

LEGAL FRAMEWORK ANALYSIS

within the ICA-EU Partnership

National Report of Jordan

ICA - Asia and Pacific (ICA-AP) is the voice of cooperative enterprises in the Asia and Pacific region. ICA-AP, as a regional office of the ICA, is also a co-signatory of a Framework Partnership Agreement signed between the International Cooperative Alliance and the European Commission in March 2016, which aims at strengthening the cooperative movement and its capacity to promote international development. This agreement underpins the ‘Cooperatives in Development’ program and includes knowledge building activities at the global (harmonized) and regional (decentralized) level.

The activities planned within the framework of the program include diverse research activities conducted at the global and regional level. The primary activities undertaken at the global level include a Legal Framework Analysis (A2.2), which is led in a coordinated way by all ICA offices. Within this framework, ICA-AP oversees implementing the research in the Asia and Pacific region.

The study on legal frameworks under the Legal Framework Analysis (A2.2) will evaluate jurisdictions and policy regulations according to their enablement of cooperative development. The document will present recommendations for the next steps in renewing the legal frameworks and helping to shape the policy agendas in a targeted way in the different regions and countries. It will evaluate the cooperative legal framework in place with common indicators, delivering on a scale of how ‘cooperative-friendly’ the legislation in a country is. In the same context, this report deals with the Legal Framework Analysis of Jordan.

Introduction

With a GDP of approximately US\$ 40 billion in 2017, Jordan's economy is among the smallest in the Middle East, with insufficient supplies of water, oil, and other natural resources, underlying the government's heavy reliance on foreign assistance. Other economic challenges for the country include chronic high rates of poverty, unemployment and underemployment, budget and current account deficits, and



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government debt.

During the first decade of the 2000s, Jordan implemented significant economic reforms, such as expanding foreign trade and privatizing state-owned companies that attracted foreign investment and contributed to average annual economic growth of 8% for 2004 through 2008. The global economic slowdown and regional turmoil contributed to slower growth from 2010 to 2018 - with growth averaging 2.6% per year - and hurt export-oriented sectors, construction, and tourism. Since the onset of the civil war in Syria and resulting refugee crisis, one of Jordan's most pressing socioeconomic challenges has been managing the influx of 650,000 UN-registered refugees, more than 80% of whom live in Jordan's urban areas. Jordan's own official census estimated the refugee number at 1.3 million as of early 2016, representing nearly 12.5% of the total population in 2018.

Once considered one of the most important economic sectors in the country, the cooperative sector in Jordan is currently in tatters with its great potential largely untapped. According to figures provided by the Jordan Cooperative Corporation (JCC), there are 1,591 cooperatives registered with the agency, two thirds of which are active, with the overall membership base comprising 142,000 citizens. Of these, only 14 per cent are women. The value of total assets is JD327 million, while the available cash at hand stands only at JD42 million. The figures, JCC officials acknowledge, are modest, and can be multiplied if the sector receives the attention and support it deserves from decision makers.

Cooperatives in Jordan are categorized under eleven categories as follows: multipurpose, mutual benefit, tourism, saving and lending, women, agricultural, housing, consumer, transport, cultural and productive. Multipurpose cooperatives are the most common type of cooperative in Jordan, representing 54% of all registered cooperatives in the country. Agricultural and housing cooperatives are the second and third most common types of cooperatives in Jordan, representing 20% and 12% of all registered cooperatives, respectively.

The purpose of this report is to examine the friendliness of cooperative laws in Jordan in the present context, particularly the Cooperative Societies Charter (No. 36 of 2016) which is the sole private law that governs cooperative activity in Jordan. Chapter II provides an overview of the cooperative legal framework in Jordan. Chapter III examines the important legal features of cooperative laws in Jordan under the headings indicated below:

- Purposes of the Cooperative Laws
- Principles, Definitions, and Objectives



- Establishment
- Membership
- Governance
- Business Activities
- Capital and Financing
- Appropriation of Surplus
- Disposal of Residual Property
- Cooperation among Cooperatives
- Tax Treatment
- Promotion of Cooperatives by the Government

Chapter IV discusses legal friendliness and obstacles of cooperative laws in Jordan and Chapter V provides a brief conclusion and some recommendations for making the laws more cooperative friendly and conducive for cooperative growth.

II. Overview of the Cooperative Legal Framework in Jordan

The first cooperative law (number 39) in Jordan was issued in 1952, drawing mostly from the Palestinian Cooperative Law of 1933. The cooperative movement started with the establishment of the Cooperative Development Department (CDD) in 1952. The Jordan Central Cooperative Union (JCCU) was established by 247 primary cooperative societies in 1959. This was complimented by the establishment of the Cooperative Institute in 1963 and the Cooperative Auditing Union in 1964.

The number of cooperative societies reached 709 in 1967. The cooperative movement suffered a serious setback in the aftermath of the June 1967 war, as over half of the societies were in the West Bank (at that time cooperatives in the West Bank were affiliated to the JCCU), where activities were suspended. Because of this conflict, the Government of Jordan took over the responsibility of cooperative development by establishing an autonomous but quasi-governmental agency, the Jordan Cooperative Organization (JCO), which absorbed the JCCU, the Cooperative Institute and the Audit Union.

The Cooperative Law of 1971 changed the nature of Jordan's cooperative sector by placing all functions and responsibilities of the hitherto autonomous apex bodies under the JCO as "super apex". Since the Government held most seats on the Board of Directors of the JCO, this resulted in effective government control over the cooperative movement. Established in 1978, the Jordan Cooperative Bank (JCB)



disbursed between 16 to 20 per cent of the total institutional credit between 1980 and 1985.

