

City as a commons

by *Christian Iaione*

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5.1

Preface

Where does a person go if she lives in a city, she is not fortunate enough to have got a garden and she needs going into a natural environment and taking advantage of all services that a green space can procure as running, reading a book on the lawn and outdoors, breathing on average cleanest air? How can that person enhance his own thirst for social relations and meet new and different people rich in cultures and experiences she hasn't got? Where can she cultivate her own sense of belonging to a community, increase her identity with her own abilities and passions and take part in her traditions? What are the infrastructure and services that increase the urban life quality, that let people live worthily or break free from moving along? What are the facilities and services that let people share or cultivate lifestyles more consistent with their own individual sensibility and with whoever lives in the same space? From a real estate point of view, what determines the economic or simply aesthetic value of a community?

All these questions have a single identical answer. It is about the urban spaces and services of common interest.

They satisfy several needs about living in a city because they are functional to communities well-being, like to the individual exercise of rights of citizenship. Quality of life and work, sociality, mobility, entertainment, sharing, sense of community, possibility of cultivating abilities and passions. All these things immediately feel the effects of the greatest or shortest quality of collective usage infrastructures that a city provides at its own inhabitants' disposal.

Unfortunately the urban spaces and services of common interest live a deep crisis period. This crisis is determined by two factors.

First of all it is about deficit and decline of the public or collective spaces, as in the suburbs as in the central areas, as in the moment of transformation as facility as during the maintenance one. On the contrary the second factor of crisis is about citizens gradually lose their interest and attention for the urban public spaces, perceiving them as nobody or local public authority's places, rather than everybody's places as common spaces. And this attitude at ownership and responsibility divestment from citizens permits the undisturbed and unpunished attack on these goods by who doesn't manage to appreciate their importance for urban conditions of life and social cohesion.

According to the first factor, more and more pressing commitments imposed to the budget of local authorities lead them to intervene less and less on local communities needs' behalf. These commitments are dictated by the European community discipline about the stability pact and they derive from the Italian public debt. In addition to this there is reduction of state money conveyances resulting from the Italian public accounts worsening as a consequence of the 2008 financial crisis.

The public resources reduction has concerned not only the services for people but it is strongly bearing on the urban environment too and in particular on the public spaces.

The growing lack of public resources goes together with more and more popular lack of interest by citizens, in particular the youngest people, in preservation, cure and maintenance of places of living and aggregation where community life happens. Conversely responsibility forms for use and management of local public services find it hard to develop and propagate themselves. Very probably this lack of interest arises from an inadequate citizenship

education by institutions but also by single families and school. But during the urban well-being construction the involvement of principal participants in the urban ecosystem it is crucial and that is the citizens themselves who use and live the city.

In fact, according to Lefebvre the “ideal city” is «a perpetual oeuvre of the inhabitants, themselves mobile and mobilized for and by this oeuvre. [...] The right to the city manifests itself as a superior form of rights: right to freedom, to individualization and socialization, to habitat and to inhabit»¹

5.2

The goods shared care and urban common services

So all the above-mentioned crisis factors have determined a dangerous worsening of local/urban degradation. This is all that is putting a strain on physical shape/aspect and on functionality of local communities, with particular attention to spaces and services of collective usage particularly important for urban life. First of all, that urban spaces characterized from a particular “cultural value” (that is historical, artistic, architectural, landscape value) are the subject of study here. But not only. Also urban spaces and services, that are not characterized from the above-mentioned value, they however bring local societies together and their decline determines a social and economic direct or indirect decline of local communities.

Urban decline is also the product and the cause of scant efficiency and lowest involvement of citizens about planning and distribution of local services.

In this sense the urban spaces and services are functional to local community well-being and to urban life quality and so they must be considered “urban common goods”. Institutions and civil society in alliance between them must be able to concur in their production and care.

1. H. Lefebvre, *Il diritto alla città* Venezia: Marsilio, 1970 (original edition *Le droit à la ville*, Paris: Éditions Anthropos, 1968).

As Donolo claims,

[the] common goods are a group of goods necessarily shared. They are goods because they let the social life develop, the collective problems solution, subsistence of human being about his relationship with the ecosystem whereof he is part of. They are shared because they provide their better qualities when they are treated and so ruled and regaled like “in common goods”, accessible to everybody at least as a matter of principle. The common goods are shared although it is often possible and this is a reality more and more frequent, that someone or some group is excluded from their use².

So you put first a relational notion of common good compared to the traditional classifications based on morphological characteristics and their formal ownership. Somehow common goods are goods and this is to say objects to a certain extent. They are not always comparable to wares but the most relevant thing is that they only exist because they are part of a qualitative relationship with one or more subjects (and not relating to acquisition and appropriation). In other terms object and subject cannot be separated when you speak about common goods. You don't have got a common good, you share in common good. You cannot expect to “have got” a square, a public garden, a park, you can only aspire to “be” active part of an urban ecosystem³.

It seems necessary here to share the opinion of who thinks that the «commons goods become relevant as such only if they add theoretical awareness of their legitimacy to a procedure of *conflict*, for identification of some qualitative relations that involve them. In other words, the common goods are in this way because of contests where they became relevant as such and not because of presumed ontological, objective or mechanic characteristics that would characterized them»⁴.

This means, for example, that a square is not a common good in itself only because it is a simple urban space, but it becomes it for its nature as «place for social access and for existential exchange»⁵. It is not possible to separate physical features from social ones of an urban space considered as a common good. And so it would not be possible to exclude certain groups of people from an urban space that is subject to the principle of universal access, as a common good.

2. C. Donolo, “I beni comuni presi sul serio”, in Labsus.org, (31st May 2010).

3. U. Mattei, *Beni comuni. Un manifesto* Roma-Bari: Laterza, 2011, p.52.

4. Ivi, p.53

5. Ivi, p.55.

An administrative measure, that keeps restrain particular categories of people from using a certain urban space, should be considered void. In fact, as Mattei asserts, the urban space par excellence is the square. This last «belongs to a typically global community or rather to everybody, geographically stable or wayfarers, who can in the abstract enjoy its function of exchange place. And this happens according to ways and forms whereof everyone is interpreter. [...] In range of common goods the subject is part of the object (and vice versa)»⁶.

Those town planners who have defined what “public space” means are on the same wavelength. According to Costa,

[The]public space is not bound to collective use. It is reductive considering “public” a space used “in common”. The in common use does not “make” the space a public space, also when it has to do with more different uses. The public character does not concern a single place where collective activities go over or a place destined for these. Instead, a space “results” public because it is built from the social action on certain conditions: it is a social construction not necessary, but possible⁷.

Vitellio explains

that the public space, considered as the space with the function of facility or service produced by the state for the social life, is flanked and overlapped by other services and facilities not envisaged and not produced from a politic-administrative institution. [...] Privatized public spaces, advertised private spaces, almost public spaces rise up from interweaving of social relationships networks and single individual paths. In this way the characteristic of non-appropriation and non-removal of public space is problematic. But there are also places identified and projected as public and they are object of care and adoption from inhabitants, schools, associations, while others are often abandoned private places and they are made public through appropriation forms from social movements. [...] In this case, more than in other experiences, the public spaces do not give back only citizens as users/customers, but as *citizenry*, active people able to thematize the public matter⁸.

6. *Ibid.*

7. P. L. Crosta, *Società e territorio, al plurale. Lo “spazio pubblico” – quale bene pubblico – come esito eventuale dell’interazione sociale*, in “Foedus”, I, (2000), p. 42.

8. I. Vitellio, *Spazi pubblici come beni comuni*, in “Critica della razionalità urbanistica”, 17 (2005), pp. 9-20: 12.

In the same way, the local services can and must consider themselves as common goods. In many cases it has to do with activities of tangible and intangible common goods management. For example, when you manage the local public transport system you at the same time protect material common goods and immaterial common goods. In the first case these are the urban environment and the urban road network that otherwise would be congested by private transport. Secondly it has to do with the right of collective, shared, sustainable mobility of people, the social relationships that this kind of mobility can create and the psychophysical well-being produced without any doubt by freeing from a model of private transport-based mobility. A similar speech could be done about water service, urban health service, gas and electric distribution service and about their networks and facilities.

Ultimately, the idea of urban common goods concerns all those urban spaces and services we consider “local common goods” or “community goods”. These last are reckoned as everybody’s spaces and services and so as “common spaces and services”, they are public only because they have mainly been put in some public administration’s keeping, care or supervision, until now. But not necessarily the formal ownership forcedly must be public. Common goods in private hands can exist. The “common” nature of urban common goods comes from the fact they are closely connected to an area’s identity, culture, traditions and/or they are directly functional to social life development of communities settled in that area (for example a square, a park, a roundabout, a mountain path, a garden or a historical building, a school, coffee tables etc.). This also counts even though they always have not the above-mentioned cultural importance and even though they are not formal ownership of some public administration. Given their common nature, then they are characterized by necessity to guarantee universal access and use and by the inescapable need for involving community members and anybody has close his heart the urban common goods’ survival, care and conservation in decisions and actions that regard them.

This conclusion partially seems to go well with results where considerations of private lawyers have gotten as yet and with Supreme Court's orientation. According to private lawyers', conclusion reached about the so called Rodotà Commission are important. By decree of 21 June 2007 the Ministry of Justice sets up a study commission to elaborate a proposed change of regulations of the Italian Civil Code about common goods⁹. At the end of its deliberations, the Commission has characterized the "common goods" as goods functional to exercise of fundamental rights and to person development. So they need a strong conservation also in favor of future generations. They are consumer goods used without rivalry but with problems of depletion. Not only they can belong to public body corporate but also to individuals and however you have to be assured their collective use within limits and according to modalities scheduled by the law. If then the common goods ownership is public, they are placed not for sale but it is allowed their concession only in the single cases provided by law and short-lived cases. Anybody can institute legal proceedings for protection of rights related to common goods preservation and use. But only the state is legitimized in an exclusive way for the exercise of action for damages.

