

Cooperation, Surplus Appropriation, and the Law's Enjoyment

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Abstract

The announcement of a partnership between the United Steel Workers Union (USW) and the Mondragon Cooperative Corporation (MCC) and earlier news of a Mondragon inspired large scale cooperative development in Cleveland sparked an exchange amongst the *Rethinking Marxism* community about the potential of worker cooperatives and the communal class process focused on two inter-related questions:

- What makes cooperatives and the communal class process desirable or progressive?
- What is the relationship between cooperatives and the larger society?

Some Marxian theorists tend to emphasize the symmetry of the communal class process: the people involved in the production of surplus are identical to those involved in its appropriation and distribution. Others emphasize the democratic organization of the workplace. Worker-owners can distribute surplus in ways that potentiate social wellbeing. Theorists on both sides of this debate acknowledge that worker owners are not completely in control of the distribution of surplus: Like other class processes, communal firms are compelled to pay taxes, rent, and interest on loans. These distributions, in the context of “capitalist societies,” might be seen to attenuate the cooperative’s symmetry or delimit the potential of the democratic workspaces. While some distributions of surplus are compelled by the greater society worker cooperatives frequently decide to institutionalize other distributions of surplus. Worker cooperative members of an inter-cooperative organization, the Valley Alliance of Worker Cooperatives (VAWC), defined membership in the organization as ongoing contributions of surplus to a capitalization fund that enables VAWC to continue its mission. Viewed from the perspective of psychoanalytically inflected Marxian theory, VAWC supplies us with a third answer to the questions of why cooperatives are desirable: worker-owners are in a position to write their own law.

Keywords: Worker Cooperatives, Communism, Subjectivity, Law

1

The recent announcement of a partnership between the United Steel Workers Union (USW) and the Mondragon Cooperative Corporation (MCC) and earlier news of a large scale Mondragon-inspired cooperatives forming in Cleveland, starting with the Evergreen industrial laundry cooperative, has renewed interest in the progressive potential of worker cooperatives. The *Rethinking Marxism* community has had a lively exchange about these recent developments in which these recent developments were greeted with a mix of enthusiasm, guarded optimism, suspicion, cautionary tales, and a recollection of cooperative efforts which fell short in the past.

Critical to this conversation is how one understands worker-cooperatives as “communal” as well as what makes communism desirable or progressive. The exchange in the *Rethinking Marxism* community, informed by the Marxian class analysis has a particular understanding of the communal class process. This shared definition framed the discussion of the progressive potential of the partnership between MCC and USW or the potential of worker-cooperatives to positively affect the whole society.

Worker cooperatives can be understood from the class process perspective to be a form of communism. In many places around the world, worker cooperatives produce goods and services for exchange on the market. As with other class processes, the sale of the commodities pay for the cost of production in addition to actualizing a surplus in excess of the cost of production. The communal class process is non-exploitative because the workers who are involved in producing the surplus are also its appropriators and distributors (Resnick and Wolff 1987). Bound by certain social constraints, worker-owners as appropriators are in a position to set the value of necessary labor (determine a cooperative wage) as well as make decisions about the distribution of the surplus. The firms that comprise the MCC are, arguably, an instance of the communal class process (Gibson Graham 2003, 2006). MCC workers elect a board of directors from the firm’s productive workers and support staff. The board governs the firm’s daily operations which makes them, effectively, the designated communal appropriators of surplus. In addition to the board of directors each cooperative elects a social council that works to ensure a safe work environment and to address social grievances (e.g. MacLeod 1998; Gibson-Graham 2006). The hope is that the MCC-USW partnership along with the new cooperatives forming in Cleveland would bring MCC’s version of the communal class process to the United States and North America.

