

The autonomy or heteronomy of cooperative work.

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Abstract

Labour law is an established mechanism for protecting labour from capital, by guaranteeing certain inalienable (non-traded) workers' rights. In return, workers yield to their employers the fruits of their work and submit to their management power.

In worker cooperatives the scenario is different, at least in appearance. The capital in such entities belongs to the workers themselves, plays a subordinate economic role and has no influence on the distribution of power, because it operates on the democratic principle of one person, one vote.

In such circumstances, a tutelary application of labour law has not been deemed imperative, because it is the workers themselves who manage their own businesses, adopt the most suitable mode of organization and share the results of their labours in proportion to the work done by each person, and it is assumed that they will not harm their own interests.

However, as in the case of the employment contract, which is theoretically a free agreement between equals before the law, the free will of a party is often compromised by the overriding need to survive, a situation that must be restored by applying protected rights; another consideration bearing upon cooperative work is that the same need to survive may oblige people to accept less favourable conditions than guaranteed-wage workers enjoy, to sell their labour, directly or indirectly, thereby compromising their autonomy and turning it into heteronomous work.

Moreover, this situation can be exploited by other companies or brokers of labour, distorting the labour market. Cooperatives in this way become a means of circumventing the protections afforded by labour legislation and pave the way to self-exploitation.

Labour law should embrace cooperative work, recognizing it as another mode of work, and, in accordance with the concept of decent work, subsume the notion of rights at work under that of human rights.

1. The protection of work by labour legislation.

The legal concept of a worker is constructed on the basis of those who, deprived of the means of production, are obliged to sell their labour or capacity for work in return for a salary¹.

¹ "Capitalist production, therefore, of itself reproduces a separation between labour power and the means of labour. It thereby reproduces and perpetuates the condition for exploiting the labourer. It incessantly forces him to sell his labour-power in order to live, and enables the capitalist to purchase labour-power in order that he may

These workers, “subject to employment contracts” (Montoya, 2014: 281), are accorded by the law, in their contractual relationship with the employer, who is treated as non-equal, certain rights that were gradually established over the course of the evolution of industrial society. Furthermore, in the early days of labour law (Martín, 1987) a need arises to give a political response to a new social reality (*social issue*), characterized by the generalization of dependent work, in which workers, in exchange for a salary, grant employers the fruits of their labour and submit themselves to their power of management, control and discipline.

Thus one of the fundamental characteristics of the traditional labour relation is precisely the hierarchical power that employers exercise over workers², which is common to a whole range of countries and legal traditions. So much is this the case that the presence of this hierarchical power, established by law and by jurisprudence, has become the element that distinguishes dependent work from independent work and, consequently, it is the key to accessing worker protection legislation in the various jurisdictions. However, in order to avoid an unlimited expansion of the scope of the work relation, labour tribunals initially adopted a rigorous and strict interpretation, deeming management power to be present only in those cases in which the worker was subject to the control of management, exercised in organizational and disciplinary terms directly by the employer. This interpretation would entail a wide range of occupational activities being excluded from the scope of the work relation and the corresponding legal protection, despite being activities that would in fact benefit from such protection (Casale, 2011).

Meanwhile, legal protection for this dependent work has been designed on the basis of a collection of reciprocal and actionable rights and obligations between employers and employees (capital-labour), overseen by the State. This type of work has been distinguished from independent or autonomous work, which falls outside the set of rights mentioned earlier, since there is no one against whom such rights can be exercised; consequently it has been left out of the legal-social sphere of protection, this also being the domain in which cooperative work is usually located (CICOPA, 2014).

For these reasons, the concept of workers as limited to the sphere of subordinated work has been overtaken, almost since its origins, by the gradual emergence of new social realities and by the growing visibility of pre-existing situations. Thus, for several decades an increasingly large grey area has been apparent between dependent and independent work, which has made it ever more difficult to determine whether an employment relationship exists or not, since in many situations the respective rights and obligations of the interested parties are by no means clear. In other situations, however, the aim is to conceal the employment relationship, or exploiting the loopholes and shortcomings that exist in the legal framework, whether in its interpretation or in its application. Too frequently it is vulnerable workers who most suffer in these situations. (Casale, 2011 *Executive Summary*).