This doctrine seems also to permeate the most recent ordinary case-law of legitimacy. The Supreme Court, in fact, said in United Sections (SS.UU.) from articles 2, 9, 42 of the Italian Constitution it is possible to obtain the principle of the protection of the human personality, whose proper execution occurs not only in the state property domain or property of the state. But it can also occurs within those «goods that, independently by a preventive identification by legislature, for their intrinsic nature or finalization, prove functional to the pursuit and fulfillment of community's interests, on the basis of a complete interpretation of the entire regulatory system». And the Court was keen to stress the irrelevance of formal ownership and the close functional link between the common goods and the exercise of social rights. In fact, «[w]here an immovable property, independently by the ownership, because of its intrinsic connotations especially environmental and landscape, appears intended to the implementation of the welfare state [...] this good has to be considered common. That is to say you prescind from title deed which is instrumentally connected to the realization of all citizens interests». In addition, the Court emphasizes that any immovable property is a common good if it helps to achieve benefits for the community.

9. About deliberations of Rodotà Commission cf. U. Mattei, E. Reviglio, S. Rodotà, *I beni pubblici. Dal governo democratico dell'economia alla riforma del codice civile*, Roma: Accademia Nazionale dei Lincei, 2010.

Moreover the Court states that «rather than to the state apparatus, as public juridical person individually designed, the public good nature should refer to the state-community, as an entity exponential and representative of citizenship's interests (community) and as the body responsible for the effective implementation of the latter». The Supreme Court takes care to remind the state-apparatus of renewal of common goods on the state as the state-community, as an entity which exhibits everybody interests, «involves the charges of a governance that makes effective the various forms of enjoyment and public use of the good»¹⁰. Here you reveal the double limit of setting accepted by the Rodotà Commission and the Supreme Court. You do not consider planning capacity that society is able to express through both stable and organized actions and daily practice actions about direct management, care and maintenance of common goods. You only worry about to ensure the affirmation of use or open enjoyment of common goods. Nothing more. While with reference to urban spaces as commons goods, new rights stand out, «rights of care», not about ownership, by the exercise of that supportive and sensible freedom that nowadays represents the new way of being citizens». This is implied by the art. 118, last paragraph, of the Italian Constitution¹¹. These rights are associated by Arena with the third-generation rights. Conversely, according to Cellamare,

[the] urban practices, as well as a geography of values and meanings, express a strong planning, they are full of projects. First, this counts for collective actions more or less organized and intentional, but also it counts for daily, ordinary practices that city uses and also consumes. These seemingly do not seem to cause big changes in body shape and structure of the city, while in reality have a strong influence on the characterization of places. [...] The urban practices, even the most "trivial" as strolling, are full of often implicit projects. It has to do with paths we choose, meeting places, related time, way we perceive the space we cross etc. The action shapes the space and complies with the space¹²

10. Italian Supreme Court, ss.UU., (14 February 2011), n. 3665, in "Giornale di diritto amministrativo", (2011), pp. 1170-8, with comments of F. Cortese, *Dalle valli da pesca ai beni comuni: la Cassazione rilegge lo statuto dei beni pubblici*; as well as in "Diritto e giurisprudenza agraria, alimentare e dell'ambiente", (2011), 7, 1, p. 473, with comments of L. Fulcinetti, *Valli da pesca lagunari. La Cassazione reinterpreta i beni pubblici*. Also cf. S. Lieto, "Beni comuni", *diritti fondamentali e stato sociale. La Corte di Cassazione oltre la prospettiva della proprietà codicistica*, in "Politica del diritto", (2011), 2, p. 331. Moreover cf. the "twin sentence" Italian Supreme Court, ss.UU., (16 February 2011), n. 3811, in "Labsus.org", 12 agosto 2011, con commento di C. Feliziani.

11. G. Arena, *Beni comuni. Un nuovo punto di vista*, in "Labsus.org", (19 October 2010).

12. C. Cellamare, *Fare città. Pratiche urbane e storie di luoghi*, Milano: Elèuthera, 2008.

This planning capability expresses itself with great clarity in relation to construction, to methods of public spaces use and management, but also in relation to methods of living them. This is possible developing plan concepts for the spatial configuration of places, but also developing «methods (to) manage them, centred on self-organization, on cohabitation, on flexibility of the uses, on full utilization, on free accessibility, on care»¹³.

5.3

The urban welfare

The protection and preservation of public spaces and local services, seen as urban common goods, inextricably have implications with social inclusion policies. Even the Supreme Court seems to have caught this profile where it reminds functionality of the common goods in respect to the welfare state creation. The functionality of the local services respect to well-being level of people who live and are part of a certain community is self-evident. But it is increasingly clear also the connection between welfare policies and spatial dimension. Redistributive inequalities, social conflicts, situations of personal distress manifest themselves in their most dramatic representation in the city. Then, in the modern era, the social inclusion subject has to be faced with aim that town planners call the welfare or urban well-being¹⁴.

13. *Ivi*, p. 101

14. P. Bellaviti, *Una città in salute*, Milano: Franco Angeli-DIAP, 2006; Id., *La città, la salute e la pianificazione urbana*, in G. Nuvolati, M. Tognetti Bordogna, *Salute, ambiente e qualità della vita in ambiente urbano*, Milano: Franco Angeli, 2008; id. *Benessere urbano. Approcci, metodi e pratiche per sostenere la capacità di “stare bene” nello spazio urbano*, in “Territorio”, (2008), 47; id., *Alla ricerca di un nuovo “benessere” urbano promuovendo la capacità degli abitanti a “stare bene” nella città*, in F. Pomilio, *Welfare e territorio*, Firenze: Alinea Editori, 2009; S. Munarin, C. Tosi, *Lo spazio del welfare in Europa*, in “Urbanistica”, (2009), 139, pp. 88-112.

In general, a condition without well-being and therefore an "unease" condition will be determined whenever you deny the person freedom to evolve fully and that is affirming his own dignity of unique and one-time individual and improving his own talents (art. 3, paragraph 2 of the Italian Constitution)¹⁵. This approach is consistent with the passage from a redistributive conception to a procedural conception of the principle of equality. Therefore, it is consistent with the nature of the canon which makes the Republic predominantly to act promoting conditions through *ad hoc* public policies, giving effect to the rights of citizens, in particular the social ones, rather than a mere obligation to ensure by law the rights of public services¹⁶.

Now, in order to allow the "full development" it is fundamental that the person feels good in their "space of living". And a city allows its citizens to "feel good" only if it provides them with a set of tangible and intangible goods and conditions, which will allow the person to grow and cultivate himself¹⁷. From the tangible point of view, it has to do with the possibility of owning or moving house, having a job, living in a non-degraded environment, using gardens and public places. About the intangible aspect, it has to do with outlining or changing their own plan of life, not perceiving any risk to their own safety, feeling welcomed from the place where you live, making use of support social networks¹⁸.

15. G. Arena, *Interesse generale e bene comune*, in "Labsus.org" (1st November), 2011.

16. Cf. C. Pinelli, *I rapporti economico-sociali fra Costituzione e Trattati europei*, in c. Pinelli, T. Treu, *La costituzione economica: Italia, Europa*, Bologna: il Mulino, 2010, pp. 31 e 37. In general, about the principle of equality, cf. L. Paladin, *Il principio costituzionale di eguaglianza*, Milano: Giuffrè, 1965; C. Rossano, *Il principio d'eguaglianza nell'ordinamento costituzionale*, Milano: Giuffrè, 1966.

17. A. Belli, *Editoriale*, in "Critica della razionalità urbanistica", (2005), 17.

18. P. Bellaviti, *Disagio e benessere nella città contemporanea*, in Acts of 14th Conference SIU "Abitare l'Italia. Territori, economie, diseguaglianze", (24-26 marzo 2011).

In the twentieth century, in its origins, the issue of individual or collective well-being of citizens has been primarily addressed in its physical dimension. Therefore the welfare policies of most developed countries have mainly focused on the construction of a "public urban space", that is "houses, community facilities, green spaces and infrastructures"¹⁹. In fact, it was examined as the spatial dimension inevitably influences quality of citizens' daily life and their forms of interaction and sharing. In other words, cities are the most important ecosystem for the development of the human personality. In fact, they represent the priority physical space by which you must ensure conditions of individual and collective well-being, exercise of the rights of citizenship, possibility of coexisting differences²⁰.

Today, in fact, you deal with «city of differences»²¹ because of the «plural populations that inhabit space and time of everyday life»²² or «thousand plural bodies that inhabit cities, in their diversity and richness of genders, ages, styles of life and consumption, sexual dispositions, religion and spirituality, geographical and cultural origin, physical and mental health condition, income levels or social position. In fact, the city consists of urban spaces and with reference to uses that people make of them»²³. At the same time, the lack of awareness and moderate or non-existent capacities for governance of public institutions is coupled with the social complexity of the contemporary city. This is at the origin of phenomenon of urban insecurity, degradation of the urban environment and conflict in the use of public spaces, rising of marginalization and exclusion areas (that is migrants and homeless), elevation of barriers that prevent freedom of movement or expression of citizens. You think of workers who daily have to deal with the urban traffic problems, architectural barriers or lack/degradation of urban infrastructures dedicated to the elderly, children and the disabled, the deterioration of citizens health as a result of the overall reduction of the "urban well-being."

