

International Legal Research and Analysis Initiative of the International Cooperative Alliance

The Law on Cooperative Housing

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Foreword

By Jeroen Douglas, Director-General, International Cooperative Alliance (ICA)

Housing cooperatives embody one of the most tangible expressions of the cooperative values of self-help, democracy, and concern for community. They transform the basic human aspiration for secure and dignified shelter into a collective and participatory endeavour, ensuring that access to housing is guided not by speculation or profit, but by solidarity and shared responsibility. The International Legal Research and Analysis Initiative (ILRAI) on Housing Cooperatives, developed under the auspices of Cooperative Housing International (CHI) and supported by the International Cooperative Alliance (ICA), represents a significant step toward deepening our collective understanding of the legal and institutional conditions that enable these cooperatives to flourish.

The cooperative movement has long recognised that the strength and resilience of cooperatives depend on the quality and clarity of their legal foundations. Law is not merely a regulatory instrument; it is a means of recognising, protecting and advancing the cooperative identity. The 1995 ICA Declaration on the Cooperative Identity and the ILO Recommendation No. 193 (2002) on the Promotion of Cooperatives provide the normative backbone for this recognition. Yet, as the ILRAI reminds us, cooperative law must continuously evolve to reflect the realities of our time and the diversity of cooperative experience across regions and sectors.

Housing cooperatives occupy a unique place within this legal landscape. They deal directly with land, construction, housing finance and tenancy – areas traditionally governed by complex and sometimes conflicting laws. In many countries, housing cooperatives operate under specific provisions within general cooperative legislation; in others, they are subject to distinct legal regimes. These variations demonstrate the adaptability of the cooperative model but also reveal inconsistencies that can hinder fair competition, access to finance and equitable treatment. The ILRAI seeks to bridge this gap by systematically documenting, comparing and analysing cooperative housing laws and policies across jurisdictions, offering a foundation for advocacy, reform, and the development of enabling legislation.

Globally until 2050 the world needs to build another 2,5 billion houses. The main drivers, as they appear to me, are migration due to climate change as well as the reality I see that large parts of the world are becoming uninhabitable due to warfare and poverty.

Also, the increasing trend to live in more individualised or atomized units leads to ever increasing need and this is reflected in demand and soaring prices.

In my view, housing cooperatives has three major responsibilities to deliver:

- a. Sustainable sourcing of all housing materials
- b. Ensure peace building communities
- c. Make inclusive societies and resilient economic communities

Through the ILRAI, CHI and ICA aim to provide our members with an authoritative, up-to-date repository of legal knowledge, empowering them to engage more effectively with policymakers, legislators and development partners. The initiative is both practical and visionary. It supports immediate advocacy needs, such as identifying

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legal barriers to housing cooperative growth, and contributes to the broader goal of embedding cooperative principles into national and international legal systems.

The timing of ILRAI could not be more fitting. First, it is being launched in the 2025 United Nations International Year of Cooperatives, and second, that recent United Nations General Assembly resolutions on Cooperatives and Social Development reaffirm the vital role of legislation in creating an enabling environment for cooperatives of all types. In this global policy context, housing cooperatives stand out as concrete instruments for achieving the Sustainable Development Goals, particularly Goal 11 on sustainable cities and communities. They offer affordable housing, promote social inclusion and encourage responsible land use – objectives that are foundational to peace and prosperity.

The ILRAI also aligns closely with the spirit of the Quito Declaration on Sustainable Cities and Human Settlements (Habitat III, 2016), in which UN Member States committed to fostering business environments that promote fairness, environmental responsibility, and inclusive prosperity. The Declaration explicitly recognised cooperative and community-led housing as effective models for expanding affordable housing supply and preventing social segregation. ILRAI operationalises this global aspiration by providing the legal and analytical tools needed to make cooperative housing a viable, mainstream solution in both developed and developing economies.

What distinguishes ILRAI is its participatory and comparative methodology. By engaging CHI members, legal scholars and cooperative practitioners across more than 25 countries, the initiative ensures that its findings are grounded in real-world experience and shaped by the voices of those working at the intersection of law, housing, and community development. The analysis will not only examine traditional legal categories– such as governance, membership, finance, and taxation– but will also explore emerging dimensions, including sustainability, digital transformation and new forms of collective ownership.

Ultimately, the success of this initiative depends on collaboration. Cooperative law is not a static discipline; it is a living framework that reflects the aspirations of millions of people who choose cooperation over competition. The ILRAI exemplifies how our movement can harness shared knowledge to influence public policy, strengthen democratic ownership, and promote social justice. Its outcomes will serve as a resource for lawmakers and advocates seeking to design legislation that respects the distinctive nature of housing cooperatives; enterprises that are both economic and social, both local and universal.

As we launch this important initiative, I extend my deep appreciation to Cooperative Housing International, the members of the ICA Cooperative Law Committee and the many researchers and practitioners contributing to this effort. Their dedication underscores the cooperative movement's enduring commitment to fairness, dignity, and sustainability. By advancing the legal foundations of housing cooperatives, we reaffirm our belief that homes and the laws that govern them must serve people and communities first.

In this spirit, I commend the ILRAI as a milestone in cooperative legal research and a vital contribution to building inclusive and sustainable societies through cooperation.

Jeroen Douglas

Director General, International Cooperative Alliance

Message from the President of Cooperative Housing International

It is with great pleasure that I announce the publication of the International Legal Research and Analysis Initiative (ILRAI) report on cooperative housing. This groundbreaking study was conducted jointly by Cooperative Housing International (CHI) and the International Cooperative Alliance (ICA) with the valuable support of the European Union and was presented at the famous Peace Palace in The Hague.

This report represents the first truly comparative legal analysis of housing cooperatives across different continents, covering 20 jurisdictions in Europe, Africa, Asia, the Pacific and the Americas. Its findings illustrate a simple truth: where the law recognises, protects and enables cooperative housing, these communities thrive.

I firmly believe that this harmonisation of legal frameworks will be an important basis for the future development of cooperative housing. This collaboration between CHI and ICA demonstrates a commitment to the cooperative principles of democratic ownership and member participation in decisions affecting their housing needs. The ILRAI initiative is proof of what our organisations can achieve when internationalism is not just a word but a working method. Together, we have compiled evidence that supports the embedding of cooperative housing in a coherent legal and political framework.

The comparative analysis in the report shows that the respective legal structure is important. From the specific laws in Austria and Uruguay to the emerging reforms in Africa and Asia, the message is consistent: supportive legal frameworks are the foundation on which cooperative housing can grow, innovate and endure. They determine access to finance, the protection of members' rights and the sustainability of democratic governance.

The results also confirm the importance of international cooperation. The challenges of housing affordability, urban inclusion and sustainability cannot be solved in isolation. By exchanging models, harmonising standards and deepening our partnerships, we are promoting a more resilient global housing sector that puts people first, not profit.

On behalf of Cooperative Housing International, I would like to express my sincere gratitude to the International Cooperative Alliance, the European Union, our research partners, and all the associations and cooperatives that have contributed their experience to this work. We are all working to create a more equitable and inclusive future in cooperative housing.

Guido Schwarzendahl

President

Cooperative Housing International (CHI)

Methodology

Data collection

The study relies on a framework questionnaire developed by CHI with the ICA Cooperative Law Committee, piloted and followed by bilateral clarifications where needed. For this report, the questionnaire was circulated as specified and we received 20 completed responses from four regions (Africa, Asia and Pacific, Europe, the Americas), as listed by respondents.

Country and region selection rationale

Jurisdictions were drawn from CHI membership. Pilots took place in countries where members were active and where the environment was notably enabling or restrictive. After validation, the questionnaire was sent to all CHI members. For synthesis and comparability, the analysis is organised into four regional groupings: Europe; Africa; Asia and Australia ('Asia and Pacific'); South America and Canada ('The Americas').

Definitions and conceptual boundaries

Following CHI's declaration on housing cooperatives and cooperative identity, we understand housing cooperatives as member owned associations that provide housing on a continuing basis. They are governed by cooperative principles. The scope covers "law on and for cooperatives" and the intersecting areas of housing and tenancy, land, planning and building, finance, and tax rules. The questionnaire limits the comparison to legal features. These include establishment and governance, membership rights and obligations, financing and taxation, dispute resolution, oversight, audits, education funds, sustainability and data collection.

Analytical framework

Analysis uses a comparative metric derived from the questionnaire topics to assess the "supportiveness" of each legal environment. Indicative dimensions include clarity of the legal basis and definitions, ease of establishment, democratic governance and member control, protection of cooperative assets, access to finance and favourable tax treatment, proportionate audits and education funds, dispute resolution mechanisms, alignment with public policy, and availability of official data. The metric is refined iteratively and validated through stakeholder consultations.

Executive Summary – Comparative Legal Frameworks

High-level findings

Europe

Housing co-ops are consistently framed as service-at-cost, democratic entities. Where a housing-specific statute and strong audit culture exist, for example in Austria and France, the model is stable. In systems relying on general cooperative or company law, for example in Belgium and the UK, recognition is thinner and practice fills legal gaps. Finance is long-term and loan-based, with public instruments decisive for scale.

Africa

Across Nigeria, Tanzania, Uganda and Zimbabwe, co-ops operate mainly under general cooperative law. They maintain solid internal democracy but face split oversight between registrars and planning or building rules. The tightest binding constraint lies in project finance, while tax treatment and land access remain uneven.

Asia and Pacific

Australia, India and Indonesia share a cooperative-law foundation with one-member-one-vote and member-majority boards. Operational matters often rest in bylaws and programmes. Oversight and data are fragmented, and funding streams are generic rather than cooperative-specific, which limits scale despite diverse legal tools.

The Americas

Most jurisdictions rely on general cooperative statutes, with Uruguay being a more explicit case. Internal democracy and asset-protection norms are strong, but oversight is dispersed. Finance remains thin or programme-bound, and tax settings are generic rather than calibrated to housing co-ops.

Key recommendations

Europe

Close recognition gaps and secure tenure where it is absent. It is important to maintain the effective elements of existing limited-profit systems. We should streamline access to municipal land and develop tailored financial tools, including completion guarantees and low-cost loans. At the same time, we must preserve cooperative audits, transparency and asset-lock protections. Finally, housing cooperatives should be embedded in national housing strategies and routine data collection.

Africa

Provide housing-co-op-specific statutes or guidance aligned with planning rules and designate a lead authority. Create fit-for-purpose capital such as guarantees, revolving funds and credit lines. Calibrate fiscal relief to service-at-cost models, for example through VAT and duty relief and thresholds, and invest in proportional audits, promotion and training through unions. This will anchor cooperatives in national housing policy.

Asia and Pacific

Adopt clear housing cooperative guidance (or light dedicated instruments) consistent with tenancy/land law and nominate a single window for procedures; ring-fence concessional, long-tenor loans and adjust tax to mutuality; strengthen asset-locks, model bylaws and federated technical support, and improve routine sector data to build lender confidence.

The Americas

Ensure legal clarity and coordinated oversight through a single-window approach. Establish predictable cooperative finance through dedicated funding windows, guarantees, and access to serviced public land. Calibrate tax treatment to recognise service-at-cost models. Strengthen asset protection measures and align membership with tenancy arrangements. Scale existing federal and provincial funding streams by ensuring clear cooperative eligibility and proportionate compliance requirements.

Historical and institutional background

Different models of housing cooperatives have been found among the various indigenous peoples of the world. These models are replete in variants and still exist in some rural areas. These practices are often ingrained in their intangible cultural heritage and practiced on the wings of their various forms of social solidarity economy.

The emergence of modern housing cooperatives in contemporary times has been influenced by a number of reasons, including: rapid urbanisation, informal settlements, housing shortages, land tenure system, high cost of land, limited access to finance. Notwithstanding the foregoing, the 21st century currently stands as perhaps the most receptive of housing cooperatives, with the world witnessing a series of renewed interests in cooperative housing due to affordability crises, sustainability concerns and demand for community-oriented, non-speculative housing. Importantly, there is growing adoption of the housing cooperative model into international policy frameworks.

Role of international bodies in cooperative housing

The UN recognises and promotes housing cooperatives as vital actors in social and economic development, emphasising their contribution to sustainable development and achieving the sustainable development goals (SDGs). This recognition includes supporting the UN 2025 International Year of Cooperatives, encouraging member states to support cooperative models, and highlighting the potential of cooperatives to drive inclusive development and provide decent housing for vulnerable populations.

Resolution A/RES/72/143: A United Nations Resolution adopted in 2017 recognised cooperatives as significant contributors to sustainable and social development, promoting inclusive policies and helping to eradicate poverty and hunger.

UN International Year of Cooperatives (IYC 2025): The UN designated 2025 as the International Year of Cooperatives to raise awareness and highlight the contributions of cooperatives to a better world. Prior to this, there was the IYC 2012. Both years (2012 and 2025) raised the visibility of cooperative housing within global development agendas.

Sustainable development goals (SDGs): Cooperatives contribute directly to SDG 11 (sustainable cities and communities) and SDG 1 (no poverty).

International cooperative movement: The International Cooperative Alliance and Cooperative Housing International advocate globally for housing cooperatives. Additionally, UN-Habitat, ICA, World Habitat and other bodies support the exchange of policy ideas, best practices, and data on cooperative housing. The UN supports cooperative housing as a community-led, self-help approach to providing housing solutions.

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The UN approaches the promotes of housing cooperatives through the following:

Raising awareness: the UN encourages member states to promote cooperatives and increase awareness of their benefits.

Driving policy discussions: initiatives like IYC 2025 foster discussions and policy development to support cooperative growth.

Encouraging collaboration: the UN promotes cooperation between governments, businesses, and civil society to strengthen the cooperative movement.

Promoting best practices: the UN showcases successful cooperative models in various sectors, including housing, to inspire further growth and sustainability. It promotes these ideas through institutions such as the Committee for the Promotion and Advancement of Cooperatives (COPAC), a joint initiative between the UN and the cooperative movement which is dedicated to promoting policy and technical cooperation for sustainable development.

Amongst others, the UN acknowledges housing cooperatives as a key tool for adequate housing through the UN habitat declarations and resolutions.

For example, the UN 2001 Resolution (A/56/114) provided guidelines for governments to establish enabling legal frameworks and ensure cooperatives are treated equally with other enterprises. The resolution urges governments to recognise cooperatives as sustainable businesses supporting global goals, including affordable housing, and to reform laws to enable growth.

There are foundational references here. They are grounded in the 1995 ICA declaration on the cooperative identity and the 2002 International Labour Organization (ILO) Promotion of Cooperatives Recommendation No. 193. Furthermore, the UN Secretary-general reports on, monitors the progress, highlights national legal developments, and stresses the role of law in cooperative growth. Additionally, the UN has continued to reiterate the call for governments to review and reform cooperative laws to strengthen and expand the movement. These initiatives hold potential to influence private and public policies across all tiers of governance.

For example, through **Habitat III (Quito Declaration)**, the UN has continued to

- Reiterate its commitment to sustainable, inclusive urban development and support for cooperatives
- Expand affordable options, including rental, cooperative housing, co-housing, and community land trusts
- Promote fair business environments
- Develop housing finance products to boost supply of housing, and prevent evictions of tenants.

Suffice it to say, housing rights as contained in international legal instruments such as Universal Declaration on Human Rights (UDHR), and international covenant on Economic, Social and Cultural Rights (ICESCR) imposes obligation on states to progressively realise the rights of individuals to safe, secure and affordable homes.

Role of public policy in cooperative housing:

Some countries explicitly recognise housing cooperatives as part of affordable housing strategies. Others treat them as niche or informal, limiting their development. The inclusion of cooperatives in national housing policies can provide legitimacy and access to government programmes. Furthermore, supportive policies must align with cooperative principles, and avoid being overly prescriptive. The absence of legal and policy recognition for cooperative housing has often forced cooperatives to rely on private markets for financing, making them less competitive. Supportive policies can make cooperative housing viable for low- and middle-income groups. Institutional support, such as technical assistance, training, and strengthens cooperative capacity.

Role of apex/cooperative federations and support systems

The roles of apex cooperatives cannot be overemphasised. Often referred to as cooperative federations, these entities, among other things, serve as platforms for synergies among cooperatives and advocate for enabling legislation and inclusion in housing strategies. They provide shared services (legal, financial, educational) that individual cooperatives cannot sustain alone, and they encourage and lead partnerships with the government to help bridge gaps in policy and practice. Strong federations amplify the cooperative voice in national and international housing debates.

Analysis of the Responses by National Experts

Please refer to the harmonised questionnaire used for this report in the annexure.

AFRICA

Countries analysed, based on the questionnaires: Nigeria, Tanzania, Uganda, Zimbabwe

Legal Definition and Objectives (Q1–Q2)

Housing cooperatives in all four countries are governed under general cooperative law rather than a special housing cooperative statute. There is no dedicated housing cooperative act, so housing co-ops register as ordinary cooperative societies and abide by the same legal framework that applies to cooperatives in any sector. One country (Uganda) does explicitly define a “housing cooperative society” within its cooperative law, spelling out that its purpose is to provide housing and related services to members. In the others, housing co-ops are simply treated as a type of cooperative without special legal distinctions. Despite this generic approach, the objectives of housing co-ops are uniformly rooted in cooperative principles. They exist to secure affordable housing for their members, not to operate for profit. Across Nigeria, Tanzania, Uganda and Zimbabwe, the law emphasises that these societies are member-focused. Each member has an equal vote (“one member, one vote” is the norm), and any surplus or benefit is used for members’ welfare rather than distributed as profit dividends. In essence, housing cooperatives are legally conceived as service-oriented, member-controlled entities that aim to shelter their members at cost price, distinguishing them from commercial real-estate developers.

Governance Structures and Member Control (Q6)

The governance setup of housing co-ops follows the standard cooperative model. The General Assembly of members is the ultimate authority in each cooperative, and members elect a managing committee or board from among themselves to handle oversight and strategic decisions. Day-to-day operations may be carried out by hired managers or staff (for instance, a project manager or accountant), but those personnel answer to the elected board. This structure ensures members retain democratic control while still enabling professional management of complex tasks like construction. All four countries rely on cooperative law and co-op bylaws to establish checks and balances. Members can remove or replace underperforming board officials, and periodic audits and reports are required to keep leadership accountable. In some cases, the government’s Registrar of Cooperatives has limited power to intervene in governance as a safeguard (e.g. to assist a troubled co-op by appointing an adviser or observer), but such measures do not displace member authority. Overall, the governance framework guarantees member control at the top, with elected leaders carrying out members’ mandates and not external shareholders influencing decisions.

Membership Rights and Obligations (Q4, Q5a, Q5b, Q7)

Across the four countries, admission to a housing cooperative is open and voluntary, subject to basic qualifiers. Members are natural persons (ordinarily adults) with a connection to the co-op’s area. Legal persons do not join primary societies. An exception applies in Uganda, where companies and unincorporated bodies may be admitted as members of a primary society with the Registrar’s written permission. Thus, while the general rule is natural persons only, Ugandan law allows legal-person membership where authorised. Once admitted, members exercise control on a one member, one vote basis at the general meeting and can stand for election, which preserves democratic governance irrespective of how much capital any individual contributes. They also enjoy the service rights that flow from the housing mission - access to allocation processes, information, and participation in key decisions.

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Obligations mirror these rights. Members must contribute capital, including initial shares, fees and, commonly, scheduled project payments. They must comply with bylaws and decisions and participate actively in meetings and committee work as the co-op advances through the acquisition, development and handover phases. Liability is limited; members risk their stake rather than their personal assets. Even so, the frameworks impose discipline. Voting rights depend on being financially up to date, and financial exposure is curbed by caps on individual shareholdings to prevent dominance. Exit is available but regulated and members may withdraw with notice once debts are cleared. Expulsion is possible for serious breaches. On death, the member's interest passes to a nominee or is settled in cash. Membership is not freely tradable on the market. Transfers stay within the co-op to eligible members or are redeemed by the society, and several systems explicitly bar sales to non-members. These rules keep control and benefits with users rather than investors and help stabilise the capital base during multi-year projects.

