

The Co-operative Societies Law in Bangladesh: From Hope of Autonomy to Dependence

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Abstract: *The framers of the Constitution of the People's Republic of Bangladesh have clearly demonstrated their intention to provide for an autonomous and democratically controlled co-operative societies movement for propelling the economic development of those who are directly dependent on the relevant industries. However, this article finds that co-operative societies law in Bangladesh have clearly drifted from ensuring the autonomy of members and the existing legal framework hardly reflects the intention of the framers of the Constitution and the principles upon which the co-operative societies movement is founded. A thorough analysis of the existing legal framework shows that the bureaucratic control over the co-operative societies granted by the laws has set the bureaucrats on the driver's seat instead of the members. This paper argues some of the existing statutory provisions on co-operative societies in Bangladesh may be re-thought.*

Keywords: Bangladesh, Co-operative society, Bureaucracy, Administrative law.

1. Background

The framers of the Constitution of Bangladesh have underscored the importance of co-operative societies in clear terms. Article 13(b) of the Constitution of Bangladesh provides for three different kinds of ownership: state, co-operative, and personal. The framers of the Constitution of Bangladesh clearly envisioned co-operative societies as a means to economic upliftment of the people of Bangladesh. The father of the nation, Sheikh Mujibur Rahman, himself envisioned the co-operative initiatives as means of economic emancipation of the smallholding farmers, carpenters, fishers, working-class etc. by the accumulation of capital and other factors of production and the industrialization of rural Bangladesh.¹ Sheikh Mujibur Rahman was perceived as the ultimate hero of the

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¹ Bangabandhu Sheikh Mujibur Rahman, 'Speech at Bangladesh National Co-operative Union Conference' (Dhaka, 3 June 1972) <<http://www.sfdf.org.bd/site/page/c473555e-25ac-4f8c-be7f->

nation after the liberation war and his leadership during the constitution drafting period went unquestioned.² Opposition in the constituent assembly was close to no-existent when the Constitution was adopted.³ Huq credits the fast passage of the Constitution to his great influence among other factors.⁴ Thus, one may safely claim based on historical facts that Sheikh Mujibur Rahman's and the constituent assembly's visions for the Constitution were identical. However, he was also acutely aware of the vested interest groups acting like termites and undermining the true potential of the co-operative societies.⁵ He wanted to ensure that the co-operative movement would be led by real farmers, fishermen, carpenters, workers and not by the rich sections of the community masquerading as farmers, fishers, carpenters, workers etc.⁶ The current government too in its Vision 2021, hails the co-operative movement for pioneering the introduction of rural credit programmes for farmers.⁷ However, most observers would possibly agree that the vision of the framers of the Constitution is yet to be achieved. And this article argues that a key contributing factor to this less than expected achievement of the co-operative initiatives in Bangladesh is the legal regime on co-operative societies in Bangladesh. In particular, the paper finds that too much bureaucratic control within the existing legal framework undermines the vision of the framers of the Constitution and is also antithetical to the fundamental governing principles of the co-operative societies.

2. What is a Co-operative Society?

A co-operative society may be defined as '[a]n organization or enterprise (as a store) owned by those who use its services.'⁸ A co-operative society may be formed to pool the resources of its members together with the members taking a much more active role than shareholders in limited liability companies. It is a voluntary organisation set up by the members for their own welfare. Almost all countries have co-operative societies in one form or another, but the Nordic countries with their emphasis on the welfare expenditure seem to emphasise more

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² Rounaq Jahan, 'Bangladesh in 1972: Nation Building in a New State' (1973) 13(2) *Asian Survey* 199, 207.

³ *ibid* 203.

⁴ Abul Fazl Huq, 'Constitution-Making in Bangladesh' (1973) 46(1) *Pacific Affairs* 59, 70-71.

⁵ *ibid*.

⁶ Bangabandhu Shiekh Mujibur Rahman (n 3).

⁷ General Economics Division, Planning Commission. *Perspective Plan of Bangladesh, 2010-2021: Making Vision 2021, A Reality* (Government of the Peoples' Republic of Bangladesh, 2012) 33-34 <http://bangladesh.gov.bd/sites/default/files/files/bangladesh.gov.bd/page/6dca6a2a_9857_4656_bce6_139584b7f160/Perspective-Plan-of-Bangladesh.pdf> accessed 4 August 2021.

⁸ Bryan A Garner (ed), *Black's Law Dictionary* (10th edn, Thomson Reuters 2014) 409.

on the co-operative societies of workers and farmers.⁹ It may be active in many economic sectors – agriculture, food, finance, health care etc.

3. The Scope of the Article

This article seeks to explore how existing co-operative laws may be reformed to ensure more robust growth of the co-operative initiatives in Bangladesh and play a role in alleviating poverty and contribute to the overall economic development of Bangladesh. The article does not purport that legal reform alone can work for the co-operative societies in Bangladesh to usher in a new era. However, as a scholarly legal work, it concentrates on the potential legal reform and tries to demonstrate how that may help the co-operative initiatives in Bangladesh to work for the benefits of the intended beneficiaries and the overall economy of Bangladesh, extra-legal factors are beyond its scope.

The article analyses the legal framework of the co-operative societies in Bangladesh. Although the article is not a thorough comparative analysis among laws of various countries; in some cases, parallels have been drawn to the relevant legal provisions of neighbouring countries to demonstrate the regressive movement of the law. It also touches on the comparative analysis between the current legal framework and the previous legal framework of Bangladesh and demonstrates the regressive development of the statutory regime. To assess the compatibility of the law with the ethos of internationally recognised principles of the co-operative societies movement, the article also draws on the International Labour Organisation (ILO) Recommendation no 193 on the Promotion of Cooperatives of 2002 (Recommendation 193) which is based on the co-operative principles as developed by the International Co-operative Alliance (ICA). This article's focus is on the co-operative societies comprising of members from the marginalised sections of the community. While the analysis of the paper revolves around Bangladesh, due to the similarity of legal provisions, its analysis may be of interest to a broader readership in neighbouring Commonwealth countries such as India, Nepal, and Sri Lanka. This is not to imply that the underlying motivations in the law on co-operative societies are identical. However, this is to imply that the due to the similarity in the socio-economic conditions and the legal provisions, one may have some appeal to the study of the paper.

4. Analysis of the Relevant Law

4.1 Broad Power to Avoid the Law

The law grants the government an unfettered power to intervene in any co-operative society by taking an exemption from the operation of the Co-operative

⁹ Jacques Defourny and Marthe Nyssens, 'Social Enterprise in Europe: At the Crossroads of Market, Public Policies and Third Sector' (2010) 29 *Policy and Society* 231, 233.

