CHAPTER-6:
ADVANTAGES AND IMPEDIMENTS

6.0. INTRODUCTION

The cooperative ideology has come to stay in all spheres of development and cooperative institutions have emerged as major organisational structures for harnessing human resources. The cooperative movement, in general, has increasingly become synonymous with economic growth and development in India, and housing cooperatives, in particular, have come to be widely recognised as potential instruments in achieving the goals of national development, national integration and modernisation.

At the same time, a number of impediments presently constrain the smooth functioning of housing cooperatives and hinder the expansion of the cooperative housing movement. These impediments relate to the operating policy and legal environment as well as to the internal organisation,
management and politicisation of housing cooperatives. Partly on account of these impediments, the potential role of housing cooperatives in contributing to national development, national integration and modernisation has not been fully realised.

This Chapter highlights, in two successive sections:

- the advantages of housing cooperatives, and
- the impediments constraining their better and greater performance.

6.1. ADVANTAGES OF HOUSING COOPERATIVES

The distinguishing characteristics of housing supply through cooperatives are joint action, collective security and the absence of a profit motive.

Attendant to these basic attributes are a number of advantages that accrue to members not only in relation to facilitating access to housing, but also in terms of securing better quality of life in the neighbourhoods created and of generating opportunities for more wholesome development of individuals.
6.1.1. Advantages By Way Of Easier Access To Housing:

In general, access to qualitatively superior housing, in the typical housing delivery scenarios that characterise human settlements in India, is easier on a cooperative than on an individual basis on account of the following:

i. land for housing is more easily accessible to cooperatives than to private individuals, especially so in cases like Delhi where housing cooperatives are provided developed land by the Development Authority, and even so in other cases where, while not being so facilitated, they are able to perform acquisition and development tasks that are not really viable at the individual scale and also, in some cases, do enjoy the benefits of exemptions from restrictive land laws that are not available to individuals;

ii. housing finance, likewise, is more readily available on easier terms to cooperatives than to individuals as the former afford a forum for loan recoveries that lending agencies find attractive;

iii. the commitment of members and the absence of a profit motive contribute towards keeping overheads to a minimum and, as a consequence, the housing supplied is
cheaper; and

iv. the involvement of members at all stages of design and construction ensures greater user-responsiveness in the design and better quality of construction.

6.1.2. Advantages By Way Of Better Quality Of Neighbourhoods:

Whereas in other forms of housing delivery, house owners, to begin with, may have little in common, given the current procedures of registration and allotment in public and corporate private housing developments, the members of housing cooperatives are, in a sense, tied together by virtue of having worked closely with each other in the pursuit of their housing endeavours. This forms a potential basis for creating better quality neighbourhoods in both physical and social terms as:

i. housing cooperatives provide an ideal forum for cost-effective and adequate post-occupancy maintenance and management that ensures the physical quality of housing stock created is maintained; and

ii. housing cooperatives function, essentially, as small communities within themselves, promoting and running various social and economic activities for the
betterment of their members, and can easily promote much-needed other forms of cooperatives, such as consumer cooperatives and banks.

6.1.3. Advantages By Way Of Wholesome Individual Development

By the very process of creating satisfactory housing and harmonious neighbourhoods, housing cooperatives fulfil basic human needs in physical and social terms, without which wholesome development of the individual is hardly possible. Furthermore:

i. they foster a spirit of harmony and tolerance, which is crucial for furthering national integration and, thereby, national development, by bringing people from all walks of life together in a participatory endeavour on equal basis;

ii. their democratic character, wherein each and every member has the right to vote and to participate in the activities of the cooperative, besides fostering qualities of self-reliance and self respect, makes housing cooperatives a first school of democracy; and

iii. they promote qualities of leadership and, infact, are a perennial source of community leaders.
6.2. IMPEDIMENTS CONSTRAINING BETTER AND GREATER PERFORMANCE OF HOUSING COOPERATIVES

6.2.1. Impediments Located In The Policy and Legal Environment Of Housing Cooperatives

Financial Constraints

Inadequate housing finance is a major factor constraining housing development in general. It would not be incorrect to say that within this overall constraint the housing cooperative sector is comparatively better off, with a reasonable amount of financial support from financial institutions and an articulate credit network within the sector. However, in absolute terms, the housing finance available to the growing cooperative housing sector is, by no means, adequate.

