NILQ 62(4): 505–21

Cooperativism in a credit crisis: lessons from the Argentine worker takeovers

DANIA THOMAS*

University of Keele

Abstract

Contemporary visions of cooperativism – as a political project to limit the social consequences of self-regulating credit markets – inform regulatory debates across the political spectrum. Based on historical examples where similar visions of cooperativism and self-regulation have failed, this article explores the mechanisms by which cooperatives can successfully negotiate the failure of credit markets. It is in this context that lessons can be learned from recent worker takeovers that followed the Argentine debt default in 2001.

In 2001, Argentine workers took over the factories that employed them and proceeded to successfully negotiate their way through the credit crisis triggered by the Argentine debt default as cooperatives. The workers resumed – and in some cases sustained – production in factories where they were formerly employed. Most of the takeovers were organised (and subsequently legally recognised) as cooperatives and some continue to hold the factories as such. Their success – albeit for limited periods for most – is premised on a fundamental restructuring of the property rights that underpinned pre-default, credit markets.

In the case of Argentina, the debt default and the fundamental restructuring this entailed had political consequences in so far as its reliance on self-regulating credit markets had to be renegotiated. This article concludes by showing that self-regulating credit markets engender forms of corporatism and this is – in the absence of a similar political renegotiation – inimical to contemporary visions of cooperativism.

Introduction

This article examines contemporary forms of cooperativism in current debates on regulatory reform in a credit crisis through the lens of the Argentine worker takeovers (the takeovers). In 2001, the worker takeovers successfully negotiated their way through the credit crisis triggered by the Argentine debt default as cooperatives.[1] The takeovers were worker initiated moves to "self-organise and self-direct working life cooperatively as an alternative to owner managed work organisation".[2] They began in the lead-up to the default,

* Lecturer, School of Law, Keele University, United Kingdom.

1 It is assumed here that the crisis created the conditions that facilitated the takeovers discussed in this article. There is one view that similar worker movements can be traced back 40 years. See Toronto School of Creativity and Inquiry, "Recovering and recreating spaces of production" (interview) (2007)(winter) 1(1) *Affinities: A journal of radical theory, culture and action* 33–48, no copyright, available at http://journals.sfu.ca/affinities/index.php/affinities/article/viewFile/6/26 (last accessed 31 August 2011).

2 M Vieta, "The social innovations of autogestion in Argentina's worker-recuperated enterprises: co-operatively re-organising productive life in hard times" (2010) 35 *Labour Studies Journal* 295.

when credit markets collapsed leading to factory closures and widespread unemployment. The workers resumed – and in some cases sustained – production in factories where they were formerly employed. Most of the takeovers were organised (and legally recognised) as cooperatives and they continue to hold the factories as such. However, as the Argentine economy has since recovered, their sustainability as cooperatives is under threat as they struggle to operate with limited access to formal credit markets. This article explores the contribution of the takeovers to regulatory scholarship. It examines whether, their success – in the conditions described – is premised on a fundamental restructuring of the property rights that underpinned self-regulating credit markets. Based on the experience of the takeovers and in a move away from current debates on cooperativism, this article examines whether self-regulating financial markets are premised on a vision of corporatism not cooperativism and whether cooperativism and self-regulating credit markets are potentially contradictory political projects.[3]

Across Argentina, there are currently, 8000 to 10,000 employees – a small percentage of the total active urban workforce of 14.3m – who control production in 170 to 180 takeovers ranging from ceramic firms to printing presses.[4] A key aspect of the takeovers was the workers' reliance on their personal relationships within the factory and with the local community in which they were located. This raises questions about whether and how their embeddedness in the community influenced their cooperative organisational form and, thus, economic viability in the absence of access to credit markets. What were the mechanisms by which they overcame the failure of credit markets in order to achieve their goal to "self-organise and self-direct working life cooperatively". A mechanism, according to Braithwaite and Drahos, is a "tool that actors use to achieve their goals".[5] Mechanisms comprise "causal chains which are not generalizable as laws".[6] This article explores the conditions that engender the mechanisms to which the success of the worker takeovers can be attributed.[7]

The takeovers were characterised by three features. First, they were unplanned worker-initiated strategies to mitigate the consequences of bankruptcies – triggered by the sovereign debt default. They were not trade union mediated responses to the debt crisis.[8]

3 This article explores whether self-regulating credit markets are inimical to cooperativism as a state-sponsored political project. For a discussion of the difficulties that cooperatives face as a consequence of structural adjustment policies in developing economies, see R Simmons and J Birchall, "The role of co-operatives in poverty reduction: network perspectives" (2008) available at www2.lse.ac.uk/internationalDevelopment/research/NGPA/publications/ngpa_wp10.aspx (last accessed 25 August 2011).

4 Vieta, "Social innovations", n. 2 above, p. 297.

5 J Braithwaite and P Drahos, *Global Business Regulation* (Cambridge: CUP 2000), p. 9.

6 According to Braithwaite and Drahos – who rely on Jon Elster – a mechanism is not a general law. A general law is conventionally articulated in the form of "all A's are B's . . . A knowledge of general laws grounds both explanation and prediction." The quest for general laws in the social sciences has a limited chance of success as "rarely will social scientists be able to state necessary and sufficient conditions under which the various mechanisms are switched on . . . what they are more likely to be able to do is identify a causal mechanism that led to an event and thus shed light in why something happened." It is in this sense that the term mechanism is used in relation to the takeovers. Braithwaite and Drahos, *Global Business Regulation*, n. 5 above, p. 15.

7 Though the identification does not per se reflect either the necessary or sufficient conditions under which the various mechanisms are switched on as this would require an empirical examination of the kind undertaken by Braithwaite and Drahos: ibid.

8 Vieta argues that the takeovers were treated with hostility by the mainstream labour movement. Vieta, "Social innovations", n. 2 above, pp. 298–9. Further, the takeovers can be distinguished from recent trade union policies to deal with public sector unemployment. See, for example, "Unite launches cut price membership for students and the unemployed", *The Guardian*, 17 July 2011, available at www.guardian.co.uk/politics/2011/jul/17/unite-start-reduced-membership?INTCMP=SRCH (last accessed 25 August 2011).