Societies Act of 2001.¹⁰ Section 4 of the Act states:

The government, may, in the public interest, by a notification in the Official Gazette -

- a. Exempt, a co-operative society or all co-operative societies of a class, upon a condition or without any condition as specified in the notification, from all or any provision of this Act or any Rule framed under the Act;
- b. Order that any provision of this law any Rule framed under the Act, will apply subject to any condition as specified in the notification.

While the law is couched in a permissive language and ideally it should only be used in very special circumstances, it is not difficult to see how in practice this may seriously not only undermine the independence of the members of a co-operative society, but can be opposed to the very notion of the rule of law. In essence, this Section allows the government to operate beyond the bounds of law under the cloak of public interest, if it chooses to do so, and there is no guarantee that such a power would be benevolent in all cases. By using this Section, the executive can ignore all or any provisions of the Act or the Co-operative Societies Rules 2004. For example, the government may take away the license of a co-operative society, can withhold a general committee, remove one or all members of the managing committee, can appoint anyone in the managing committee, can extend the duration of an interim management committee, or even order winding up of a co-operative society. For doing any of these, all the executive has to do is profess that its action is based on the public interest and circulate a Gazette notification.

While granting power through a legislation, using terms such as ‘public interest’ or ‘public policy’ can be troublesome as it can be ambiguous. Legislations in many jurisdiction and several academic works have at times demonstrated various ways of defining public interest which lacked uniformity¹¹. The Co-operative Societies Act of 2001 does not provide any definition of ‘public interest’. However, while dealing with a different matter, the Appellate Division of the Supreme Court of Bangladesh (AD) in *World Tel Bangladesh Ltd v Bangladesh and Ors*,¹² observed:

¹⁰ Cooperative Societies Act 2001 (Act No. 47 of 2001) (BD).

¹¹ Edwin Rekosh, ‘Who Defines the Public Interest’ (2005) 2(2) *SUR International Journal of Human Rights* 167, 169-70.

¹² *World Tel Bangladesh Ltd v Bangladesh and Ors* (2005) 11 BLC (AD) 37 (Supreme Court of Bangladesh (SC), Appellate Division).

The word ‘public policy’ is not easy to define but may include any injustice, oppression, restraint of liberty, commerce and natural or legal right, whatever tends to the obstruction of justice or to the violation of the statute and whatever against good morals when made the object of a contract and therefore void and not susceptible of enforcement.¹³

The High Court Division of the Supreme Court of Bangladesh (HCD) in *Chittagong Port Authority v. Ananda Shipyard and Slipways Ltd*,¹⁴ also made some observations which may shed some light on how the judiciary of Bangladesh may interpret this term. The HCD observed that ‘[p]ublic policy of Bangladesh means the principles and standard regarded by legislature or by Court as being of fundamental concern to the state and whole of the society.’¹⁵ The HCD also observed that an action can be considered contrary to public interest if it contradicts the fundamental policy of Bangladesh, the interest of Bangladesh, justice or morality, or if it patently illegal.¹⁶ Use of words such as ‘justice’ or ‘morality’ or ‘interest’ creates a considerably broad scope of interpreting the term ‘public interest’ which consequently grants a very wide power to the government. In a similar manner, the Appellate Division of the Supreme Court of Bangladesh (AD) observed in *Mofizur Rahman Khan v Bangladesh*, observed that ‘[I]earned Attorney-General has also contended that an action taken by Government or public authorities shall be presumed to have been taken bonafide unless the contrary is established by the person complaining of it ... We do not find anything to disagree on these views.’¹⁷

Thus, taken in this light, the Government would appear to have a wider latitude in applying this provision in practice. Invoking exemption is not a hypothetical scenario. In *S.M. Delwar Hossain and Ors v. Bangladesh and Ors*,¹⁸ the government used this power to exempt from the operation of sub-section (5) and (7) of Section 18 of the Act, i.e., to not apply the legal provisions on the interim managing committee of a co-operative society. However, despite invoking the provision in a situation where the members of the co-operative society were apparently divided into different factions, the exemption from the provision of law did not seem to facilitate a prompt resolution as the AD’s judgement in the case reveals a series of cases fought regarding the duration of the interim management committee, voters list, and the propriety of elections of the managing committee.

¹³ *ibid* 35.

¹⁴ *Chittagong Port Authority v. Ananda Shipyard and Slipways Ltd* (2012) 32 BLD (HCD) 120 (Supreme Court of Bangladesh (SC), High Court Division).

¹⁵ *ibid* 37.

¹⁶ *ibid*.

¹⁷ (1982) 2 BLD (AD) 120 [32] (Supreme Court of Bangladesh (SC), Appellate Division).

¹⁸ *S.M. Delwar Hossain and Ors v. Bangladesh and Ors* (2009) 61 DLR (AD) 59 (Supreme Court of Bangladesh (SC), Appellate Division).

The decision of the executive may be challenged by invoking the writ jurisdiction of the HCD, since they are functions in connection with the affairs of the Republic.¹⁹ But even by the time the writ petition is settled, there may be substantial damage incurred to the co-operative society. Also, the common law courts are often reluctant to interfere with such actions when the legislation in question grants the executive the power to give exemptions.²⁰ Thus, this Section, as it stands now, should be radically altered. As a bare minimum, some form of approval of the existing members of the society should be a pre-condition of the application of this provision by the executive. The law should also enumerate an exhaustive list as to what kind of situations, the executive may apply this Section. For example, a deadlock situation in the management committee or among general members may potentially be a proper ground where the government's interference for a limited period could be allowed for the sake of smooth management of a co-operative society. The law should not also give the executive a blank cheque to provide an exemption from all or any provision of the Act or Rules for an indefinite period, rather it should specify from which provisions the exemption may be sought and for how long that should be sought.

4.2 Extensive Bureaucratic Control in the Registration Process

In spelling out the three forms of property ownership, Article 13 of the Constitution states that '[t]he people shall own or control the instruments and means of production and distribution.' It is true that in Article 13(b), the Constitution says that the 'ownership by co-operatives on behalf of their members within such limits as may be prescribed by law' and thus, gives the Parliament the right to formulate laws on governing the co-operative ownership. However, nonetheless, the initial part of the Article implies that framers of the Constitution envisioned control of the people in the ownership of property by the co-operative societies. The scope of Article 13 of the Constitution had been examined by the HCD in *Md. Ismail & Others v. Bangladesh & Others*,²¹ where multiple writ petitions were filed in the HCD challenging the acquisition of land by the government in favour of a co-operative society to build homes for the homeless under a government plan. The HCD observed:

When the Government acquires land for its own purpose or for the purpose of a statutory body then the scope of enquiry into public purpose is limited. Co-operative ownership however, is not State ownership nor is a public enterprise. Article 13 of our constitution recognises co-operative ownership as a form of ownership separate and distinct from State ownership and private ownership.

