

## Interviews

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### Interview with Professor Akira Kurimoto

Questions prepared by Ifigeneia Douvitsa and Hagen Henry

**Douvitsa & Henry:** Thank You Akira for having accepted this interview!

The IJCL, the International Journal of Cooperative Law, has a tradition of interviewing personalities who have worked over a long period of time on cooperative law. We have a set of standard questions and also more personal questions. As for the standard ones, we are first of all curious to learn what made You develop an interest in the subject and - for the purpose of fact finding - we would like to know whether the subject of cooperatives in general, that of cooperative law in particular, was part of Your formal education.

**Professor Kurimoto:** Not at all in my formal education. I graduated the law faculty at the University of Tokyo without being taught on co-operatives in 1973 when I joined the Japanese Consumer Co-operative Union (JCCU). When I was a student, I took part in the Tokyo University Co-operative as a student committee member, then as an executive director and learned about the co-operative theory and practices. At the JCCU, I wrote its history in 1977 and worked for the strategic planning, the international relations and the co-operative research (Consumer Co-operative Institute of Japan: CCIJ) that have made my career trajectory as a self-made researcher on the co-operative science.

**Douvitsa & Henry:** Is there anybody who inspired and maybe continues inspiring You when it comes to cooperative law?

**Professor Kurimoto:** It is Professor Hans-H. Münkner who continues inspiring me most when it comes to cooperative law. I was impressed by his lecture at a seminar held in Tokyo in the late 1970s. From time to time, he kindly answered my inquiries on co-operative laws in Germany and other countries that has helped me to deepen understanding on the national co-operative laws. We took part in some joint projects including the International Handbook of Co-operative Law, the Kobe Symposium for the International Year of Volunteers and the Korea Development Institute's comparative study on some co-operative sectors. He has also given guidance in the discussion pertaining to co-operative values and principles over decades. He has been my teacher on the co-operative law.

**Douvitsa & Henry:** The previous issues of the journal carry interviews with Professor Hans-H. Münkner, Professor Dante Cracogna, Professor Isabel Gemma Fajardo García and with Professor Ian Snaith. Would You like to tell the readers how You got to know these four personalities and whether and how they or their thinking has helped You in Your career?

**Professor Kurimoto:** Professor Dante Cracogna has been a specialist in the Latin American co-operative laws that have been instructive to think about the wider perspectives of social and solidarity economy. I met him on many occasions organized by the ICA since the 1980s. He joined the ICA Principles Committee, and drafted the guidance notes for the 7<sup>th</sup> Principle. Professor Isabel Gemma Fajardo García has been involved in the PECOL project that gives me points of reference in considering the specificities of the Japanese legislation and kindly answered my inquiry on ‘trabajo asociado’ in the Spanish co-operative law. Professor Ian Snaith has been instructive whenever I refer to the British co-operative legislation. The legal department of the Co-operatives UK has often recommended to read his papers on the law-related inquiries.

**Douvitsa & Henrÿ:** We want to believe that the interest in cooperative law is increasing. Is this more wishful thinking than reality?

**Prof. Kurimoto:** It can be said that the interest in the cooperative laws is increasing among the Japanese co-operative practitioners as demonstrated by the unanimous support to the Worker Co-operatives Act of 2020. However, the interest has been strong in the consumer sector since the Consumer Co-operatives Act of 1948 has placed some impediments to the development of the sector including the total ban of non-member trade, the limited operating area within the prefecture etc. These regulations had been incorporated due to the strong lobbying of small retailers who insisted their difficulty had derived from the consumer co-operatives. Therefore, the sector has been struggling to remove these obstacles. CCIJ conducted the research on these legal matters since its inception in 1989 and published papers and a book pertaining to the legal framework. Its study group published a proposal to enact the framework act of co-operatives in 2020, modeled after the Korean law.