There is a need, then, to redefine the concept of the protectable worker, as well as the dependency or autonomy of work, something that the ILO is currently working on, leading the debate on the future of the employment relationship and its legal framework³. Cooperative work needs to be included as part of this debate.

enrich himself (...). His economic bondage is both brought about concealed by the periodic sale of himself, by his change of masters, and by the oscillations in the market-price of labour-power.” (Marx, K. 1973: 523).

² Which combines three linked elements: a) the power to assign tasks and give orders and directives to workers (managerial power); b) the power to monitor both the result of such tasks and compliance with the orders and directives (power of control); and c) the power to impose sanctions for incorrect or negligent outcomes for the tasks assigned or the orders and directives issued (disciplinary power). (Casale, 2011).

³ Tripartite Meeting of Experts on Non-Standard Forms of Employment. Geneva. February 2015

2. *Delineating the concepts of work and worker.*

In social and economic terms, the concepts of work and workers encompass much wider situations and realities than those narrowly defined in employment legislation. According to the Dictionary of the Spanish Language, *trabajador* (“worker”) refers to “one who works”, while the word *trabajar* (“to work”), among other meanings, is defined as: “to occupy oneself in any type of physical or intellectual activity”; “to have a remunerated occupation in a company, institution, etc.”; “to practice a specific profession or trade”. Its meaning, depending on the context, may in general terms relate to an activity carried out for oneself or for others, whether for a third party (in a company or institution), or on one’s own behalf (through the practice of a profession or trade).

Similarly the *International Labour Organization Thesaurus* (ILO, 2014b) defines work as the set of human activities, paid or unpaid, that produce goods or services in an economy, or supply the needs of a community, or provide a person’s accustomed means of livelihood.

The word “work” therefore refers to a category of human activity, which may be unpaid, to satisfy one’s own needs, one’s family’s or those of the wider community; or if paid, to satisfy external needs via the marketplace. The latter is restricted, under the term “employment”, to a specific category, defined as “work carried out in return for payment” (salary, wages, commission, tips, piecework payments or payments in kind). From a wider and more statistical perspective, employment “also refers to the number of people in paid employment and self-employment”, regardless of the dependency relationship (dependent-salaried, or independent self-employment).

From this perspective, therefore, paid work or employment includes the categories of both formal and informal work, work undertaken individually, as well as autonomous or independent work, or work carried out collectively, within an organization, for a third party and subject to the management of an employer, but also on one’s own behalf, in a combined or self-managed way, in a cooperative for example.

In any event, however, all such employment-work shares a common distinctive feature, in that it is carried out for commercial exchange: workers work in order to make a living, to obtain for their work—whose fruit does not in itself have any direct utility—an income (remuneration) with which to buy everything that is needed and is produced by others (Gorz, 1997: 180).

From such a perspective it may be concluded that anyone is a worker who produces (goods or services), not for his own consumption but for the market and in competition with other producers. Another matter entirely is the place people occupy in the *mode of production* and the role they play through the respective *production relationships* that are established⁴. Competition may arise in the labour market between workers who sell their labour to employers, or in product markets, directly for “self-employed” workers, whether they work individually or as part of, for example, a worker cooperative, by means of which workers also try to replace the mediation of the employer in such markets.

⁴ The capitalist mode of production and its production relationships are founded on private ownership of the means of production. The law grants the owners of the means of production the power of management, over the productive process and over people, the profits and the material result of the work. The element upon which the production relationships are founded is the capital-labour conflict and this confrontation underpins all the legal apparatus made up of labour relations and employment contracts, through which workers sell their efforts (or capacity) for work. Autonomous work in general (non-wage earning) remains outside, apparently at any rate, this confrontation.