Impediments in this respect are located at two levels:

i. On one hand, housing finance institutions, while they already are actively engaged in facilitating housing cooperatives, do not, perhaps, pay adequate attention to it in comparison with other, especially public housing, investments.
ii. On the other hand the apex level cooperative finance institutions have a somewhat restricted financial portfolio and rely heavily on borrowings from housing finance institutions, rather than broad-base their resource mobilisation endeavours to include other sources of finance, such as other lending agencies, the organised capital market and international funding agencies, and personal savings mobilisation.

Land constraints

A major impediment in the functioning of housing cooperatives in the inavailability of adequate access to land for housing. This problem is, of course, located in the absence of an articulate land policy for housing in general, which has made for distorted, speculatory and inflationary land markets. Piece-meal interventions such as the Urban Land Ceiling and Regulation Act, though well-intended, have only served to aggravate the situation.

Unlike the public sector, which has at its disposal not only substantial resources but also organisational and legal supports for securing land assembly, and unlike the private corporate sector which essentially caters to an income group that can afford to pay inflated land prices, the cooperative housing sector, with membership from predominantly middle
and low income groups, is at a tremendous disadvantage in the competitive land market.

Even in a place like Delhi where explicit policy support for land supply is envisaged for the cooperative sector through supply of developed land to housing cooperatives at the instance of the Development Authority, the improvement in the situation is hardly commensurate with the extent of policy support on paper. A certain amount of arbitrariness and absence of sound management in the implementation of the land disposal policy have made for a situation where housing cooperatives have received far less support than is suggested in the goals of the land policy as spelt out in the Master Plan for Delhi (1962).

On the whole, in respect of access to land, the impediments constraining the functioning of housing cooperatives can be summed up as under:

i. one, land supply for housing in general is grossly inadequate, and

ii. two, within this inadequate overall supply, the attention paid to the cooperative housing sector is even more inadequate vis-a-vis its qualitative and quantitative significance as a housing supply sub-system.
6.1.3. Inadequate Wider Policy Perspective

Even after 45 years of independence India has still to finalise its National Housing Policy, and although a number of policy measures and programmes have been forthcoming in the housing sector, in the absence of the direction that only a comprehensive policy can provide, the goals of equity and efficiency in housing supply have remained elusive.

The cooperative housing sector has, furthermore, also suffered from the lack of a national policy for cooperatives which has also not been forthcoming, notwithstanding the tremendous role that the cooperative sector is playing in veritably all spheres of the society and the economy of the nation.

On account of inadequate wider policy perspective the development of cooperative housing has been constrained in several ways:

i. In the absence of clear-cut goals and targets for the cooperative housing sector in relation to other housing sub-sectors, the assessment of the quantitative contribution of housing cooperatives to housing supply and the additional supports needed by it, is somewhat
arbitrary, being based upon the past performance of the sub-sector rather than to the goals of the housing sector as a whole.

ii. In the absence of an overall delineation of roles of various supply sub-systems in relation to various income groups, it becomes difficult to secure optimal functioning by concentrating benefits targeted at low and middle income groups in the cooperative housing sector which primarily caters to these groups;

iii. Essential areas such as education and training, which can substantially improve the working of housing cooperatives, have remained largely neglected.