Further, though their continued viability depended on the workers securing the collective ownership of the factories that they took over, state intervention to secure their rights came much later. The official recognition was through government-sponsored initiatives[9] and is comparable to the "top-down" initiatives currently being envisaged across the political divide in the UK, for instance, the Big Society UK Coalition government policy.[10] A key report that forms part of this policy is discussed in more detail below. Crucially, however, both trade union and state-sponsored contemporary initiatives assume that the cooperative economy will flourish in the context of what are still essentially self-regulating credit markets. It is here that the takeovers offer new insights to regulatory scholarship on account of the mechanisms they developed as cooperatives to successfully negotiate the failure of credit markets. Further, the takeovers are premised on a fundamental restructuring of a pre-default property rights framework. This article examines whether they provide – albeit briefly for some – a template to renegotiate the reliance of the state on self-regulating credit markets. The nature and impact of such a renegotiated relationship between the state and credit markets on globalisation has not been explored in contemporary regulation scholarship. This issue has been discussed more extensively by political economists. Their insights are brought to bear on this discussion of the significance of takeovers in a post-default economy in this article.

The following section examines contemporary cooperativism and organisational democracy in the United Kingdom which are offered as strategies for credit crisis reform. This examination is followed by a discussion of historical experiences with cooperativism and self-regulating credit markets. This historical examination is contextualised in the section that follows with a discussion of the necessity of state regulation of credit markets. I then explore the relevance of takeovers for regulatory and sovereign debt scholarship. The next section sets out the mechanisms and conditions in which worker takeovers in Argentina successfully resumed and sustained production as cooperatives in a credit crisis. This is followed by conclusions.

Cooperativisms in contemporary debates on post-credit crisis regulation

The current agonising between "Blue" Labour[11] and the conservative-led coalition[12] on how best to manage the severe constraints on public finances and preserve the welfare state with declining capital taxes goes to the heart of how the neoliberal bargain between the state, self-regulating markets and the polity is being renegotiated. This section examines three contemporary visions on how this bargain can be renegotiated: two political visions and one from the cooperative sector. It is important to note that this renegotiation is sought to be achieved in the context of what will remain essentially self-regulating credit markets with the regulatory (and welfare) state in abeyance.

The UK Coalition government-sponsored Big Society vision, for instance, is premised on an extension of existing credit markets to funding social enterprises. In the coalition

9 For a critical examination of recognition of the takeovers through the state-sponsored project of "institutionalisation", see A C Dinerstein, "Workers factory takeovers and the programme for self-managed work: towards an institutionalisation of radical forms of non-governmental public action in Argentina" (London: NGPA Working Paper Series 2008), available at www.lse.ac.uk/NGPA/publications (last accessed 25 August 2011).

10 "Growing the social investment market: a vision and a strategy", available at www.cabinetoffice.gov.uk/resource-library/growing-social-investment-market-vision-and-strategy (last accessed 25 August 2011).

11 Ibid.

12 Ibid.

paper, "Growing the social investment market: a vision and a strategy",[13] a social investment market is proposed as the third pillar of finance.[14] The Big Society vision is premised on creating a market for social investment and the "Big Society Bank"[15] is structured to be the institution that mediates this transition. The Big Society vision is poised to create new markets for finance and must not be confused with a counter-move aimed at regulating financial markets.

The Big Society vision sets out to distribute power to local communities and citizens in the UK against a backdrop of swingeing cuts in public finances. The credit crunch and the move to incentivise financial institutions to resume pre-crisis lending is a clear attempt to remedy a failure of credit markets by creating new markets *not by regulating existing financial markets*. The renegotiation proposed by the Big Society policy is inter alia to increase opportunities for market investors to invest in social enterprises. The vision does not specify nor address the possibility that the new markets created will increase the downside risk to society. This risk will materialise if the high-risk Big Society Bank-funded ventures do not generate "social returns on investment" for its principle investors: the big banks.[16] In this scenario, the risk of borrowing will either be borne directly by the socially vulnerable who will be denied services provided by these underperforming private ventures (or the welfare state) or be underwritten by the taxpayer who is still positioned to bail out the Big Society Bank.[17] This vision does not set out a framework of cooperativism though it does not exclude the possibility that the social enterprises it seeks to fund may include cooperatives. The creation of new markets – mainly to satisfy investor demand – is a central premise of the Big Society vision.

In the same context – severe constraints on public finances and the ongoing credit crisis – the Blue Labour response to the Big Society vision is focused on "what matters in everyday life . . . the quality of our relationships – our family life".[18] The Blue Labour[19] renegotiation is premised on creating a more "relational" style of politics which "redistributes not just wealth but also power back to local communities". This is sought to be realised through the "revival of the Labour tradition of mutuals, co-operatives and friendly societies, the creation of local banks and a new system of worker representation on company boards".[20] It is clear that cooperatives form a key part of this vision. The downside risk to the polity (blue-collar workers, public-sector employees), in the event that credit markets fail, are not discussed in either vision of organisational democracy. Both proposals are aimed at achieving distinct visions of organisational democracy and assume that these can be realised either through direct (Big Society) or indirect (Blue Labour) reliance on self-regulating credit markets. This is an assumption that informs another contemporary vision of cooperativism which is discussed in the following paragraphs.

---

13 "Growing the social investment market", n. 10 above.

14 Ibid.

15 The Big Society Bank is set up as a private company limited by guarantee. The shareholders of the company are Barclays, HSBC, Lloyds and RBS (Merlin Banks) who will be investing £200m as capital into the bank. The policy is committed to making this start-up capital "senior to the unclaimed assets in the event of liquidation". The shareholders' risk is limited by guarantee and in the event that the bank is liquidated it is unclear what the risk is to the social enterprises reliant on funds from the bank: ibid.

16 Ibid.

17 Ibid.

18 Ibid.

19 E Miliband, "Preface" in M Glasman, J Rutherford, M Stears and S White (eds), *The Labour Tradition and the Politics of Paradox* (Oxford: Soundings 2011), p. 7, available at www.soundings.org.uk/ (last accessed 25 August 2011).