Financing Mechanisms and Access to Capital (Q7, Q8, Q9, Q10)

Member finance underpins every project. Cooperatives mobilise share capital and regular project contributions, often in equal or near equal amounts, to acquire land and fund staged construction. Budgets aim for service at cost, so cash surpluses are uncommon and, when they do occur, they go to reserves or are treated as patronage tied to use rather than dividends on capital. This preserves affordability and aligns with the nonprofit purpose of housing co-ops.

Because equity seldom covers an entire scheme, co-ops turn to debt finance, not investor equity. None of the four jurisdictions creates "investor-member" categories for non-users. Outside capital therefore comes as bank loans, cooperative finance, or donor support, sometimes complemented by municipal facilitation such as infrastructure or administrative cooperation. Access remains a bottleneck. Security is hard to structure during development, member incomes can be modest, and tailored instruments such as guarantees and revolving funds are limited. Consequently, projects often phase works to match inflows or combine member savings with a moderate loan rather than a single large facility.

On dissolution, settlement tracks cooperative principles and member equity. A liquidator pays creditors and then returns the balance to its members, usually in proportion to contributions. Primary level asset locks are generally absent in the four systems, though a union level lock is used in at least one case. The sector apex donates residual assets to bodies with a similar purpose. The effect is to prevent windfall gains during operation while recognising members' residual claims if the society winds up. This is incentive compatible with service at cost housing.

Tax Treatment (Q12)

Tax regimes span from supportive to neutral. Nigeria affords broad cooperative tax relief, including exemptions from company income tax and certain stamp duty and registration charges. This reduces project overheads and helps cooperatives channel resources to building costs. Tanzania offers partial support. Small cooperatives below a turnover threshold are exempt from corporate tax, and the law permits discretionary waivers. The legal recognition of patronage or "bonus" treatment also aligns with cooperative practice. By contrast, Uganda and Zimbabwe provide no tax relief tailored to housing cooperatives. Standard corporate, property, and transaction taxes apply, which can blunt affordability unless offset by other supports. These differences help explain why fiscal incentives, for example duty and VAT relief on materials, recur in reform proposals.

Dispute Resolution and Legal Redress (Q15)

All four frameworks prioritise in-system resolution. Disputes first follow bylaw procedures such as mediation or internal committees. They then proceed to the Registrar or the Commissioner for determination or arbitration, with

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a limited administrative appeal that typically goes to the Minister.. Ordinary courts are a last resort and are often limited to points of law or review. As a result, conflicts are resolved by authorities versed in cooperative practice, which contains costs and helps preserve relationships during long projects. Respondents still note the need for clearer timelines and better guidance for registrars to improve predictability.

Regulatory Oversight and Sectoral Governance (Q1, Q11, Q13, Q14)

Housing cooperatives sit at the intersection of cooperative regulation and housing and urban planning law. Cooperative authorities register societies, oversee audits and inquiries, and can intervene in a proportionate way. Planning and building regulators handle permits, zoning, and codes. The result is robust accountability but, in practice, duplicate procedures and occasional misalignment between cooperative and housing administrations. A parallel movement led by a layer of unions and federations supplies model bylaws, training, mediation and a policy voice, for example a national housing cooperative union. It functions as soft oversight and capacity infrastructure.

Shared gaps drive a common reform agenda.

1. Housing-specific legal guidance within cooperative law (or a dedicated instrument) would clarify tenure tools, governance of allocations, and internal settlement models.
2. Finance access needs institutional solutions – development funds, guarantees, or co-op-tailored credit lines.
3. Fiscal or land incentives (targeted tax relief, serviced plots, fee waivers) would recognise service-at-cost status and unlock affordability at scale.
4. Streamlined oversight with a clear lead ministry or a single window process would cut transaction cost.
5. Capacity-building for boards and managers should be embedded through federations and public programs.

Collectively, these steps align governance with practice and enable housing co-ops to scale while safeguarding democratic control.

SUSTAINABLE DEVELOPMENT (Q.16)

The 7th cooperative principle marries the concepts of sustainable development and democracy. It is imperative that this principle is translated into national/regional law and the internal rules to take significant effect.

In African countries, cooperative legislation is at its infancy. In many of these countries, there are no clear cut or direct relations between cooperative legislation and sustainable development, mainly because the laws such as the Nigeria Cooperative Societies Act, 2004 was adopted before the wider acceptance of the principle of sustainable development and more particularly the UN Agenda for Sustainable Development. Despite this lack of opportunities, Nigerian cooperative legislation holds provisions that aim to support sustainable development through primarily enforcing the sustainability of the cooperatives. Some of these provisions of the Nigerian Cooperative Societies Act are contained in PART III (Rights and liabilities of members); PART IV (Property and funds of registered societies); PART V (Audit, Inspection and Inquiry); PART IX (Division and Amalgamation). In Uganda, the law makes provision for Cooperatives as legal entities. However, unlike stock companies, cooperatives are inseparable from members, hence membership is emphasised. These attributes support usability and control, which have proven essential to the sustainability of Ugandan cooperatives. Similar provisions are contained in the legislations that enables cooperatives in Zimbabwe.

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AUDITS – COOPERATIVE AND FINANCIAL (Q.17)

Financial regime is one of the most important components of cooperative administration and management. Much as accounting and audit procedures are unique to each country, the implication may shape peculiarities of the cooperative movement in each country. The realities of financial audit of cooperatives sound similar in many African countries, yet there are basic differences. In Nigeria, PART V of the Nigerian Cooperative Societies Act (Audit, inspection and inquiry) makes provision for the auditing and financial monitoring procedure for cooperatives. It provides at Section 36(1) Audit: the accounts of a registered society shall be audited at the end of the financial year to which the accounts relate by an auditor approved in writing for that purpose by the society. The Act criminalises the obstruction or non-cooperation with the audit process, hence Section 36 (5) provides: any officer, agent, servant or member of a registered society who- (a) wilfully neglects or refuses to do any act or furnish any information ; or (b) furnishes information he knows to be false; or (c) without any reasonable excuse, disobeys any summons, requisition or order made under subsection (3) of this section, is guilty of an offence and liable on conviction to a fine of not less than N1,000.00 or to imprisonment for a term of six months or to both such fine and imprisonment. Furthermore, Section 37 (8) an officer or a member of a registered society who – (a) wilfully neglects or refuses to do any act or to furnish information; or (b) furnishes information knowing it to be false, contrary to the provisions of subsection (2) of this section is guilty of an offence and liable on conviction to a fine of N 1,000.00 or imprisonment for a six months or to both such fine and imprisonment. Similarly, in Zimbabwe it is the legal requirement that cooperatives shall be audited yearly. This yearly audits are expected to be the culmination of monthly reports. All reports must be formalised. Same as obtainable in Nigeria, the audit procedure is supervised by government, whom in addition to supervision offer training in financial audit and other forms of human resource supports to cooperatives.

The circumstance is a bit different in Tanzania, where by virtue of the provisions of the Cooperative Act, every registered society shall, with the approval of the general meeting, employ an internal auditor so as it can help the cooperative efficiently check the account of the society. Additionally, to guarantee better audits and monitoring of the finances of Tanzanian cooperatives, there is a functional Cooperative Audit and Supervision Corporation (COASCO) which provide supervision services to pre-cooperatives and cooperatives. In Uganda, Part Seven of the Cooperatives Act 107 provides for supervision and inspection of affairs of a registered society, the registrar can request for production of all monies, books of account, property documents, securities and resources relating to the affairs of a housing cooperative society. Additionally, Section 56 of the Cooperative Act provides that there shall be an Audit and supervision fund into which every registered society shall unless exempted by the registrar pay annually a supervision fee and if societies accounts are audited by an officer appointed by the registrar, pays into it an audit fee. The law under Section 82 of the Cooperative Act provides for appointment of external Auditors by the AGM who have unlimited access to books of account of the society for reporting and accountability to members and the auditors term of office does not exceed 3 consecutive years. Clearly there are specific provisions in their respective laws for auditing, monitoring and supervision in line with standard and best practices to ensure accountability of cooperative societies. The importance of auditing and monitoring can be gleaned from the provision of punitive measures for default in the Nigerian Cooperative Societies Act.

EDUCATION, TRAINING AND INFORMATION (Q.18)

Socio-economic and environmental dynamics dictates that cooperatives and their members continually upscale their skills and trade. It is only through this model that cooperatives can remain competitive in an ever changing world.

The Nigerian Cooperative Societies Act makes specific provisions for fund to support cooperative education. Section 34 of the Nigerian Cooperative Societies Act: (Disposal of profit): provides that at least one fourth of the net profits of a registered society as ascertained by the audit report shall be paid into a fund to be called

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the “reserve fund” which shall be applied as specified in this Act. Particularly, section 34 at subsection (3) provides “a registered society may with the approval of the director and after one fourth of the net profit in any year has been paid into a reserve fund contribute an amount not exceeding ten percent of the remainder of the net surplus to an education fund”. The education fund is expected to be utilised by cooperatives for educational purposes. These purposes are quite diverse and often range from in-house training, attendance of seminar, workshop, conference etc. Similarly, in accordance with the Cooperative Societies Regulation of 2015, Tanzanian cooperatives are required to set aside at least 10% of their annual budget into the education and training fund. 5% of the set aside fund is transferred to the Tanzania Cooperative Development Commission (TCDC). However, in 2022 the Cooperative Research Fund (CRF) was established under the Tanzania Federation of Cooperative (TFC) which is currently authorised to utilise the 5% of the fund instead of TCDC. Similarly, Section 54 of the Uganda Cooperatives Act Cap 107 provides as follows “there shall be a national cooperative education fund to which every society shall contribute 1% per year of its net surplus. Currently, this fund is not active”. Although the government now provides for funds in the annual budget for training and education about cooperatives to both members and communities, it should be noted that in some countries, such as Zimbabwe, cooperatives do not have statutory requirements for educational funds.

HOUSING AS A HUMAN RIGHTS PERSPECTIVE (Q.19)

In many parts of the globe, housing is acknowledged as a human right. This assertion brings to the fore questions of the legal status accorded housing in different countries. National public policy instruments, and in some circumstances their international equivalents, do recognise housing as a human right. In other circumstances, there may be identified gaps in these policy and legal frameworks. Notwithstanding, there is a consistency across the globe in the obligations placed on private organisations and government institutions to reform housing laws and policies from a human rights perspective. The effective discharge of these obligations is primarily a question of the quality of engagement between stakeholders. Suffice to say that housing rights as contained in international legal instruments (such as Universal Declaration on Human Rights (UDHR) and International Covenant on Economic, Social and Cultural Rights (ICESCR)) imposes obligation on states to progressively realise the rights of individuals to safe, secure and affordable homes. The legal framework in many African countries recognises housing as a human right. For example, the Nigerian jurisprudence guarantees unfettered rights to individuals and groups (this includes housing cooperatives) to the acquisition and ownership of land and other immovable properties in accordance to their economic and financial capacities. Human rights and its enforcement are primarily as contained in the 1999 Constitution of the Federal Republic of Nigeria. Chapter four of the constitution, which comprises sections 33 to 46, makes provisions for Fundamental Rights. These rights include section 43 (Right to Property): Right to acquire and own immovable property anywhere in Nigeria, which provides “subject to the provisions of this constitution, every citizen of Nigeria shall have the right to acquire and own immovable property anywhere in Nigeria”. The constitutional right to acquire and own immovable property anywhere in Nigeria may be exercised by an individual citizen, by couples, friends, collectives, associations, societies, cooperatives, companies etc.

Prior to the above provision, the Nigerian constitution provides in chapter II (fundamental objectives and directive principles of state policy), particularly at Section 16 (2) (d): “The state shall direct its policy towards ensuring that suitable and adequate shelter is provided to all citizens”. It should be noted that the entirety of Chapter II of the 1999 Constitution of the Federal Republic of Nigeria is not justiciable before the Nigeria judiciary hence its provisions are not enforceable and are at best advisory. Chapter II of the 1999 Constitution of the Federal Republic of Nigeria runs contrary to international legal instruments such as Universal Declaration on Human Rights (UDHR), and International Covenant on Economic, Social and Cultural Rights (ICESCR) obliges state parties to the Convention to progressively realise the rights of individuals to safe, secure and affordable homes. Furthermore, section 6 of the Nigerian Cooperative Societies Act: (Effect of registration) subsection (1): The registration of a society shall – (b) vest it with power to: hold moveable and immovable property of any

continued

description; enter into contracts; institute and defend suits and other proceedings; and do all things necessary for the purpose of its constitution (bye-law). The above provision establishes the intention of the legislature to enable Nigerian cooperatives to venture into the business of acquisition of land and other immovable properties. While the constitution provides the legal basis for private ownership of property, section 6 of the Nigerian Cooperative Societies Act lays a legal background for the operation of housing cooperatives in Nigeria.

Similarly, in Tanzania, Article 24 (1) of the Tanzanian Constitution (as amended 1977) states that every citizen has the right to own 'property' and the right to have that 'property' protected in line with the law. Furthermore, Article 24 (2) states that it is illegal to deprive someone of their 'property' for any reason without the authorisation of a law that provides for just and reasonable compensation. Article 25(1) emphasises the right to housing, stating that everyone has the right to a standard of living adequate for the health and well-being of oneself and one's family, including housing. However, the rights guaranteed in Article 24 and 25 are rights to own property which enhances access to housing, and may not be treated as an equivalent to the right to housing. This is because 'property' covers a wide range of legal titles that are not necessarily housing. In addition, relying on the right to own property as a justification of the right to housing is an understatement, because housing is not just a property but a basic necessity.

GOOD EXAMPLES (Q.20)

There are good examples of housing cooperatives in many countries. Many of these examples are unique to local peculiarities. For instance, in Nigeria there are rarely housing cooperatives in the mono purpose model. Rather, housing cooperatives operate as one of the services offered by hybrid or multipurpose cooperatives. These cooperatives have performed creditably well in the face of glaring economic, social and administrative odds. A good example is the Federal Road Safety Corps (FRSC) Cooperative Society. This cooperative society is primarily composed of staff and officers of the Federal Road Safety Corps, a federal paramilitary organisation responsible for the safety of lives and properties on **federal roads**. ***This cooperative society is a hybrid of staff-financial-land acquisition and sharing-housing*** cooperatives. It has not only contributed effectively to the provision of housing units and other properties in Nigeria through the cooperative model, it has gone further to establish strategic partnership with other stakeholders such as the Nigerian Army Post Service Housing Scheme which has a long history of providing mass housing facilities to retiring and retired members of the Nigerian Armed Forces. Complementing this is the Cooperative Mortgage Bank of Nigeria, which has continued to provide financial and technical support to Nigerian cooperatives in their drive to harness the benefits of the cooperative housing model. Similarly, in Tanzania, the Mwenge Housing Cooperative Society has built more than 400 housing units in Mwenge, a suburb of Dar es Salaam, since it was established in 1971. As part of its sustainable expansion programme, the Society has proceeded to acquire an additional 220 acres of land in Chalinze Township.

African cooperatives require government support to play effective roles in the provision of housing. Thus, the Ministry of Lands, Housing & Urban Development in Uganda offers free architectural plans and recommends appropriate and deserving cases alternative building materials to support housing cooperatives.

DATA (Q.21)

There is an imperative that data about cooperatives is collected by different levels of government. This has to be collected regularly and adequately. Additionally, the collated data should ideally be made public. The foregoing raises some questions, particularly about the capacity of census practices to single out housing cooperatives. In virtually all African countries, there is no adequate data on the number of cooperatives, hence it may be practically impossible to have data on any of the sectoral arms of the cooperative movement. The foregoing is the reality of in Nigeria, Tanzania, and Uganda as reported by the national experts.

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OPEN QUESTION (Q.22)

Currently, housing deficit in Africa is massive. Filling the gap in the near future appears impossible in the face of current socio-economic and political realities. But this presents feasible opportunities for housing cooperatives in Africa. However, it should be noted that the dominant model of housing cooperatives on the continent are hybrid or multipurpose cooperatives. As much as this model may require some internal upgrading, there are high potentials to build on this model and promote multi-stakeholders' relations. Firstly, through improved cooperation among cooperatives, thereafter increased and improved strategic collaboration between the cooperatives and its external entities e.g. banks, insurance companies, capital market operators, indigenous land owners, international institutions etc.

To implement the foregoing may require legal recognition of cooperatives, and particularly legal recognition of cooperatives involved with the business of real estate. This may require upgrade in the knowledge on housing cooperative by the stakeholders, particularly those involved with legislative, executive and judicial duties. For example, there no legislation for Housing cooperative Law in Uganda, which means there are no specific regulations or frameworks guiding the operations of housing cooperatives. This has led to challenges; for example, land ownership in Uganda is primarily governed by the Land Act, but the absence of a specific framework for cooperatives has led to challenges in acquiring land. Cooperatives often have to navigate the same land acquisition process as private developers or individuals. These processes are often costlier and time-consuming, yet compounded by limited access to financing.

The AMERICAS

Countries analysed based on questionnaire responses from: Brazil, Chile, Uruguay and Canada (British Columbia and Quebec provinces)

Legal Definition and Objectives (Q1–Q2)

Housing cooperatives in all surveyed jurisdictions are governed primarily by general cooperative laws. They are not governed by specialised housing statutes. In Brazil, housing cooperatives fall under the General Cooperative Law (Federal Law 5.764/71). There is no separate housing cooperative act. Chile also has no dedicated housing cooperative law. Cooperatives are regulated by the General Law on Cooperatives (DFL 5 of 2003) and its regulations, which define housing cooperatives as organisations “whose purpose is to satisfy the housing and community needs of their members and to provide the services inherent to this purpose”. Uruguay presents a hybrid framework. Early housing co-ops operated without specific legislation until the National Housing Law 13.728/1968 recognised them. Today they are chiefly governed by the General Law on Cooperatives 18.407/2008. Housing co-ops are addressed in Article 117. This Uruguayan law explicitly defines housing co-ops as organisations whose main purpose is to provide decent, stable housing for members, achieved through mutual aid construction efforts or collective contracts. In Canada, cooperative housing is under provincial jurisdiction. Both Québec and British Columbia use general cooperative statutes (e.g. Loi sur les coopératives in Quebec, BC Cooperative Association Act), which apply to housing co-ops alongside other types. While these laws are general, they contain specific provisions for housing cooperatives. For example, in Quebec, the Cooperatives Act includes a separate section defining the purpose of housing cooperatives and outlining special requirements (sections 220 et seq.), and British Columbia's Cooperative Association Act also contains specific provisions (for example Section 1, which includes definitions relevant to housing cooperatives, and Sections 170–173 for Special Purpose Associations). Thus, across the board, housing co-ops are legally defined as member-owned associations operating on cooperative principles to provide housing, in contrast to conventional for-profit real estate companies

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All jurisdictions stress the non-profit, service-oriented objectives of housing co-ops. They are distinguished from for-profit housing developers by their *mutual benefit aim* and the prohibition on distributing profits. For example, Uruguayan law mandates that housing co-ops provide homes “at cost” and forbids any “speculative practices” or capitalisation of surpluses. Similarly, Chile’s cooperative law enshrines that cooperatives “do not earn profits” as such, and any surplus must be used for the cooperative’s purpose or placed in indivisible reserve funds rather than paid out as dividends.