3. *Autonomy and heteronomy in work.*

Just as in the early years of employment legislation, the legal establishment of minimum working conditions as the inalienable right of workers was rejected on doctrinal liberal grounds, citing the defence of contractual freedom⁵; currently one of the arguments most frequently used to oppose the legal establishment of minimum working conditions in non-salaried work is the safeguarding of liberty and autonomy, and self-management in the case of cooperatives⁶.

The central issue is that in both cases the work is performed out of necessity, and the necessity is itself imbued with a dependency that compromises autonomy. As Marx put it⁷, “the realm of freedom actually begins only where labour which is determined by necessity and mundane considerations ceases”. We are thus in the presence of the classic distinction between work done for pleasure and work done for necessity, between action undertaken for fun or leisure and *productive work*, depending on the aim that human effort has in view (Alonso Olea, 1981:25).

If the protection and guardianship of workers is justified by the unbreakable link between work and person and the need to work to make a living, it is clear that these cannot remain restricted to wage-earning and structured work, supported exclusively by arguments concerning their third-party nature and dependence, conceived under the formality of the employment contract, without questioning the frontiers of autonomy and independence.

As Gorz (1997: 213-214) argues, *autonomous activities* are those which constitute an end in themselves, which are used by individuals to experience their own sovereignty and realize themselves as persons. Commercial activities are by definition excluded: their end is commercial exchange, which relativizes and contaminates their intrinsic, unmeasurable value of the action or work concerned. All work undertaken with a view to exchange needs to be productive; it is governed by its efficiency and the latter is always measured in terms relative to the market in question. This calculus of economic rationality is what will determine the organization, the quantity and quality of the work and its rhythms, enabling a respectable living to be made, “regardless of natural rhythms” (Gorz, 1997: 146).

In present-day societies, our needs are chiefly supplied by heteronomous work⁸, that is to say by socially divided, specialized and professionalized work, carried out with one eye on its commercial value, and neither the exchange value of such work, nor the nature, nor the end, nor the significance can be freely determined by those who work. Economic activity cannot be, by definition, an end in its own right, although it may include – when it is cooperative, self-organized and self-managed - certain aspects of autonomy that make it pleasurable and

⁵ “Attempting to ensure that workers are free in their contracts turns out to be absurd: can a choice between an inadequate working day and dying of hunger be called freedom?” (Canalejas, 1902).

⁶ The *World Declaration on Worker Cooperatives*, passed by the ICA General Assembly in Cartagena, Colombia on 23 September 2005, affirms that they should be autonomous and independent, before the State and third parties, in their labour relations and management.

⁷ Volume III of *Capital*, where Marx contrasts the realm of freedom with the realm of necessity.

⁸ The heteronomy of a job does not consist simply in the fact that I must submit myself to it responding to the orders of a hierarchical superior or, what amounts to the same thing, the rhythms of pre-regulated machinery. Even if I determine my own working hours, my rhythms and the manner of carrying out a complex, highly technical task, my work remains heteronomous when the goal or end product to which it is directed is beyond my control. A heteronomous job need not be entirely devoid of autonomy; it could be heteronomous because specialized and even complex activities, requiring workers to display a high level of technical autonomy, are predetermined by a system (organization) in whose functioning they participate like gears in machinery. GORZ, 1997: 220, note 30.

agreeable. In short, autonomy contrasts with heteronomy, but also with necessity, because the autonomy of an activity imposed by necessity must inevitably continue to be formalised (Gorz, 1997: 213-217).

In many instances the hierarchical power is located outside the work organization, and does not involve direct participation in the management, control or discipline of the completion of specific tasks, but rather the imposition, often contractually binding, of certain results or prices, which must be accepted as a matter of vital necessity⁹. This is because necessity places the parties in unequal situations, a phenomenon that is present not only in the employment contract but, in general, in the contractual relationships between consumers and large corporations, which demand and frequently receive legal protection.

4. *Labour rights in non-salaried work.*

The dependency of non-salaried work is slowly gaining visibility, highlighting the need to provide it with protection. This is the approach taken by the ILO, in recognizing that, owing to its origins, it has essentially focused its attention on the needs of wage-earning workers and companies in the structured sector, but that the world of work does not end there, nor is the ILO's mandate exhausted by advocating improvements in working conditions – rather it should take up the case of those who work on the margins of the structured labour market: unregulated wage earners, the self-employed, and also the worker-members of worker cooperatives, domestic workers, etc. In short, all those who work have rights arising from their work, something that is reflected in the *Decent work agenda* (ILO, 2014a).

