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# **WORLDWIDE REGULATION OF CO-OPERATIVE SOCIETIES AN OVERVIEW\***

Hans-Hermann Münkner\*\*

## **Abstract**

A short survey of such a vast subject matter cannot be complete. It remains a reasoned but arbitrary collection of ideas, data, facts and figures, biased by the personal experience of the author and his access to sources, inevitably leaving gaps.

In the first part of the paper, the "co-operative society" as a legal pattern is defined and distinguished from other legal forms. In the second part, an overview is given of the different concepts of co-operatives, varying considerably from one country to another and even within countries. The main part of this paper deals with describing legal patterns of co-operative societies from different perspectives: (a) by origin, (b) by type of co-operative and (c) by continent. A special chapter is dedicated to innovations, e. g. appropriate legal technology, trends to develop supra-national co-operative law and in new fields: multi-stakeholder co-operatives and social co-operatives as part of Social Economy. Conclusions are drawn regarding international guidelines for good co-operative legislation around a common core – the Statement of Co-operative Identity of the International Co-operative Alliance (ICA) – as contained in the UN Guidelines of 2001 aimed at creating a supportive environment for the development of co-operatives and the International Labour Organization (ILO) Recommendation 193 of 2002 for the promotion of co-operatives. A review of past experience highlights the critical points identified as benchmarks, obstacles and trends of the future work of law-makers dealing with co-operative legislation.

## **Keywords**

Co-operative society, co-operative legislation, comparative study of co-operative law, worldwide overview, appropriate legal technology, ICA co-operative principles, supportive legal environment, trends and innovations in co-operative legislation.

## **JEL classification**

P13, K20.

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## 1. Introduction

To start this survey, first of all the subject matter of worldwide regulation under review – the co-operative society – has to be defined and distinguished from other legal patterns. In a second part of this paper, an overview is given of the different concepts of co-operatives, which vary considerably from one country to another and even within countries. The main part of this paper deals with seeing legal patterns regulating co-operative societies from different perspectives: (a) by origin, (b) by type of co-operative and (c) by continent. A special chapter is dedicated to innovations. Subject matters covered are: appropriate legal technology, trends to develop supra-national co-operative law and in new fields: multi-stakeholder co-operatives and social co-operatives as part of Social Economy and other legal forms for enterprises with social objectives. In a summary, conclusions are drawn regarding international guidelines for good co-operative legislation around a common core – the Statement of Co-operative Identity of the International Co-operative Alliance (ICA) – as contained in the UN Guidelines of 2001 aimed at creating a supportive environment for the development of co-operatives<sup>1</sup> and the ILO Recommendation 193 of 2002 for the promotion of co-operatives<sup>2</sup>. A review of past experience highlights the critical points identified as benchmarks, obstacles and trends of the future work of law-makers dealing with co-operative legislation.

At the beginning a caveat: such short survey of a vast subject matter cannot be complete. It remains a reasoned but arbitrary collection of ideas, data, facts and figures, biased by the personal experience of the author and his access to sources, with the courage to leave gaps.

## 2. Co-operative societies as a socio-economic phenomenon

### *Organised self-help*

Co-operation is an age old human survival strategy in times of need. It reaches from autochthonous forms characterised by hierarchy according to gender, age and position in a subsistence and barter economy to “modern” forms with open and voluntary membership, value based management, internal democratic structure and de-emphasised role of capital in a money and market economy. The common core is a worldwide accepted *leitbild* consisting of a definition, lists of values and principles (ICA).

### *Definition*

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

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<sup>1</sup> UN Resolution A/56/73 E/2001/68.

<sup>2</sup> ILO R193 - Promotion of Cooperatives Recommendation, 2002.

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

1. Voluntary and Open Membership
2. Democratic Member Control
3. Member Economic Participation
4. Autonomy and Independence
5. Education, Training and Information
6. Co-operation among Co-operatives
7. Concern for the Community

There are different views and focus of definition, seeing co-operative societies as a:

- form of organisation
- form of doing business
- legal pattern

According to different concepts and models, co-operatives are seen as:

- autonomous self-help organisations (SHOs) in a liberal market economy – with regulations ranging from free choice of legal form, special legal pattern, modified general legal pattern to formal or informal co-operation;
- organisations for mutual help;
- instruments for political transformation in a centrally planned and state-controlled economy – the socialist model, no longer in force but still in the minds;
- part of a social economy, practicing a different way of doing business.

## 3. Overview by origin

The founding fathers of "modern" co-operatives developed their concepts almost simultaneously in England, France and Germany in the middle of the 19<sup>th</sup> century with predecessors reaching to the first half of the 19<sup>th</sup> century (Robert Owen, William King, Henri de Saint-Simon), reacting to extreme situations of need threatening the lives of ordinary citizens. The focus differed depending on the main target group (in the UK: consumers; in France: craftsmen; in Germany: farmers, urban craftsmen and traders) in different political and legal environment (in the UK: freedom of association, no

tradition of codification, freedom of choice of legal pattern; in France: initially no right of free association, obligation to use the existing legal form of company with variable capital). Later special laws or decrees for special types of co-operatives were made, but only in 1947 a general co-operative law which is still no full codification. In Germany: early official recognition and codification of a special law for co-operatives (1867, 1889)<sup>3</sup>.

### *England – Rochdale Principles*

The principles set by the Rochdale Pioneers for their co-operatives were: open membership; democratic structure (one member – one vote); distribution of surplus in proportion to business done with the co-operative enterprise; limited return on capital; only cash sales; political and religious neutrality and promotion of education. These principles are still the nucleus of the international co-operative principles of the ICA.

The Rochdale Pioneers did not aim at changing the system of market economy. They wanted to generate their own capital within the existing system in order to enable members to build up their own self-managed enterprises supplying them with consumer goods of good quality at a fair price. They returned part of the surplus earned to their members as patronage refund and built up indivisible reserves from undistributed surplus. This concept of consumer co-operatives proved to work and attracted many followers.

### *France – Different approaches to changing the economic system*

The French co-operative founding fathers wanted to develop an alternative to the prevailing economic and social system, which they considered to be unjust and exploitative. In France craftsmen suffered most from competition of new industrial producers. They became factory workers with miserable working and living conditions. At that time, there was no public social security network like in Germany, where social insurance was introduced already in 1890.

Their concepts of reform aimed at creating a more just and human economic and social order, partly following Christian-socialist, utopian socialist or Marxist ideals. Accordingly, the first French co-operatives were workers' productive co-operatives, self-administered enterprises and factories financed by state funds. They also designed alternative forms of common working and living in co-operative communities, models which later were applied in the Israeli kibbutz. The French state watched co-operatives with suspicion. A law on associations legalising freedom of association was only promulgated in 1901. The general law on co-operative societies was made in 1947.

### *Germany – Early codification of co-operatives as a special legal pattern*

In Germany, modern co-operatives developed as a reaction on land reforms and the industrial revolution in the middle of the 19<sup>th</sup> century. Thrift and loan societies and agricultural supply and marketing co-operatives spread in the rural areas following the models of Raiffeisen and Haas, while in the urban areas supply co-operatives of

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<sup>3</sup> Much of this law was still in force in 2006.

craftsmen and traders, as well as peoples' banks, were created according to the concept of Schulze-Delitzsch.

Hermann Schulze-Delitzsch (1808-1883) combined the knowledge and experience of a judge, a parliamentarian and a promoter of co-operatives in one person. This enabled him to write a co-operative law which became a worldwide imitated model. In the 1850s he promoted the formation of supply co-operatives for carpenters and shoemakers; in 1850 he initiated the establishment of the first credit co-operative called "Vorschußverein" (advance association). In 1858 there were already more than 100 credit co-operatives. Their number grew rapidly. They called themselves "Volksbanken" (peoples' banks) and were closely linked to the middle class.

Schulze-Delitzsch's Co-operative Societies Act was developed from the by-laws of the first societies and accordingly, close to practice. After being passed by the Prussian Diet in 1867, it became law in the Northern German Federation (*Norddeutscher Bund*) in 1868 and in the entire German Reich in 1889. Following German legal tradition, it was a full codification, however, granting autonomy to co-operatives to adjust the general legal pattern to their needs. Co-operative societies (initially called associations) were construed as business associations. In order to compete with large scale enterprises, craftsmen and retail traders needed access to low priced raw materials and goods of high quality. To achieve this, co-operators in one town or region had to pool their purchasing power and buy jointly. Supply co-operatives of craftsmen and retail traders were formed. Because all members agreed to be jointly and severally liable without limitation for the debts of their co-operative society, they managed to obtain wholesale purchases on loan.