Brazil’s General Cooperative Law requires cooperatives to pursue a specific service objective (for housing co-ops, the collective acquisition of housing units for members) and expressly disallows profit-making for private gain. A Brazilian housing cooperative’s goal is to deliver homes to its members at costprice, not to maximise return on investment. To underscore this contrast, Brazilian respondents offered a side-by-side comparison. Housing co-ops are “societies of persons”: their aim is to secure housing for members at cost; membership is open; and voting is one member one vote. Ordinary housing companies are “societies of capital”: they seek profit; they limit participation; and voting is based on shares. In essence, cooperative legal frameworks embed the ICA cooperative identity principles: they require open and voluntary membership; they ensure democratic member control; they mandate member economic participation, without speculative profiteering; and they give primacy to service over profit. Member promotion is the legally mandated purpose, so benefits flow to members rather than investors. In Chile, open housing cooperatives must pursue a single purpose, namely the provision of housing for their members. In Uruguay, the law likewise confines their activities to housing and complementary services.

All jurisdictions generally allow cooperatives to engage in ancillary activities *in support of* their housing mission (such as community facilities or services for members) but not to stray into unrelated commercial ventures. For example, Uruguayan housing co-ops often run community libraries or clinics as complementary services, which is permissible under the law’s broad social purpose clause. In Brazil, co-ops may undertake secondary social or cultural activities, but cannot have a non-economic primary objective (like pure advocacy) without risking loss of cooperative status. Laws typically permit limited dealings with non members as an exception, with safeguards. In Brazil, housing co-ops may conduct up to a defined share of their operations with non members (up to 30 percent). Those transactions are treated as non cooperative. They are taxed, any resulting surplus cannot be distributed to members. It is directed to the education fund FATES. Chile likewise allows transactions with third parties under limits. Co-ops must not enter arrangements that let outsiders obtain cooperative tax advantages improperly. In sum, the legal landscape presents housing co-ops as a special form of enterprise. They are legally autonomous and private associations. They pursue a social objective, namely decent housing for members, under a cooperative non-profit ethos. They are clearly distinguished from profit driven housing developers.

Governance Structures and Member Control (Q6)

Across the four jurisdictions, governance follows a consistent cooperative architecture. The General Assembly of members is the supreme organ. It approves or amends bylaws, elects and may remove directors, receives the auditor’s report, and decides on fundamental transactions such as encumbrances, asset disposals, and dissolutions. In Chile this is explicit through a reserved list of powers that belong only to the assembly. In British Columbia this is reflected in mandatory annual general meetings (AGMs) and in members’ authority to appoint and remove auditors and directors. Between assemblies an elected Board of Directors manages the cooperative. Directors in every jurisdiction owe stringent fiduciary duties. In British Columbia the standard is honesty, good faith, and diligence. In Chile administrators are liable even for slight negligence. Breaches can ground removal or personal liability.

Composition rules protect member primacy and allow measured flexibility. Brazil and Uruguay provide for member-only boards. Offices are honorary and cannot be delegated to external managers. This keeps decisions within the member base. Chile and British Columbia allow a limited minority of non member directors if the

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bylaws say so. In BC the cap is one fifth, which brings in expertise without diluting democratic control. Oversight layers in Brazil and Uruguay also apply. The Conselho Fiscal in Brazil and the Fiscal Commission in Uruguay scrutinise the board and report to members. This adds a peer accountability check between general meetings. The overall effect is stable. Member sovereignty is constant. Any opening to outside expertise is narrow, bylaw driven, and bounded.

Membership Rights and Obligations (Q4, Q5a, Q5b, Q7)

Admission is open and voluntary. Neutral qualifiers may apply. These include age and capacity. They also include a local housing need or link in Uruguay. Some settings allow legal entities to join. Chile permits this. Brazil and Canada allow it in law. Even so, housing cooperatives are overwhelmingly made up of individual members. Rights mirror the cooperative identity. Members hold one member one vote at the assembly. They are eligible for office. They have information rights. Housing cooperatives add a distinctive right to secure access to a dwelling. This can be through ownership in Chile and in Uruguay owner cooperatives. It can be through long term use in the Uruguayan user cooperative model. It can be through a membership linked lease in Canada. Models that recognise joint or household membership keep the single vote rule. They tailor representation to family realities. Quebec uses solidarity and joint member solutions.

Liability in Chile and in Brazil is limited to the member's stake. Post exit exposure is transitional only and does not extend beyond the stake. In Brazil, membership remains in place until the cooperative's accounts are closed for that fiscal year. Members can exit, but the process is designed to protect the cooperative's financial stability. Refunds are issued only after all debts have been settled, and any transfer of membership is handled internally and tightly regulated. Sales to non-members are prohibited.

In Chile, transfers require the consent of the board, while in Uruguay, they are allowed only if the incoming member is formally accepted. To prevent financial dominance from translating into excessive influence, many systems impose limits on ownership concentration. In Chile, no member may hold more than 20% of the cooperative's capital, while in Brazil, the cap is set at one-third.

Together, these rules help ensure that financial power remains separate from decision-making power.

Financing Mechanisms and Access to Capital (Q7, Q8, Q9, Q10)

Member equity underpins every project. Contributions may be equal or calibrated to dwelling type and size in Chile. In mutual aid cooperatives in Uruguay, contributions include recognised sweat equity hours alongside modest entry fees and loan amortisation payments. Safeguards such as the twenty percent cap in Chile and the one third rule in Brazil prevent capital concentration. In British Columbia members must pay membership shares in cash, and – in the non-profit stream that dominates housing cooperatives – investment shares are generally absent. Investor-only members are not a feature. They are forbidden in Brazil, not envisaged in Uruguay or Chile, and they are rare in Canada. Instead, cooperatives bridge the equity gap with debt and public programs. Uruguay provides MVOT loans and land and departmental support; Canada uses historic NHA programs and recent CMHC funds; Chile relies on bank lending; and Brazil relies on conventional credit and builder partnerships.

Economic results reflect service at cost. Surpluses are reinvested in reserves or used to lower charges. Profit distribution on capital is barred. In Uruguay, housing cooperatives are strictly non-profit. They cannot capitalize or distribute earnings, and when they dissolve, any remaining funds—after debts and member refunds—must go to the cooperative institute.

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In Chile, the law also treats cooperatives as non-profit by design. It separates member results from third-party results, applies reserves to cover losses, refunds member shares, and allocates any remaining balance according to legal and bylaw rules.

Brazil follows a similar principle. Transactions with non-members are taxed, and any surplus is directed to FATES and reserve accounts. Dissolution rules are carefully ring-fenced to prevent demutualisation.

In British Columbia, the same spirit applies. Section 173 of the Cooperative Association Act prohibits distributions to members and requires that any residual assets be transferred to another non-profit housing organization.

Upon dissolution, the legal reserves and any remaining surpluses are to be distributed among the members pro rata to their shares.

Tax Treatment (Q12)

Tax policy reflects the mutual and non-profit character. In Uruguay, user housing cooperatives are exempt from national taxes. Several departments waive property taxes, which lowers long-run housing costs and improves viability. In Chile, cooperatives do not earn profits in the corporate sense. Member-sourced surpluses receive favourable treatment, while dealings with third parties are taxed in the ordinary way, which preserves neutrality with the market. In Brazil, cooperative acts with members lie outside the ordinary tax base. Non cooperative operations are taxed, and any positive result goes to FATES. There is no housing specific tax, and general cooperative relief applies. In Canada, in British Columbia and in Quebec, housing cooperatives fall under the general tax regime. Most operate as non-profit organisations, so there is no corporate income tax on retained surpluses. Property taxes and transfer taxes still apply. Relief comes through occasional rebates and program conditions rather than through cooperative specific tax law.

Dispute Resolution and Legal Redress (Q15)

Oversight combines state supervision and movement self governance. Chile's Department of Cooperatives registers and inspects cooperatives. Housing cooperatives do not benefit from the cooperative development fund. They receive support through MINVU housing subsidy programs. In Uruguay the MVOT for housing and INACOOOP for cooperative development jointly supervise and finance the sector within a mature social housing architecture. In Canada provincial registrars ensure compliance. For example the BC Registrar. Federations in British Columbia and in Quebec supply model bylaws, training, mediation and soft supervision. Where public funds are involved, SHQ and CMHC add program conditions designed for long term asset stewardship. Brazil lacks a housing specific regulator. OCB no longer recognises a distinct housing branch, so data, advocacy and tailored guidance suffer. Respondents call for a national policy and for sector recognition to close this gap.

Horizontally, co-ops federate across all settings. Law enables and encourages this so they can share services and speak with a collective voice. Examples include Chile's integration rules, Uruguay's FUCVAM and FECOVI, Canada's CHF networks, and Brazil's legal allowance for federations.

Common reform asks are aligned

1. Legal clarity where gaps persist, including the interface with consumer law in Brazil and the alignment of membership and tenancy remedies in Quebec.
2. Finance and land access, including dedicated cooperative funds, guarantees, and serviced land at reduced cost.

continued

3. Targeted fiscal relief, including mitigation of transaction taxes and taxes on materials.
4. Streamlined procedures and better coordinated oversight.
5. Capacity building through federations and public programs.

These incremental adjustments would better align regulation with cooperative practice and enable co-ops to scale affordable housing while safeguarding democratic control.

The responses from most South American countries tend to operate on a restricted legislative framework for housing cooperative. The circumstances call for changes such as autonomy of the housing sector and the removal of identified barrier to allow for a more inclusive and flexible cooperative housing models.

SUSTAINABLE DEVELOPMENT(Q.16)

South American countries depict a growing concern for sustainable development goals. As such, directly or impliedly, through national legislation or ratified international treaties, their laws have incorporated the underlying principles of sustainable development, through which they showcase cooperatives as an integral agent for sustainable development.

Canada does not have national laws with specific provisions for sustainable development through housing cooperatives or the larger cooperative movement. Nevertheless, cooperatives in the province of Quebec have adopted sustainable development policies to guide their affairs.

By virtue of Environment Quality Act (R.S.Q., chapter Q-2) many cooperatives have adopted sustainable development through the adoption of appropriate environmental policy. CQCH offers a model for such a policy (see the “Guide pratique de gestion” on the CQCH website).

CQCH has also had its carbon footprint measured on the basis of its annual activities. It has begun the process of offsetting its greenhouse gas emissions, and intends to encourage other federations and housing cooperatives to follow suit in the coming years.

In Chile, the cooperative principle of “Concern for the Community” is embodied in the foundations of national cooperative legislation, and it applies to housing cooperatives which includes the statutes for housing cooperatives. Article 1 of the General Law on Cooperatives defines cooperatives as governed by the principle of mutual aid and their purpose is to improve the living conditions of their members. It also establishes equal rights and obligations for members, where each person has only one vote and where inclusion and diversity are promoted. Additionally, cooperatives are managed democratically by their members, hence management bodies have member participation at the core of their operations. Furthermore, cooperative legislation focuses on sectors that are essential to society, such as agricultural, labour, housing and services, invariably supporting cooperatives as core socio-economic agents.

In Uruguay, protection of the environment is provided for in Article 47 of the Constitution of the Republic, and captures international norms such as the Inter-American Pact on Social and Cultural Rights (ICESCR), Law 17283 (General Law on the Environment) and Law 18.308 on Territorial Planning and Sustainable Development. Cooperativism is a pioneer in the development of democratic participation and the need for sustainable development. This has been carried out through government policies and also through agreements signed by cooperatives with government departments and public energy (UTE), drinking water (OSE) and telecommunications (ANTEL) companies.

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AUDITS – COOPERATIVE AND FINANCIAL (Q.17)

Most South American countries have cooperative laws that provide for auditing and monitoring compliance.

The Canadian Cooperative Law, as well as the province of Quebec Cooperative law make provision for auditing and monitoring to ensure financial transparency and compliance with requisite regulatory measures. Section 108 of the Cooperative Association Act provides a general requirement that every association have an auditor. Subject to section 109 (1), an association, at each AGM, must appoint an auditor by ordinary resolution to hold office until the close of the next .

In Quebec, L.C., Art. 132 provides that the Board of Directors of a cooperative must prepare an Annual Report within six months of the end of the fiscal year. The cooperative must send a copy of the Annual Report to the Minister within 30 days of the AGM, and where applicable, to the federation of which the cooperative is a member (S.C., art. 134).

If, after examining a cooperative's Annual Report, the ministerial authority finds that the cooperative has failed to comply with the requirements of the Cooperatives Act, it may then require the cooperative to produce a cooperative recovery plan in line with its recommendations, and a report on the implementation of this plan.

According to S.C. Art. 185.5 the Minister may also require the Board of Directors to present the submitted recommendations, the recovery plan and the report on its implementation at the AGM following their production. Furthermore, according to S.C., Art. 177 the Minister may appoint an inspector for a cooperative.

In Brazil, periodic audit of cooperatives is required. In deserving circumstances, the regulator may request the Board of Directors of a cooperatives to hire an external auditor. This exercise is often aimed towards having an independent assessment of the financial situation of the cooperative. Additionally, the Board of Directors can commission internal audits, but it is not obligatory in housing cooperatives.

In Chile, the regulator can require cooperatives to submit all kinds of information (legal and accounting) to check that they are operating in accordance with the law. Additionally, at the end of each financial year, cooperatives must have their financial statements audited by external auditors, who have the function of thoroughly reviewing the financial, accounting and legal information of the cooperative and issuing a pronouncement. The general meeting of Members is responsible for appointing the external auditors for the following financial year.

In Uruguay, 18.407 Article 2 provides that "Cooperatives shall be declared to be of general interest and effective instruments to contribute to economic and social development, to the strengthening of democracy and to a fairer distribution of wealth. The State shall guarantee and promote the constitution, free development, strengthening and autonomy of cooperatives, in all their economic and social expressions". The Uruguayan legal framework distinguishes the intervention of bodies in cooperative matters. On the one hand, there are the supervisory bodies. Housing cooperatives are controlled by the MVOT, which includes auditing (Article 211 of Law 18.407). Other cooperative modalities (consumption, production) are controlled by the National Internal Audit Office and social cooperatives by the Ministry of Social Development (MIDES). Moreover, there is a specific development and promotion body, INACOO, which is a non-state public body (a figure that is not formally part of the State but is governed by public law) created by Law 18407, Article 186 and following.

EDUCATION, TRAINING AND INFORMATION FUND (Q.18)

In some of the countries of the Americas, relevant legal frameworks provide for a certain percentage of the net profit of cooperatives to be allocated to support education. In a few others, there are no such specific provisions.

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Canada does not have specific provision for allocation of educational funds in their respective cooperative laws.

In Quebec, there is no legal provision for such a cooperative education and promotion fund. Financial resources to support cooperative education and promotion are, however, provided for in various governmental and private measures and programs. The Conseil québécois de la coopération et de la mutualité has set up the Fondation pour l'éducation à la coopération et à la mutualité. Following the adoption of the Cooperative Development Policy in 2003, the Quebec government signed a Partnership Agreement for Cooperative Development with its cooperative partners. This agreement, which has been renewed year after year since 2003, provides for financial assistance, notably for training activities and the promotion and development of cooperatives. Funding for this multi-million-dollar agreement comes jointly from the Quebec government and partners of the cooperative movement.

In Brazil, each cooperative must create a Technical, Educational and Social Assistance Fund – FATES – with at least 5% of its net profit. Each cooperative operates its own fund. As a fund, the cooperative must apply the principles of cooperativism.

In Chile, there is a public fund called “Creation and Strengthening of Cooperatives” through the Technical Cooperation Service (SERCOTEC), under the Ministry of Economy, Development and Tourism. As its name suggests, the fund is aimed towards the promotion of existing cooperatives and also the formation of cooperatives. In this way, the cooperative system is strengthened, seeking opportunities to improve management capacity, business model and member benefits. Currently, this fund consists of a non-refundable 8 million Pesos for the creation of cooperatives and 20 million Pesos for the strengthening of existing cooperatives. This fund is to provide training and technical assistance to cooperatives. The fund can equally be used by cooperatives to subsidise the purchase of tangible and intangible assets, directly related to the purpose of the fund. Unfortunately, housing cooperatives cannot benefit from this fund since it is aimed only at agricultural, peasant, fishing, labour, service and consumer cooperatives.

In Uruguay, there is an obligation for the constitution of a Cooperative Promotion Commission. Specific funds are also earmarked for this purpose in each cooperative. The law establishes different resources for the purpose of cooperative promotion. Some of these are: Article 204 Development and Education of Cooperatives; Article 209 The Special Revolving Fund (FRECOOP) for the financing of cooperative investment projects; and Article 210 Fund for the Promotion of Cooperativism.

HOUSING AS A HUMAN RIGHTS PERSPECTIVE (Q.19)

In Canada, housing is primarily within the purview of provincial government. However, the federal government plays a role through the National Housing Strategy Act, a legislation that has declared housing as a human right. For example, **Declaration 4** provides “It is declared to be the housing policy of the Government of Canada to (a) recognise that the right to adequate housing is a fundamental human right affirmed in international law; (b) recognise that housing is essential to the inherent dignity and well-being of the person and to building sustainable and inclusive communities; (c) support improved housing outcomes for the people of Canada; and (d) further the progressive realisation of the right to adequate housing as recognised in the International Covenant on Economic, Social and Cultural Rights. Additionally, there seems little direct inclusion of the principle of “housing as a human right” in the cooperative legislation, but human rights tied to housing (no discrimination based on protected grounds, duty to accommodate, access to the Human Rights Tribunal, etc.) are part of the BC Human Rights Code. Neither the Canadian Charter of Rights and Freedoms 27, nor the Charter of Human Rights and Freedoms (R.S.Q., chapter C-12) explicitly recognise the existence of a formal right to housing.

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The Province of Quebec does not have any law pronouncing housing as a human right. The Civil Code of Québec does, however, protect a tenant's right to maintain occupancy of the leased premises (C.C.Q., art. 1936). The CQCH and regional federations of housing cooperatives, in collaboration with other cooperative and community organisations, are constantly lobbying public authorities to put in place programs and financial resources to enable all Quebecers to have access to decent, affordable housing.

In Brazil, there is a public debate on housing as a basic fundamental right, but not on housing cooperativism.

In Chile, the right to housing is not enshrined as a fundamental guarantee in the constitution, therefore, it is not enforceable at the jurisdictional level, despite the fact that Chile has signed all the international and regional human rights treaties. Notwithstanding, the constitution establishes as fundamental rights the freedom to acquire ownership of all kinds of property and the right to property in its various forms over all kinds of tangible and intangible property.

In Uruguay, Article 45 the constitution of the Republic provides that “every inhabitant of the Republic has the right to enjoy decent housing. The law shall tend to ensure hygienic and economic housing, facilitating its acquisition and stimulating the investment of private capital for this purpose”. At the level of international instruments, the right to housing is enshrined in the Universal Declaration of Human Rights (1948) and in the International Covenant on Social and Cultural Rights (1966). The two main legal pillars that regulate this constitutional mandate are the Housing Law 13.728 of 1968 and its concordant provisions and Law 18.407 on the cooperative system. The law 13.728 of 1968 is a pioneering and groundbreaking law that has promoted the human right to housing and provided a roof over the heads of thousands of people.

GOOD EXAMPLES (Q. 20)

In Canada, the establishment of new housing co-ops is not legally challenging: the challenge is finding the resources necessary to build or acquire housing at costs that members can afford. Non-profit housing has traditionally required government funding and even equity co-ops face financing challenges. Notwithstanding, there are co-ops with a handful of homes, and there are others with more than 250 units of homes. Some co-ops own the land they use, others have leases with municipalities or other bodies. Management practices vary depending on circumstances and some co-ops have been successfully providing housing since the 1970s. Over the last decade, the community housing sector (the provincial cooperative housing federation and its sister organisations) has established itself as a developer of new housing co-ops and also provided stability to older co-ops facing challenges. Importantly, the legal framework has provided flexibility to allow a variety of approaches that are dynamic enough to address emerging trends. For instance, membership termination is more strictly controlled now than it was in 2010.