19. B. Secchi, *La città del ventesimo secolo*, Roma-Bari: Laterza, 2005, pp. 108-10.

20. Bellaviti, *Disagio e benessere nella città contemporanea*, cit. The author notices «as the spatial dimension affects the quality of daily life of the different urban actors and their forms of interaction and sharing. In fact, the city with its space and its infrastructures is the individual and collective "real life" and it is the privileged "space" for well-being development, the emergence of citizenship rights and the realization of the coexistence of diversity».

21. Bellaviti, *Disagio e benessere nella città contemporanea*, cit., p. 1.

22. G. Pasqui, *Città, popolazioni, politiche*, Milano: Jaca Book, 2008.

23. G. Paba, *Corpi urbani. Differenze, interazioni, politiche*, Milano: Franco Angeli, 2010.

Until now the response of the Italian legislature to this problem has been the public offering of quantitative standards, established by law in the abstract, infrastructures and/or services. The national planning law no. 1150 of 17th August 1942 puts the general town plan in charge of defining «areas intended to form spaces for public use» (Article 7, paragraph 2, no. 3 of the Italian Constitution). Moreover it establishes a general principle of the field by virtue of which “maximum relations between spaces intended for residential and productive settlements and public spaces for collective activities, public park or parking only” must always be respected (art. 41 *quinquies*, paragraph 8 of the Italian Constitution). Although the matter has passed into the sphere of regional legislative competences following the reform of Title V of the Italian Constitution, this relation between private spaces and public spaces is still regulated by a ministerial decree.

It has to do with D.M. April 2, 1968, n. 1444 which connects the settled number of inhabitants to the minimum equipment of public spaces or reserved for collective activities and more precisely it requires 18 square meters of public spaces for every 80 cubic meters of construction. Of course it is a rule that suffers and has suffered many derogations, especially in intensively built areas or in the ancient units²⁴. Moreover, it has to do most of the time with spaces that have been badly planned or designed or managed even worse. Then, today, that spaces are drastically reduced or altogether cancelled because of lack of necessary public funds.

It has evidently to do with an anachronistic solution that now is in crisis because it does not take account of complexity factors that have meanwhile emerged in modern society. It above all establishes a merely quantitative reserve of spaces that has never allowed to guarantee their correspondence with the real needs of the community, nor their real realization²⁵. This quantitative and hierarchical, centralist setting must be replaced by a polycentric, qualitative and relational logician, contained in the concept of the urban welfare here put forward.

24. Cf. P. Urbani, S. Civitarese, *Diritto urbanistico. Organizzazione e rapporti*, Torino: Giappichelli, 2010, p. 90.

25. P. Stella Richter, *Diritto urbanistico. Manuale breve*, Milano: Giuffrè, 2010, p. 55.

But need for a change of perspective originates itself from the above-mentioned factors that are causing a crisis of the urban environment and consequently of the physical and social liveableness conditions of citizens, particularly the disadvantaged population groups. The urban welfare, understood as a set of conditions that allow citizens and community to "feel good" on their territory, depends on the existence of conditions that guarantee full access to local resources and play on the communities and citizens' capabilities in their maintenance and care. In fact,

[the] town planning increasingly appears as a set of practices that support the "capability" of communities to "feel good" on the territory. A double capability. A social capability, that sparks complex relationships with the context and the claimants, aimed at a reciprocal learning, full of responsibilities, lightweight, that aims at taking care of things and to show concern for the others. An institutional capability, made up of institutional competence, technical capacity, promotion of inclusive processes and research of bonds with national policies frameworks from the "local"²⁶.

Therefore the city and its public and private institutions must give citizens the opportunity to take care of their own city in first-person²⁷. This opportunity can help citizens to improve their individual and social capabilities and to build social cooperation, reciprocity and solidarity networks²⁸.

That "person flowering" Sen considers the real heart of "happiness" is the only value you must measure to test the real community well-being. It can be reached prearranging conditions so that citizens (especially those of younger age) can freely and individually choose to take charge of taking care of, protecting and preserving the common goods of a city, for the whole community and for future generations. According to Sen justice does not depend on treatment reserved to individual by the institutions or by political power. But it derives above all from the «ethical and cultural ties that unite the individual to society and create what is called atmosphere of freedom, the overall environment in which individual choices make sense»²⁹.

26. Belli, *Editoriale*, cit., p. 2.

27. A. Amin, N. Thrift, *Città: ripensare la dimensione urbana*, Bologna: il Mulino, 2005; M. C. Nussbaum, A. K. Sen (eds.), *The Quality of Life*, London: Clarendon Press, 1992.

28. Mattei, *Beni comuni*, cit.; S. Bowles, H. Gintis (eds.), *A Cooperative Species. Human Reciprocity and Its Evolution*, Princeton: Princeton University Press, 2011.

29. N. Urbinati, *Liberi e uguali. Contro l'ideologia individualista*, Laterza, Roma-Bari 2011, p. 29, che cita A. Sen, *Capability and Well-being*, in Nussbaum, Sen (eds.), *The Quality of life*, cit., pp. 30-66.

The development of individual skills becomes more important than the rules, procedures and institutions aimed at guaranteeing a fair treatment of individuals. If you really want to get justice you need to guarantee this "atmosphere of freedom". Then you need to pay attention to the social and cultural activities enrich and do not depress the skills necessary to pursue individual choices, functional to individual's personal projects and expectations. Only in this way he will be aware of his possible unease and what he needs to overcome it³⁰. In this perspective, poverty exclusively does not depend on income, but above all by the tangible and intangible actual resources of which the individual needs in his society to achieve the above-mentioned true well-being. It is possible through his action capacity³¹. So the government and the civil society must encourage the culture of individuality through policies that aim at correcting the social and material inequalities that market generates, by incentives or interventions³².

Therefore it becomes important to verify the existence of an individuals' effective capacity to operate with autonomous responsibility in the society they live. You must begin to think that «political democracy and civil rights get freedom of other kind to grow [...] as well as the economic one, because they give voice [...] to people who are in condition of poverty or are more vulnerable»³³. This is necessary to foster the full development of social welfare.

30 A. Sen, *The Idea of Justice*, Cambridge (MA): Harvard University Press, 2009, pp. 1-27.

31. Ivi, pp. 253-60.

32. Urbinati, *Liberi e uguali*, cit., p. 35.

33. Sen, *The Idea of Justice*, cit., p. 348.

5.4

The principle of “horizontal subsidiarity” as the cornerstone of a new urban welfare

Then, among "freedom of other kind" you also must include that which prepares citizens for sharing and reinforcing ties in the civic care of common goods. If these are impoverished, they impoverish everybody and if they are enriched, they enrich everybody³⁴. But you must be aware that most disadvantaged lower classes in the immediate future suffer the common goods dissipation's effects. Because common goods and social cooperation ties reinforce themselves around them and they represent for the weakest and poorest people one essential base of support. Consequently their eventual destruction or degradation can mark the transition from a situation of poverty to no survival conditions. So, for the same income, citizens live in an area lacking in common goods are poorest than citizens live in an area rich of common goods. Now, the adoption of this perspective in relation to the urban welfare must aim at enhancing the close relationship that can exist between quality of the urban environment and everyday practices of use of its inhabitants and users. From this point of view, the community builds its "space of living " through its "use" of the territory that is a multiple and time-varying use. According to Crosta, in fact,

certainly we do not edify the territory [t]hrough the use we make of it, but we build our "space of living" continually redefining terms of our relationship of use with territory, with all those like us use territory, and with the institutions, rules and habits that regulate territory use. [...] If we think of [territory] as our space-of-living, then we are dealing [...] with a heterogeneous space, the composition of which varies over time, in relation to type, methods and time of our activities.³⁴

34. G. Arena, *Cittadini e capitale sociale*, in "Labsus.org", (5 June 2007).

So the quality of the urban space

does not depend only on the amount of equipment - infrastructure and services – present in an area and on the quality of projects and "objects" located on territory. It also and especially depends on relationships established between the material city and people who live the city and on concrete opportunities that city offers to the people about "living" the city. This refers to living the city well, daily, according to citizens possibilities and needs and making it their own, transforming and adapting it to their own conditions and tangible and intangible requirements. In this direction, you advance the idea and the possibility of an "urban welfare" which focuses on a wider conception of goods and conditions that support the capacity of communities and individuals to "feel good" in the city. This conception in particular includes spaces and practices of active citizenship, understood as activation and responsibility from citizens about forms of care and common goods treatment. In a more broad sense, it has to do with routine and daily behaviour, through which all subjects can more take part in the urban life and they can reach well-being generated by the city material, social, cultural "space"³⁶.

The "public care" of these goods, mainly left in the local public authorities' care, is revealing itself insufficient. This is both for economic reasons, arising from the progressive reduction of public financial resources and for the poor ability of public administrations to diffuse collective intelligence. This means poor ability to systematize the legacy of knowledge and competences present in society and get the various civic energies to cooperate each other for these local common goods care.

Therefore it is necessary to mobilize further, additional and not replacement resources than the public ones. According to the art. 118, last paragraph of the Italian Constitution³⁷, this "added value" research is addressed to society, organized or not. And this is possible within a projected and coordinated action of fight against the urban common goods degradation and in favour of goods "civic care"³⁸.

35. P. L. Crosta, *Di cosa parliamo quando parliamo di urbanistica*, in M. C. Tosi, *Di cosa parliamo quando parliamo di urbanistica?*, Roma: Meltemi, 2006, p. 93; id., *Pratiche. Il territorio è "l'uso che se ne fa"*, Milano: Franco Angeli, 2010.