¹⁹ *Zainul Abidin v Multan Central Co-operative Bank Limited, Multan* (1966) 18 DLR 482 (Supreme Court of Pakistan).

²⁰ See for instance, the judgement of the Supreme Court of India in *State of West Bengal and Anr. v Rash Behari Sarkar and Anr* (1993) 1 SCC 479 (Supreme Court of India).

²¹ *Md. Ismail & Others v. Bangladesh & Others* (1981) 1 BLD (HCD) 407 (Supreme Court of Bangladesh (SC), High Court Division).

When land is acquired by the Government for a Co-operative Society, it is an acquisition in favour of co-operative ownership, as distinct from State ownership and private ownership. Acquisition for a co-operative society is not per se an acquisition for a public purpose.²²

Article 13 of the Constitution is included in its part II i.e. the fundamental principles of state policy which are not judicially enforceable. However, Article 8(2) of the Constitution itself proclaims,

The principles set out in this Part [fundamental principles of state policy] shall be fundamental to the governance of Bangladesh, shall be applied by the State in the making of laws, shall be a guide to the interpretation of the Constitution and of the other laws of Bangladesh, and shall form the basis of the work of the State and of its citizens.²³

Justice Latifur Rahaman in *Kudrat-E-Elahi Panir v. Bangladesh and Another*,²⁴ has observed that '[t]hese ... fundamental principles of State policy are in the nature of instrument of instructions to the Government to implement these principles by legislation so that the nation as a whole can achieve certain ultimate ends by the actions of the Government.' Thus, while the provision contained in Article 13 of the Constitution is not judicially enforceable, they embody an instruction to the government to enforce them by law. Hence, at the outset, it may be argued that the framers of the Constitution viewed the government body entrusted with the function of overseeing the co-operatives more as a facilitator than as a regulator.

If we read the registration related provisions of the Co-operative Societies Act of 2001,²⁵ we would notice that the government officials overseeing the registration of co-operative societies hold too much power. Section of the Act provides that A co-operative society in Bangladesh cannot operate without registering under the Co-operative Societies Act of 2001, which means even if a group of persons want to operate as a co-operative society without looking up to the government for any capital, credit, or any special privileges offered by law or policy to the registered co-operative societies, they cannot legally do this.

The relevant provision of Section 10(2) requires that the respective government officer in whose office the application for registration of a co-operative society has been lodged must complete the assessment of the application on compliance with laws on registration within 60 days from the lodgement.²⁶ If the Registrar refuses the registration, the applicant has an administrative remedy. The applicant may apply, within 30 days of the receipt of the decision of rejection, to

²² *ibid* 19.

²³ Constitution of the People's Republic of Bangladesh, art 8(2).

²⁴ (1992) 44 DLR (AD) 319 (Supreme Court of Bangladesh (SC), Appellate Division).

²⁵ Co-operative Societies Act 2001 (BD) s 9.

²⁶ Co-operative Societies Act 2001 (BD), s10(2).

the superior officer in the co-operative department for an assessment of the refusal to register.²⁷ In those cases in which the Director General of the Co-operative Department is the registering authority, the applicant has no right to appeal, but a mere petition for review (i.e. to the same Director General) may be lodged. Under Section 10(5) of the Act, the decision of the respective public officer regarding the appeal or review is final.

The law does not state how the registering authority would assess the application for registration; it only requires that the respective public officer has to be satisfied that the application is valid under the law. However, if the government official declines registration, then she/he needs to state reason/s in black and white. If the members of a proposed co-operative society are aggrieved by the decision of non-registration rendered by the officials of the Co-operative Department, even then they have no legal right to lodge an application to the civil court for assessing the propriety of the refusal to register as is clearly spelt out in Section 52(7). The division of the adjudicating power between the Registrar and civil courts is spelt out in the as explained in following observation of the HCD in *Kazi Md. Siraj and others v. Bangladesh and others*:²⁸

From the plain reading of Section 50 it is clear like anything that the Registrar of the Co-operative Societies has been empowered to dispose of all kinds of disputes including election dispute of the societies and if any party is aggrieved of by the Order under Section 50, he can file appeal [provided it is not barred by Section 52(7)] under Section 52 of the Rules to the District Judge, who is the final authority in the matter of disputes under Co-operative Societies Rules.²⁹

As regarding the rejection of application for registration, there is no remedy in the civil court, an aggrieved person may file a writ petition to the HCD. However, the settled jurisprudence on this point may stand in the way of a successful invocation of the writ jurisdiction. The HCD in its writ jurisdiction is mainly concerned with legal questions, factual matters which warrant the court to engage with detailed factual and evidentiary questions are not generally amenable to the writ jurisdictions of the HCD.³⁰ And in any case, while the remedy of the writ petition should be a prompt one compared to that of a civil suit, the cost of

²⁷ *ibid*, s10(4).

²⁸ *Kazi Md. Siraj and others v. Bangladesh and others* (2006) 26 BLD (HCD) 153 (Supreme Court of Bangladesh (SC), High Court Division).

²⁹ *ibid* 155.

³⁰ *Abdul Hamid Khan v Miah Nurul Islam and others* (1990) 42 DLR (HCD) 49 (Supreme Court of Bangladesh (SC), High Court Division); see also, *Shamsunnahar Salam and others v Mohammad Wahidur Rahman and others* (1999) 51 DLR (AD) 232 [15] (Supreme Court of Bangladesh (SC), Appellate Division), where the Court held states- '[h]owever extraordinary its powers, a writ Court cannot and should not decide any disputed question of fact which requires evidence to be taken for settlement.' *Cf S. Mohsin Sharif, v. The Govt. of the Peoples Republic of Bangladesh* (1975) 27 DLR (HCD) 186 (Supreme Court of Bangladesh (SC), High Court Division).

a writ petition may be prohibitive for many co-operative societies consisting of members from the marginalised sections of the community. Thus, they may have no real judicial redress regarding the refusal of registration.

