

Work and employment in the informal economy and new forms of work – How can the cooperative model be an answer?¹

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Introduction

For a long-time, cooperatives have been considered as important tools to address social problems, such as poverty, unemployment and the informal economy. Recently, cooperatives have been formally acknowledged as part of the diverse private sector actors in the United Nations Sustainable Development Goals (SDGs)² and in the ILO Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204).³ While cooperatives are explicitly recognised as a form of entrepreneurship which can contribute to the SDGs as well as to the transition from the informal to the formal economy, the way in which cooperatives can contribute is not sufficiently clear. Are cooperatives just one among the private sector actors like other private enterprises? Or do they have specific features which would make them more relevant in addressing problems related to work and employment, particularly those caused by informality?

The concept of the informal economy has often been used to describe pre-modern or survivalist economic activities outside formal arrangements in developing countries. More recently, however, in industrialised countries, there has been growth in the numbers of self-employed workers, often called independent contractors or freelancers, of atypical forms of work in enterprises, as well as of new forms of work which are difficult to define and regulate with existing employment arrangements. Although stimulated by technological, social and economic changes and supposedly allowing people to work with more flexibility and independence, such forms of work raise concerns regarding the degradation of conditions of work and life, including the re-emergence of informal employment. Cooperatives are identified as one of the solutions to addressing the negative effects of these new phenomena, while preserving their technical, economic and social potential. The rapid development of informality, confusing concepts used in public debates and the absence of empirical data make it difficult to understand exactly what is happening and how the cooperative model can contribute to offering solutions.

This chapter aims to understand and clarify the specific contributions of cooperatives in addressing work and employment issues in the informal economy, which have been worsening substantially with informalisation over the last decades, not only in developing countries but also, more recently, in industrialised ones as well (Birchall, 2001; ILO, 2012, 2013; Lund, 2009; Vanek et al. 2014).

After identifying the main problems related to work and employment in the informal economy, the chapter examines various ways through which different types of cooperatives contribute to solving the

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² “44. We acknowledge the role of the diverse private sector, ranging from micro-enterprises to cooperatives to multinationals, and that of civil society organisations and philanthropic organisations in the implementation of the New Agenda.” (UN Resolution 70/1, Transforming our world: the 2030 Agenda for Sustainable Development)

³ “11. This integrated policy framework should address: (...) (g) the promotion of entrepreneurship, micro, small and medium-sized enterprises, and other forms of business models and economic units, such as cooperatives and other social and solidarity economy units.” (ILO Recommendation No. 204)

problem. Based on current debates, a proposition on formalising informal employment through the institutionalisation of worker ownership will be raised.

What are the problems?

Informal economy and decent work deficits

The informal economy designates a broader phenomenon rather than an analytically distinguishable reality. Debates on the informal economy centre on the concern for reducing problems caused by the absence or weakness of formal arrangements related to people's economic activities. In the International Labour Conference (ILC) Resolution concerning decent work and the informal economy, the concept of informal economy was introduced in referring to "all economic activities by workers and economic units that are – in law or in practice – not covered or insufficiently covered by formal arrangements" (paragraph 3 of the 90th ILC Resolution, 2002).

Whereas informal economy actors suffer from insufficient social protection granted to workers and from a lack of efficiency as economic entities, it is also true that the reality in the informal economy is not always negative. The informal economy generates jobs and income, often for the poorer segments of the population who cannot find them elsewhere. Therefore, instead of considering the formality and informality themselves as "good" or "bad", a more solution oriented approach is needed in order to address the problems and to find appropriate solutions. The concept of "decent work" and its four pillars (employment generation, social protection, rights at work, and social dialogue) proposed by the ILO provides us with an orientation. In the 2002 ILC Resolution and related discussions, the ILO recognised that decent work deficits are more common in the informal economy and among those working in it. Within the framework of the Decent Work Agenda, decent work deficits are defined as 1) the absence of sufficient employment opportunities for quality employment; 2) inadequate social protection; 3) the denial of workers' rights and benefits; and 4) the exclusion from social dialogue. Reducing these means reducing the employment gap, improving the rights at work, providing social protection and increasing the voice of the workers (Becker, 2004). The 2002 ILC Resolution emphasised the critical need for an integrated and comprehensive approach. The ultimate objective is to support the transition to formality by bringing the informal economy gradually into formal channels of protection and support, while seeking to preserve existing dynamic potentials.⁴ This orientation was reaffirmed in ILO Recommendation No. 204.