MCC is not without its critics. Sharon Kasmir (1996) did empirical research in the early 1980s and discovered that many Mondragon workers were disaffected and did not feel that they were members of a true cooperative. Others point to MCC's history of foreign direct investment where factories acquired or opened elsewhere in the world are managed as regular firms whose profits are repatriated to MCC's cooperative bank to be used for the benefit of the worker owners at the expense of workers elsewhere. This had led some within the *Rethinking Marxism* community, and elsewhere to regard Mondragon not as a cooperative but instead as a form of collective capitalism in which the justice experienced by the Mondragon "cooperators" is underwritten by the same old injustice and exploitation elsewhere, particularly in the developing world.

The broader question of whether or not worker-cooperatives are a desirable, progressive, potentially revolutionary, force has been debated within *Rethinking Marxism* and in the broader left community since Marx's time (Gibson-Graham 2003). If there is any reticence about the latest cooperative developments in the US Midwest, it might be in part because past efforts at former worker cooperatives were less than successful (Lynd DATE). Given this history of disappointment, it becomes important to answer the question of why worker-cooperatives and/or the communal class process are understood as a progressive alternative to capitalist class relations or other forms of economy. There appear to be at least three main answers to this question.

Some Marxian theorists tend to emphasize the symmetry of the communal class process: the people involved in the production of surplus are identical to those involved in its appropriation and distribution. Communism is just because it is non-exploitative by definition (Cullenberg DATE, see DeMartino's DATE discussion of Burzack). Others emphasize the

democratic organization of the workplace and the ability of worker-owners to decide how to distribute surplus in ways that potentiate social wellbeing and preserve the commonwealth. In this way, cooperatives become a way of extending radical democracy and a progressive politics of antagonism in to the economic space of the work place (DeMartino DATE, Byrne and Healy 2006, others?). These two, initial answers to the question of why cooperative are desirable emphasize either the symmetrical identity and internal integrity of cooperative or the implications of cooperative's democratic deliberative process for the greater society.

A third answer is that worker cooperatives are ethical economic spaces in a specific sense: they allow cooperators to assume cognizance of responsibility for the consequences of their decisions and actions. The symmetry and democratic governance of the cooperative institutionalize the constitutive antagonism of the class process (Özselçuk, and Madra 2005; Byrne and Healy 2006; Stavrakakis 2007). As Özselçuk, and Madra (2005) put it, the structure itself refuses an imaginary closure of the class process: there is always another way to be a communist. These theorists argue that cooperatives can allow for the emergence of an economic-subjectivity that is beyond the structure of passivity, perceived powerlessness, and resentment that exploitative class processes, such as capitalism, engender.¹

Gibson-Graham (2003, 2006) emphasize the way ethical principles direct MCC decision making as it pertains to internal affairs as well as the relation to the greater society. These principles, which MCC inherited from earlier cooperatives such as the sovereignty of labor, the subordinate nature of capital, and the overarching spirit of *equilibrio* have been adopted by other

¹ Zizek (1994) argues that the members of the Frankfurt school, like Lacan, wished to return to Freud in order to rescue his insights from various recuperations, including other Freud-Marx syntheses such as Fromm's work. The danger they saw was imagining liberation as a fundamental departure from alienation. Against this residual humanism both Adorno, Marcuse, and Lacan characterized

The goal of psychoanalysis and its contradictory character thereby reproduce the fundamental social antagonism, tension between the individual's urges and the demand of the society. (13)

cooperatives around the world. Mondragon's attention to both worker involvement through the democratic election of the board of directors and working conditions through the social council are guided by the principle of worker sovereignty in the same way that its investment decisions are directed by the understanding that capital is subordinate to the primary objective of job creation.

Communal firms, like other enterprises, are compelled (or compel themselves) to distribute some of the surplus produced by workers to non-producers, such as the state or social groups, that provide services beneficial to the firm and/or society as a whole. The MCC continues to uphold the practice of distributing 10% of surplus to charities. It is possible to see these obligatory, institutionalized, and more or less automatic, distributions of surplus as something that blurs the line that separates exploitative and non-exploitative class processes. These compelled distributions might dampen the enthusiasm for cooperatives as they serve to attenuate the cooperatives symmetrical integrity and self-determination. Through these compelled distributions, we might imagine "society" as a silent partner that is always on the board of directors, injecting an element of non-identity into the processes of appropriation and distribution, contaminating the democratically directed communal class process with an ineradicable remainder of exploitation.