36. Bellaviti, *Disagio e benessere nella città contemporanea*, cit., p. 3.

37. «State, regions, metropolitan cities, provinces and municipalities promote the autonomous initiatives of citizens, individually and in combination, to carry out activities of general interest, on the basis of the principle of subsidiarity».

38. G. Arena, G. Cotturri, *Il valore aggiunto. Come la sussidiarietà può salvare l'Italia*, Roma: Carocci, 2010, *passim*.

It is equally essential the research of tools and facilities which be able to facilitate this change of philosophy centred on exchange, co-operation, systematization of all participants in the shared care of spaces and urban services of common interest. It has to do with the public ones, provided with powers, resources and necessary means for the proper care of common goods and the civic ones, available for implementing their energies, resources, knowledge and skills to take care of community goods.

5.5

The civic care of urban spaces

The civic care of urban spaces should be based on four lintels, which represent the action lines you have to undertake at the local level in support of redevelopment of such goods and to change route of de-gradation and civic disaffection. These actions are characterized by a different degree of practicality and they bear on sectors/different objects (training, communication, regulation, urban environment redevelopment).

5.5.1. The shared care of urban spaces

The first development line recorded in these recent years concerns the implementation of regulations about the so-called small-scale projects, concerning urban fabric or local interest³⁹ and then the wide-scale diffusion of forms of urban green spaces civic adoption⁴⁰. Lastly, there are various initiatives, developed at municipal level, to foster urban creativity through temporarily custody of the so-called "legal walls" to young members of street art. Let us pause over the first proposed regulator schedule because it represents the only model has been entered in the state ordinary legislation. The small-scale projects are the directly enforceable administrative tool of the constitutional regulation contained in art. 118, last paragraph. They also are provided and regulated in the art. 23 D.L. November 29, 2008, n. 185 converted into law January 28, 2009, no. 2. According to this law, groups of "organized citizens" can formulate to the authorized territorial local authority operative proposals for the realization of local interest and easy practicable works, without any burdens for the authorized territorial local authority.

39. C. Iaione, *Microprogetti, storia di silenzi tra assenti e rigetti*, in "Labsus.org" (5 February 2009).

40. V. Taccone, *Quelli che il parco*, in "Labsus.org", (12 June 2011), as well as M. C. Marchetti, *Nuovi spazi pubblici: il verde come bene comune*, in "Labsus.org" (18 June 2012).

The costs necessary for the proposals formulation and realization of the works supported by proposers are allowed in deduction from income tax to the extent of 36%. This is valid waiting for the implementation of fiscal federalism will allow the deduction from tax of authorized authority⁴¹.

The small-scale projects represent a model to start a civic regeneration of urban spaces because they allow citizens to directly take action to solve the problems of the local community or neighbourhood in which they live. Citizens can organize themselves into groups, temporary and without permanent organization too, to do care actions of local common goods. The positive effects of this tool do not limit themselves to direct realization of the carried out small-scale project (e.g. redevelopment of a degraded urban space). First, they have pedagogical and ethical effects. As far as every kind of initiatives that apply the principle of “horizontal subsidiarity”, who takes part in these kind of initiatives realizes he is not anymore a simple passive citizen who suffers administration, its obligations and prohibitions. But he starts to become aware of being able to be a citizen individually more responsible in his daily life (e.g. adopting lifestyles that minimize the cost for the community, such as mobility shared, waste separation). And then, he realizes he can be a citizen can offer knowledge, skills, resources, solutions to the administration. So those who get going for urban small-scale projects become a better citizens because they become more caring to their city problems and more willing to help the administration in local common goods care.

Then, these initiatives determine multiplier positive effects and imitation, because they foster the development of the sense of belonging to the community and the neighbourhood and sense of defence of the same effects also in those who do not directly take part in the initiatives. If municipality workers or employees constantly set right the urban decline situations, citizens are not inclined to protect the fruit of the municipal intervention, as it would happen instead if other citizens directly invested their time and resources.

41. S. De Santis, *La detassazione dei microprogetti di interesse locale*, in “Enti non profit”, 2009, p. 17.

Moreover seeing some people who engage in taking care of the local common goods can also induce other citizens to take the initiative in protecting and caring for the same or other local common goods. In their turn, the local authorities consider the citizens no longer subject bearers of problems and complaints, but allies willing to cooperate to the solution of general interest problems for the local community.

From a more strictly legal point of view, the first aspect that has to be deepened is the identification of the authorizing mechanism and its possible limitations. The law allows a mechanism of tacit refusal, according to which after two months by submission of the proposal from organized citizens «the proposal itself will be rejected. Within the same time-limit the local authority will be able to arrange the go-ahead of proposals made under the paragraph 1, by reasoned decision and also adjusting the essential stages of the implementation and the execution time process». In any case, the small-scale projects cannot repeal in part to planning instruments in force and safeguard clauses of adopted planning instruments. These projects are also subject to the consent of the authorities responsible for the protection of sensitive interests (e.g. art history, landscape and environmental conservation) .

However, from the operational point of view the local authorities first "can" and actually "must" adopt a special regulation to regulate the activities and procedures, relating to the realization of small-scale projects. This is necessary for implement of ordering about the small-scale projects. The adoption of the regulation is not compulsory. The regulation could be replaced by a framework act of the Municipal Council that regulates administrative procedures and structures for its implementation, playing directly on the national disposition. About the single instances, the local authority provide for adopting an “approving reasoned decision” of proposals submitted by citizens. This decision must regulate the essential stages of the implementation and the execution time process and, if necessary, it must involve other individuals, authorities and offices concerned, in addition to providing assistance and prescription.

Anyway, for the success of this policy, the work of organization, communication and training within the administrative structures of the local authority will be crucial. This happens because it has to do with a cross and innovative, strategic policy. It is cross because it puts itself at the crossroads of different local administrative functions and therefore it requires a unique flexible and lean control room, (out of department office, purpose temporary office etc.). This control room must be located as far as possible in contact with the political and administrative leadership of the municipal administration and it must be able to communicate, interact and relate with the various departments and offices of local administration.

But, above all, its being innovative requires administrative staff equipped to communicate with citizens in a collaborative, flexible and not formalist way. Therefore it must be able to give up the traditional scheme in which the administration interacts with citizens in an authoritative, hierarchical, rigid and formalist way. However, at the same time, the administrative staff must have appropriate qualities and so the capabilities to facilitate civic dialogue, leadership, authority. So, their aim is following and going through these projects and their promoters. This activity will require a very careful selection and training of personnel who will be put at the head of implementation of this policy.

The Italian regional administration also can play an important role in encouraging the diffusion of this administrative tool. In fact, the major obstacle to the start-up of small-projects is represented by the "brevity" of the law. At present, the Italian regional administration also can do nothing and let the scope of application of the national law execute itself through the mere local regulatory intervention. However, the Italian regional administration may "extend or reduce the scope", defining better the type of intervention you can propose, field and limits, and it can also clarify the nature of the private proponents, generically defined as "groups of organized citizens". It is not clear whether it can modify the procedural mechanism of silence rejection. On the contrary, the principle of the deduction is mandatory. Finally, the Italian regional administration can approve, by municipal resolution, guidelines broadly containing criteria for semi-binding on the local authorities or a type regulation that local authorities can accept or adapt to their needs.

5.5.2. Public-civic partnership form (abb. pc_p)

The second line of intervention should aim at favouring the creation of forms of public-private non-profit partnership for the protection and care of the local common goods. The reference model should be found in the American experience of Park Conservancies (from now on called "pc") or Business Improvement Districts (from now on called "BID"). It has to do with contractual or institutionalized forms of collaboration between different local stakeholders (i.e. individual or institutional philanthropists, associations, NGO, local businesses, citizens, residents, merchants, estate landowners etc.) and between them and local authorities.

In the case of pc it has to be with donative NPO, that is non-profit organizations originally established on the initiative of informal groups of citizens interested in taking care of a particular local common good - such as "friends of the xxx park". These organizations subsequently structure themselves in a formal way creating a legally distinct subject with the aim of collecting donations, in favor of the common good in question and systematically organizing the civic, voluntary initiatives for the management of local common good. In this case, the responsibility of those who manage the NPO is addressed primarily to active citizens and donors. In fact, if the common good management does not achieve significant results in terms of quality, the pc will lose out in terms of reputation and therefore it will not be able to mobilize civic resources, as well as it will not see confidence in the "donations marketplace" renewed. In other words, poor quality of management automatically translates itself in a reduction of civic participation and donations which inevitably tend to decrease. For this reason and in favour of this model success it becomes critical the ability of the pc to get full physical, management and financial availability with the local authority, through a management agreement. Above all, it is crucial the assurance that the current level of public financial resources intended to the considered common good will not be reduced. The public support reduction usually has negative consequences on those who become active to add time or economic resources to public powers and not to substitute or relieve the public authorities from their duties and responsibilities.

In the case of BID it has to be with commercial NPO, that is non-profit subjects (generally about public law) originally established due to a qualified majority's will of estate landowners in a given area and in order to provide additional services to the neighbourhood. During the start-up the BID activities are financed by an extra fee for all owners included in the BID. But during a long period their success depends on the ability to generate income, through fees on consumption and proceeds deriving from rental of areas for events. Therefore, in this case, the primary responsibility is towards the market. In fact, a poor management of common good will determine a reduced income capacity that would prejudice the funding of the activities necessary to ensure care, conservation and valorisation of the local common good.

According to a first approximation, the above-mentioned two forms of organization could be taken in Italy through the establishment of involvement foundations⁴² with conditional gifts ex art. 793 c.c.