Informalisation of the economy and employment

Today, deterioration of existing social rights and protection granted to workers and a consequent tendency towards informalisation is drawing more people away from formal employment arrangements. Over the last decades, the informal economy in developing countries has come to stay, while in the industrialised countries atypical forms of work inappropriately covered by existing social security systems and stemming from within the formal economy have been increasing. Empirical research shows that, since the 1980s, the informal economy has been continuously on the rise (ILO, 2012, Brief 3.1). A short period of moderate decline was observed between 2000 and 2007, but this was surprisingly modest considering the strong economic growth of the time. While the precise impact of the recent global financial crises on the size of the informal economy in different countries is not

⁴ Article 13 of the 2002 ILC Resolution states that "To promote decent work, it is necessary to eliminate the negative aspects of informality while at the same time ensuring that opportunities for livelihood and entrepreneurship are not destroyed, and promoting the protection and incorporation of workers and economic units in the informal economy into the mainstream economy. Continued progress towards recognised, protected decent work will only be possible by identifying and addressing the underlying causes of informality and the barriers to entry into the economic and social mainstream."

yet clear, new forms of informality, often related to new technological development, have drawn attention particularly in the most industrialised countries as well as in emerging economies such as India, China, Brazil and Indonesia (Eum, 2017).

Informalisation causes a number of problems which need urgent interventions but also raises questions about the classical social protection model based on the hypotheses of dominance of wage labour. From the early 1980s onwards, the neo-liberal economic model started being adopted in industrialised countries, and then disseminated to many developing countries through the international development programmes of the IMF and the World Bank, in a global policy known as the “Washington Consensus”. It emphasised tight monetary policy to keep inflation low, free trade, financial liberalisation, market deregulation, privatisation, more flexible labour markets accompanying increasing outsourcing production and the growth of temporary and casualised forms of work (ILO, 2012, Brief 3.1). The model resulted in economic growth coupled with a low level of employment growth and the deterioration of working conditions, as well as the informalisation of employment. The increase of unemployment through massive lay-offs and structural adjustment programmes forced people to choose atypical jobs with poorer working conditions or to look for economic activities outside the formal economy. The globalisation of the economy, the development of technology and demographical changes of labour markets such as the increase of women, the youth, the elderly and migrants in them also contributed to informalisation. Finally, the successive economic crises (Asian countries in the late 1990s, Argentina in the early 2000s, the global financial crisis in the late 2000s) created new pressures on formal employment and often resulted in the expansion of the informal economy. The so-called “sharing economy” is partly the result of the financial crisis which has pushed people to trade their own houses, cars, time and work through newly created on-line platforms in order to get additional or, increasingly, substantial income, and for consumers, to save money. The most recent development of informalisation is symbolically expressed as the emergence of the “gig economy”.

The informal economy and employment, and increasing decent work deficits are not a done deal. These phenomena have triggered people’s resistance around the world. Not only by enlarging the coverage of workers’ rights and social protection but also by developing new frameworks for emerging forms of work, a number of measures have been carried out by diverse stakeholders. While immediate interventions to formalize the informal economy have been difficult, public authorities, trade unions and civil society actors including the cooperative movement have tried to improve working conditions and the quality of life of those working in the informal economy. Cooperatives have been recognised as a tool for addressing the problems caused by the informal economy as well as informalisation. The ILO’s Promotion of Cooperatives Recommendation, 2002 (No. 193) states that *“Governments should promote the important role of cooperatives in transforming what are often marginal survival activities (sometimes referred to as the “informal economy”) into legally protected work, fully integrated into mainstream economic life”* (paragraph 9). The section below examines how cooperatives are concretely contributing and can contribute to addressing problems related to work and employment in the informal economy.

Contribution of cooperatives to addressing problems related to work and employment in the informal economy

Cooperatives on their own are not a panacea to counter these challenges, but they can be part of the solution in the integrated approach. As a complex socio-economic phenomenon, the informal economy and its problems need to be addressed using an integrated approach in which various stakeholders participate and contribute. In some cases, cooperatives are just one among several instruments used by trade unions or local governments for their own efforts. In other cases, the cooperative movement itself is the outcome of self-help efforts of people working in the informal

economy. Through appropriate legal frameworks, cooperatives themselves can provide an alternative which allows informal economy actors to formalise economic activities and obtain rights and protection. After briefly examining general contributions of cooperatives in addressing various problems of people working in the informal economy, this section focuses more specifically on direct contributions of cooperatives to the issues of employment.

