

Comment on Dr. Federico Pascucci ' s paper “ Energy Communities as Cooperatives in Italy and Japan: Can a Workers ' Cooperative be an Energy Community? ”

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《 書 評 》

Comment on Dr. Federico Pascucci's paper "*Energy Communities as Cooperatives in Italy and Japan: Can a Workers' Cooperative be an Energy Community?*"

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1 introduction

This is a review of a paper ⁽²⁾ written by Dr. Federico Pascucci ⁽³⁾, hereafter referred to as "Pascucci's paper".

On March 3, 2022, I and Philosopher Kinji Matsuo ⁽⁴⁾ participated in an international conference in Brussels entitled "Prosumerism and Energy Communities as a Future Perspective" to report on the "Workers' Cooperative and renewable energy communities in Japan" ⁽⁵⁾. In this comment, we would like to mention what we wanted to say there and what we didn't sufficiently say due to time constraints.

Pascucci's paper consists of five parts, that is, (1) Energy Transition and Energy Communities, (2) The Cooperative Society and the Mutual Purpose, (3) The Types

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- (1) Junichiro Kusumoto's renewable energy-related papers include, "*Japan's Renewable Energy Law at a Turning Point*" pp. 159-166, of "*Needs and Barriers of Prosumerism in the Energy Transition Era*", edited by Lucia Ruggeri, Dykinson, S. L. C/ Melendes Valdes, 61. 28015 Madrid (Spain), March 2021.
 - (2) Federico Pascucci, "*Energy Communities as Cooperatives in Italy and Japan: Can a Workers' Cooperative be an Energy Community?*" at 237-251 of "*Prosumerism and Communities, Expanding concepts in a global perspective*" published by SGEM World Science Scholarly Society in 2022 (DOI:10.35603/2022-ecpe (01) 771).
 - (3) Research fellow in Labor law, Faculty of Law, University of Camerino, Camerino, Italy, Doctor's degree in Economy's law, University of Ancona, Ancona, Italy.
 - (4) Philosopher Kinji Matsuo is the author of many books on higher education and an external comprehensive evaluator of Japanese universities and colleges.

of Cooperartive Societies, the Workers' Cooperative in Particular, and the Figure of the Worker Member, (4) Energy Communities and (Agricultural and Workers') Cooperatives in Japan, (5) Short Conclusions.

Below we would like to discuss and comment on this paper individually.

2 Regarding (1) Energy Transition and Energy Communities

This part first points out that profit-centered neoliberalism is the source of rising inequality and poverty, and of environmental problems, especially climate change. It then goes on to explain the importance of the autonomous and proximate energy communities.

According to Pascucci's paper, there are two different typologies of community in Italy. One is the 'renewable energy community' (REC) and the other one is the 'citizen energy community' (CEC) (directive 2018/2001/UE and directive 2019/944/UE). It says that these ones seem to be linked by the key features of pursuing a mutual purpose in favor of their own members and/or an altruistic aim in favor of the land or the population in which the community works and not having as a main goal the pursuit of subjective profit. And it says that its benefits conferred on community members and the territory must be environmental, economic, and social⁽⁶⁾.

Although the precise difference between RECs and CECs is not necessarily certain, it says that it is 'autonomy' and 'proximity' that are present in RECs and absent in CECs and only RECs are to produce renewable energy⁽⁷⁾.

In the end, this part of the paper says that CEC or REC is not the issue, but that at

(5) <chrome-extension://efaidnbmnmnibpcajpcglclefindmkaj/viewer.html?pdfurl=https%3A%2F%2Fcepe.unicam.it%2Fsites%2Fcepe.unicam.it%2Ffiles%2F2022-03%2FCollection%2520of%2520Abstract%2520-%2520Prosumerism%2520and%2520Energy%2520Communities%2520as%2520a%2520Future%2520Perspective.pdf&clen=783654&chunk=true>

(6) Pascucci, at 237-238.

(7) *Id.* at 238-239.

least ensuring cost-effectiveness is important, and that a non-profit cooperative society (ex. Art. 2511 and following of the Civil Code) is the appropriate legal form for energy communities in Italy⁽⁸⁾.

As of March 15, 2022, when I am writing this comment, the current situation of environmental destruction by fossil fuels in the Ukrainian war, and the news that Germany, which had supposedly shut down all nuclear power plants, has made a major change in its energy policy, suggesting the possibility of restarting nuclear power plants and an extension of coal-fired power plant operation (ex. <https://www.reuters.com/world/europe/germany-mulls-extending-nuclear-plants-life-span-economy-minister-2022-02-27/>), have made me feel empty about thinking of renewable energy projects.