In Chile, although housing cooperatives are not a majority, there are some examples that have been able to do solid work over time in meeting the housing needs of their members and helping to reduce the housing deficit in Chile. Conavicoop is the largest cooperative in Chile, with more than 50 years of experience, and has developed more than 70,000 housing units throughout the country, other good examples are Provicooop and Vimacaucoop. All housing cooperatives are supported by the Ministry of Housing and Urban Development, which, through housing subsidy programmes, enables the development of these associations by awarding projects and providing financing. This ministerial portfolio is aimed at non-profit organisations, such as open and closed housing cooperatives.

In Uruguay, there are multiple examples of user-owned housing cooperatives, being an example at the Latin American and global level. This has been highlighted in multiple events at regional and global level. More than 38,000 families live in housing cooperatives. The 2023 Population and Housing Census shows that 5.2% of

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housing is in housing cooperatives, compared to 2.62% in the 2011 Census, which represents a doubling of this factor. For example, in 2012 FUCVAM won first prize in the annual United Nations Competition for Human Settlements (UNCHS-Habitat). In terms of architecture, for example, cooperative housing complexes such as the Complejo Habitacional Bulevar Artigas (FECOVl) have received multiple scientific recognitions and have been exhibited as examples of original and sustainable housing in many seminars and exhibitions around the world.

DATA (Q.21)

There is an imperative that data about cooperatives is collected by different levels of government. This has to be collected regularly and adequately. Additionally, the collated data should ideally be made public. The foregoing raises some questions, particularly about the capacity of census practices to single out housing cooperatives.

In Canada, provincial governments, under whose jurisdiction housing cooperatives are established (housing being primarily a provincial matter), collect and maintain a variety of information about individual cooperatives. Co-op incorporation information is complemented with Annual Reports to maintain status as a registered incorporated body. Information collected includes updates on current directors. Some minimal information about the status of housing cooperatives (and other organisations recognised by the Province) is available through online at government-owned platforms such as <https://orgbook.gov.bc.ca/search>, and https://www2.gov.bc.ca/gov/content/employment_business/business/managing-business/permits-licences/businesses-incorporated-companies/searches-certificates. In regards land ownership, the BC Land Title & Survey collects and maintains information that is available for a fee at: <https://ltsa.ca/#>.

The current federally administered census (which takes place every five years), does not precisely separate housing cooperatives from other tenure types. The most recent census took place in 2021 and included both short- and [long-form](#) questionnaires. The long-form questionnaire inquires about subsidised dwellings (which could include non-profit housing cooperatives but does not target them). There are questions about whether dwellings are owned or rented, but how a co-op member might answer questions of this sort is not clear. As they currently formulated, the census is not capable of singling out housing cooperatives. The realities in Canada call for a more inclusive and flexible cooperative housing models.

In Brazil, the OCB classifies housing cooperatives as infrastructure cooperatives together with rural electrification cooperatives. FENACOHAB understands that this situation hinders the collection of data on the housing sector in the country. There is currently no public policy to support and stimulate housing cooperatives in the country. The current cooperatives operate under the self-management system. Some cooperatives participate in housing programmes in the popular housing movement with resources from the Government's associative credit, which depends on the existence of a construction company accredited by the Caixa Econômica Federal.

In Chile, statistics on housing cooperatives have not been the subject of legal regulation. The body called upon to collect all types of information related to housing cooperatives is the Department of Cooperatives, as it is the super-monitoring body that has the registry of all cooperatives in the country. On its website, the department publishes statistical reports and documents related to associations and cooperatives.

In Uruguay, data is collected both on cooperatives in general and on housing cooperatives in particular. Frequent collections are made through the Information and Research Unit of INACOOOP (Instituto Nacional del Cooperativismo). As of 2020, 2,177 housing cooperatives were registered, which constitutes 64% of the total number of cooperatives in Uruguay.

In Chile, Conavicoop is the largest cooperative with more than 50 years of experience, and has developed more than 70,000 housing units throughout the country. Other good examples are Provicoop and Vimacaucoop. All

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housing cooperatives in Chile are supported by the Ministry of Housing and Urban Development, which, through housing subsidy programmes, enables the development of these associations by awarding projects and providing financing. The ministerial portfolio has special programmes aimed at supporting non-profit organisations, such as open and closed housing cooperatives.

In Uruguay, the 2023 Population and Housing Census shows that 5.2% of housing is in housing cooperatives, compared to 2.62% in the 2011 Census, which represents a doubling of this factor. Importantly, over 38,000 families live in housing cooperatives. Uruguayan housing cooperatives, for example Complejo Habitacional Bulevar Artigas (FECOV), have received multiple scientific recognitions and have been exhibited as examples of original and sustainable housing in many seminars and exhibitions around the world. Additionally, in 2012, Uruguayan housing cooperative FUCVAM won first prize in the annual United Nations Competition for Human Settlements (UNCHS-Habitat).

Q.22 OPEN QUESTION

User cooperatives constitute a very relevant manifestation of collective ownership and popular organisation. Their importance has been evident in the resistance to the military dictatorship that established state terrorism in our country (1973-1985) and in the subsequent years of consolidation of democracy in Uruguay.

ASIA AND PACIFIC

Countries analysed, based on the questionnaires: India, Indonesia, Australia

Legal Definition and Objectives (Q1–Q2)

In all three countries, housing cooperatives are governed by general cooperative law rather than a dedicated housing cooperative statute. The co-op's primary purpose must be housing, and membership criteria must align its purpose. Australia's Cooperatives National Law (CNL) requires a housing purpose and "active membership" linked to that purpose. India's state cooperative laws define housing societies as member-owned entities providing affordable shelter with surplus reinvested for members' benefit. Indonesia's Cooperatives Act (Law No. 25/1992) defines cooperatives as democratically run, kinship-based enterprises aimed at members' welfare. Housing co-ops provide decent, affordable housing for members, and they cannot pursue objectives beyond member welfare. In Indonesia, however, housing cooperatives may cooperate with government or private partners to meet broader housing needs, such as projects for low-income communities, so long as these collaborations remain subordinate to the primary objective of serving members' welfare.

Profit distribution is tightly constrained. Many Australian co-ops are non-distributing entities or registered charities. In India, societies reinvest surpluses or may make limited member returns. In Indonesia, co-ops do not pay dividends on capital. They allocate surplus (SHU) in proportion to member use. All three embed one member one vote and social aims. For example, Australian co-ops serve specific groups. Indian and Indonesian co-ops prioritise affordability and partner with public programmes.

Governance Structures and Member Control (Q6)

Across all three jurisdictions, the general meeting remains the apex authority, while an elected board handles day-to-day management within powers delegated by members and set out in rules and bylaws. Australia's framework requires at least three directors and preserves member control by insisting on a member-majority on the board, even where a limited number of non-member directors is permitted to bring specialist skills. In India, the general body elects a managing committee. Democratic control is reinforced by the registrar's power to intervene, for example by appointing an administrator when governance breaks down. Indonesia's structure distinguishes between a management board (pengurus) and a supervisory board (pengawas), both elected by

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the annual members' meeting (RAT), which creates a clearer separation between day-to-day decision-making and oversight. In all three countries, core safeguards are set out in constitutions and meeting procedures. They include one member one vote, member approval for major constitutional or strategic changes, and clear removal mechanisms. Meeting procedures cover quorum, notice and voting.

Accountability is further anchored by graduated redress paths. They start internally and escalate only when needed. Australia requires cooperatives to maintain internal grievance processes. If internal steps fail, members may seek recourse from designated tribunals or courts. Registrars also have compliance and enforcement tools. In India, disputes that concern a society's constitution, management or business are channelled to cooperative forums. These forums include the registrar, cooperative courts or tribunals, and appointed arbitration. Ordinary civil courts are a last resort. The possibility of registrar intervention supports continuity of member control. Indonesia emphasises musyawarah (deliberation) within the AGM RAT or in special meetings, and it allows mediation under the bylaws or action by the supervisory board before any external mediation or arbitration or court action is considered. Taken together, these arrangements balance operational flexibility for boards with firm member sovereignty, discourage mission drift, and ensure that any exceptional use of external expertise or supervisory power does not dilute the underlying principle of democratic, member-led control.

Membership Rights and Obligations (Q4, Q5a, Q5b, Q7)

Membership is open to individuals and legal entities that align with the housing purpose, subject to capacity and adult status. Non-discrimination applies, and additional eligibility can be set in bylaws or linked to public funding rules. Australia requires prospective members to be active members, meaning they participate in the cooperative's housing purpose. India allows firms, companies, societies, public bodies and trusts to join, and minors may hold membership through a guardian in cases of inheritance. Indonesia permits natural and legal persons whose interests align with the cooperative's purpose (Article 17). Members hold equal votes regardless of capital. They gain occupancy or use rights. In Australia, tenancy or equity-based occupancy applies depending on the model. In India, rights are linked to specific units. In Indonesia, members use housing facilities and share surplus SHU. Transfers are regulated. In India, transfers usually require approval by the managing committee or the registrar as required by law, and they are tied to specific flats. In Indonesia, shares generally cannot be sold to third parties and may be transferred only as the bylaws allow.

Obligations include capital contributions and dues. In Australia, members pay share subscriptions and fees and rent, with liability limited. In India, members hold minimum shares and pay entrance fees and periodic charges, with liability limited to unpaid amounts. In Indonesia, members make principal and mandatory savings plus voluntary contributions, with limited liability.

Membership ends by resignation, expulsion, death, or dissolution. Exiting members generally receive paid-up capital after settling dues and subject to liquidity safeguards. Australia may repurchase shares or issue a debenture or CCU that is repayable over up to ten years if immediate payment would strain finances. In India, refunds typically occur after the next closing or audit under law and the bylaws. In Indonesia, refunds follow the bylaws once obligations are cleared. On winding up, assets pay external creditors first and then return members' capital. Any residual is applied as provided in the bylaws and by decisions of the general meeting (for example, for cooperative or charitable uses). Indonesian law sets this order explicitly (Articles 46–50).

Financing Mechanisms and Access to Capital (Q7, Q8, Q9, Q10)

Member capital is foundational across all three countries. Australia often sets minimum shares (with an upper individual cap where typically no member may hold over 20% of share capital without special approval), which discourages speculative influence. Indonesia requires principal savings that are equal for all members and

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mandatory savings, and it allows voluntary contributions including in kind. India requires minimum shares and initial sums, sometimes in kind, and links investment to housing use. There is no universal statutory cap in India. In practice and in bylaws, outside holdings are restrained.

External finance complements member equity. Australia's CNL allows member loans and the issuance of debentures and Cooperative Capital Units (which may be offered to members and non-members). In practice, many housing co-ops, especially rental co-ops, rely on government-subsidised loans and guarantees, common equity arrangements, and bank finance, with reserves built from rents. India uses member and nominal or investor-member funds, member loans, mortgages over cooperative property, and credit from HUDCO, state housing boards, and cooperative and urban cooperative banks (often financing about fifty percent), plus state-level apex federations and institutions such as NCDC. Indonesia permits member loans, third-party bank finance, and bond-like instruments where the bylaws and regulations allow, often through partnerships with state banks and with support from the Ministry of Cooperatives.

Public grants and subsidies exist but are secondary in the responses. In Indonesia, the constitution recognises the right to housing and a healthy environment (UUD 1945, Article 28H(1)). Survey responses indicate that housing cooperatives can help realise this right by using shared-ownership models such as community land trusts (CLT), where the cooperative or a trust holds the land and members hold building use rights. Respondents also call for enabling public measures – preferential land access, targeted subsidies and affordable finance – and for sectoral housing laws to reflect these human-rights commitments. In Australia, the major direct grants were earlier. Today, cooperatives often benefit indirectly through community housing registration, land access, or charitable concessions. In India, states have offered grants and interest-free loans and unit subsidies, for example for Economically Weaker Sections (EWS) or slum rehabilitation, and in some cases concessional land allocation. In Indonesia, there is no unified national funding stream yet. Local start-up subsidies, tax preferences for income from member transactions, and potential land access are reported. Policy signals favour the growth of cooperative housing.

When members exit or when a cooperative is dissolved, payout priorities protect member equity and preserve stability. In Australia, repayment may be delayed through a debenture or a Cooperative Capital Unit. In India, refunds are usually staged and occur after the next closing or audit. In Indonesia, returns are governed by the bylaws. In all cases, payments to external creditors come first. Indonesia's cooperative law requires an education reserve. A portion of the annual surplus must be set aside in an education and training fund, which finances member education and cooperative development activities. This reserve is mandatory and non-distributable.

Tax Treatment (Q12)

All three apply general tax regimes but recognise cooperative mutuality to varying degrees. In Australia, member-sourced income is generally non-assessable under the mutuality principle, while income from non-members is taxed normally. Many housing co-ops are charities or non-distributing, accessing income-tax exemptions and some indirect-tax or duty concessions, while outside income remains taxable.

India tax cooperatives broadly like companies. Housing societies usually structure their affairs to minimise taxable profit. Certain cooperative-specific provisions exist, for example limited section 80P reliefs. The main practical benefit is GST relief on member maintenance. Contributions up to ₹7,500 a month per flat, with annual turnover below ₹20 lakh, are exempt. Tax typically applies only above the threshold. Dividends and interest paid to members may be taxable with withholding where applicable. Property taxes apply, with occasional local concessions.

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Indonesia distinguishes member transactions from dealings with third parties. Member-sourced revenue and SHU distributions are not taxed. Profits from non-member transactions are taxed at the prevailing corporate rate. Land and Building Tax (PBB) and transfer duty (BPHTB) apply, subject to local waivers for low income housing initiatives. Some incentives apply when profits are reinvested in public and affordable housing facilities.

Dispute Resolution and Legal Redress (Q15)

All three prioritise internal resolution consistent with cooperative autonomy, with external forums as a backstop. In Australia, the Cooperatives National Law mandates internal grievance procedures and provides access to designated tribunals to enforce rights or compel action. Registrars may intervene on compliance issues. In India, disputes concerning a society's constitution, management or business are channelled to registrars, cooperative courts, tribunals or appointed arbitrators rather than ordinary civil courts. Internal grievance bodies and appeals to general bodies are common. A 2023 ombudsman mechanism exists for multi state cooperatives. In Indonesia, the emphasis is on musyawarah (deliberation) at RAT or at special meetings, with internal mediation committees under the bylaws. If matters remain unresolved, parties may use external mediation or arbitration, for example BANI, or the courts including district courts and PTUN for administrative disputes.

Regulatory Oversight and Sectoral Governance (Q1, Q11, Q13, Q14)

Housing co-ops are regulated within the general cooperative framework. In Australia, co-ops register under state and territory cooperative legislation based on the Cooperatives National Law (widely adopted, with Western Australia operating a similar regime). Registrars approve rules and amendments (typical 28-day review), require annual filings, and may investigate, sanction, or cancel registrations for breaches. Cooperatives that choose community housing registration must meet additional programme standards. Sector data are not consistently disaggregated. Illustrative good practices are highlighted in the Indonesia responses. Kampung Susun Aquarium and Kunir in Jakarta show collaboration between communities, city authorities and the provincial government. In these cases, cooperatives or community groups partnered with public actors to rebuild housing on site and to manage the projects, with arrangements that keep homes affordable and secure for members.

In India, state registrars (and, for multi-state cooperatives, the Central Registrar) register and oversee societies, elections and audits, and they can appoint administrators, supersede committees or wind up defunct entities, with appeals to higher authorities. State cooperation departments set policy and, in some states, provide model by-laws. District and state federations support training, finance and advocacy, but they are not regulators, and compliance can be paperwork-heavy.

In Indonesia, the Ministry of Cooperatives and SMEs, through local offices, registers and oversees cooperatives. It conducts inspections, sanctions breaches, and in serious cases may seek revocation or dissolution. Law No. 25/1992 encourages federations, formed by at least three primary cooperatives, including sector specific housing federations, to pool finance and deliver technical assistance. These are self governance bodies, not regulators. Data collection exists, but detailed public reporting on housing cooperatives remains limited. There is no special licensing beyond cooperative law and general housing and building rules.

Another notable regulatory barrier is Indonesia's land regime. Non-agricultural cooperatives, including housing cooperatives, cannot hold full freehold title (Sertifikat Hak Milik, SHM) and may only obtain use rights such as Hak Guna Bangunan or Hak Pakai. This limitation undermines security and discourages members from registering land in cooperative ownership, thereby constraining scale and investment. Survey respondents therefore urge a reform of agrarian law to allow housing cooperatives to hold SHM or to create a special form of collective title that secures tenure and encourages development.

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Beyond land tenure issues, respondents highlight the lack of a dedicated housing cooperative statute. They recommend adopting special legislation to regulate collective ownership and financial responsibility arrangements and to protect cooperatives against demutualisation. Respondents also urge simplifying the establishment and licensing processes for housing cooperatives through streamlined procedures and fast-track forms for low-income housing initiatives. In addition, they call for tax incentives – such as exemptions or reductions on income, land and building taxes – to support cooperative housing and its social mission.

To sum up, Australia, India and Indonesia share a foundation in cooperative law for housing cooperatives. They have member majority governance, constrained profit distribution, open membership tied to housing use, tax treatment that recognises mutuality, internal first dispute resolution and standard cooperative oversight. Where relevant, programme based housing finance and support supplement these foundations.

SUSTAINABLE DEVELOPMENT (Q.16)

The 7th cooperative principle “Concern for the community” marries the concepts of sustainable development and democracy. This principle has varying degrees of translation into national/regional law and internal rules across the Asia-Pacific region of the International Cooperative Alliance. Perhaps a primary factor for consideration in this region is the pronounced diversity in the economic, social and political realities among countries.

In Australia, the national laws make provision for the inclusion of Sustainable Development Goals in cooperative principles and practices. The provision of Part 1.3 enables cooperatives to focus on members need as well as work for the sustainable development of their communities through policies accepted by their members. The CNL provides at section 10 and 11 that members may approve community or charitable giving by the cooperative. It does not mandate what each cooperative does to show concern for community.

In India, there are provisions in state and multi-state cooperative societies legislation that align with the seventh principle of cooperatives.

These include: mandates that cooperatives undertake community development programs from profits earned; requirements for community participation in cooperative decision-making; promotion of sustainable practices such as environmental conservation and social responsibility; emphasis on social responsibility and ethical business practices; and encouragement of community engagement and outreach efforts to raise awareness and foster solidarity. These provisions ensure cooperatives contribute to sustainable development and democracy by prioritising the well-being of their communities. The following are some of the specific provisions that support the foregoing: Section 63 – 2(c) of Maharashtra State Cooperative Societies (MSCS) Act 2023: donation of amounts not exceeding five per cent, of the net profits for any purpose connected with the development of cooperative movement or charitable purpose as defined in section 2 of the Charitable Endowments Act, 1890 (6 of 1890); and Section – 69 of the MSCS Act 1960: contribution to public purposes states that after providing for the reserve fund as provided in Section 66, and for the educational funds as provided in Section 68, a society may set aside a sum not exceeding twenty per cent of its net profits, and utilise, with the approval of such federal society as may be notified by the State Government in this behalf from time to time, the whole or part of such sum in contributing to any cooperative purpose, or to any charitable purpose within the meaning of section 2 of the Charitable Endowments Act, 1890, or to any other public purpose.

