

# Co-operative Legislation and the Co-operative Identity Statement

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Before starting to talk about the relationship between co-operative legislation and the International Co-operative Alliance's Co-operative Identity Statement (CIS), it may be useful to remind ourselves of some of the background that led to the adoption of the CIS on the occasion of the Alliance's Centennial Congress in Manchester in 1995. For more than 20 years prior to 1995, the economic frameworks within which co-operatives in market economies operated had been changing. Traditional trade barriers had been gradually reduced, previously protected industries like agriculture and financial services were being deregulated, and competition from large companies, both national and multinational, was becoming much more intense. In many of the countries of the South, a combination of economic liberalisation, political democratisation, and structural adjustment had drastically changed the operating environment for co-operatives. They were less controlled by government, but also less supported and protected than before. Perhaps the most dramatic changes occurred in the countries where the command economy had previously prevailed. After 1989, co-operatives were exposed to market forces that they had never before experienced. At the same time they lost their privileged position in the economy, and in many cases found themselves subject to violent attack by the new reformers. On the other hand, co-operatives were given an opportunity to return to their previous democratic traditions, and to enter into sectors such as financial services from which they had been excluded.

The drafters of the Co-operative Identity Statement therefore faced the challenge of helping co-operatives deal with this new reality. In countries of the North, the challenge was how to give co-operatives more flexibility to raise capital and deal with the new competitive forces. In the South, the challenge was to demonstrate that co-operatives should not be regarded as an instrument of government policy. And in the countries with

economies in transition, the challenge was to re-establish the credibility of co-operatives as democratic organisations fully compatible with a market economy. One can look at the changes which were introduced in 1995 in a number of ways. The most obvious is to focus on the two new principles which were adopted (see pages 92-93). The first, on "Autonomy and Independence" makes it crystal-clear that co-operatives are "autonomous, self-help organisations controlled by their members". This was the message for co-operatives in the South, and in countries in transition, for whom full independence from the state was now possible. But it is also important to recall the second part of this new principle, which says that, if co-operatives enter into agreements with governments or other organisations, "they do so on terms that ensure democratic control". In other words, the CIS does not close the door to collaboration - even partnerships - between co-operatives and governments, but it sets out clear ground rules for this relationship. The second new principle, dealing with "Concern for Community", was largely designed to help co-operatives in the North establish a separate identity, different from that of their investor-owned competitors which they were growing more and more to resemble. Largely with them in mind, too, the third principle was made more flexible in order to give co-operatives greater opportunity to raise capital from external sources. Of course these two provisions can also be very helpful for co-operatives in the South and in countries whose economies are in transition.

A second way to look at the CIS, and one which I think is very important, is to realise how it re-emphasises the centrality of membership for co-operatives. Every one of the seven principles has been reformulated to put the stress on members. The first, on "Voluntary and Open Membership", and the second, on "Democratic Member Control", are the most obvious. But the third also emphasises how members control the capital of their co-operative. The fourth stresses that co-operatives are controlled by their members, and no-one else. The fifth describes the importance of education, training, and information for members, as well as others. The sixth says that the purpose of "Co-operation among Co-operatives" is to serve members more effectively. And the seventh stresses that co-operatives' policies for sustainable development of communities must be approved by their members.

Here, then, is the essence of the difference between co-operatives and investor-owned companies: the *member*. The CIS makes it clear that the co-operative's relationship with its members should determine the way it is structured, the way it does business, and the way it deals with the outside world. As members are the reason for its existence, a co-operative must be committed to a particularly high level of service to them.

## **Co-operative legislation and the CIS**

The failure to recognise this essential characteristic of a co-operative has constituted a major weakness in co-operative acts in many parts of the world. Without a proper understanding of the true nature of a co-operative, legislative provisions dealing with incorporation, operations, finances, etc can easily become counterproductive in terms of how the co-operative should function. In other words, the CIS provides a universally-recognised definition of a co-operative and, equally important, guidelines about how its values should be put into practice. If this basis is accepted in legislation, the provisions which follow should be much more effective. In the past, there were relatively few co-operative acts which contained references to the internationally-accepted co-operative principles. One of the few, at least in the Asia-Pacific region, was the new Philippine legislation of 1989, which went so far as to include the co-operative principles as adopted by the International Co-operative Alliance (ICA) in the Act itself. The Sri Lanka Act of 1992 has a similar reference to co-operative principles, as do the Acts in force in Malaysia and in the Australian state of New South Wales. Most legislation, however, was in the past either silent on this subject, or else chose to develop its own interpretation of co-operative principles. In Indonesia, for example, Article 2 of the Co-operative Act states that "The co-operative society is founded on Panchsila and the 1945 Constitution and based on the principle of brotherhood."