#### **4. Overview by continent**

According to international co-operative standards, all types and forms of co-operatives - service co-operatives (including consumer co-operatives) and producers' co-operatives - are defined by the same criteria and in most countries they are regulated by one law. Both types of co-operative societies have the same general objectives, the same membership rights and obligations, the same organizational and financial structure and follow the same rules. The basic difference is that in service co-operatives owners and users are the same persons, while in producers' co-operatives, owners and workers are identical. These considerations are important to understand the concept of co-operation still to be found in countries formerly belonging to the Soviet Union.

##### **4.1 Europe**

###### **4.1.1 Western and Southern Europe**

In the United Kingdom (UK) there is no full codification of a special law for co-operative societies, which are usually registered as Industrial and Provident Societies (IPS) but also have to meet the requirements of a "*bona fide* co-operative" laid down outside the law. These requirements correspond largely to the ICA co-operative principles. Ian Snaith characterises this system as "Freedom of choice or confusion". The choice is between different legal forms of company, partnership and or IPS.

In Germany there is codification of a co-operative law since 1867, perceived as a special type of business association based on the principles of self-help, self-administration and self-responsibility ("3S"). Co-operative societies have to pursue the special, legally prescribed objective of promoting the economic interests of their members.

In France co-operatives are seen as a type of company with variable capital<sup>4</sup>. There are numerous special laws and decrees for special forms of co-operatives and, in 1947, a general law on co-operatives was made, but is still no full codification, while special laws remain in force, supplementing the general law.

In Spain there is a general national co-operative law but some regions have autonomy to make their own regional laws and in additions there are also special laws for special types of co-operatives, leading to a total of about 50 co-operative laws.

In Italy, The Netherlands and Switzerland, co-operatives are regulated in the Civil Code, supplemented in Italy by special laws and regional autonomy to make own co-operative laws.

In Belgium, co-operative law is part of the coordinated laws of commercial societies, since 1995 also including special regulations for societies having social objectives. Social co-operative activities can also be carried out in the legal form of non-profit association (asbl).

In Denmark there is no special co-operative legislation but a strong co-operative movement. Other legal forms are used for regulating co-operative activities with adjustment in the by-laws.

#### *4.1.2 Socialist co-operatives in the former Soviet Unions and in the "Eastern Block"*

Lenin's Plan of 1923 for the development of co-operatives in the Soviet Union was based on a concept of co-operation as a political tool. In the Soviet Union tasks and goals of co-operatives were to serve as instruments in a centrally planned state-economy. Their role was to help to transform private property of means of production into state-property and private enterprises into state-controlled collective enterprises or state-enterprises, according to the motto "*what we cannot nationalise, we co-operatise*". Consumer co-operatives were regarded as mass organisations of the socialist party having economic and social objectives.

Today, with few exceptions – North Korea, Cuba – co-operative societies of the socialist type do no longer exist. However, after the end of Cold War the transformation of socialist collectives and state-enterprises into market oriented private enterprises and service co-operatives proves to be much more difficult than thought, especially in the Asian states which were formerly part of the Soviet Union.

By underlying concept, co-operatives being part of a centrally planned socialist economy differ from co-operatives as promotion-oriented business organisations working in a market economy. Socialist co-operatives were sub-divided into production co-operatives classified as commercial organisations and consumer co-operatives classified as non-commercial organisations. Both carry out entrepreneurial

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<sup>4</sup> Title III of company law of 1867.



activities for achieving the objects for which they were formed: making earnings in excess of expenditure (called profit or surplus).

According to the socialist concept, co-operatives organisations have political, economic and social functions, while co-operatives in a market economy have mainly economic functions pursued by value-oriented management. In the countries of Eastern and Central Europe, there is still the problem how to deal with the socialist past. In many of the countries, co-operatives still have to combat the negative image of the socialist past. For the law-makers, the problem was – and sometimes still is – to provide a legal framework for autonomous co-operative self-help organizations serving the economic and social interests of their members in the new environment of a market economy. The idea that socialist collectives, state enterprises and political mass organizations could be transformed into autonomous co-operatives simply by privatising collective property has proved to be unrealistic. Such reforms destroy socialist property but usually leave the state's intervention mechanisms in place. More is needed than changing the firm name, formal adoption of international standards and the transfer of property rights without power to dispose of such property. Such steps are insufficient to bring about a fundamental transformation of socialist economic units into market oriented enterprises.

Until today, the legal framework for co-operatives is directly affected by ambiguities and contradictions in the political arena, e.g. one law based on several conceptions, using the same terms with different meanings, half-hearted reforms without expressly repealing the old regulations and without creating an equal level playing field for co-operatives with other enterprises. On the other hand, radical changes like in Poland and the Czech Republic have caused more harm than good.

In Poland, dissolving all politicized and greatly state-controlled co-operative superstructures resulted in not only dismissing the teacher but also destroying the school. In the Czech Republic, three steps were taken in the transition phase: removing state control, re-establishing members' rights and regulating ownership i.e. restitution of all collectivized property to the former owners, even if this meant to break up large collective enterprises without a chance for workable alternatives; re-registration of transformed enterprises in co-operative or other legal form.

In other countries, more subtle methods of transition were applied.

In Hungary, after promulgating a law on small co-operatives in 1981, a new law for all co-operatives was made in 1992 together with a law on enforcement of this new law on co-operatives based on private property. Socialist collectives were transformed into collectives based on private property obliged to assign their assets to their members in form of "quotas" i.e. transferable "business shares". Members were granted the right of pre-emption, also entitling them to annual dividends but without voting rights for non-members. In part this reform served to legalise illegal privatization in form of establishing small family farms or companies.

Others like the Baltic States followed the Soviet Co-operative Law of 1981 promoting the creation of numerous small service co-operatives.



In the Former German Democratic Republic (GDR), after initial attempts of restitution before compensation, a special legal framework was offered which allowed former collective farms to be transformed into market oriented agrarian co-operatives with efficient management and access to modern farm technology. This transformation was achieved with active support by the West German co-operative movement. Collateral damage of this reform was high unemployment and loss of social infrastructure in East German villages.

In Romania attempt were made to revive the old Commercial Code of 1897, containing regulations on co-operatives<sup>5</sup>, but finally new laws were made in 1990 and 1991.

In Russia, the new Civil Code of the Russian Federation contains provisions on producer co-operatives and consumer co-operatives. Special co-operative laws were made for Consumer Co-operatives (1992), Production Co-operatives (1995) and Agricultural Production Co-operatives (1995). Co-operative societies formed before 1992 had to re-register under the new law and to comply with its provisions.

## *4.2 Asia and Australia*

### *4.2.1 Japan, North and South Korea, China and Vietnam*

Raiffeisen's ideas reached Japan around 1890, when a German professor (Udo Eggert) taught at a Japanese University and published a book "Policy of Promoting Japanese Agriculture", emphasising two roots: autochthonous forms of organised self-help and an imported model. Japanese research workers also studied in Germany and brought their findings back to Japan. Influenced by the German model, an Industrial Co-operative Association Law was made in 1900, covering four types of co-operatives: credit, marketing, purchasing and production co-operatives, later several special laws followed<sup>6</sup>. Today's legal framework of co-operatives in Japan can serve as an example that state regulation does not necessarily have negative effects, but rather can create an order of things in which individual and group interest can develop freely and at the same time be protected against potentially dangerous business and unfair practices. Much depends on how the regulations are made and with what intention<sup>7</sup>.

As regards South Korea, the first Agricultural Co-operative Act entered into force in 1957, re-organising the agricultural co-operatives formed during Japanese occupation. In 1961 this Act was replaced by a new agricultural co-operative law amended nine times between 1961 and 1999. Parallel to this, several laws for other types of co-operatives were made, following the Japanese example.

North Korea is the only remaining country in Asia applying the socialist model of collective farms and state-enterprises in its original form.

Ideas of "modern" co-operatives reached China on different routes: the German Raiffeisen/Schulze-Delitzsch models, studied by Chinese scientists directly and via Japan and the socialist model via Russia. Dai Jitao used the Japanese Industrial Co-

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<sup>5</sup> Art. 221-235.

<sup>6</sup> E.g.: Fisheries Act (1901, revised 1948), Forest Owners Co-operative Association (1907, revised 1951).