20 Ibid.

The recently released report, "The UK co-operative economy: Britain's return to cooperation, 2011"[21] by Cooperatives UK (the report) provides some clues on how cooperativism can be articulated as a vision of organisational democracy in the context of self-regulating credit markets.[22] The report makes interesting reading as it provides a template of post-crisis reform based on the success of cooperatives. In the report, cooperativism refers to the idea that cooperatives are ideally suited to reduce the risk of economic activity or more specifically to limit the social consequences of market failures. This possibility justifies the normative appeal of cooperativism: a new template "for social justice and organisational democracy". The vision of cooperativism set out in the report "[s]trives to breathe fresh air into stale public services" and as such unintentionally provides a fait accompli to both political visions discussed above. Its recommendations are based in part on the financial success of large UK cooperatives, such as John Lewis and Suma Whole Foods, and in part on the political appeal of the vision of a "cooperative economy". This vision is contrasted with the exacerbated socio-economic inequality engendered by corporatism and as such aims to "close the gap between the richest and the poorest". Here, corporativism is set up as a template to redistribute wealth *and* provide an alternative to the welfare state.

In the UK, cooperatives have been economically successful[23] and the report rightly focuses on the benefits of cooperativism. The issue that remains unexamined in the report is the extent to which this vision of cooperativism – a template for "social justice and organisational democracy" – can be realised without fundamentally restructuring self-regulating credit markets and the state's dependence on them. So, for instance, the report challenges the "dominant model of the public limited company where the legal obligation is to put the interest of the shareholders first" and identifies the need to reach "towards a system based on the common good of all". But it does not set out an alternate property rights framework in which cooperatives will form the dominant organisational template or how credit markets will have to be regulated for cooperatives to access credit as such. The report does not specify what the regulatory role of the state needs to be to engender its vision of cooperativism.

The vision of cooperativism set out in the report overlooks the pressures on cooperatives when faced with a credit crisis. The most recent example of this is the demutualisation of building societies in the 1970s in the UK, under pressure from credit markets demanding changes in their horizontal organisational structure to limit investor risk and responsibility. To the extent that the vision of cooperativism in the report relies on minimum government and on what are essentially self-regulating credit markets, it is both decontextualised and ahistorical. This is further discussed is the following section.

Historical experiences with cooperativism and self-regulating credit markets

In his book *The Great Transformation: The political and economic origins of our time*,[24] Karl Polanyi provided a powerful critique of laissez-faire capitalism – at least that form of capitalism prevalent in mid-nineteenth-century England. His critique focused on the changes wrought

21 "The UK co-operative economy: Britain's return to co-operation, 2011", available at www.uk.coop/ (last accessed 11 July 2011).

22 Cooperatives UK is "the national trade body that campaigns for co-operation and works to promote, develop and unite co-operative enterprises". See www.uk.coop/ (last accessed 4 August 2011).

23 See also H Stewart, "Co-operative sector has grown by more than 25 % since credit crunch – report", *The Guardian*, 26 June 2011, available at www.guardian.co.uk/business/2011/jun/26/co-operative-sector-has-grown-more-than-25-per-cent?INTCMP=SRCH (last accessed 4 August 2011).

24 K Polanyi, *The Great Transformation: The political and economic origins of our time* (Boston: Beacon Press 2001).

on the individual, on families and on communities and the damage caused to the countryside in a society reliant on laissez-faire markets. These, he argued, were the inevitable costs that a polity reliant on laissez-faire capitalism would have to accept. One of the key insights of the Polanyian analysis is that markets are essentially social institutions regulated by social mores. There is thus no significant distinction between economy and society. But societies reliant on laissez-faire markets are different in that these are marked by a separation between economy and society. This separation, Polanyi argued, does not evolve slowly but comes about through what are often coercive legal and economic processes. This separation occurs through the commodification of land, labour and money into sources of rent, wages and interest. Polanyi set out in minute detail the pain and suffering caused by the necessity of disembedding these commodities from society so that they could be transacted in what he referred to as "economic society" regulated by market norms.

In his historical analysis of Robert Owen's experiment with an early form of cooperativism, Polanyi showed why this had failed. He showed that the demands of laissez-faire capitalism were inimical to both the organisational structure of cooperatives and its attendant and necessary vision of organisational democracy. So, for instance, cooperativism was not a solution to pauperism in a context where "economic society had emerged as distinct from the political state".[25] There was still a key regulatory role that the state plays in this context. Once the social regulation of markets was in abeyance, Polanyi argued that the state was best placed to counter the social consequences of economic society. At the time, this social protection was often provided in a random and ad hoc way. This has since changed, as will be discussed later in this section. In any event, Polanyi's historical examination indicates that cooperatives have been ill-equipped to fulfil this task. The state would have to re-embed the market in a protective counter-move that would temper the social impact of its reliance on laissez-faire capital markets. From this Polanyian perspective, one of the limitations of contemporary visions of cooperativism lies in the absence of a discussion about whether cooperativism can be realised without a fundamental restructuring of credit markets by the state.

In any event, drawing on the Polanyian analysis discussed above, it is clear that the starting point for exploring the success of cooperatives was through an examination of changes to the property rights framework that underpins the regulation of credit markets. This discussion is absent from the political debates analysed in the preceding section of this article.

Lorraine Talbot makes a similar point in her discussion of the demutualisation of building societies in the United Kingdom in the 1970s.[26] Talbot argues that the need for mutuals to access credit markets was inter alia the trigger for demutualisation. This need gradually proved inimical to the non-hierarchical structure of the building societies and most of them eventually changed into companies. This transformation was necessitated by investor demand for low risk and responsibility. When viewed from this historical perspective, it is clear that a vision of a cooperative economy is realisable only when the property rights that underpin self-regulating credit markets are fundamentally restructured, as was the case in the post-default Argentina. Further, an examination of the mechanisms and conditions required to realise a vision of cooperativism, as the report recommends in the preceding section, does not stop at registering more cooperatives but opens up questions about the regulatory role of the state and the political and economic justifications for its continuing reliance on self-regulating credit markets.

25 Polanyi, *The Great Transformation*, n. 24 above, p. 120.

26 L E Talbot, *Critical Company Law* (Abingdon: Routledge-Cavendish 2008).

In addition to the Polanyian historical examination of the social consequences on the polity of a state reliant on laissez-faire markets, he also reflected on how the state intervened to stymie these consequences.[27] His description of state intervention in this context has been very influential. It has since been extended to identify the role of the state in a society – such as in most developed economies – reliant on self-regulating credit markets as is discussed below.

