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ILO and Cooperatives

International Labour Organization

COOPERATIVE PROGRAMME (EMP/COOP)

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«Il m'a paru que le Bureau International du Travail devrait être, dans l'ensemble de la Société des Nations, l'institution solide à laquelle devrait se rattacher le Mouvement Coopératif.

Albert Thomas,
Lettre au Congrès National Coopératif de Strasbourg en 1920

"There is no way we will eradicate poverty without creating jobs. And cooperative enterprise is a key productive link to make it happen".

Juan Somavia,
Report on "Working out of Poverty" to the 2003 International Labour Conference

Dear reader,

The ILO lost a friend and a great supporter of its work on cooperatives: Mr. Ivano Barberini (cf. "Ivano Barberini").

Nothing could describe the continuity of the cooperative model even in times of crisis and change better than the citations from what the first and the current ILO Director General, Mr. Albert Thomas and Mr. Juan Somavia, had and have to say about cooperatives (cf. citations). And even Mr. Barrack Obama seems to agree... (cf. "President Obama, member of a cooperative...").

As the financial crisis ensues an economic and an employment crisis, we continue seeking a better understanding of why financial cooperatives and cooperatives in general fare differently in these times of crises (cf. "How are cooperative financial institutions affected...?" and "Responses to the global economic crisis..."). Not the least enterprise policies need to take the comparative advantages and disadvantages of different enterprise types into account. The subject relates also to a growing and more structured debate about the social economy. This will be central to a regional tripartite conference to be held in Johannesburg November 30 to December 2. Cooperatives are a key and distinct component of the social economy and they are the longest tested organizational model in this context (cf. "Cooperatives in the promotion of the Social Economy..."). Cooperatives, the food and the financial crisis were also the topic of a recent UN Expert Group Meeting attended by EMP/COOP in New York. The group recommends taking R.193 and the UN Guidelines on cooperatives further. It also recommends that the UN declare an international year of cooperatives.

Beyond reporting on the cooperative financial sector which has had the most success over the last years, the article on the meeting of the Russian savings and credit unions/cooperatives (cf. "Sochi accueille...") demonstrates that cooperatives are not a taboo subject any more in the region. The same "renouveau" atmosphere is at the basis of our decentralized COOP[AFRICA] Program which has reached almost its mid-term at high speed and full of activities (cf. Updates COOP[AFRICA]"). This update is supplemented by two examples which reflect EMP/COOP's work approach: demonstrate the relevance of cooperatives for economic development (cf. "Enhanced Fish Market Information (EFMI) Project"), as well as beyond the economic (cf. "Cooperatives fight against HIV/AIDS"). The reclassification, and indeed upgrading, of the former Institut Supérieur Panafricain d'Economie Coopérative (ISPEC) as a cooperative university (cf. "The AUCD is launching a PhD programme...") cannot be but welcomed, since one of the essential ingredients for cooperative development is cooperative education and training.

With this issue of the Newsletter we start a more structured presentation. As from now we shall present information, features, studies etc. in recurrent rubrics. One of them will be on law in its broadest sense. You will recall that the last issue of the Newsletter informed on the new Framework cooperative law for Latin America. In this one I summarize my presentation to a seminar of historians who discussed for three days "Transnational social policies. Reformist networks and the International Labour Organization (1900-2000)". It is to underline ILO´s role in the emergence and consolidation of a public international (binding) cooperative law.

Hagen Henrÿ

Ivano Barberini

Ivano Barberini, President of the International Cooperative Alliance (ICA), died on May 6, 2009.

On behalf of my colleagues and on my own behalf I wish to express our sincerest condolences to his wife and family. I am saddened by his death.

The ILO in general, EMP/COOP in particular, owes Mr. Barberini great respect for his commitment to the development of cooperatives and to the collaboration between the two organisations. Let me just recall some facts:

– 2002: Mr. Barberini participates in the International Labour Conference which adopts the Promotion of Cooperatives Recommendation (R.193)

– 2003: Upon invitation by Mr. Barberini, ILO Director-General Juan Somavia delivers a keynote address to the General Assembly of the ICA at Oslo

– 2004: Mr. Barberini and Mr. Somavia sign an MoU, the only MoU of the ILO with a nongovernmental organization

– 2004: Mr. Barberini participates as the only representative of a nongovernmental organization in the Ouagadougou Summit on employment and poverty alleviation

– 2005, 2006 and 2007: Mr. Barberini and Mr. Somavia meet to review the MoU. At the first one of these meetings they launch the "Cooperating out of poverty" campaign; at the second one they agree to promote the social economy; at the third one they agree to consolidate joint work on public awareness raising for cooperatives, their inclusion in the general education curricula, the ICA Global 300 Project and on the strengthening of the enabling environment for cooperatives

– 2005: Mr. Somavia receives the Colombo d'Oro Price. Mr. Barberini is the president of the price committee.

– 2006: Mr. Barberini participates in the ILO-UN Experts meeting on cooperatives and employment in Shanghai.

I do not pretend that his invaluable contribution to our work can be captured in these words. It is difficult for me to separate my deep personal sorrow from my duty to pay respect to Ivano Barberini for what he did for the ILO. This difficulty is to a large extent due to his personality. He always treated me as a person, independently of the role he or I played in the rather varied settings we met over the years.

Thank You, Mr. Barberini! Thank You, Ivano!

Hagen Henrÿ

How are cooperative financial institutions being affected by the global financial crisis?

Research from the IMF in 2007 found that cooperative financial institutions in OECD countries tend to be more stable than their commercial counterparts in times of crisis, as their investment patterns tend to be less speculative and returns are therefore less volatile. The findings of the study lead one to wonder whether the comparative stability of cooperative finance may therefore help to mitigate crisis impact for members and clientele. Given current volatility in financial markets and the implications that this has had for the 'real' economy, it is a pertinent time to revisit this topic.

Cooperative financial institutions provide savings and credit services for both business and households, which increases the availability of goods and services and thus facilitates economic growth, social development and employment creation. Cooperatives can also provide more complex financial services, such as leasing, payments, insurance services and remittance transfers. What sets cooperative financial institutions apart from other forms of financial services is found in their underlying commitment to cooperative values and principles. Decisions taken by cooperatives financial institutions therefore tend to balance the need for profitability with the broader economic and social development needs of their members.