The Central Bank stopped the JCB from operating because it was on the brink of bankruptcy. By 1995, the financial situation of JCO had become so alarming that the government decided to dissolve the organization all together, replacing it by the Jordan Cooperative Corporation (JCC), a government agency fully financed by the State and established in accordance with a new Cooperative Law that was promulgated in 1997, replacing the 1971 Law.

Currently, the Co-operative Law (No. 18 of 1997) and the Cooperative Societies Charter (No. 36 of 2016) are the two principle legislations that regulate the work of cooperatives in Jordan, namely:

- The Cooperative Law was enacted on 22 April 1997 when it was published in the Official Gazette. It establishes and provides for the administration of the Jordan Cooperative Corporation, an entity established by law and mandated the responsibility of overseeing, promoting and registering cooperative societies.
- The Cooperatives Societies Charter which governs the registration and administration of cooperatives was adopted by the Cabinet of Ministers on 21 February 2016 based on Articles 16 and 22 of the Cooperative Law. It replaced an older charter that had been in place since 1998.

There are no special laws on any of the different types of cooperatives that exist in Jordan. There is no clear consensus within the cooperative movement in Jordan regarding whether sectoral laws are needed. The general sentiment within the movement however is one that favors less regulation. There is also a recognition that more laws mean more fragmentation within the movement.

The Jordanian Constitution does not make an explicit mention of the words cooperative, cooperative associations, or self-help groups in any of its articles. Accordingly, both laws reference Article 31 of the Constitution which stipulates that the King ratifies the laws, promulgates them, and directs the enactment of such. This said, the Constitution (Article 16.2) grants Jordanians the right to establish societies provided that the objects of such societies are lawful, their methods peaceful, and their by-laws not contrary to the provisions of the Constitution. It is generally understood that such right applies to cooperative associations.

III. Legal Features of Cooperative Laws in Jordan



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1. Purposes of Cooperative Laws

Neither the Cooperative Law nor the Cooperative Societies Charter include provisions to explain the objectives for which they were enacted, or the policies with which they are aligned. It is thus not clear from these legislations what role is being envisaged for cooperatives in the national development process. Hence, it can be said that both legislations are simply intended to provide the legal framework for the governance, administration and oversight of cooperatives.

2. Principles and Definitions

The Cooperatives Law makes explicit reference to the cooperative principles. Its Article 19 states that "Primary cooperatives, their unions, and the Jordanian General Cooperative Union are non-governmental organizations governed and controlled by their respective members in accordance with the democratic and cooperative principles." The Law, however, does not define what these principles are.

Some implicit references to the cooperative principle can be found in the Cooperative Societies Charter, but these are few and -in some instances- can be interpreted differently by different readers. These are:

1. **Voluntary and Open Membership:** Article 7A stipulates that both membership and withdrawal from the cooperative must be voluntary.
2. **Democratic Member Control:** Articles 9 (on responsibilities of the General Assembly), 10 (on conduct of General Assembly meetings and member voting rights) and 21 (on distribution of surplus) include provisions that satisfy the ICA principle of democratic member control, including assigning the responsibility for strategic and policy decision making to general assembly, giving the General Assembly the right to exercise oversight over the Management Committee. Article 10 also stipulates that members should exercise their voting rights according to the one member-one vote principle.
3. **Member Economic Participation:** There are several articles that imply member participation, but none of which clearly obliges members to participate economically in financing or transacting with their cooperatives. For example, Article 3D stipulates that the Founding Members must collect and deposit member dues for registration purposes, but it does not stipulate what these are. Article 21E states that cooperatives may distribute profit to members in proportion to their transactions with the cooperative, leaving to individual cooperatives to determine in their bylaws how this will be governed.
4. **Autonomy and Independence:** The Charter does not include any specific text that states that cooperatives are autonomous or independent. However, the spirit of several of the Charter's articles make it clear that cooperatives are



independent and self-governed enterprises according to their bylaws. Nevertheless, the Charter also gives the Jordan Cooperative Corporation substantial power to approve cooperative bylaws, investigating cooperatives, auditing cooperative accounts (against a fee determined by the Corporation's Board), and appointing a Cooperative Manager or dissolving a cooperative in instances where the cooperative stops pursuing the activities for which it was granted registration.

5. Education, Training and Information: Article 21 stipulates that each cooperative should allocate no less than 2% of its annual surplus to a training fund, but it does not clarify what purposes should this fund pursue or who the target group is. The same article states that sums of money allocated to the training fund and not used in the subsequent two years of their allocation shall be transferred to the general reserve account, which can only be used by the cooperative for investment according to the principles laid out in the bylaws.

Aside from being referred to as a non-governmental organization governed by its members, a precise definition of a cooperative cannot be found in either the Cooperatives Law or the Charter. While cooperative leaders in Jordan -including those in the Jordan Cooperative Corporation- fully understand that cooperatives are a form of socially oriented economic enterprises that are based on the principles and values of self-help and solidarity, the way cooperatives operate in practice does not fully reflect this understanding. This largely due to the adverse effects of external aid, in at least three aspects:

1. Numerous cooperatives, or pre-cooperative groupings, have been set up with considerable donor support (and therefore, with very little member engagement); others have been established with the sole purpose of collecting donor funds, or as channels to deliver assistance (more recently, to Syrian refugees in particular), not as a self-help mechanism. Such "cooperatives" are largely dependent on the donors that supported their establishment and often disappear as soon as donor funding dries up.
2. Cooperative promoters from NGOs (both local and international) and other development partners, including some international organizations, may not be familiar with cooperative principles and cooperative management practices, and therefore introduce inappropriate structures and systems. For example, some donors encourage cooperatives to establish separate companies for commercial purposes, because they seem to be unaware of the fact that cooperatives are legal entities that can engage in any business venture.
3. Some NGOs and other partners work directly with primary cooperatives at the village level, operate outside government structures and without the



knowledge of the Jordan Cooperative Corporation. This greatly complicates the Corporation's coordinating and supervisory role.