Contextualising contemporary cooperativisms

As discussed above, in the absence of a clear regulatory role for the state, contemporary visions of cooperativism as a template for regulatory reform are ahistorical. This section contextualises contemporary visions of cooperativism. It begins with an examination of an important justification for regulating credit markets influenced by Polanyi's historical overview of the social effects of laissez-faire capital markets as briefly outlined above.

The influential concept of "embedded liberalism" was developed mainly by political economists who explicitly rely on the Polanyian reading of economic history.[28] Embedded liberalism represents a bargain between the state in developed economies and their polities as follows. The state will rely on financial markets that are essentially self-regulating and, in exchange, shield society from the consequences of self-regulation through a state guarantee of social protection. Embedded liberalism is realised through two moves. First, the provision of public goods and the creation of the welfare state and, secondly, by shifting the social costs of self-regulating markets – as discussed by Polanyi – to the Third World through the intermediation of international organisations such as the World Bank and the International Monetary Fund (IMF).[29]

The mainstream visions of cooperativism discussed above see the swingeing cuts in public finances and the rolling back of the welfare state as an opportunity to expand the financial markets. They, however, completely overlook what Dani Roderik has termed as the "globalisation dilemma".[30] Roderik argues that in developed economies where declining capital taxes can no longer fund the provision of public goods, the bargain on which embedded liberalism is premised is in the process of fracturing. When viewed from this perspective, the vision of social justice and organisational democracy through cooperatives becomes one way of renegotiating the fractured bargain and resolving the "globalisation dilemma". This raises questions about whether cooperatives can be used instrumentally in the way suggested and the implications that this vision of cooperativism will have on worker–members. Will this policy, for instance, responsibilise workers as members where their entitlements to welfare as part of their bargain with the state are withdrawn? Will this increase the incidence of corporatism down the line as cooperatives will need access to formal credit markets to sustain production?[31]

---

27 Polanyi, *The Great Transformation*, n. 24 above, pp. 81–107.

28 This discussion of "embedded liberalism" relies on the following political economists and philosophers: J C Hays, *Globalisation and the New Politics of Embedded Liberalism* (New York: OUP 2009); J Gray, *False Dawn: The delusions of global capitalism* (London: Granta Books 2002).

29 The call for a protective counter-move to deal with these costs in the Third World led to the formulation of corporate social responsibility (CSR), and internationally through the UN global social compact. For a formulation of CSR, see J G Ruggie, "Taking embedded liberalism global: the corporate connection" in D Held and M Koenig Archibugi (eds), *Taming Globalisation: Frontiers of governance* (Cambridge: Polity 2007), pp. 93–129.

30 D Rodrik, *Has Globalisation Gone Too Far?* (Washington, DC: Institute for International Economics 1997).

31 The recent history of demutualisation is a case in point where mutual membership privileged property ownership and under pressure demutualisation was the only option available to members. Talbot, *Critical Company Law*, n. 26 above, pp. 221–81.

Finally, in the absence of funding initiatives that operate through the state and outside formal credit markets, will entrenched property rights that underpin self-regulating credit markets also marginalise, minimise or even distort the contemporary visions of cooperativism? In the absence of a coherent alternative to self-regulating credit markets, contemporary visions of cooperativism hold out a partial and decontextualised template for regulatory reform. It is here that the successes of the takeovers in post-default Argentina have a contribution to make.

The takeovers were successful and viable because they were embedded in their local communities. This made it possible for the workers to overcome their lack of access to credit and have their welfare needs satisfied by the community: two factors crucial for their recovery and both available outside the financial market. As such, the takeovers are closer to the Polyanian notion of a protective counter-move (though these were initiated by society rather than by the state as in the Polanyian framework). Nonetheless, the takeovers represent solutions to the problems triggered by credit crises, such as, large-scale unemployment. The following part of the article examines their success to reveal both the mechanisms and necessary conditions required to realise a vision of organisational democracy through cooperativism. It begins this examination with an overview of takeovers in regulatory scholarship. This is followed by an overview of the Argentine debt crisis: the context that triggered the takeovers.

Takeovers in regulatory scholarship

Sovereign debt regulation

The takeovers represent "innovative and viable alternatives to chronic unemployment and underemployment" when formal credit markets fail. As far as sovereign debt regulation is concerned, scholars have largely overlooked how societies innovate to cope in the aftermath of a debt crisis. In mainstream sovereign debt regulation, for instance, in the period following the securitisation of sovereign lending in the 1980s, legal scholarship has been focused on issues such as: bond contracts;[32] the regulatory role and culpability of international financial institutions;[33] the behaviour of market actors, such as sovereign borrowers;[34] private investors (hedge funds, investment banks, pension funds);[35] official lenders (the IMF, the World Bank); significant policymakers, such as the United States (Justice Department and Treasury); the role of debt-rating agencies; the Paris and London creditor clubs; and the US judges with jurisdiction over sovereign bond litigation.[36] There has been limited interest in either understanding how societies cope when credit markets fail or the impact of state intervention and the contribution that social movements such as the takeovers make to post-crisis economic recovery.

32 L C Buchheit, "Changing bond documentation: the sharing clause" (1998) 17 *International Financial Law Review* 7, p. 17; L C Buchheit, "The collective representation clause" (1998) 17 *International Financial Law Review* 9; L C Buchheit and M Gulati, "Exit consents in sovereign bond exchanges" (2000) 48 *UCLA Law Review* 13, pp. 59, 83; L C Buchheit and M Gulati, "Sovereign bonds and the collective will" (2002) 51 *Emory Law Journal* 4, pp. 13, 17.

33 T I Palley, "Sovereign debt restructuring: what is the problem?" (2003), available at www.imf.org/external/NP/EXR/seminar/2003/sdrm/pdf/palley.pdf (last accessed 25 August 2011).

34 A C Porzecanski, "From rogue creditors to rogue debtors: implications of Argentina's default" (2005) 6 *Chicago Journal of International Law* 311.

35 Ibid.

36 J T Gathii, "The sanctity of sovereign loan contracts and its origins in enforcement litigation" (2006) 38 *George Washington International Law Review* 251; M Miller and D Thomas, "Sovereign debt restructuring: the judge, the vultures and creditor rights" (2007) 30(October) *World Economy* 1491.