The concept of decent work (ILO, 1999) is aimed at overcoming the limitations of the employment contract and formulating what ought to constitute, in the globalized world, a good job or decent employment, conceived as that which lends dignity and enables the development of one's own capabilities. Work is not decent if it is carried out without respecting basic labour rights and principles, or does not allow an income that is fair and proportional to the effort invested, or suffers from sexual or any other type of discrimination, or is carried out without social protection, or excludes social dialogue (Sen, 2000).

Such proposals are rooted in the *Universal Declaration of Human Rights* (UN, 1948), article 23.1 of which proclaims that everyone has the right to work and the free choice of their work, which encompasses, according to article 6 of the *International Covenant on Economic, Social and Cultural Rights* (UN, 1976): “the right of everyone to the opportunity to gain his living by work which he freely chooses”, which in turn implies the possibility of freely participating in the activities of production, the provision of services to society and the enjoyment of the benefits obtained through these activities, but in such a way that these benefits enable an appropriate standard of living and conditions of life to be ensured.

Thus the right to work does not just mean the right to any occupation; rather, it is bolstered by others that underpin work as a universal right¹⁰. Thus, if such rights are considered as inherent

⁹ As in the case of the clothing industry cooperatives in Spain in the 1980s, backed by the large manufacturers, which supplied them with work and machinery, as well as access to finance, with an over-ambitious design that trapped the women involved into paying for the investments and forced them to accept the conditions imposed by the industry, which, using a pseudo contract between companies, thereby outsourced manpower, passing responsibilities on to the cooperative (Ramírez & García, 2000).

¹⁰ In specific terms, article 23 of the *Universal Declaration of Human Rights* proclaims the right to just and favourable conditions of work and to protection against unemployment, to equal pay for equal work, free of any discrimination. Everyone who works has the right to just and fair remuneration, ensuring for himself and his family an existence worthy of human dignity and supplemented, if necessary, by other means of social protection. Everyone has the right to form and join trade unions for the protection of his interests. Furthermore,

to the person, inalienable in the sphere of the exercise of his activity, of his work, regardless of the formal role he plays in the production process, then people who make their living in worker cooperatives can in no way be regarded as being excluded from the international regulations relating to the protection and dignification of work and of the worker.

Recourse to human rights as a means of limiting contractual freedom is these days used as a tool to counteract the loss of legal protection for wage-earning work in a labour market that is becoming increasingly deregulated and that “gives rise to various forms of dependent work with highly varying levels of protection, atypical forms of regulation, featuring a sector that is protected and grey areas with flexible relationships or entirely excluded from employment regulations”. In this context, the Spanish Constitutional Court (SSTC 120/1983; 88/1985) has ruled that the signing of a contract “in no way entails the deprivation for one of the parties, the worker, of the rights that the Constitution bestows upon him as a citizen”. This has served to unequivocally sanction the idea of the efficacy of the fundamental rights of the person in dealings between private individuals, by virtue of their unassailability (Goñi, 2014: 19-21).

If this idea assumes that fundamental rights bind everyone (not just public authorities) and must also be respected in the realm of work, the same reasoning can be extended to other types of contractual relationship, in which people’s work is involved, as well as to cooperative labour relations, regardless of the legal classification they may receive. The same applies if labour rights as a whole are deemed to be human rights inherent to the person.

5. Autonomy and heteronomy in worker cooperatives.

The democratic establishment of certain working conditions forms part of the autonomy and self-governing essence of worker cooperatives; however, just as many wage-earners are obliged by necessity to accept non-permitted working conditions, some cooperatives are obliged to accept contractual conditions that make it impossible to maintain “decent” working conditions, respectful of labour rights, in this case unprotected by law, which regular businesses would not be able to take on because they would have to cover the costs of protected working conditions (García Jiménez, 2014). This is also why recourse is frequently made to the cooperative formula in order to avoid the Right to Work (García and Valencia, 2012; Cruz and Hernández, 2014; CICOPA, 2014).