One of the benefits of cooperative financial institutions is that they often tend to make their services available to vulnerable people that live in under-serviced territories. For instance, the World Council for Credit Unions (WOCCU) found that half of all credit union members in Kenya, Rwanda and Columbia received incomes that placed them below their respective national poverty line.

Similarly, the Credit Union National Association in the USA reported that 25.2 per cent of credit union mortgages belong to borrowers with low and moderate incomes, while other mortgage lenders only service 20.6 per cent of this group. Provision of financial services to this population has not seen the asset quality of credit unions undermined. This is because the lending policies of credit unions are generally more conservative, placing sustainability and member needs before profit. These policies effectively prevented credit unions from relaxing lending standards and entering into high risk segments of the market. Indeed, it has been reported that some credit unions that serve low income communities have seen their delinquency rates increase less than the delinquency rates of other financial institutions that service the middle market.

In general, credit unions in the USA have built a strong capital base over the last decade, and are currently using this base to absorb loss and avoid unnecessary pricing changes, service cutbacks, or staff layoffs. Credit unions, both within the USA and globally, have not had to call on governments for recapitalisation as a result of the financial crisis. Some corporate credit unions in the USA, which were established to provide liquidity for retail credit unions, invested in mortgage backed securities and have recorded losses. Some cooperative banks

have gained access to governments funds for recapitalisation, however many have undertaken their own capital consolidation strategy with other cooperatives.

At the end of 2008, WOCCU conducted a survey of selected countries that considered the impact of the global financial crisis on cooperative finance. Analysis of data suggests a shift in confidence from commercial banks to cooperatives, largely due to households seeking greater security and stability in order to offset uncertainty in financial markets. In many developed countries government funded deposit guarantees have risen, ensuring greater protection of cooperative members and clientele. Regulators have also been emphasising caution and urging financial institutions to maintain higher liquidity and capital levels.

The consequences of actions in the financial markets of developed counties are now affecting in developing countries. Cooperative financial institutions have reported that they have experienced difficulties in managing liquidity and responding to demands for loans. For instance, in Brazil some CFIs have had to sell loan portfolios to larger institutions in order to manage liquidity. In Africa, recent volatility in commodity prices and falling international demand for exports, especially in industries such as the flower export markets, has seen the income of members fall and requests for bridging finance increase. As the primary source of cooperative finance comes from member deposits, the falling income of members has seen some Savings and Credit Cooperatives reporting need to ration their services. Managing liquidity and capital levels, while meeting the needs of members for finance, has been one of the major ongoing challenges for cooperative financial institutions in Africa.

The conclusions that can be drawn to date indicate that cooperative finance tends to hold some inherent advantages, when compared to their commercial banking counterparts. However, cooperative financial institutions are not able to insulate themselves from the subsequent economy-wide implications that are associated with the global financial crisis. Rising unemployment, falling investment and declining demand is beginning to affect the incomes of cooperative members and therefore could have implications for asset quality and net worth of cooperative financial institutions, particularly those that are in developing economies.

Cooperatives in the promotion of Social Economy in Europe

Context: EMP/COOP had participated in the two latest European conferences on Social Economy: in Strasbourg (November 2008), organised under the French presidency of the Council of the EU; and, in Prague (April 2009) under the Czech Republic Presidency. In addition, EMP/COOP is coordinating the technical preparations of an ILO conference under the theme "The Social Economy – Africa's response to the Global Crisis" (Johannesburg, 30 November – 2 December 2009). This conference had been initiated by the ILO Regional Office for Africa and will gather participants from at least 25 African countries.

A consensus on the definition of the concept of social economy still needs to be found. Different notions of social economy have been developed according to regional, political conditions, different legal and fiscal environments, cultural factors, economic history and traditions. Beyond theoretical debates, social economy takes its roots in the local economic context. In this regard, the promotion of a European notion of social economy had been developed for many years. Despite of national particularities, social economy organizations are defined as a different type of entrepreneurship: they are both economic and social actors. Social economy in Europe includes organizations such as cooperatives, mutual societies, associations and foundations.

European social economy organisations have been set up on the EU-level in a representative institution: Social Economy Europe. This latter defined distinctive specific feature of social economy organisations which are presented in the following table in comparison to the universally recognised definition of cooperatives and principles as also enshrined in the ILO R.193.

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Features of social economy organisations	Cooperative definition and principles
• The primacy of the individual and ***the social objective over capital*** • Voluntary and open membership • Democratic control by the membership • The combination of the interests of members/users and/or the ***general interest*** • The defense and application of the principle of solidarity and responsibility • Autonomous management and independence from public authorities • The essential surplus is used to carry out ***sustainable development objectives, services of interest to members or of general interest***	***Definition:*** a cooperative 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."* ***Principles:*** • Voluntary and open membership • Democratic member control • Member economic participation • Autonomy and independence • Education, training and information • Cooperation among cooperatives • Concern for community

In the light of this table, we can observe that features of social economy organisations rely essentially on cooperative principles, except for those in bold letters which tend to be wider.

The only social economy organization legally recognised on the EU-level is the European Cooperative Society. The significance of cooperatives in the European social economy movement can be found in their representativeness. Indeed, while social economy organizations are employing in Europe 20 million workers, or 10% of all jobs; European cooperatives represent 163 million members and 5.4 million jobs, and the Association of Mutual Insurers and Insurance Cooperatives in Europe (AMICE) directly employs over 320.000 people, insures over 100 million members and counts over 20% of the European insurance market.

[1] The European branch of the International Cooperative Alliance (ACI) is Cooperative Europe, which is representing 37/42 countries of the European region and 6/7 European Sector Organizations

Sources: Cooperatives Europe (www.coopseurope.coop)
Social Economy Europe (www.socialeconomy.eu.org).

Sochi accueille le IIIe Forum des caisses populaires de Russie

EMP/COOP a participé au IIIe Forum des caisses populaires de Russie organisé par la Ligue des caisses populaires de Russie à Sochi (Sud de la Russie) du 19 au 22 avril 2009.