There is, however, another way of looking at it. We might acknowledge that Mondragon inculcates a collective cognizance amongst cooperators of the reciprocal relationship between the enterprise and the larger society—through an overarching principle of *equilibrio*. The cooperators can accept these requisite distributions in the same they can accept that MCC itself is often responsible for encoding the legal arrangements, daily practices, and distributions that govern the enterprise. These agreed upon arrangements are the products of previous decisions.

They exist without worker-owners having to give them much thought. In this way the relation between society and enterprise, appropriation and distribution might be thought of as “unconscious”.

The Mondragon-USW partnership, the promise of Evergreen and the theoretical nuances of class process theory have weighed on my mind since this exchange came to a temporary conclusion in the Rethinking Marxism community. In addition to studying, thinking, and writing about the potential contributions worker cooperatives might make to the process of sustainable development, I have been involved with a number of efforts to extend the cooperative model in my home state of Massachusetts in this past year. In the months since this exchange, I have attended a regular meeting of the Valley Alliance for Worker Cooperatives (VAWC), located in Western Massachusetts. The explicit focus in this meeting was to ratify ethically and legally binding agreements that formalized the structure of the inter-cooperative organization. This example provides an instance where the three reasons why cooperatives are considered desirable and progressive converge: an integral cooperative decision about the distribution of surplus, the formation of an inter-cooperative organization that interacts with the larger society, and the pursuit of an ethical commitment to expand the cooperative movement.

Typically conversations at VAWC meetings proceed with a rapid cadence. All the worker owners are used to meetings that proceed through agenda items quickly. This particular meeting seemed to follow a decidedly different cadence: worker owners approached, backed away from, and then approached once more the decision they had to make about codifying VAWC membership. Ultimately, the provisional resolution gave the inter-cooperative organization further cohesion. One thing struck me: the conclusion this meeting was that it felt more like wedding than business meeting. Like the “I do” of a wedding, the ceremony of the

legal pronouncement departed from ordinary speech, acquiring an uncanny gravity in being pronounced out-loud that seemed deeply significant to the cooperator-members. The pronouncement which made real a commitment between the cooperatives seemed exhilarating for VAWC members.

2

The Valley Alliance for Worker Cooperatives (VAWC) is a regional organization of cooperatives that formed six years ago in the Pioneer Valley region of Western Massachusetts and Southern Vermont. The firms that compose the organization are pretty varied in terms of industry, size, and history. Pioneer Valley Photovoltaics (PV2) is a five person solar cell installation cooperative with \$300,000 payroll. Collective Copies is a 13 worker-owner coop that is 30 years old. Located nearby, Pelham Auto repair collective is nearly the same age and size as Collective Copies. VAWC also contains a number of newer firms manufacturing everything from customized software, to beauty products, to eco-friendly services.

VAWC has had an affiliation with the U.S. Federation of Worker Cooperatives (USFWC) but has, to date, been a fairly informal organization. VAWC has developed a speaker bureau to do outreach and education on cooperatives. VAWC provides a context for cooperatives to help one another and assist emerging cooperative ventures—mostly offering advice on law, accounting, marketing, etc. Last year VAWC contracted, on a provisional basis, someone who has studied inter-cooperatives to do outreach, promotion, and research. On the basis of this experiment they developed a memorandum of understanding that would formalize the relationship between VAWC members. One of the key aspects of this memorandum was the requirement that VAWC members donate one eighth of one percent of gross revenues to a cooperative development fund annually. The idea was that this fund could accumulate to support

a full time outreach, marketing and development staff-person as well as eventually serving as the capital for a low interest revolving loan fund.

VAWC meetings are usually tightly facilitated and are very punctual as a rule. The meeting seemed to depart from its usual clipped pace as several people felt compelled to point out a logical contradiction in arriving at this new level of organizational formality. In different ways, each person who spoke pointed out that VAWC cannot enforce the agreement while it remains unincorporated. How can those present decide to abide by the rules of an organization yet to exist? After half an hour or more of discussion it was finally pointed out by a cooperative member that the vote itself was a like the “I do in a wedding.” Just as the betrothed are not truly wed until they say the words, VAWC symbolic came into being through ratification.