General contributions of cooperatives in addressing various problems of people working in the informal economy

By definition, those working in informal arrangements lack partially or totally formal status to carry out their economic activities. Whether they conduct these economic activities by choice or by necessity, they are often excluded from rights and protection provided through formal arrangements. By joining various types of cooperatives, such as savings and credit cooperatives, mutual insurance, multi-purpose cooperatives and consumer cooperatives, they can benefit from certain formal or semi-formal services and be connected to formal arrangements for at least some of their economic activities. Cooperatives have provided workers in the informal economy, who are normally very poor, with easier access to credit, education and training, affordable goods and services to meet their basic needs and a certain level of social protection based on solidarity and mutual help (Birchall, 2001, 2003; Co-operative College, 2014).

However, more substantially, cooperatives have been created to support and strengthen economic activities of self-employed producers or entrepreneurs, through various forms of shared services. Since the beginning, cooperatives have been recognised as an important tool for organizing and supporting self-employed producers and entrepreneurs whose economic activities were situated in a disadvantaged position compared to private enterprises which tried to prevail on the market by mobilizing the power of capital. Agricultural cooperatives, fishery cooperatives, artisans' cooperatives, retailers' cooperatives and SME cooperatives have been organised by and for self-employed producers and entrepreneurs who were often in informal arrangements at initial stages. Whereas they are often titled according to "who are members", they are also commonly called "shared service cooperatives" according to their functions. Whereas finance and insurance are often part of the services, their main activities consist of upstream and downstream services in support of members' economic activities: marketing of members' products including joint advertisement and development of common brands; collective purchasing of raw materials, retail goods, equipment or machinery; and provision of premises, technical information, research and development, training and consulting. Whereas these cooperatives cannot provide a stable legal status or formal social protection to their members, they contribute to raising and stabilising members' incomes, increasing the performance and competitiveness of members' business, and making members' voices heard collectively. In this fashion, self-employed producers and entrepreneurs in the informal economy can enjoy various services which were not available to them due to the small size of their business and lack of applicable formal arrangements. Furthermore, they can adapt quickly to changing economic conditions rather than become victims of them. Practicing horizontal integration and, thereby, reaching economies of scale and a higher bargaining power is a key strategy of shared service cooperatives.

In the debates on the problems in the informal economy related to work and employment, several categories of workers who are in vulnerable situations have drawn special attention: these include waste pickers, domestic workers, migrant workers, street and market vendors, transport workers and home-based workers. Many studies and reports show that shared service cooperatives can play an important role in organizing, supporting and representing these workers, by providing them a formal framework through which their economic activities can be recognised as real businesses and members can negotiate with public authorities in order to introduce appropriate social security and protection

schemes (Birchall and Simmons, 2009; Co-operative College, 2014; ILO, 2012; Schwettmann, 1997, 2001; Smith, 2006; Wanyama, 2014).

Specific contributions of cooperatives in addressing employment issues in the informal economy

Beyond their general contributions in improving life and economic activities of people working in the informal economy, cooperatives can play a direct role in formalizing informal employment and thereby, in providing people with social protection and rights at work. This is drawing more and more attention, not only because of the informalisation of employment, but also because of increasing number of new forms of work which are somewhere between wage employment and self-employment. Many recent studies suggest that cooperatives can be alternative workplaces for self-employed workers⁵ and freelancers (Conaty et al. 2016; Scholz, 2016). Particularly, recent discussions about platform cooperativism have stimulated the idea that cooperatives could provide alternative employment models which could address problems caused by the “uberisation” of work and employment⁶. However, in preserving the dynamics, enthusiasm and diversity that have erupted in this field, it seems necessary to clarify this idea on cooperatives as alternative workplaces for self-employed workers and freelancers in terms of different modalities provided by different cooperative types.

A. Shared service cooperatives specialised in providing work opportunity

A lot of cooperatives where members have a legal status as self-employed reflect an almost similar model to the shared service cooperatives which we examined above. Although these cooperatives can provide members with various services, more income and more work opportunities, as well as a sense of community, it is clear that they cannot provide a definitive solution to the informal employment arrangements. For example, due to the lack of an appropriate legal framework, specificities of business models or members’ specific situations, some worker cooperatives have chosen the shared service cooperative model rather than the traditional worker cooperative model, which provides direct employment to worker-members. This is often found in worker cooperatives providing care services or domestic work. In administrative or statistical terms, the worker-members might be classified as self-employed. However, when these cooperatives have a solid orientation as worker cooperatives, it seems that the meaning of work and the practical relationship between cooperatives and their members is clearly different from that existing in shared service cooperatives with which self-employed producers and entrepreneurs are content with using the services provided but hardly share a collective identity or the sense of working together.

