Chapter II
CO-OPERATIVE LAW AND DEMOCRATIC MANAGEMENT

Co-operative sector aims at the economic promotion and quality of life under self-administered approach. On this ground, the co-operation has been given a crucial role in the programmes for raising production extending and offering services with available technology, with which every member of the rural community finds an opportunity to work. Important aspects leading to effective functioning of democratic system are discussed pertaining to (i) Democracy and cooperatives (ii) Democratic management and business (iii) cooperatives Vs others and (iv) Features of cooperative elections. To what extent the Cooperative Legislation which is helping to achieve the thrust of cooperatives run by democratic management; and about the cooperatives are also discussed.

ABOUT COOPERATIVES

Sir Frederick Nicklson was appointed by Lord Wenlock in 1892 seeking advice for the need of establishing co-operative banks. After a thorough study of the material conditions of the community in the country, he emphasised the reasons for the establishment of cooperatives. He suggested the necessity of cooperative organisation; and
said thus: "Find Rainffeison Society". Taking this view into stock and the recommendations of the famine commission, Devzil Ibbetson has moved and piloted a Bill. This Bill was passed into an Act on 25th March, 1904 and is known as Cooperative Credit Societies Act of 1904. The Act of 1904 was the pioneer action in the cooperative movement in India. The main features of the Act were:

1. Simplicity, as the Act had to deal with a large number of illiterate people

2. Elasticity, as the State Government could have sufficient power to control for development of the cooperatives.

Edward Maclegan was appointed to identify the constraints in the Act of 1904. He noticed that the cooperatives are short of the cooperative ideals. The cooperative movement could become an effective viable unit if it is sound both economically and financially. As a measure towards this, the provincial Governments were empowered to have their own Cooperative Societies Acts to patronage the cooperative movement for smooth and sound functioning. The then Provincial Government of Bombay took the lead by passing the Cooperative Societies Act of 1925.
The aftermath of the World economic depression gave a rude shock to the cooperative movement and many cooperatives could not fulfil the goal for which they were established. As a measure to strengthen the working of cooperatives, the Agricultural Credit Department of the Reserve Bank of India came into being. The prominent committee namely the Agricultural Finance Sub-Committee under the Chairmanship of an eminent economist, Gadgil (1944) was appointed by the Government of India to find ways and means for effective functioning of the cooperatives. The Committee has suggested the unlimited liability. The All India Rural Credit Survey Committee, which was appointed in 1951, found some drawbacks in the cooperatives sector. They are:

1. The democratic authority promoted its own vested interests.

2. Nepotism in advancing and recovery of loan was rampant.

3. The people who could not be unaware of the cooperative philosophy has created problems in the process of effective management.

4. The notion was that the cooperation was a Government sponsored activity.
A good deal of importance has been given by the Government of India after independence to the cooperatives with the aim of restructuring rural India by being constantly seized with the policies and procedures framed out on the recommendations of experts. The cooperatives with multidirectional facets did tremendous services to the people under the diversification of cooperative activity namely agricultural credit, marketing, processing, supply of inputs, consumer services, services to artisans and weaker sections, etc. Today, millions of people have witnessed the cooperatives. "The cooperatives are direct challenge to the private profit seeking system on the one hand, and the totalitarian on the other." To quote the Government of India Policy declaration about cooperation is more appropriate. It stated:

"Government has come to the conclusion that the cooperatives will be the most efficient instruments for accelerating economic development, and the principal means of promoting social justice. Vast resources of human power and finance which lie scattered in the country should be organised on a cooperative basis; and small producers of all types should be encouraged to form the cooperative association with a spirit of self-help and mutual-aid, so that they can contribute their highest potential to the economic and social life of the country".


The cooperative sector in a way could come close to the social and economic goals of the nation. Pandit Nehru delivering lecture on 'cooperation and the mind of the villagers' said thus:

"My outlook is to convulse India with cooperative movement. Cooperation in India for the rural people is absolutely essential. Our whole mental approach was for a constitution and a living structure of society to be built on this approach and the principles of approach .... Therefore, the whole future of India really depends on the success of this approach of ours".  