This was a difficult decision for some of the cooperatives: one enterprise had just had its first truly profitable year while others had no surplus to speak of. While some expressed concern that all cooperative members be present in order to truly commit to VAWC’s formalization, others pointed to the tradition of cooperative representatives speaking on behalf of their organization. A few wanted more time for further study but fell silent when it was pointed out the document had been available for months and the time for a decision had arrived. There was, however, an understanding that the coops were committing themselves to creating conditions in which their enterprises might enjoy greater solidarity, support, and visibility. The motion passed by consensus but this did not end the conversation.

After a brief pause, one meeting participant most responsible for drawing up the agreement document felt the need to say a few words about the significance of what VAWC had just committed itself to. He pointed out that both Mondragon and the inter-cooperative movement in Quebec had to come to a similar agreement to take the next step to expand the

cooperative model in their regions. These decisions were made by people, like us, who had no idea whether or not it was going to work, but they did it anyway. They had to make the principled decision that a future of inter-cooperation was worth investing in and commit to doing it. Like us, at some point, they had to express this commitment out loud. Far more than the moment where the agreement was ratified, it was this statement that hung in the air with a kind of palpable solemnity.

3

The correspondence in the Rethinking Marxism community focused on the progressive potential of worker cooperatives. While certainly the answers to this question was affected by the peculiarities of Mondragon's history, the historic missed opportunities of past efforts in the US, as well as the political right's appropriation of the sovereignty of labor, what was at stake for Rethinking Marxism is how to understand the connection between the communal class process and society as a whole. What kind of social claims can be placed upon the surplus via the process of distribution in a communal class process? Should we consider the demands society places upon surplus, and the non-identity it introduces, an ineradicable remainder of exploitation? Or alternatively, is it precisely the ability of cooperative's to be deliberate, or at least aware, of their relation to the larger society via surplus, that which allows us to consider coops progressive?

In the case of VAWC and the question was on some level simply, "who can speak in the name of the cooperative?" In each of these meetings we encounter the performative dimension legal discourse. VAWC needed to simply affirm their commitment to creating a formal inter-cooperative organization in order to begin to use distributions of surplus to support and expand the cooperative model. What one should not miss about VAWC is their potential significance to the larger cooperative movement. VAWC is in the process of creating a regional counter-part to

the US Federation of Worker Cooperatives. If this modest allocation of surplus from each cooperative is sufficient to institutionalize an inter-cooperative support organization, then VAWC will have succeeded in creating a novel approach to cooperative development.

VAWC has produced concrete relations between cooperative(s) and the larger society by institutionalizing distributive flows of surplus aimed at securing a progressive future for the cooperative movement. By answering the question of who can speak for the cooperative, they have also given us another reason of why we might consider cooperatives to be politically progressive: a new approach to regional development that involves partnerships among cooperatives. The development fund will be in the control of the worker cooperative VAWC members while, at the same time the funds wealth will directed towards the formation of new cooperatives in the larger society.

There is an additional point to be made about the relation between the communal class process and social transformation that is connected to the subjectivity of the cooperators. Appreciating this point, however, requires us to return to the story of the meeting to reflect a bit more reading the experience through lens of Marxian theorists who have given attention to subjectivity and psychoanalytic theory developed by Amariglio (1984), Madra and Özselçuk (2005, 2010), Stavrakakis (2007), Glynos (Date) and others. Refracting the story in this way will allow us to better appreciate the relationship between the legal discourse that forms cooperatives and the sense of pleasure and possibility that accompanied the law's enactment.