Can it be claimed, therefore, that cooperatives are autonomous and independent? Is it really the case that the members freely decide to adopt certain working conditions that are inferior to basic standards, or are they forced by need, or are they used by other companies and businesspeople?

5.1. Cooperative autonomy.

Following the general and universally accepted concept in the *Statement on the Cooperative Identity* (ICA, 1995), referred to by *Recommendation 193 concerning Promotion of Cooperatives* (ILO, 2002):

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

article 24 enshrines the right of everyone to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay. These rights are developed and extended by the *International Covenant on Economic, Social and Cultural Rights*, 1976.

Although their scope varies, according to the legal and legislative arrangements of individual countries, they share three fundamental elements:

- a. *Voluntary and autonomous association of persons.* The autonomous legal entity that arises is associative and personal in nature, not a function of capital inputs, and the existence of a voluntary and individual act of joining seems to entail the existence of a deed of partnership giving rise to obligations and rights.
- b. *United to meet common economic, social and cultural needs and aspirations.* The aim of the association is to meet certain shared needs, which implies some kind of action (interaction), and an active membership, which enables the collective satisfaction of such needs.
- c. *Jointly-owned and democratically-controlled enterprise.* This is brought about by means of an enterprise structure created for this end, to which it owes its existence. This enterprise is distinguished by the three features: it is not oriented towards a return on the capital invested, but rather to satisfying its members; it is the property of the users or recipients of its commercial purpose; and finally the management is democratic, which implies that it is egalitarian.

Based on the principles underlying the organization and operation of cooperatives, in terms of the various well-known components that constitute them (ICA, 1995¹¹), it also follows that they are open and voluntary organizations, democratically managed by their members; they are autonomous and self-help entities, but with a social vocation reflected in the fact that they devote part of their resources to providing education, to strengthening the cooperative movement and to bringing about the sustainable development of their communities by means of policies approved by their members.

What truly marks them out however, as enterprises that meet the needs of their members, are three components that together constitute the principle of the *Economic participation of their members*, related to questions of ownership, management and the distribution of economic results.

- a. The members contribute in equal shares to their cooperative's capital as a condition of being a member, but they manage it democratically.
- b. The return on capital, if any, is limited.
- c. Profits are distributed to members in proportion to their transactions with the cooperative.

If the cooperative is a worker cooperative, the *common needs and aspirations* that are to be *jointly met*, as laid down to in the ICA definition, focus on employment. A worker cooperative is thus *an autonomous association of persons united voluntarily to work through a jointly-owned and democratically-controlled enterprise*.

In cooperatives such as these, the member is linked to the organization by means of a deed of partnership in order to work in the cooperative, giving rise to rights and obligations both in the field of partnership and in the field of work. In the latter, the member gives the cooperative the fruits of his labour in exchange for an equitable share of the work carried out and submits himself to its managerial power, while participating democratically in its decisions.

5.2. *International Directives on cooperative work.*

¹¹1. *Voluntary and open membership*; 2. *Democratic member control*; 3. *Member economic participation*; 4. *Autonomy and independence*; 5. *Education, training and information*; 6. *Cooperation among cooperatives*; 7. *Concern for community*.

The fact that cooperative work cannot be regarded as falling outside the “safety net”¹² of fundamental rights is evident from the *Recommendation concerning Promotion of Cooperatives*, (ILO, 2002), which, in guiding countries’ policies on working conditions in cooperatives, sets out an eight-point global framework. National policies should:

1. Promote the ILO fundamental labour standards and the ILO *Declaration on Fundamental Principles and Rights at Work* (OIT, 1998), for all workers in cooperatives without distinction whatsoever;
2. Ensure that cooperatives are not set up for, or used for, non-compliance with labour law or used to establish disguised employment relationships, and combat pseudo cooperatives violating workers’ rights, by ensuring that labour legislation is applied in all enterprises;
3. Promote gender equality in cooperatives and their work;
4. Promote measures to ensure that best labour practices are followed in cooperatives, including access to relevant information;
5. Develop the technical and vocational skills, entrepreneurial and managerial abilities, knowledge of business potential and general economic and social policy skills of members, workers and managers, and improve their access to information and communication technologies;
6. Promote education and training in cooperative principles and practices, at all appropriate levels of the national education and training systems, and in the wider society;
7. Promote the adoption of measures that provide for health and safety in the workplace;
8. Provide for training and other forms of assistance to improve the level of productivity and competitiveness of cooperatives and the quality of goods and services they produce.

With regard to the first point, concerning the application of fundamental labour standards and the ILO declaration on fundamental principles and rights at work in the context of cooperative workers, which are also included in the ILO *Declaration on Fundamental Principles and Rights at Work* (ILO, 1998), these are universal rights that apply to everyone in all countries, whether or not they have ratified the relevant accords, and regardless of their level of economic development. They comprise four categories set out in specific “fundamental” conventions:

1. The freedom of association and the freedom to organize, and effective recognition of the right to collective bargaining¹³;
2. The elimination of all forms of forced or compulsory labour¹⁴;
3. The effective abolition of child labour¹⁵; and
4. The elimination of discrimination in employment and occupation¹⁶.

This general framework, while not particularly demanding, should be viewed from a global perspective of minimum standards, although a discriminatory outcome with respect to cooperative work is evident (García, 2014). Its lack of ambition is offset, however, by the

¹² Fundamental rights “have a life of their own and accompany the worker at all times, even when there is no contract, rather like a safety net”. (Ojeda, 2006, 15).

¹³ Freedom of association and protection of the right to organize convention, 1948 (no. 87); Right to organize and collective bargaining convention, 1949 (no. 98)

¹⁴ Forced labour convention, 1930 (no. 29); Abolition of forced labour convention, 1957 (no. 105)

¹⁵ Minimum age convention, 1973 (no. 138); Worst forms of child labour convention, 1999 (no. 182)

¹⁶ Equal remuneration convention, 1951 (no. 100); Discrimination (employment and occupation) convention, 1958 (no. 111)

provisions of the second point, where the requirement is subject to the degree of perfectionism in each country's labour legislation: *Ensure that cooperatives are not set up for, or used for, non-compliance with labour law or used to establish disguised employment relationships, and combat pseudo cooperatives violating workers' rights, by ensuring that labour legislation is applied in all enterprises.*

Based on the content of the ICA *Statement of the Cooperative Identity* and the ILO's *Recommendation 193*, the International Organisation of Industrial, Artisanal and Service Producers' Cooperatives endorsed the *World Declaration on Worker Cooperatives*¹⁷, which sets out the following basic characters of worker cooperatives (CICOPA, 2005):

- a. They have the objective of creating and maintaining sustainable jobs and generating wealth, in order to improve the quality of life of the worker-members, dignify human work, allow workers' democratic self-management and promote community and local development.
- b. The free and voluntary membership of their members, in order to contribute with their personal work and economic resources, is conditioned by the existence of jobs.
- c. As a general rule, work shall be carried out by the members. This implies that the majority of the workers in a given worker cooperative enterprise are members and vice versa.
- d. The worker-members' relation with their cooperative shall be considered as different to that of conventional waged-based labour and to that of autonomous individual work.
- e. Their internal regulation is formally defined by regimes that are democratically agreed upon and accepted by the worker-members.
- f. They shall be autonomous and independent, before the State and third parties, in their labour relations and management, and in the usage and management of the means of production.