It is to be noted that such a bar on the interference by the civil courts in matters decided by the Registrar was present in Section 133 of the Co-operative Societies Ordinance of 1984,³¹ which was the primary instrument dealing with matters relating to the co-operative societies of Bangladesh before the current statute repealed that. On this issue of exclusive jurisdiction of the bureaucrats in the Co-operative Department, the HCD in *Co-operative Society Limited and others v. Subash Chandra Lala, Advocate and others*,³² held:

From the above quoted provisions of law, it will appear that if there is any dispute touching the business or affairs of a Co-operative society, between the parties as mentioned in clause (a) to (d) of Section 86, then that dispute shall be referred to the Registrar of the Co-operative Societies and that the jurisdiction of the Civil Court in that respect has been ousted by Section 133 of *Chittagong Urban* the Ordinance. From this provisions [sic] of the said Ordinance, it appears that there are two requirements of a dispute for reference to the Registrar of the Co-operative Societies in respect of which the civil Court shall have no jurisdiction. One is that the dispute must be touching the business or affairs of a co-operative society and the second is that the parties to the dispute must be the society and its managing committee or any officer or any member or past members and others as enumerated in Clause (a) to (d) Section 86.³³

However, the Co-operative Societies Ordinance of 1984 allowed the Registrar to stay the proceedings before her/him and refer any dispute presented before her/him which involved complicated question of law or facts, to the District Judge or call upon one of the parties to institute a civil suit.³⁴ The year 1984, in which the Ordinance was adopted, falls under the regime of Lieutenant-General Hussain Muhammad Ershad who came to power in 1982 through a military *coup d'etat* and ruled until 1990.³⁵ One cannot help but feel a bit concerned observing that a democratic parliament intended there to be less involvement of the judiciary and paid less heed to the maintenance of check and balance than a military junta regime did.

³¹ Co-operative Societies Ordinance 1984 (BD), s 133 stated:

Save as provided in this Ordinance, no Civil or Revenue Court shall have any jurisdiction in respect of
(a) the registration of a co-operative society or its by-laws or of an Amendment of its by-laws; or
(b) the dissolution of a managing committees and the management of the society on dissolution thereof; or
(c) any dispute required under Section 86 to be referred to the Registrar; or
(d) any matter concerned with the winding up and dissolution of a cooperative society.

³² *Co-operative Society Limited and others v. Subash Chandra Lala, Advocate and others* (1994) 14 BLD (HCD) 342 (Supreme Court of Bangladesh (SC), High Court Division).

³³ *ibid* 10.

³⁴ Co-operative Societies Ordinance 1984 (BD), s 89.

³⁵ Talukder Maniruzzaman, 'The Fall of the Military Dictator: 1991 Elections and the Prospect of Civilian Rule in Bangladesh' (1992) 65(2) *Pacific Affairs* 203.

4.3 Avoiding any Conflict of Interest

In the existing law of Bangladesh, there is no provision to ensure that members of the management committee avoid a conflict of interest situation. To appreciate the pitfalls of this absence, we may look into comparable provisions of the neighbouring West Bengal province of India.³⁶ Section 15(1) of the West Bengal Co-operative Societies Act of 2006,³⁷ states that '[n]o Co-operative society, the bye-laws of which permit admission as its member of a person carrying on transaction or business of the same kind or nature as carried on by its, shall be registered...' The object of this provision is quite self-evident as it seeks to prevent any potential conflict of interest between a member's personal business and that of the co-operative society. The same concept is applicable to most private companies where shareholders are not generally allowed to run any business competing with that of the company's business.³⁸ The Co-operative Societies Rules of 1987, made under the Co-operative Societies Ordinance of 1984 of Bangladesh mandated that '[n]o person who is a member of any primary society shall be admitted to membership of any other such society than a co-operative land mortgage bank.'³⁹ Similarly, the Partnership Act of 1932 as in force in Bangladesh also frowns on partners carrying on a business competing with that of the partnership firm. Section 16(b) of the Partnership Act of 1932 states that subject to any contract between the partners, 'if a partner carries on any business of the same nature as and competing with that of the firm, he shall account for and pay to the firm all profits made by him in that business.' Thus, it is clear that a partner in a partnership firm can only run a business competing with that of the firm subject to an express contractual arrangement with the other partners.

The Co-operative Societies Act, 2001 or the Co-operative Societies Rules, 2004 of Bangladesh does not have any similar condition. The Act merely requires a member to be at least 18 years of age and to subscribe for at least one share in

³⁶ One may contend that at the time when West Bengal Parliament passed this law, the communists were in power in West Bengal, and a law passed by that regime would not be replicable in Bangladesh which is ruled under capitalist political parties. However, such a contention seems to be unpersuasive as the provision which has not been amended by the subsequent non-communist government in West Bengal. And also, as explained below, some of the other laws in Bangladesh and precedent also emphasises the importance of avoidance of conflict of interest.

³⁷ The West Bengal Cooperative Societies Act 2006 (Ind).

³⁸ *Sidebottom v. Kershaw, Leese & Co* [1920] 1 Chapter 154 (The Court of Appeal 1920). In this case, in a private company in which majority of the shares were owned by the directors, the articles of association was altered empowering directors to compel any shareholder with a competing business to transfer their shares at their respective fair value to nominees of the directors. *Sidebottom*, a minority shareholder with a competing business, sued for a declaration invalidating the special resolution altering the articles of association. The court refused to intervene as it found no *mala fide* in the special resolution altering the articles of association.

³⁹ Co-operative Societies Rules 1987 (BD) r 10(2).

the co-operative and allow anyone under 18 years of age to become an associate member if her/his guardian stands as a guarantor for the minor associate member. It is conceivable that members of many farming or similar kind of co-operative societies among rural communities of the less affluent sections of the community may not be willing to give up their personal, professional activities competing with that of the co-operative society. However, for members of the management committee or at least the chairperson of the committee, a restriction on running any personal business competing to that of the firm should be seriously considered by the lawmakers. This should mean that the members of the management committee would be more dedicated in accomplishing the objectives of the co-operative society and the risk of them acting in their personal interest at the detriment of the co-operative society would be diminished.