One of these models is a cooperative that functions as an “employment agency”: indeed, while not providing a direct employment contract to members, some cooperatives can mainly provide work-finding services. Therefore, it is reasonable to classify them as shared service cooperatives rather than worker cooperatives, despite the existence of borderline cases. When work is arranged through the cooperative, employment contracts are individually signed between the work-seeker who is a member of the cooperative and an external employer. In the sense that these cooperatives can help self-employed workers not to be abused by private interim enterprises or middlemen, this model has its

⁵ Differently from self-employed producers or entrepreneurs, self-employed workers offer their labour to work suppliers or a succession of them, with whom workers only have short term or fixed term contracts. However, while they work with a temporary employer, they are subjected to the latter’s control. Conaty et al. suggest in their report *Not Alone* that “*worker is a broader category in law than employee*”. According to them, “*a worker is any individual who works for an employer, whether under a contract of employment, or any other contract.*” (Conaty et al. 2016) Following this argument, workers should be entitled to core rights and protection related to their work, regardless of their contract form. The concept of “self-employed worker” which we recapture from *Not Alone* represents this line of argument.

⁶ See Nathan Schneider’s chapter ** in this volume.

advantage and contributes to addressing certain problems related to the informal economy. An example is actors' cooperative agencies and the Co-operative Personal Management Association (CPMA) in the UK. Closely working with Equity, the trade union for actors, stage managers and models, each actors' cooperative is a kind of employment agency, ranging typically in size from 20 to 35 members. Not only providing work-finding services, CPMA provides regular inputs in negotiating Equity's collective agreements and consultations on industrial issues (Conaty et al. 2016).

B. The labour cooperative model

There are cases where the cooperative provides an employment contract with members and has a contract with a large factory or workplace, to supply a certain number of their members per day or carry out certain tasks. This form of work, called "contract labour", is one of the atypical forms which are increasingly used by enterprises to avoid employers' obligations. However, it has also been argued that if workers could form a cooperative and bid for the contract directly, they could ensure transparency and exclude possible exploitation of private contractors (Smith, 2006). This kind of cooperative is called "labour cooperative" in English and has developed mainly in South Asia and, under the "worker cooperative" (*cooperativa de trabajo / cooperativa de trabalho*) denomination, in Latin America as well. The expected effect of labour cooperatives on employment is the creation of jobs and distribution of available labour demand that is as regular as possible, so that workers' employment opportunities are as steady as possible throughout the year. In some countries like India, labour cooperatives have been promoted as a tool to generate jobs for the unemployed and the poor, and are entitled to easily get contracts for public works⁷, e.g., in construction, civil engineering, cleaning, landscaping services, forestry works, dock works etc. This model has also been used in industrialised countries as a way to help unemployed people be trained and find a job in other enterprises (e.g. in Finland, see Birchall, 2003, Seacare cooperative for displaced seamen in Singapore, see Kui, 2001).

This model has also been the object of many debates. Where legal frameworks do not apply workers' rights and protection to members in considering them as self-employed, labour cooperatives can be used as a tool for a distorted form of outsourcing which hides the real subordinate relationship between workers and the true employers. It also allows employers to shift all risk and costs of employment to workers through cooperatives. In Colombia and Brazil during the 1980s and 1990s, a number of such cooperatives were set up partly as a result of neoliberal policies. They were created to carry out work outsourced from factories and administrations where workers had worked previously, but this time under much worse conditions for the workers who no longer enjoyed their former employment rights and became treated as self-employed. Many labour cooperatives were also completely dependent on one entity for their contracts (Co-operative College, 2014; Smith, 2006). Recently, a series of new laws (Brazil) or public policies (Colombia) have been introduced in order to reduce these bogus labour cooperatives and to limit their practices.⁸

⁷ It should be noted that the concept of "contract labour" itself is very ambiguous. For example, when the concept is used for public works, labour cooperatives supposedly undertake these works as "contractor". At least as far as public works are concerned, we can consider that the role of labour cooperatives is not to provide workforce to other enterprises, but to undertake project contracts. This should be further clarified in the case of labour contract cooperatives in India, which work mainly for public work contracts. For a more detailed description of Indian labour contract cooperatives, see Prasad, 2001 and Isaac and Williams, 2016.