In Indonesia, Law No. 25 of 1992 on Cooperatives does not explicitly mention sustainable development as a legal principle. However, cooperatives as business entities have a responsibility to contribute to sustainable economic and social development, in accordance with Article 2 and Article 3 of this law.

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The concept of sustainable development has been regulated in other legal frameworks, such as: Law No. 32 of 2009 on Environmental Protection and Management, which emphasises the principles of sustainable development and responsible management of natural resources. Presidential Regulation No. 59/2017 on the Implementation of Sustainable Development Goals (SDGs), which includes access to adequate housing as one of the main targets.

Notwithstanding, there is the imperative that the legal framework on cooperatives in Indonesia is revised to explicitly include sustainable development principles.

Tax Incentives: Provide incentives for cooperatives that invest in green technology or sustainable development. It would be useful to encourage the establishment of cooperative federations that support the development of best practices related to sustainable development.

The responses from these countries indicate a clear understanding of the role of cooperatives as a catalyst for sustainable development and economic growth. The national laws of these Asia-Pacific countries, particularly in Australia and India, make provision for community development and growth through their cooperative laws and policies. However, there is the need for general upgrade of the legal frameworks in these regards.

Audits – Cooperative and Financial (Q.17)

Best practices suggest cooperative-specific audits and monitoring organised under a framework which includes government as well as cooperatives, to adequately promote cooperatives. Responses from the Asia-Pacific region reveal that their respective national cooperative laws have comprehensive provisions for auditing and monitoring of cooperative societies. These laws provide for regulatory frameworks that cooperative societies must follow to ensure compliance.

In Australia, the CNL requires registered cooperatives undertake financial audits, although there are exemptions for small cooperatives (As defined in the Cooperative National Regulations). Members always have the power to demand an audit in certain circumstances whatever the size of their cooperative. Additionally, the law makes provision for auditing and monitoring to ensure financial transparency and compliance with requisite regulatory measures.

In India, the Multistate Cooperative Societies Act provides guidelines on audits, monitoring, and cooperation between the government and cooperatives. Some of the prescriptions are as follows: **Annual Audits:** Each cooperative society must conduct an annual audit of its financial accounts, performed by a competent auditor. **External Auditors:** The audit should be conducted by an accredited auditor not affiliated with the society. **Submission of Audit Report:** The audited financial records and the audit report must be submitted to the Registrar within a specified period.

Indonesia's cooperative legal framework ensures financial auditing and monitoring are regulated to ensure transparency, accountability, and sustainability of cooperative operations. The following are the relevant legal provisions: Law No. 25 of 1992 on Cooperatives: Article 30: Cooperatives are required to organise proper books and records of business and financial activities. Cooperative bookkeeping must be audited periodically to ensure the validity of the financial statements. Article 35: Cooperatives are required to prepare an Annual Accountability Report that is submitted at the Annual Members Meeting (RAT). This report must include the financial statements. Audits and monitoring are conducted to ensure compliance with the law, efficient use of resources, and protection of members' rights.

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EDUCATION, TRAINING AND INFORMATION FUND (Q.18)

The responses from these Asian countries clearly show that their respective cooperative laws provide for a certain percentage of the cooperatives' net profit to be allocated to support education.

In Australia, the allocation of reserve funds for education, training and information is not mandated under the CNL. The CNL leaves it open for individual cooperatives to allocate a proportion of any reserves according to their rules and co-op principles 5,6 and 7. The Common Equity companies may provide housing co-ops with information, training and education resources to support their governance and management.

Australian cooperative laws do not make mandatory provision for the allocation of specified fund towards education or promotion. Nevertheless, cooperative societies have the discretionary power to allocate some fund for educational purpose.

In India, state legislation mandates the collection of cooperative education funds from members, out of net profits in any year, which are then used to provide members with opportunities for education on cooperatives. The percentage varies state to state. In the case of the Multi State Cooperative Societies Act, cooperative societies registered under this Act are required to contribute 1% of their profits to the CEF. In the case of housing cooperatives, each member is required to pay Rs. 10/- per month / per unit or as decided by the General Body in accordance with bye-laws of the cooperative housing society (the amount varies state to state)

In Indonesia, Article 44 of Law No. 25 of 1992 on Cooperatives obligates cooperatives to set aside a portion of the profit remaining after their operations (SHU) as education and training funds. The purpose of this fund is the education of members, administrators, and employees of cooperatives.

According to Article 45 of the same legislation, the education fund is to be used to develop human resources (HR) and raise awareness of cooperatives, both internally and externally.

There are noticeable challenges to the implementation of these laws. For example, many cooperatives have allocated education funds as per the law, although the effectiveness of their use may vary. Cooperative education programs often include training in management, accounting, or business management. However, not all cooperatives have sufficient financial capacity to set aside significant funds for education. Additionally, limitations to government oversight of the implementation of education fund allocations, and some of the training itself, do not meet the specific needs of members or board members.

HOUSING AS A HUMAN RIGHTS PERSPECTIVE (Q.19)

Housing is a human right. Cooperatives do promote this aspect of the Law into legal rules for housing cooperatives, including aspects of the commons and community land trusts. At doing the foregoing, national public policy instruments, and in some circumstances their international equivalents, do regional recognise housing as a human right. In other circumstances, there may be identified gaps in these policy and legal frameworks. Notwithstanding, there is a consistency around the globe in the obligations placed on private organisations and government institutions to reform housing laws and policies from a human rights perspective. The effective discharge of these obligations is primarily a question of the quality of engagement between stakeholders.

Responses show that these countries view housing rights from different standpoint. There is no statutory provision for housing as a human right. However, the governments have recognised its fallout and have taken steps to pass a law that will provide for housing right. Suffice to state that housing rights as contained in

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international legal instruments such as Universal Declaration on Human Rights (UDHR), and International Covenant on Economic, Social and Cultural Rights (ICESCR) imposes obligation on states to progressively realise the rights of individuals to safe, secure and affordable homes.

In Australia, there is no specific legal right to housing enshrined in the Constitution or federal legislation. Additionally, State Human Rights Acts in Queensland, Victoria, and the Australian Capital Territory do not explicitly guarantee the right to adequate housing, but each jurisdiction has housing Acts that regulate the management of social housing. The Commonwealth Housing Act establishes the overarching framework for housing administration across all states and territories in Australia. Australia does provide various forms of housing assistance and support programs to help people access affordable housing. These include things like public housing and rental assistance, but the programs on offer don't come close to meeting the need, leaving too many suffering from homelessness. In these cases, the state is failing in its obligation under international law to protect the right to adequate housing.

In Indonesia, there are noticeable legal limitations to housing cooperatives. Most profound among these is the lack of clarity in the definition and regulation. While housing cooperatives are regulated under the general cooperative legal framework, there is no regulation that specifically regulates housing cooperatives as a separate entity. This causes difficulties in the implementation of cooperative-based housing programs, because housing cooperatives lack specific legal guidelines. Another challenge is the restrictions on land ownership rule that applies to non-agricultural Cooperatives. Under Indonesian law, non-agricultural cooperatives are not allowed to hold Certificates of Title to land. This distinction creates uncertainty as people are often reluctant to register their land in the name of the cooperative, given that the type of land rights obtained by the cooperative is not as comprehensive. Consequently, housing cooperatives find it difficult to attract members or expand their properties holding, due to limited access to strong property rights over land.

GOOD EXAMPLES (Q.20)

These bring to fore once again the question of the legal status accorded to housing around the globe.

In Australia, housing cooperatives and Common Equity companies that operate as federations of housing cooperatives are encouraged to register as Community Housing Providers, and hence legally enabled to access government funding. In particular, the State of Victoria has been supportive of housing cooperatives.

In India, the Safalya Cooperative Housing Society – which was established in 1981 in Tilak Nagar, Mumbai, Maharashtra State – stands as a good example of housing cooperatives. On the 1st of April 1980, the society secured a 99-year lease deed which was officially executed on June 28, 1996. Thereafter, the society constructed a building comprising 24 flats on the parcel of land which its members currently occupy. The property holding of this cooperative has since grown to a total of 108 flats. The society has been inspiring in its pursuit of unity and intolerance against injustice and has set a benchmark in the housing cooperative sector.

Despite visible odds, Safalya Cooperative Housing Society and some other Indian housing cooperatives strive to adhere to good practices such as transparency, competent management, legal compliance, and proper maintenance. Nonetheless, challenges exist in areas like unbiased decision-making, financial management, membership procedures, environmental sustainability, member involvement, and professional management. While some societies effectively implement these practices, there's an immediate necessity for increased awareness, education, and enforcement to ensure uniform and efficient management across the board. In order to bridge the existing gaps and encourage the housing cooperative movement, many initiatives and provisions are being taken. For instance, in Maharashtra state a new chapter has been inserted into Section 154B of the Maharashtra Cooperative Societies Act, 1960, which applies specifically to cooperative housing societies. It

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ensures that certain provisions of the Act, which are generally applicable to other cooperative societies, also apply to housing societies with necessary modifications. These provisions cover areas such as definitions, registration, management, and other relevant matters related to housing societies. The Maharashtra Cooperative Housing Federation Ltd. has introduced “Sahakar Samvad,” an online platform designed to address issues within the state’s cooperative housing societies. Registered society members can use this portal to lodge various complaints. Some common complaints include delays in issuing share certificates, rejection of membership, excessive non-occupancy fees, high transfer premiums, failure to provide document copies, and poor maintenance of society records. One of the advantages of this platform is that the relevant deputy registrar will handle and resolve these complaints within a 30-day timeframe.

Q.21 DATA COLLECTION

There is an imperative that data about cooperatives is collected by different levels of government, regularly and adequately. Additionally, the collated data should ideally be made public. This raises some questions, particularly about the capacity of census practices to identify housing cooperatives. Asian countries have regulated information collection for data collection, although it was observed that this, in virtually all cases, is a work in progress.

In Australia, data on cooperatives are periodically collated by the regulatory authority. These data are reasonably comprehensive, but because the primary emphasis has not been on sectoral analysis, obtaining data specific to housing cooperative remains a challenge. Currently, the Business Council of Cooperatives and Mutuals collects data on all co-ops from the Registrars and maintains a separate, more detailed, database of housing cooperatives.

In India, cooperative societies are mandated to submit an Annual Report to the Cooperation Department. However, there is currently no effective mechanism to have a central database for all sectoral cooperatives in India. With the formation of the national Ministry of Cooperation, the effort was made to have a National Cooperative Database, which launched on March 8th 2024. This initiative aims to consolidate and offer updated information on cooperatives spanning various sectors nationwide.

The Indonesian government, through agencies such as the Ministry of Cooperatives and SMEs, the Central Statistics Agency (BPS), and local government, usually collects data on cooperatives in general, including housing cooperatives. This data is collected through various census programs, cooperative registries, and Annual Reports submitted by cooperatives to the government. Data collection on cooperatives is usually done annually, with Annual Reports submitted through the AGM and forwarded to the relevant agencies. In addition, a national cooperative census is conducted periodically, for example every five years by BPS, covering various types of cooperatives, including housing cooperatives. The information collected includes: name and address of the cooperative; number of members; capital under management; and assets owned, including residential properties. Some of the collected data, such as the number of cooperatives and financial statements, is published through the websites of the Ministry of Cooperatives and SMEs or BPS. However, more detailed data on specific housing cooperatives is usually not widely published.

The responses from India and Indonesia signify the presence of restricted and inadequate legislative framework for housing cooperatives. These responses call for specific housing cooperative laws and a framework that will regulate the registration and governance of housing cooperatives. In addition, it calls for the special provision for fund allocation and taxation laws for housing cooperatives. For example, in Indonesia, a special tax treatment for housing cooperatives is suggested.

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OPEN QUESTION (Q.22)

Please feel free to provide any additional information related to your context that you want to highlight regarding cooperative housing laws. This may include specific examples of laws that have had a positive or negative impact or any other relevant details that you think are important to mention. Thank you for sharing your insights. Housing cooperatives can be a model for solving urban housing problems through collaboration between communities, government, and the private sector. In this regard, it is important to expend legal support for such housing cooperatives. Government policy support should prioritise tax exemptions, easier access to financing, and grants to support housing cooperatives in building or improving housing. Additionally, more effective legal systems for resolving disputes, including mediation or arbitration involving neutral third parties, need to be developed. Legal support for active participation of communities in housing cooperatives are critical, especially in ensuring that decisions taken at the cooperative level reflect the needs and aspirations of the community.

EUROPE

Countries analysed, based on the questionnaires: Austria, Belgium, France, Greece, Ireland, Poland, Sweden, United Kingdom

Legal Definition and Objectives (Q1–Q2)

In most of the surveyed countries, the law gives housing cooperatives a distinct identity that sets them apart from for-profit developers or landlords. The common denominator is that they exist not to maximise profit, but to provide secure and affordable housing for their members. This principle is expressed in different ways across the jurisdictions.

France provides one of the clearest statutory formulations. The law on *sociétés coopératives d'habitants* defines these co-ops as organisations whose sole purpose is to provide housing to their members as their principal residence and to contribute to collective well-being. Activities such as land acquisition or construction are permitted, but commercial dealings with outsiders can only be secondary. Poland follows a similar line, as its Housing Cooperatives Act explicitly states that the aim of such cooperatives is to meet the housing and related needs of their members, and it prohibits profit-making at their expense. Austria frames the same principle through its limited-profit housing regime. Dividends are capped at 3.5 percent, and all surpluses must be reinvested.

Some legal systems allow modest diversification of activities. In France, housing co-ops may branch into community services or even renewable energy projects, but only as a secondary activity. Poland permits ancillary economic activity only when it supports the housing mission. These restrictions highlight the contrast with for-profit landlords, who can freely expand into unrelated ventures.

The picture looks different in Belgium and the United Kingdom, where no housing specific framework exists. Belgian housing cooperatives simply register under the general Companies Code, and UK housing cooperatives fall under the Co-operative and Community Benefit Societies Act 2014 (a general cooperative law). In both systems, the co-op's objectives are defined in its own Rules and approved by a government registrar. In practice, these cooperatives still prioritise affordability and resident control, but the legal obligations are less specific. The UK example of the fully mutual housing cooperative, where every tenant must be a member, shows that even without a dedicated housing cooperative law, practice can ensure a strong link between residence and membership.

Thus, although the level of formal legal recognition varies, the pattern across these European countries is consistent. Housing cooperatives are legally framed as service-oriented, democratic and limited profit entities, preserving a distinct identity within the wider housing market.

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Governance Structures and Member Control (Q6)

All systems affirm the primacy of the general meeting as the forum where members exercise their collective sovereignty. The rule of “one member one vote” applies in almost all cases. It insulates housing cooperatives from the shareholder logic that dominates for-profit corporations. From this shared starting point, each country diverges somewhat in the details of governance design.

Poland and Austria illustrate the two-tier model of governance. Here, daily operations are handled by a management board, while strategic oversight is entrusted to a supervisory board elected by the members. The supervisory board has real powers. In Poland it can review the cooperative’s documents at any time, and it must convene a general meeting if serious irregularities arise. Austria strengthens oversight through compulsory external audits. These audits are designed to ensure compliance with strict limited profit rules in that country’s housing cooperative law.

Greece also requires a Board of Directors and a supervisory board, with an unusual twist. If a housing cooperative has more than twenty employees who are not co-op members, at least one of those employees must sit on the board. This arrangement reflects the idea that those directly involved in running the enterprise deserve a voice in its governance, albeit a limited one.

By contrast, Sweden, Ireland and the UK embody the single-board model. In Sweden the board must have at least three members, elected by the general meeting, and an authorised auditor is mandatory. The law in Sweden reserves certain major decisions, such as changes to the co-op’s capital structure, to the general meeting, which must decide by a qualified majority. The UK follows the same basic single board model. Housing co-ops there often allow the co-option of up to three external board members for their expertise, but these individuals are always a minority and do not disturb the principle of member control.

Safeguards to protect good governance exist in every system. Directors are bound by fiduciary duties and can be held personally liable for negligence or misconduct. Transparency is reinforced through requirements for annual accounts, audits, and the members’ statutory rights to information. France, for example, requires a special cooperative audit in addition to normal financial checks, while in Sweden all members must receive the auditors’ report well before the AGM. In the UK, societies file annual accounts with the Financial Conduct Authority, which sets audit thresholds proportionate to the co-op’s size.

There are also specific legal restrictions designed to protect democratic member control. France forbids non-members from serving as directors of a housing cooperative. Greece applies the same principle. By contrast, Austria allows a rare exception. If a public authority owns more than half of the shares in a housing cooperative, voting power may be weighted by capital contribution. Even then the cooperative remains subject to strict limited profit rules that prevent excessive returns.

The variety of institutional models reflects different historical and legal traditions, but the outcome is remarkably similar. Whether oversight comes from a supervisory board, an external auditor or a cooperative federation, the effect is to ensure that housing cooperatives are governed by and for their members, insulating them from the dominance of external investors.

Membership Rights and Obligations (Q4, Q5a, Q5b, Q7)

All housing co-ops uphold the principle of open admission, within the bounds of reasonable qualifications. Some countries add safeguards to prevent dilution of resident control. For instance, France allows legal entities to become members but caps their total voting power at 30%. Austria usually limits membership to natural persons,

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with public bodies admitted only in exceptional cases. Sweden and Greece permit legal-entity members if the bylaws provide for it. In the UK, the rules are generally flexible, but in *fully mutual* co-ops only resident members are allowed.

In Poland and Sweden, the link between membership and housing rights is inseparable. Acquiring a dwelling in the co-op automatically brings membership; selling it ends membership. This mechanism ensures that only those with a direct housing interest can exercise member rights. Elsewhere the link is more contractual. In France, the cooperative occupancy contract ties a person's use of a dwelling to their membership in the co-op. In the UK, similarly, tenancy agreements serve this role – membership ends when a tenant moves out.

Member rights in all countries are substantial: members vote on all major issues, elect and dismiss directors, and enjoy access to information about the co-op. Obligations are both financial and behavioural. Financially, members typically make an entry contribution, either a share or a fee, and pay regular charges or rent. The size and form of contributions vary widely. In Sweden, a one time insats (share payment) is paid for each flat, alongside annual service fees. In Poland, members make direct payments for construction and upkeep instead of holding share capital. In France, members often contribute about 20 percent of the dwelling's cost as share capital. In the United Kingdom, membership usually requires only a nominal one pound share, with housing costs paid through rent. Behaviourally, members are expected to respect house rules and to maintain their own units, while the cooperative is responsible for its common areas.

Member liability is limited almost everywhere, meaning members risk only their own contributions and not their personal assets (Greek law technically allows unlimited liability cooperatives in theory, but in practice only the limited liability form is used for housing). Stability of membership is also ensured through rules on exit and transfer. Greek cooperatives, for example, may impose a minimum membership period and delay refunding a departing member's capital to discourage rapid turnover. French and Swedish cooperatives typically repurchase a departing member's shares or require the member to transfer shares to an incoming resident rather than allowing open sale. In the United Kingdom, cooperative shares are generally non-transferable and non-withdrawable, which reinforces the permanence of the cooperative's capital and mission.

In sum, these membership regimes balance inclusiveness with safeguards, ensuring that control rests with those who actually live in the co-op while also protecting the co-op's capital base and social purpose.

Financing Mechanisms and Access to Capital (Q7, Q8, Q9, Q10)

The primary resource for all housing co-ops is member financing, but the instruments differ widely. Poland's system essentially replaces traditional share capital with proportional construction contributions that are closely tied to the size or cost of each dwelling. Sweden uses the insats (a one-time contribution set for each apartment) alongside annual fees. France expects members to provide around 20% of the unit's cost upfront, whereas Austria relies on very small member shares (token amounts) complemented by substantial public loans. In Belgium, practices vary from requiring as little as 10% of the home's value up to 100% member financing, reflecting the absence of a clear regulatory framework. In the UK, the only formal share is usually £1. All other financing for the co-op is covered through members' rents or other charges.