La Ligue a été fondée en 1994 suite à la renaissance du mouvement des caisses populaires dans les années 1991-1992, dans un contexte de réformes à l'époque.

Avant la révolution bolchévique en 1917, on comptait en Russie plus de 14 000 caisses populaires associant plus de 8 millions de membres, ce qui mettait le mouvement à l'avant-garde du mouvement mondial. Sous le pouvoir soviétique dans les années 30, les caisses populaires ont été abolies suite aux changements de la politique financière en URSS.

La relance du mouvement des caisses populaires en Russie dans les années 90 a été fortement appuyée par le World Council of Credit Unions (WOCCU), Développement International Desjardins (DID), l'Agence Canadienne de Développement International (ACDI) et des mouvements nationaux des caisses populaires en Irlande, en Australie et aux Etats-Unis.

À l'heure actuelle, la Ligue réunit 200 caisses populaires réparties au sein de 8 associations régionales disséminées dans toute la Russie. La Ligue défend les intérêts du mouvement, le représente auprès des organes étatiques et au niveau international. Les activités principales de la Ligue sont: appui légal, encadrement informatique, organisation de la formation des membres, élaboration des approches méthodologiques au niveau de la formation et la mise sur pied du système des mécanismes financiers qui est à la base de la dynamique actuelle du mouvement.

Le travail pratique se base sur le «Concept du développement du secteur des caisses populaires en Russie pour la période 2007-2011» adopté au Forum précédent en 2007.

159 personnes ont participé aux travaux du Forum organisé en séances plénières et en groupes de travail. Les responsables de WOCCU, de Credit Union National Association (CUNA, USA), de KC «Barksdale FCU» (USA) et de la Confédération Raiffeisen (Allemagne) ont également pris part aux travaux du Forum.

Les assises du Forum se sont déroulées dans un contexte de crise financière qui a affecté, comme tout acteur économique, le mouvement à tous les niveaux.

La crise a découvert des insuffisances et des erreurs commises ces dernières années au niveau de l'organisation du travail dans quelques régions. Certaines caisses populaires n'ont pas appliqué les principes coopératifs et ont compromis l'idée même du mouvement. De toute probabilité, les conséquences néfastes auraient été moindres si des mécanismes de contrôle public avaient été mis en place.

Malgré tout, la direction du mouvement voit dans la crise une opportunité de démontrer à tout le monde les avantages et la force de résistance du mouvement coopératif.

Le Forum a souligné avec insistance la nécessité pressante de perfectionner la législation coopérative et de réviser la réglementation au niveau des impôts. Les imperfections en la matière freinent la dynamique du mouvement et compromettent son avenir. Le Gouvernement a été invité au dialogue plus régulier avec le mouvement en vue d'élaborer en concertation l'ensemble des mesures anticrise. Le grand nombre de participants venus de toutes les régions de la Russie, le niveau élevé des discussions, l'excellente qualité des rapports et l'esprit de fierté et d'appartenance au mouvement mondial ont été perceptibles dans les interventions. Enfin, le nombre considérable de jeunes actifs et entrepreneurs font penser que le mouvement des caisses populaires existe bel et bien en Russie malgré la conjoncture difficile et qu'il a un avenir.

Updates on COOP[AFRICA]

These are some of the activities undertaken in recent months:

COOP[AFRICA] participated in the stakeholders' workshop for the launching of the One Village One Product (OVOP) initiative for Kenya, in Nairobi, mid March. The programme is supported by JICA (Japan International Cooperation Agency) and COOP[AFRICA] is member of the OVOP Kenya Steering Committee.

A training workshop for National Advisory Group (NAG) members on Project Cycle Management (PCM) and gender mainstreaming was organized together with the Moshi University College of Business Studies and the International Training Centre in Turin in Moshi from 18-27 March. As a follow-up a virtual helpdesk has been set up by ILO/ITC to support the participants to apply the learning and organize training activities on their respective countries. Moreover, a PCM guide will soon be issued.

A workshop together with the International Trade Union Confederation (ITUC) Africa was organized in Nairobi, from 16-17 April to reinforce the linkages between workers' organizations and cooperatives. Organizing workers in the informal economy through a cooperative approach was one of the key agenda items. Further collaboration is envisaged, among others to build on previous experiences of the SYNDICOOP programme.

Also in April, a call for interest has been launched for eligible organizations in eight countries to apply to be selected as Centres of Competence (CoC) whose role is to provide quality business services to primary cooperatives. Cooperative unions, colleges, federations are targeted in priority so that gaps can be identified and assistance provided within the movement - notably through applying to the COOP[AFRICA] Challenge Fund, but other types of organizations (NGOs, private companies, unions, employer's associations, government agency...) with relevant expertise are also welcome to apply. Selected CoC will be enlisted in a catalogue that will be recognized and used by all cooperatives in Africa as a reference for business service providers.

For more information see: www.ilo.org/coopafrica

Enhanced Fish Market Information (EFMI) Project: Use of modern communication technology to improve Lake Victoria fishing cooperatives income.

Lake Victoria is Kenya's most important fishery resource, producing fish valued at about US$ 70 million and earning US$ 50 million from fish exports. Although the region is well covered by mobile phone networks, the fishing community hasn't taken advantage of this technology to market fish. As a result fish pricing is not transparent, marketing costs are high and there are heavy post-harvest fish losses.

In March 2009, COOP[AFRICA] secured a grant of USD 84,000 (the total budget is USD 105,837.78) for the Kenya Marine and Fisheries Research Institute (KMFRI is a parastatal in the Ministry of Fisheries Development in Kenya). The one-year project focuses on research and development issues. This project involves setting up a system for collecting real time key market information using mobile phones from about 150 fish landing sites, markets and fish processing firms. The information will be relayed to a data centre located in Kisumu, to be synthesized, packaged and made accessible to beneficiaries through mobile phones, the Internet, newspapers and local radio. The available market information will include: prices and quantities of fish; the number of fish buyers and cold storage fish trucks; basic weather information that can influence market decisions. The project will support the setting up of the data centre, training data collectors and analysts, workshops, consultative meetings with key partners, media publicity and awareness generating events. It will procure office supplies and support fieldwork. Cooperative organizations are involved in designing and running the project, and will directly benefit as they will each be provided with a mobile phone for project work and have their costs for generating and relaying market information accounted for.