<sup>7</sup> Examples are: restriction of the area of operation of consumer co-operatives to one prefecture and to business with members only, and the Amalgamation Aid Laws 1961 to 1982.

operative Association Law as a model and emphasised that the advantage for Chinese of using Japanese knowledge was that the Japanese, studying new co-operative models during industrialisation in Europe, had already filtered out what could be used in Asia and the scientific language of that time was largely written in Chinese characters. In the 1950s the Socialist model of collectivisation was introduced. Like in other socialist countries, instead of having one national co-operative law, provisional regulations were made and administrative procedures prescribed which were frequently amended to match new practices. In 1985, co-operatives could take different legal forms as shareholding companies or rural credit co-operatives which were actually branches of the State Bank of Agriculture. After abolition of peoples' communes, collective ownership of farm land and private use was introduced as the "household-contract-responsibility-system". In 1990, provisional regulations of rural share-holding co-operative enterprises were made and Rural Co-operative Funds or Trusts restricted to local areas were allowed as a form of organisation for private use of agricultural land while the ownership remains collective.

Chinese law-makers find themselves confronted with a difficult task. On the one hand they want to remain in touch with modern economic and co-operative development, allowing autonomous co-operatives to build up their own independent supply and marketing network by organised self-help. On the other hand they are supposed to follow government plans and to maintain the dominant role of the socialist party and the banking monopoly of the state. The problem is to create a favourable environment for co-operative development in which the positive effects of co-operative development can be achieved e.g. voluntary membership and mobilisation of members' resources in locally rooted organisations which the members trust and which they control and at the same time retain State and Party influence on such co-operatives. This contradiction between voluntary co-operation and government control is clearly visible in the Farmer Professional Co-operative Law of 31<sup>st</sup> October 2006, approved by the National Peoples' Congress in its 24<sup>th</sup> session. This law leaves important questions without an answer:

- What is the main objective of the co-operative? To promote the interests of its members, or to implement state policy?
- To what extent can co-operatives deal with non-members?
- There are only provisions regarding primary co-operatives. Do co-operatives have the right to federate according to the international co-operative principles of "co-operation among co-operatives"? In art. 3 of the law, where the co-operative principles are enumerated, this principle is missing.

Furthermore, this co-operative law is not a pure organisation law, but also contains elements of government's policy on co-operatives, which means that changes in policy will also require changing the organisation law. The common mistake to perceive co-operatives as instruments of development policy is repeated (art. 49-52). While in art. 4 co-operatives are defined as voluntary, self-controlled self-help organizations of agricultural producers of the same products, they are seen as development tools in the hand of government (art. 49). According to art. 8, co-operatives have as their objective to promote the interests of their members but they have to follow

government directives. Furthermore, co-operatives can be empowered to carry out public rural and agricultural development projects and thereby become agents of government's development policy. Art. 4 implies that members can be granted public funds in addition to their share contributions. Financial assistance usually leads to dependence of co-operatives on external funding. This is confirmed by art. 8, in which the state is mentioned as the promoter of farmers' co-operatives, offering financial means and other services but at the same time determining the direction of development and becoming not only the partner but also the director of the co-operatives. Financial support by public funds is expressly stated as part of government's policy (art. 51) together with tax exemptions (art. 52).

To give farmers access to loans while respecting the state monopoly in the field of banking, rural co-operative foundations were introduced. In 1996 such foundations existed in 15 percent of all villages in China and in 87 percent of the villages in the Sichuan province. Instead of a law, a number of government circulars were issued from 1987. The rural co-operative foundations are an institutionalised form of co-operative society with collective capital resembling the *stiftungsfonds* of Raiffeisen. Compared to existing rural credit co-operatives which are practically branch offices of the State Bank of Agriculture, they resemble locally rooted co-operatives<sup>8</sup>.

Law-makers in Vietnam face similar problems of reconciling their search for an appropriated legal framework for self-reliant and autonomous co-operatives with their claim to maintain government control, party dominance and the state monopoly in the banking sector.

#### *4.2.2 Former Soviet Union member states in Asia*

In the former Soviet Union member states in Asia, a major problem is to re-organize former collective farms and state enterprises into market oriented organizations and to modernize co-operative legislation in line with the ICA principles and UN Guidelines. Reformers are still struggling with the shadows of the socialist past.

For instance in the Civil Code (CC) of the Republic of Tajikistan<sup>9</sup>, production co-operatives are classified as commercial organizations and consumer co-operatives as non-commercial organizations, placing consumer co-operatives in the same category as religious organizations and foundations designed for societal and charitable purposes. Under the Soviet concept of co-operatives, consumer co-operatives were part of a state controlled and party-dominated system and were seen as a mass organization of the party. Their objectives included to supply citizens with consumer goods but also to offer a variety of social services like child care, care for the elderly, hotels, vacation facilities etc. In a market economy, consumer co-operatives are service co-operatives having as their primary objective to render services in form of selling consumer goods of good quality at favourable conditions mainly to their members and returning surplus earned in transactions with their members to them in form of patronage refund in proportion to business done by the member with the co-operative enterprise.

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<sup>8</sup> For details, see Lux (1998) and Ren (1998).

<sup>9</sup> Art. 50 Subs. 1 CC.

Another problem is created by the term “entrepreneurial activity” which is defined as independent activity, directed at the systematic receipt of profit from the use of property, sale of goods, performance of work, rendering of service, by persons registered in this capacity by the procedure established by a statute<sup>10</sup>. The use of the word “profit” in this definition needs interpretation when applied to co-operative societies. All registered co-operative societies are legal entities participating in economic transactions on the market. They work as independent actors, taking risks with the intention to earn income in excess of expenditure. They undertake entrepreneurial activities to attain the purpose for which they were formed: to promote the economic and social interests of their members as users or workers by services rendered to them by a jointly owned and controlled enterprise. They do not have the basic purpose of making profit for distribution among the capital owners or shareholders.

Neither consumer co-operatives nor producers’ co-operatives have profit making as their basic purpose. To survive in the market, they have to earn more than they spend, i.e. to make a surplus of income over expenditure at the end of the financial year. Their earnings are made in part in transactions with their market partners and customers on the open market. This is ordinary commercial profit needed to cover the cost of the co-operative enterprise as a member-oriented service organization to reach the objectives for which it was formed. The main activity and basic purpose of co-operative societies is to render services to their members at favorable conditions (service near cost) or – in case of producers’ co-operatives – to offer their members safe and well paid workplaces.

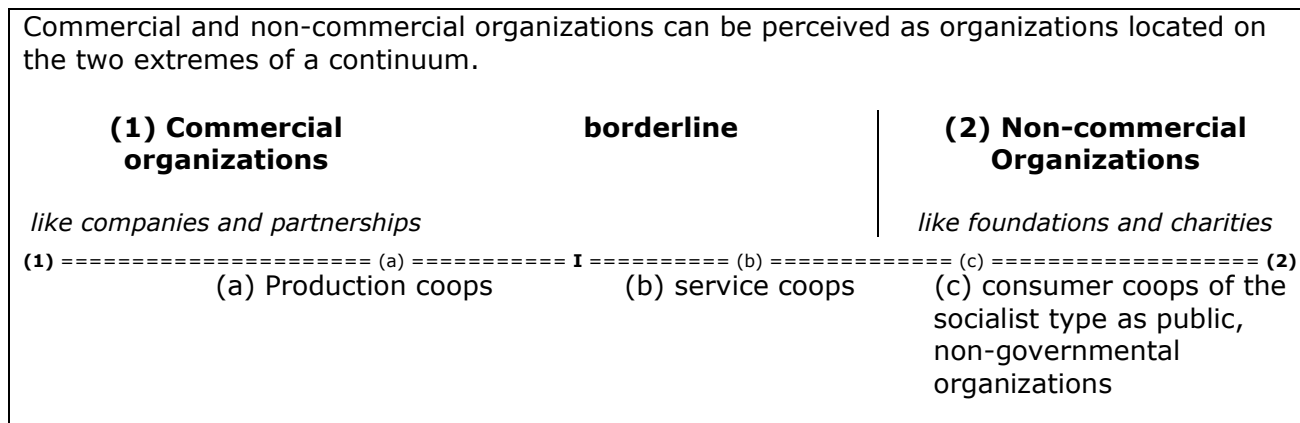
The subdivision of co-operatives into commercial and non-commercial organizations needs to be reconsidered under present day conditions. The entrepreneurial activities of co-operative enterprises, being service-oriented rather than profit-oriented enterprises, should be recognized as legitimate including the distribution of annual surplus among the members of co-operatives in form of patronage refund in proportion to business done by the member with the co-operative enterprise (in case of service co-operatives) and in proportion to work contributed to the jointly owned enterprise (in case of a producers’ co-operatives). One way of reaching agreement on this issue may be to perceive commercial and non-commercial organizations as being located on the two extremes of a continuum on which the different types of co-operatives find their proper place.