On the contrary, the agricultural co-operatives have been promoted by the protectionist government while they have been largely helped by the legislation of the Agricultural Co-operative Act (ACA) of 1947 and special laws to promote restructuring/mergers of the agricultural co-operatives (JAs) to grow a world-class organization. However, the government has shifted its policy stance to pro-competition to cope with the globalized economy through trade liberalization and industry deregulations since the 1990’s and introduced the drastic revision of ACA in 2015 despite the sector’s opposition; abolishing the compulsory auditing by the JA central union, changing its status from the statutory organization to the general association and introducing provisions enabling to transform JAs to PLCs and so on. Such a political shift made JA leaders sensitive to gain the public support and promote collaboration among co-operatives that led to the formation of the Japan Co-operative Alliance (JCA) in 2018. JCA is conducting the research on the legal framework since its inception. However, there is no sign of the increasing interest in cooperative law in the media/academia.

**Douvitsa:** What can be done to have cooperative law included in research curricula, as well as in the education and training of lawyers? Could/should the ICA take a more active role in this respect?

**Prof. Kurimoto:** I have taught the co-operative law in the co-operative program of the Institute for Solidarity-based Society at Hosei University, Tokyo, during 2015-2020. But it was not

continued and there are no research curricula on cooperative law in universities. We need to set up a group of co-operative lawyers in the Japan Society for Co-operative Researches (JSCS) to promote research on this subject. I think the ICA Law Committee could take a more active role in this respect through mutual exchange of information/knowledge and publications.

**Douvitsa & Henry:** Career opportunities for cooperative lawyers inside and outside academia are scarce. Were You able to make a career out of Your interest in cooperative law? If so, how did You do it? Would You recommend to young people to try building a career on it?

**Professor Kurimoto:** I have been interested in a wide range of co-operative practices and theories, a part of which is concerned with law. I think the co-operative law is an essential part of the political economy that embraces various aspects of co-operation. In this regard, I am a social scientist with wider perspectives but not a specialist in the law interpretation. So, I cannot answer this question.

**Douvitsa & Henry:** You have not only published widely on cooperative law and related subjects, but You have also taught, engaged in law-making, consultancies and counseling. Please tell us about these and possibly other aspects of Your work and how they link together.

**Professor Kurimoto:** I have studied on co-operative theories from a variety of disciplines such as economics and management, political science and law, sociology, historiography and so on. I have taught them in the university, and have been engaged in studying on comparative law, but not necessarily in consultancies and counseling. Teaching and studying are inextricably linked as both sides of the same coin; the former is based on finding of the latter while the latter is tested by the former. As far as co-operative law is concerned, the international comparison enables us to identify peculiarities of national laws while the interdisciplinary studies help to deepen understanding of them. Today's complex phenomena can be effectively analyzed by combining different perspectives and disciplines. For instance, the research on corporate governance can be enriched by mobilizing knowledges created by commercial laws and management studies. In this way, we can deepen understanding of the subject.

**Henry:** The 1995 International Cooperative Alliance Statement on the Co-operative Identity (ICA Statement) contains a definition of cooperatives, cooperative values and values of the cooperative members, as well as cooperative principles and it relates these three elements of the cooperative identity in a specific way. The sentence which lists the values of the cooperative members starts with the following words "In the tradition of their founders the cooperative members believe in the ethical values of ..." If my memory is correct, You explain in one of Your writings or papers that the words "In tradition of their founders" refer to the fact that cooperative thinkers were not only Europeans, as is often falsely assumed. Could You please name some of these "non-European" thinkers and elaborate on this? The point is of particular importance as often the failure of cooperatives is "explained" by or attributed to the supposedly European origin of the model and as the ICA is currently discussing whether the ICA Statement, which is of universal applicability, needs an up-date.

**Professor Kurimoto:** As a reason why the term of plural “founders” was used, I explained that not only Rochdale Pioneers but also other thinkers did contribute to initiating and encouraging various types of co-operatives. MacPherson himself explained this in the Background Paper.

"In the tradition of their founders..." refers to the fact that all the great movements have, at their origins, remarkable men and women who made outstanding contributions as "founders". Such individuals as the Rochdale Pioneers, Friedrich Wilhelm Raiffeisen, Hermann Schulze-Delitzsch, Philippe Buchez, Bishop Grundtvig and Alphonse Desjardins are revered throughout the movements they helped begin; they are admired by co-operators in other movements as well."