⁸ CICOPA has been very active in struggling against them. The rapid expansion of bogus labour cooperatives was one of the main motivations for elaborating the World Declaration on Worker Cooperatives, which was approved by the General Assembly of the ICA in 2005 and clearly excludes bogus labour cooperatives from the definition of worker cooperative. "*In their internal operations, worker cooperatives must take into account the following rules. They shall ... 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*" (CICOPA, 2005)

C. *New initiatives focusing on provision of formal employment contracts*

Whereas labour cooperatives aim at creating jobs for members, sometimes at all costs, there are also cooperatives that focus on retaining or accessing the highest possible level of rights and protection, usually that of employees.⁹ Whereas for some uncertainty can mean risk and vulnerability, for others it can mean an inevitable cost to be paid for freedom and autonomy. More people, particularly among millennials, prefer to accept uncertainty and fluctuation as a new norm in order to keep the self-determination and self-management of their work and life. For them, reducing uncertainty in keeping their flexibility and independence is a prime need to be met. Cooperatives aiming at addressing this specific need have been organised over the last two decades and have used existing institutional frameworks in an innovative way, or even created new ones by introducing new legislation and public policies.

An emblematic example of this phenomenon is the business and employment cooperative (*coopérative d'activité et d'emploi*) in France. Business and employment cooperatives were originally designed as a specific form of worker cooperative with the aim of providing people who plan to develop their own business project with full-fledged rights and protection as employees during a test period (6-18 months), as well as various back-office services. After legal recognition through the 2014 law on social and solidarity economy, they have now been recognised as a particular form of cooperative not only for persons who are creating their business but also for those who have completed their test period and have their own business and clients, like most freelancers, by allowing them to have full-fledged rights and protection as employees and also as members of cooperatives. For this purpose, a new status of "employee-entrepreneur" (*entrepreneur-salarié*) which reflects the specificities of independent workers and applies only to business and employment cooperatives was introduced in the French labour code. This legal status is characterized by a higher level of rights and protection, compared to similar legal statuses introduced for flexible forms of work, such as auto-entrepreneurs and umbrella companies (*portage salarial*).¹⁰

Another example is SMart Belgium which was converted into a cooperative in 2016 (www.smartbe.be). Established in 1998 as a non-profit association specialised in offering contract management service, insurance services, legal and consulting services, information and training, co-work spaces and mutual financial tools mainly to artists, and, more recently, it has opened to freelancers and people working in the so-called sharing economy, SMart Belgium has organised a process for converting itself into a multi-stakeholder cooperative mainly based on worker-members. This is possible thanks to the capacity of SMart Belgium to combine diverse institutional tools, such as well-designed employment and social security system in Belgium and special legal treatment for artists and certain professions¹¹. Differently from the case of French business and employment cooperatives, which now have a specific legal status for employee-entrepreneurs but no distinction between employee-entrepreneur-members and permanent staff members, in SMart Belgium all workers, namely both independent workers using the services provided (75,000 persons) and the permanent staff (165 persons), have the same legal status as employees but correspond to distinct member categories in order to balance votes in the governance structure, which *de facto* results in a multi-stakeholder cooperative form.

Interestingly, we can find that all these cooperatives are organised to respond to specific needs of people working, whether by choice or by necessity, as self-employed workers or in sectors where this type of work form prevails. Their common needs are mainly to have more and better work and income,

⁹ This is well explained by SMart Belgium. "Our mission is to invent exactly the opposite of uberisation which aims to transform subordinate work (to algorithm and platforms) into so-called self-employment. Smartisation is the reverse: we allow self-employed workers to retain or access social protection corresponding to that of wage-earners". (SMart Belgium, 2016)

¹⁰ See also MéliSSa Boudes' chapter ** in this volume.

¹¹ Interview with financial director of SMart Belgium (July 22, 2016)

to avoid possible exploitation by intermediaries and attain formal employment arrangements aimed at enjoying rights and protection while easing the administrative burden. Therefore, cooperatives commonly provide a wide range of services, such as marketing, advertising, provision of information and training, administrative services including bookkeeping and invoicing, sometimes more sector-specific services and, in some cases, collective bargaining or political representation. Indeed, these functions are very similar to those carried out by back-office services. However, differently from employment agencies or personal service companies whose main purpose is to maximise profits for shareholders to the detriment of workers' interest, in cooperatives these services are controlled and managed by and for the workers themselves. In a sense, these cooperatives look like shared service cooperatives or users' cooperatives in which members use the services provided by cooperatives. But in another sense, since members are workers and since the main purpose of the cooperative is to create and maintain members' jobs, they also offer similarities with worker cooperatives.

