

REPOSITIONING COOPERATIVE LEGISLATION FOR COOPERATIVE DEVELOPMENT IN NIGERIA

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ABSTRACT

Repositioning co-operative legislation for co-operative development in Nigeria aimed at making co-operative legislation stronger, understandable and enforceable for the growth of co-operative movement in the country. By doing this, co-operative achievements in Nigeria in pre-colonial, colonial and post-colonial era were unraveled. Some notable and practiced co-operative legislations before and after independence were identified. So also the present co-operative decree which is the co-operative principle law and known as Nigerian co-operative societies decree, number 90, of 1993 was dissected. This dissection pictured on the content, page, parts and sections of the decree. Some new inclusions in the decree were made crystal clear as well as the constraints of co-operative legislations in repositioning co-operative development in Nigeria. Finally, some recommendations were made which include the consultation of co-operative experts and engaging them in drafting of a new co-operative Act, elimination of errors, omissions and faulty spellings and usage of words, and sentences, specific requirements for the registration of proposed co-operative societies. Director of co-operatives statutory and non statutory duties should be reviewed, there should be standards for the appointment of directors of co-operatives, ministry of co-operatives should be created at both federal and state levels, employment of co-operative professionals to handle all co-operative matters in the country. Also stated as recommendation are that co-operative societies should not be restricted from using some names or economic activities provided such names and activities are legal and regular promotional activities to be enhanced to encourage awareness on co-operatives and its benefits.

Keywords: *Repositioning, Co-operative, Legislations, Co-operative Development*

INTRODUCTION

Cooperative legislation are the fulcrum through which all the activities of cooperative (be it unit, department, societies) revolve. They regulate all the activities in all the cooperative formations and by extension the behaviours of members and those working or participating in cooperative organizations.

They make or mar of cooperatives in any geographical setting depends on the legal instruments. They are so important that some countries who are serious and anxiously seeking for the measures and strategies of their social, economic and political development depend and aligned in drafting reliable legislations for cooperatives in their climes. This is the reason behind the rapid development, which they assumed in their countries and are enjoying till date. Countries like Germany, Great Britain, Israel, Denmark, Canada etc developed through cooperatives and with reliable and realistic cooperative legislations.

In Nigeria, there is no gain stating the fact that our cooperatives grew better during regionalization era and first republic than now. In those years responsible and responsive cooperative societies were formed, registered and administered through adherence to the cooperative ideals and legislations that were tailored to improve the socio-economic development of our areas. We observed the groundnut pyramid in the north including other crops like rice, sesame, sorghum, cotton etc. while in the south, cultivation, harvest and collection of palm oil, palm kernel, rubber, cashew, cocoa etc through cooperatives triggered the development of the regions and this made eastern region to be adjudged the fastest growing economy then.

All these past glories can be reignited through a well drafted, enforced and implementation of cooperative legislation in the country. With this in mind, the writer of this article will x-ray all the available means and manners of achieving cooperative sustainability through which the socio-economic problems of Nigerian will be curbed that are anchored on cooperative legislations.

Meaning and Definition of Cooperative Legislation

In every country, society or organization, there are rules, guidelines and laws to regulate the activities and behaviours of people to checkmate their excessiveness of power and maintain orderliness. The same is practiced in cooperatives.

So all those rules, laws and guidelines that are drafted, enforced and obeyed in cooperative formations are referred to as cooperative legislations. This cannot be the same as cooperative law which is embodied in a booklet.

Adding credence to this, Nwaosuagwu and Ogbonna (2012) defined cooperative legislation as those piece of Acts, Ordinances, Laws, Decrees, edicts, regulations, bye laws and other pronouncements by competent authorities, which have the force of law, recognized and applied by the state in the administration of cooperative business. Businesses here should encompass business in units and departments and not only the business of cooperative societies.

Berko (1992) opined that cooperative legislation refers to the legal aspects of cooperative organization. Cooperative legislation therefore is all the written and unwritten laws and guidelines that are enacted or pronounced for effective control, good governance and improvement in all the activities of cooperative organizations and formations.

Components and Constituents of Cooperative Legislation

This simply means the make-up of cooperative legislation. Okoreaffia (2016) maintained that the cooperative legislation makeup are all the laws, ordinances, Acts, Decrees, Edicts, Regulations, orders as well as the bye laws of respective cooperative societies in force in Nigeria. Also Berko (1992) contained that at the centre of cooperative legislation are:

- a. Cooperative societies laws
- b. Cooperative societies rules and regulations
- c. Cooperative bye laws and
- d. other laws which directly affect cooperatives including judicial decisions at common law courts.