Following the ICA's proclamation of the CIS, it is rapidly becoming the basis for the definition of a co-operative in new acts. It is specifically referred to in the new Canadian Co-operative Associations Act, which was passed in 1998, and in the draft British bill - still before Parliament - designed to replace the venerable Industrial and Provident Societies Acts.

There is also another recent development which is relevant to this issue. The UN Secretary-General has recently submitted to the General Assembly his biennial report on the "Status and role of co-operatives in the light of new economic and social trends". The theme of this report, for the first time, is legislation governing co-operatives. It provides a very useful overview of previous trends and current developments in co-operative legislation around the world. It also contains some very relevant analyses of co-operative experience in countries in transition to free market economies. In the Czech Republic, for example, the special character of co-operatives was not recognised in any way in the development of the legal framework which governs the operations of co-operatives. "Despite the most strenuous efforts of the representatives of the Czech co-operative movements," the report notes, "government bodies neglected to create suitable economic and other necessary conditions to strengthen the influence of co-operatives under the conditions prevailing in a market economy and towards the solution of social and cultural matters." In Lithuania, on the other hand, the government encouraged the ICA and other international experts to review the draft law on co-operatives, and the drafting itself was done with the participation of representatives of the consumer and agricultural co-operatives. The result is a law which, again according to the report of the Secretary-General, "established legal provisions for the organisation of national co-operatives on the basis of the principles of the international co-operative movement; legalisation of property and non-property rights and relations; and the structure of co-operative bodies, their rights and duties, formation of capital, reorganisation, restriction of activities, etc". There can hardly be any doubt about which of these two approaches will produce the better results.

Finally, the Secretary-General's report contains, as an Annex, "Guidelines aimed at creating a supportive environment for the development of co-operatives", which were prepared by the Committee for the Promotion and Advancement of Co-operatives (COPAC), of which ICA is a member. These guidelines state specifically that co-operative legislation should include a "definition of co-operatives, using the Statement on the Co-operative Identity adopted by the International Co-operative Alliance in 1995 (as well as) recognition of the unique nature of the values and principles of co-operation, and hence the need

for their separate and distinct treatment in law and practice.”

## **Conclusion**

As we all know, co-operative legislation is a vast and complex issue. However, there seems to be no doubt that any co-operative legislation will benefit from a complete and accurate definition of a co-operative, and that the Co-operative Identity Statement of the ICA is the most widely-accepted and useful tool which exists for this purpose. Let us hope that, in the not too distant future, it will form the basis of Co-operative Acts in all countries around the world.

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## **References**

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## Statement on the Co-operative Identity

### Definition

A co-operative is an autonomous association of persons united voluntarily to meet their common economic, social, and cultural needs and aspirations through a jointly-owned and democratically-controlled enterprise.

### Values

Co-operatives are based on the values of self-help, self-responsibility, democracy, equality, equity, and solidarity. In the tradition of their founders, co-operative members believe in the ethical values of honesty, openness, social responsibility, and caring for others.

### Principles

The co-operative principles are guidelines by which co-operatives put their values into practice.

#### **1st Principle: Voluntary and Open Membership**

Co-operatives are voluntary organisations, open to all persons able to use their services and willing to accept the responsibilities of membership, without gender, social, racial, political, or religious discrimination.

#### **2nd Principle: Democratic Member Control**

Co-operatives are democratic organisations controlled by their members, who actively participate in setting their policies and making decisions. Men and women serving as elected representatives are accountable to the membership. In primary co-operatives members have equal voting rights (one member, one vote) and co-operatives at other levels are also organised in a democratic manner.

### **3rd Principle: Member Economic Participation**

Members contribute equitably to, and democratically control, the capital of their co-operative. At least part of that capital is usually the common property of the co-operative. Members usually receive limited compensation, if any, on capital subscribed as a condition of membership. Members allocate surpluses for any or all of the following purposes: developing their co-operative, possibly by setting up reserves, part of which at least would be indivisible; benefiting members in proportion to their transactions with the co-operative; and supporting other activities approved by the membership.

### **4th Principle: Autonomy and Independence**

Co-operatives are autonomous, self-help organisations controlled by their members. If they enter into agreements with other organisations, including governments, or raise capital from external sources, they do so on terms that ensure democratic control by their members and maintain their co-operative autonomy.

### **5th Principle: Education, Training and Information**

Co-operatives provide education and training for their members, elected representatives, managers, and employees so they can contribute effectively to the development of their co-operatives. They inform the general public - particularly young people and opinion leaders - about the nature and benefits of co-operation.

### **6th Principle: Co-operation among Co-operatives**

Co-operatives serve their members most effectively and strengthen the co-operative movement by working together through local, national, regional, and international structures.

### **7th Principle: Concern for Community**

Co-operatives work for the sustainable development of their communities through policies accepted by their members.