Other Asian states formerly belonging to the defunct Soviet Union are facing similar problems.

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<sup>10</sup> Art. 1 Subs. 3 CC.

**Figure 1 - Where to situate co-operatives in the system of commercial and non commercial organizations of the Civil Code of Tajikistan**



#### 4.2.3 British-Indian Pattern of Co-operation (BIPC)

The BIPC is the most widely applied form of co-operative legislation based to some extent on Schulze-Delitzsch's codification adjusted to the British legal system. Starting with the Indian Credit Co-operative Societies Act of 1904, amended 1912 to cover all kinds of co-operatives, it is still applied in many former British dependencies in Asia and Africa, Pacific and Caribbean island states and even the EU Member states Cyprus (1910) and Malta (1946). The BIPC served as the basis of the Co-operative Model Law of 1946, recommended by the British Colonial Office to all governments of British dependencies<sup>11</sup>. Today, in India co-operative legislation is a State Matter, i.g. there are as many Indian co-operative laws as there are states (like in the USA and Australia). With the introduction of the Multi-State Co-operative Societies Act, cross-border co-operation is facilitated and such co-operatives are given more autonomy in exchange of renouncing to government assistance.

The fact that one quarter of the 800 million co-operators represented by the ICA are Indians proves that the legal framework originally developed in India has been working effectively. Pakistan, Bangladesh, Sri Lanka, Malaysia and the Pacific Island States all apply the BIPC with modifications.

#### 4.2.4 Other Asiatic countries and Australia

Early development of co-operatives in the Philippines was influenced by the American colonial administration. The first co-operative legal framework enacted was the Rural Credit Association Act of 1915. Later, a law was made for agricultural marketing co-operatives (FACOMAS) in 1927. The Co-operative League of the Philippines was formed in 1937. Japanese occupation interrupted co-operative development. In the 1960s, savings and credit, agricultural, fisheries, housing and multipurpose co-operatives were formed. In 1973, the military government of Marcos launched an agrarian reform programme in which pre-co-operatives (samahang nayons – barrio associations) played a major role. This programme was regulated by a relatively liberal Presidential Decree 175 "Strengthening the Co-operative Movement" and a

<sup>11</sup> Sources: Calvert (1959), Surridge and Digby (1958), Colonial Office Memorandum (1946) and Münkner (2005).

more bureaucratic Letter of Implementation N° 23. The barrio associations were seen as a transitory stage before entering a co-operative (Kilusang Bayan). They served as distribution outlets and were supposed to improve the quality of village life. Those ready to participate in the programme and to qualify for allocation of land had to agree to save in a barrio guarantee fund in order to pay off the cost of land. Despite great efforts in member education and technical assistance, the project finally failed, mainly because it was planned top-down without participation of the main target group and with goals imposed from above.

In an evaluation report on the Samahang Nayon Programme, the Agricultural Credit and Co-operatives Institute (ACCI) came to the following conclusion: *"If 75 percent of the people follow the requirements of a government programme, one should go to the 25 percent of the people and ask what their problems are, but if 75 percent of the people cannot follow the requirements of a government programme, one should ask what is wrong with it"* (Münkner, 1983).

In 1990, the Co-operative Code of the Philippines was drafted with full participation of representatives of the co-operative movement, avoiding the mistakes made in the Samahang Nayon scheme. Together with the Co-operative Code, a Co-operative Development Authority Act was made, regulating the role of government in promoting and supervising co-operatives. However, in the ICA Critical Study it was criticized that the understaffed Co-operative Development Authority was too lenient and allowed proliferation of "paper co-operatives". Government's policy is described in the ICA Critical Study as having a long tradition of "off" and "on" involvement in the co-operative movement.

In Indonesia, first savings co-operatives based on autochthonous forms (gotong royong) were formed in 1896. A first co-operative law for savings and credit associations was made in 1915. In 1945 promotion of co-operatives was expressly mentioned in the Indonesian Constitution (art. 33). In the first 5-Year Plan 1973, a village development programme was launched by government, including a co-operative type of village enterprise Koperasi Unit Desai (KUD) with their own legal framework in each village. This programme largely failed. Credit Unions were introduced in the 1980s.

The ICA in its second critical study points out that there is need to put in place a new enabling legislation based on the ICA Statement of the Co-operative Identity, giving co-operatives autonomy and restricting government's role to that of a facilitator.

The Civil Associations Act (Amendment) of 1916 was the first law regulating co-operatives in Thailand, opening the way for the establishment of Raiffeisen style co-operatives. The first Credit Union was founded in 1965. In 1979 the Credit Union League of Thailand (CULT) was established by Royal Decree. In 1972, the Co-operative Promotion Department (CPD), the Registry of Co-operatives and the Co-operative Audit Department (CAD) started their work with thousands of government officers registering, promoting and auditing co-operatives. The first co-operative law in Thailand was enacted in 1968. It was repealed and replaced by the Co-operative Act BE 2542 of 1999. The Board of National Co-operative Development was created as



an institutionalised adviser of government. The 1999 Act also provides for a Co-operative Development Fund to give loans to co-operatives.

In Australia, co-operative legislation is a State/Territory Matter and accordingly there are numerous State Based Co-operative Acts and Regulations, listed in the ICA study, while nationwide co-operatives are governed by the Corporation Law of 1999 (ICA 2<sup>nd</sup> Critical Study).

### 4.3 Africa

#### 4.3.1 British colonial pattern

The BIPC was introduced in the 1930s to Africa, starting in Gold Coast/Ghana (1931), Tanganyika/Tanzania (1932), and Nigeria (1935). The rationale was expressed in the following quotation: *"What is good for the Indian farmer must also be good for the African farmer"*. What was introduced, were state-sponsored co-operatives with varying degrees of state-control. This model was successful, when applied according to the underlying concept, with the Registrar as guide, philosopher and friend of co-operatives, rather than as inspecting officer. Famous and experienced Registrars who worked with great success over decades as promoters of co-operatives and published textbooks are: Calvert, Campbell and Laidlaw. What was designed as government promoted co-operatives, guided to become self-help organisations of their members, later turned into state controlled co-operatives. The post of Registrar degenerated into a step in the career of government officers without specialisation (common users), holding such post for short periods, avoiding specialisation until moving on to their next placement and promotion.

Successful development of co-operatives in Tanzania was interrupted in 1976 by socialist experiments in form of a villagisation programme and the Village and Ujamaa Village (Registration, Designation and Administration) Act, 1975. The attempt to resettle 80 percent of the rural population in collective settlements and to introduce collective farming under the control of government and of the socialist party, failed and later Nyerere admitted that the villagisation programme was his greatest political mistake. In 1982, a law co-operative law largely based on the BIPC replaced the Village Act and with a new Village Land Law in the 1999 the attempt was made to regulate the use of village land under the custody of local authorities without turning it into a factor of production for commercial use.

In Ghana, the successful development of mainly agricultural co-operatives was disrupted in the 1960s when the grown co-operative superstructure was dissolved and replaced by a politicised movement under Nkrumah. It took many years until the co-operative movement of Ghana recovered from this chock.

#### 4.3.2 French colonial patterns

In the French-speaking countries of Africa, French co-operative law was directly applicable (referred to as a luxury model for poor African peasants). In addition, a special form of communal provident society was introduced - Société Indigene de Prévoyance (SIP) later Société Africaine de Prévoyance (SAP) - socio-economic, semi-public communal organisations, with compulsory membership and under government



control. In 1955, a co-operative societies' decree was made for co-operative activities and after independence, the countries made their own co-operative legislation following French models but also introducing pre-co-operative forms as a learner phase before full recognition as a co-operative society. Later also special laws for Credit Unions were made and since 2010 there is a common Co-operative Societies Act of OHADA<sup>12</sup> with 390 articles to be applied by all Member states, replacing the former co-operative legislation.