Yet member finance alone rarely suffices. Co-ops therefore rely on long-term loans, most commonly mortgages secured against the co-op's property. Loan repayment is built into members' monthly housing charges. Public support, where available, can make a decisive difference. Austria, for instance, has a mature ecosystem of government housing subsidies and preferential loans for co-ops. Ireland's Approved Housing Bodies (which include co-ops) can access state grants and low-interest loans. Poland and Sweden benefit from targeted state or EU funding programs for cooperative housing. Belgium, lacking such instruments, often turns to investor-

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members to raise capital. In the UK, without any dedicated national co-op housing programs, co-ops depend mainly on loans from ethical lenders or building societies, sometimes supplemented by support from local authorities.

Investor membership is the most controversial financing issue. In most countries it is either prohibited or heavily restricted. Poland and Sweden exclude passive investors entirely, insisting that members must also be users of the housing. UK housing co-ops also generally follow this principle, especially the fully mutual co-ops.

Belgium represents a critical exception where investor capital is not just permitted but essential. With extremely high costs of living, building, and renovating, financing through user-members alone is considered unthinkable. This necessity is compounded by banks' reluctance to finance more than 50% of investment costs due to their unfamiliarity with the cooperative model. Consequently, Belgian co-ops routinely create different classes of shares for investor-members who accept limited or no voting power, and commonly issue loans subscribed by both resident and investor members.

In other systems that permit external capital, strict safeguards apply. Austrian law allows outside investors to contribute equity, but returns are capped at 3.5% and investors cannot receive voting rights proportional to their investment. France permits non-user members as well, but the law reduces their influence to ensure control remains with resident members.

Other financing instruments exist too. Member loans are a flexible option, allowing co-ops to raise additional funds from their own community without altering ownership structure. Austria and Belgium use such member loans frequently, often linked to specific projects. These loans can provide members with a modest interest return or benefits such as rent reductions.

Overall, housing co-ops are financed through a blend of member contributions, long-term borrowing, and, where possible, public support. Outside investor capital is admitted only under strict safeguards. This balance is intended to sustain affordability while protecting the co-op's democratic control.

Tax Treatment (Q12)

Tax regimes generally recognise the "service-at-cost" nature of housing co-ops. Poland, for example, exempts housing income that comes from members (cooperative payments) from corporate taxation, so long as it is used for the co-op's statutory purposes. Sweden likewise does not tax the fees paid by members, though it does tax any income a housing co-op earns from external or commercial sources. Austria goes further by fully exempting the core activities of limited-profit housing cooperatives from income tax.

Where no specific tax rules exist for co-ops, cooperatives often avoid taxation by design. French housing co-ops, for instance, plan their budgets to avoid generating a taxable surplus (essentially operating at cost). Belgian and Irish housing co-ops often operate as social enterprises or charities to limit their tax exposure. In the UK, fully mutual housing co-ops qualify for exemption from corporation tax on any surplus arising from member dealings due to the mutual trading principle, and they also benefit from certain property tax reliefs. For example, fully mutual co-ops that are registered providers of social housing are exempt from paying Stamp Duty Land Tax on property purchases.

Dispute Resolution and Legal Redress (Q15)

Disputes in housing cooperatives are usually resolved internally first, with courts available as a final recourse. In Poland, for example, a member must appeal to the cooperative's supervisory board before going to court. In

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Belgium, the expulsion of a member is treated as an internal disciplinary matter, but any such decision can be subjected to judicial review if challenged by the member. Sweden has a specialised Rent Tribunal that handles disputes related to housing, which can include issues between housing cooperative members as tenants and their cooperative. France tends to treat cooperative member conflicts similarly to standard landlord and tenant disputes. Even though cooperative members are not ordinary tenants, eviction or termination of occupancy would ultimately go through the courts as a last resort. In the United Kingdom, cooperative disputes may go through the regular courts or arbitration. Additionally, if a cooperative is a registered social housing provider, its tenants, who are also members in a fully mutual structure, have access to the national Housing Ombudsman service for the resolution of grievances.

This common approach balances cooperative self-governance with the judicial protection of members' rights when needed.

Regulatory Oversight and Sectoral Governance (Q1, Q11, Q13, Q14)

Oversight of housing co-ops operates through a layered framework in most countries. General cooperative law sets the basic organisational rules. Housing or tenancy laws add sector-specific duties. Cooperative federations or state regulators provide an additional layer of supervision to ensure compliance. Austria exemplifies a highly regulated model. Its co-ops are subject to annual audits by authorised cooperative associations and must follow strict rules on rents and surpluses imposed by the limited profit housing law. Sweden combines statutory audit requirements with oversight by strong federations such as HSB, which provide model bylaws and some supervisory functions for affiliated co-ops. Poland's law allows the formation of unions of cooperatives with certain statutory powers, providing a form of collective self-regulation for the sector.

In countries lacking dedicated housing cooperative laws, such as Belgium and Greece, oversight is more fragmented. In Belgium, there is no single regulator for housing cooperatives. General company law applies, and any housing-related oversight (for example, relating to social housing objectives) is handled at the regional level, which leads to some gaps. Greece still lacks any legal recognition or framework for housing cooperatives at all, leaving the creation of a supportive oversight regime as an important item on the reform agenda. In the United Kingdom, housing cooperative societies report to the Financial Conduct Authority under general cooperative law. Those cooperatives that are registered as social housing providers face additional regulation under the new Social Housing Regulation Act 2023 (which includes standards on governance, financial viability and tenant services).

A recurring theme in oversight is the protection of assets – often referred to as the *asset lock*. France and Austria require that if a housing co-op is dissolved, its assets (after liabilities) must be transferred to another cooperative or a public authority, rather than distributed to members. UK co-ops almost always include similar asset-lock clauses in their own Rules. Belgian practice varies (since the law provides several options), but many Belgian co-ops achieve the same effect by capping any liquidation payouts to members at the value of their initial contributions, with any remaining assets going to a social cause or another co-op as specified in their statutes.

SUSTAINABLE DEVELOPMENT (Q.16)

In Austria, sustainability has different aspects, for example the requirement for a minimum capital requirement guarantees a certain stability of the companies, while the regulated long term rent opens up a small but secure margin through which there is constantly produced further equity and thus stability. Another face of sustainability is the question of environmental optimal construction and management. This is guaranteed by building regulations and the constant adaptation of new requirements is possible because of a maintenance fund which has to be built up for each housing unit independently if it is home ownership or rental stock.

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In Greece, sustainable development in the Greek legal framework is mainly defined by L. 4447/2016 “Spatial Planning – Sustainable Development and Other Provisions”. Article 1, gives the definition: a) Sustainable development: development that integrates and balances social, economic, and environmental goals with the aim of: (a) achieving sustainable economic growth by creating a strong productive base, emphasising innovation and increasing employment; (b) territorial and social cohesion, fair distribution of resources, and elimination of exclusions; and (c) protection of the natural and cultural environment, biodiversity, landscape, and the sustainable use of natural resources. The definition incorporates all three dimensions of sustainability: economic, social and environmental. Additionally, Sustainable development is defined in L. 4430/2016 “Social and solidarity economy and development of its actors and other provisions”.

In Sweden, the HSB General By-laws prescribe that a housing cooperative has as its purpose to promote study and leisure activities within the housing cooperative and to strengthen the community and meet common interests and needs, whilst promoting service activities and accessibility related to the residence. In all activities, the housing cooperative must protect the environment by promoting long-term sustainable development.

In France, the law regulates construction, parking standards, separate waste collection, etc., but not specifically for cooperatives. Habicoop’s national charter contains this commitment: “The housing cooperative strives to reduce its ecological footprint through its architectural and technical choices, its location, and its day-to-day functioning.”

In Poland, national law incorporates the 7th Principle (Concern for Community). Neither the Act on Housing Cooperatives (AHC) nor the Cooperative Law explicitly codifies the seven ICA cooperative principles. However, the spirit of the 7th principle is implicitly reflected in several legal and policy provisions, particularly regarding: (a) Environmental upgrades; (b) Community decision-making; and (c) Energy and infrastructure planning.

Furthermore, there are legal foundations for sustainable development in housing cooperatives for example A. AHC Art. 1 par. 2 p. 6 – on Energy Transition, which enables cooperatives to engage in activities as a citizens energy community as defined in Art. 3(13f) of the Energy Law. This allows housing cooperatives to take actions such as generate renewable energy for their members; engage in prosumer activities (solar PV, heat pumps); and reduce carbon emissions and increase energy autonomy. This provision aligns directly with EU Green Deal goals and the 7th principle.

According to B. AHC Art. 4 – Member contributions to repairs and modernisation, members are obligated to contribute to costs of construction, maintenance, and modernisation of buildings belonging to the cooperative.

This provision supports long-term planning, encourages creation of repair and modernisation funds (frequently defined in statutes), enables energy efficiency investments (e.g. insulation, boiler replacement).

While Polish law does not explicitly codify the 7th Cooperative Principle, it provides legal and institutional pathways for housing cooperatives to act in accordance with it. Through energy transition roles, environmental funds and grants and member-driven governance, cooperatives in Poland can operationalise sustainable development in line with their social and democratic mission.

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AUDITS – COOPERATIVE AND FINANCIAL (Q.17)

It can be gleaned that most European countries have cooperative laws that provide for auditing and monitoring compliance.

In Austria the umbrella organisation offers, and is legally obliged to do so, a bylaw-defined auditing system which work with coherent standards.

In Greece, cooperatives, including housing cooperatives, are subject to the same audit regime with companies. Thus, only financial and legal matters are examined with the cooperative dimension of the enterprise being neglected.

Sweden has voluntary codes, one for HSB housing cooperatives [HSBs kod för brf](#), one for the other levels of government in HSB that works as a complement to law and other rules by stating a norm for good governance. Another great example is from Swedish Cooperation: [Kooperativ kod » Svensk Kooperation](#).

In the United Kingdom, the Co-operative and Community Benefit Societies Act 2014 requires that cooperatives approve and submit accounts to the Financial Conduct Authority; it is that organisation that sets rules and exemptions to different levels of audit.

In France, under the provisions of Article R. 2007, housing cooperatives are required to periodically undergo audits of their financial records. This includes the technical and financial situations of the cooperatives as well as its management functions. This audit exercise is carried out every three years.

The law prescribes that the auditor prepares a written report which includes:

(a) A description of the work and controls carried out and of the methodology followed to conduct the audit mission; (b) A reasoned opinion on the conformity of the organisation and operation of the housing cooperative with the principles and rules of cooperation and the interests of the members, as well as with the cooperative-specific rules applicable to it; (c) A reasoned opinion on the technical and financial situation and on the management of the cooperative; (d) A reasoned opinion on the economic and financial outlook of the cooperative; and (e) Any reservations and proposed corrective measures and, where applicable, formal notice served on the housing cooperative to comply with the principles and rules of cooperation.

In Poland, Art. 91–93c Cooperative Law requires housing cooperatives to undergo mandatory cooperative-specific audits. “Every cooperative is obliged to undergo a revision audit at least once every three years, and annually during liquidation, to examine the legality, efficiency, and reliability of all its operations. The audit covers the period since the previous revision.”

This audit is not limited to financial aspects, but includes: Legal compliance (statute, governance); Member rights and democratic processes; Property administration. According to Art. 91 § 1, this statutory audit takes place once every three years. However, cooperatives may be audited more often, especially if requested by members; or imposed by supervisory authorities (e.g. in case of financial irregularities). According to Art. 93 auditors must be certified and independent, and the union must meet legal and competence criteria.

Polish law ensures mandatory, cooperative-specific audits for housing cooperatives at least every three years, emphasising both financial soundness and legal-democratic compliance. These audits are performed by registered revision unions, independent of the cooperative’s board. In larger entities, statutory financial audits also apply under the Accounting Act. Members are empowered to demand audits, reinforcing accountability. However, government involvement is indirect, and there is no centralised cooperative supervision authority, which some experts view as a gap in systemic support.

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EDUCATION, TRAINING AND INFORMATION FUND (Q.18)

Most European countries do not have specific provision for allocation of educational funds in their respective cooperative laws. The absence of such specific provision does not however prevent cooperative societies from creating internal structures that allow for educational fund allocation.

In Austria, the umbrella organisation of LPHC offers training programs on legal, technical, economical issues. This creates additional identification with the LPHC-sector.

In Poland, the Legal Framework for Educational and Promotional Activities in Cooperatives: Cooperative Law (Prawo spółdzielcze) – Act of 16 September 1982 provides the general legal framework for all types of cooperatives in Poland. While it does not mandate the creation of a specific “education, training, and information fund,” it allows cooperatives considerable autonomy to define their internal structures and allocate resources for various purposes, including educational and promotional activities.

Furthermore, Act of 15 December 2000 on Housing Cooperatives governs the specific operations of housing cooperatives. Similar to the general Cooperative Law, it does not explicitly require the establishment of educational or promotional funds. However, it permits housing cooperatives to include provisions in their statutes for various activities, which can encompass education and promotion.

Cooperative auditing unions, such as the Auditing Union of Housing Cooperatives of Poland, play a significant role in promoting education and training within the cooperative sector. According to their mandates, these unions are responsible for: Conducting audits of cooperatives; Representing cooperative interests at national and international levels; Organising training, advisory, and publishing activities; Initiating cooperation with other cooperative organisations. These activities are funded through membership fees and other resources allocated by the unions.

The National Cooperative Council (KRS) the apex organisation representing all cooperatives in Poland, also engages in educational and promotional activities. Its responsibilities include: organising scientific research, training, and information dissemination; promoting cultural and educational activities among cooperative members; and undertaking initiatives related to the development of the cooperative movement in Poland. These functions are carried out through various programs and initiatives, often in collaboration with cooperative unions and other stakeholders.

In summary, Polish legislation does not mandate the creation of specific educational and promotional funds within cooperatives, including housing cooperatives. However, the legal framework provides cooperatives with the autonomy to allocate resources for such purposes, and many do so in practice. Additionally, cooperative unions and the National Cooperative Council play active roles in promoting education, training, and information dissemination within the cooperative sector.

HOUSING AS A HUMAN RIGHTS PERSPECTIVE (Q.19)

European countries view housing rights from different standpoints.

In Austria, the housing system is based on the concept that LPHC produces homes on cost-base and in long term rental housing with limited rents. Through this system it is evident what housing before profit really costs, so this sector brings transparency in the housing market and sets profit-pricing in a competition. The strength of this effect depends on the market share of LPHC. This market share varies between 10% and 70% of the rental market and has especially in urban regions an important depressing effect on for-profit prices.

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Even housing based on cost pricing is not accessible for all households therefore the state/Länder intervenes in a second step with direct household allowances for low-income households. There are two important effects of this system. Public authorities need not pay allowances which covers the difference between the affordable household budget and for-profit rents but only to cost based rents. And cost-based rents are also open to medium-income households, so segregation of households of different income levels is diminished.

In Greece, the right to housing is enshrined in the Constitution. Art. 21 par. 4 states that the acquisition of housing by those who lack it or who live in inadequate housing is a matter of special care by the state. Still, there is no specific housing law outlining its implementation and enforcement. Law 5006/2022 “My Home – Housing policy for young people, utilisation of public property for social housing, housing rehabilitation of fire victims in the “Mati” area, and other provisions.” It included programs for the establishment of housing assistance for young people, and the facilitation of the use of public property for the purpose of social housing (as a special land use), but did not adopt a human rights perspective for housing. There is no cooperative law explicitly mentioning the right to housing.

In France, there are mixed projects between housing cooperatives and accredited organisations for housing people in precarious situations. Some cooperatives also apply internal equalisation so that certain members, despite very low incomes, can live there while paying a low monthly charge, compensated for by other members who have the means.

In Poland, there is currently no explicit use of the term “housing as a human right”. However, there is constitutional recognition of the duty of the state to ensure access to housing.

For example, Art. 75 Par. 1 of the Constitution of the Republic of Poland provides as follows: “Public authorities shall pursue policies conducive to the satisfaction of the housing needs of citizens, particularly combating homelessness, promoting the development of social housing, and supporting citizens in acquiring their own housing.” This provision creates a constitutional obligation to support forms of housing provision aligned with social solidarity – including cooperative housing.

Furthermore, housing cooperatives reflect the human right to Housing through a rights-based approach. For example, Art. 1 par. 1 the Act on Housing Cooperatives (AHC) defines housing cooperatives as not profit-seeking entities, but as instruments for collective satisfaction of housing needs. The Act states “The purpose of a housing cooperative is to satisfy the housing and other needs of its members and their families...” According to this legislation, a housing cooperative may not derive financial benefits at the expense of its members. This is because the legal foundation emphasizes solidarity and access over profitability; ensures that surplus remains in the community through reinvestment in housing quality and affordability; and the provision of tenure security through long-term rights and participation. Furthermore, the Cooperative Law at Art. 36–45 emphasises human rights-aligned features such as democratic member control; protection from arbitrary eviction (court procedures and internal appeals); member-based decision-making on rent, repairs, and investment.

In conclusion, housing cooperatives in Poland are inherently aligned with the human right to housing through their non-profit purpose, democratic governance, and member-centric rules. However, this is not framed in explicit human rights terms in the law. While the system allows for collective ownership and solidarity-based housing, it does not currently recognise advanced legal models such as community land trusts or commons-based tenure.

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GOOD EXAMPLES (Q.20)

Few countries, such as France and Poland, could expressly state examples of cooperatives that have created supportive frameworks for their members regarding housing.

In Austria, the system is based at national level, so cooperatives work under the same legal and organisational standards. There are only differences in size depending on the regions and the historical position of the individual company

In United Kingdom, the Confederation of Co-operative Housing publishes five sets of model Rules for different types of housing cooperatives; a Code of Governance and its detailed Governance and Management Guidance document provide a framework for good practice.

In France, the Greater Lyon Metropolis has decided that, in each new development area, at least two plots will be reserved for anti-speculative participatory housing. But this does not benefit only cooperatives; other legal forms also make use of it.

Among notable achievements – including social housing – are: Village Vertical: first delivery of a newly built cooperative apartment building in 2013 in the Lyon metropolitan area. Chamarel, in the same metropolitan area, was the first seniors' cooperative, in 2017. Abricoop was the first delivery in a city centre, in Toulouse in 2018. On the peri-urban/rural fringe, two cooperatives managed to buy châteaux for rehabilitation, one west of Toulouse, the other south of Grenoble. A large eco-site is under construction, already with residents (a cooperative for housing and activities) in a former silk-mill in Ardèche (Massif Central).

In Poland, there are exemplary housing cooperatives. These include, Poznańska Spółdzielnia Mieszkaniowa (PSM) – Piątkowo, Poznań, which was established in 1948, currently with membership of approximately 21,000 members. Another is Spółdzielnia Mieszkaniowa "Osiedle Młodych" – Rataje, Poznań which was established in 1958 with membership of approximately 40,000 members. The aforementioned examples illustrate how housing cooperatives in Poland, operating under the Act on Housing Cooperatives, have successfully provided affordable housing solutions and contributed to community development. Subnational governments, such as those in Wrocław and Gdynia, have demonstrated that supportive frameworks – through land allocation policies, legal assistance, and favourable regulatory environments – can significantly enhance the capacity of housing cooperatives to meet local housing needs. These practices underscore the potential of cooperative housing models in addressing housing affordability and community cohesion, aligning with broader social and economic objectives.

DATA COLLECTION (Q.21)

A good number of European countries have a well-regulated information collection and updated data base for accurate reference.