42. Cf. A. Police, *Le fondazioni di partecipazione*, in F. Mastragostino, *La collaborazione pubblico-privato e l'ordinamento amministrativo*, Torino: Giappichelli, 2011, p. 39

The latter provide the opportunity to impress on the disposal of property a specific purpose by apposition of a burden, but they do not provide the property separation (see art. 2740, paragraph 1, c.c.), or by assigning to the foundation the trustee role, what would guarantee the property separation.

Also the New York Foundation may represent a useful model to experiment. But it has to do with the foundation traditional model of community or allocation, being tested by some foundations (see Cariplo Foundation and Foundation for the South) in the social services field. In this case, the foundation, created especially for the protection of the common good, would not directly manage the well, but it would restrict itself to intermediating. So its aim will be to finance projects for the common good care by single citizens, groups, non-profit organizations present in the territory. This is possible through resources deriving from the property income or from that special funds in which movable and immovable property, object of donation or other disposal of property, flow into.

5.5.3. Everyday subsidiarity: individual behaviours control, habits and urban civic duties

The third line of action should have object nudges (that is incentive administrative measures)⁴³ or, better still, empowerment policies of citizens in the care of the general interest and therefore of common goods. It has to do with what elsewhere is called the "everyday subsidiarity"⁴⁴. It must be part of the so-called "communication of citizenship", that is an administrative strategy not based on the administrative authoritative powers exercise, but on actions aimed to convince citizens to share the effort necessary for achieving targets of general interest through their behaviour or their resources⁴⁵.

43. R. H. Thaler, C. R. Sunstein, *Nudge: Improving Decisions About Health, Wealth, and Happiness*, New York: Penguin Books, 2008.

44. Cf. C. Iaione, *La sussidiarietà quotidiana*, in "Labsus.org" (12 July 2010).

45. Cf. G. Arena, *La funzione di comunicazione nelle pubbliche amministrazioni*, Rimini: Maggioli, 2004, p. 69.

In other words, the citizen that saves energy, makes a sustainable use of water resources, follows the rules of waste separation, chooses public transport or shared mobility rather than private means, keeps in good condition his own property (e.g. he restores the facade, cleans or clears the sidewalk from waste, debris or snow, he prunes trees that threaten to damage public roads, he disposes of dead leaves that could cause a fire or they obstruct rainwater drainage channels etc.), can he be considered a citizen who plays "activities of general interest, on the basis of the principle of subsidiarity"?

The citizen who in his private life or in the private goods management has a good behaviour directed at reducing or even eliminating the "collective problems" (or rather, for the community) and consequently contributes to reduce/eliminate the need for organizing a public response, can he be considered an active citizen must be "facilitated" by the authorities? Or, looking at the phenomenon from an opposite and inverse point of view, can you speak of real civic obligations of the owner or the "private citizen"?

You can argue that in some cases it has to do with behaviours already required by law, but in other they are irrelevant conduct by law and it would be good that they remain in that way. Someone else could argue that there is any subsidiarity in the action basically. It is valid at least until the public authorities do not really try to establish an alliance with the citizens in order to protect the public interest through better governance of private property or individual conduct.

Some of the cases shown could fall under the civic principle of *neminem laedere* (ex art. 2043 c.c.). After all, you can speak of non-contractual liability if you do not shovel the snow on the sidewalk in front of your house. In some cases or ordinances this could be considered as fixtures and someone slips on the sidewalk because of my negligence (see the case *Soederberg vs. Concord Greene condominium Association*⁴⁶).

46. Cf. <http://www.socialaw.com/slip.htm?cid=19699&sid=119>

You could say the same thing if you were a farmer and you do not worry about correctly "maintenance" of my irrigation systems and consequently to this a train crush happens (see the case of the apple orchard of Merano⁴⁷). Similarly, if you were a landowner and you do not periodically clean the rainwater and spring water channels and (see the landslide of Montaguto⁴⁸ which for several months has blocked Puglia's rail links with the rest of Italy, or flooding of Sarno caused by the lack of cleaning of the channel system Regi Lagni by the reclamation consortium, however commissioned by the Italian region of agro-nocerino-sarnese⁴⁹). Here I am referring to the numerous hydro geological instability phenomena caused, as appropriate, by the lack of involvement or malfunction of those who at least in theory are cooperatives between the owners of areas that require coordination of public and private interventions for the soil defence, water regulation, irrigation and environmental protection and that is the reclamation and irrigation cooperatives⁵⁰. On the contrary, other cases, such as the failure to paint a facade or whatever the state of decline and abandonment in which you leave your property, could fall within the Anglo-Saxon concept of nuisance. This refers to limitations on the use of your property (that is also in the Italian Civic Code with illegal entries and the alleged damage). In relation to this subject a very recent Freyfogle essay⁵¹ is quite enlightening. And this doctrine would be in correspondence with the art. 42 of the Italian Constitution where it establishes that private property meets its limits in order to ensure its social function. From a more oriented to subsidiarity point of view, in my opinion, there is also a different possible configuration of cases in question. They could be incorporated as part of what I have initially defined "subsidiarity in small daily choices"⁵². You think of the sustainable use of natural resources or energy, waste separation, urban mobility regulation that incentives collective or shared transport and disincentives private or individual mobility.

47. Cfr. http://www.libero-news.it/news/389717/Merano__agricoltura_troppo_spinta_tra_le_cause_del_disastro_.html

48. Cfr. <http://www.montaguto.com/modules.php?name=News&file=article&sid=724>

49. Cfr. <http://www.cittattiva.net/?p=132>

50. I. Salvemme, *La sussidiarietà nei consorzi di bonifica*, in "Labsus.org" (6 July 2008).

51. E. T. Freyfogle, *Property and Liberty*, in "Harvard Environmental Law Review", (2010), 75, pp. 95 e 107.

52. C. Iaione, *Progetto "cambieresti?"*, in "Labsus.org" (5 November 2008).

This last sector has also been the subject of a case study⁵³ around which you have tried to build an individual-based regulatory scheme. It is centred on the individual behaviour to combat climate change with a strategy from the bottom⁵⁴, without waiting for the leaders of the earth will agree on regulatory frameworks contrasted by strong economic and national interests.

Actually it has been shown that it is a paradigm concretely applicable also to other sectors⁵⁵. The simple rediscovery of bicycle, public transport, shared mobility and then sustainable mobility⁵⁶ or development of tourism spread in hospitable communities⁵⁷, renewable energy, local biological products, waste separation and more sustainable lifestyles valorisation, and so on, are all examples of how you can contribute to protect the general interest, by making small adjustments to daily life⁵⁸. You can say the same if in their everyday lives citizens care about managing better their private assets, to improve them or correctly preserve them, in order to they give a benefit or do not cause damage to the community and therefore to the general benefit.

Ultimately, each of us, in obedience to the rules of good civic behaviour in their private life, both with regard to the use of private property that with regard to the use of public goods, can make its contribution to protect the “general interest, or better, using a more common terminology, the common goods⁵⁹. Citizens can become the best allies of the government.

53. C. Iaione, *The Tragedy of Urban Roads: Saving Cities from Choking, Calling on Citizens to Combat Climate Change*, in “Fordham Urban Law Journal”, 2010, 889.

54. F. Spano, *Cosa puoi fare tu per l'ambiente?*, in Labsus.org, (29 October 2009).

55. Simply visit the category "Sustainability" section of the "Cases" and the "Documents" of "Labsus.org" in which you describe the possibility of life in a sustainable manner that is in harmony with nature and their community.

56. S. Chiamonte, *Una giornata con la famiglia Attiva*, in “Labsus.org” (8 February 2010).

57. V. Taccone, *Albergo diffuso: la vacanza è sostenibile*, in “Labsus.org” (19 June 2011).

58. M. Pistilli, *Un anno di greenMe*, in “Labsus.org” (7 February 2010).

59. Cf. Arena, *Beni comuni*, cit.; C. Donolo, *I beni comuni presi sul serio*, in “Labsus.org” (31 May 2010); C. Iaione, *L'acqua bene comune*, in “Labsus.org” (3 May 2010).

But the alliance only can exist where there is "individual social responsibility ". In fact, all of these behaviours are based on the assumption of responsibility towards the others and towards the common goods⁶⁰. These citizens feel and they are responsible people, not in the punitive sense of the word, but in the accountable sense. It has to do with citizens who feel invested with power. This power is about to do something to give answer to collective problems with individual behaviour in everyday life and mostly borne on the private sphere. Gregorio Arena has shown how the subsidiarity also implies a social individual responsibility, because it is based «on the assumption of responsibility by citizens towards the common goods, of which they autonomously decide to take care with the administration. In other words, it can be said that active citizenship is the assumption by individuals, alone or together with others, of social responsibilities, that is responsibilities towards the community»⁶¹. In this case the responsibility is daily confirmed, day by day and it is implemented in the private sphere even if it bears on the community to some extent.

Also in this case that alliance between public authorities and citizens is realized and in our view it is implied by art. 118, last paragraph. In fact, according to the paradigm of everyday subsidiarity, citizens decide to take care of the common goods through everyday behaviours directed at minimizing of collective problems or the costs reduction for the community that generate need to organize a public response. But the public authorities suddenly do not stop to take care of such common goods. Indeed, the public authorities find unexpected allies in the citizens who decide to embrace the everyday subsidiarity. If you want, it is a form of spontaneous and informal alliance.

It is possible and desirable that real civic duties arise from the introduction of responsibility policies based on the everyday subsidiarity. On the contrary, these policies should be aimed just to become a source of legal production/protection of incumbent behaviours for the care of the common goods.

But how do you authenticate and thus promote surfacing of a an individual social responsibility in the everyday life? Sure, you might appeal to legal principles, more or less vague, formalized or less in laws regulations.