#### *4.4 Arab countries*

Co-operative legislation in the Arab countries is still influenced by legal systems inherited during times of foreign domination, e.g. former British dependencies (e.g. Sudan and Egypt) applied the CBIP, while other countries like Algeria and Morocco applied French co-operative law directly or decrees made to govern local provident societies.

One source of information on co-operative development and co-operative law in Arab countries is Jack Shaffer's Historical Dictionary of the Co-operative Movement (1999). Other sources are Reports and surveys of the ICA Regional Office for Asia and the Pacific (ROAP), the Arab Co-operative Union (Cairo), the ILO Directory of Co-operative Organisations and ILO NATLEX in the internet being the source regarding current co-operative legislation in the Arab Countries. Based on these sources, co-operative development and co-operative regulations in Arab countries can be summarised as follows.

The beginnings of "modern" co-operatives in Arab countries differ. In the former French dependencies (Algeria, Morocco, Tunisia) first co-operatives and co-operative type organisations were formed between the 1890s and 1907 under French law of provident societies and associations. In Egypt first co-operatives were formed in 1908, in Lebanon in 1937, in Sudan in the 1930s, in Yemen in the 1950s, in Saudi Arabia in 1961.

First co-operative laws were made in Tunisia (1907), Morocco (1922), Egypt (1923), and Syrian Arab Republic (1950). In former British dependencies, first co-operative legislation dates back to 1948 based on the colonial model co-operative ordinance of 1946 (Sudan), while in other Arab countries co-operative laws were made much later<sup>13</sup>. The legal framework for co-operative societies in the Region was revised very slowly<sup>14</sup>. Some countries of the region have one general co-operative law covering all types of co-operatives<sup>15</sup>, while others have separate laws and decrees for the different types of co-operatives<sup>16</sup>.

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<sup>12</sup> Organisation pour l'Harmonisation en Afrique du Droit des Affaires (Organisation for the Harmonisation of Business law in Africa).

<sup>13</sup> Saudi Arabia in 1962, United Arab Emirates (UAE) in 1976 and Bahrain in the 1980s.

<sup>14</sup> In Tunisia in 1967; in Lebanon in 1972; in the UAE in 1976; in Iraq in 1977; in Kuwait in 1979; in Egypt in 1980; in Syrian Arab Republic in 1984; in Sudan in 1991; in Algeria and Jordan in 1997; in Yemen in 1998; and in Bahrain in 2006.

<sup>15</sup> Bahrain, Iraq (before the war); Jordan, Kuwait, Lebanon, Qatar, Saudi Arabia, Sudan, Tunisia, UAE, Yemen.

<sup>16</sup> Algeria, Egypt, Morocco, and Syrian Arab Republic.

In some countries, co-operative societies were used by the state as instruments for implementation of agrarian reforms: in Algeria, where group farming was tried after 1962 on expropriated land when some 500,000 French settlers left the country, in Egypt, Sudan, Syrian Arab Republic and Tunisia in the 1960s. While in most countries of the region the full range of co-operative societies were formed: agricultural, fisheries, consumer, savings and credit, housing, multipurpose and workers' productive co-operatives, in some countries consumer co-operatives were the main or even only type: Kuwait, Qatar, UAE. In some countries of the region modern co-operatives developed on a large scale, covering a relatively high percentage of the population<sup>17</sup>, while in other countries, the influence of co-operatives remained marginal, covering a very small percentage of the population<sup>18</sup>:

## *4.5 Americas*

### *4.5.1 North America*

The first co-operatives in the USA were established in the 1750s (home insurance) and in 1785 (agricultural co-operatives). Robert Owen started his co-operative settlement "New Harmony" in Indiana in 1825. The Sherman Anti-Trust Act dates from 1890. The Cooperative League of USA (CLUSA) was established in 1916 in the same year in which the Federal Farm Loan Act was promulgated, The Capper-Volstead Act of 1922 exempted farmer-owned and farmer-controlled enterprises from anti-trust legislation. Regarding their legal framework, most co-operatives are registered under state corporation laws. The first Credit Union Act was made in Massachusetts in 1909. From 1929, credit union laws in 32 federal states followed. The Credit Union National Association (CUNA) was established in 1934, in the same year of coming into force of the Federal Credit Union Act. In 1970, the World Council of Credit Unions was established in Madison, Wisconsin, which later launched the worldwide model law for credit unions.

Canada is among the first countries outside Europe to form co-operatives with the first co-operative society established in Nova Scotia in 1861. Co-operative legislation in Manitoba dates back to 1887. The first Credit Union was established in Quebec in 1900. The Co-operative Syndicates Act came into force in 1907. In Canada the co-operative movement, as well as co-operative legislation, are subdivided in French and English variations.

### *4.5.2 Latin America*

The co-operative movement in Latin America has a tradition of more than one hundred years and various roots. First co-operatives in Brazil, Argentina and Uruguay were established by immigrants from Germany, Italy, France and Japan starting 1875. Provisions on co-operative societies were contained in the Commercial Codes of Argentina and Mexico. Co-operative laws in Argentina, Brazil (1906) and Chile (1925) were among the first co-operative laws made outside the industrialised countries, followed by co-operative laws in Argentina (1926), Columbia (1931), Brazil (1932), Ecuador (1937) and Mexico (1938). In some countries, promulgation of co-operative

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<sup>17</sup> Egypt, 20.3 %; Syrian Arab Republic, 10.5 %; Kuwait, 7.7 %; Iraq before the war, 6.5 %; Sudan, 5.4 %; Saudi Arabia, 3.4 %.

<sup>18</sup> Yemen, 2.0 %; Jordan, 1.7 %; Bahrain, 1.5 %; Tunisia, 1.1 %; Qatar, 1.1 %; UAE, 0.57 %.

laws followed development of a co-operative movement, in other countries co-operatives were introduced as part of government's policy mainly connected with agrarian and land reforms. In the 1960s, programmes of agrarian reform and social movements used co-operative forms of organisation (*empresas comunitarias campesinas*) as instruments to pacify unstable backward rural areas and for political aims in Chile, Colombia, Ecuador, Honduras, Panama and Mexico.

In Latin America, co-operative development is very diverse. In some countries and for some time co-operatives were promoted by government (Chile, Costa Rica, Peru, Mexico), while in other countries the state was indifferent. In most countries, several public administrations are in charge of dealing with co-operatives. With the exception of Uruguay, all countries have one general co-operative law covering all co-operatives.

In the context of this survey, it may be of interest to take a closer look at the activities of the Organización de Cooperativas de América (OCA) presenting a "Ley Marco" as a guide for law-makers in the region. This Ley Marco is intended as a contribution to facilitate the work of national law-makers and to offer guidelines rather than as a model law to be adopted by the different states. The process in which this Ley Marco was made is a good example for participatory law-making, proposed for drafting co-operative legislation with active participation of the main stake-holders.

Congresses on co-operative law were held in Venezuela (1969), in Puerto Rico (1976) and in Argentina (1986), as well as two seminars with legal experts. The text was approved by the OCA Congress in 1988. The Draft was written following the basic norms of international co-operative organisation law and contains 99 articles in logical order in 10 chapters including regulations on an Authority in charge of implementation and audit. This text was widely circulated before being adopted by the member organisations of OCA. It leaves sufficient room for adjustments to the needs in each country. The Ley Marco defines co-operatives as being part of private law, regulating co-operatives as autonomous organisations without a view to making profit for distribution among the capital owners, different from public and commercial organisations. The text contains explanations of each of the articles, an alphabetical index and a glossary of technical terms. The Ley Marco is seen as an invitation to governments to work together in the effort to modernise co-operative legislation in communication with co-operative federations, specialists on co-operative law and university institutions<sup>19</sup>.

As regards Cuba, it is worth to mention the introduction of the socialist model of collectivize agriculture and production in 1963.

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<sup>19</sup> For details see: Organización de las Cooperativas de América (1988); Cracogna (1995) and ICA Américas (1999).

## 5. Innovations

In times of rapid economic, social, technological, demographic and environmental change, appropriate legal technologies are tested to meet new needs of organised self-help. Experiments are made with new types, forms and legal patterns, e.g. Common Initiative Groups (CIGs) in Cameroon (1992), light legal structures which give their members the choice between models with or without share capital, with or without members' liability for debts of their organisation, between remaining a local group, joining a co-operative society or transforming itself into a co-operative society, forming unions or federations. Similar approaches can be seen in Central America, where legal forms for rural co-operative micro-enterprises are investigated by the FAO.