Further, mainstream sovereign debt-regulation scholarship is currently dominated by creditor and debtor concerns. In the context of Argentina, for instance, the self-regulating sovereign debt market is underpinned by a legal framework that protects the property rights of creditors and the interests of the debtor state rather than the interests of the workers. However, in the event of a sovereign default and the collapse of domestic credit markets that trigger large-scale unemployment, the workers are exposed to the risks of profligate lending and borrowing. Apart from the focus on the interests of the dominant market actors, there is a commitment to self-regulation.

Thus, debtor states and creditors have resisted the idea of regulatory intervention such as an international sovereign bankruptcy court. The recently released draft recommendations of the Commission of Experts on Reforms of the International Monetary and Financial System headed by Joseph Stiglitz (under the aegis of the UN), for instance, sets out a model for an international sovereign debt bankruptcy court.[37] In such a court, the social costs of a crisis would need to be identified and stakeholders – such as, the unemployed workforce – would have a forum to voice their claims. The sovereign debt market remains committed to self-regulation. It is, therefore, not surprising that the regulatory debates that followed the Argentine debt crisis were mainly focused on understanding how best to modify the collective action provisions in bond contracts to resolve what economists refer to as the collective action problem.[38]

This commitment to self-regulation also denies affected stakeholders a voice in mainstream regulation and legal scholarship. In this context, the takeovers represent the "weak"[39] who "create opportunities for themselves to change existing regulatory orders".[40] The takeovers represent complex and intersecting "webs of dialogue"[41] between the workers, their families and the communities in which they are located. They generate a template of how to recover factories and initiate and sustain production when credit markets fail and, as such, also provide a snapshot of how societies respond to a debt crisis. In this way, they offer what Braithwaite and Drahos refer to as "alternative models of regulation".[42] Further, in the face of the globalisation dilemma discussed above, the takeovers open up the question of whether an international bankruptcy court is an essential component of a renegotiated "embedded liberalism". It is here that the contribution of the takeovers to the sovereign debt regulation is important. So, an examination of contemporary cooperativism is a crucial part of this discussion.

Cooperative literature

There is a similar reluctance in the cooperative literature to acknowledge the takeovers as a viable template for post-crisis state intervention. This is attributable to several factors, not least ideology, the predominantly local concerns of the takeovers and a couple of high-profile defensive takeovers in the past.[43] Further, the takeovers were independent of state and sometime trade union intervention and are, as such, viewed as "one-off" short-term

37 The recommendations of the Committee of Experts are available at www.un.org/ga/president/63/letters/recommendationExperts200309.pdf (last accessed 10 August 2011).

38 See n. 32 above.

39 Braithwaite and Drahos, *Global Business Regulation*, n. 5 above, p. 32.

40 Ibid.

41 Ibid..

42 Ibid.

43 P Rob (with the assistance of R Duhm, S Gherardi, J-L Lavilee, C Ostero-Hidalgo, R Spear and A Westenholz), *Reluctant Entrepreneurs: The extent, achievements and significance of worker takeovers in Europe* (Milton Keynes/Philadelphia: Open University Press 1989).

successes offering limited justification for state funding and support. Thus, from the perspective of the cooperative literature, there is a perception that takeovers on the whole have limited economic viability and sustainability.[44] This remains true and even more so when compared to the economic resilience of corporations in the context of self-regulating credit markets. However, a focus on the *economic* viability and sustainability of the takeovers tends to obscure their *political* significance.

In the policy initiatives that aim to redress the liquidity problems a distressed sovereign faces, a key aim is to prevent default. In the face of creditor opposition, both bankruptcy and default are not options for distressed sovereigns. This is the case even though bankruptcy is otherwise essential to sustain corporate capitalism. It is clear that smaller takeovers can successfully manage production in periods of crisis.[45] Thus, though they may not be perceived to be economically viable or sustainable in the long run, as mentioned above, the success of the takeovers as cooperatives is premised on the context in which they operate. In the case of the takeovers, their success was attributable to a fundamental restructuring of pre-crisis property rights. It is in this context that the cooperative organisational form successfully cushions labour when credit markets fail.[46] This fundamental restructuring of property rights is an unintended consequence of sovereign default. In the face of creditor resistance to a formal bankruptcy procedure, it is a forum for workers to represent their claims as stakeholders independent of the claims of the debtor state and its creditors. The success of the takeovers indicates what could become a template for social movements that arise in response to a credit crisis when the bargain between the state and the polity is fractured. This is the political contribution of the takeovers and there is thus a clear mismatch between the reputation of takeovers and their putative contribution to post-crisis recovery and regulatory scholarship.

Takeovers – long or short-term – represent a breakdown in the relationship between the state and its polity, as discussed above. This is especially true in post-crisis economies, such as Argentina, where the economic resilience of the takeovers in contexts where credit markets had collapsed had political consequences for them. Their resilience is premised on a restructuring of their relationship with the state. This restructuring is triggered by the failure of the self-regulating markets on which the state was reliant and is evidenced by the transformation of pre-crisis property rights that underpins self-regulation. The political implications of the takeovers are overlooked in the mainstream cooperative literature. This literature is largely confined to contexts other than financial crises, such as the Argentine debt crisis or the ongoing credit crisis in the United Kingdom.[47]

The following section discusses the mechanisms through which the takeovers achieve their principle goal of continuing production without access to credit markets.

Lessons from the Argentine takeovers

The Argentine debt default

In the early 1980s, Argentina restructured its economy to facilitate the access (and therefore the dependence of) small and medium-scale enterprises to foreign credit markets. The Argentine debt crisis was triggered by a default of its debt owed to foreign (mainly US creditors). There is little consensus on what triggered the Argentine debt default. Some

44 Rob et al., *Reluctant Entrepreneurs*, n. 43 above.

45 Ibid.

46 K Bradley, "Employee ownership and economic decline in Western industrial democracies" (1986) 23 *Journal of Management Studies* 57, pp. 64–5.

47 Rob et al., *Reluctant Entrepreneurs*, n. 43 above.

argue that the default was precipitated by irresponsible borrowing by a "rogue debtor",[48] others blame profligate lending by creditors who did not undertake adequate risk assessment of the capability of Argentina to repay its debt.[49] Others squarely blame the IMF in not anticipating default until it was too late. In any event, in the decade leading up to the default, the country was the "spoiled child of the Washington Consensus".[50] Its economy was restructured to accommodate the "Washington consensus"'.[51] Its industry was privatised, its economy deregulated, trade barriers lifted and even its currency (the peso) was pegged to the US dollar.[52] The structural adjustment of the Argentine economy engendered the conditions necessary for self-regulating domestic and sovereign debt markets.

