulating inter-provincial cooperatives and the national level federations by the Central Registrar. Multi-Provincial Cooperative legislation too needs to be created.

As to the question as to why the current Acts should be done away with, the simple answer is that these Acts have been formed before the devolution of powers to the Provincial Councils when the cooperatives were regulated by a unitary central government through one Minister and One Registrar for the entire country.

II. National cooperative law: Sri Lanka.

i. General Context

Current Constitution of the Democratic Socialist Republic of Sri Lanka formulated in 1978 has no special reference to cooperatives as a sector for development, except that it relates to social and economic justice for all citizens as an objective of the State. It recognizes the public and private sector as the means of development, in which the cooperatives are considered as a part of the private sector.

With the devolution of the central government functions to Provincial Councils set up under the 13th Amendment to the Constitution in 1987, subject of cooperatives was devolved to Provincial Councils (PC). It also appears in the concurrent list of subjects shared with the central government due to the need to have regulatory mechanism through a central Registrar of Cooperatives (RCS) to oversee the inter-province cooperative organizations and activities as well as national level unions and federations. In addition, although the subject of banking is a central government function, being banking as a part of cooperative organizations who has SANASA and Rural Banks as their branches, there is a duality in regulating them between the central government and the PCs. Banks are regulated by the Central Bank of Sri Lanka and the SANASA and Rural Banks are regulated by the RCSs. In order to circumvent the confusion of the roles of the Central Bank, RCSs and PCs, an arrangement has been made arrangement to regulate them through a Committee under the Ministry in charge of Cooperatives represented by all stakeholders including the Central Bank. It has not been given a legal status as yet.

As per the government structure after 1987 Amendment, PCS are empowered to have their own cooperative legislation, but 4 of the PCs out of nine use the previous legislation formed under the Central government. Currently, following Acts of parliament are used in the regulation of cooperative societies at the central level and in provincial councils who have not introduced their own Cooperative Statutes:

Title of legislation	Date of Approval
Cooperative societies Act No. 5 of 1972	11th October 1972
Cooperative Societies (Amendment) Act No. 32 of 1983	24th August 1983
Cooperative Societies (Amendment) Act No. 11 of 1992	6th March 1992

There is no separate or special legislation on any specific type of cooperative organization.

Cooperative legislation in Sri Lanka relating to the central government has not been subject to change since the last Amendment Act in 1992; hence the Cooperative Identity statement (1995) has not been incorporated. Cooperative Principles which referred in legislation are from 1966 version.

ii. Specific elements of the co-operative law

a) Definition and objectives of cooperatives

Cooperative legislation in Sri Lanka has not incorporated the cooperative principles and values per se within the Act itself, but refers to the requirement for registration, the objects of proposed societies to be in accordance with the cooperative principles of specified services contributing to the economic, social, educational and cultural welfare of its members. Although the laws were formulated prior to the declaration of Cooperative Identity Statement of 1995, the reference to cooperative principles could be taken as current.

The sole authority of regulating cooperatives lies with either the Central Registrar of Cooperative Societies at the central level and the Provincial Registrar of Cooperative societies at the provincial level. No other government agencies are involved in the function.

As for comparison with other laws, the Company Act No. 7 of 2007 is quite different from Cooperative Law in its objectives, Articles of Association and regulatory mechanism. Cooperative legislation has more functions for the RCS whereas the Company Registrar confines himself to register, and liquidate, whenever the companies become inactive. The management and the mergers and divisions have the liability on the shareholders and their boards of directors. Model Articles are general in nature. The cooperative legislation allocates certain functions of administration and business development to the RCS and also conducting Audit and dealing with Disputes and Arbitration work. These functions do not come under the purview of the Registrar of Companies in the administration of companies. These two entities are having universally known differences between cooperatives and private companies in terms of their objects, purposes, ownership, regulation and administration etc. State enterprises are formed through Acts in the Parliament for specific public purposes, hence are totally different from other sectors.