I wrote in a paper “Why Asian Pacific Co-operative Models Matter?” that the concept of “Asian values” were advocated by Mahathir Mohamad (Prime Minister of Malaysia during 1981–2003) and Lee Kuan Yew (Prime Minister of Singapore, 1959–1990) as a political ideology of the 1990s, which defined elements of society, culture and history common to the nations of Southeast and East Asia, aiming to use commonalities – for example, the principle of collectivism – to unify people for their economic and social good and to create a pan-Asian identity as contrasted with perceived European ideals of the universal human rights. The popularity of the concept waned after the 1997 Asian financial crisis, when it became evident that Asia lacked any coherent regional institutional mechanism to deal with the crisis.

I agree that the ICA Statement was approved as a universal norm and I do not think that the failure of co-operatives is “explained” by or attributed to the supposedly European origin of the model. The Indian Co-operative Credit Societies Act was enacted in 1904 by the British colonial power borrowing Raiffeisen model and thereafter so-called “British-Indian Pattern of Co-operation” became a prototype of co-operative legislation in Asia. The top-down tradition was inherited by the new independent states since the 1950’s where co-operatives were expected to play a vital role for socio-economic development. There were some attempts of creating top-down co-operatives such as Indonesian KUD, Bangladesh’s Comilla and the Philippine’s Samahan Nasyon but they all failed shortly without farmers’ support (Hans Münkner, Robby Tulus). Or the supply and marketing co-operatives had been nationalized to serve the population in the rural area in China. Even today a large part of Asian co-operatives operates in the developmental states that support and control specific types of co-operatives, in particular in agricultural sector. This is why the Asian Co-operative Ministerial Conferences had to repeat the recommendations to establish autonomy and independence since 1990.

**Douvitsa & Henry:** Japan has a multitude of sectoral cooperative laws. Could You tell us why and how it all started and why it is maintained? Were their influences from other parts of the world? Why is this multitude of cooperative laws a challenge, if indeed it is a challenge?

**Professor Kurimoto:** The origin of current co-operative legislation can be dated back to the Japan’s surrender in 1945. The allied force introduced the drastic reforms to dismantle the militaristic regime; the agrarian reform to curve landlords’ power, the democratization of industries to destroy zaibatsu’s influence and the legitimization of trade unions. Thus, the Agricultural Land Act of 1946, the Anti-monopoly Act of 1947, the Trade Union Act of 1949

were enacted. The land reform was made so thoroughly that millions of small farmers with less than 1 hectare plot were created. The Agricultural Co-operative Act (ACA) was enacted to cement the effects of the land reform in 1947. Then other co-operative laws were enacted in accordance with industrial policies (fisheries, SMEs, credit banks etc.) since 1948. Today there exist more than 10 specific laws but there is no general law on co-operatives. Such fragmented co-operative legislation has hampered the sense of identity among co-operatives because of different organizational cultures and political preferences. In addition, co-operatives are not seen as entities sharing common characteristics and resulted in the lack of public policy as a distinct organizational form. It is also felt problematic that current laws do not allow setting up co-operatives to meet the new socio-economic needs for dealing with the aging population, energy transition, and community devastation. This system has been maintained since it follows the same pattern of political economy often characterized by the industrial policy triangles involving ministries, parliament (LDP) and trade associations. It is not realistic to think about the uniform law after the path-dependent evolution of over 70 years. There are no influences from other parts of the world. Only South Korea had taken the similar trajectory but could enact the Framework Act of Co-operatives in 2011.

**Douvitsa & Henry:** You are a proponent of a single general cooperative law for Japan. In countries with a similar situation, like France, Greece and Spain, i.e. several cooperative laws, although some not by sector, but because of the constitutional set-up of the country, like Spain, there are also thoughts on unifying these various laws in one. From an economic point of view the number of laws does not seem to make a difference. So, why go for a single law? Apart from political arguments, what are the pros and cons? Is there any discussion in Your country, Japan, about having a single general cooperative law unifying the existing ones? Is there an interest from academia or/and policy makers in this sense?