Where co-operative enterprises require large and stable investment, co-operative companies may be a better legal form than co-operatives with variable capital. Accordingly co-operative companies Acts were made in Rhodesia/Zimbabwe, South Africa and India.

To solve problems like social exclusion, unemployment, insufficient public funds for communal services, cultural activities and sport, social co-operatives, multi-stakeholder co-operatives, new forms of public-private-partnership and enterprises with social objectives are designed and find their way into new legislation.

In times of globalisation, cross border activities are becoming necessary. As a reaction, multi-state co-operative legislation has been introduced in India and with the *Societas Cooperativa Europea* (SCE) Regulation of 2003 for European Co-operatives in the European Union.

To draft Model Laws is not an innovation. In 1946, the British Colonial Office recommended a model law based on the BIPC to all governments of British dependencies (Secretary of State for the Colonies 1946). In 1966, the African Asian Rural Reconstruction Organization (AARRO) presented a model law for its member-states in Nairobi. Another attempt with a model law for state-sponsored co-operatives was made by Weeraman et al. in New Delhi in 1973. Also WOCCU proposes a Credit Union Model Law as a guide for its affiliates. The latest example is the model co-operative law by OHADA, 2010 to be adopted by French speaking African Countries.

Participatory law-making as recommended in the UN Guidelines of 2001 has been practiced for instance when making the Co-operatives Code Philippines, and the law on Common Initiative Groups (CIG)/*Groupements d'initiative commune* (GIC) in Cameroon in 1992.

Good examples of co-operation between governments and co-operative organisations in discussion on co-operative law reform are the Co-operative Ministers' Conferences organised by the ICA Regional Office for Asia and the Pacific (ROAP) accompanied by the ICA ROAP Critical Studies of co-operative development in the region and the process leading to the Ley Marco in Latin America.

## 6. Conclusion

In conclusion, it can be stated that more than 150 years after the appearance of the "modern" co-operative movement in Europe at the time of industrial revolution, the concepts regarding an appropriate legal framework for such co-operative societies have become clear: Co-operative societies are worldwide recognised as a special legal form different from public and commercial enterprises. They need their own distinct legal framework, preferably one law covering all types of co-operatives.

Definition, values and principles of genuine co-operatives are clearly defined and internationally accepted in form of the ICA Statement of the Co-operative Identity of 1995, officially recognised by the UN in 2001 and ILO in 2002.

To develop their full strength, co-operative societies have to be guaranteed the right to federate, i.e. to form their own federations, unions and apex organisations. Co-operative societies do not need privileges but have to be treated according to their special nature and have to be guaranteed an equal level playing field with their competitors. Self-help and external support are difficult to reconcile. *"Government money is the kiss of death to co-operatives"* (Laidlaw).

Best practices of drafting co-operative law are known, have been described in the UN Guidelines of 2001 and are explained for instance in Henry's Guide to Co-operative Legislation published by the ILO. Good co-operative legislation should not be dictated top-down but made in a process of participatory law-making, allowing all stakeholders to participate.

Good co-operative law can only be made, once the government policy with regard to co-operatives is clear. *"There should be a consistent national policy and the legislation on co-operatives may be amended only after adopting a conducive national policy on the development of co-operatives"* (8<sup>th</sup> Ministers' Conference on Coop Legislation and Policy, Kuala Lumpur 2007).

Pre-registration audit makes it more difficult to form co-operatives but at the same time prevents registration of non-viable ventures or of false co-operatives. This is important because it helps to maintain the good reputation of the co-operative movement.

Government intervention and control is only constructive as far as it is needed to protect the co-operative character of the special legal form as well as the interests of members, creditors and the public. Heavy government control is not only detrimental and expensive. It kills co-operative initiatives rather than promoting them. *"Government wants co-operatives to be democratic, but co-operatives are often left with little to be democratic about"*.

Misusing co-operatives as development tools and outside goal-setting destroy the main advantage of co-operatives: to mobilise members own resources for their own benefit and to activate the propelling forces of organised self-help, thereby contributing indirectly to general development.

## 7. Short summary of past experience

### *Smallest common denominator*

Although the ICA Statement on the Co-operative Identity of 1995 has brought about a common ideological basis of co-operative understanding worldwide, this statement deliberately leaves room for interpretation, allowing the co-existence of different concepts and traditions under one roof. In this regard, it is the smallest common denominator.

The same is true for the new SCE Regulations of 2003, on which European Co-operative Federations and the EU Authorities agreed after more than 30 years of negotiations. The SCE-Regulations of the EU offer only a common framework, which has to be filled by elements of the respective national co-operative law, which means that there may be at least 27 different variations of SCE.

### *Workable solutions within reasonable limits*

The only workable solution is to offer a set of basic principles as benchmarks for good co-operative practice – as applied by ICA Statement of Co-operative Identity, the UN Guidelines of 2001 and ILO Recommendation 193 of 2002. National law-makers as well as individual co-operatives have the right to make their own rules corresponding to the general legal and political environment and the requirements of the different types of co-operatives or individual co-operatives.

It should be kept in mind that organisation laws are restricting the constitutional right of freedom of association. Such limitations are only justified by any or all of the following reasons:

- To set benchmarks within which co-operative societies are likely to operate successfully – reflecting best practice and at the same time compliance with co-operative values and principles.
- To protect the specific character of co-operatives and discourage, limit or prohibit bad practices like:
  - unlimited business with non-members,
  - admission of rent-seeking investors as members,
  - focus of management on making profit for distribution among capital owners,
  - undemocratic distribution of voting rights (one share – one vote rather than one member – one vote), and
  - external control replacing member control.

### *The role of model laws*

The Ley Marco of the OCA can be quoted as good practice. It does not force Member states to accept a uniform model of co-operative legislation, but offers guidelines for the national law-makers. The same approach is used in the UN Guidelines aimed at



creating a supportive environment for the development of co-operatives<sup>20</sup>. In contrast, the model co-operative law of OHADA obliges the member states to introduce the model as national co-operative law.

#### *Experience with the British-Indian Pattern of Co-operation and the Model Law of 1946*

The model of state-sponsored co-operative development introduced in India in 1904 and applied in former British dependencies all over the globe shows the pros and cons of government involvement in co-operative development. If there is a clear government policy to offer help to co-operatives only as long as needed with the clear intention to phase out such aid as soon as possible, and to offer a legal framework limiting government's powers to external control of compliance of registered co-operatives with the law, this model has proved to be successful. The conditions of such success are also known. There must be a team of professional co-operative promoters, auditors and inspectors to guide co-operatives and supervise their compliance with the law. Experience has proved that such specialists need training and experience. To keep them on the job, special service conditions are required. The quality of such special scheme of service may be more important than the quality of the Co-operative Societies Act. Governments' efforts must focus on making co-operatives self-reliant and must be willing to transfer powers and duties to guide, audit and supervise co-operatives to organisations of the co-operative movement (federations, apex organisations). Singapore can serve as a good example.

#### *Experience with state controlled co-operatives*

After more than 100 years of experience with this system, the reasons why it fails to work are:

- Using common administrative staff without special training and experience for carrying out the statutory functions of government for promoting co-operatives (guidance, audit, supervision).
- Holding on to government's powers rather than transferring them to co-operative organisations, leading to unhealthy competition between the government department in charge of co-operative development and the emerging co-operative federations, supposed to be promoted and supported (e. g. Malaysia and Malta).

#### *Overcoming shadows of the past*

The former Member states of the defunct Soviet Union and some socialist countries (China and Vietnam) have problems of breaking with their long experience with socialist models. The intention to introduce "modern" co-operative law in line with the ICA co-operative principles and fit for operating in a market economy is in conflict with some remnants of the past, for instance distinguishing producer co-operatives classified as commercial organisations from consumer co-operatives classified as non-commercial organisations, the intention to use co-operative societies as tools for the implementation of government's policy and the absence of private property of land.

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<sup>20</sup> A/56/73, E/2001/68, adopted at 88th plenary session, 19 December 2001, A.RES.56.114.



### *De-officialisation*

De-officialisation is difficult to bring about, once co-operatives are officialised. Use of co-operatives as tools for the implementation of government's policy rather than seeing them as autonomous organisations for promoting members' interests, usually fails to mobilise members' own resources for co-operative development.

Offering incentives and privileges to co-operatives implementing government's policy entails the danger of encouraging false co-operatives, working as prolonged arms of government or of certain projects, existing mainly on paper and working only as long as external support lasts.