D. Worker cooperatives as a direct solution to formalize informal employment, but when conditions are met

The primary aim of worker cooperatives is to provide formal and decent employment to its members. This is well illustrated by the fact that they tend to maintain better employment for their workers even during economic recessions compared the average of enterprises and even to other types of cooperatives. This comes from the basic DNA of worker cooperatives whose owners are the workers themselves. Worker cooperatives are enterprises trading on the market with other economic actors, because their economic activities cannot be dependent on internal transactions among members, as is the case for e.g. consumer cooperatives. Even when they are micro-size enterprises with limited capacity for formal arrangements, they must have the basic level of formality required by enterprises, such as written rules, formal governance structures and bookkeeping. If an economic entity claiming to be a worker cooperative does not have these formal tools, it cannot be considered to be a cooperative whatsoever. As a formal enterprise, worker cooperatives have to establish formal employment contracts or their equivalents with workers, whether these are members or not. Therefore, worker cooperatives could be recognised as a direct solution to provide formal employment to people (Co-operative College, 2014; ILO, 1992, 2012; Levin, 2002).

How can worker cooperatives help workers in the informal economy? Above all, by creating worker cooperatives, workers who need to work but cannot find jobs in the formal economy can have an opportunity to work through formal arrangements. This is the main hypothesis used by a number of government public policies and development projects that aim at promoting worker cooperatives. Secondly, by taking over companies in difficulty or in crisis where they work, workers facing unemployment or forced to find a job in worse conditions can maintain their jobs. This preventive role of worker cooperatives has been noted in the literature, in citing anecdotal episodes, such as the case of "recovered factories" (*fábricas recuperadas*) in Argentina in the early 2000s (ILO, 2012, Brief 5.4) and the cooperativisation of former public enterprises during the enterprise reform period of the late 1990s in China (Roelants, 2001).¹²

This being said, are worker cooperatives a feasible solution for people working in the informal economy, who are often vulnerable in terms of social and economic conditions? First of all, except for some countries where there is no available legal framework, establishing worker cooperatives does not differ much from establishing other types of cooperatives. It is even easier than creating consumer cooperatives or banking cooperatives, which generally require a significant number of members or amounts of capital from the outset. The real challenge lies in how they can survive and succeed in the market. Moreover, when members are mainly people in vulnerable conditions, it is even more difficult for them to be competitive in the market. Therefore, whereas worker cooperatives do have a great

¹² Also, for Italian cases, see Vieta's chapter ** in this volume.

potential to address problems related to work and employment in the informal economy, it should also be pointed out that their development is very difficult and challenging. Since worker cooperatives, unlike other types of cooperatives, do not establish commercial transactions among members but provide them with a workplace and an income, the risk is higher. Thus, far more attention should be paid to the creation of favourable conditions for their development, such as indivisible reserves, financial tools managed by cooperative movement, horizontal integration (groups, consortia, federations) and favourable institutional frameworks which allow and promote these factors.¹³

Even when they enjoy a conducive environment for their success, if there is no appropriate legal framework regarding worker-members, the worker cooperative model can also be abused to worsen problems rather than solving them. In countries where the cooperative legal framework emphasises the legal status of worker-members as owners, resulting from civil contracts among members as the basis of the work relationship, worker-members are often regarded as self-employed who are not covered by any rights or protection granted to employees. This approach can produce significant damage to the worker cooperative movement. As the above-mentioned cases of cooperatives involved in labour intermediation in Colombia and Brazil have shown, bogus worker cooperatives that on the surface are formal enterprises, can restrict and suppress workers' rights and protection by self-exploitation forced by market pressure or by dominant buyers who are hidden employers profiting from outsourcing works (ILO, 1992; Lindenthal, 1994; Schwettmann, 1997)¹⁴.

Experience shows that an appropriate and tailored legal framework for worker cooperatives, guided by the cooperative principles as well as the values of decent work, can solve many of these problems in a pragmatic fashion, and even strengthen the role of worker cooperatives as a solution to the informal economy.

In the countries where the relationship between worker-members and the worker cooperative is based on an employment contract, clear distinctions in the legal framework for worker cooperative within the cooperative law can be used by case law to properly combine worker-members' double relationship with the cooperative, namely an employment relationship and a member-owner relationship. For example, French worker cooperatives are recognised as a specific type of cooperative, while the worker-members' legal status as employees with full-fledged rights and protection is maintained (Espagne, 2007).