It would be highly desirable to develop a code of conduct to which all agencies involved in the promotion of cooperatives in Jordan should subscribe; this would include the use of standardized management and accounting systems, as well as common training and education material.



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3. Objectives of cooperatives

The Objectives and purpose of cooperatives are not defined in the Cooperatives Law or the Cooperative Society's Charter, leaving it to members to decide in this regard. These laws do not have any explicit legal provision that a cooperative is obligated to transact with its members. It leaves it to the discretion of the General Assembly to decide whether to distribute the unrestricted proportion of their cooperative's surplus to members in proportion to their transactions, thereby missing an important opportunity to reinforce and incentivize the principle of economic participation. Moreover, Article 34 of the Cooperatives Law allows cooperatives to provide services and transact with non-members if this does not contradict restrictions on non-member transactions set in the cooperative's bylaws (articles of association). However, in most cases, cooperative bylaws do not include provisions that restrict services and transactions with non-members.

Nevertheless, model cooperative bylaws that the Jordan Cooperative Corporation makes available to cooperatives under registration include an article (Article 2: Cooperative Purposes) that explicitly defines member-promotion as the main cooperative purpose. This article states that '[the cooperative work towards] fostering cooperation and cooperative work among its members and those individual and groups with whom it engages with to improve their social, economic and cultural conditions'. It then provides a long list of activities from which cooperatives can choose to serve as a basis for their operations, and these include:

- Provision of loans and services to members to develop and grow their individual and collective enterprises; and to cover their own or their children's education expenses.
- Encouraging members to save through the provision of savings schemes.
- Establishing and managing retail businesses needed to pursue cooperative objectives.
- Production, processing, and exporting and importing of consumer goods to serve members' needs.
- Promoting member education and training through direct service provision and/or collaboration with others.
- Provision of health services to members and their families in accordance with their needs for such services.
- Undertaking public works and community level investments to serve members' collective needs.

Although ICA Principles refer to the provision of services by the cooperative to its members, in Jordan, this does not exclude the possibility of other types of transactions taking place between the cooperative and its members, such as the



provision by the cooperative of goods, and the provision by members of work or of goods and services (in producer cooperatives). Provision of services by cooperatives is, therefore, broadly and not literally interpreted in Jordan, especially since the Cooperative Societies Charter does not explicitly restrict cooperatives to member-promotion only, It leaves to the discretion of members to decide whether their cooperative can act in the interest of non-members and the community at large.

It is worth noting here that in recent years, several Jordanian cooperatives have been implementing donor-supported projects that aim at addressing problems of unemployment, poverty, and exclusion, particularly those affecting Syrian refugees. Given that the Cooperative Societies Charter does not allow non-Jordanian national to become members of Jordanian cooperatives, these projects have been key drivers for shifting the focus of cooperatives to altruistic community development objectives. This has fueled debate on the impact of these projects on the identity of the Jordanian cooperative movement and its mandate.

Neither Jordan's Cooperatives Law nor the Cooperative Societies Charter restrict cooperative activities to specific sectors. However, it is generally understood that cooperatives cannot engage in defense activities, nuclear power generation and other sectors that typically belong to states.

Restrictions on what activities cooperative can engage are enforced through restrictions explicitly mentioned in the model bylaws that the Registrar makes available to different types of registering cooperatives. For example, these bylaws prohibit non-housing cooperatives from engaging in real-estate development and housing projects altogether, and do not allow all types of cooperatives to engage in real estate trade. While using these model bylaws is not mandatory by law, in practice the proposed bylaws gets heavily scrutinized against the standard of the relevant model bylaw, and often with insufficient attention to the individual and dynamic needs of members seeking cooperative registration. Accordingly, 'founding members' usually do not introduce any changes to these bylaws as they find it more convenient to secure the consent of the members willing to form a cooperative to a 'model bylaw' rather than framing a set of Bylaws through a consultative process.

4. Establishment

All cooperatives in Jordan must be officially registered by the Jordanian Cooperative Corporation (JCC) to be able to operate. The establishment of the JCC was stipulated in Jordan's Cooperatives Law, which gave the JCC the authority to supervise the cooperative sector and -without engaging in cooperative work itself- improve the social, economic and cultural conditions of cooperative members through promoting



self-help and solidarity among them. In addition to registering cooperatives and promoting cooperative education (including through the establishment of cooperative education and training institutes), the JCC is the sole authority mandated ensuring –through supervision, inspection, and audit- cooperatives’ adherence to the Cooperatives Law, Cooperative Societies Charter, and their own bylaws.

The JCC is an autonomous semi-governmental organization, with financial and administrative independence. It is governed by a Board of twelve members, representing -predominantly- high levels of government and leaders of the Jordanian cooperative movement. The JCC Board is chaired by the Prime Minister, while the seat of the vice chair is reserved to the JCC Director General, appointed by the King based on nomination by the Council of Ministers. Other Board members include the Under Secretaries of the Ministries of Agriculture, Finance, and Planning; the Director Generals of the Agricultural Credit and Lending Corporation, Housing and Urban Development Corporation; the Chairman of the Jordanian General Cooperative Union, the Head of the General Union of the Jordanian Farmers, and three cooperative movement leaders, appointed also by the Council of Ministers based on a recommendation by the Chairman.

The General Director of the JCC is the registrar of cooperatives in Jordan according to Article 4 of the Cooperative Societies Charter. While he/she can delegate the responsibility of reviewing cooperative registration applications to JCC staff, he/she is the only legally authorized person to issue and sign cooperative registration certificates. He is also solely responsible for registering cooperative unions and amalgamated cooperatives.