VAWC's story gives us an example of the performative power of language. Both organizations make decisions based on consensus—democratic deliberations in which those present at decision making meetings have equal voice in the process. Working from a tradition of democratic consensus the goal is to ensure that all present are given permission to articulate

their feelings and beliefs prior to arriving at a decision. Nonetheless what was required of the membership was to make a decision to express a legal solemnity which changed the nature of the organizations. In VAWC's case the agreement would define membership in the organization by this payment of surplus. In the future only cooperatives willing to distribute surplus to the support organization would be considered formal VAWC members. As was evident in VAWC's hesitation there was something both disturbing and exhilarating about evoking the law in order to speak in the name of the cooperative.

The relationship between legal language and the formation of cooperatives has implications for how we conceptualize the communal class process and how we understand the role of surplus distribution in connecting the enterprise to society. This question of who can speak in the name of the cooperative connects to earlier theoretical efforts in Rethinking Marxism's history. Madra and Özselçuk (2010), following Amariglio (1984), remind us that Marx's had a robust conception of the forms of the commune—one that included social organizations that were not marked by the democratic tradition.

In particular, and perhaps surprisingly, Marx suggests the possibility of a communal form where the social surplus is appropriated by a despot in the name of the commune and for the commune: the despot would have the right to appropriate the surplus because he or she would be designated. (10-11)

This concept of a despotic (Asiatic) communism has a number of implications, as it pushes us to the conceptual limits of what might be construed as the identity of the producers, appropriators and distributors of surplus in a class process. The despot symbolizes the relationship between the production and distribution of surplus and its connection to social whole, by symbolically embodying the community as the designated appropriator. The despot is empowered to speak for the (cooperative) community.

Madra and Özselçuk's argument has implications for how we conceptualize class process in general. They argue that all class processes symbolically designate the appropriator of surplus. The Asiatic mode of production is, for this reason, not a minor theoretical point. This process of symbolic designation works one way in "despotic" communism, another in 'progressive coops', but is also at work in the feudal, slave, ancient, and capitalist class processes. Initially this may appear disheartening: how then is the communal despot different from the individual capitalist or the board of directors? In despotic communism, the despot symbolizes/embodies the relation between the collective production and designated appropriation of surplus by the despot and its distribution to the greater society. In capitalism this appropriative (exploitative) is symbolic disavowed rather than affirmed.

It should be noted that Madra and Özselçuk are referring to disavowal in the psychoanalytic sense of the term, which Žižek summarizes as knowing very well something is not true, but acting as if it were. Bourgeois ideology acts as if there is an equivalent exchange between employer and employee in capitalist class relations, that the board of directors and or the individual capitalist is simply getting his due (his property). At the same it is common place for those who champion capitalism to regard it as a font of growth, the site in which human potential expresses itself, constituting society and all that its values. There is, in other words, a belief that capitalism's relation with society is only positive: it get only what it deserve and, at the same time, it always returns more. Exploitation is doubly disavowed: first in the concept of equivalent exchange and second through Bill and Belinda Gate's boundless generosity.

Madra and Özselçuk's reading should not, of course, suggest that the process of appropriation is ever inconsequential, "merely symbolic". Rather it is to assert that language is present in the process of appropriation, most notably the legal language that governs

organizational behavior. To be sure, the board at Massey Mining Corporation is symbolically vested with the capacity to make appropriative and distributive decisions even when those decisions produced shoddy safety practices and led to the mine explosion in Comfort West Virginia in early 2010.

Returning to the example of VAWC, I think we can extend Madra and Özselçuk's argument even further. While VAWC and each member cooperative generally operate on the progressive model of democratic decision making their decision to establish the capitalization fund was an unambiguous pronouncement of the law which, when enacted changed VAWC as an organization. While some felt this binding decision made by representatives was a break from cooperative governance procedures, others felt that this decision had been entrusted to cooperative representatives at VAWC and that the time had come to make the commitment. In this way these legal moments function as a constitutive exception, an interruption within the normal consensus based approach to decision making gave way, temporarily, to a "despotic imposition" of the law.