The objects of a cooperative society in Sri Lanka are in accordance with the universally accepted definition of objectives as provided in the Identity Statement. In the model bylaws of all types of cooperatives states general objectives as the economic and social betterment of its members, in accordance with cooperative principles, and the development of the spirit and practice of thrift, self help and mutual help among the members.

Cooperatives in Sri Lanka do not restrict their business transactions to members only in keeping with the tradition created by the British colonial regimes who introduced cooperatives in 1906, to have a broader state objective of eliminating poverty and indebtedness of people. However, credit transactions with non-members are not allowed, while allowing deposits and loans facilities provided by non-members.

There are provisions in the cooperative law compelling the members to surrender some part of their surplus production to cooperative for marketing as against credit facilities provided for them. They are also engaged in purchase of paddy and other grains as an agent to the government with the credit facilities provided.

Cooperatives carry out business in the open market. They also enter into agreements with the private sector industrial and consumer commodity production companies for distribution and wholesaling their products. They could be offered associate membership in cooperatives, but without any voting powers or any say in the administration of cooperatives.

Cooperatives are open systems in Sri Lanka, with a possibility to be engaged in relief and disaster management activities as an agent to the government, which has been practiced during Tsunami, droughts, crop failures, floods and epidemics. It is somewhat different from private companies' corporate social responsibility (CSR) activities, which are aiming at creating good will and receives concessions from taxes.

Cooperatives do not restrict the employment to members; rather they recruit employees from the open market, while giving preference to the unemployed in the area of operation and also the family members of cooperative members for recruitment for unskilled work. However, there is a separate law for cooperative employees which come under the Cooperative Employees Commission Act No. 12 of 1972 executed by the Central Cooperative Employees Commission and Provincial Employees Commissions. RCS could only determine the cadre for a cooperative society under the Cooperative Societies Act No. 5 of 1972.

As the cooperatives are allowed to function in the open market, there are no restrictions to associate with any community work for non-members as well. The social activities and religious activities undertaken at the festive times are for the entire community and also the relief work during disasters is also aimed at the community. The objects of cooperatives are broad enough to undertake such activities. However, in regard to forming cooperatives with only social objectives have to face some restrictions due to the requirement in law to submit an economic feasibility report for registration, which infers that the cooperative should sustain itself from the income generated. In addition, there is a trial period of 6 months a cooperative has to wait for registration to show that it could generate sufficient income from its transactions. Before this legislation came into effect, there were cooperative registered purely for social objectives, such as crime prevention cooperatives, better living cooperatives and women's welfare cooperatives. Even now the law does not have restriction to organize cooperative with social objectives, provided that they should be sustained with the income generation through economic activities.

Cooperative legislation does not restrict and economic or social activity that come within the needs of membership and sustainable. However, other types of legislation such as insurance law, monetary laws, and BOI connected legislation would have specific requirements to form public companies for providing licenses for such business ventures. Cooperatives have been deprived in forming insurance cooperatives and some other types of financial service cooperatives due to such restrictions; hence they had to form companies with cooperatives as shareholders to establish insurance companies (3 companies), development bank, salterns and leasing companies. Currently, these companies are ordered to be listed in the stock exchange, which may have repercussions on the ownership which may go to hands of private sector investors.

The government policy does not accept the mutual insurance companies and bent on commercial insurance company concept only.

b) Establishment, cooperative membership and governance

As per the cooperative legislation, no society could use the name ‘Cooperative’ without registration or getting exemption from the Minister of Cooperatives. So far, no exemptions have been granted in the history.

Once the registration is approved, it comes with a registration number and also an approval by law for conducting society affairs. RCS maintains the register of cooperatives that are registered, and if it becomes inactive in terms of law, it goes into inactive register for further action to de register and liquidation. Cooperative societies are required to maintain an updated members' register as a legal requirement among other provisions.

Minimum number of individual members for a primary cooperative society is ten, whereas a secondary union or a federation should have a minimum of three cooperatives as members.