This project contributes to the creation of employment and increased incomes for fish farmers and fish traders, who are mostly under 35 years old. The fishing community will be empowered through income and work generation, therefore made less vulnerable to the effects of HIV/ADS.

The project supports the following DWCP objectives: i) Increase youth empowerment, youth employment and eliminate child labour; ii) Fight against HIV/AIDS at the work place.

In total 45,000 fishermen, 80,000 fish traders and processors, 7 fish processing firms and 30 fishermen cooperatives societies will benefit from this project. KMFRI, the Ministry of Fisheries Development and AFIPEK will benefit from capacity enhancement through development of a market information database. The main achievement of the project will be the establishment of a market data and information collection and the creation of a dissemination system serving 150 fish landing sites on Lake Victoria via mobile phones, the internet, newspaper and radio broadcasts. A subsidiary achievement will be a database containing key market information

Cooperatives fight against HIV/AIDS in Africa

Over the last three decades, HIV/AIDS has killed more than 25 million people and affects all spheres of societies including the world of work. Africa remaining the hardest hit continent, the ILO Cooperative Facility for Africa (COOP^{AFRICA}) promotes a cooperative approach to the fight against HIV/AIDS. As most of the members of cooperative societies are either employed and/or self-employed in the informal economy, cooperatives have a great outreach potential in both rural and urban areas. To contribute to the prevention of HIV/AIDS, cooperatives can generate and disseminate awareness raising programmes to reduce stigma and discrimination and impact on the spread of the virus, in particular through apex organizations. Cooperatives can be instrumental in mitigating the impact of HIV/AIDS by enhancing their affected and infected members' economic welfare through access to economic services and income generating activities. At the community level, cooperatives can also mitigate impact for instance by providing scholarships to vulnerable children and orphans of HIV/AIDS affected families. In addition, cooperatives can play a key role of improving access to proper and quality social and health services.

COOP^{AFRICA} works together with the ILO/AIDS Programme on "*HIV/AIDS prevention and impact mitigation in the world of work" in Benin*, Cameroun, Ethiopia and Tanzania. The programme, funded by the Swedish International Development Agency (SIDA), is centered on capacity strengthening and mobilizing cooperatives, other Small and Medium Enterprises (SMEs) and Community Based Organizations (CBOs) in responding to HIV/AIDS in the workplace and their routine activities. In Tanzania, activities include support to community education through peer education; support for the development of polices and HIV/AIDS programmes; entrepreneurship development skills; and linking cooperative members and their families to the health facilities that provide voluntary counselling and testing and antiretroviral treatment.

COOP^{AFRICA} also supports the Uriri Farmers Cooperative Society Ltd. (UFCS) in Kenya and its project for "*Soybean production, value addition and utilization for health & wealth in Kenya"*. The objective of the project is to increase food security for the cooperative members, particularly those living with AIDS.

Finally, COOP^{AFRICA} and ILO/AIDS have recently launched a research project on "*Opportunities and challenges for cooperatives to respond to HIV/AIDS through home based care (HBC) services* with the aim to demonstrate how cooperatives can also be involved in the delivery of HBC for HIV/AIDS.

For more information see: www.ilo.org/coopafrica

The AUCD is launching a PhD programme in cooperative economic and development management

The "African University for Cooperative Development" (AUCD), formerly known as "Institut Supérieur Panafricain d'Economie Coopérative" (ISPEC), is an international public institution based in Cotonou, Benin. It was created in 1967 following the first Pan African Cooperative Conference (PCC). The African University for Cooperative Development aims at:

- Organizing training, specialized studies and refresher courses in all areas of cooperatives and other social economy institutions, for senior and intermediate staff as well as actors of self-promotion organizations
- Carrying out research on cooperatives and other social economy institutions in Africa especially on the state of the cooperative movement as well as pertinent topics that are likely to ensure a good promotion of the movement.

The African University for Cooperative Development, either alone or in collaboration with other institutes of higher learning and universities, offers Bachelor, Masters and Doctorate degrees in cooperative economics and development management, as well as in micro-finance, micro-insurance, local economic development, entrepreneurship and management, project design, monitoring, evaluation and auditing of NGOs. The degrees will meet the requirements of the Africa and Malagasy Council for Higher Learning (CAMES), as well as other professional degree and certificate requirements. The UADC is headed by a Rector, assisted by a Vice-Rector in charge of Training and Research and an Administrative and Finance Director. These three officials are members of the UADC Management Council.

It is in this framework that the AUCD announces for next October the opening of a professional Doctorate programme in cooperative economics and development management. The requirements for this PhD are: Master degree (with at least 70% grade) and at least three years of experience in the area of cooperative development or a closely related field.

The AUCD collaborates with the following institutions: CIDA, ICA, AIF, WB, ILO, CGAP, DID, EUMC, IRSP, InWEnt, Planet Finance, IRECUS, UNDP, SOCODEVI, Université de Liège and Université Libre de Bruxelles (Belgium), Université de Sherbrooke (Canada), etc.

For more information, please go to the UADC (ex-ISPEC) website: http://www.ispec.bj/

La contribution de l'Organisation internationale du Travail à la formation du droit public international coopératif[1]

I. Introduction

Cet article développe l'idée que l'Organisation internationale du Travail (OIT) a contribué à l'émergence du droit public international coopératif et que la Recommandation No. 193 sur la promotion des coopératives, 2002 de l'OIT (R.193) constitue le noyau de ce droit que tout législateur en la matière doit respecter. L'article reflète les résultats préliminaires d'une recherche à compléter et à approfondir à bien des égards.

II. L'OIT, les coopératives et le droit coopératif: un aperçu historique

Le Conseil d'administration de l'OIT décide en 1920 d'établir un Service des coopératives. Des tentatives dans les années 1920 de voir les coopératives représentées aux organes de l'OIT au même titre que les gouvernements, les employeurs et les travailleurs échouent. En 1948, l'Alliance Coopérative Internationale (ACI), organisation mondiale représentant les mouvements coopératifs, obtient le statut consultatif auprès de l'OIT. La relation entre l'OIT et l'ACI trouve son expression la plus marquante dans un Memorandum of Understanding conclu en 2004. Font partie de cette collaboration la politique et le droit coopératifs.