In late 2001, after the IMF refused to rollover the Argentine debt,[53] the "second largest economy in South America with a population of 38 million"[54] collapsed. The country's loss of access to foreign credit markets left "a quarter of its workforce unemployed and a majority of the population under the poverty line".[55] Prices for basic food items such as bread, noodles and sugar rose significantly.[56] With default and widespread bankruptcies, labour markets collapsed with low labour mobility and the market value of land and machinery plummeted. Though there is no agreement on who was responsible for the situation that precipitated the default, there is a broad consensus that the social costs of the debt crisis triggered by default were deeper and more extensive on account of the exposure of the Argentine economy to international financial markets. The social costs were exacerbated by repeated rollovers by the IMF of Argentina's debt obligations; increasing debtor moral hazard and further irresponsible lending.

The debt crisis that followed the default precipitated political uncertainty. For the unemployed workers of bankrupt factories, this uncertainty meant that state intervention to remedy their situation was not immediately forthcoming. As mentioned above, when compared to the pre-crisis economy, the Argentine default caused two fundamental shifts in the property rights structure. At one level, sovereign default is a taking of creditor property (Argentina issued US bonds under US law). At another, the absence of credit led to widespread bankruptcies of the factories that were eventually taken over by the workers.

Socialised production

In the cooperative literature, takeovers are defined as cases "in which a business is continued, or created on the basis of the assets of an endangered or bankrupt enterprise, by the workforce or part of it, within . . . a cooperative framework".[57] This article is concerned with local or "participative" takeovers in a post-crisis economy which is a smaller sub-set of this larger category. Participatory takeovers typically involve the takeover of small or medium-sized production units, with the workers involved in planning, lobbying,

48 Porzecanski, "Rogue creditors", n. 34 above.

49 P Blustein, *And the Money Kept Rolling In (and Out):Wall Street, the IMF and the Bankrupting of Argentina* (New York: Public Affairs 2005).

50 Ibid. p. 5.

51 Ibid. p. 6.

52 Its mainly US creditors only lend in US dollars to minimise their risk. this means that Argentina has to repay the interest and capital it owes in US dollars. It is widely believed that the debt crisis was triggered by the refusal of the IMF to help with its loan repayments, though there is no similar consensus on the reasons for the debt crisis: ibid.pp. 1–12.

53 Ibid.

54 Ibid. p. 7.

55 Ibid. p. 4.

56 Ibid. p. 2.

57 Rob et al., *Reluctant Entrepreneurs*, n. 43 above, p. 16.

providing finance and developing their own participative or self-management structures. However, it is stressed here that the visibility and main impact of participative takeovers are local. The ability to sustain production in a post-crisis economy is a function of their embeddedness[58] in the local communities. The takeovers examined here are both "[g]eographically and ideologically . . . situated deep within the community in which each enterprise finds itself".[59] It follows that "there is both a spatial dimension and a community imaginary that intermingles with [its] emergence."[60]

This section describes the conditions in which takeovers successfully transition into cooperatives. In the absence of access to credit markets, the success of the takeovers in generating new lines of credit is a function of the extent to which they can successfully socialise production. Production is socialised through their innovative use of the factory, shop floor and their time and engendered independently of "the external coercion of the market and the state (and trade unions)." Socialised production is defined as a situation in which the spatial continuity between the factory and the community engenders a community imaginary both among the workers as a group and between them and the community in which they are located. In other words, production in the factory taken over is possible because it is socialised.

In the recovery phase of the takeover, that is when they successfully resume production, this community imaginary becomes an inextricable part of the production process. This allows takeovers to overcome the failure of credit markets. In this respect, a distinction can be made between the "recovery" phase of a takeover and its "sustainability or long term viability"[61] phase. The success of participative takeovers is mostly confined to the recovery phase. There are often insurmountable difficulties in takeovers managing the transition to the sustainability phase.[62] This is attributable in no small part to attempts by the state to reintegrate them into formal credit, labour and property markets.[63] This often entails disembedding the enterprise from the community and dismantling the mechanisms that make socialised production possible. This is also attributable to the restructuring of self-regulating credit markets where the legal and regulatory framework is geared towards limiting creditor risk and liability. Thus self-regulation is conducive to corporatism defined by separate corporate personality and limited liability.

The following paragraph sets out the socio-economic conditions in Argentina that preceded the takeovers and then proceeds to examine socialised production as a mechanism that allows the workers to resume and – in some cases – sustain production. This section develops the argument that socialised production – the mechanism that allowed the workers to resume production – was engendered in conditions where the property rights framework was fundamentally restructured.

58 The word "embeddedness" used here is closer to the term as defined by Granovetter rather than Polanyi. The Polanyian notion refers to actions by the state to fire-fight the consequences of laissez-faire. The Granovetterian notion is closer to the sociological concept of relationships. For a discussion of the Granovetterian conception of embeddedness, see G Krippner, M Granovetter, F Block, N Biggart, T Beamish, Y Hsing, G Hart, G Arrighi, M Mendell, J Hall, M Burawoy, S Vogel and S O'Riain, "Polanyi symposium: a conversation on embeddedness" (2004) 2 *Socio-economic Review* 109.

59 Vieta, "Social innovations", n. 2 above.

60 Ibid.

61 Rob et al., *Reluctant Entrepreneurs*, n. 43 above.

62 Vieta, "Social innovations", n. 2 above.

63 Dinerstein, "Workers factory takeovers", n. 9 above, p. 6.

In his empirical examination of the Argentine takeovers, Marcelo Veita reflects on a key feature of this movement: the "democratization" and "cooperatization"[64] of labour. This translates into workers "caring for one another, horizontality, self-reliance, equity . . . [to ensure] dignified and human working conditions".[65] The takeovers were successful because workers were performing functions beyond those required by their individual jobs or employment contracts. They "learned how to step in for one another for the job to get done".[66] In his empirical examination, Veita notes that the "social bonds" between workers "were solidified during moments of intense political and economic struggle".[67] The extent to which they successfully socialised production made the factories economically viable despite extremely difficult economic circumstances. The following paragraphs describe the nature and characteristics of socialised production using the example of the Brukman takeover.