Another way is to fully apply the universal norms of decent work enshrined in the fundamental conventions of the ILO to worker cooperatives through cooperative laws by explicitly dealing with the legal status of worker-members and worker cooperatives. In Spain, worker-members' labour relationship is not covered by labour law as an employment relationship but constitutes a specific type of labour relationship regulated by the cooperative law. The latter explicitly regulates a minimum level of rights and protection for worker-members so that worker cooperatives as enterprises do not violate the basic rights and protection against their worker-members, even though the enterprise is constituted by the worker-member themselves. Furthermore, Spanish worker cooperatives can choose between two social security regimes, one called "general regime", which is the same as the scheme for salaried workers in other types of enterprises, and the scheme for self-employed workers without, however, providing the same level of coverage. The new legislation on worker cooperatives in Brazil defines that worker-members in worker cooperatives should be treated as workers in terms of social protection and labour rights, which includes a minimum wage, annual leave, paid weekly rest, working time limits, and worker insurance (Co-operative College, 2014). It is expected that this new law could improve the role of worker cooperatives in delivering formal employment and decent work to workers by removing bogus cooperatives which provide only formal employment without decent

¹³ See more in detail Roelants et al. 2012 and Roelants et al. 2014

¹⁴ See also Garcia Jimenez's chapter ** in this volume.

work. Although there are some concerns that strengthening rights and protection for workers could bring additional costs to worker cooperatives and that cooperatives could lose their competitiveness, the position of this chapter is that cooperative solutions should be pragmatic but also normative as proposed by the ICA's Statement on the Cooperative Identity, the ILO Recommendation No. 193 and CICOPA's World Declaration on Worker Cooperatives.

A proposition: formalising informal employment through the institutionalisation of worker ownership

The analysis above reveals that there are some conceptual ambiguities in the worker cooperative model concerning their roles in addressing employment issues. We think that debates for clarifying these ambiguities might be an interesting way for strengthening the direct contribution of cooperatives to the formalisation of informal employment.

Among other issues, the extent to which cooperatives should be responsible for their members' employment has become more important not only for cooperatives but also in the wider debates on the flexibilisation and informalisation of employment. In the majority of cases, members of producers' cooperatives, particularly agricultural and fishery cooperatives, are real self-employed producers who use shared services provided by cooperatives for their own production activities. However, in producers' cooperatives in industrial and service sectors, it is not always clear whether producer-members are real self-employed producers: we can find cases where producer-members significantly depend on their cooperative for their jobs and production activities and where producers' cooperatives retain all necessary control over members' work rather than simply provide shared services, thereby playing to a large extent the *de facto* role of an employer.¹⁵ There have been many warnings on the misuse or abuse of this kind of practices by unscrupulous employers to by-pass labour regulations and shift all costs of employment to individual workers (Co-operative College, 2014; Lindenthal, 1994; Smith, 2006). It should be pointed out that, in many cases, national labour legal frameworks, market practices in certain economic sectors such as transportation services and personal services, or specific forms of work organisation like 'piece-rate worker' among home-based workers¹⁶

¹⁵ Although the debate on the criteria that define the nature of labour contracts - juridical subordination or economic dependence – was settled in favour of juridical subordination in the early 20th century, the recent increase of new forms of work which are legally independent but economically dependent, and thus characterized by substantial subordination imposed by economic dependency, has reactivated the debate (Conseil national du numérique, 2016). For example, in the US context, during the debates about the legal status of workers working through on-line platform, which are actually considered by on-line platform companies to be independent contractors, one important classifying criterion on which judges and regulators' decision will depend is whether the workers themselves are overall in control of their own work or are generally subject to the enterprise's instructions about when, where and how to work (*The New York Times*, Aug. 8, 2015, "Twisting Words to Make 'Sharing' Apps Seem Selfless"). Another point is, according to the regulatory guidance of the US Department of Labour, whether a worker is economically dependent on the employer or is in business for him or herself (*The New York Times*, July 18, 2015, "Defining 'Employee' in the Gig Economy"). Other more concrete criteria can be used according to different national legal frameworks, such as whether there are instructions, provision of tools, training, regular remuneration, financial risk, work control, integration of the worker in the enterprise, entitlements, work done mainly for another, work done within specific hours, a specific time or at a specific location, work carried out personally etc. (ILO, 2012, Brief 4.a.3). These questions could be taken into account in order to reclassify certain producers' cooperatives into worker cooperatives.