The establishment of a primary cooperative is contingent of the willingness of at least 15 promoters (founding members) to come together to apply for registration. They should prepare articles of incorporation, get the approval of it at the inaugural meeting and obtain the authorization from the JCC according to the Article 3D of the Cooperative Societies Charter. A standard form of articles of incorporation (model bylaws) is provided by the JCC in all types of cooperatives in Jordan.

Establishment procedures for all types of cooperatives are common to all types of cooperatives in Jordan, and they require that 3 promoters, elected by the founding members- follow-up the registration process. Registration requirements are as follows (Article 3 of the Cooperative Societies Charter):

- Completion of the standard registration application (provided by JCC).
- Preparation of articles of association, ensuring that they meet the minimum requirements set by the JCC.



- Proof of payment –through a bank statement- of contribution by all founding members (in accordance with the articles of association/bylaws).
- Submission of the articles of association to the JCC.

Article 4 of the Cooperative Societies Charter requires the approval of the General Director of the JCC of the application and the proposed articles of association (bylaws) within 30 days of the receipt of the same. If the Registrar does not accord such approval within this period, then the application for registration will be deemed to have been approved.

Below are the matters which must be included in the articles of association of a cooperative (Art. 3F, Cooperative Societies Charter):

- Name, address, and principal place of business;
- Official seal/stamp;
- Description of the minimum value of cooperative capital-in-shares, with a clear statement that this amount cannot be reduced;
- Objectives;
- Qualification for members and proxies;
- Matters regarding admission to, and withdrawal and expulsion from, a cooperative;
- General statutes regarding financial and accounting management, including matters related to the appropriation of a surplus, the disposition of deficits, the method of accumulating reserves and the use of reserves; the scope of business and accounting, and general personnel matters; and,
- Matters regarding arbitration and dissolution.

The Cooperative Societies Charter provides in Article 29 that when a cooperative fails to maintain the minimum required number of members after its registration, the General Director of the JCC can take a decision to dissolve the cooperative and revoke its registration because it violates the requirements for establishment. However, in practice, this rarely happens as the JCC lacks the means and resources to effectively monitor cooperative membership across the Kingdom.

5. Membership

The Cooperative Societies Charter includes clear legal provisions regarding admission of new members and withdrawal of members. It states that membership in cooperatives is both open and voluntary, and that cooperative bylaws should include provisions to enshrine this principle. While the Charter does not address the issue of rejecting membership applications and member withdrawal, the model bylaws that the JCC provides to registering cooperatives include provisions that state that a



cooperative should not reject a person's application for joining the cooperative as a member without a justifiable reason if the person is qualified for the membership. It also includes provisions that provide applicants whose membership applications get rejected by the Board of the cooperative with a recourse to appeal rejection with the cooperative General Assembly.

Aside from stating that a cooperative's capital comprises an unspecified number of shares subscribed by members, the Charter does not include any provisions regarding share contribution by members, leaving this matter to be specified individually by cooperatives in their bylaws/articles of association. It nonetheless establishes that cooperative decision-making must be governed by majority votes in accordance with the one-member one-vote principle, irrespective of the number of shares a member owns.

The model bylaws provided by the JCC designate an article (11) to member contributions, but also leaves it to individual cooperatives to fill the blanks related to the minimum number of shares that each member should subscribe and over what period. Neither the Charter nor the model bylaws, however, stipulate limits on member contributions, but both include provisions that clearly state that each member has one vote on a resolution or election, regardless of the number of his/her share contribution units (Article 10-C, Cooperative Societies Charter; and Article 28-C in the model bylaws).

A member of a cooperative may withdraw from the cooperative by notifying the cooperative of his/her intention to withdraw (Article 7-B, Cooperative Society Charter). A member who withdraws (or expelled) from a cooperative may claim for refund of his/her contribution in a way as stipulated by articles of association (Article 7-B). But, if a cooperative is unable to fully repay its debts with its assets, it may claim a withdrawing member to pay his/her apportionment of deficits when it calculates the amount of the share that shall be refunded (model by-laws).

6. Governance

The governance structure of cooperatives as stipulated in the Cooperative Societies Charter and the model bylaws is as follows:

- 1- General Assembly: this is the highest decision making body in cooperatives, and is responsible for electing an Executive Board (referred to as Management Committee), and deciding general policies that govern the cooperative operations, including reviewing and amending bylaws, approving operational plans and budgets, appointing an external auditor, deciding on how surplus will be distributed, and authorizing acceptance of donations,



- cooperative loans, dissolution, mergers, and membership in cooperative unions. The General Assembly is composed of members of the cooperative.
- 2- Management Committee/Board: This is elected by the General Assembly from the ranks of its members in accordance with the provisions set in the individual cooperative's bylaws. The Management Committee/Board is responsible for implementing policies set by the General Assembly in accordance with the cooperative bylaws and is accountable to the General Assembly. Decisions to admit new members vest with this Committee, though – as noted previously - the General Assembly has the final say in case of appeals by applicants whose membership applications are rejected. The Charter stipulates that the number of Board members must be an odd number, not less than three. It, however, leaves it to each cooperative to decide in its bylaws the Board's election term, what title will each Board member hold, and how this will be decided. The model bylaws nonetheless include provisions that call Board member to elect amongst them a Chairperson, a Secretary, and a treasurer.
 - 3- Surveillance Committee: the establishment of a surveillance committee (such as an “oversight committee” is mentioned in Article 17-A of the Cooperative Societies Charter) is considered as a permanent body overseeing the work of the management in the absence of such oversight by the members who, generally, do neither have the time, nor the knowledge and know-how to effectively exercise their (permanent) control rights. The Surveillance Committee is composed of three non-Board members, elected by the General Assembly at the same time the Board gets elected. The Surveillance Committee is obligated to present an annual report to the General Assembly.