60. M. C. Marchetti, *Sviluppo sostenibile? Dipende da noi*, in "Labsus.org" (15 November 2009).

61. G. Arena, *Responsabilità sociale individuale*, in "Labsus.org" (10 March 2007).

For example, Fabrizio Fracchia has explained that a solid normative basis for the sustainability policies could be found in the principle enshrined in art. 3-*quarter* of D.L. no. 3 April 2006, n. 152. According to this article «all human activity legally relevant in accordance with this code must comply with the principle of the sustainable development»⁶², in order to ensure that satisfaction of needs of current generations cannot compromise the quality of life and possibilities of future generations.

If we remember behaviours types exemplified at the beginning, we realize that it has to do with rules of behaviour that are the object to already existing habits. For example the "decorations", that is the improvements the owners have improved on its properties like painting of the facades for celebrations of the twentieth anniversary of the parish. The rules of conduct can be the object of "civic habits" whose training and implementation can also be "favoured". Therefore, it can be induced by the public authorities with formal regulatory frameworks (such as in the case of waste separation or public regulation of private mobility).

The habit is the source par excellence of "everyday subsidiarity" and so the "subsidiary right".

In my opinion, this type of subsidiarity predominantly must live in their customary laws. It is about individual behaviours that can be object of habits or social norms, as they call them in the USA⁶³.

In Italy, Fabio Merusi, already after the constitutional reform of Title V has caught the bond between subsidiarity and habits. In fact he points out how «recognizing the citizens autonomous initiatives, the principle of subsidiarity also recognizes a source of normative production from civil society and so a non-state source, therefore not connected to the codification logic». Merusi also has said that "[r]ecognizing that associated citizens can carry out general interest activities according to the principle of subsidiarity means recognizing the existence of a right alternative to the state one. As in this case, if it is favoured it means establishing that if there is a right produced by individuals, it cannot be replaced by the public one, unless it affirms its own exclusive jurisdiction»⁶⁴.

62. F. Fracchia, *Sviluppo sostenibile, dalla teoria alla pratica quotidiana*, in "Labsus.org", (10 August 2009); as well as Id., *Sviluppo sostenibile e diritti delle generazioni future*, Torino: Giappichelli, 2010.

63. C. R. Sunstein, *Social Norms and Social Roles*, in "Columbia Law Review" (1996), 903.

64. F. Merusi, *Il diritto "sussidiario" dei domini collettivi*, in "Rivista trimestrale di diritto pubblico" (2003), 1, 77.

At this time, in the United States too, the social norms are object of renewed interest by the law and economics and sociological doctrine. But the novelty of this approach is its connection with another line of research now in vogue, the behavioural law and economics. In fact, the customary cases we are talking about (whether positive law or law in development phase) have a common feature. All of which can have the effect of internalizing negative externalities. In other words, the economic costs produced by individual behaviour or general lifestyles generate a cost for the community and produce a general reduction in collective welfare.

Think of the increased quality of life (in economic terms too) and a more attractive local community where people adopt behaviours and lifestyles that lead them to take much better care both of spaces and local public goods, and private goods (as immediately repairing a broken window or immediately cancelling the graffiti on the building facade to avoid giving the impression that the breaking windows or doing other graffiti represent socially accepted behaviours and, therefore, not "expensive"). The reference to the broken windows theory of Wilson and Kelling is immediate⁶⁵. Another important aspect is the effect of greater social control that this regulatory framework involves. And, in fact, the field in which this theory has already given a good account of itself is just the community policing that has allowed to redevelop different American cities⁶⁶. This approach has been able to change attitude and role of the administration (in the specific case, the local police) as the citizens one⁶⁷. Exactly as Gregorio Arena hopes⁶⁸.

65. G. L. Kelling, J. Q. Wilson, *Broken Windows. The Police and Neighborhood Safety*, in "Atlantic Magazine", March, 1982, pp. 29-38, that develop the intuition of J. Jacobs, *Death and Life of Great American Cities*, New York: Vintage Books, 1961.

66. R. C. Ellickson, *Order without Law: How Neighbors Settle Disputes*, Cambridge (MA): Harvard University Press, 1991; Id., *Controlling Chronic Misconduct in City Spaces: Of Panhandlers, Skid Rows, and Public-Space Zoning*, in "Yale Law Journal" (1996), p. 1165.

67. N. S. Garnett, *Private Norms and Public Spaces*, in "William & Mary Bill of Rights Journal" (2009-10), 183.

68. G. Arena, *Cittadini attivi. Un altro modo di pensare all'Italia*, Roma-Bari: Laterza, 2006.

Finally, a warning methodology follows. You must daily to build the subsidiarity. Generally, the social norms prosper in "homogeneous communities" (close-knit). In order to build good civic habits in heterogeneous communities, like almost all communities of western and industrialized countries have become you must necessarily resort to the "common good" methodology. This is not a fixed and unchangeable object or objective. Instead it is a dialogue and deliberative process in a dynamic and constant way that builds and rebuilds values and object-goods (tangible or intangible) really unifying the heterogeneous community. It has to do with the unifying values that may vary over time and space. From here need to investigate and delve into the institutions of deliberative democracy originates⁶⁹.

5.5.4. The public communication and the creation of local networks via Web 2.0: the wiki-subsidiarity

The fourth and final course of action in the field of urban spaces could consist in public communication initiatives (advertising campaigns, promotional activities about events/fairs and reward tools) primarily directed to new generations of educators, public officials and citizens. mounting stand at fairs Could be part of this line of action, as Exposcuola, ForumPA, CompA and other local or sectional fairs that have object professions and training of new generations (e.g. Young-Future for you⁷⁰). Moreover reward tools could be also enable activated as the prize for the subsidiarity Labsus has carried out in collaboration with the Foundation for Subsidiarity and ForumPA.

69. G. Arena, F. Cortese, *Per governare insieme: il federalismo come metodo. Verso nuove forme della democrazia*, Padova: CEDAM, 2011.

70. It is YOUNG, Fair about orientation in the world of school and work Cf. <http://www.udinefiere.it/099/youNG+2011>

As part of the instruments incentive could also initiatives directed to solicit citizens' groups, associations, informal groups, cooperatives, schools and sports clubs to submit proposals in order to promote the leading role of civil society and citizens' involvement in the care of local common goods (e.g. "Reggianiperesempio"⁷¹; "RAEEporter"⁷²). But this communication strategy primarily should aim at the implementation of all these logistics, communicative, institutional tools, for the creation of local networks of citizens considered individually or jointly, committed in or interested in the protection of local common goods. This networking action heavily should invest in new technologies and social networks.

You think of creating a map of the common goods (on the model of <http://www.use-it.be/europe/>; www.partecipedia.org) or platforms for initiatives sharing aimed at taking care of the local common goods (e.g. <http://my.barackobama.com>; <http://seedspk.com/>) or, finally, systems that involve citizens in monitoring the state and protection of local common goods (e.g. <http://www.everyblock.com/>). Finally, the map could be translated into creation of structures, research centers or local laboratories in order to facilitation and mobilization of civic resources, as well as the dissemination of techniques/methods of public deliberation, participation and collaborative governance for the treatment of local common goods (e.g. Placemaking; Minneapolis Neighborhood Re-vitalization Program). In this regard, you have talked of "wiki-subsidiarity"⁷³. Always more frequently, you wonder about how new technologies and Web 2.0 can improve transparency, efficiency and democracy of the "public governance" of general interests.

71. "I reggiani, per esempio" ("The Reggio Emilia people, for example") is a project promoted by the Municipality of Reggio Emilia, which was founded in 2008 with the idea of discovering and bringing out the rich capital of the local community through a collection of stories and good practices of active citizenship and social responsibility. Cf. <http://www.comune.re.it/reggianiperesempio>

72. Foto RAEEporter (RAEEporter, in the edition 2010) It is a campaign to increase awareness about the environmental importance of proper recycling of RAEE promoted by ECODOM in co-operation with Legambiente. Cf. <http://www.raeporter.it/premiazione.aspx>

73. Cf. C. Iaione, *La wiki-subsidiarietà*, in "Labsus.org" (12 September 2011).

They are minted evocative and fascinating linguistic forms as “open government”, “wiki-government”, “wiki-crazy”, “we-gov”. The Obama administration in the USA⁷⁴ and the English one of Cameron have made of them a workhorse for gain and maintain the confidence of citizens. The Ministry for Public Administration and Innovation tried to chase it but it did not go beyond the Italian traditional solutions. There have been only many beautiful words in a legislative corpus largely remained unrealized and a new bureaucracy. But none has yet asked how the "civic government" of general interests may be encouraged by the introduction of Web 2.0 tools. Therefore, in order to promote subsidiarity you must begin to think about using Web 2.0 tools. Moreover, between subsidiarity correctly understood and Web 2.0 exist numerous contact points. Both have the same morphology: they live if there is a network of individuals who does not only link the passive nodes, but it provides themselves tools to create a productive and active constant interaction. So it must be about active and not passive nodes. Both of them appeals to collective intelligence, that is that heritage of knowledge, learning, skills, and abilities widespread in society as in the Web and that are willing to join without a strictly individual profit. This is more evident for the Web 2.0 (you think of tools like blogs, forums, chat, and systems like Wikipedia, YouTube, Facebook, My-Space, Twitter, Gmail, WordPress, TripAdvisor) as for subsidiarity. We never cannot tire of telling this. Subsidiarity we speak about is based on supportive and responsible freedom of active citizens who decide to make their time and capabilities available to taking care of general interest. These citizens decide to share with public authorities responsibility for governing, that is to give answers to community problems through small daily gestures, as well as with real systematic measures of civic care of the common goods. Therefore cooperation becomes an archetype of subsidiarity. In fact, the basic feature that subsidiarity and Web 2.0 share consists in the fact that cooperation between the various network nodes is incorporated in their DNA. Both of them live if network nodes cooperate, share, put together, collaborate, dialogue, face, act together. A common goal is established through a constructive and moderate comparison, the necessary resources are shared and the responsibilities are allocated in view of the common action. And conversely success as failure is shared in the resolution of community problems.