¹⁶ According to Roever et al. 2011, within the group of home-based workers, a further distinction can be made between 'piece-rate workers' and 'own account workers'. Piece-rate workers can be contracted by a firm, an individual entrepreneur, traders, subcontractors or other intermediaries, are usually given the raw materials and are paid a stated amount per piece produced. These workers do not have any direct contact with the markets for the goods they produce. Own-account workers are those who are generally in direct contact with the market and buy their own raw material (Roever et al. 2011). Among producers' cooperatives, producer-members in some of handicraft cooperatives or handloom weavers' cooperatives are piece rate workers.

(Roever et al. 2011), might force this kind of practice not only onto cooperatives but also other forms of enterprises. In effect, in considering this kind of labour practices as part of the phenomenon called the informalisation of employment, various initiatives have been carried out by governments, trade unions, NGOs as well as cooperatives in order to reduce their negative effects and, in addition, to reclassify them into a classical employment relationship which could provide appropriate rights and protection to workers.

Therefore, from a more normative perspective, producer cooperatives that have a substantial role as employers beyond being simple providers of shared services, should perhaps be reclassified as worker cooperatives and, thereby, should provide strengthened rights and protection to their producer-members. This reorientation is more necessary than ever, because, in developing countries as well as new emerging economies, as the role of cooperatives in industrial and service sectors is growing, the cooperative business model should be modernised beyond simple cooperation for survival, in order to compete with other enterprises. In the same line of reasoning, some worker cooperative models which consider worker-members as self-employed and do not grant any rights or protection to workers should improve worker-members' rights and protection.

However, does this normative approach mean that producer-members should give up their freedom and rights as owners of cooperatives to gain rights and protection as employees? If producer-members claim their rights as employees in resorting to labour laws without assuming their responsibility as owners, how can cooperatives manage it? This point is what the concept of "worker ownership" proposed by CICOPA tries to address. Worker ownership is one of the three basic modalities for undertaking occupational activities together with the self-employed and wage-earners. In this form of work, *"work and management are carried out jointly without the typical limitations of individual work, nor exclusively under the rules of conventional wage based labour. Among the modalities of worker ownership, the one being organised through worker cooperatives has attained the highest level of development and importance at present."* (CICOPA, 2005) Since its origin, the worker cooperative model has kept atypical forms of employment which aim at reconciling the self-determination as owners with protection for workers, through the collective and democratic governance of cooperatives. The concept of worker ownership is not a fixed one but a dynamic and pragmatic approach which is completely in accordance with the universal cooperative definition, operational principles and underlying values enshrined in the Statement on the Cooperative Identity (Manchester, 1995), agreed upon within the framework of the ICA, and incorporated in ILO Recommendation No. 193 and, through the latter, also with the fundamental labour standards and rights at work enshrined in ILO conventions.

In many countries, including the French, Spanish and Brazilian cases examined above, this core characteristic has been institutionalised through legal frameworks or substantially recognised through case law or public policies. As such, some legal frameworks for worker-members in worker cooperatives have opened a third form of work, beyond the traditional dichotomy dating from the 19th century between employees and self-employed. Given that the changing world of work calls for more pragmatic approaches allowing new forms of work and employment that would combine flexibility and independence with rights and protection, the concept of worker ownership might be a pragmatic model enabling workers to fully enjoy both self-determination and protection through cooperative methods. Furthermore, the institutionalisation of worker ownership and the promotion of worker cooperatives as its realised form might be one of most effective strategies for addressing the mounting problems caused by the informalisation of employment and formalising informal employment through a new form of decent employment.

Conclusion

This chapter aimed at examining various contributions of cooperatives to address problems related to work and employment in the informal economy. Instead of considering the informal economy itself as “good” or “bad”, we focused on the decent work deficits faced by people working in the informal economy and tried to identify the actual and potential contribution of cooperatives.

In recognizing the importance of the integrated approach based on multi-stakeholders’ involvement, this chapter proposed that cooperatives be part of an integrated solution in various ways: as an instrument used by trade unions or local governments within the framework of their own efforts, as self-help efforts of people in the informal economy for improving their economic and social situations and as an alternative model allowing informal economy actors to formalise their economic activities and to obtain rights and protection at work. It also proposed to envisage the institutionalisation of “worker ownership” as an important solution to the informal economy and informal employment. Why don’t we dare to imagine a better world of work through various cooperative models?

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