The success of cooperative movement owes to the effective working of the cooperatives which in turn depends on the style of the cooperative management administered by the democratically elected body. Democracy is the basic principle of the cooperation on which the success of cooperative enterprise lives. In other words; cooperation is a new form of economic organisation with social philosophy and a moral content. Therefore, a cooperative's successful venture lies with the element of democracy which is varied and vital in a cooperative organisation. The International Cooperative Alliance has stated about the democratic system relevance in cooperative organisation thus:

"cooperatives are democratic organisations. Their affairs shall be administered by persons elected or appointed in the manner agreed to by the members and accountable to them. Members of primaries shall enjoy the right of voting one member one vote; and participation in the decisions effecting their societies. In other than primaries, the administration should be conducted on a democratic basis in a suitable form".

The above definition clearly discloses that:

1. The general meeting of the members of a cooperative is supreme in so far as conducting business.

2. The members enjoy equal right of voting and participation in decisions.

3. The affairs of the cooperatives are administered by the management in accordance with democratically expressed will of members.

4. The management is elected in a manner as agreed to by the members.

5. The management is accountable to the members.

6. The gist of the above points clearly as well as critically conveys the democracy which is the essence of cooperation. Klimor of U.S.S.R. says "if the democratic essence ceases to exist, cooperation dees or is degenerated".

OBJECTIVES OF CO-OPERATIVE

The term objective refers to goal to be achieved on scientific approach. An institution's objectives indicate what type of management would be required to achieve the purpose for which it was born. The main objectives of the cooperatives are:

1. To promote economic conditions of the people who join a cooperative as its members.

2. To render services for maximisation of output covering maximum number.

3. To develop non-economic sphere of social activity, particularly the moral, cultural and social interest of members.

4. To take conscious effort for allround development of human life.

5. To adhere to the principles of democracy.

COOPERATIVE LAW

Webster's dictionary defines the term law as 'body of customary or enacted rules and practices', the observation of which is sanctioned and enforced by the supreme governing body in a State and which are recognised by the community as binding. Thus, law is one of the devices by means of which men can reconcile their activities and behaviour with
the ideal principle. To control the affairs efficiently, conveniently, lawfully and uniformly in a country like India where different groups of individuals existed, there was need for the cooperative societies Act in order to provide special privileges and facilities for safe-guarding and furthering the interest of the common man and the down-trodden. The main features of the cooperative law can be visualised as:

**Creation of Cooperatives:**

The cooperative is a lawful organisation created by minimum number of persons belonging to same class.

**Legal Status:**

The cooperative organisation acts as artificial person. In other words, it has a right to own property, borrow and lend money, buy and sell goods, sue and be sued, etc.

**Frame work of Organisation:**

A cooperative is provided a board pattern of organisation under the cooperative law. In other words, what kind of cooperative organisation is to be needed and how it is to be financed and controlled, how surplus or loss is to be distributed and how, if necessary, it is to be wound up.
State Participation:

The cooperative law also provides participation to the Government in the cooperatives. In other words, how the State can effect control and provide assistance in the form of concessions pertaining to capital, grant of subsidy and guarantee capital, loans on easy terms, the provision of trained staff etc.

Auditing and Accounting:

The law provides as to how to conduct audit and accounts of cooperatives to prevent frauds and financial irregularities particularly when the cooperatives receiving State aid.

True Character of Cooperative:

The cooperative law ensures how to ban the entry of speculation and the capitalist from availing themselves of privileges which are not intended for them.

The cooperative Law of Andhra Pradesh is analysed in the following paragraphs as it relates to the elections and ensures to healthy and effective democratic management of cooperatives.
In a democratic organisation like cooperatives free and fair elections to the Board of Management of directors provide an invaluable opportunity to members to choose, able, assiduous, disciplined and dedicated representatives from among themselves to shape the destiny of the organisation. The elected representatives hold key for the success of the cooperative particularly in the context of absence of professionalisation of management, especially at the base level of the structure.