For the purpose of registration, it is necessary to have minimum number of members as specified above and a by law approved by the general body and the RCS. The application for registration should be signed by the original members who should have paid full share value. The application should be supported by an economic feasibility report.

If and when the society loses the number of minimum membership, the RCS would move in for de-registration of the society as per the law.

There is no restriction for membership of a cooperative, if they have necessary qualifications as per the bylaws. Basic condition is that they have a common need to fulfill through the cooperative society.

A member could leave the cooperative membership by giving one month's notice, provided s/he has no liability to settle to the cooperative.

Cooperative legislation provides for one member one vote principle in decision making. Act No. 5 of 1972 further provides for primary cooperatives, the members should vote in person and no proxies are allowed. In the case of Company Act, it is possible to provide a proxy for one or more persons in lieu of the share holder for attending general meetings and voting. It further states that a society could allow member representatives to exercise vote provided there are provisions in it's by law to authorize delegates to represent the individual members. Normally this is practiced by large primary cooperatives which have several branches in which members in the area of operation are attached. This principle has been adopted by secondary organization too, in spite of flexibility provided in the interpretation on the principle '*members' democratic control*'.

Governance system in primary cooperatives differs from each other depending on the size and the branch structure.

All cooperatives have a general body of members or representing members, who would assemble at least once a year, if there no provisions to have more in the bylaws and decide on the financial statements, audit reports, credit limits, election of committees of management and other committees as normal transactions. Practically all cooperatives establish internal audit committees and some large primaries set up business committees, administration committees and finance committees.

In the case of directors or members of the management committee, there are disqualifications provided in the bylaws for any member coming forward to contest as a director or a committee member. If and when a director is found to have committed an offence as per the by law or the main law, s/he could be dismissed after an inquiry and a general body decision. They are also required to give declaration of their assets. As per cooperative law, no politician who is a member of any state legislative assembly is eligible to be in a committee of management in a cooperative society.

Non-members could be co-opted as a member of the Committee of Management when there is a need for a professional to strengthen the activities of a cooperative society. The number should not exceed the number of directors who are elected by the members.

Duties and responsibilities of the committees and their members are specified in the bylaws of all cooperatives.

Committees of Management are legally allowed to appoint sub-committees to oversee various functions such as finance, business, administration, and internal audit.

There are provisions in cooperative law for the RCS to conduct inquiries, investigation and inspection of the affairs of cooperatives and the committees and take action to inform the general body if any malpractices are found so as enable them to dismiss or take other forms of action against the accused persons. A person dismissed from a cooperative society is not eligible for holding any post in a cooperative society for 5 years.

c) Cooperative financial structure and taxation

Nominal value of a share has been fixed at Rs. 100 by law. There is no minimum or maximum share capital fixed for a cooperative society. As they are supposed to be self financed, the determinant factor is the working capital needed to carry out business for which the cooperative society is formed.

A person who wants to be a members of a cooperative society should acquire a minimum one share paying the value fully. Legislation stipulates that the maximum number of shares a member could acquire is not more than one fifth of the total number of shares. This legal provision is also common to company laws. Each type of cooperatives determines the number of shares a member should acquire proportionately to obtain a credit facility up to the maximum of one fifth of the total number of shares.

Members could contribute in form of deposits – normal and fixed term- and also provide loans to the society for its working capital. While allowing the members’ contribution to a company in this manner, company law does not have restrictions on other forms of capitalization over and above self generated capital.

A member could withdraw from a cooperative society giving one months notice, provided there are no debts or other liabilities to the society. The value to be paid is the nominal value (Rupees 100 per share). S/he also could transfer the shares s/he holds to another member. Another option is for the cooperative society to buy back the shares issued to a member who wants to resign, which is to be paid from the share transfer fund set up by the society. In the company legislation, for a private company, the shareholder could have a person nominated for succession without any restriction and in the case of a public company listed in the Stock Exchange, all share transfers should go through the share market rules. In the case of a liquidation of a cooperative society, the last settlement is the share capital to members after settling all other liabilities.