6.1.4. **Legal Impediments**

Housing cooperatives, in the pursuance of their object of providing housing for their members, are affected by several housing related laws such as those governing transfer of land and houses, nature of building construction and development works, housing finance and cooperative incomes, and contractual agreements and disputes. Certain provisions of some of these laws unreasonably disturb the activities of housing cooperatives. The major such impediments are outlined herewith:
i. The Urban Land Ceiling and Regulation Act, 1976, besides having been a major factor adversely affecting access to land by housing cooperatives, affects their functioning through its provisions relating to transfer of property. Under Section-27 of the Act, a notice of 60 days is required to be given before transfer of property. This unduly complicates the procedures for availing loans that financial institutions offer to cooperatives against mortgage of land.

ii. Certain provisions of the Income Tax Act also affect the functioning of housing cooperatives:

a. Section-230A requires housing cooperatives to obtain clearance certificate for executing mortgage documents for loans in excess of Rs.200,000, even as, in initial stages, they are, in fact, not liable to pay income tax, and unnecessarily involves them in protracted procedures.

b. A recent amendment to the Income Tax Act brings under its fold the proceedings of the acquisition of flats of housing cooperatives. The addition to the original Section-269 specifies that every
transaction whether by way of becoming a member or acquiring shares in a housing cooperative, company or association of persons or by way of any agreement or any arrangement of whatever nature whereby persons acquire any right in or in respect of any building or part thereof shall be reduced in writing in the form of a statement of each of the parties to the transaction and shall be registered with the competent authority under the said Act in such a manner and within such time as may be prescribed. These provisions, thus, make it mandatory to register with the competent authority the transfer of flats of a housing cooperative. Section-269AA stipulates the penalties for the violation of the above provisions. As per this, whosoever without reasonable cause fails to comply with the provisions of Section-269AB shall be punishable with rigorous imprisonment for a term that may extend to two years and shall be liable to fine.

b. The insertion of Section-269C in the Income Tax Act has empowered the Government to acquire immoveable property where the Government has reason to believe that the consideration of transfer has not been truly stated in the
instrument of transfer with a view to facilitate evasion of tax liability or concealment of income. The acquisition proceedings can be initiated by the Government at any time within a period of nine months from the date of registration of documents of transfer. The absence of a perfect title during this period can potentially affect adversely the possibilities of a primary cooperative society obtaining a loan against mortgage of the land held by it.

iii. Under the provisions of the Income Tax Act, income derived from rents accruing from general facilities, such as community halls, is not exempt from payment of income tax by the primary cooperative housing societies. Normally such facilities are intended primarily for the use of members and their occasional use by others on commercial basis is also more for the benefit of a larger community and less for the commercial benefit of the particular society. As such, this provision is an undue impediment.

iv. In some states, the provisions of the Indian Stamp Act and the Indian Registration Act, requiring housing cooperatives to pay stamp duty and registration fee on
numerous transactions, create an additional burden on members of housing cooperatives which, for middle and low income group households, can be quite problematic.

v. In some states, the premises of housing cooperatives have been brought under the purview of the Rent Control Act and, thereby, under the jurisdiction of the Small Causes Courts for the settlement of disputes. This is in conflict with the provisions of the Cooperative Societies Acts. Application of the provisions of Rent Control Acts, furthermore, affects adversely the cooperative character of a housing society and considerably impedes its internal management.

vi. In some places, like Delhi, the Apartment Ownership Act has been made applicable to housing cooperatives. The main objective of this Act is to provide for ownership of individual apartments in multi-storeyed buildings, making such apartments heritable, transferrable and mortgageable, and for maintenance of the estate. On the other hand, members of a housing cooperative have an occupancy right which is attachable, transferrable and heritable. The existence of two laws dealing with the same issues poses numerous problems for housing cooperatives. Moreover, cooperatives are based on the
principle of co-existence whereas the Apartment Ownership Act provides an individual approach, thereby creating a wedge in the cooperative housing pattern.

6.2.2. Impediments Located In The Internal Organisation, Management and Politicisation Of Housing Cooperatives

Organisation and management of housing cooperatives

In principle, the cooperative housing sector is as discussed earlier reasonably well organised. In practice, however, the effective functioning of housing cooperatives is somewhat constrained by impediments relating to inadequacies in cooperative laws.

The provisions of Cooperative Societies Acts, apart from differing from state to state, often do not adequately cover matters relating to registration, membership, management, business transactions (including recovery of loans), and post-construction maintenance in primary housing cooperatives, and establishment, powers and functions, and management in district and state level cooperative federations.