DEMOCRACY AND CO-OPERATIVES

How the democracy is revelant in cooperative organisation is briefly discussed as: The cooperative as per International Cooperative Alliance, is being primarily an association of human beings; the status of all its members should be equal and all should have equal opportuni­ties of participation in decisions and expressing views on policy. The objective of cooperation, as distinguished from a private firm is to member-users, and to effective in registering the needs of existing and potential members. Added to the members are the active participants and just not investors who wish to derive profit on their capital. The cooperative uniqueness in relation to mobilisation of capital is again reflected in the principle of democracy in the sense not depended on the capital floated in the open market. The principle of one man - one vote being central
which appears to be totally different from joint stock company. The members' contribution is being counted in effective transactions done but unlike mere contribution in industries. "Democracy is the principle which best distinguished the cooperatives from any other economic and social system and that at the same time this principle offers the greatest hope for the future" says Lambert of Balziam.

Whether the cooperatives adopt and observe in practice the principles of cooperation. How far do the cooperative principles ensure the democratic management? The most important principles that inspired the cooperative democratic management are discussed briefly in the following paragraphs.

DEMOCRATIC CONTROL

One of the important principles is democratic control. In other words, each member has only one vote, irrespective of the number of shares held by him. In a cooperative society, each member stands on the basis of equality and gets an equal opportunity to participate freely in the conduct of its affairs.
VOLUNTARY MEMBERSHIP

The chief characteristic of a cooperative organisation is voluntary form of association. There is no compulsion on anybody to join a cooperative society. Membership and withdrawal in a cooperative are voluntary. The principle voluntarism is considered to be cardinal and vital to the cooperative character of a society.

SELF - HELP THROUGH MUTUAL HELP

Self-help and mutual-help are the essence of cooperation without these, there is no genuine cooperation. In the words of Indian Cooperative Union, mutual aid is the core of personal relationship amongst members. It's motive is each for all and all for each. Because cooperation is based on self-help, the emphasis is always on working together.

POLITICAL NEUTRALITY

The cooperative is an economic enterprise and not an instrument for political action. In other words, a cooperative comes into being to serve its members by improving their socio-economic status but not to serve its members for political groups. Further, this principle envisages that there should be no discrimination, either among applicants for membership or among actual members on political ground.
Inspite of various means prescribed in the form of principles to achieve the main thrust of cooperatives, if one could visualise the history of cooperation clearly and critically, he may get doubt about the validity of the cooperative principles. In the survey, the author has found that some of the cooperatives could not adhered to the principle of open membership; and cases of voilation of this principle is observed. For example, reservation on the board of directors to the group of weaker sections has been provided and like-wise lower fee or less share capital for membership has been considered. This is contrary to the fundamental principle of equality. Again it is agreed that the principle of democracy is also not applicable in all situations. In other words, it is a fact that democracy is an essential element of cooperation. Unless the member does participate in the affairs of the cooperative, he has no voting power. The Cooperative Law in the context of applicability of cooperative principles, it is inferred that the legal provisions with regard to admission, withdrawal, expulsion of members, purchase and sale of shares by the State, diversion of surplus funds for cooperative education etc., do not find a place in the Act or Rules, but find in bye-laws of the cooperative. Further, one can not find in the Act or Rules, a place for the modern management of the cooperatives and to prevent the growth of the vested interest.
DEMOCRATIC MANAGEMENT AND BUSINESS

As is learnt that the cooperative is a democratic organisation. Open membership which is one of the principles International Cooperative Alliance is to bear in mind without which democratic management is an illusory. A member not participated in the services of a cooperative cannot claim a right to participate in the cooperative management. Hence, the fate of democratic management is that the participation in management must be conditional in extending services by the cooperative. The uniqueness of a cooperative business is closely related to its democratic basis. Thus, the distinctive features of business organisation of a cooperative could be traced to its democratic basis. The relevant issue is how cooperative democracy affects business; and how the business organisation affects cooperative management. This is dealt in the following sections.