In the case of the interpretation of dividend is that it is based on the number of shares. Patronage refund is the payment made from the surplus based on the value of transactions a member has engaged in with the cooperative society. It is also termed as rebates on economic participation. These payments are provided by law.

There are certain specific funds provided in the cooperative laws. Cooperatives should have a Reserve Funds set up from the compulsory transfer of 25% of the net surplus after paying government taxes. It is also necessary to contribute 5% of the net surplus of a cooperative society to the Cooperative Development Fund maintained by the Registrar. Balance surplus could be utilized for community and employees' welfare funds and also other society funds such as share transfer fund, building fund, and contingency fund etc. which are to be decided at the general meeting of the cooperative society.

As per the law, the cooperatives are prevented from distributing the surplus accrued from the business carried out with non-members. Such funds could be utilized to set off the value to acquire shares to be a member, if such amounts could be identified with the client who has qualifications to be a member. Otherwise, such surplus could also be utilized for community welfare or other development funds.

Cooperatives are empowered to issue fixed deposit certificates, bonds and debentures to members and non-members to generate capital. These sources are also practiced in the companies as per company laws. Members could also be an investor member without engaging in transactions other than share and deposits. However, many by laws have stipulated that members who is interested to be a director or a committee member should have transacted with the society to a pre-determined value for a year.

There are provisions in the law for mergers and division of cooperatives through a resolution by 2/3rd majority at a general meeting with the approval of the RCS. In such a case, the assets and liabilities are transferred to the new society formed after merger or a division according to the conditions laid down by the RCS. There are no provisions for any conversion to become a private company or a state corporation, and in such a case, the cooperative society has to go for de-registration and liquidation before conversion. Cooperative legislation does not permit selling any cooperative society to any other party.

In the case of a society liquidated after de-registration, the returning of assets belong to members would depend on the liabilities that are to be paid to the government loans, taxes etc. liabilities to other creditors and to the staff of the cooperative, which take priority in the liquidation process. Paying back the members assets is the last priority in the liquidation procedure.

Section 57(3) of the Act No. 5 of 1972 provides for the liquidator to assign the balance funds if available, after settling all liabilities under the liquidation, to a community purpose with the approval from the Registrar.

As per the current tax regime, from 2016, cooperatives are exempted only from income tax and other taxes are charged such as Value Added Taxes on the goods and services provided

to public, levy on stamp duties, withholding tax, and Nation Building tax. Income tax exemption is the only privilege enjoyed by cooperatives over the private companies.

As all cooperatives are treated equally in the face of taxes, no special consideration is made for any type of cooperative society, whether it is an agriculture cooperative, credit cooperative or a consumer cooperative.

As a matter of procedure, Finance Act approved after the annual budget in the Parliament, specifies tax levies. Budget speech made in March 2019 for the year 2019 has not announced any tax concessions to cooperatives. Therefore, it is determined at the time of presenting the Finance Act to Parliament for 2019.

Payment of dividends and patronage refunds are paid from the profit after taxation, hence are not eligible for exemptions. Only community welfare (Corporate Social Responsibility expenses) expenses are exempted from taxes. Surplus after paying 25% to the Reserve Fund and 5% to the Cooperative Development fund, balance could be utilized for paying patronage rebates, dividends to the shares not exceeding 10%, employees' bonus and any other funds established by the general body.

d) Other specific features

The external control of cooperatives, when it comes to administration, governance systems and risk management functions, the regulatory power is vested with the RCS. However, the type of business carried out by cooperatives could be subject to regulation by the respective authority appointed by the government. As an example, the sale of consumer goods is subject to supervision by the Department of Internal Trade and the Consumer Affairs Authority, in terms of pricing, quality etc. likewise, the cooperative pharmacies and hospitals are subject to registration by the Ministry of Health and regulations issued by such authorities. In the case of Rural Banks and SANASA Banks, there is a supervisory Committee set up due to recommendation by the Central Bank of Sri Lanka functioning as an external regulatory body for financial cooperative systems, although it is still to receive legal status.