The Cooperative Societies Charter leaves it to discretion of individual cooperatives to decide on the structure of the executive management (administrators) in their bylaws, including whether executive staff should be cooperative members or not.

7. Financial Structure & Distribution of Surplus

The capital of a cooperative in Jordan is the total amount of contributions paid by the members. The Cooperative Societies Charter has no legal provision allowing any cooperative to issue any financial instrument other than member shares or to admit investor members. It stipulates that a member should contribute at least one share unit but does not go beyond this limitation. The Charter thus leaves it to each cooperative to decide whether members can contribute differently and, if so, how. It is also silent on the maximum percentage of shares that could be subscribed by individual members, which, in the absence of clear provisions to limit distribution of surplus in proportion to subscribed shares, weakens cooperative identity and renders cooperative surplus distribution more akin to profit distribution in shareholding



companies.

A withdrawing member (including an expelled member) of a cooperative may claim for a refund of his/her share from the fiscal year immediately subsequent to the fiscal year in which he/she withdraws (including the time when expelled), as stipulated by articles of association. The share shall be determined based on assets and liabilities of the cooperative as of the fiscal year in which a member withdraws (Article 7).

When a cooperative has a surplus after the settlement of accounts for a fiscal year, it is required to set aside the following:

- no less than 20 percent of the surplus as a legal reserve, which the cooperative can only use for cooperative business investment purposes (Article 32, Cooperative Societies Charter). Once the value of accumulated reserve exceeds the value of subscribed capital, a cooperative may decide to distribute all or part of this excess to members in proportion to their shares. Moreover,
- no less than 2 percent of surplus to an education fund, which –if not spent for two years following its allocation- must be reallocated to the legal reserve.

As per Article 22 of the Cooperative Societies Charter, a cooperative may decide to allocate whatever remains of its surplus after deducting the preceding mandatory reserve allocations to a voluntary reserve account and a member withdrawal account. Should its bylaws permit it, a cooperative may also distribute what remains of its surplus (after deducting statutory allocations) to members in proportion to the volume of their business transactions with the cooperative. Nonetheless, it may not distribute any surplus accrued in any given fiscal year unless it first covers any deficit (i.e. losses) accrued in the preceding year.

It is worth noting here that Jordanian cooperative laws make no distinction between surplus from cooperative transactions with members and profits deriving from other sources (including from transactions with non-members). There are also no legal provisions that regulate the distribution of surplus in proportion to members' subscribed capital, though the model bylaws that the JCC makes available to registering cooperatives includes a provision (in article 20) that states that a General Assembly of cooperative may distribute the remaining surplus (after deducting statutory allocations to the reserve funds) to members in proportion to their subscribed capital, leaving it to individual cooperatives to determine the basis on which this will be done.



The cooperative laws in Jordan offer limited financing options for cooperatives. They explicitly state only two instruments when it comes to cooperative business financing, namely: capital through (unlimited) member shares, and loans. With regard to the former, there are no explicit legal provisions that prevent cooperatives from admitting “investor members”, but the bylaws of nearly all Jordanian cooperatives do not address the issue of investor-member admission; and this is mostly due to lack of awareness of such financing option. As for the latter, cooperatives may take loans to finance their business development needs, contingent on the approval of the General Assembly.

Cooperatives can be dissolved voluntarily by members’ decision, or by the General Director of the JCC (the Registrar) in the following cases:

- the cooperative is unable to take remedial action to maintain the minimum number of members stipulated in the law (15) and on which basis it was registered;
- the cooperative engages in activities not listed in its articles of association, and on which basis it was granted registration;
- the cooperative is unable to start the business activities for which it was licensed within one year of registration;
- the cooperative repeatedly violates the provisions of the Cooperative Societies Charter and its own bylaws; and
- the Registrar deems that the cooperative is unable to meet its declared objectives or take remedial steps towards this end, based on a technical report of a committee he/she forms.

There are no explicit legal provisions in the law that give recourse to cooperatives to contest the Registrar’s dissolution decisions. Given that the Registrar’s decision must be announced in local newspapers in accordance with the Public Procurement Law, cooperatives - in theory - could appeal the decision in accordance with the established processes under this law.

The decision to dissolve includes an appointment of one or more liquidator. The key task of liquidators is to ensure that all assets of the to-be-dissolved cooperative are fully liquidated in accordance with the Public Procurement Law. Accordingly, the dissolution process will result in the sale of all cooperative property, which then gets distributed as follows in order of priority (Article 31, Cooperative Associations Charter):

- Liquidation expenses and liquidator(s’) fees;
- Dues to Government Treasury.
- Dues to Social Security Institution.



- Cooperative employee salaries and indemnities.
- Dues to local authorities.
- Dues under rental contracts.
- External Debtors

Any residual amount of money that remains after settlement of the preceding liabilities gets distributed to members in proportion to their subscribed shares.

The law does not address the issue of a cooperative changing its organization, except for the voluntary amalgamation of two or more cooperatives. In these cases, the assets and liabilities of the amalgamated cooperatives get transferred to the newly formed cooperative (Article 28, Cooperative Societies Charter).

8. Taxation

The Cooperatives Law and the Charter are silent on the issue of cooperative taxation, relegating this matter to the Income Tax Law (No. 34 for 2014). This law exempts cooperatives from taxes on income derived from non-profit activities, but this -in practice, given the nature of cooperative business- renders the treatment of cooperatives like that of private companies in terms of taxation. Hence, cooperatives in Jordan are treated on equal terms as those accorded to other forms of enterprise and social organization, and they do not enjoy any privileges such as tax benefits, loans, grants, access to public works programs, and special procurement provisions. Discussions within the government on the issue of exempting cooperatives from taxation, which drives many entrepreneurs and those wishing to work on the establishment of projects to be registered as profit companies, because of the lack of incentives to establish cooperative societies.