### *Overregulation*

Overregulation, leaving little or no room for autonomy of co-operatives to organise their own affairs in their own by-laws, either by regulating everything in detail in the law and regulations made under the law, or by making model by-laws compulsory, makes this fundamental right of co-operatives fictitious.

Another frequent mistake is to mix the Co-operative Societies Act as an organisation law with elements of other laws like tax law, labour law, competition law and with elements of government policy, turning co-operative law and co-operatives into political tools.

### *Small versus large co-operatives*

In times of believing in growth as an overall remedy, large co-operatives are facing problems, for instance to secure member participation. In this context, a new trend in co-operative legislation is worth mentioning: new co-operative laws are made specifically for small co-operatives (Italy) or include provisions specially designed for small co-operatives, by reducing the minimum number of founder members to three of five, by allowing small co-operatives to operate with a lean organisational structure<sup>21</sup>. In some countries, new laws are made for small and flexible pre-co-operatives<sup>22</sup>.

Carlo Borzaga in his introduction<sup>23</sup> asks to investigate to what extent legal regulations of co-operatives are consistent with the features of co-operative enterprise. The answer can be found in the general principles of organisation law. The only reasons justifying legal rules for regulating and controlling co-operatives are to protect:

- the typical features of the co-operative as a specific legal pattern, mainly the dual nature of co-operatives consisting of a co-operative group and a co-operative enterprise, the principle of identity of owners and users and user-oriented management;
- the interests of the members and their business partners; and

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<sup>21</sup> E.g. only one chairperson, no supervisory committee, simplified accounts and audit; e.g. German Co-operative Societies Act of 2006.

<sup>22</sup> E.g. Cameroon, GIC, 1992.

<sup>23</sup> In this section the author refers to the indications provided by Prof. Carlo Borzaga (Euricse) to the invited speakers at the Euricse-ICA International Conference "Promoting the Understanding of Cooperatives for a Better World", held in Venice in March 2013 in occasion of the 2012 International Year of Cooperatives. The conference summarizing document is available at: <http://www.euricse.eu/en/euricse-contribution-IYC>

- public interest.

### *Neglecting academic teaching and research in the field of co-operative law*

Borzaga is right when complaining that scientific research and knowledge of co-operative law is generally neglected and excluded from academic teaching and research as a regular subject. But this lack of knowledge and interest exists to a varying degree from one country to another. For instance in Germany there is a network of 10 co-operative research institutes following a multidisciplinary approach, offering a full range of scientific studies of almost all aspects of co-operative law (mainly doctoral dissertations) and lectures. There are for instance several commentaries to co-operative law, of which one in its 37<sup>th</sup> edition, another in the 15<sup>th</sup> edition, with new editions appearing in regular intervals as tools for co-operative personnel and co-operative federations but also for the courts and policy-makers. However, to use these materials, the problem is the language. All these materials are only accessible for those who know German.

### *Two quotations*

To conclude two quotations from the report of the 5<sup>th</sup> Co-operative Ministers' Conference organised by ICA ROAP in Beijing in 1999, summarise the main points which law-makers drafting co-operative legislation should keep in mind.

*"Co-operatives contribute their best to society when they are true to their nature as autonomous, member-controlled institutions, when they remain true to their values and principles (autonomy and independence)"<sup>24</sup>.*

*"Co-operatives, by serving the needs of members and their communities, contribute to national development, to the reduction of poverty, to job creation, to rural and community development, to the development of social services, and to the improvement of the quality of life of the people; they also serve as real examples of democratic governance"<sup>25</sup>.*

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<sup>24</sup> 5<sup>th</sup> Co-operative Ministers' Conference, p. 6.

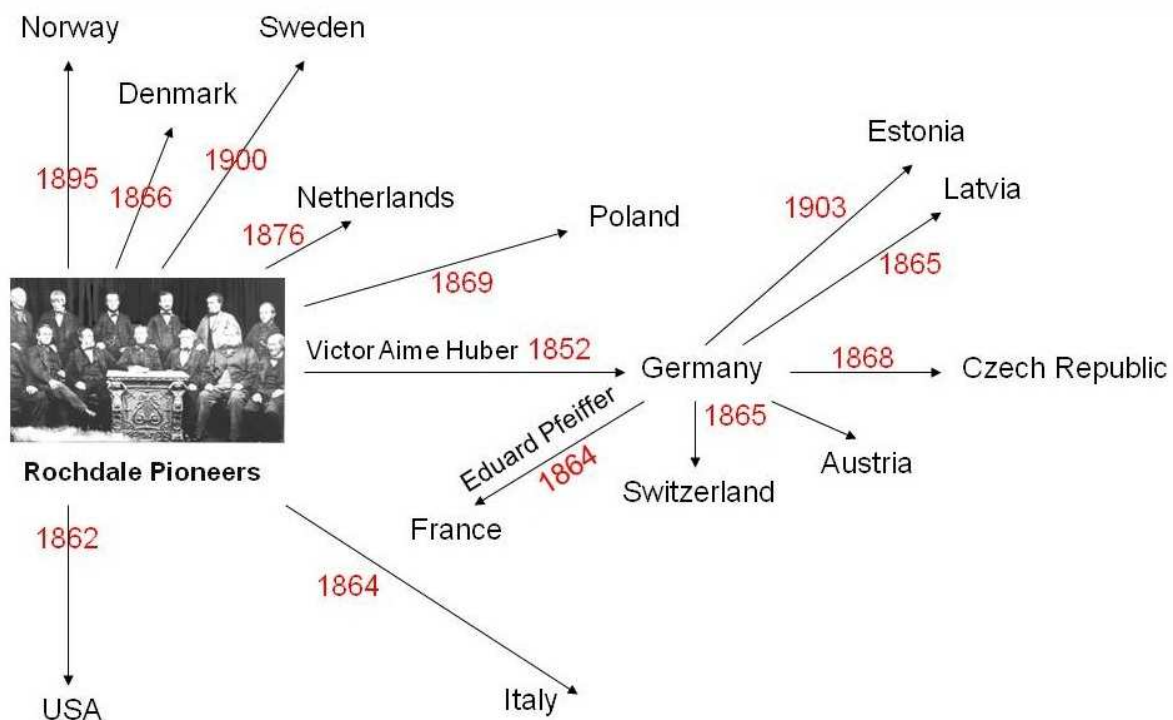
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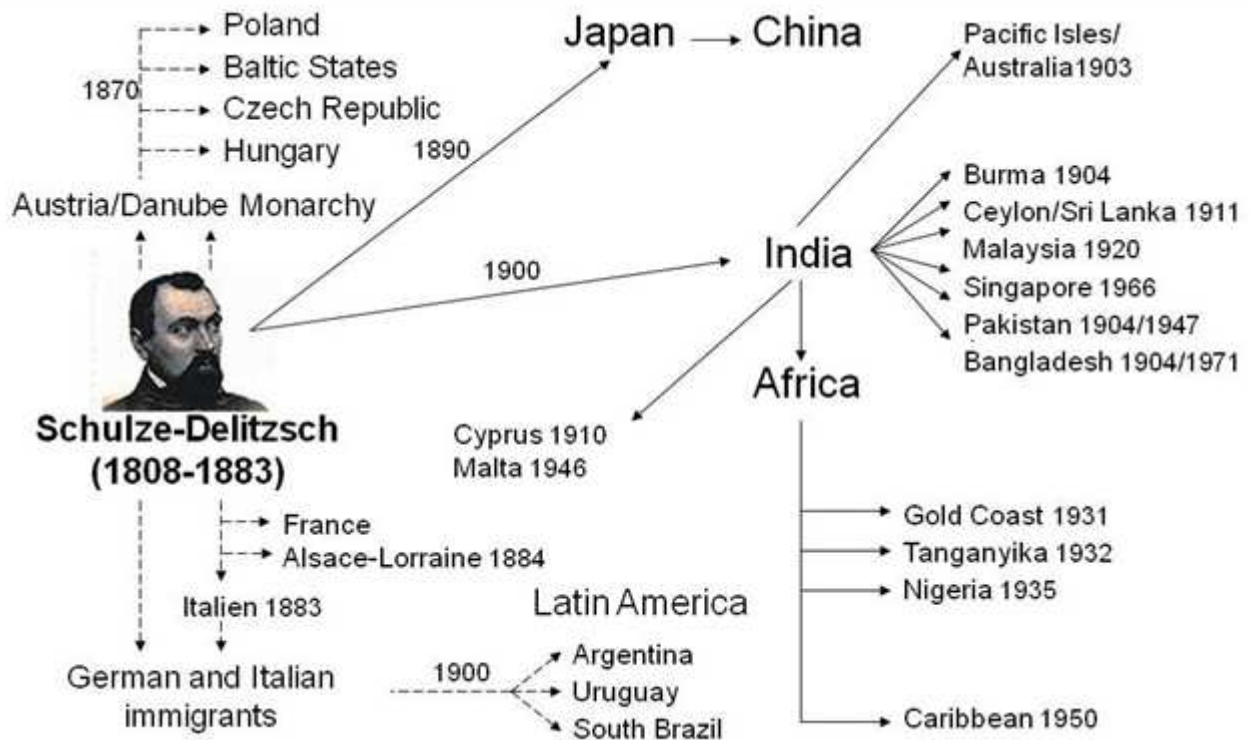
## Appendix: figures

**Figure 1 - Spreading of the ideas of the Rochdale Pioneers**



Source: H. J. Roesner, University of Cologne, in: The geographical dimension of the co-operative movement, Milan, October 2010.