There are a number of reasons why we might consider cooperatives operating in the context of a communal class process to be desirable and progressive. The democratic/consensus based approach to decision making means that cooperators are invested in decisions that affect their compensation, work environment, and the relations between the enterprise and the larger society. Cooperative firms, for this reason, might be more receptive to considering how their business practices affect the larger society and environment around them. Thinking of the potential benefits of a successful partnership between USW and Mondragon—cooperative firms might behave differently than their capitalist counterparts because they are motivated by different ethical principles. The communal class process does not guarantee ethical firm

behavior, good working environments, decent pay or success.² In reflecting on VAWC's recent decision to start a cooperative capitalization fund we see an additional capacity cooperatives can invest in worker-owners: they can pronounce the laws that governs the enterprise. The law in turn, in asserting itself "despotically", enables the inter-cooperative to act on behalf of the cooperative members and their cooperators, to do things they themselves, individually, could not do. Here we have, I believe, an insistence of the cooperative acting as a legal signifier, on behalf of the cooperators. As Žižek (1997) insists, this conforms to a general function of language in the symbolic order. It stands in for and acts in place of the subject itself.

To be sure this deliberative democratic and consensus based decision making process is one reason why cooperatives, and by extension communism, is preferable to exploitative class processes such as capitalism. However, one thing the communal class process does not do is give worker-owners complete control over the distribution of collectively appropriated surplus. Society makes a variety of claims upon that surplus introducing an element of alienation into the processes of appropriation and distribution no matter how committed the cooperative is to consensus based decision making. While some of these allocations of surplus to society may be seen as ethical, progressive, or desirable by cooperative members—contributions to a cooperative capitalization fund, to charity—they may also be experienced as a social imposition,

² However, the degree of self conscious intentionality that attends a cooperative decision making process operative in some communist enterprises carries with it the possibility that cooperators might learn to think differently and exercise power differently in other settings. As Rick Wolff (2010) observes if the steel and other industries affected by the economic crises of the 1970s were dominated by the cooperative class process they may have responded differently to the economic crisis. To be sure, their first response *would not* have been to outsource the industry.

as a moment of un-freedom or even as a kind of social exploitation of cooperators (e.g. federal taxation that underwrites the financial sector bailout, multiple wars, etc.). It is also possible, however, that the institutional/legal conventions that partially govern appropriation hold these commitments on behalf of the cooperators and that their provisional constancy enables a different kind of freedom for cooperators.

As Madra and Özselçuk (2005, 2010) have argued on several occasions in a Lacanian vein, the class process does not exist. That is to say the arrangement of the concrete process of producing, appropriating, and distributing of surplus is always only a temporary closure of an antagonistic struggle that reshapes the process (Byrne Healy 2006). While one aspect of this struggle concerns the social conditions of production, the process of appropriation and distribution another moment attends to how cooperatives engage with one another and the broader society. While antagonism is a permanent feature of social relations from this perspective do decisions, such as VAWC's decision to create a capitalization fund and link membership in VAWC to ongoing contributions to the fund become part of an institutional framework—place them beyond the fray of formation and reformation, and giving them a life of their own. At the same time, as VAWC members themselves recognized after they had ratified the terms of membership and contributions to the capitalization fund these arrangements could be subject to further negotiation: for instance the creation of a membership category for cooperatives that were not yet in a position to contribute to the fund but were, nonetheless, interested in being involved with VAWC's ongoing organizational efforts.

The VAWC example gives us a reason to value cooperatives and regard as desirable and progressive dimensions of the communist class process. In addition to the symmetrical identity of the collective production, appropriation and distribution of surplus, the commitment to

deliberative democracy, the willingness to direct surplus to benefit the larger society cooperatives also have the potential to enable cooperators to make ethical decisions—to pronounce their own law. While the law had the effect of consolidating the VAWCs symbolic presence it also, quite deliberately introduces a gap between what VAWC formally states as conditions of membership and the concrete process where cooperative member attempt to figure out how to include the nascent cooperatives its is designed to support. Another name for this gap between the symbolic/legality of VAWC and the terms that bind its members and the concrete process of antagonistic deliberation conducted in a spirit of inclusivity is a kind of paradoxical freedom.

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