It is worth noting here that Article 14 of the Cooperatives Law grants the Jordanian Cooperative Union - which is the apex cooperative association for all types of cooperative unions in the Kingdom - the same exemptions, facilities, and privileges granted to government ministries and institutions. While being a positive provision insofar as making it possible for primary and secondary cooperatives to enjoy indirect government support, subsidies and tax exemptions, the Jordanian General Union is yet to be established.

Accordingly, it is being argued here that the legislative framework that governs the work of cooperative societies in Jordan is less advantageous than that that governs companies and other forms of enterprises. The cooperative societies are subject to regulatory and financial control by the Jordan Cooperative Corporation, while companies are characterized by their financial independence. Cooperative societies



can obtain administrative, financial and technical support at the time of incorporation, but this support is also available to companies. This creates a disincentive for cooperative registration in Jordan.

9. Government Oversight

Oversight of the cooperative movement is a legal mandate of the JCC, which was established on the basis of the Jordanian Cooperatives Law, as an independent semi-government organization with financial and administrative autonomy to “regulate, promote and supervise cooperatives in Jordan; without exercising cooperative work itself”. In addition to promoting cooperatives and cooperative education, and serving as the cooperative registrar, the JCC is legally mandated to undertake several supervisory and regulatory functions that - according to many cooperative leaders in Jordan - reflect a high level of external control over cooperatives. These include, inter alia:

1. Overseeing the work of cooperatives through inspection visits (and formal investigations) to monitor their adherence to the law.
2. Attending cooperative general assembly meetings and approving the minutes of meeting thereof, including election results.
3. Reviewing and approving cooperative bylaws including during registration and in matters related to financial management.
4. Undertaking annual financial audits of cooperatives (paid for by the cooperatives), and ratifying cooperatives’ budgets (also against a fee).
5. Appointing an interim management committee for those cooperatives whose Management Committees resign or are being prosecuted by the Public Prosecutor in relation to misconduct in performance of their duties.
6. Appointing an accountant to prepare a budget on behalf of (and paid by) cooperatives that do not prepare such a budget thirty days prior to their scheduled General Assembly meetings.
7. For those cooperatives wishing to geographically expand their business operations, approving general assembly decisions to open cooperative branches in new locations.
8. In coordination with cooperatives and cooperative unions, representing the cooperative movement in Jordan in local, regional and international fora and cooperative organizations.

The JCC's budget is JD2 million, 95 per cent of which is spent on salaries and operational expenses, while a mere 3 per cent, or JD60,000, is earmarked for "capital spending". The agency, which plays the dual role of monitoring and developing the sector, finds it financially challenging even to organise awareness-oriented



workshops in targeted areas, and is short of qualified manpower to realise the envisioned change in the way it operates.

10. Cooperation among Cooperatives

The principle of cooperation among cooperatives is only implicitly mentioned in Articles 18 and 19 of Jordan's Cooperative Law, which set out the organizational framework through which cooperative could establish unions and federate. However, these articles do not make any reference to the purpose of these unions or their roles in promoting the common interests of member cooperatives. Procedures for establishing such unions are not clear, however, since the Law does not include any legal provisions regarding the minimum number of cooperatives needed to establish a cooperative union, or even the general procedural process for registering such unions.

Moreover, the Law also sets considerable limitations on how cooperatives could federate and establish unions. Firstly, it only allows for the establishment of one district-level cooperative union for all types of cooperatives registered in the same governorate. Secondly, it limits the formation of sectoral cooperative unions (i.e. agricultural cooperatives, consumer cooperatives, etc.) to only one national union, rendering it impossible for cooperatives to establish sectoral cooperative unions at the sub-national level. Thirdly, the Law stipulates that one general cooperatives union may be established in Jordan, and limits membership to this union only to secondary unions, which leaves primary cooperatives who do not wish to become members of sectoral and governorate-level unions unable to unionize in any way.

IV. Legal Friendliness and Obstacles

The Jordanian cooperative laws are certainly not perfect (no piece of legislation ever is), but they contain several elements that reflect good practice and measures that could be useful in other contexts. The most important of these are the following:

- The law sets out a relatively simple registration process, and registration process is not very long (30 days within completion of application). Registration is conceived as a local service through which potential co-operators have only to deal with a single authority to obtain registration. Moreover, the law gives limited discretionary power to the JCC in the registration process, while also providing legal mechanisms for co-operators to challenge any decisions that reject registration applications.



- Legal texts around the roles of the general assembly and board are well articulated and clearly gives the members control in managing their cooperative. For example:
 - The minimum quorum for GAs is legally set at not less than 50% of users and voting members.
 - The GA is clearly identified as the highest authority in all matters relating to the cooperative.
 - The powers and functional areas of the cooperative Board, Chairperson, and Chief Executive are clearly defined in the law.
 - The law states that the performance of the Board should be viewed by the General Assembly only, and therefore -however implicitly- not by the JCC, except when the Board is guilty of contravening acts, rules, bylaws, or laws of the country.
 - Powers to appoint the Chief Executive are given to the Board and subject to rectification by the General Assembly. The law does not give the JCC any power to be involved in these matters.
- The law does not put any restrictions on the formation and registration of more than one cooperative in the same sector in any given 'area', unlike many cooperative laws in the region. This provides an incentive for cooperative formation and agency.
- The law gives registered cooperatives a legal person status and leaves it to the discretion of individual cooperatives to determine the scale of their legal capacity, which can be unlimited or limited by the objective/purpose of the cooperative concerned. The legal person status includes the right to own subsidiaries in another legal form than a cooperative, including in companies.