In a nut shell, the components of cooperative legislation are:

1. Cooperative Societies Laws: These are called principal laws. They are made by the highest law making body in the country and are enforced and administered in all parts of the country. Their names are different because of the period of their enactment. For example those promulgated during the colonial regime is called ordinance while those made during military and civilian administrations are called decrees and Acts respectively. They effect other cooperative legislations and from them also other cooperative legislation are extracted. They are the most supreme cooperative legislation in Nigeria.
2. Cooperative societies rules and regulations: This is the second highest cooperative legislation. It is called subsidiary cooperative legislation. They are enacted to give effect to the principal cooperative legislation and are made to take care of the peculiarities in different social and economic characteristics of component parts of the country. Sometimes they are attached to the principal laws. They are simpler and easier to understand than the cooperative societies laws.
3. Cooperative bye-laws: These ones are among the statutory requirements for the registration of any organization as a cooperative society. They are third in the hierarchy of cooperative legislations. Cooperative bye-laws can be drafted or adopted by the members of cooperative society. In the case of drafted, all the clauses and provisions are written and approved by the members while in the case of adopted, the members approved the bye laws made by

other people provided that they are similar or the same with their aspirations and objectives their cooperative society.

4. Other cooperative laws. In this cooperative legislation contains the policies, pronouncements and judicial decisions. While the policies can be drafted by people appointed for this purpose, pronouncements are made by presidents or governors and their delegates like the ministers and commissioners, judicial decisions are judgments by judges or magistrates of courts of competent jurisdiction. All these must have effect and correct the impediments against cooperatives societies, members and operations.

The Coming of Past and Current Cooperative Legislations

1. **Nigerian Cooperative Societies Ordinance:** Some cooperative related activities and organizations were organized and practiced before the advent of colonial masters in Nigeria and during the colonial regime. In December, 1933, British cooperative expert living in India by name Mr. C.F. Strickland was invited by the colonial masters to conduct a thorough study in the country with the view of unraveling the suitability of establishing modern cooperative enterprises (Okonkwo and Nwajiuba, 2005). This led to the acceptance of the invitation and coming to Nigeria for the assignment. Strickland came and conducted the study between December, 1933 to March 1934 and on 17th April, 1934 submitted a favourable report (Nwaosuagwu and Ogbonna, 2012). In 1935, the first cooperative law was enacted with the name Nigerian Cooperative Societies Ordinance, number 39 of 1935 and in 1936 its rules and regulations were made. This law was made according to Indian Cooperative Law.
2. **Other Attempts of Having Cooperative Legislation:** Though in 1946 the British colonial office published a model cooperative societies ordinance and rules and regulations (Berko, 2001). But it was neither popularized nor taken effect until the creation of regions by Macpherson constitution of 1951. By this creation, the western, eastern and northern regions and Federal Capital Territory, Lagos, enacted their cooperative laws in 1953, 1956 and 1958 respectively. Other attempts made by the Federal Government in 1974, 1977 and 1978 to federalize cooperative law hit the rock as the components states of the federation were adopting, adhering and practicing regional cooperative laws where they were carved out from. This was the practice until 1993.
3. **Nigerian Cooperative Societies Decree of 1993:** In 1993, precisely, 26th August, Nigeria promulgated a cooperative law that was and still in charge of all the matters concerning cooperative societies in all the states of the federation. This law was enacted by the military Head of State turned President, General Ibrahim Badamosi Babangida. Though it has some clauses and provisions of the regional cooperative laws but there are some modifications and inclusion. This cooperative law till date serves as the highest cooperative law of the country and is known as Nigeria Cooperative Societies Decree, Number 90 of 1993.

Structure of Nigerian Cooperative Societies Decree

The cooperative law has thirty eight (38) pages, fifty eight (58) sections with various sub-sections and ten (10) parts. All these are summarized on the under shown table.

Part	Sections	Contents
i.	1-10	Regulation of cooperative societies
ii.	11-22	Duties of privileges of registered societies
iii.	23-29	Rights and liabilities of members
iv.	30-35	Property and fund of registered societies
v.	36-37	Audit, inspection and inquiry
vi.	38-45	Cancellation of legislation
vii.	46-48	Surcharge and attachment
viii.	49-50	Disputes
ix	51-52	Division and amalgamation

x.	53-58	Miscellaneous
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Source: Extracted from Nigerian Cooperative Societies Decree, No. 90 of 1993

Paradigm shift from Old Cooperative Laws the Decree

There are some modifications observed in the contents of cooperative society's decree as mentioned earlier. This modification gave rise to new inclusion and by extension new ways for improving cooperative society's activities in the country. These paradigm shifts and inclusions were summarized by Berko (2011) as follows:

- Minimum membership of secondary societies which is increased from two (2) to five (5)
- Viability as a requirement for registration
- Removal of the directors discretion to register societies
- Societies to be registered within sixty (60) days from application date
- Making the management committee responsible for managing a society
- Removal of directors discretion to register amended bye-laws
- Provision for school cooperative societies in the country
- Minimum age of 16 years for membership of conventional cooperative society
- Representation of state apex cooperatives on federal apex societies
- Maximum period of tenure of office
- Greater freedom to lend money
- Greater latitude to borrow
- Investment decisions to be made by the management committee of the society
- Disposal of surplus
- Creation of education reserve fund
- Auditor to be appointed by the cooperative society
- Revocation of directors power to dispose of remaining funds after liquidation
- Detailed provisions on division and
- Detailed provisions on amalgamation

Importance of Repositioning Cooperative Legislation for Cooperative Development

Cooperative legislation plays vital role in the overall development of cooperatives in any country. The under listed are some of the importance of cooperative legislations for cooperative development.