Après quelques missions sporadiques, le Bureau international du Travail (BIT) entreprend entre 1952 et 1968 quelques 200 missions dans 65 pays comprenant souvent des conseils en matière de droit coopératif. La 1ière mission d'assistance technique ne concernant que le droit coopératif aura lieu en 1950. Il ne s'agissait pas encore de la transmission d'un savoir propre, expression d'une commune volonté de l'OIT et de ses États membres. C'est seulement avec l'adoption de la Recommandation No. 127 sur les coopératives (pays en voie de développement), 1966 (R.127) qu'est franchi le cap vers l'émergence d'un droit public international coopératif. Mais cette recommandation ne peut pas encore être considérée elle-même comme source d'un droit public international coopératif. Elle ne s'adresse qu'aux pays en voie de développement, membres de l'OIT, et aux seuls gouvernements de ceux-ci. De plus, le contenu de la R.127 ne reflète pas un consensus universel. Bien au contraire: elle reflète la vision des coopératives comme moyens aux mains des gouvernements. Par contre, dans les pays industrialisés les efforts se concentraient sur une différentiation de la législation coopérative par rapport à la législation relative aux sociétés par actions.

La dernière étape vers un droit public international coopératif commence avec la préparation et l'adoption de la R.193. Vu les changements politiques, économiques et sociaux survenus depuis 1966, et surtout ceux survenus depuis 1989, le Conseil d'administration jugeait opportun de proposer à la Conférence internationale du Travail un nouveau instrument qui serait universel, donnerait plus d'autonomie aux coopératives et à leurs membres (potentiels) et qui donnerait aux coopératives le statut d'entreprise. Le droit coopératif y figure, quoique de manière beaucoup moins systématique que dans la R.127.

Basé sur cette recommandation, le BIT a assisté quelques 60 pays dans leurs efforts de réformer le droit coopératif.

III. L'OIT et le droit public international coopératif

1. Le mandat de l'OIT en matière de droit coopératif

Les seules activités du BIT, que nous venons d'esquisser, ne peuvent fonder le mandat de l'OIT en matière de droit coopératif. Les textes préparatoires et la R.193 elle-même ne s'expriment pas sur la base constitutionnelle de la R.193. L'Article 12, § 3 de la Constitution ne donne à l'OIT que le pouvoir de «prendre toutes dispositions utiles pour consulter…des organisations internationales non gouvernementales reconnues, y compris des organisations…de coopérateurs».

En vue d'une tendance vers l'élargissement de la notion du droit du travail pour englober des règles régissant tout mode de production de revenu et la protection sociale, on pourrait envisager d'inclure en partie le droit coopératif dans la notion de droit du travail. Mais cette question ne se soulèverait que si le mandat de l'OIT était limité au droit du travail. Il n'en est pas ainsi. L'Article 1 de la Constitution stipule: «Il est fondé une organisation permanente chargée de travailler à la réalisation du programme exposé dans le Préambule de la présente Constitution…». Le premier point du «programme exposé dans le Préambule» est la justice sociale. Le droit du travail n'est qu'un moyen parmi d'autres pour atteindre la paix sociale, certes le plus important.

La question qui se pose alors est de savoir si le droit coopératif est un moyen adéquat pour atteindre la justice sociale. Or, nous constatons que les textes de loi coopérative d'un nombre toujours plus grand de pays obligent les coopératives à contribuer à la justice sociale. Nous constatons également que dans un nombre grandissant de pays la mise en œuvre suit ces textes.

L'OIT est donc mandatée à légiférer dans le domaine du droit coopératif.

2. La valeur juridique de la Recommandation 193

a) Selon l'Article 38 § 1 du Statut de la Cour Internationale de Justice

Les recommandations des organisations internationales ne figurent pas sur la liste des sources du droit public international de l'Article 38 § 1 du Statut de la Cour Internationale de Justice. Mais cette liste n'est pas limitative. Il peut y avoir donc d'autres sources de droit public international, dont les résolutions et recommandations émanant des organisations internationales.

b) Selon la Constitution de l'OIT

L'Article 19, 5.(e) et 6.(d) de la Constitution de l'OIT suggère que les conventions non ratifiées et les recommandations n'ont pas force obligatoire. Néanmoins, nous allons argumenter

[1] Contribution à la Conférence «Politiques sociales transnationales. Réseaux réformateurs et Organisation internationale du Travail. Transnational social policies. Reformist networks and the International Labour Organization (1900-2000)», organisée dans le cadre des célébrations du 450ième anniversaire de l'Université de Genève et du 90ième anniversaire de l'OIT.

que la R.193 a force obligatoire. Comme toute recommandation émanant d'une organisation internationale, elle produit des effets juridiques internes et externes. Quant aux premiers, il est clair que la R.193 lie le BIT dans ses activités concernant les coopératives. Le «Guide de législation coopérative» de l'OIT spécifie le travail du BIT dans ce domaine. Quant aux effets juridiques externes, il faut une analyse cas par cas, car les recommandations n'ont pas toutes la même valeur juridique. Contrairement aux conventions, dont le terme désigne une notion bien déterminée, le mot 'recommandation' recouvre plusieurs réalités. Les données suivantes concernant l'adoption et la position de la R.193 distinguent celle-ci des recommandations adoptées par d'autres organisations, parfois même des autres recommandions de l'OIT. Elles sont de quatre ordres: obligations émanant de la Constitution de l'OIT; spécificités de la législation transnationale de l'OIT; légitimité de la législation de l'OIT; spécificités de la relation entre l'OIT et ses Etats membres.