The Brukman takeover

The Brukman workers manufactured hand-sewn fine silk suits for men. They successfully took over their factory located in a neighbourhood in Buenos Aires. As far as the Brukman workers were concerned, their problems with the management preceded the default. For instance, in the period leading up to the default, their wages had decreased from $100 per week in 1995 to between $5 and $2 per week towards the end of 2001, which was unpaid. In this case, the immediate trigger for the takeover was when the management left the factory on the pretext of getting the unpaid wages from the bank and did not return.[68] On 18 December 2001, 30 workers occupied the factory. They stayed on, returned to their sewing machines and continued to process outstanding orders. Gradually, each worker received an equal wage and all workers were paid weekly in cash. Workers were not paid for the days that they did not work.[69] All the workers had children and the women worked primarily to support their families so initially their incentive for resuming production was to meet pressing needs rather than generating profit. The workers had successfully resumed production in the absence of access to formal credit markets and still manage the factory as a statutory cooperative. This section describes how the workers socialised production – a key feature of Brukman and other takeovers. Through the development of innovative organisational changes and production strategies, they opened up the enterprise to the local community.

As far as Brukman was concerned, at the time of the takeover in 2001, a part of their profit came from exporting finished garments to China.[70] This was one source of their income. Another key source was by selling the goods they produced in local markets.[71] To make the transition from the actual takeover to recovery the workers created a makeshift store on the ground floor.[72] The success of this move gave them access to the cash they

64 Vieta, "Social innovations", n. 2 above, p. 297.

65 Vieta, "Social innovations", n. 2 above, p. 303.

66 Ibid. p. 303.

67 Ibid. p. 312.

68 M C Spieczny, "When workers take over: reclaimed factories in Argentina", unpublished thesis presented in partial fulfillment of the requirements for the degree of Bachelor of Arts, Department of Sociology, Princeton University (2004), available at www.cmd.princeton.edu/papers/Thesis%20Molly%20Spieczny.pdf (last accessed 25 August 2011).

69 Ibid. p. 32.

70 Though information on what extent of their profits came from exports is sketchy, this demand would have been critical at the time of the debt crisis where local market conditions where depressed.

71 This again is surprising as the workers relied on their "embeddedness" in the local community to generate their income at a time when the economy was in a severe downturn. Spieczny, "When workers take over", n. 68 above, p. 14.

72 The fact that they could sell any suits at the time of a severe downturn reflects their innovative ability to develop new lines of credit in the local market.

needed to travel home. A few weeks after the takeover, a client offered to pay them if they could finish the 200 suits he had ordered before the crisis. They took up his offer and successfully executed it. Four months later they were finishing up old orders, selling suits and even taking in new orders. The local demand for the goods they produced sustained the takeover through the economic downturn and was crucial to its success in the recovery period. They were creating new markets by tapping into the demand for suits in the local community in which they were located. Their running expenses were met and wages paid in the absence of access to credit markets. More generally, the takeovers generated new lines of credit through innovations such as barter, reliance on the community to provide childcare, and setting up of communal soup kitchens.

Another feature of the transition of the Brukman takeover to a cooperative was when they socialised production through innovative changes in shop-floor arrangements. In the pre-crisis factory, production was geared to increase profit. The behaviour of the workers was sought to be constrained by their employment contracts. The management sought to minimise personal interactions between workers. The rationale behind this was that such interactions would be inefficient. Also, workers were encouraged to focus on their individual jobs and there was a resistance to allowing workers to undertake more than one task. The workers were deemed unable to multitask.

This management style was reflected in the organisation of the shop-floor. So, for instance, when the factory was run by its former employers the sewing machines were arranged in rows facing the same direction. Each worker faced the back of the worker in front. After the takeover many of the machines faced each other. This new arrangement built on and reinforced the relationships between the workers. This new setup created an environment more conducive to learning and multitasking. So, for instance, workers who usually sewed jacket collars could easily go to machines on the other side of the room and have co-workers teach them how to sew inseams. Without an employer and the absence of an organisational hierarchy, an important aspect of their viability required the workers not only to do their jobs, but also to look around them and make sure everything was running adequately and that nobody was shirking their duties.[73] This strengthened their social relationships.[74] To the extent that production after the takeover relied on the relationships workers shared between themselves, it was socialised.[75]

Socialised production was also characterised by the non-hierarchical and participative management structures the workers developed. In Brukman, for instance, there were no set administrative positions. Instead, the workers created different internal *commissones* (committees) to oversee different aspects of the factory's operations. There were committees for administration, quality control procedures, organisation, accounting, selling and other matters.[76] After the takeover, the workers held weekly meetings with extra meetings scheduled in case of emergencies. At the meetings, workers could bring up any topic or issue and everyone ensured that each had a say and a vote in decisions. Votes were cast by show of hands. All workers were required to attend weekly meetings and, if for some reason several workers were absent, the meetings were cancelled or rescheduled. All decisions made at these meetings were recorded. Outsiders were not allowed to attend these

73 Spieczny, "When workers take over", n. 68 above, p. 46.

74 Ibid. p. 22.

75 This material was used to examine the Brukman takeover from a gendered perspective. See D Thomas, "Women workers take over power at the margins: economic resistance, political compliance" in S Kouvo and Z Pearson (eds), *Feminist Perspectives in Contemporary International Law: Between resistance and compliance?* (Oxford and Portland, Oregon: Hart 2011), pp. 193–214.

76 Spieczny, "When workers take over", n. 68 above, p. 36.

meetings, though specialists were occasionally admitted for specific purposes.[77] This cooperative management structure was not confined to Brukman. Vieta, for instance shows how the workers adopted "the worker cooperative model . . . [that] encourages each worker–member to have an equal say in the running of the recuperated shop. This is most readily visible in the regular worker's assemblies and elected workers councils that administer"[78] them.