Democracy is the counterpart of perfect competition in economics. Thus, the link between democracy and politicization is very much close. Cooperative democracy can not be an exception because it allows access and competition for the position in the board of management. Politicization through means of democracy mobilises groups behind a leader
within the cooperative has several positive aspects. This process itself is educative. Secondly, it is used for mobilising members participation. The negative aspect of politicization is using the cooperative as a springboard to capture elsewhere. For example, on account of such politicization, elections to the various bodies would indefinitely be postponed. In Andhra Pradesh, the elections to the cooperatives were conducted in 1981 after a long period of 10 years; and the elections are due since 5 years. The present ruling Government superceded the office bearers of the cooperatives. Another aspect is use of State power affecting cooperative democracy adversely in relaxation of the rules and procedures pertaining to loan making as well as loan recovery. Such political interference undermined the competence of the managers and morality of the staff and, thus, paralysing the cooperative system. This ill is not due to the inherent weakness of cooperative democracy itself but due to the political milieu within which it is functioning. The cooperative democracy does not effect the business efficiency if:

1) A cooperative business is strongly interwined with the predominant business of the individual member and
2) Motivation for leadership is not just pecuniary but for the pleasure. The politics in Maharastra Cooperative Sugar
Factories does suggest that democracy need not affect business efficiency when the two conditions (specified above) are met. Another piece of evidence from two cooperative central banks in Andhra Pradesh suggests that a central cooperative bank with democratic management is not inferior to a central bank with a nominated Board in terms of business efficiency. The democratic management would safeguard with reference to:

1) Admission of members

2) Representation to the weaker sections on the Board of Management

3) Allocation of certain percentage of the benefits of the cooperative to weaker sections

4) Restrictions on the period of the office of the members of the Board.

The above safeguards are necessary to ensure against appropriation of the benefits of the cooperation and retain the monopoly power for long and continuous period. However,


6. Kutumba Roa, M., Management of Central Cooperative Banks - A Case Study of Two Central Cooperative Banks in Krishna District, Andhra Pradesh, Waltair; Andhra University, 1982 (Dr. Work).
denial of genuine leadership of cooperatives is not ruled out under the last safeguard. If it is so, it is much worse than the disease itself. Member vigilence and member education can overcome this drawback.

COOPERATIVES AND OTHER ENTERPRISES

The term principle is described as a governing law or rule of action. The principles, generally, are derived from generalisation through logical reasoning and are verified by tests of broad application. The meaning of the 'Law' is same what similar to the definition principle (The Webster Dictionary). The cooperative principles can understand properly by comparing with other enterprises viz., private sector, and public sector. There may be other variation such as joint sector or national sector too. Where the private sector is based on the concept of socialism, Government ownership and control. The cooperative form of organisation on the other hand has been conceived as an association of human beings engaged in certain activities for the collective benefit of its members.

The fundamental features of different forms of organisations vary with reference to their (a) objectives (b) ownership, (c) control; and (d) attitude to the market. But, essentially, the principle of management has been the same. The main differences between the public, private and cooperative sectors are identified and are given in tabular form.
FEATURES OF ENTERPRISES

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COOPERATIVE ELECTION - ITS FEATURES

The Cooperative Legislation which governs the election of leaders and sets the role of leadership in the management of cooperatives. It should provide the framework within which the members' capacity to bring about the desired change is enhanced. In other words, it helps free and fair elections for emergence of right type of leadership and its effective functioning. If the thrust of Legislation is not to meet this tendency, more harm than good is to be done.