1. L'Article 19, 6.(b) affiche l'attente des Etats membres que les recommandations ne restent pas lettre morte.
2. Les Etats membres sont tenus selon l'Article 19, 6.(c) d'informer le Directeur général des mesures que le Paragraphe 6.(b) du même Article leur imposent.
3. En cas de non respect de cette obligation par un Etat membre, tout autre Etat membre peut saisir le Conseil d'administration selon l'Article 30.
4. 4. Selon l'Article 19, 6.(d) les Etats membres sont tenus de «faire rapport au Directeur général …sur l'état de leur législation et sur leur pratique concernant la question qui fait l'objet de la recommandation, en précisant dans quelle mesure l'on a donné suite ou l'on se propose de donner suite…»
5. La R.193 fut adoptée à une forte majorité.
6. La R.193 fut adoptée par des délégués qui jouissent d'un mandat libre, c'est-à-dire il s'agit d'un cas de législation transnationale.
7. À cause de l'unique structure tripartite de l'OIT les décisions de la Conférence internationale du Travail ne reflètent pas seulement les opinions des gouvernements, mais également celles des partenaires sociaux, ce qui leur confère une légitimité certaine et un poids particulier.
8. La nature même de la relation entre l'OIT et ses membres nous permet également de conclure que la R.193 lie ces derniers. L'OIT n'est pas une organisation autonome par rapport à ses membres. Par adhésion à l'OIT, les États membres acceptent l'obligation juridique d'atteindre les objectifs contenus dans la Constitution (obligations sociales). En la constituant, les États membres ont mandaté l'OIT à les aider à s'acquitter de leurs obligations sociales (Article 10, 2.b) de la Constitution). La R.193 rappelle aux États membres leur obligation sociale d'atteindre la justice sociale en précisant le contenu de cette obligation. L'exécution de cette tâche incombe donc conjointement aux États membres et à l'OIT. C'est-à-dire, sans cette recommandation les États membres seraient aussi obligés d'atteindre le but de la justice sociale. Quoique les États membres ne soient pas obligés à transposer la R.193 en droit national, ils sont tenus de respecter son contenu à moins de pouvoir démontrer que ce contenu ne se prête pas à la réalisation du but à atteindre. La charge de preuve est en quelque sorte renversée.

c) La valeur juridique de la Recommandation 193 dérivée du contexte d'autres instruments internationaux

La valeur juridique de la R.193 ne se mesure pas à la seule aune de la Constitution de l'OIT. La R.193 doit être placée dans le contexte d'autres instruments internationaux, gouvernementaux et non gouvernementaux.

Instruments gouvernementaux

- À mentionner en premier lieu, la recommandation de l'Organisation des Nations Unies appelée «Guidelines aimed at creating a supportive environment for the development of cooperatives» (Guidelines). Tout comme les recommandations de l'OIT, ces Guidelines n'ont pas la même valeur juridique que les traités ou conventions, mais adoptés par consensus, et donc aussi par consentement des États membres de l'OIT, et faisant preuve d'une large convergence avec la R.193. En ce qui concerne le droit coopératif, les Guidelines attestent d'un comportement répété des États en la matière, renforçant ainsi la valeur juridique de la R.193.
- La R.193 et les Guidelines ne font que concrétiser les instruments relatifs aux Droits de l'Homme qui contiennent tous les droits à établir et faire fonctionner une coopérative.

Instrument non-gouvernemental: La Déclaration de l'ACI sur l'identité coopérative de 1995

S'agissant d'une déclaration d'une organisation de droit privé dont les membres sont également organisés selon le droit privé, la Déclaration de l'ACI sur l'identité coopérative ne peut pas lier les États en tant que telle. La réponse à la question quel poids lui donner dans notre discussion requiert de saisir les changements radicaux que nous vivons actuellement. Les avancées technologiques et les migrations de ces dernières décennies nous obligent à nous orienter dans un cadre temporel jusqu'alors inconnu et elles induisent une réorganisation des espaces sociaux avec des conséquences profondes pour le droit. La réorganisation des espaces sociaux n'a pas seulement changé la conception du droit, mais aussi les procédures de législation et elle a redéfini les sources du droit. L'État est devenu trop petit pour les acteurs globaux et trop grand pour gérer l'interculture. Des couches de droits nationaux, régionaux, internationaux, supranationaux et transnationaux se superposent et rencontrent un corpus toujours plus important de standards émanant d'acteurs privés.

- La relation entre l'OIT et l'ACI est définie entre autres par un nombre de références réciproques dans leurs textes: Les Paragraphes 2 (définition des coopératives), 3 (les valeurs et principes coopératifs) de la R.193 et son Annexe (principes coopératifs) correspondent, sans y faire référence, mot à mot à la Déclaration de l'ACI sur l'identité coopérative. C'est ainsi que la Conférence internationale du Travail a reconnu l'ACI comme étant l'organisation mondiale représentative des mouvements coopératifs. De son côté, l'ACI endossait le «Guide de législation coopé-

rative» de l'OIT mentionné supra lors de son Assemblée Générale en 2001.

- Gardienne des valeurs et principes coopératifs depuis 1895, l'ACI est la plus grande ONG internationale et, de toute probabilité, elle est aussi la plus ancienne. Cela lui confère un poids certain dans notre débat. Mais ce qui est plus important encore, l'ACI est structurée démocratiquement et elle représente quelques 800 millions de membres individuels. En vue du déficit démocratique inhérent aux législations internationales, cela donne une particulière importance à l'opinion des coopérateurs telle que condensée et exprimée dans la Déclaration de l'ACI sur l'identité coopérative, au moins en ce qui concerne les parties du texte que la Conférence internationale du Travail a intégré dans la R.193.

3. La portée de la Recommandation 193 relative au droit coopératif

Vu que la R.127 est bien plus systématique et complète, en ce qui concerne le droit coopératif, que la R.193 et que cette dernière «révise et remplace» la R.127, on peut se demander si la Conférence internationale du Travail a voulu amoindrir l'engagement de l'OIT et des États membres en ce qui concerne le droit coopératif. Notons que la R.127 ne figure pas parmi les instruments que la Conférence internationale de travail déclare de temps à autre caducs par une procédure de retrait formalisée. Elle garde donc une certaine valeur, au moins interprétative. De plus, c'est sur la base de cette recommandation qu'un grand nombre d'états et de structures supranationales ont commencé à développer un fonds commun qu'on est en droit de qualifier de «principes généraux de droit reconnus par les nations civilisées» au sens de l'Article 38, § 1, c) du Statut de la Cour Internationale de Justice. En effet, le contenu du droit public international coopératif se divise en deux catégories:

1. des principes qui guident le législateur et
2. un fonds commun toujours plus développé des droits coopératifs nationaux et régionaux

Certes, ce fonds commun nécessite d'être confirmé par des études utilisant la/les méthode/s du droit comparé; mais on peut dorer et déjà constater que toujours plus de droits:

— reflètent une vue similaire quant au rôle de l'État dans le développement des coopératives: promoteur sans s'ingérer, séparant la promotion de la supervision, tout en renforçant les mécanismes d'autocontrôle des coopératives

— traduisent les principes coopératifs en règles de droit

— respectent l'autonomie des coopératives, tout en promouvant leur indépendance économique

— respectent la règle du traitement égal des coopératives en tenant en compte de leurs spécificités

— reflètent l'organisation de la coopération entre personnes (membres) en vue de promouvoir leurs intérêts économiques, sociaux et culturels au moyen d'une entreprise, c'est-à-dire de plus en plus les droits incorporent la définition des coopératives universellement reconnue et ils

— limitent leur champ d'application à la forme d'organiser la coopération, sans viser une activité spécifique.

IV Conclusion

Nous espérons avoir avancé suffisamment d'arguments en faveur de l'existence d'un droit public international coopératif, à l'émergence duquel l'OIT a contribué.

Il s'agira pour l'OIT et d'autres acteurs de ne pas seulement consolider ce travail, mais aussi de faire tout pour que le fonds commun en matière de droit coopératif, cet acquis universel, soit utilisé à bon escient pour renverser la tendance actuelle vers l'homogénéisation des droits relatifs aux organisations économiques. La valeur du droit coopératif ne consiste donc pas seulement en sa contribution à l'objectif de la justice sociale, mais en grande partie aussi en son respect pour les différences, créatrices de diversité, source de paix.

Hagen Henrÿ

President Obama, member of a cooperative for over 22 years

The President of the USA has been a member of the bookseller cooperative "The Seminary COOP" in Chicago since 1986. Barack Obama and his family were frequent visitors to the store, which was only about half a mile from their home.

The coop has about 53,000 members, all of them joined by buying at least three shares, at $10 a share.

In the USA, cooperatives count some 20 million members have an aggregate turnover of 290 billion dollars and are active in several economic sectors: credit, social services, agriculture, one of the most active sectors is electricity supply. About 864 cooperatives are supplying electric energy to 40 million citizens.

The National Cooperative Business Association, the umbrella organisation for coops in the USA, is urging its supporters to petition the new Obama administration to make the case for cooperative enterprise.

In his open letter to Barack Obama the president of Twin Pines Cooperative Foundation, California wrote:"...the US cooperative sector stands ready to play a role in many ways. Cooperatives create jobs, capital and opportunities at the local level. Cooperatives don't move out of state to avoid taxes and don't ship jobs overseas. Cooperatives keep earnings in the communities and credit unions loan only to local members...Now is the time for cooperatives to help rebuild America".

Responses to the Global Economic Crisis
Resilience of the Cooperative Business Model in Times of Crisis

EMP/ENT commissioned a study backstopped by EMP/COOP and the International Cooperative Alliance (ICA), and entitled *Resilience of the Cooperative Business Model in Times of Crisis*. It is available at the ILC. We extract from this study the following:

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Summary

The financial and ensuing economic crisis has had negative impacts on the majority of enterprises; however, cooperative enterprises around the world are showing resilience to the crisis. Financial cooperatives remain financially sound; consumer cooperatives are reporting increased turnover; worker cooperatives are seeing growth as people choose the cooperative form of enterprise to respond to new economic realities.

Why is this form of enterprise proving so resilient?

This report will provide historical evidence and current empirical evidence that proves that the cooperative model of enterprise survives crisis, but more importantly that it is a sustainable form of enterprise able to withstand crisis, maintaining the livelihoods of the communities in which they operate. It will further suggest ways in which the ILO can strengthen its activity in the promotion of cooperatives as a means to address the current crisis and avert future crisis.

Introduction

The recent massive public bail-out of private, investor-owned banks has underlined the virtues of a customer-owned cooperative banking system that is more risk-averse and less driven by the need to make profits for investors and bonuses for managers. Savings and credit cooperatives also known as credit unions or SACCOs, building societies and cooperative banks all over the world are reporting that they are still financially sound, and that customers are flocking to bank with them because they are highly trusted. The point is an important one, because the cooperative banking sector is extraordinarily large; the World Council of Credit Unions has 49,000 credit unions in membership, with 177 million individual members in 96 countries. The International Raiffeisen Union estimates that 900,000 cooperatives with around 500 million members in over 100 countries are working according to the cooperative banking principles worked out in Germany by Friedrich Raiffeisen. In Europe alone, there are 4200 local cooperative banks, around 60,000 branches and a market share of 20%. The banks serve 45 million members and 159 million customers. Some of the largest banks in the world are cooperatives: Rabobank, for instance, has 50% of Dutch citizens in membership, is the largest agricultural bank in the world, and is rated the world's third safest bank. The essence of cooperative banking is quite simple. It is that members, who include both savers and borrowers, use the cooperative to recycle money from those who have it to those who need it, without anybody outside taking a profit and with interest rates set so that the system works in everyone's interest.

This report begins by providing historical evidence that cooperatives are good in a crisis. This sets up a plausible generalisation that they will continue to be good in the current crisis.

The report then tests out this generalisation by providing theoretical arguments and empirical evidence for and against it. It is in two parts.

In the first part, it investigates the claim that cooperative banks and savings and credit cooperatives are better able to withstand the banking crisis and economic recession than the investor-owned banks. It presents arguments for the advantages and disadvantages of 'member-owned' banks and tests these against the evidence. It finds that, so far, cooperatives are in an unusually strong position; they have not been damaged much by the banking crisis, and are growing strongly as customers switch their business away from the discredited investor-owned banks and other enterprises to what they see as a more risk-averse and trustworthy sector. In the second part, the report then considers two important policy aims - financial inclusion and employment creation - presenting evidence for the importance of cooperatives in achieving them during a time of economic recession.

Finally, the report considers the policy implications of these findings for governments and banking regulators and what the ILO can do with regard the promotion of cooperatives. (...)