But it seems significant to promote renewable energy projects in the sense that they play a complementary role, dispersing risks in case of war or natural disasters despite the fact that renewable energy projects have problems with stable and sufficient energy supply. Of course, this argument is based on the basic premise that the global warming hypothesis is correct.

In addition, if, as Pascucci's paper suggests, a nonprofit cooperative society is supposed to help correct the problems of neoliberalism such as overproduction, inequality, poverty and environmental impact, then a cooperative society that pursues the interests of its members rather than those of investors such as corporate shareholders would be an option.

3 Regarding (2) The Cooperative Society and the Mutual Purpose

This part of the paper discusses the nature of Italian cooperative society based on the Italian Constitution (Art 45) and Civil Code (Art 2511). It says that a cooperative

(8) *Id.* at 239.

is characterized by internal mutuality and the purpose of it is to provide directly to its members goods, services, and job opportunities with more favorable terms than they would obtain from the market⁽⁹⁾.

It also says that the concept of mutuality is understood in a broad sense and it includes pure mutuality and external mutuality. According to that, the 'pure mutuality' cooperatives which do not operate with third parties can not make profits and loses fiscal benefits. In contrast, there is also the 'imperfect' mutuality cooperative which can exercise its activity even for the benefit of third parties⁽¹⁰⁾.

Pascucci's paper seems to suggest that cooperatives, whose purpose is essentially mutuality, should ideally be ones that serve not only the mutual interests of their members, but also the interests of third parties, and ultimately, the public interest. This idea seems to be based on an awareness of the sustainability of cooperatives and to intend 'compromise between mutual and capitalist principles'. Such an idea is similar to the CSR (Corporate Social Responsibility) argument, which requires corporate management to consider the interests of various stakeholders, not just those of shareholders, and would raise similar issues of how to coordinate the distribution of members' interests with those of third parties. Indeed this issue may be to some extent resolved by contract, but the biggest question is why the members of 'mutual' cooperatives can obtain more favorable terms than they would obtain from the market.

4 Regarding (3) The Types of Cooperative Society, the Workers' Cooperative in Particular and the Figure of the Worker Member

This section first describes that the aim of the cooperative is to eliminate the 'speculative' intermediary and it cites consumer cooperatives and workers' cooperatives⁽¹¹⁾. The consumer cooperative provides the members with goods and

(9) *Id.* at 240.

(10) *Id.* at 241.

services required, produces and/or distributes the goods produced by members to third parties, and exercises the credit in favor of the members and makes use of the goods and services provided by its members. The workers' cooperative employs directly the work of the associates, finds and manages the occasions of such work⁽¹²⁾. What they all seem to have in common is that their members take the initiative in developing their businesses and attempting to eliminate intermediate exploitation and achieve substantial equality among their members.

Pascucci's paper points out that the member of the workers' cooperative should be an 'entrepreneur himself' and the mutualistic nature of the cooperative in fact allows him to take part on one side in the company's management, and the other, compels him to take on the risk of undertaking, and that this paradox would be the total confluence of the employment relationship of the member within the associate contract and the following exclusion of paid employment's protective discipline⁽¹³⁾. However, it asserts that this problem arises when workers' cooperatives are small, but it is mitigated when they are medium or large, because the voting rights of its individual members are based on the headcount principle of one person, one vote⁽¹⁴⁾.

But if voting rights are based on headcount, I wonder if it doesn't matter how large the number of the members are. And while the headcount system of voting rights may provide formal equality, if there is no distribution of dividends in proportion to the percentage of investment, there will be no incentive to invest and no equality in risk distribution.

Next, this paper discusses Italian Law regarding working conditions, health and safety, discipline, and expulsion of members from workers' cooperatives.

(11) *Id.* at 242.

(12) *Id.* at 242.

(13) *Id.* at 243.

(14) *Id.* at 243.

5 Regarding (4) Energy Communities and (Agricultural and Workers') Cooperatives in Japan

This part first describes how Japan ('the Rising Sun Country' according to the author) experienced the Fukushima nuclear accident caused by the Great East Japan Earthquake in 2011, and since then, the photovoltaic projects have spread rapidly, attracting investment and employment opportunities that have led to the revitalization of the region⁽¹⁵⁾.