4.4 Meddling in the Management of the Co-operative Societies

In various ways, the law provides for significant scope for bureaucratic interference in the management of a co-operative society. A co-operative society is a collectivist enterprise as ideally its authority should lie with its members and to ensure such internal control its structure should be significantly different from that of other enterprises.⁴⁰ As per Section 18(1), the managing committee of a co-operative society operates like that of a board of directors of company; they retain all powers in relation to the management of the co-operative society save those powers which are reserved for the members of the society in a general meeting as per the charter of the society. Under, rule 23 of the Cooperative Societies Rules 2004, The number of members of the management committee would be fixed by the bye-law of the society, but it can only be 6/9/12. However, Co-operative Societies Act 2001, proviso to sec 18 (2), if in a society the government has more than 50 per cent capital contribution or more than 50 per cent of the loan or advance made to the society or stands as a guarantor of a loan disbursed to the society, the government or the Registrar would nominate one-third of the members in the management committee. While because of the financial contribution of the government, it having a fixed percentage of representatives in the committee is natural, such representation may somewhat corrode the co-operative values of member autonomy. Furthermore, the government's stake, in this case, should not be equated with that of a shareholder or creditor to a company, as the government's action in this sphere (particularly for small rural co-operative societies) is dictated by rendering public benefit. Such a motive of public benefit is clearly manifested in Rule 77(1) of the Co-operative Societies Rules of 2004.⁴¹ For this reason, the law may be amended to reduce the number of government nominated members in

⁴⁰ Sharit K. Bhowmik, 'Participation and Control: Study of a Co-operative Tea Factory in the Nilgiris' (1997) 32 *Economic & Political Weekly*, A-106.

⁴¹ Cooperative Societies Rules 2004 (BD), r 77(1) states:

the management committee of co-operative societies. Doing this would mean less external influence on the members of the co-operative society.

On this matter, regard may be had to Section 32(b) of the West Bengal Co-operative Societies Act, 2006 which provides that in co-operative societies in which the state government is a subscriber, guarantor, or provider of loan or grant, ‘the State Government or any authority specified by it may nominate one person on the board [equivalent to the management committee] or change them or fill up any casual vacancy of a nominated member.’ Thus, the government there retains only the right to nominate one member in the committee, and even that right is not exercisable in co-operative societies consisting of any self-help group members. The ‘self-help group’ as defined in Section 2(60) of the Act means a group of persons of five to twenty in number coming from different families and belonging to the economically weaker sections of the society having their residential addresses within a contiguous place working for effective implementation of viable economic activities. Thus, co-operative societies consisting of marginalised sections of the community in West Bengal would be free of the governmental nominee in the management irrespective of the government’s financial contribution. The introduction of a provision along this line can go a long way in enhancing the self-governance in co-operative societies in underprivileged sections of the community.

Section 18(5) of the Co-operative Societies Act, 2001 stipulates that the managing committee of a co-operative society cannot be elected in due time, the existing managing committee would stand dissolved and the Registrar would form an interim committee to work for 120 days. The members of the

The government can by granting loan through purchasing share or in any other form provide economic assistance to a co-operative society for the following purposes, namely: -

- (a) for producing commodities by the members of the society or for easing the marketing of their products;
- (b) to run a framing or industrial establishment by the society;
- (c) for paying off any prior loan owed by the members of the society; purchase or development of loan by the members or implementing any project for the interest of the members of the society for farming;
- (d) for building any homestead by the society or its members;
- (e) for paying off any prior loan taken by the society as per its bye-law;
- (f) to bear the cost of salary of any worker appointed for orderly and adept management of the society;
- (g) for partial or complete indemnification of any loss occurring to the company due to an event beyond the control of the society;
- (h) for collection and distribution of any consumable goods in view of an order of the government; and
- (i) for poverty eradication.

interim committee would be from among members of the respective co-operative society as well as bureaucrats. While the proportion of government nominated members in the management committee is mentioned in the law, the proportion of the members and bureaucrats in the interim management committee is not specifically mentioned neither in the Act nor in the Rules. The issue of numbers aside, to what extent these bureaucrats would have any real interest or expertise in the management (albeit temporarily) of the co-operative society is susceptible to question. Again, since the law does not have any specific requirement on this, there is even a potential possible that only members with a close connection to the political party in power would sneak in the interim management committee which would run counter to the principle of ‘democratic member control’ of co-operative societies.⁴² To bring about a change to this, some form of approval of the members in a general meeting as a pre-condition for appointment in the management committee may be introduced.

Sub-sections 1 and 2 of Section 19 stipulate the conditions for holding a position in the management committee - as being of at least 21 years old; a member of the respective society; not being a convict or defaulter of any loan disbursed by a co-operative society, bank, or financial institution; not holding an office of profit or being an employee of a member of the managing committee or a member of the respective society; not being absent in two annual general meetings in the preceding 3 years etc. Rather curiously, Section 19(3) of the Act provides that when the Government would have shares (not necessarily the majority of shares) in a co-operative society and it would nominate members in the society’s managing committee, none of the above aforementioned disqualifications would apply to them. This provision seems to defy logic and principles of sound management of a co-operative society. If members having shares (thus a real pecuniary stake) would stand to be disqualified on the aforementioned grounds, it is curious that why the government appointed members in the management committee who would typically have no personal stake in the respective co-operative society would not be so. On this issue of ousting members from the respective managing

⁴² Section 18(7) of the Co-operative Societies Act, 2001 of Bangladesh imposes a restriction on the re-appointment of a person in an interim managing committee after she/he has served in the previous interim managing committee once. It has been claimed in literature that this provision is a legal limitation and in practice, because of this legal provision, required number of public officers cannot be found for being appointed in an interim managing committee. See also, Mohammad Hosen and Nehar Ranjan Roy, ‘Management of Cooperative Society: Challenges to and Solutions for Good Governance’ (2014) 17 *Journal of Cooperative Organization and Management* http://www.ti-bangladesh.org/beta3/images/2014/fr_ds_Cooperative_study_14_bn.pdf (last visited 21 July 2021). However, we argue here that this restriction is a welcome one upholding the concept of democratic management as it limits the scope for re-appointment of persons (even though only in an interim managing committee and that too can be defeated by a resort to Section 4) who are not elected by the respective members of the society.

committee, if we point to the relevant provision of the Indian federal law, we would note that the nominees of the Government in the board (equivalent to the managing committee of co-operative societies in Bangladesh) are not given any special exemption regarding disqualifications.⁴³ A similar provision regarding the nomination of members by the government was also present in section 28 of the Co-operative Societies Ordinance 1984 of Bangladesh, however, it did not exempt the government nominated members from the disqualification.