The government has tried to delegate the function of auditing to the Thrift and Credit Cooperative Federation once with a set of guidelines but it was never succeeded due to the inability to train auditors. As the national federations are weak in performance and management, and also due to the fact that they are somewhat distant from their members in the conduct of business, it may not be a successful arrangement to get them to supervise their member organizations. Still the cooperatives including national federations are bent on getting the RCS to undertake regulatory function and it is also considered as helpful to get concessions from the government. In certain cases, the general body of some cooperatives

has surrendered the management of their cooperative society to the Department of Cooperative Development for rehabilitation.

Self control is the key phenomenon of a cooperative society through their own constitution and working rules approved by the general body and delegated to the management committee. Governance code or Code for Best Practices is yet to be introduced to cooperatives as supplementary to bylaws and working rules. As for the private sector, the Central Bank of Sri Lanka, along with the Securities and Exchange Commission and the Chartered Accountants Institute has introduced a Code of Best Practices in 2013, which was amended in 2018 as mandatory for all public companies providing financial services in the country. It has introduced strict conditions and ethics for directors' behavior and also performance evaluation and declaration of assets and also undertaking of compliance to absence of conflict of interest with the company. Independent directors' concept has been introduced to create balance in the Board of Directors.

On the subject of cooperation among cooperatives, the cooperatives having similar objectives are confined to specific area of operation proposed and approved by the RCS, where no other similar cooperative society is registered. There is no specific legal barrier for such a registration, but is a condition agreed between the RCS and promoters of cooperatives. However, there are contradictions created, when business federation establishes a business unit in the same area of operation of a member society.

There are no compulsions in law to join a secondary union or a federation by the primary cooperative society conducting the business relating to the secondary union. Even if a society is a member of a union or a federation, there is no prohibition to buy goods and services from a different source of supply.

III. Degree of “cooperative friendliness” of the national legislation

Cooperatives could diversify or decide on business direction without intervention by the regulators, but the approval for such projects is to be obtained from the RCS. Diverting resources, especially finances to new ventures is a closely guarded regulating activity by the RCS. Application of such authority should be facilitated by issuing guiding rules or instructions, but there is a lacuna on this, which created some problems. These contradictions have been created by the out dated legislation, which was introduced in 1972, when the country had a closed socialist economy, which has now turned out to be a neo-liberal economy. Political parties, cooperatives and the Registrars agree that there is a need to have new legislation, and some attempts have been made without a success.

The provisions provided to promote economic participation by members through surrendering a portion of their products to their cooperative under an agreement would promote the members participation in cooperative business and they would become real stakeholders.

Accommodating associate members in the law itself would promote the increase of membership and also the partnership with individual and corporate producers eliminating intermediaries. This has been successful in the context of open market economy now.

Another piece of legislation supporting the identity and sovereignty of cooperatives is the legal prohibition of having any member of parliament or a local authority to be a committee member of a cooperative society.

Recent amendments to the cooperative legislation has compelled cooperatives to go for long range and annual planning as a legal requirement and also introduced the element of project appraisal and feasibility studies as a prerequisite for seeking approval for new ventures by cooperatives.

There is no special government funding for promotion of cooperatives. This has affected promoting cooperatives among new generations. The situation has been aggravated as the NCC is not financially strong enough to undertake such activities.

In sum, the rating that could be given to current legislation is c) *It is only limitedly so.*

In order to consider selecting any legislation as a model, it is necessary to relate it to the current Constitution of Sri Lanka, which has a devolved administration into Provincial Councils. This has exclusively given authority to PCs to regulate cooperatives in the provinces. It is also necessary to consider the form of economy the country has i.e. neo-liberal economy in some other words, open market economy. Laws practiced in the ex-socialist countries as well as countries with mixed economy may not be suitable for the conditions in Sri Lanka.