In Japan, so far, renewable energy projects such as solar power generation are exclusively conducted by private companies, in some cases in collaboration with local authorities. The paper is therefore considering whether the cooperative form is feasible for the energy community in Japan, too. It then points out that it is not so simple, because in the cooperative form, there is the existence of conflicts of interest among members and between members and the cooperative in the cooperative model as well and in Japan. Energy communities in cooperative form usually take the shape of a business cooperative, more oriented to trading than focused on community interests⁽¹⁶⁾. However, Pascucci's paper seems to be expecting something from the Workers' Cooperatives Act (hereafter referred to as WCA and the article is denoted as 'W. Co §'), which was enacted in Japan in November 2020, and will go into effect in October 2022.

Workers' Cooperative is commonly called 'Workers' Collective' in Japan. Workers' Collective is a business entity in which workers form a group, pool their funds, labor and wisdom, and jointly manage the business, and it is a collectively owned business entity by working people in which labor, investment, and control are a trinity⁽¹⁷⁾.

In fact, the purpose of the WCA is in short to contribute to the realization of a

(15) *Id.* at 246.

(16) *Id.* at 247.

(17) Kenji Higuchi "Nihon no Rodosha Seisan Kyodo Kumiai no Ayumi", Jichosha, 2020, at 5.

sustainable and vibrant local community by encouraging the members to invest in the cooperative, to conduct the cooperative's business reflecting their respective opinions, to engage in the business themselves, to create various employment opportunities, and to conduct the business to meet the various demands in the community (W. Co § 1).

As a legal entity (W. Co § 2), Workers' Collectives do not die of natural causes, so perpetuity is ensured, the corporate tax law is applied to save taxes, and it is easier to receive subsidies from local governments and to borrow money from banks. In this regard, it has the same advantages as the joint stock companies.

Each member shall have at least one unit of investment, the amount of each unit of investment shall be uniform, the number of units of investment by a member shall not exceed 25% of the total number of units of investment in principle in case that the number of members is 4 or more, and the liability of a member shall be limited (W. Co § 9 I -VI). However, it must be remembered that while the liability of the members is limited (W. Co § 9 V), they have unlimited liability if they become managers.

The restrictions on capital contributions differ significantly from those of joint stock companies. Dividends of surplus shall be made in proportion to the extent to which the member workers have been engaged in the business of the cooperative as provided in the Articles of Incorporation (W. Co § 77 II). Each member has one voting right, regardless of the percentage of investment ownership (W. Co § 11 I).

Compared to the Japanese joint stock companies, Workers' Collectives are characterized by (1) the absence of shareholders, (2) equal voting rights rather than capital majority voting, and (3) dividends from surplus paid according to the degree of labor, not according to the percentage of investment.

In the case of Workers' Collectives, neither dividends from surplus nor voting rights are available in proportion to the percentage of investment and it is impossible to raise huge funds because there is no incentive to invest. Therefore, it is suitable only for small-scale businesses. As of 2020, there are more than 500 worker business unions

operating in Japan, covering about 30 different industries, with an estimated 10,000 workers⁽¹⁸⁾.

In general, in a joint stock company, minority shareholders feel a sense of alienation, but in a Workers' Collective, the workers are the main actors. Thus Workers' Collectives are organizations for the pursuit of workers' well-being in the small scale, niche industries.

A large-scale central energy supply system (like a nuclear power plant) may be both reliable and efficient because of the importance of a stable and sufficient energy supply, but in a country like Japan, where natural disasters are common, it is also important to have a decentralized system that can play a complementary role.

Renewable energy projects are certainly a niche, but biomass, for example, helps to preserve forests by thinning and logging, and the biggest problem is storing electricity, which could possibly be solved with technology to convert it into hydrogen. Otherwise, small and medium-sized hydropower and geothermal power is said to be desirable. Offshore wind power generation is also promising because Japan is surrounded by the sea, and geothermal power generation is promising because Japan is a volcanic archipelago. Therefore, it would be worthwhile for a local Workers' Collectives to carry out a renewable energy project.

Workers' Collectives have the ideal of restoring human autonomy. Instead of having shareholders, workers have an incentive to work because they get a profit for their work. This has the potential to change the structure of local society and industry. The Japanese government is also advocating work style reform⁽¹⁹⁾, which is also consistent with the concept of Workers' Collectives.

Indeed Workers' Collectives are not efficient because they cannot raise a lot of money to develop large projects, but they can certainly lead to happiness, at least for

(18) "Workers' Collective", Social Movement No.443, 2021, p22.