As far as their internal functioning is concerned, worker cooperatives must take into account the following rules. They shall:

- a. Compensate the work of their members equitably, taking in consideration the function, the responsibility, the complexity and the specificity required by their positions, their productivity and the economic capacity of the enterprise, trying to reduce the difference between the highest and the lowest compensations.
- b. Contribute to the capital increase and the appropriate growth of indivisible reserves and funds.
- c. Provide the workplaces with physical and technical facilities aimed at achieving an appropriate functioning and a good organizational climate.
- d. Protect the worker-members with appropriate systems of welfare, social security and occupational health, and abide by the standards of protection in force in the areas of maternity, childcare and minors of age at work.
- e. Practice democracy in the decisive instances of the organization and in all the stages of the management process.
- f. Ensure permanent education and training for capacity building of members and information to the latter, in order to guarantee professional knowledge and the development of the worker cooperative model, and to stimulate innovation and good

¹⁷ Approved by the ICA General Assembly in Cartagena, Colombia, on 23 September 2005.

management.

- g. Contribute to the improvement of the living conditions of the family nucleus and the sustainable development of the community.
- h. Combat their being instruments aimed at making the labour conditions of wage-earning workers more flexible or precarious, and from acting as conventional intermediaries for jobs.

5.3. *Heteronomy of cooperative work.*

Among the six basic characters of this World Declaration, in accordance with the aim of the present study, the following constitutive elements in labour relations in cooperatives are worth highlighting:

1. *The worker cooperative is an employer.* Its corporate purpose is to create and maintain jobs for its worker-members, which can also be occupied by wage-earning workers. It is the cooperative – acting as an entity with a legal status distinct from its members – that creates and maintains the jobs.

Free and voluntary membership is conditioned by the existence of jobs, and therefore also by compulsory dismissal. The fruits of the work belong to the cooperative, which subsequently sells them in the form of products or services, in order to distribute the economic returns equitably among the members.

2. *The majority of worker-members.* The potential exists for the presence of non-member workers (wage-earners), in respect of whom the cooperative is, without a shadow of a doubt, an employer. This normally gives rise to working and protection conditions that are distinct from those of worker-members (CICOPA, 2014).

3. *Worker-members' relations with their cooperative* should be considered as distinct from those of the conventional salaried worker and that of the individual self-employed worker. This requires distinct, specific employment legislation (López, 2006: 586), in which rights and obligations, and social protection and guarantees are given legal recognition.

4. *Internal regulation democratically determined and accepted by the worker-members.* This acceptance entails submission to the cooperative's managerial, control and disciplinary powers, exercised by the persons designated for that purpose.

5. *Independent labour relations before the State.* Here, the complete independence and autonomy of labour relations in worker cooperatives would seem to eliminate the task of protecting rights, which should be considered indispensable, in favour of creating a decent job (ILO, 2014), occasionally compromised by unwanted pressures or restrictions, whether contractual or otherwise (García and Valencia, 2012; Cruz and Hernández, 2014), as well as government interventions relating to social protection, health and safety.

In addition to internal heteronomy and dependence, there is also an external form. Cooperatives depend as organizations on financial markets and on markets for products and sometimes—when they occupy an intermediate position in the production process—on other, stronger, enterprises, to which they supply their services or sell their products. In this context, cooperatives are usually freed from the rigidities of the labour market and use the flexibility of working conditions as a competitive advantage. But sometimes this flexibility comes at the cost of the employment rights of the worker-members, who are legally vulnerable.

One of the recommendations in *Cooperatives and employment: a Global Report* (CICOPA,

2014) is that cooperative organizations should enter into dialogue with trade unions and public authorities on the issue of working conditions (5.2.3. Labour standards, the transition towards the formal economy). Cooperatives cannot deal with current challenges such as precarious employment conditions, intermittent work patterns and low wages by themselves: these require systemic collaboration between all concerned actors at the national level.

In conclusion, the ILO-CICOPA aims and directives cannot be achieved in the absence of labour law, because neither the cooperative nor its members' work is autonomous (even if it is to standardize the conditions for the competition). Otherwise, cooperatives run the risk of being relegated to residual employment, a refuge for when formal employment is not available, rather than a model of organization and enhancement of work, for which the existence of certain inalienable legal standards, specifically providing protection in the marketplace, is no obstacle.

Labour law should embrace cooperative work as simply one more form of work, and in accordance with the concept of decent work, furnish it with employment rights as human rights.

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