In Austria, statistics are collected at national level by a state organisation, with additional statistics collected by the umbrella organisation of the LPHC.

In Belgium, companies are given a code, which says in which sector they operate. This way we can combine the code 'living' with the legal form cooperative company

In Greece, L. 1667/1986, as mentioned earlier, sets up the Registry of Civil Cooperatives.

The process involves the updating and maintenance of the registry of all civil cooperatives kept on the official

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website of the Ministry of National Economy and Finance and is aimed at cooperative members to support the development of the cooperative movement.

At the same time, information is provided to the Ministry of Environment and Energy regarding the active Civil Building Cooperatives (that have acquired land and building rights before the repeal of the relevant legislation.

In the United Kingdom, data is collected through an Annual Return by the Financial Conduct Authority and is published online through the Mutuals Register.

The social housing regulators in the nations of the UK collect data on registered providers of social housing but this is for monitoring and compliance purposes not for publication.

In Poland, data is collected by the government at different levels. At the national level is *Statistics Poland (Główny Urząd Statystyczny, GUS)* which is the central institution responsible for collecting and publishing statistical data in Poland. It gathers information on housing cooperatives through annual financial and technical reports. Housing cooperatives submit these reports, which include quantitative data and management narratives summarising yearly activities; and population and housing censuses conducted approximately every 10 years, these censuses collect data on housing conditions, including cooperative housing. *Statistics Poland* requires that the annual submission of financial and technical reports from each housing cooperative.

At the sub-national, local or municipal (Gminy) level, data on housing cooperatives within each jurisdiction is collected, particularly concerning: land Use and Zoning: Information on land allocated to cooperatives; local Infrastructure and Services: Data on utilities, maintenance, and community services provided to cooperative housing.

However, the extent and frequency of data collection at the municipal level can vary and are not standardised nationally.

The census, which is conducted once in every ten years in Poland (2002, 2011, and 2021) offers periodic opportunities to collate data on population and housing in Poland.

OPEN QUESTION (Q.22)

In Greece, as defined by the Presidential Decree no. 17 (Government Gazette A' 5/18.01.1984) "Revision and codification of the legislation on building cooperatives, method of organisation, administration and operation thereof, and urban planning of land owned by building cooperatives", a Building Cooperative is any cooperative which, regardless of its name, has as its exclusive purpose – according to its statutes – the provision of housing for its members in urban or holiday areas, or the general redevelopment, regeneration, and improvement of residential areas for the sole benefit of its members (art. 1 Presidential Decree 17/1984). The law defined two types: Urban/Civil Building Cooperatives, and Holiday (Vacation) Building Cooperatives. Based on L. 1667/1986 on civil cooperatives, Building Cooperatives were established as Limited Liability entities, requiring a minimum of 25 members. They were created in close collaboration with local municipalities and communities, which played a significant role in their supervision, planning, and approval process. The law is no longer in force.

Building cooperatives experienced a boom during the 1950s and 1960s, particularly Vacation Cooperatives, acquiring land in out-of-plan areas, many of which were later deemed non-buildable (especially forested lands) due to environmental protections established by the 1975 Constitution. These protections effectively blocked development processes for decades. Currently, Building Cooperatives remain institutional entities operating as

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non-profit legal persons under private law, functioning legally under state supervision and intervention, and are recognised by the Constitution. Nearly 500 Building Cooperatives exist across Greece, calling for a new legal framework that would allow them to develop beyond strictly residential purposes, particularly oriented toward diversified uses that open new investment opportunities.

In Poland, one of the strengths of Polish housing cooperative law is the clear articulation of their non-profit, socially-oriented function in Art. 1 par. 1–1¹ AHC which provides “The aim of the cooperative is to satisfy the housing and other needs of members and their families. A housing cooperative may not derive financial gain at the expense of its members.” This provision ensures that cooperatives operate as solidarity-based housing providers, not speculative developers. It promotes affordability; ensures internal reinvestment; and discourages commodification of cooperative housing. Similarly, Art. 36–49 supports democratic governance mechanisms and instils practices such as elections of the supervisory board; financial oversight; and investment decisions and modernisation projects. Although sometimes administratively heavy, it maintains the self-management ethos of cooperatives and reinforces the “one member, one vote” principle. Housing cooperatives in Poland are governed by a relatively protective and egalitarian legal structure, particularly when compared to commercial landlords or condominium associations. However, without systemic legal reforms and policy-level recognition, they risk becoming institutionally invisible, despite their high potential to deliver on constitutional, social, and environmental housing goals.

Identification of critical gaps or legal barriers

AFRICA

Across Nigeria, Tanzania, Uganda, and Zimbabwe, the main blockers are unclear law, split oversight, and weak, mismatched finance and tax tools. Except in Uganda, housing co-ops do not have a dedicated legal footing. They operate under general cooperative rules, so basics such as how homes are allocated, what tenure model is used, and how costs are set are left to practice rather than statute. Oversight is divided between cooperative registrars and planning and building authorities, which creates duplicated steps, uneven guidance, and slow dispute handling.

Finance is the tightest constraint. Projects lean on member savings and small bank loans. Investor members are not available, security during construction is hard to structure, and purpose-built instruments (guarantees, revolving funds) are rare. Tax treatment is uneven. Broader relief appears in Nigeria and partial exemptions appear in Tanzania. Uganda and Zimbabwe apply standard business and property taxes. Land related incentives (serviced plots, fee waivers) are not systematic, which keeps costs high.

Internal democracy generally works, with one member, one vote, limited liability, and audits. What is missing is a clear asset lock at the primary co-op level to protect homes for long term social use. In short, the sector needs clearer frameworks, coordinated oversight, and targeted finance and fiscal tools. Internal governance is not the binding constraint.

ASIA AND PACIFIC

Across Australia, India and Indonesia, the main barriers are structural rather than internal. Housing co-ops operate under general cooperative law, not a dedicated housing-co-op statute, so key operational matters are left to bylaws and programme rules, which leads to uneven practice.

Regulatory oversight is split. Registrars supervise cooperatives, and separate planning and housing rules also apply. Dispute resolution mechanisms differ by country and can be paperwork heavy, which reduces predictability. Sector data are not consistently broken down by cooperatives (notably in Australia). Public reporting is limited in Indonesia. This makes policy design harder.

Finance is the tightest constraint. Member capital is the base, investor-type capital is constrained, and external debt depends on banks or public lenders. Dedicated national funding lines are uneven: Australia's support often runs through community-housing registration rather than co-op-specific tools; India relies on public lenders and cooperative/urban banks (often only partial financing); Indonesia lacks a single national stream and leans on local or programme-based support. This limits scale and slows delivery.

Tax treatment is generic rather than specific to housing cooperatives (mutuality in Australia, general corporate rules in India, non-member income taxed in Indonesia). As a result, concessions depend on charitable status or turnover thresholds, not on the cooperative model itself.

THE AMERICAS

Across Brazil, Chile, Uruguay, and Canada (British Columbia and Québec), the main barriers are structural and flow from legal design rather than internal governance. First, most jurisdictions rely on general cooperative statutes (Uruguay is more explicit), so housing-specific rules on tenure, allocation, and transfers are left to bylaws and programme conditions. This generates uneven practice and legal uncertainty in edge cases.

continued

Second, oversight is dispersed. Registrars handle cooperative compliance while housing and planning rules run in parallel. Brazil lacks a housing-specific regulator, and in Canada supervision depends in part on federations and programme contracts. This dispersal slows decisions and weakens predictability in disputes.

Third, finance is thin and inconsistent. Projects rest on member equity and bank debt. Investor members are not permitted. Dedicated public tools are uneven. They are stronger in Uruguay, programme based or historic in Canada, bank centred in Chile, and fragmented in Brazil. Access to serviced land and guarantees is not systemic, which limits scale.

Fourth, tax treatment is generic rather than tailored to housing cooperatives. Concessions typically follow from general non-profit and cooperative rules, not from a regime specific to housing cooperatives, which complicates planning for ancillary income.

Internal democracy (general assemblies, fiduciary duties, dissolution ring-fences) is broadly solid. In short, clearer housing-specific rules, coordinated oversight with defined timelines, reliable co-op-fit finance (including land policy and guarantees), and stable, transparent tax settings are the binding constraints on sector growth.

Europe

Across the surveyed jurisdictions, the binding constraints are legal recognition gaps, fragmented oversight, and underpowered finance and tax instruments. Where a housing specific statute is absent or incomplete in Belgium and the United Kingdom, and most acutely in Greece with no legal recognition, objectives and member control safeguards rest on general cooperative and company law. This produces uneven obligations and leaves practice to fill the void.

Regulatory supervision is heterogeneous, with Austria and Sweden combining statutory audits with strong federation support, while Belgium's regionalised oversight and Greece's absence of a framework create compliance uncertainty and weak sectoral coordination.

Capital remains the decisive bottleneck. Member finance and mortgages predominate; robust public instruments exist in Austria (and partly Ireland), but are missing or ad hoc in Belgium and the UK. Because investor membership is broadly prohibited or tightly capped, scale is difficult without dedicated subsidy lines.

Tax treatment is often indirect (for example "at cost", social enterprise or charity routes, or mutual trading principles) rather than a clear regime specific to housing cooperatives. This complicates planning for ancillary incomes.

Even where internal democracy is strong, with one member, one vote, fiduciary duties, and audits, there are country-specific exceptions. For example, Austria allows limited vote weighting when the public sector holds a majority. Divergent board models underline the need to maintain safeguards that preserve member control during growth.

Legal and policy recommendations

AFRICA

Across the four cases, the priority is legal clarity. Countries should adopt a housing-cooperative statute or, at a minimum, include housing-specific guidance within cooperative law, and align it with planning and building rules. Uganda asks for a dedicated housing law, Tanzania proposes special regulations, Nigeria recommends a sector-specific act, and Zimbabwe calls for harmonisation and a single reporting ministry.

Finance remains the binding constraint. Respondents propose tailored instruments, such as a Housing Investment Fund, guarantees, or credit lines, and practical lender guidance, using cooperative finance where it already exists. Fiscal treatment should reflect the service-at-cost model. This means continuing or extending exemptions, as in Nigeria, enabling VAT or duty relief on materials in Zimbabwe, permitting targeted waivers and small-co-op thresholds in Tanzania, and considering a special regime for housing co-ops in Uganda.

Capacity and governance need steady improvements, not upheaval. Uganda recommends lowering the registration threshold from 30 to 10–15 members. Tanzania asks for technical guidelines, a national housing-cooperative union, and dedicated promoters. Both countries emphasise cooperative audits and education funds that are both proportionate and active in practice. Finally, public policy should embed co-ops in housing strategies and donor programmes, while improving routine sector data collection through cooperative authorities.

ASIA AND PACIFIC

Across Asia and Australia, the recommendations converge on legal clarity and alignment. Countries should adopt guidance specific to housing cooperatives or a light dedicated instrument, ensure consistency with tenancy, housing and land rules, and nominate a clear lead authority. Australia proposes tenancy-law reforms that recognise the role of active cooperative membership as a lawful basis for ending a lease, thereby aligning housing law with cooperative principles. India urges RERA-anchored registration that transfers title and documents to the co-op. Indonesia calls for a specific statute for housing co-ops, legal certainty for collective ownership, simplified licensing and protection against demutualisation.

Finance is decisive. Create ring-fenced funding windows and long-term concessional loans sized for co-ops rather than only large providers, and calibrate tax to the service-at-cost model. Australia asks for a dedicated public funding stream and low-cost loans. India proposes GST or TDS relief, NCDC financing and national guidance for self-redevelopment. Indonesia points to preferential access to land, tax incentives and entry to public credit lines with simpler eligibility.

Governance improvements should be proportionate. They should preserve member-majority boards, cooperative audits and active education funds. It is also important to strengthen asset locks to prevent demutualisation and enable federations to deliver technical support. Practical tools, such as model bylaws and step-by-step registration guides, and routine sector data collection would support lender confidence and evidence-based policy, while keeping mutual, member-benefit use at the centre.

THE AMERICAS

Across South America and Canada, the first step is legal clarity and coordination. Countries should adopt guidance specific to housing cooperatives and a light dedicated instrument. They should align this with housing, tenancy, planning and tax rules, designate a lead authority, and streamline procedures through a single-window approach.

continued

Finance is decisive. Create ring-fenced funding windows and long-tenor concessional loans sized for cooperatives, backed by guarantees, predictable access to serviced public land, and tax rules calibrated to the service-at-cost model (for example, materials-tax relief where proposed). Where federal or provincial streams already exist, consolidate and scale them with clear cooperative eligibility and lender guidance.

Safeguard cooperative purpose through strong asset locks and proportionate audits, and recognise the role of federations in soft oversight and member support. Address frictions at the membership–tenancy interface to keep participation duties effective without undermining security of tenure.

Country priorities follow from the responses. In Brazil, establish a national policy and a dedicated financing vehicle, restore sector recognition, and re-balance the consumer-law overlay that destabilises cooperative housing transactions. In Chile, lighten incorporation and supervisory procedures and give legal certainty to cooperative-use tenure while maintaining non-profit treatment and reserve requirements. In Uruguay, preserve the robust framework but modernise secondary rules, revive a stable National Housing Fund and consider materials-tax relief, as proposed by the movement. In Canada, maintain asset-lock protections and tailor programme standards and compliance to cooperative practice, while leveraging current federal streams.

EUROPE

At regional level, reforms should be incremental and evidence-led. Preserve stability where limited-profit models already work by keeping robust public subsidy loans and compulsory cooperative audits in Austria, with only punctual environmental updates.

Close basic legal gaps by giving housing co-ops a clear legal identity and tenure. This can be done by introducing a statutory cooperative-housing tenure in the UK and adopting a dedicated framework for cooperative and social housing in Greece, aligned with social and solidarity economy and energy community rules.

Operationalise existing policy windows in Ireland by putting the Affordable Housing Act 2021 provisions for co-ops and community land trusts into practice, and by modernising cooperative law with proportionate audit exemptions subject to member control.

Ease land access and de-risk finance at municipal level in Belgium through low-cost ground leases, standardised calls for land release, subordinated loans or guarantees, and guidance that builds lender confidence.

Tailor financing instruments. In France, resolve the completion-guarantee bottleneck and provide a dedicated subsidised loan for the cooperative-contract model. In Poland, widen tax neutrality for member-funded housing costs and recognise repair and modernisation funds with preferential lending.

Strengthen governance and transparency. Maintain cooperative-specific audits and members' information rights across the region, and in Sweden, continue implementing enhanced economic-information rules. Protect assets and the cooperative purpose through asset-lock solutions and soft oversight via unions and federations, reflecting existing good practice.

Finally, embed housing co-ops in national and municipal housing strategies, with regular data collection and targeted instruments (as in Poland), while allowing incremental, environment-driven updates where systems already perform well (as in Austria).

ANNEXURE

International Legal Research and Analysis Initiative of the Cooperative Housing International

Undertaken in cooperation with the ICA Cooperative Law Committee

Concept Note

I. Purpose

The International Legal Research and Analysis Initiative [ILRAI] aims to build on the knowledge and information on cooperative law developed by Cooperative Housing International. One of the central aims of cooperative law and its proponents is to give cooperatives a distinct and clear legal personality and status. In other words, the letter and spirit of the law on and for cooperatives must respect the unique characteristics of the cooperative business model. Housing cooperatives are a specific group of those types of cooperatives that deal with the use of land, construction and development, housing and dwellings, rents, etc., making them one of the few types of cooperatives that are often governed by specific rules within a general law on cooperatives or have their own specific legislation.

To ensure fair competition with other business entities, housing cooperatives require a unique set of regulations. Without an appropriate legal framework, cooperatives can face difficulties, while supportive regulation can encourage growth and innovation. It is therefore imperative that ICA offices and members have a comprehensive understanding of cooperative legislation to advocate or recommend specific legal structures for housing cooperatives. This includes documenting cooperative laws and policies, tracking their evolution, and gathering expertise from different jurisdictions to develop principles for housing cooperative legislation.

Over the years, CHI has built up an impressive body of knowledge and information on the legal and policy framework for cooperative housing in more than 25 countries. This information has been used by CHI members in their advocacy initiatives with legislators and international organisations. CHI is now seeking to validate the information it has, as well as to develop comparative analyses of certain important aspects of cooperative legislation affecting the housing sector, to provide its members with readily available, up-to-date and reliable information on cooperative legislation, thereby strengthening members' advocacy for an enabling environment for the development of housing cooperatives, as well as facilitating the reform of legislation where it is found to be inconsistent with cooperative values and principles.

ILRAI aims to cover as many jurisdictions represented by CHI members as possible in a one-year timeline.

II. Objectives

The International Legal Research and Analysis Initiative has three interrelated objectives:

- i. To collect and analyse information on laws and policies related to cooperative housing in a participatory manner. We aim to create an up-to-date body of knowledge on the subject.
- ii. To conduct comparative analyses of cooperative and housing laws to identify benchmark cases and gaps in jurisdictions where legal advocacy with legislators is needed to create a supportive environment.

continued

- iii. Present our findings at relevant forums and conferences to generate interest and invite partnerships to promote a better environment for housing cooperatives.

III. The United Nations and Housing Cooperatives

The United Nations General Assembly has adopted several resolutions stressing the importance of legislation for the development of cooperatives and the creation of an environment that is supportive and conducive to entrepreneurship. In 2001, the UN General Assembly adopted a historic resolution (A/56/114) that provided guidelines for governments to create an enabling environment for the development of cooperatives. This resolution called for the creation of special laws for certain categories of cooperatives to ensure their ability to enjoy real equality with other types of associations and enterprises and not be discriminated against because of their special nature. The UN resolution published in 2022 drew the attention of governments to focus on supporting cooperatives as sustainable and successful business enterprises that contribute to global goals, including the creation of affordable housing options in a variety of economic sectors, and to review existing laws and regulations to make the legal and regulatory environment conducive to the creation and growth of cooperatives. It is worth noting that cooperative legislation is generally based on the 1995 ICA Declaration on the Cooperative Identity and the 2002 ILO Recommendation (No. 193) on the Promotion of Cooperatives. However, navigating the legal and regulatory environment can still be challenging and may affect cooperatives' ability to access financial resources.

The UN also publishes reports by the Secretary-General in response to General Assembly resolutions and reports on their follow-up and implementation. These reports of the UN Secretary-General often recall the role of law in the development of cooperatives and regularly highlight developments and changes in national legal frameworks for cooperatives. The report published in 2023 reiterates the Assembly's resolution urging governments to review and, where necessary, reform cooperative laws to create and grow the movement. These improvements are identified in the areas of access to capital, autonomy, competitiveness and fair taxation. The report also highlighted changes in cooperative legislation in Colombia regarding the financing of housing development and in Poland regarding incentives for grassroots building initiatives.

While talking about cooperative networks and partnerships, the report explained the ability of the Israeli kibbutz movement to host and operate social programs such as housing for people with disabilities. The report focused on the "entrepreneurial ecosystem" that helps cooperative enterprises to become sustainable and successful. This ecosystem includes policies and regulations, education and capacity building, financing and funding, building networks and partnerships, and a culture of cooperation.