3.5 How can the ILO assist its constituency to promote cooperatives to address the crisis and recovery?

The ILO has a unique mandate and responsibility within the United Nations systems to promote cooperatives. It has an excellent opportunity to respond to the economic crisis through its Cooperatives programme (EMP/COOP) to deliver effective services in the implementation of ILO R.193. This

includes policy advice and technical expertise in such areas as legislation as well as the implementation of technical cooperation programmes to support cooperatives. Through the unique Memorandum of Understanding between the ILO and the International Co-operative Alliance, the ILO has access to the cooperative movement, its expertise, practical knowledge and a large network of already successful cooperative businesses, and there are a considerable range of opportunities to assist partnerships between the cooperative movement and ILO constituencies.

However, strengthening the cooperative element in existing ILO programmes can also lead to innovative approaches to addressing decent work through the organization including, but not limited to, addressing sustainable enterprise, poverty alleviation, social protection, the informal economy, child labour, gender, corporate social responsibility and a range of other issues that are critical to promoting the Decent Work Agenda.

Finally, the ILO and its Cooperatives programme will likely become more important within the UN system as a focal point for cooperative expertise as the international community, and in particular ILO constituents, seek assistance in promoting cooperatives in all sectors and around the world. The World Bank, in its World Development Report 2008 which focused on agriculture, has already noted the effectiveness of the cooperative model of enterprise as one form of producer organization and thus the importance of the promotion of cooperative development in the context of rural development. It notes too that "financial cooperatives and their networks are re-emerging as promising institutions in rural finance in many countries" which supports evidence from the International Monetary Fund on the success of financial cooperatives. Further confirmation of the trend to seek solutions to global recovery through cooperatives is also already visible in the initiative of the United Nations to declare a UN International Year of Cooperatives in which the ILO's Cooperatives programme would hold the secretariat of the Year. The decision will be taken at the UN General Assembly at its 64th session this year, while on 4 July 2009, the international community will celebrate UN International Day of Cooperatives which focuses on the theme, "Driving global recovery through cooperatives».

Publications

EMP/COOP Publications for the 98th ILC: Cooperatives in times of crisis

1. "Resilience of the cooperative business model in times of crisis" (cf.supra).

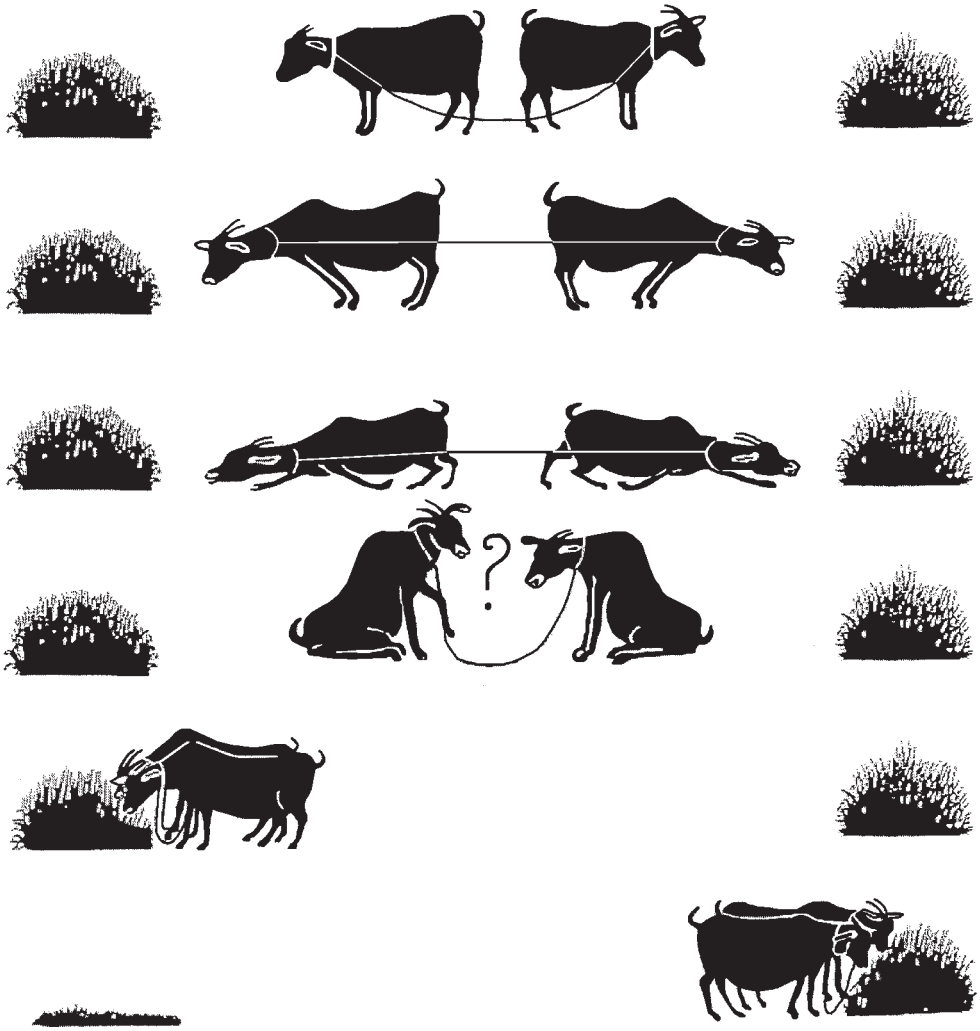
2. In addition, the Cooperative Facility for Africa programme (COOP^{AFRICA}) is releasing a study considering how cooperatives in Africa, particularly cooperative financial institutions and cooperatives in the agricultural sector are being affected by the global financial crisis.

EMP/COOP, IPEC and ICA Publication

EMP/COOP recently published a report "Cooperating out of child labour, Harnessing the untapped potential of cooperatives and the cooperative movement to eliminate child labour" in cooperation with the International Programme on the Elimination of Child Labour (IPEC) and the International Cooperative Alliance (ICA). This report has been produced as a call to action to the world cooperative movement to join hands in fighting child labour.

COOP^{AFRICA} Celebrates ILO's 90th Anniversary

COOPERATION



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