The power of bureaucrats is not limited to the nomination of members in the interim management committee, but they also are granted quite sweeping powers in expelling elected members of the managing committee. Proviso to sec 22(1) of the Co-operative Societies Act 2001, in those co-operative societies in which the government has one-third of the total shares or the government is a creditor or a guarantor of a loan disbursed to that society, the Registrar of the Co-operative Department, based on a finding that one or more of the members of the managing committee are flouting any provision of the Act or a provision of the society's bye-law and by that the interest of the members of the society is harmed or leading it on to the brink of bankruptcy; the Registrar may remove the responsible member of the managing committee or may even dissolve the entire committee without having to hold any meeting of the members. Obviously, the action should only be triggered by mismanagement in the co-operative society. That being said, this provision is seemingly objectionable on several counts.

The government having one-third share is only a minority stake in the co-operative society, where the general members are still a majority. Also, ideally in a co-operative society the vote should be allocated in accordance with the one person one vote principle instead of one share one vote principle like corporate bodies.⁴⁴ Thus, this provision, in some ways, can be termed as a rule of minority over majority. When one or members of the managing committee would mismanage the affairs of the co-operative society, their action would not only harm the interest of the government but also that of the ordinary members of the co-operative society and for this reason, the total absence of the voice of ordinary members in ousting one or more members of the managing committee is curious. The law does not even grant an expelled member of the managing committee a right to seek judicial scrutiny of the expulsion from the committee. Under section 22(6) of the Co-operative Societies Act, 2001, an ousted member of a managing committee dissolved by the Registrar (irrespective of the government being a member/creditor or guarantor of a loan or not) can only apply to the superior authority for a review of the expulsion or dissolution of the committee. They are

⁴³ The Multi-State Co-operative Societies Act 2002 (Ind) s 48.

⁴⁴ Roger Spear, 'Governance in Democratic Member-Based Organisations', (2004) 75(1) *Annals Public and Cooperative Economics* 33, 42.

bereft of any right to file a civil suit questioning this administrative exercise of power by the bureaucrats.

Under the federal law in India, i.e. Section of 47 of the Multi-State Co-operative Societies Act 2002, expelling a member of the board (equivalent to the managing committee of the co-operative society in Bangladesh) who is elected by the members of the co-operative society even when she/he 'has acted adversely to the interests of the co-operative' can only be done by the members of the respective co-operative society. Clearly, this is a provision which is compatible with and respectful of the autonomy of members- a key principle of the co-operative initiatives. Section 45 of the Cooperatives Act of 2017 of Nepal also upholds the ethos of the member autonomy and vests the power of expulsion of a member of the board (equivalent to a managing committee in Bangladesh).⁴⁵

Article 2 of the ILO Recommendation 193 has defined a co-operative as 'an autonomous association of persons united voluntarily to meet their common economic, social and cultural needs and aspirations through a jointly owned and democratically controlled enterprise.' The inclusion of autonomy and democratic control in the definition of co-operative societies shows that these are two of the basic characteristics of co-operatives. Additionally, democratic member control,⁴⁶

⁴⁵ Cooperatives Act 2017 (Nepal) s 45 reads as below:

- (1) General Meeting may by a resolution adopted by its majority remove a director from the office of a director in any of the following circumstances: -
 - a) In case he/she incurs loss or damage to the concerned Cooperative Organization by committing fiscal embezzlement;
 - b) In case he/she discloses confidentiality of transaction of the concerned Cooperative Organization in an unauthorized manner;
 - c) In case he/she involves in the same nature of business or transaction with the concerned Cooperative Organization in a competitive manner;
 - d) In case he/she commits any act against the interests of the concerned Cooperative Organization;
 - e) In case he/she is physically or mentally incapable to work; and
 - f) In case any director does not have qualifications referred to in this Act, Rules or Byelaws framed under this Act.
- (2) Before adopting a resolution to remove any director is removed from the office, such a director shall be provided with reasonable opportunity to defend himself or herself at the General Meeting.
- (3) In case any director fails to submit his or her defense within the period referred to in sub-Section (2), or in case his or her defense is not satisfactory, the General Meeting may remove him or her from the office thereafter.

The text is extracted from Nepal Law Commission's Website <http://www.lawcommission.gov.np/en/wp-content/uploads/2019/06/Cooperatives-Act-2017-final-Eng-version-Dec-21-2018-1.pdf> (last visited April 21, 2021).

⁴⁶ The 2nd Principle of the International Co-Operative Alliance: Statement on the Co-Operative Identity states, Co-operatives are democratic organizations controlled by their members, who actively participate in setting their policies and making decisions. Men and women serving as

and autonomy and independence,⁴⁷ are two of the seven principles of co-operatives observed by the ICA in its Statement on the Co-Operative Identity.⁴⁸ The principles of ICA are also inherited in the major international instruments dealing with the co-operative societies, such as the Recommendation 193. The intention to prevent intervention of the government in the autonomy and democratic process of co-operative societies is thus apparent. Any deviation from these principles are incompatible with the fundamental principles of the co-operative movement.

4.5 Control of Public Officials in Winding up Co-operative Societies

Just like the case of registration, regarding the cancellation of registration or liquidation of a co-operative society, the bureaucrats in the Co-operative Department have extensive power, and this matter too is beyond the jurisdiction of civil courts as provided in Section 52(7) of the Co-operative Societies Act 2001. If upon an inquiry based on annual audit of the cooperative societies accounts under Section 43 of the Co-operative Societies Act of 2001 or on the basis of a field-level officer's report, the Registrar feels that the society needs to wound up, she/he can order that without the need for any consent of the members of the co-operative society.⁴⁹ This power of the Registrar is not contingent on the government having any share or other forms of capital injection in the co-operative society. This provision runs against paragraph 6(c) of ILO Recommendation No. 193 which requires that governments would 'provide for the adoption of measures for the oversight of cooperatives, on terms appropriate to their nature and functions, which respect their autonomy, and are in accordance with national law and practice, and which are no less favourable than those applicable to other forms of enterprise and social organization.' The reading of Section 204 of the Companies Act of 1994 makes it clearer, as it is provided that if on the basis of a document or audit etc. an investigation is conducted and the report following such investigation satisfies the government that the company (both private and public) should be wound up, the government would ask the Registrar of Joint Stock Companies to submit a petition for winding up. Thus, in a similar situation, for winding up a company, the RJSC does not have the final say on the winding up, and the court has an ultimate say

elected representatives are accountable to the membership. In primary co-operatives members have equal voting rights (one member, one vote) and co-operatives at other levels are organized in a democratic manner.

⁴⁷ The 4th Principle of the International Co-Operative Alliance: Statement on the Co-Operative Identity connotes, '[c]o-operatives are autonomous, self-help organizations controlled by their members. If they enter into agreements with other organizations, including governments, or raise capital from external sources, they do so on terms that ensure democratic control by their members and maintain their co-operative autonomy.'