The United Nations Conference on Housing and Sustainable Urban Development (Habitat III) adopted the Quito Declaration on Sustainable Cities and Human Settlements for All, adopted to promote sustainable development and address the challenges faced by local business communities, including micro, small and medium enterprises and cooperatives. UN Member States expressed their commitment to creating an enabling, fair and responsible business environment based on the principles of environmental sustainability and inclusive prosperity. Member States also pledged to promote policies, instruments, mechanisms and financing models that provide access to a wide range of affordable and sustainable housing options, including rental and cooperative solutions such as co-housing and community land trusts. The Declaration aims to increase housing supply, prevent segregation and arbitrary evictions, and ensure dignified and adequate re-housing. Finally, the Declaration included support for Member States to develop appropriate and affordable housing finance products and to encourage the participation of various financial institutions, cooperation agencies and microfinance banks to invest in affordable and incremental housing in all its forms.

continued

IV. Legislation for Housing Cooperatives

An even more relevant instrument for housing cooperatives is the Declaration on Housing Cooperatives and the Cooperative Identity, adopted by Cooperative Housing International in 1995, immediately after the ICA adopted its Declaration on the Cooperative Identity. The Declaration provides an interpretation of universal cooperative values and principles in the context of housing cooperatives. The Declaration defines a housing cooperative as a legal association formed to provide housing to its members on a continuing basis. It is owned by its members and is distinguished from other associations by its ownership structure and commitment to cooperative principles. CHI goes on to explain that housing cooperatives come in many forms. Some are townhouses and small buildings with only a handful of units. Others are large apartment buildings with hundreds of units. Some co-ops are rented, while others are member-owned, also known as equity cooperatives. The fact that there are so many variations is an indication that cooperative housing is an adaptable and flexible model that can work in many different circumstances.

It should be noted that the laws governing housing cooperatives can vary considerably from one jurisdiction to another. It is therefore crucial to examine various aspects of housing cooperative law, including but not limited to, governance structures, membership rights and obligations, financing and taxation, dispute resolution mechanisms and regulatory oversight. By doing so, we can create a comprehensive framework that could further efforts to identify and advocate for a supportive ecosystem for housing cooperatives and develop principles of the laws governing them. Some aspects of the law on housing cooperatives are listed below:

- (i) Establishment and governance: Housing cooperative laws typically outline the process for establishing a housing cooperative, including the requirements for membership and the governance structure of the cooperative. They may specify the need for a cooperative constitution and the election of a Board of Directors or other governing body.
- (ii) Ownership and membership: These laws define how ownership of units or shares in the cooperative is established and transferred. They also usually deal with qualifications for membership and procedures for admitting new members or transferring ownership interests.
- (iii) Management and maintenance: Cooperative laws often detail the responsibilities of the cooperative's management, which may include maintenance of common areas, financial management and dispute resolution procedures.
- (iv) Members' rights and responsibilities: Members' rights and responsibilities within the cooperative are usually defined. This may cover matters such as voting rights, maintenance obligations and the right to occupy their unit.
- (v) Financial matters: Cooperative laws may deal with financial matters such as assessments, levies and the allocation of expenses among members. They often outline procedures for the preparation and approval of budgets.
- (vi) Meetings and decision-making: Bylaws may set out procedures for conducting meetings, including AGMs and board meetings. They may also detail how decisions are made, including voting rules.
- (vii) Restrictions on resale and transfer: Some laws impose restrictions on the ability of members to sell or transfer their interests in the cooperative. These restrictions may protect the stability and affordability of the cooperative community.

continued

(viii) Dispute resolution: Legal frameworks may include mechanisms for resolving disputes between cooperative members or between members and the cooperative's management.

(ix) Conversion arrangements: In areas where rental properties are converted into housing cooperatives, there are often specific regulations governing the process to protect tenants' rights.

(x) Compliance and reporting: Housing cooperatives are usually required to comply with legal and financial reporting requirements. These regulations help to ensure transparency and accountability.

(xi) Sustainability practices: The 7th Cooperative Principle on the Concern for Community reads "Cooperatives work towards the sustainable development of their communities through policies approved by their members." The translation of this principle into legal rules in the case of housing cooperatives.

QUESTIONNAIRE ON THE LEGAL FRAMEWORK OF HOUSING COOPERATIVES

The International Legal Research & Analysis Initiative (ILRAI) is a collaborative research project between Cooperative Housing International (CHI) and the International Cooperative Alliance (ICA). We are focusing on the comprehensive collection of information on the laws and policies that govern housing cooperatives on a global scale. The gathered information will serve as the foundation for developing an updated knowledge base encompassing various facets of housing cooperative law. Our research encompasses a wide array of topics, including governance structures, membership rights and obligations, financing and taxation, dispute resolution mechanisms, and regulatory oversight. The ILRAI is formulated based on a set of questions crafted in collaboration with the ICA Cooperative Law Committee members and the broader cooperative housing network.

The initiative aims to produce comparative analyses of critical aspects of cooperative legislation that impact the housing sector, drawing from responses obtained from cooperative housing federations, apex bodies, and similar entities. This endeavour seeks to equip members with easily accessible, current, and dependable information on cooperative legislation. The principal objective of the initiative is to fortify members' advocacy for a conducive environment to foster the development of housing cooperatives and to facilitate the amendment of legislation inconsistent with cooperative values and principles. Additionally, the research findings will be presented at a Law Conference during the International Year of Cooperatives in 2025.

Thank you for taking the time to complete the questionnaire. Your contributions to this research initiative are greatly appreciated. If you have any questions please don't hesitate to contact Julie LaPalme, Secretary-General of CHI at jlapalme@chi.coop or Santosh Kumar, Director of Legal Affairs at the International Cooperative Alliance at kumar@ica.coop.

Question	Justification
<p>Q.1 Sources of law</p> <p>What are the applicable laws to housing cooperatives:</p> <p>a) concerning their organisation</p> <p>(e.g. are housing cooperatives subject to a general cooperative law, a special cooperative law on housing cooperatives or to a specific section of housing or corporate law etc.),</p> <p>b) concerning their activities</p> <p>(e.g. laws on housing, real estate, tenants, immovable property, construction/refurbishment and management etc)?</p> <p>What is the relation between the applicable laws?</p> <p>Please provide a list with all the relevant laws on housing cooperatives including denomination, date of approval, and date of last update of each law.</p>	<p>Any kind of legal research and analysis has as its starting point the mapping of the relevant legal landscape.</p> <p>That is why we begin the questionnaire by inviting respondents to:</p> <ul style="list-style-type: none"> - briefly depict the legal framework of housing cooperatives, - enlist all necessary legal information of these laws, including their source, their in-between hierarchy, as well as the year of their promulgation and reform, if any. <p>The above information shall enable us to comprehend the level of complexity of the legal regime under study, as well as its autonomy and antiquity/modernity.</p>
<p>Q.2 Definition – objective - activities</p> <p>What are the main legal characteristics that distinguish cooperatives from other housing (for-profit) corporations?</p> <p>In particular, how are housing cooperatives defined in the law?</p> <p>Does the law stipulate that they pursue a specific objective (e.g. member promotion)? If so, does the law allow them to pursue objectives other than member-promotion, and in particular act in the interest of non-members or the community at large?</p> <p>What kind of activities may housing cooperatives undertake according to the law. Apart from housing-related activities can they undertake additional activities associated with other sectors (e.g. energy production and distribution)? Does the law allow housing cooperatives to undertake activities with non-members and, if so, under which conditions?</p> <p>Are there restrictions on activities (as the status of the cooperative might not allow certain activities, such as making profits, disbursing gains to members etc.)</p>	<p>Q2 focuses on:</p> <ul style="list-style-type: none"> - the main traits attributed by the law to housing cooperatives, - and how such traits differ from those attributed to housing (for-profit) corporations. <p>Such information shall enable us:</p> <ul style="list-style-type: none"> - to comprehend how housing cooperatives are perceived in the law compared to housing (for-profit) corporations, - to contrast and identify any divergences between their given legal definition and the general definition of the ICA Statement on Cooperative Identity. <p>The legal definition of housing cooperatives plays a vital role in their organisational law. It establishes the foundation for the articles governing their governance, operation, and capital structure. Furthermore, this legal definition can also justify the appropriate treatment of housing cooperatives in other areas of law, such as tax law. The absence of a cooperative-specific treatment often accompanies a lack of legal nature.</p> <p>Furthermore, in Q2, the mention of pursuing other goals and activities by housing cooperatives prompts us to consider whether the legislator permits housing cooperatives to engage in a range of forms, objectives, and activities beyond the standard model of housing cooperatives, such as multipurpose housing cooperatives or social-general interest housing cooperatives.</p>

Q.3 Establishment

What are the main legal requirements and processes for the establishment of a housing cooperative? Does the law provide for a minimum or/and maximum number of members to establish a housing cooperative? And what happens when, during the existence of the housing cooperative, the number of members gets lower or higher than the minimum or maximum number of members?

We are seeking information on the process and requirements for establishing housing cooperatives, including the necessary number of memberships. This will help us determine if the law makes it easy, affordable, and efficient to register new housing cooperatives, as required by sec. 6(a) of ILO R.193/2002. Additionally, we will examine if there is a grace period in case of membership exceeding the legal limits to avoid premature dissolutions.

Q.4 Membership

Concerning member admission, does the law stipulate the procedure and member qualifications (e.g. concerning age, legal capacity etc)? Apart from physical persons, can legal persons also join a housing cooperative and, if so, under which conditions? Upon membership acquirement, what kind of rights do members enjoy according to law, (e.g. property rights, tenant rights etc)? Also, what kind of obligations do members have and whether and how they may be liable to third parties (e.g. creditors)?

Under which circumstances is membership to a housing cooperative terminated (e.g. member withdrawal, exclusion, death or transfer of cooperative shares, financial and non-financial reasons)?

Does the law allow for the cooperative shares to be transferred to another member or third party and, if so, under which conditions?

Concerning members' exiting the housing cooperative, does the law set conditions that limit the exercise of such right (e.g. for a period of time)?

Please explain how the law regulates the admission and termination of membership in housing cooperatives. We will evaluate whether the law aims to maintain a balance between the open-door principle (allowing members to join or leave the cooperative without discrimination based on gender, social, racial, political, or religious factors) and the cooperative's capacity to provide affordable and quality housing. It is also important to consider the rights and obligations of members and whether they are liable to creditors or only the cooperative is. These factors reflect the cooperative's relationships with its members and its pursuit of member promotion as a jointly-owned, democratically controlled enterprise. Additionally, we will investigate the transferability of cooperative shares, which should not be as freely transferable as shares in for-profit corporations. Finally, we will examine whether the law sets conditions for member withdrawal to protect housing cooperatives from unexpected decreases in share capital when the number of members decreases.

Q.5a Voting rights

How is voting power in the members' meeting (assembly) regulated? Does each member have one vote regardless of its contributions invested in the cooperative ("one member, one vote" principle)? Is the principle "one member, one vote" mandatory, or are limitations or exceptions provided for by the law or are limitations possible by specific provisions in the cooperative by-laws (statutes)? Is plural voting permitted in law or/and in bylaws, and if so, in what circumstances?

Q5 refers to the attribution of voting rights to the members of a housing cooperative.

Based on the respondents' replies, we shall witness whether the principle of democratic member control¹ is reflected in the law, which is one of the key differences between cooperatives and (for-profit) corporations.

Q.5b Participation

What means other than voting does the cooperative law on the one hand and the internal statutes on the other, spell out member engagement and involvement in running the cooperative?

Q5a pertains to the gap between economic participation and democratic control within a housing cooperative. Respondents are encouraged to mention any mechanisms and tools outlined in their cooperative law and internal bylaws that facilitate and ideally require members to get involved in the cooperative's affairs.

1. The second ICA cooperative principle on Democratic Member Control stipulates the following: "Cooperatives are democratic organisations controlled by their members, who actively participate in setting their policies and making decisions. Men and women serving as elected representatives are accountable to the membership. In primary cooperatives members have equal voting rights (one member, one vote) and cooperatives at other levels are also organised in a democratic manner." Available at <https://www.ica.coop/en/cooperatives/cooperative-identity>

Q.6 Governance

What is in general the internal structure of administration (i.e. governance) of the housing cooperative? Which are its main or necessary internal bodies of administration (Board of Directors, etc.)? How is member control of the housing cooperative ensured by the law? May directors of the housing cooperative be non-members of the cooperative? If so, is there a limit to the number of non-member directors? What are directors' and administrators' duties and responsibilities for non-performance or failure to abide by ethical or legal standards?

Question 6 addresses the governance model of housing cooperatives, specifically the rules outlining the competent organs, their duties, and composition. Based on the responses received, we can determine how the principle of democratic member control is reflected in the law and whether it accommodates the need for professional expertise, such as in managing real estate, without compromising members' decision-making power.

Q.7 Member Contributions

What are the mandatory and voluntary contributions of the members to the housing cooperative's share capital (e.g. in cash, in-kind etc.)? Are these contributions made on an equal basis or can members contribute in a diverse manner?

Are these contributions linked or made proportional to the volume of transactions ("actos cooperativos") with the housing cooperative?

Does the law prescribe any caps concerning the amount of members' contributions to the housing cooperative share capital?

May the subscribed capital be returned to members in the case of member exit or cooperative dissolution?

Housing cooperatives are self-organized and independent businesses whose primary capital resource should come from their members. Question 7 explores how members can contribute to the cooperative's capital and under what conditions. We will pay particular attention to whether the law imposes any limits on such contributions to prevent a minority of members from influencing cooperative decisions due to their disproportionate participation in the share capital.

Q.8 Other resources of finance

May a housing cooperative admit members who do not participate to cover their housing needs (as user-members do) but for other reasons (e.g. as investors)? Are there other particular instruments of cooperative financing (for example, member loans)?

As housing activities tend to require significant capital, members' contributions may not be sufficient to cover the capital needs of housing cooperatives. Therefore, Question 8 examines whether the law allows housing cooperatives to seek other sources of financing beyond their member-users, such as by admitting member-investors.

Q.9 Distribution of economic results

Does the law distinguish between the economic results deriving from the cooperative transactions with members ("cooperative surplus"), and results deriving from non-member cooperative transactions ("profits")? If so, are these results subject to a different distribution system?

In addition, does the law prescribe the formation of a legal reserve and other mandatory or/and voluntary reserves (e.g. a reserve to cover house damages or in support of vulnerable members? Is this different if the members are tenants and unit owners? If so, which of these reserves are indivisible during the housing cooperative's existence, but also after its dissolution?

May the members receive part of the economic results and, if so, under which conditions (e.g. as patronage refunds, which are distributed in proportion to their cooperative business)?

If the law introduces default rules for the distribution of economic results, what is usually the practice followed by housing cooperatives?

We are interested in learning about the economic distribution system of housing cooperatives in your country. The cooperative identity requires that economic results are distributed in a way that reflects the not-for-profit objective of cooperatives. This means that members cannot receive any profit allocation and the concept of common property must be reinforced. Active member participation is encouraged through patronage refunds, while solidarity among cooperatives and concern for the community is promoted with the principle of disinterested distribution of the remainder after liquidation. If the distribution regime is mainly regulated in the bylaws, please share the actual practice followed by housing cooperatives. This will help us determine if the law promotes the cooperative identity and specifically reflects the principle of member economic participation or if it promotes isomorphism with for-profit corporations instead.

Q.10 Distribution of the remainder after dissolution

What happens to the cooperative capital, property and assets in the case of dissolution or conversion into another type of housing business organisation? Are the above distributable to members after liquidation? Or is a "disinterested" devolution provided for by the law (for example, assets devolved externally)?

If the law sets default rules, what are the main practices adopted by housing cooperatives?

Housing cooperatives can accumulate property, assets, and income of high value over the years, making them a target for demutualisation. Therefore, it is important that applicable laws protect housing cooperatives from such phenomena. We would like to examine how the remainder of a housing cooperative is distributed in the event of its dissolution in the law, as well as what practice is followed by housing cooperatives. Based on your feedback, we will evaluate if the law promotes solidarity among cooperatives and concern for the community by stipulating that the remainder is to be distributed to other housing cooperatives or their unions and federations or for the benefit of the local communities, according to the principle of disinterested devolution.

Q.11 Cooperation among cooperatives

Does the law enable the formation of housing federations and unions? What is their objective, conditions for establishment and potential membership?

Can other types of cooperatives (or other legal entities) join the above cooperative organisations and, if so, under which conditions and what is the common practice followed by housing cooperatives?

Cooperatives that operate in the same or similar sector tend to cooperate vertically and horizontally to effectively address their members' needs and achieve economies of scale. We would like to know if applicable laws encourage such cooperation and under what conditions. Please describe the practices followed by housing cooperatives in your country.

Q.12 Taxation: Are housing cooperatives' income, assets and property subject to the general tax regime, as any other corporation, or are they subject to a specific tax regime (e.g., patronage refunds, indivisible reserves, transfer of ownership)? What options are possible for governments (national and regional) for preferential treatment: Taxation, Grants and Loans, Beneficial Loan Conditions, Preferential access to land (from donation to below-market sale), or other.

We invite respondents to describe the tax regime applicable to housing cooperatives. The way housing cooperatives are taxed can affect their cooperative identity. Based on your feedback, we will evaluate whether the tax regime in your country takes into account the cooperative identity or violates the principle of equal treatment of housing cooperatives compared to for-profit corporations.

Q.13 What are the major legal obstacles or barriers that housing cooperatives face concerning:

- the legal framework that regulates their organisation,
- and the legal framework that regulates their activity?

Are these legal frameworks harmonised or have there been detected points of conflict (e.g. concerning the collective ownership, members' liability etc)?

To evaluate the legal landscape please send us links (or a copy) to the overview and enforcement of cooperative law in your country.

Does the law or policy provide:

- incentives to set up or join a housing cooperative
- financial, technical or any other support, for (construction/refurbishment, management or other activities)

Up to this point, questions 1-12 have dealt with the current laws governing housing cooperatives, while questions 13-14 focus on potential future laws. Specifically, question 13 asks respondents to identify any challenges or hindrances posed by the current laws that apply to housing cooperatives, while question 14 invites suggestions for how these laws could be improved.

Q.14 What kind of changes are needed to be introduced for the development of housing cooperatives:

- in the organisational cooperative law,
- in the sectoral laws on housing,
- in the tax or any other field of law that applies to housing cooperatives,
- in the public policies?

Q.15 Dispute resolution

What mechanisms of resolving disputes among members, between members and the cooperative, and between the cooperative and the State, are provided for in the legislation?

To what degree is the power devolved to the internal statutes

Q.16 Sustainable development

The 7th cooperative principle marries the concepts of sustainable development and democracy. How is this principle translated in the national/regional law and the internal rules?

Q.17 Audits (cooperative and financial)

Best practices suggest cooperative-specific audits and monitoring organised under a framework which includes government as well as cooperatives, adequately promote cooperatives. What does the law state about this?

Q.18 Education, training and information fund

Educational and promotional funds for cooperatives are usually set by the legal frameworks and can be viewed as a manifestation of the combination of principles 5, 6 and 7. Is there such a fund permitted by the legislation in the country? And if so, what is the status of the fund today?

Q.19 Housing as a human rights perspective

Housing is a human right. How do cooperatives promote this aspect of the Law into legal rules for housing cooperatives, including aspects of the commons and community land trusts, etc?.

Please describe any public policy instruments and national or regional constitutions that recognise housing as a human right. Furthermore, is there any obligation on the part of organisations and governments to reform housing laws, policies and programs from a human rights perspective; and to involve communities in meaningful ways?

Q.20 Good Examples

Can you identify good examples (or practices) of housing cooperatives in the country and subnational governments (cantons, states, etc.) that have a supportive framework?

Q.21 Data Collection

Is data collected about housing cooperatives by different levels of government and if so how is the information collected and how often? What information is collected and is this data made public?

Are census practices capable of singling out housing cooperatives?

Q.22 Open Question

Please feel free to provide any additional information related to your context that you want to highlight regarding cooperative housing laws. This may include specific examples of laws that have had a positive or negative impact or any other relevant details that you think are important to mention. Thank you for sharing your insights.

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The Law on Cooperative Housing



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