**Professor Kurimoto:** In those countries, there exist general laws in addition to specific laws and there are cases in which co-operatives are recognized in the constitution. Neither of them exists in Japan, whereas the general laws had been enacted for companies and nonprofits in 2005 and 2006 respectively integrating existing laws but there is no such move in the co-operative legislation. I am proposing a framework law embracing the international public law of co-operatives or a general law enabling small number of persons to set up co-operatives for any objectives/activities, not a uniform law unifying the existing ones. This proposal is being discussed in CCIJ and JCA while there is so far little interest from academia and/or policy makers.

**Henry:** You have a deep understanding of cooperative law and related fields not only in Japan and more widely in Asia, but also and especially in Europe. That allows You to make different ways of thinking law accessible to those who are not as versed as You are and to bridge divergent views. Am I portraying You correctly?

**Professor Kurimoto:** As I have worked as the international relations officer of JCCU during 1977-2003, I was interested in the international comparison of consumer co-operatives and wrote some papers on the question whether the Japanese and European models might converge or diverge. At the same time, I was also involved in the development work for the Asian co-



operatives to promote consumer co-operatives, women's and youth co-operatives in collaboration with the ICA Asia Pacific. Recently I co-edited a book "Waking the Asian Pacific Co-operative Potential" in 2020. Such a career helped me to understand the peculiarities of the Japanese legal system on co-operatives that had been created following the German model but evolved differently in the unique political economy and historic background. If I may have an advantage, that is the availability of information/advice of other researchers who kindly answer my inquiries on legal matters. But my study on the comparative co-operative law is still in the infant stage.

**Henry:** Again and again You made us aware of the differences between the various regions of Asia as concerns cooperative law. Could You outline some of these differences and their incidence on cooperative law? This is of interest not the least in the context of the trend to harmonize cooperative laws, in particular on a regional basis. Although not intended to unify the cooperative laws of the European Union Member States, the European Union Council Regulation (EC) No 1435/2003 of 22 July 2003 on the Statute for a European Cooperative Society (SCE) had to a certain extent a harmonizing effect; we have two uniform cooperative laws in Africa; Mercosur has a law similar to the EU Regulation; the African Union is elaborating a model cooperative law for its Member States.

**Professor Kurimoto:** I'm afraid I cannot answer this question properly since the database on national legislations is not available, making it almost impossible to conduct a comparative legal study. Since the Asian region is so diverse in the political system, the level of socio-economic development, religions and languages, the EU-funded Legal Framework Analysis project had to compile the reports of 6 sub-regions (East, Southeast, South, West, Central, Pacific) and the regional summary is not available so far. I was assigned to write a report on the Eastern Asia, but overwhelmed by the differences among China, Japan, South Korea and Mongolia. There is no move towards the political and/or economic integration in the region that is the basis of regional harmonization of laws. The ASEAN is an exception, but it faces the serious setbacks in Myanmar etc.

**Henry:** Is there anything in what we typify as Asian laws which makes them incompatible with the cooperative laws of other regions of the world, but which, on the other hand, could be a source of inspiration? I am also thinking of the relatively recent Japanese workers' cooperative law. You have explained and written about it widely.

**Professor Kurimoto:** I don't think there is anything in Asian co-operative laws which could be a source of inspiration for other regions of the world. Asian legal system is so diverse reflecting on the historical path dependency; some countries had followed the common law tradition or civil law tradition, while other countries took the Islamic law or the socialist law tradition.

The Worker Co-operatives Act (WCA) is the latest co-operative legislation in Japan. It has some positive characteristics; allowing five persons to set up a co-operative without the government permission, no limitation on the types of businesses it can conduct except for the worker dispatch business. It was put into force on October 1, 2022 and the JCA supports the development of this sector under the WCA.

**Douvitsa:** As the chair of the International Committee for Cooperative Research of the ICA, as well as the regional expert on the Legal Framework Analysis for the region of Asia-Pacific, what are the dominant trends in cooperative law and relevant research that you have identified.