**Figure 2 - Schulze-Delitzsch's ideas spreading on two tracks**

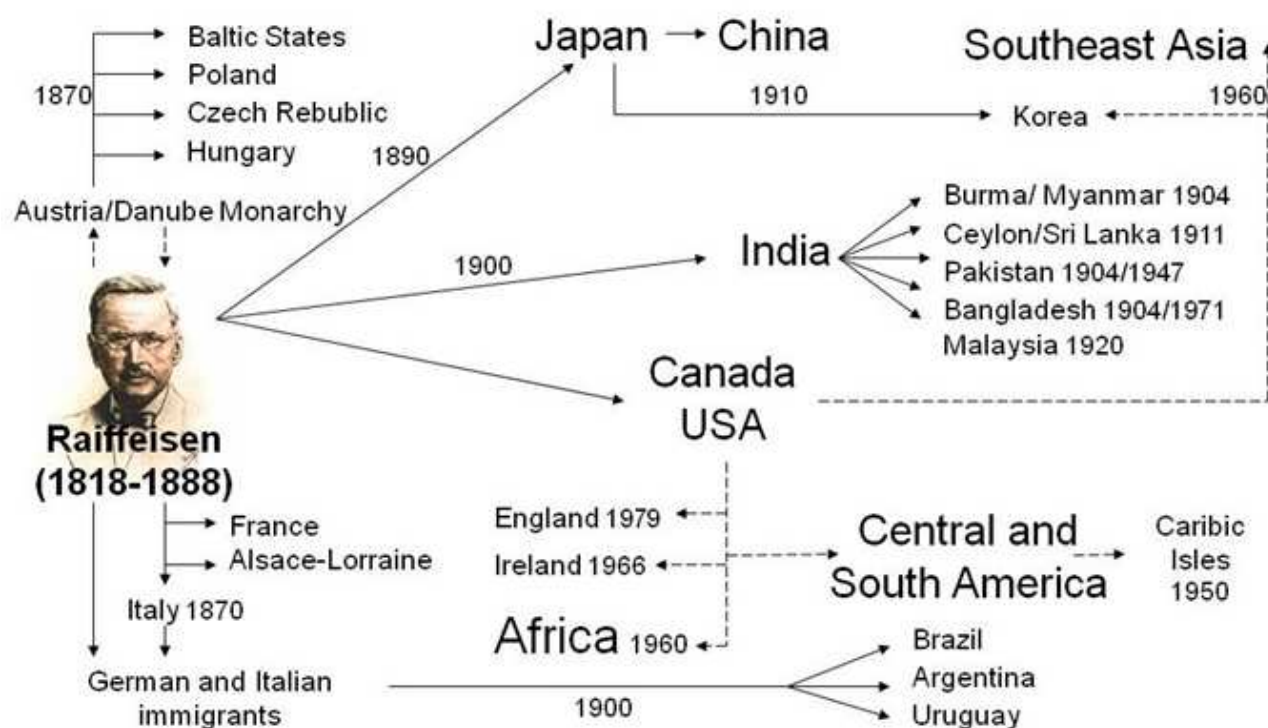


———— The model of organisation: "Peoples' Bank"

----- The codified legal pattern of co-operative society

Source: Münkner, Spreading of Schulze-Delitzsch's and Raiffeisen's ideas in: Publication in memory of Schulze-Delitzsch's 200th anniversary and Raiffeisen's 190th anniversary – Putting an Idea into Practice, Schriftenreihe zur Genossenschaftsgeschichte Munich 2009, p. 105.

**Figure 3 - Raiffeisen's ideas spreading on two tracks**



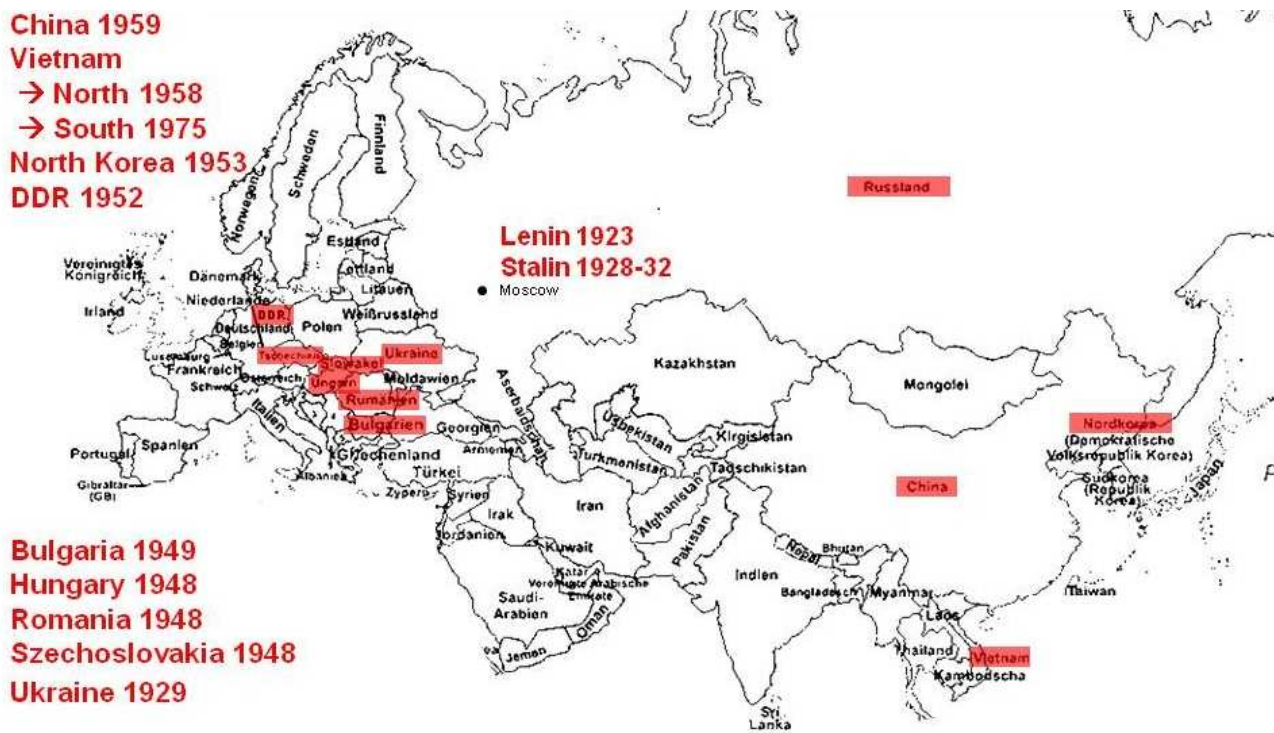
———— The model of organisation "Raiffeisen Bank", agricultural co-op

----- The model of organisation Credit Union /Caisse populaire

Source: Münkner, Spreading of Schulze-Delitzsch's and Raiffeisen's ideas in: Publication in memory of Schulze-Deitzsch's 200st anniversary and Raffeisen's 190th anniversary – Putting an Idea into Practice, Schriftenreihe zur Genossenschafts-geschichte Munich 2009, p. 106.



**Figure 4 - Coerced collectivisation under Stalin after World War II**



Source: H. J. Roesner, University of Cologne, in: The geographical dimension of the co-operative movement, Milan, October 2010.