74. Cfr., sull'*open government*, http://www.whitehouse.gov/the_press_office/TransparencyandOpenGovernment/

Cooperation from the bottom is increasingly necessary to solve problems and govern processes that public authorities are no longer able to face and solve. This often happens because of guilty inertia, sometimes because of evident inability or lack of resources, but more often because it is about problems so complex, branched and rapidly evolving to not allow the public traditional administration any more to have skills, resources, knowledge, speed to represent an adequate response to the needs of an ever-changing society. It is the syndrome of the Red Queen: you have to leg it to stand still in the same place and you have to run very fast just to move.

Now, you have not to care about the reasons of this failure. Instead you must take up this challenge and opportunity. Citizens must do it, and there are many of them who are tired of seeing their city and their country languish and who think they have ideas, imagination and feeling for work directly for the common goods. Moreover many of them are not content with delegating the task of intermediating with the public administration to their representative for 4-5 years. This must be done by those politicians and those administrators really want to work with a spirit of service to the citizen and develop innovative solutions to provide answers to the community problems and keep up with the speed of a society 2.0.

This will involve politics and public administration in urgently rethinking their role. They should turn from monopolists of care power for the community interests into managers of a "PA-platform" capable of supporting the shared, civic solution that contributes for general interest issues. Of course we speak about most part of them and not all of them. The public monopoly of the public interest care is an atavistic tare that public authorities will have difficulty shake it off. But you have to start trying, if necessary alone, even from the bottom. Web 2.0 can represent the way that citizens and local administrators can test to wake up even who now has the highest public responsibilities.

After all Web 2.0 is a formidable instrument of cooperation. In fact, it facilitates and simplifies surfacing and organization of this feel of shared care of common goods. Web 2.0 may allow citizens and innovative public administrators to channel these civic energies, to direct them towards the right goals, to equip them with the necessary resources so that they can successfully complete episodes of common goods civic care. There are several tools that seem appropriate to support the aspirations who wants to be an active citizen. These are tools that help you to associate also temporarily or team up with other active citizens in order to offer their contribution to the community.

These tools allow citizens to return part of their time and resources, especially the intangible assets, to the community in which they live. They also aware that individual success can never be completely separated from the context in which you live, you grow and you operate. The common goods that we have and the community that welcomes us, puts we up, cares for us, that is the context is in fact land and people who allow us to lead a civil, healthy, prosperous life, full of those privileges that many communities in developing countries yearn for. It is a wealth that we take for granted and that we do not become aware of and take care anymore. But if we do not change route, we will soon dissipate this wealth of common goods.

Then Internet 2.0 can help very much citizens who want to spend himself to return anything to their communities. You range from sites which allow the sharing of good practice (Participedia; Civic Commons), knowledge (Code for America; Pro Civibus) or time and energy for the public interest (The Good Gym), to useful platforms to raise problems for the local community (ePart; Fixmystreet; Decor urban no; Police.uk), tools for geo-referencing of general interest activities or information (Ushahidi; Seedspeak; Fontanelle, C-Tag; Crowdmap; OpenStreetMap; Openforesteitaliane; Dating the change), sites for fundraising that can be used to provide means to take care of common goods (Eppela, Kiva, JustGiving, Kickstarter, Schoolraising; Zopa), up to real online communities designed to put in contact those who want to change things (Shinynote; Jumo; Developmentcrossing). There are also sites that promote the everyday subsidiarity (Zipcar, Velib, Snapgoods; Sharesomesugar; Neighborgoods; Tourboarding).

Therefore, you need a platform for subsidiarity 2.0. All the more when you consider that real platforms for civic action are still rare. At least in the present state of our knowledge. You intend for these Web 2.0 tools that have been designed and engineered with the primary purpose of protecting citizens to cooperate in order to the care of a well-defined collective problem or a particular common good, local or national. This is possible under the aegis of a public administration that wants to “help” the autonomous initiative of citizens to carry out general interest activities, through a Web 2.0 tool accompanied by online support tools in material reality, as required by art. 118, last paragraph.

Most likely Critical City approaches this type of instrument. This is a role-playing game designed to encourage young people to leave home, explore their own city territory, develop and implement small-scale projects of urban spaces care, learn and identify other citizens willing to work on the same project and thus also improve the social cohesion of the reference community. But in this case the coordination with public authorities lack. Instead, Change

by us NYC is the tool developed by the City of New York to allow citizens to share their ideas to improve the city and it prepares them for transforming their projects into concrete actions with help of other citizens. Also Seedspeak seems to answer the same philosophy.

In Italy, an experiment with characteristics close to our ideal has not yet been set up. It is to imagine an institutional tool to allow civic meet up. Many people are already working on a web platform conception that aspires to offer a complete and unique answer to needs and challenges posed by the wiki-subsidiarity. But will the institutions be able to take the opportunities that it can open in the general interest and the common goods care?

5.6

The services of common interest

The services that are of "special significance" for the local community can be considered real common goods⁷⁵. For example, urban mobility, especially if it relies on public transport and sustainable mobility forms, such as cycling, represent instruments that improve the individual and collective well-being of community's members, as well as a strong tool in the fight against inequality. But the same could be said for the shared management of other local public services such as water service or the service of electricity distribution. The referendum battle on local public services management (from now on called SPL), ended with the net victory of "yes" in June of 2011, was played on the contrast between people in favour of municipality at all costs and those confirmed for privatization of services of general economic interest, that easily could be defined "services of common interest."

75. In this vein, F. Trimarchi Banfi, *Considerazioni sui "nuovi" servizi pubblici*, "Rivista italiana di diritto pubblico comunitario" (2002), 5, 594, argues that "in art. 43 of the Italian Constitution the relevance of the activity as a service to the public come before the possible service assumption by the State of public authorities or users community' and she mentions D. Sorace, *Pubblico e privato nella gestione dei servizi pubblici locali*, in the "Rivista italiana di diritto pubblico comunitario" (1997), p. 52, who speaks about public services "in the metajuridical sense" ; but before cf. F. Merusi, *Servizio pubblico*, in *Novissimo Digesto Italiano*, vol. XVII, Turin 1970, p. 219.

Yet, the meaning of the first question was essentially to restore the liberty of local communities self-organization that has never questioned by the European Union⁷⁶. Now, this freedom of choice has been restored also into the Italian legal system and you must begin to consider a "third way" with respect to the two types of management so far contemplated from national law and practice. In fact, between municipal socialism and town liberalism it is possible a third way about the principle of "economic democracy".

5.6.1. The third way of non-profit utilities

The non-profit alternative is not unrealistic at all. Instead it is an operative solution practiced in many industrialized countries. For example, the majority of local public services in the United States is managed with this type of organizational typology. And in Europe too, examples of local public services are not rare, such as the water ones, managed by non-profit organizational models.

But what do non-profit utilities mean (NPU)? It is an organizational model, usually of private law, that: a) involves all stakeholders and, therefore, first of all the citizens, in the property or, at least, in the ownership of a SPL; b) does not provide an entire distribution of useful earnings to several members, but their almost exclusive reuse for the strengthening/modernization of infrastructures and/or for the improvement of the service quality. According to the first point, it has to do with management forms in which citizens are no longer mere users because, although with different degrees, are involved in the services management. You range from co-property of the infrastructures or individual who supplies the service, to collaboration in the strategies definition and services evaluation, going through forms of direct or indirect representation, in the organs of government. In fact, where citizens do not own the NPU they are still the owners, in the sense that they are able to control and direct management decisions through the user community representatives or independent experts who sit the NPU organs of government.

Under the second aspect, in a NPU rate receipts primarily are used to cover operational costs and debt financings costs (that is payment of interests on financing for investments about network or service development).

⁷⁶. Cf. C. Iaione, *Le società in house. Contributo allo studio dei principi di auto-produzione degli enti locali*, Jovene, Napoli 2007.

Instead, business net profit is not addressed to the dividends distribution except in the discount form on the rates applied to citizens. In fact, in principle profit is ploughed-back to ensure the strengthening of the infrastructure, its modernization and thus its efficiency. On the contrary, if you analyze the budgets of the past 5 years of the big companies that manage networks for general interest services, such as highways, electricity and gas, you will realize that there is an almost total alignment between business net profit and dividend. This means that almost all the profit is allocated to shareholders remuneration and almost nothing to network strengthening. This would not happen with a NPU. In the event that the profit exceeds what is required for these interventions financing, it can be set aside as capital buffer to insure against the risk of unexpected costs, to keep down the cost of debt financing cost, for future development needs. The profit can be redistributed among users in the form of rate discount (usually for weaker sections of the society only), or, finally, it can be used as aid for other general interest services, however characterized by a lower profitability. Ultimately, reinvestment of profits clause for infrastructures strengthening and modernization or for service in favour of users improvement, along with governance mechanisms that ensure the representation of citizen-users in the spl company, are the two load-bearing axes of a NPU.

5.6.2. The cooperation of users and communities

The NPU have a theoretical framework that includes different organizational models. The examples and organization modalities can be classified into two big categories: users cooperatives/associations and foundations for the SPL management.

The first model is tested in Melpignano, in the province of Lecce (Region Puglia), where there is a community cooperative for the production of energy from renewable sources where partners are both the City and the citizens. These contribute to the project by providing their houses for the installation of solar panels and they receive in exchange the produced energy at zero cost. The profits generated by the surplus energy sale are reinvested in infrastructures and services for the local community.