**Professor Kurimoto:** As far as the Asian co-operative law is concerned, there are no dramatic changes but we pay attention to some cases. The Constitutional amendment requesting to strengthen the co-operative autonomy in state's co-operative legislations was passed in India but not fully implemented due to political reasons while the Framework Act of Co-operatives brought the explosion of new co-operatives in South Korea. The enactment of Worker Co-operatives Act in Japan is also attracting attention. We need to make the comparative studies of these cases. I am also interested in the notion of localization of norms proposed by Amitav Acharya. How and to what extent the universal norm such as the ICA Statement of Co-operative Identity has been localized in national co-operative laws is one of the themes that I wish to investigate.

**Douvitsa:** We are witnessing the (re)emergence of concepts, such as social enterprises, social economy, social and solidarity economy, social, solidarity and community economy. They are gradually acknowledged by an increasing number of governments. Isn't possibly the impact of these concepts on cooperative law greater than the difference between what we call legal traditions?

**Professor Kurimoto:** The concepts such as social enterprises, social economy, social and solidarity economy (SSE) have been crafted in southern Europe, and followed by Quebec (Canada) and Latin America and gradually acknowledged by the UN agencies like the ILO. However, in Asia only South Korea has accepted the SSE, enacting a series of legislations to cope with difficulties after the IMF crisis in 1997. Japan has much larger co-operative and nonprofit sectors compared with South Korea, but there is no recognition of SSE in the public policy, media and academia. SSE is a political construct and may have benefits for co-operatives (David Hiez). I think the SSE approach is valid as the extended co-operative sector but I do not think the impact of these concepts on co-operative law is greater than the difference between legal traditions.

**Douvitsa & Henrÿ:** The IJCL set out to become a journal which brings all the legal traditions together. As cooperative law is being given different weight in different parts of the world, this remains one of the biggest challenges for the editors. Do You have any advice for us on how to be more effective as concerns this goal?

**Professor Kurimoto:** The IJCL is only a journal which brings all the legal traditions together. To increase its impact, it is advisable to approach the policy makers and co-operative managers who might be interested in what happens in the different countries/regions. Given very limited

number of specialists on co-operative law, it is also important to recruit new readers from other disciplines including economics/management, sociology and political science.

**Henry:** Akira, we are both members of the CIAG, the Cooperative Identity Advisory Group of the ICA. It was set up after the 2021 ICA Congress in Seoul which had as its overall theme that of “Deepening our Cooperative Identity”. The CIAG is to advise the ICA on whether to change the ICA Statement and if so, how? Given that the ICA Statement, or at least its content, is included or is being included or referred to in an increasing number of international, national and regional texts and/or laws, I have been cautioning against any fundamental change to the ICA Statement, not excluding a renewal of its interpretation. You participated in the elaboration of the 1995 ICA Statement and You wrote one chapter of the 2015 ICA Guidance notes on the cooperative principles. Although the CIAG is still at the beginning of its work, You might already have some initial thoughts on what the advice to the ICA should be.

**Professor Kurimoto:** Now the CIAG is analyzing the result of the Survey to gauge the understanding and opinions of co-operative leaders and researchers on the Identity Statement. Based on such an empirical study we need to move to think about how the Identity Statement is to be modified to meet today’s context reflecting huge changes that occurred since 1995 including the economic/financial crises following the Lehman shock, the political instability after the 9.11. attack and the populist governments, and social/environmental challenges of the climate crisis and the COVID pandemic. For this purpose, the ICA is requested to mobilize the knowledge base accumulated in the multi-disciplinary co-operative studies and I believe the co-operative lawyers should play an active part.

**Henry:** Maybe the requirements of sustainable development, the digitization and digitalization of our lives prove me wrong. Apart from these challenges possibly requiring changes to the ICA Statement, do You think that these are issues which must be considered by cooperative lawmakers? If so, how?

**Professor Kurimoto:** I believe the ICA Identity Statement is a well-crafted formula containing the definition, values and principles of a co-operative. What we need is a fine-tuning of the Identity Statement to reflect contextual changes that occurred since 1995. The requirements of sustainable development, the digitization and digitalization of our lives and other trends affecting co-operative businesses and members’ lives need to be considered in this fine-tuning. I think these are issues which must be considered by cooperative lawmakers since they are all relevant to the future of humankind but there should be a room to be decided by the co-operatives based on the autonomy and independence principle.

**Douvitsa & Henry:** Thank You again Akira for having accepted being interviewed!