This, in a sense is an outcome of the fact that even as the nature of functions of housing cooperatives is inherently
and substantially different from that of other cooperatives, they are governed by the same law. The absence of a special legislation, or at least a special chapter in existing cooperative laws, dealing exhaustively with various aspects of housing cooperatives is coming to be increasingly recognised as a major impediment constraining greater development of the cooperative housing sector.

6.2.2. Politicisation of Housing Cooperatives

Politicisation of housing cooperatives is, in itself, an impediment to the smooth and principled development of the cooperative housing sector. The most tangible impact of politics on the functioning of housing cooperatives is when they come to be dominated by politicians whose primary motive is not the securing of a house, but personal and selfish political pursuits. Moreover, election procedures are hampered, even thwarted, in not only primary societies but also in apex level federations. As a consequence, the democratic character of the housing cooperative movement is increasingly eroded. As the nexus between cooperatives and politicians develops into symbiotic association with both using each other for their ends, the image of the cooperative movement becomes tarnished.
The most significant reason for this state of affairs is the lack of adequate awareness and knowledge of cooperative ideology amongst members who join housing cooperatives for securing a house and do not know, nor are willing to learn, the principles of cooperation. The widespread ignorance, on the part of members, of rights and obligations, makes them highly susceptible to manipulation at the hands of politicians. In this context, individual indifference is only one side of the picture. The other, perhaps more significant, side is the total absence of any institutionalised network for meeting the training needs of the cooperative housing sector. This is the most serious impediment constraining the qualitative growth of the cooperative housing sector and unless a concerted attempt is made to promote cooperative value system through education, no amount of inputs to improve the physical performance of the sector will, in real terms, prove adequate.

6.2.3. Housing Cooperatives And National Development And National Integration

The analysis of the information gathered in connection with this study reveals that cooperatives, especially housing cooperatives, are playing a significant role in promoting national development and fostering national integration.
They contribute directly to national development by meeting the shelter needs of less affluent sections of the society. They foster national integration by bringing together people from all walks of society in a collective endeavour based on democratic participation, and by building cohesive neighbourhoods rather than mere houses.

However, the role that the cooperative housing movement has played and is playing in these spheres, while substantial, falls short of what it is potentially capable of.

In the field of housing supply, the cooperative housing sector has yet to make a substantial impact in meeting the shelter needs of the lowest strata of the society. Arguably, its role in this regard has been constrained by the numerous impediments it faces which make its smooth functioning difficult even when members are from middle income groups, not to speak of economically weaker sections. Nevertheless, this is a serious deficiency that detracts from the image of the cooperative housing movement and its relevance to the real context of housing problems. The movement begins to lose credibility amongst the weaker sections who, moreover, may begin to feel they have no status in the nation, and in national development and national integration.

In the sphere of national integration, the role of housing
cooperatives has been constrained by the fact that individual interest continues to have precedence over collective interest. Thus housing cooperatives are largely perceived as being means to the end of securing an individual house rather than a collective neighbourhood, leave alone a collective society. Thus, the achievements of cooperative housing are, paradoxically, perceived largely in terms of individual houses. A major factor leading to this situation is the lack of cooperative education on a wide enough basis. Another factor is the lack of any direction or guidelines for housing cooperatives, once they have completed the task of securing individual houses for members, to pursue other tasks in building a better community and society. While a number of societies do organise neighbourhood activities on a collective basis, many others do not. Likewise, while community life in housing cooperatives is undoubtedly more harmonious than in many other types of housing, they have the potential to secure much more by way of community education, leadership building and social welfare.

If the potential of the cooperative housing movement in contributing to national development, national integration and modernisation is to be fully realised, it is imperative to address not only the impediments constraining the smooth functioning of housing cooperatives, as outlined in the
previous sub-sections, but also the deficiencies characterising the overall cooperative housing effort, as noted above.

Some possibilities in these regards are suggested in the chapter on "Conclusions and Suggestions".