In this analysis, it is obvious that single legislation covering the entire country may not fit in to the devolved administrative system. As the cooperative movement in Sri Lanka is far diversified having about 30 types of cooperatives, it may not be feasible to have sectoral cooperative legislation as in the case of Japan or Korea.

As another option, inclusion of cooperatives in the company legislation may not be practical as the current company legislation is not geared to accommodate such an amendment. In some countries, the cooperatives and other forms of community associations are put together, but in Sri Lanka, community based organizations are basically dealing with social welfare.

After eliminating many such alternatives, the closest model has come from India, whose government system itself has influenced the constitutional change of Sri Lanka in 1987. In this model, the inter-state cooperatives and the national federations come under the purview of the Central Registrar of Cooperatives, whereas the States would have their own legislation as in Sri Lanka, but guided by a national policy on cooperatives and model cooperative societies act. For the organizations regulated by the Central Registrar, there is a Multi-State Cooperative Act.

IV. Recommendations for the improvement of the national legal framework

Current cooperative legislation is outdated as ancient as 1972, with certain marginal amendments that ended in 1992, very much before the declaration of Cooperative Identity Statement. In the meantime, the authority on cooperatives was transferred to Provincial Councils in 1987, leaving only inter-province cooperatives and the national federations to the Central Registrar. Therefore, the character and the structure of current legislation would not fit into the current economy and also the governance structure of the country. It is futile to amend the current legislation further. Under the circumstances, any legislation created should be in line with the independence of the Provincial Councils to have their own cooperative legislation and also another legislation to be regulated by the central government for the inter-province cooperatives and national federations as well as coordinating functions. It does need to be in the line of Indian experience, if it is not acceptable, but could be one legislation with two components- Provincial Councils and Central government- but it has to be agreed upon by the PCs and the Central Government.

As the experience goes, the law which is feasible should be common law for all types of cooperatives, but there could be certain special provisions for any type of cooperatives within the same legislation.

These ideas have been discussed at the forums of national policy and also consultation group at the Department of Coop Development by the same consultant before, and also repeated with the NCC and the COOPFED in this instance. There was a positive response from them for the change. Only concern is that the initiative to change the law should be a responsibility of the Registrar of Cooperative Societies at the Centre and the Provincial Registrars at the Provincial level.

Current cooperative legislation does not deal with international partnerships and also such transnational cooperatives. Any future legislation should be able to provide regulatory framework for such cooperative ventures in the legislation.

V. Conclusions

Although the subject of cooperatives has been devolved to Provincial Councils, the National Cooperative Council of Sri Lanka and the national level business federations never lost the business relations or coordination with the cooperatives that are functioning under the PCs, which is a positive factor in order to have cohesive legal mechanism for the entire movement. In the process of drafting a National Policy on Cooperatives recently, the Provincial Ministers and the Minister for the Central government collaborated without conflict either. Therefore, there is a positive environment for a participatory process for enacting a new legislation on cooperatives at the provincial level as well as the central level.

In the process of this study, the NCC and the COOPFED extended support and impressions they had on the legislation currently used and what they would expect from the new legislation. SANASA Federation, another ICA member has throughout campaigning for a new updated legislation from the time of drafting a national policy. The Central Register has already made an effort for drafting a new legislation, but got held up on account of technical help and suitable models to be used to satisfy provincial and national level authorities and the cooperative leaders. The NCC leadership was not satisfied with the draft legislation, with the argument that the draft is another patchwork only. The leadership and the regulators from the provinces were not consulted during the drafting too.

The experience derived from Sri Lanka confirms that creating a new legislation should be a participatory process in which all stakeholders should be involved. Even if the government would put out a law of their own, the cooperators may not cooperate for implementation. Under the circumstances, new legislation should be a product of consensus among all parties who would be affecting by it. It should not only look after the needs at the centre but also at the provincial level.

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