Another feature of socialised production was how the workers utilised both the revenues they generated and the factories they took over. As far as the revenues were concerned, there was always some provision made by them for the local community in which they were embedded. This provision varied with different takeovers, some, for instance, divided their revenues into salaries, capitalisation costs and community service. Community service replaced debt and interest payments.[79] Others gave back to the local community by running waste recycling units and maintaining parks.[80] Further, the factory premises were used in a very different way when compared with the pre-crisis use where legal mechanisms, such as incorporation, individualised the ownership of the land, the building and machinery. In the case of the takeovers, the resources that were key to the production process – property, labour and capital – were viewed as community resources rather than for the sole use and benefit of the legal person or the workers that managed them. This indicates how the conditions that engender cooperativism are distinct from those that engender corporatism (a factor overlooked in contemporary visions of cooperativism discussed above).

Organisationally, the boundaries between each takeover and the community in which they were embedded were porous. So, for instance, the factories taken over "were opened up to the community".[81] Many of the factories doubled up as cultural and community centres, free community health clinics, popular education schools, alternative media spaces, and even community dining rooms run by workers, neighbours, or volunteers.[82] This generated new lines of credit outside the formal credit markets. In addition to the economic significance of this aspect of socialised production, the blurring of the boundaries between private and community spaces had two benefits – one social and the other political. First, for the takeover, it entailed giving back to the community for the support they have received. Second, by socialising production in this way the takeovers protected themselves from attempts by the state (at the behest of former employers or otherwise) to evict them as the authorities would have to reckon with the local community as well as the workers.[83]

It is clear that the success of takeovers such as Brukman depended on the extent to which the workers socialised production in the recovery phase of the takeover. This is distinguishable from the pre-takeover factory where their cooperation to achieve production targets had to be "legally" geared. This was usually done through the employer's reliance on externally imposed formal, legal institutional forms (e.g. incorporation) and through the provision of individual incentives (e.g. wages) to cooperate in ways that increased profits and ensured payment of wages. However, despite their successes, socialised production per se did not guarantee either the sustainability or economic viability

77 Spieczny, "When workers take over", n. 68 above, p. 40.

78 Vieta, "Social innovations", n. 2 above, p. 303.

79 Ibid. p. 312.

80 Ibid. p. 312.

81 Ibid. p. 313.

82 Ibid. p. 313.

83 H Palomino, "The workers movement in occupied enterprises: a survey" (2003) 28 *Canadian Journal of Latin American and Caribbean Studies* 71.

of the takeovers. The two main problems the takeovers continue to face in post-crisis Argentina are "chronic underproduction compared with original production levels under owner management and a continued overreliance on competitive markets".[84] A key factor for limited sustainability is a lack of access to credit markets.[85] The experience of the takeovers indicates the dangers of an economy still reliant on self-regulating credit markets. Further, access to capital markets is fraught as it comes at a cost to their cooperative organisational structure. In the long run, takeovers are inter alia pressured into adopting hierarchal management structures that reflect the pre-takeover management and assets are required to be privatised formalising the otherwise open interface with the communities in which these are located. This – as was discussed above – is necessary to limit investor risk and responsibility.

The gains made by the takeovers are significant. They cushion labour in periods of unemployment by meeting both production and welfare needs. However, their success is premised on a fundamental restructuring of the property rights framework that defined the post-crisis economy. It has been argued here that, though the problems of their sustainability in a context where they have to co-exist with self-regulating credit markets are significant, their lasting contribution to regulatory debates lies elsewhere. The takeovers generate a template for renegotiating the bargain between the state and markets that begins with the dismantling of the property rights that underpin self-regulating credit markets.[86]

It is here that the takeovers make an epistemic contribution to regulatory debates in the context of the ongoing current credit crisis. As discussed in the preceding section of this article, the current crisis represents the fracturing of "embedded liberalism": the bargain between the state that relies on self-regulation of financial markets and the polity which agrees on the condition of a guarantee of social protection against the consequences of self-regulating markets. The contemporary visions of cooperativism discussed were seen as attempts to renegotiate this bargain without a fundamental restructuring of the property rights frameworks that underpin self-regulating credit markets (and contemporaneous corporatism).

The takeovers challenge this "talk" of cooperativism. Though the ongoing credit crisis is not as dramatic or convulsive as the Argentine sovereign default, the latter also represented a similar collapse of embedded liberalism or the bargain between the state that relied wholly on self-regulating markets and the polity. In this context, the takeovers – albeit briefly for some – negotiated a new bargain by drawing their political legitimacy from the local community rather than from state or legal recognition.[87]

Conclusions

In his introduction to Polanyi's *The Great Transformation*, Joseph Stiglitz draws the similarities between Polanyi's concerns about the social costs of self-regulating markets and "the issues raised by the rioters and marchers who took to the streets in Seattle and Prague in 1999 and 2000".[88] The rioters and marchers challenged the legitimacy of the policies of international financial institutions and their commitment to self-regulating financial markets. In a similar

84 Vieta, "Social innovations", n. 2 above, p. 304.

85 Ibid. p. 304.

86 The view that sovereign default is an option that is better than restricting is slowly gaining acceptance. For a discussion on the issue see H Stewart, "Defaulting rescued Argentina. it could work for Athens too", *The Guardian*, 10 July 2011, available at www.guardian.co.uk/business/2011/jul/10/european-debt-crisis-argentina-imf (last accessed 25 August 2011).

87 See Thomas, "Women workers", n. 75 above.

88 Polanyi, *The Great Transformation*, n. 24 above, p. vii.

vein, this article draws attention to the likenesses between Polanyian concerns and the takeovers in the aftermath of the Argentine default. Like the marchers Stiglitz refers to, the takeovers also challenge the legitimacy of policies of international financial institutions and their commitment to self-regulating financial markets. The takeovers went even further than "the marchers and rioters who took to the streets". In a post-default economy, they relied on the communities in which they are embedded – rather than the state – to gain their political legitimacy. As cooperatives, they provide an alternate organisational template on which the bargain between the state and the polity can be renegotiated. The Argentine takeovers offer a template of cooperativism that reduces the state's reliance on self-regulating markets and the dominance of corporatism.

The success of the takeovers as cooperatives also highlights the necessity of market regulation. As their experience suggests, the success of cooperativism in a credit crisis is premised on a fundamental restructuring of the property rights framework that currently underpins self-regulating financial markets. Further, their economic viability is premised on access to credit through their links with the communities in which they are embedded. In the absence of such intervention, contemporary visions of cooperativism across the political divide in the UK are in danger of being confined to the margins of self-regulating markets (and corporatism). For the reasons set out, it is time that the takeovers are recognised as epistemic communities in mainstream regulatory scholarship.