⁴⁸ The 2nd Principle of the International Co-Operative Alliance: Statement on the Co-Operative Identity.

⁴⁹ Co-operative Societies Act 2001 (BD) s 53(a).

on the winding up. Thus, it appears that the law does not treat the winding up of co-operative societies on terms equal to that of a company. This disparity between the laws regulating the winding up process of a company and a co-operative society shows that the companies and the co-operatives are not receiving similar treatment from the government while conducting their businesses. The law on this point should be reformed in that winding up decision (unless it is approved by the members in the general meeting), would be referred to the civil court.

4.6 Lack of Scope for Members to Seek Criminal Remedies Directly

Section 86(1) of the Co-operative Societies Act 2001, enacts that all offences committed in violation of the Act are non-cognizable. Section 86(2) provides that a member of a co-operative society or even that of a management committee cannot file a criminal case without prior written permission from the Co-operative Registrar or a person authorised by the Registrar. The restriction applies irrespective of whether the government has any financial contribution in the respective co-operative society or not. The application of this provision may be exemplified by a reported case. In *M Francis P Rojario alias Babu v. State*,⁵⁰ a member of a co-operative society filed a complaint case against the members of the managing committee accusing them of selling society's property in contravention of its charter and misappropriating a substantial portion of the consideration money. The Chief Metropolitan Magistrate, upon examination of the complaint, sent it to the police for treating it as a first information report. The accused members of the managing committee filed a case under Section 561A of Code of Criminal Procedure of 1898,⁵¹ arguing that the case is liable to be quashed.

The HCD held that the offence alleged to be committed by the petitioners is punishable under Section 83 of the Co-operative Societies Act of 2001 and it could only be prosecuted after an inquiry conducted by the Registrar of the Co-operative Societies or someone authorised by the Registrar as per Rule 159 of the Co-operative Societies Rules of 2004. Since no complaint was filed in compliance with this procedure, the criminal proceedings have not followed the law. Thus, it upheld the petition of the accused members of the management committee and quashed the case.

⁵⁰ *Francis P Rojario alias Babu v. State* (2010) 62 DLR (HCD) 355 (Supreme Court of Bangladesh (SC), High Court Division).

⁵¹ Code of Criminal Procedure 1898 (BD) s 561 states:

Nothing in this Code shall be deemed to limit or affect the inherent power of the High Court Division to make such orders as may be necessary to give effect to any order under this Code, or to prevent abuse of the process of any Court or otherwise to secure the ends of justice.

This provision is often used by accused in criminal cases when they feel that the accusation against them is unfounded.

This provision of the Co-operative Societies Act of 2001 identically mirrors Section 136 of the Co-operative Societies Ordinance of 1984, and the spirit of both the provisions were highlighted by the HCD in *Md. Rafiqul Alam, M.D. Dhaka Mercantile Co-Operative Bank Ltd. v. The State*,⁵² by observing that-

The Ordinance and the Act clearly suggest that the Registrar is the administrative Head of the Department and is in control of all the cooperative societies who shall audit or cause to be audited by some persons authorized by him, the accounts of every registered society once at least every co-operative year, so that in case of any irregularity or embezzlement of the fund by any member, he shall be in a position to exercise his discretionary power whether or not legal action should be taken against him under Law in the facts of the given case. Whatever Act the petitioner had committed were in the conduct of the business of the society in exercise of his discretionary powers and therefore, Section 86 of the Act which corresponds to Section 136 of the Ordinance attracted which had ousted the jurisdiction of the Criminal Court in respect of dispute contained in Section 8353

On this point, if we note Section 105 of the Multi-State Co-operative Societies Act of 2002 of India we would notice that a member of the co-operative society can file a case in the court directly.⁵⁴ Section 150 of the West Bengal Co-operative Societies Act of 2006 though in line with the Bangladeshi law makes the offences under the Act non-cognizable and requires the cases to be filed upon approval of the Registrar, makes an important distinction.⁵⁵ Under this Section, the offence of dishonest misappropriation of moveable property of a co-operative society is cognizable.

⁵² *Md. Rafiqul Alam, M.D. Dhaka Mercantile Co-Operative Bank Ltd. v. The State* (2004) 24 BLD (HCD) 632 (Supreme Court of Bangladesh (SC), High Court Division).

⁵³ *ibid* 8.

⁵⁴ Multi-State Co-operative Societies Act 2002, sec 105 proclaims “[n]o prosecution for offences under section 104 shall be instituted except on a complaint filed in writing by a member of a multi-state co-operative society or by the Central Registrar in the competent court.”

⁵⁵ West Bengal Co-operative Societies Act 2006 (Ind), sec 150 reads as below:

- (1) No court inferior to the court of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence under this Act.
- (2) For the purpose of the Code of Criminal Procedure, 1973 (2 of 1974) every offence under this Act shall be deemed to be non-cognizable.
- (3) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, an offence punishable under section 403 of the Indian Penal Code, 1860 (45 of 1860) in respect of any movable property of a Co-operative society shall be cognizable.
- (4) No prosecution shall be instituted under this Act, without the previous sanction of the Registrar.
- (5) A prosecution under this Act shall be instituted by the Registrar or any person authorised by him in this behalf. All expenses for a prosecution instituted on the request of a Co-operative society shall be borne by or recoverable from such Co-operative society.

The existing Bangladeshi legal provision of inquiry regarding the misappropriation of money or other financial mishandling as stipulated in Sections 83, and 86 read with Rule 159 of the Co-operative Societies Rules of 2004 by the Registrar or someone authorised by the Registrar may be founded on two considerations. One may be a desire to avoid frivolous or vexatious suits by any disgruntled faction of the co-operative society, and the other may be using the Government officials as a filter for cases going to the criminal courts. However, when a member of a co-operative society would have a genuine grievance, there seems to be no compelling reason for her/him to wait for the inquiry by the Government officials to be completed first. From a policy standpoint, the offences punishable under the Act would be hurting the interests of the members of a co-operative society, and thus, it seems illogical that they would have to obtain an authorisation from the Registrar or any other designated government official to file a criminal case for prosecuting that. For instance, if a person is a victim of criminal misappropriation of property or criminal breach of trust, she/he can directly file a criminal case without the need for any approval from any authority. So, when a member or some members of a co-operative society are filing a case for offences such as criminal breach of trust or criminal misappropriation of property, they should not need any prior approval of the relevant government functionaries. Creating a hurdle between an aggrieved member and the criminal courts can be seen as putting forth a barrier to the victim's access to justice.