However, due to the lack of some important provisions, the Jordanian cooperative legislation is deemed more unfriendly than friendly. More specifically:

- The object of the law is not defined at all, leaving ample room for various interpretations of its legal spirit and objectives.
- Lack of clarity regarding the objectives of cooperatives, definitions and preambles in legislations weakens cooperative identify and causes some confusion about the differences between cooperatives and other forms of organization. To bring clarity to thoughts, structures and the work of cooperatives, it is desirable to include cooperative principles, definitions and values in the laws, as suggested in the statement of cooperative identity at the ICA Manchester Congress, and as recommended at the Cooperative Ministers Conference.



- Legislation pays insufficient attention to members' user role, thereby weakening cooperative identity. A cooperative society is a member-based, member-owned and member-managed institution. A member of a cooperative is not a shareholder as in a company, but also a user.
- The Mandate to audit cooperatives has been given to JCC. Authority on Audit should be vested in the General Assembly, and the JCC should not get involved in the annual audit, partly also in view of many cooperatives involved and increasing turnovers and complexities. This does not negate the need for government supervision, if this is done in a similar manner to the supervision exercised by government over other forms of private entities.
- The legislation does not include any provisions regarding facilitations, concessions, or tax exemptions and financial support to the cooperatives, while said provisions are provided to other forms of private organizations.

It is worth noting here that there is a relatively high level of consensus within the Jordanian cooperative movement that the following represent the key legal obstacles and barriers to the development of cooperatives in Jordan:

- Unclear definition of a cooperative: The lack of a clear definition of a cooperative in the law weakens cooperative identity, and renders the law misaligned with both ICA definition and ILO Recommendation 193 in this regard.
- Insufficient recognition of the cooperative principles and the cooperative movement's autonomy and independence in national legislation renders cooperatives a less desirable form of enterprise organization: Cooperative legislations in Jordan provide the JCC with a legal mandate that goes well beyond legislation, registration, dissolution/liquidation, and monitoring the application of the law by the cooperatives functions that are commonly given to government. The Jordanian cooperative law therefore does not effectively translate the cooperative principles into a legally binding framework for the organization of self-determined self-help, or for ensuring minimum government involvement, maximum deregulation, and maximum democratic participation.
- Lack of preferential treatment for cooperatives when it comes to taxes and government support provides a disincentive for cooperative formation. Cooperatives are also excluded from the tax exemptions afforded to companies within the framework of the Investment Promotion Law No. (16) for the year 1995, as well as from the services provided to investors by the Jordan Investment Bureau.



- Superficial representation of the cooperative movement in the JCC: While the Cooperative Law grants cooperative organizations half of the seats of the JCC Board, three of these seats are to be occupied by cooperative movement leaders appointed by the Council of Ministers. A better representation of the cooperative sector could be reached by enabling cooperatives to name their representatives to the JCC through a democratic process. A common misconception among the general public is that cooperatives “should be” controlled by the State to avoid “corruption”. On the ground, it has also become common practice and an integral part of general cooperative policy that government should be kept in the loop about cooperative activities, as a sign of recognition.
- Restrictions on cooperative formation: The Cooperative Societies Charter restricts cooperative formation by stipulating required minimums. The minimum number of members (15) might be too high or too low depending on context. In general, the high minimum number is thought to ensure the viability of the cooperative. There is evidence that this number does not correlate with the viability. The minimum number might have to vary according to the type of cooperative. For example, consumer cooperatives are difficult to organize with few members only, whereas worker cooperatives tend to fail if the number exceeds ca. 10 etc. The same is true for the minimum number of members required for higher-level cooperative organisations. In general, cooperatives should be free to decide. The rule could create artificial protectionist advantages for existing structures to the detriment of their own members and could discourage membership.
- The Cooperative Societies Charter permits the exclusion from membership of persons who do not have a clean criminal record, as well as persons below 18 years of age. Unless the punished behaviour is likely to harm the cooperative, the members should assume their general social obligations by helping to reintegrate such persons into society. Similarly, prohibiting those under 18 years of age from becoming members in cooperatives excludes a large swathe of the Jordanian population from the movement, and limits youth’s participation in national cooperative development processes, including through school-level cooperatives.
- The law does not explicitly allow for both physical/ natural and legal persons to be members of primary cooperatives. In doing so, the law does not enable cooperatives to raise capital from unconventional sources (such as investor members), thereby limiting their financing potential.



V. Summary and Conclusion

For cooperatives in Jordan to grow and develop, they need an enabling environment that promotes and strengthens their autonomy and facilitates their access to forms of technical and financial support that enable them to deliver services that meet the needs of their members. Key to achieving this are the following:

- Developing a policy document for cooperative development, in a participatory manner with all cooperative stakeholders: A supportive policy is necessary in creating an enabling environment for cooperative development. Such a policy should be developed in a participatory manner and harmonized with other relevant policies that affect cooperative operations and development; e.g. Taxation policy, commercial/economic policy, employment policy, industrial and agricultural policy, etc.
- Based on the national cooperative policy/strategy, redrafting cooperative legislations to: (i) make it consistent with the national cooperative policy, (ii) ensure that cooperatives are not subject to any form of external control that compromises their democracy and autonomy, and (iii) recognize and underscore the cooperative principles and values. As in the case of a cooperative development policy, the cooperative law should be popularized by presenting it in simplified, lay -person’s version that is widely disseminated among cooperative stakeholders. The process involved in formulating cooperative legislation must ensure active participation by the key stakeholders through regular consultations, considering their views, needs and concern.
- Developing regulations: The cooperative laws on their own are not enough. There is need for Regulations or Rules that would empower the designated official (Registrar of Cooperative Societies or the JCC in the case of Jordan) to implement the law. Formulation of the regulations should entail a participatory process and must be popularized as is the case with policy and law.
- Developing a national cooperative development strategy (based on the national cooperative policy): A cooperative development strategy forms the basis for the plans, programs and actions that will help achieve the objectives



of the cooperative development policy. Jordan needs a national strategy to advance the cooperative sector that engages all stakeholders. After all, this sector is no less significant or vital than the other sectors that have seen nationwide plans and allocation of enough resources.