(19) <https://www.mhlw.go.jp/english/policy/employ-labour/labour-standards/dl/201904kizyun.pdf>

those who make a virtue of the spirit of mutual help.

Workers' Collective is similar to a business corporation in that the organization itself is an independent economic entity that sells and offers its products to third parties, but it differs from a corporation in the following two respects.

The first is the nature of the subject. The subject of a typical corporation, such as a joint stock company, is the shareholders, who appoint a manager to manage the company, and the manager employs workers to manage the business, whereas the subject of a workers' collective is the workers, whose investors combine labor and management⁽²⁰⁾.

The second is the purpose of the organization: whereas a corporation is funded by shareholders who invest money, appoint and supervise management, and seek to achieve high management performance, Workers' Collectives are funded by workers, who create labor, a place to work⁽²¹⁾.

However, since a Japanese limited liability company (LLC) can freely stipulate dividends to its members in its articles of incorporation, it would be possible for a limited liability company to function essentially the same as a Workers' Collective if workers become members of the LLC and invest in the company.

Because there are limited liability companies in Japan, it is questionable whether Workers' Collectives, which do not have dividend and voting rights based on the amount of investment, will be chosen. However, I think that there is a certain percentage of people in the world who have a strong spirit of mutual support, and since a new system is about to be introduced, I will keep a close eye on its development.

6 Regarding (5) Short Conclusion

Perhaps the most important argument of Pascucci's paper is that it is negative as to

(20) Higuchi, *Id.* at 5.

(21) *Id.* at 6.

whether worker cooperatives are suitable for renewable energy projects, in Italy at least insofar as it is a 'pure model' of the Italian type⁽²²⁾. What is the Italian 'pure model'? Perhaps its purpose is entirely intra- and inter-member mutual relationships. The paper introduced that Japanese Agricultural Cooperatives have developed through a 'multi-purpose model'⁽²³⁾. 'Multipurpose' probably means a transaction with a third-party market. The maintenance and survival of an organization is important from a sustainability perspective. I can agree with his paper on this point.

Workers' Collectives have the ideal of restoring human autonomy. Instead of having shareholders, workers have an incentive to work because they get a profit for their work. This has the potential to change the structure of local society and industry. Workers' Collectives are not efficient because they cannot raise a lot of money to develop large projects, but they can certainly lead to happiness, at least for those who make a virtue of the spirit of mutual help.

This paper is significant in that it examines whether Workers' Collectives can be actors in renewable energy projects, especially in the wake of the enactment of the Workers' Collective Law in Japan.

Finally, I would like to introduce Philosopher Kinji Matsuo's comment on Pascucci's paper. Philosopher Kinji Matsuo says, "This paper is interesting to me because reading this paper reminded me of a community I am involved in. The similarities between that community and the community under consideration in this paper are suggestive. The community I am involved with is called "Atarashiki-mura" (The New Village). The Village was founded in 1918 as an art village by novelist Saneatsu Mushanokoji. The residents work six hours a day, and the rest of the time is free. It was founded as a utopia for artists. However, the gap between the ideal and the reality was huge and harsh. Nevertheless, 104 years later, the village still continues to

(22) Pascucci, *Id.* at 250.

(23) *Id.* at 248.

exist through repeated trial and error. I was first interested in this paper because of my own experience when Atarashiki-mura introduced solar power generation and tried to open the way to the future, but it turned out to be a negative experience in terms of management. Since artists are also workers, this paper will enable us to reexamine Atarashiki-mura from various angles. However, how many of the residents of the new village will be interested in this paper? For this to happen, we need to create the conditions for their interest. What can Japan learn from this paper? Surprisingly, it is not the researchers who find meaning and value in asking this question. It might be the residents of the village who will be inspired by this paper. For the researcher, the residents are the object of observation and analysis. Therefore, it is difficult for researchers to build a cooperative and trusting relationship with them. Herein lies the problem. Mutual relationship has not been established between the two parties. The Workers' Collective is the creation of a place where individual workers are empowered. In this sense, The New Village by Saneatsu Mushanokoji is a utopian experiment that has been in existence for 104 years, probably the longest in the history of mankind. The New Village deserves attention. Not because of its success, but because of its trial and error.”

Reference :

Mushanokoji Saneatsu Kinenkan (Memorial Hall)

<https://www.mushakoji.org/>

Atarashiki-mura (The New Village) Museum

<http://atarashiki-mura.or.jp/bijutsukan/>

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