- Cooperative legislation separate cooperative from other forms of business because of its unique nature
- It enhance the enforcement of cooperative principles which are vital to cooperative viability.
- Cooperative legislation create cooperatives as legal entities that can sue and be sued.
- It protects the investments in cooperatives, their members and third parties in the enterprise.
- It promotes the activities of the government and seeks to improve the collaboration between the government, co-operatives, and the members.
- It checkmates the excessiveness of usage of power by all the stakeholders in co-operative business.
- Co-operative legislation serves as legal backing to privileges enjoyed by both co-operative societies and their members.
- It promotes the autonomy of co-operative societies. All these will buttress the development of cooperatives in Nigeria.

Constraints of Cooperative Legislation in Cooperative Development

Co-operative development should have been improved the more if not some constraints associated with the co-operative legislation till date. The constraints range from the constitution of co-operative legislation drafting committee to enforcement of the laws. These include but not limited to the under-mentioned.

- The Nigerian Co-operative Societies Decree was enacted in 1993 by the military without wider consultation of experts in the field to contribute their expertise. This singular act demeans the decree in both volume and content.
- Cursory to the above is the multiple errors and omissions in spelling and sentences in the decree (Berko 2021).
- Some of the provisions in the law conferred overlord position on Director of Cooperatives were not specific on the matter. For example payment of ₦100 as the registration fee and copies of byelaw for registration by proposed co-operative society.
- In the decree, there is no stipulated standard for appointment of Directors of co-operatives irrespective of the responsibilities attached to the office.
- Non awareness of co-operative laws and their contents by both the members, employees and non members or the larger public.
- Some statutory and non statutory duties of the director of co-operatives can instigate the holder to usurp much power against the co-operatives.
- There is no ministry created at federal level to directly handle the deficiency problems in employment of co-operative experts who will effectively discharge co-operative matters as contained in co-operative legislation.
- Restriction on usage of some names and economic activities like "bank" is counterproductive to co-operative development

RECOMMENDATIONS

In view of the above constraints, the under mention are recommendations to alleviate the constraints.

- A new co-operative Act shall be drafted and co-operative experts widely consulted and be in the helm of affairs in all engagements concerning the Act.
- By so doing, all the errors, omissions and faulty spellings and usage of words and sentences will be curbed if not eradicated in the new co-operative Act.
- Requirements for registration of proposed co-operative society should be made specific and affordable to confront the realities of our economic system on competition.
- Let there be overhaul on statutory and non statutory duties of director of co-operatives to avoid excessive usage of power by occupant of the position and discourage much officialization of co-operatives.
- Appointments of director of co-operatives are to be standardized using co-operative degree, age and experience etc as yardsticks.
- Regular co-operative promotional activities are to be put in place. This will create awareness on co-operatives, obligations of members, benefits, and other contents of the co-operative legislations.
- Creation of ministry of co-operatives at both federal and state levels is long overdue. This ministry will employ co-operative professionals to handle matters at their jurisdictions. The situation where none of the ministers, commissioners even Director of co-operatives have academic background in co-operatives is anticlockwise for co-operative development.
- Co-operative are not to be restricted in names and activities provided such names and activities are legitimate in the eyes of the laws of the land.

CONCLUSION

In writing on the "Repositioning of Co-operative legislations for Co-operative Development", several attempts had been made to x-ray vital areas that covered the title. Many areas covered in this article include but not limited to the activities of our people during pre-colonial days, during colonial era and post-colonial period with some of the popular and known co-operative legislations dissected.

Also of importance in this article is the x-rays of the present cooperative societies arbiter, the Nigerian Cooperative Societies Decree, No 90 of 1993. It made known the structure; of the Decree (sections, pages, contents, and parts). Some of the provisions that will encourage the development of co-operatives that were included in the decree were highlighted without losing sight on importance of co-operative legislations for co-operative development.

Finally, herein are contained the constraints of co-operative legislation in repositioning of co-operatives for co-operate development with some recommendations like; enactment of a new co-operative Act, wide consultation of co-operative experts in the schemes of drafting co-operative laws, appointment of co-operative professionals and creation of ministry of co-operatives at state and federal levels, co-operative societies should be allowed to use any name and participate in economic activities of their choice provided that such names and activities are in compliance to the laws of the country. The writer is of the opinion that if these recommendations are adhered to by all and sundry, repositioning co-operatives for co-operative development will be achieved in the shortest possible time.

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