4.7 Misusing the Umbrella of Co-operative Society for Grabbing Grants and Privileges

Co-operative societies in many jurisdictions have become an important factor in government policy making and earned the title of 'policy vehicle'.⁵⁶ Some policy or legal instruments of the Government of Bangladesh stipulates that some special rights such as the right to obtain lease or some other form of allotment of publicly held land will only be open to a registered co-operative society. In this regard, rule 71 of the Land Management Manual of 1990 provides that when a singular parcel of 20 acres of *khas* land would be available for settlement, they have to be allotted to a Farmers' Co-operative Society. Rule 5(1) of the *Government Jalmahal* Management Policy of 2009 provides that any Government owned *jalmahal* with an area of more than 20 acres cannot be allotted to any individual or unregistered organisation and would be allocated only to registered fishermen's co-operative societies. Rule 4 stipulates that in allocating *jalmahal* with an area of up to 20 acres, registered co-operative societies consisting of young fishermen (whose members are aged between 18 to 35 years) would have to be given preference.

⁵⁶ Norman M. Saleh & Noradiva Hamzah, 'Co-operative Governance and the Public Interest: Between Control and Autonomy' (2017) 51 *Jurnal Pengurusan* 209, 211.

There is some allegation that sometimes bureaucrats who are vested with the responsibility to assess the competence of the applicants for registration of a co-operative society get compromised by bribe or other inducement or political pressure and allow registration of a co-operative society with a particular class of members although some of its members may not fall in the respective class.⁵⁷

The point may be exemplified by the reported case of *Md. Monirul Islam v. Bijoy Halder, President Lohamari Matshajibi Samabaya Samity Ltd. and Others*,⁵⁸ the petitioner claimed that the grant of lease of a *jalmahal* (a fishery) to a co-operative society named, Daipukuria Union Matshajibi Samabaya Samity Ltd (DUMSSL) was illegal. This is because DUMSSL consisted of businessmen as can be gleaned from their profession as mentioned in the voter list and hence, the co-operative society consisting of non-fisherman rendering the society ineligible to get the lease under the *Jalmahal* Management Policy of 2009.

As indicated above, the relevant policy provides that if any society consists of any member who is not a real fisherman then the society will be ineligible to get lease of a *jalmahal*. The policy defines a real fisherman as someone who catches and sells fish from a natural source, and that is his main source of livelihood. The HCD upheld their petition and asked the District *Jalmahal* Management Committee to grant the lease to the petitioner. However, on appeal, the AD found that the direction of the HCD to grant a lease in favour of one of the two remaining societies was also incompatible with the requirement of the *Jalmahal* Management Policy of 2009 as some of the members of those two societies were also businessmen/farmers as per the voters' list. Hence, the AD ordered the *Jalmahal* Management Committee to start the process afresh to lease out the respective *jalmahal* as per the policy. This case epitomises limitation of the registration process of the co-operative societies in that none of the contending co-operative societies were actually consisted of the eligible members, i.e., true fishers.

This is a tricky issue for the policymakers. While on one hand, these provisions are desirable and should facilitate co-operative initiatives, on the other hand, when the government officials are vested with the sole regulatory powers relating to registration of co-operative societies, it is imaginable that they may succumb more easily to the pressure of vested quarters. Under the current law, there is only provision for challenging the non-registration, there is no provision for challenging the wrongful registration of a co-operative society. However, a mere option for challenging the registration of a co-operative society to a government official in the Co-operative Department or her/his superior officer may have little

⁵⁷ Hosen and Roy (n 42) 27-28.

⁵⁸ (2013) 42 CLC (AD) (Supreme Court of Bangladesh (SC), Appellate Division).

value. To counter this, a provision may be inserted in the Co-operative Societies Act of 2001 that when any group of persons are aggrieved by the registration of a co-operative society, they can directly file an objection petition to the civil court challenging the legality of the registration by the officials of the Co-operative Department.

An additional means of restricting this can be the adoption of a provision along the line of sub-section 3 and 4 of Section 15 of the West Bengal Co-operative Societies Act of 2006. Sub-section 3 states that a co-operative society established solely for the promotion of the economic interests of any particular community, class or group of people through any specific activity would not be registered if the bye-laws of the society permit admission as its members of persons excluding those to be directly benefited such activity. Sub-section 4 states that a co-operative society established by tribal people or farmers or females exclusively for their benefit must not admit as its member a person who does not belong to the respective group. Provisions along this line may be introduced in the *Co-operative Societies Act, 2001*.

5. Conclusion

It may be fair to observe that at every stage of the operation of co-operative societies, there is an omnipresence of the government apparatus. This over-reliance on the government regulators has arguably meant that members of co-operative societies have not taken as active a role in the management of co-operative society as they should. In similar legal frameworks, the role of the Registrar has been held to be the ‘centre of the picture’ instead of the members of the societies for whose benefit the co-operative movement was initiated and the its role has been compared with the power of life and death over a co-operative society.⁵⁹ This cannot be congenial for a proper development of co-operative societies culture in Bangladesh. Thus, there is little wonder that members of co-operative society would tend to act more like depositors hoping to thrive on interests on deposits and grants from the government in co-operative societies and less as members taking an active part in the management of activities of their respective co-operative society. After all, unlike the investors in a company, the members of a co-operative society are expected to take an active part in running their co-operative enterprise. To make the co-operative initiatives in Bangladesh more vibrant, the policymakers should empower the members of the co-operative societies more.

⁵⁹ Timothy Akomolede and Ebenezer.T. Yebisi, ‘A Critic of the Legal Framework for the Incorporation of Cooperative Societies in Nigeria’ (2015) 39 *Journal of Law Policy and Globalization* 16.

The role of the Co-operative Department of Bangladesh should be more of a facilitator of co-operative initiatives in Bangladesh and less of a regulator. Once the Co-operative Department officials would be less encumbered by the burdens of regulating the co-operative societies, their resources may be better spent in awareness raising and training of the members about their respective rights and duties in relation to their respective co-operative societies. More power vested in the members themselves and less regulatory control of the government officials of the Co-operative Department should encourage the members of co-operative societies to take a more vocal role in the management of their respective societies which would live up to the true spirit of the co-operative society movement. Too much control of the Co-operative Department on co-operative societies would stymie the growth of the co-operative initiatives and run counter to the cooperative values such as democratic member control; member economic participation; and autonomy. And as this article shows, it also does not live up to the vision of the framers of the Constitution and implies a regressive step towards greater external influence on member's a co-operative society.