Short of introducing the above mentioned improvements to the legislative and institutional framework to facilitate the development of the cooperative sector, there are a number of changes that need to be made in the national legislation in Jordan to make it more cooperative friendly. Some of these changes relate to the Jordanian Cooperative Law; primarily to reduce its scope to public law. Other changes relate to the Cooperative Societies Charter, which needs substantial modifications and further regulations to make it more cooperative friendly. We present these changes below.

- Clarifying the object of the cooperative law. The cooperative law should provide a legal status to the cooperatives and facilitate their effective working. It should also ensure that cooperatives work as genuine entities in accordance with the universally accepted cooperative principles. The legal framework of cooperatives consists of the law, supplementary laws and the bylaws adopted by the members of a cooperative in accordance with the act and rules. The Cooperative Law thus should facilitate the working of cooperatives and should not curtail their autonomous status and change their basic character. Towards this end, revision of the cooperative law should (i) identify the object of the law as assisting in the formation, registration and development of cooperatives clearly; (ii) state that the objective of cooperatives clearly, and in line with ICA definitions; and (iii) include cooperative principles, definitions and values in the law.
- Maintaining good elements of the existing laws in relation to registration, while addressing the few weaknesses in these elements. Maintaining the time limit for the JCC to register, as well as the provisions related to de-facto registration in case of failure of the JCC to register within the specified time limit. At the same time, limit discretion power of the JCC when it comes to registration by introducing a provision where the JCC if in doubt about the viability can issue provisional registration for a maximum period of two years. The JCC should focus primarily on two things before registration is made, namely that:
 - a. the application and bylaws are in conformity with the laws and cooperative identity statement, and;
 - b. the members can use the services rendered by the proposed cooperative.



- Making members' use of cooperative service more prominent in the law. To make a cooperative genuinely member oriented, a member use-based institution, it is necessary to ensure that members use the cooperative services, and if not, that membership is revoked after a year. If this is not feasible, the member should at least lose his/her right to vote and contest elections. The guiding principle should be no use of service- no participation in the management. There should also be a provision in the law if a cooperative fails to hold less than certain percentage of business within the member sphere it should cease to be treated a cooperative. A reasonable share range could be sixty to eighty percent.
- Maintaining the good provisions in the current law regarding member control, while introducing some modifications to further strengthen them. The minimum quorum for GAs should be maintained as no less than 50% of users and voting members. If the cooperative fails to conduct a meeting for its GA for a period of three consecutive years it is a clear indication that members have lost interest in the society and as a result the cooperative should be wound up. The GA should be the highest authority in all matters relating to the cooperatives, and this should be more clearly stated in the law. The GA should not be subject to approval by the Registrar in financial matters, except under contractual obligations. It should not be obligatory for the society to invite the Registrar (JCC) to attend its GA meetings, and invitation should be at the discretion of the cooperative. However, provisions could be made to send agenda and minutes of the GA meeting to the JCC. The powers and functional areas of the cooperative Board, Chairperson, and Chief Executive are clearly defined in the law and these should be maintained. The performance of the Board should be viewed by the General Assembly only, and therefore not by the JCC, except when the Board is guilty of contravening acts, rules, bylaws, or laws of the land. This should be explicitly stated in the law. If the irregularities are of a serious nature and the General Assembly fails to rectify them, action could be taken by the JCC to conduct re-elections or cancel the registration of the society and initiate civil/criminal procedures against concerned officers. However, JCC should not vest interests by dissolving the Board, appointing a temporary Board, or running the society departmentally.
- Audit needs to become the responsibility of General Assembly. The JCC should not be involved in annual auditing, especially in view of the large number of cooperatives involved and increasing turnover and complexities. However, the department may conduct supervisory audits, in the form of management auditing.



- Law needs to integrate text that demonstrates commitment of the government to provide unconditional concessions, facilities, tax exemptions and financial support to cooperatives.
- Maintaining the provision of regular inspection, but explicitly stating that the outcome of inspection is to empower the GA to exercise control over the management of their cooperative. This is needed to ensure that every cooperative is inspected by the responsible government department, if not every year then at least once in three years. The inquiry and inspection report should be placed before the general assembly. The General Assembly should take immediate action in case inquiry or inspection detects any contravention of laws, bylaws and cooperative laws. Other irregularities and rectification should be the responsibility of the Board of Directors and /or the General Assembly.
- Removal of restrictions on cooperative formation for cooperatives with fewer than 15 members. As stated above, cooperatives should be free to decide what number of members they need to make their cooperative ventures viable, and the JCC should only exercise discretion in this regard in line with the recommendation above.
- Removal of provisions that exclude persons who do not have a clean criminal record and persons below 18 years of age from cooperative membership. Unless the punished behaviour is likely to harm the cooperative, the members should assume their general social obligations by helping to reintegrate such persons into society. Similarly, prohibiting those under 18 years of age from becoming members in cooperatives excludes a large swathe of the Jordanian population from the movement, and limits youth's participation in national cooperative development processes, including through school-level cooperatives.
- Including provisions in the law to allow for both physical/ natural and legal persons to be members of primary cooperatives. This would enable cooperatives to raise capital from unconventional sources (such as investor members), thereby enhancing their financing potential.





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