Cooperative elections are governed by various provisions of Andhra Pradesh Cooperative Societies Act, and 22, 22-A Rules, 1964 as amended up to 1981 on the eve of elections to cooperatives. The election programme for the cooperative societies was announced and the poll was conducted as per the time schedule with the aid of State administrative
machinery. A specified number of seats on the Board of a few cooperative societies are reserved for the weaker sections (scheduled castes, scheduled tribes and backward classes). The cooperative societies are required to bear the election expenses. This new approach to cooperative elections is said to have a salutory effect. The elections were by and large conducted in peaceful way. A few members to the Board were elected unanimously. Further, the weaker sections got fair representation on the committees of many societies and took even the reigns of power in some societies. The ratio of the elected members from among youth and women has considerably increased in 1981 elections. Rule 22-A, prescribes the total number of seats, the number of seats reserved for scheduled castes, scheduled tribes and backward class members. The seats open to all and seats to be filled in by nomination in respect of notified credit and marketing societies as well as sugar factories. Regarding the other societies, the constitution of committee is governed by the bye-laws of the respective society.

ELIGIBILITY TO VOTE AND CONTEST

Every person who is a member of the society, 45 days prior to the date of poll is eligible to vote. A person who is disqualified to be a member of the committee under section 21-A and 21-C of the Act is not eligible to file
nomination. The following are the disqualifications of a member to contest. If he:

1. is a near relative of such paid employee of the society or its financing bank.

2. is in default to the society or any other society for the period as may be prescribed.

3. acquires any interest in any subsisting contract made with a work being done for the society.

4. is of unsound mind and stands so declared by a competent count, a deep, mute or a leper.

5. is appearing as legal practitioner on behalf of or against the society.

6. is carrying on such business as may be declared by the Registrar to be in conflict with the objectives or interests of the society.

7. has been sentenced to imprisonment for an offence under the protection of civil rights, 1955

8. is a member of the committee of more than two apex or two central societies, or one apex and one central society.

9. was a member of the committee for the two consecutive terms.
ELECTION OF OFFICE BEARERS

As soon as the members of the committee of a society are elected, the election officer shall convene, not withstanding anything in the bye-laws of the society specifying the period of notice, a meeting of the newly elected members of the committee for the purpose of election of the president, Vice-president, Treasurer, Secretary and other office bearers of the society. He presides over the meeting. The quorum for such meeting shall be the majority of the elected members of the committee. The election of office bearers shall be by showing hands unless a poll is demanded in which case it shall be held by secret ballot.

If any vacancy on the committee arises in the absence of a valid nomination or on account of the same having been declared as such by the Election Officer by the resignation of any elected member, it shall be filled by the elected members of the committee at the meeting convened for the election of office bearers.

TERM OF BOARD MEMBERS

The term of office of the board or any of its members is three years. If for any valid reason the election of the members of the committee could not be held
by the time of expiry of the term of the existing committee, the Registrar may extend the term for a period not exceeding one year.

ROLE OF THE BOARD

The power of the management of a society shall vest in Board, constituted in the manner prescribed in the section 31 of the Act. The specific functions of the Board of a cooperative are prescribed in its bye-laws. They are: The Government empowered to nominate the full period board and supercede the board and initiates disciplinary action against any member or members of the committee, if found guilty. The Board has to work within the legal and policy framework set by the Government and the financing agencies. As the policy making is peripheral, the role of the Board is, by and large, limited to approval of the policies suggested and monitoring the implementation of those policies. It's role in relation to policy making is limited to the representation of its view point to the policy maker either direct or through federation. But the committee has limited options to exercise in implementing the policies and procedures considering the local conditions.
CONCLUSION

A clear understanding of application of principles becomes inevitable for the very existence of the cooperatism. A need for reformulation of the principles of the cooperation keeping in view the dynamic character of the cooperatives is the need of the hour. This factor will determine the cooperative ultimate success and availability of an inspiring and dynamic leadership.

Cooperative Law is by and large a sound piece of Legislation upholding the principles of democracy and imbibing the spirit of national policy. The rules and provisions as amended up to are conducive to promote the functioning style of cooperatives as well as members' socio-economic status. It is conceived that there is no need for the improvement of cooperative law, but some of the provisions called for fresh look and necessitate a revision.