In Italy there are some examples also in the water service management. Above all they are realities in mountain areas where the aqueducts were built and continue to be managed by a citizens consortium. One of these cases is the Mezzana Montaldo Consortium in the area of Biella city (Region Piemonte), where there is the “Consorzio Acqua Potabile” (Drinking Water Consortium) that manages the aqueduct in a non-profit organization.

5.6.3. Foundations as a municipal utilities

But, looking at larger NPU, the organizational model changes and it is very close to the our foundations one. The best known example is that of Glas Cymru in Wales, which governs a water supply network that works for more than three million people. It is a company limited by guarantee, that is a corporate company that does not have shareholders and that allocates each financial surplus for the consumers benefit. In place of members looking for compensation of their holdings, there are "members" selected depending on skills, experiences and interests can put them in condition to perform effectively their role within the NPU. And the main task of the guarantee company members is to check the work of management is carried out in accordance with the highest corporate governance standards (it is precisely the "UK Corporate Governance Code" all listed companies must conform themselves). This happens in order to ensure the NPU a commercial performance, in terms of service quality and cost efficiency, that is comparable to, and better than it, those of other water utilities with shareholders. A panel composed of independent personalities from the NPU manages the members selection process in such a way of ensuring that the structure reflects as closely as possible the range of consumers and bearers of interests served by the NPU.

Members have the power to appoint and revoke three executive directors and six non-executive independent directors provided by statute.

In the United States the NPU system is even more consolidated. Many cities and states administer local services, such as the aqueducts and public transport. This is possible not by corporations (i.e. our Italian SPA), but by public authorities. They are nothing other than trusts, so very similar to our Italian foundations that do not provide for dividends. In New York, a trust of this kind is the Metropolitan Transport Authority (MTA), the entity that manages public transport.

Trusts are private law instruments and choice falls on them because the public organizational model does not favour the funding through the debt financing. In fact, markets have difficulties to trust opaque instruments as public law companies. Therefore the NPU organizes itself according to the private law model, but with the sole objective of qualitative and efficient management of service and not of risk capital remuneration in the short term, through the dividends sharing to shareholders, public or private they are.

5.6.4. Investing in NPU

The repeal of provision that has allowed the return of the invested capital in the water services management may discourage traditional private investors, who pursue an "adequate" financial return by the invested risk capital in the short-term logic. It is said in the absence of an adequate remuneration the risk is that you cannot attract the private capital necessary for infrastructures financing, while the lack of funds is just the problem of local services management in Italy.

First, in many cases individuals do not bear their economic resources at all, but they come into this management companies "in debit". In many cases the private managers resort to complex financial engineering operations to find the resources necessary for the modernization of infrastructures. They do that loading down new-acquired utility with the debt and, in the worst cases, they are forced to squeeze the utility with the distribution of very high dividends in order to repay the debt incurred with banks to acquire it.

And, then, there is no reason that a NPU is unable to occur on the capitals market to ask for the funding of its infrastructure development plan through a credible project. Indeed, the International case study just shows that NPU have big recourse to debt financing. Moreover, a non-profit organization can achieve better conditions just because it must reinvest all earnings by statute in the effective and efficient service management, not having immediate obligations of remuneration.

However, there are investors interested in intervening in sectors or operations functional to creation of "positive externalities", such as transport infrastructures, production of energy from renewable sources, water, water and urban health infrastructures. They are, for example, sovereign wealth funds, pension funds, insurance companies or European banks, that is the so-called "long-term investors" (ILT). They do not invest in these sectors only for social responsibility that in many cases is embedded in their mission. They do this because it has to do with sectors with a huge development potential and because the risk is lower. However these individuals look for a remuneration of the invested capitals, but as a corresponding for lower risk they accept the prospective of long term return. In short, the long-term investors do not pursue immediate and full remuneration of shares participation. In this case, the profit logic is consistent with the general interest mission.

So you should see that at least in the case of ILT involvement it is possible the minimum remuneration of the invested capitals these individuals require to make available their capitals of long-term projects. Alternatively, you should facilitate the meeting of NPU and ILT through the arrangement of financial instruments designed just for the infrastructures financing at the service of local communities. UE and ILT efforts go in this direction for creating project bonds⁷⁷.

5.6.5. Freedom of self-organization of local authorities

The legislation on the public services management, repealed by referendum (article 23-bis of D.L. 25 June 2008 no.), did not prevent by itself the recourse to the NPU. As we said the Community legislation is less restrictive than the referendum object and now it expands again all its enforcement importance (cf. the Italian Constitutional Court, 2011, no. 24) and it does not interposes any obstacle to this type of management.

In fact, the introduction of the NPU could have been theoretically pursuable according to the pre-existing legislative framework and it could be so depending on the European Community regulatory framework in force. You could and you can establish that individuals who participate in tender for the service award or the private associate selection of a mixed-activity holding company are also or even only non-profit. Moreover you can assign a higher score in the notice for competitions for a non-profit management. As a last resort, you could try to argue that NPU is a form of management assimilated to in-house providing, because at the origin it shares the nature of the hypothesis alternative of "effective and useful recourse to the market."

⁷⁷. On 19 October 2011 the UE Commission adopted a legislative proposal to launch a pilot phase of the "Europe 2020 Project Bond Initiative". The initiative aims to revitalize and expand the capital markets in order to finance European infrastructure big projects in the fields of transport, energy and information technology. The advances of the initiative are published in http://ec.europa.eu/economy_finance/financial_operations/investment/europe_2020/index_en.htm

It is important to remember that there is not a valid solution in all circumstances. The type of management to be taken greatly varies depending on the contexts and you must think about the type and size of the service. In this sense, abrogation of art. 23-bis is very important just because it brings again the freedom of choice into the local services organization. Therefore, it also brings the possibility to assess what is the administration modality of SPL more functional to needs of different local communities and different geographical, social, cultural contexts. Why do change where the public administration or the private administration have given a good account of themselves?

After the abrogation of art. 23-bis a national legislative initiative had to follow. It had to be an initiative able to reconcile the different needs and motions, to stabilize the normative framework and, in particular, to introduce an independent authority for regulation and control of performances of various public, private, or no-profit administrators. In fact, the autonomy always must be accompanied by the responsibility. And then the regaining of local communities freedom of choice must be balanced by direct regulatory instruments aimed at giving local public decision makers a sense of responsibility, as well as service managers. In fact, whatever freedom encroaches into arbitrariness and embezzlement if it has no limits and balances. Instead, a law has followed; it essentially confirms the previously in force regime and it reproduces the dichotomy municipalizing-privatization undamaged, with the exception of the integrated water service. But the referendum has had subject all the integrated water service.

5.7

Conclusions: need for direction for the social innovation and the urban regeneration.

The ambitious project outlined here inevitably requires the identification of a individual who facilitates this organic program of urban welfare regeneration by civic maintenance of the local common goods. The search for a subject-pivot able to undertake the change here proposed, focusing on the exchange, collaboration, systematization of all participants heads towards two directions. The participants are the public ones with power, means and resources necessary for good care of common goods and the social ones available to field their energies, resources, knowledge, skills to take care of the community goods.

On the one hand, you need to concentrate on observing the local public administrations that in recent years have innovated or they are innovating their organizational structures in order to govern with the network. In this respect it is important to set up organizational units dedicated to the function of facilitation. It has to do with organization of listening and dialogue in the same local administrative machinery among its different aspects and above all with the outside world. It is important to set up organizational units dedicated to the structuring of stable alliances between these aspects and community, its active or even latent resources.

First, you need a government control room in the network placed as close as possible to the apical functions of the local authority and, if it is possible, relating to interdepartmental coordination, transverse to the typical functions for homogeneous sectors of the administration organized in view of the features and services offer rather than the demand of these functions and services, according to topic, rather than needs. And then it takes a structure dedicated to the institutional communication of this deep organizational innovation and administrative action. You think of a "URP (Italian Office for Relations with the Public) of the government with the network," a public relations office that wants to activate itself for the public interest, a structure that facilitates the meeting between administration and active strong-willed, citizen. You need of a structure that approaches the distant and inattentive citizens to the shared administration, leading him up to the gates of "one-stop-shop for active citizenship" and does not discourage or frighten citizens and loads on their shoulders the task of simplifying the inevitable administrative complexity that a the general model of care brings with it. Control room, URP and one-stop-shop of active citizenship are the three elements of organizational innovation that an administration local needs in order to be able to administer with citizens and not just for the citizens only. It is no longer enough to organize venues for listening and for co-determination of public administration decisions. Although under this aspect you record interesting innovations, you are still under the old bipolar paradigm. Maybe it has to do with a more open administration, but it still has to do with an administration which aims to preserve the monopoly of the general interest care and to interpret the last will of people.

Otherwise, you must look to the outside of the institutional circuit. Under this second profile, it is reasonable to imagine that a very important role can be done by the disbursement foundations or communities and by foundations of banking origin. These social institutions have already well interpreted in several instances the role of "subjects of social freedom organization" (cf. the Italian Constitutional Court, 2003, no. 300) and they have covered the responsibility for institutional investors in the social innovation at the local level.

Therefore foundations should become promoters of civic maintenance local plans of local common goods. For example, foundations could fall support for civic small-scale projects street furniture into the context of their activities for the benefit of local communities. in particular They could facilitate the implementation of the provision on small-scale projects in two directions. The main action might be to launch locally notice of competitions for selection of some proposals about small-scale projects that have to be supported economically and administratively. In this way, citizens could also be relieved from the immediate outlay about the "expenses for the proposals formulation and works implementation " and moreover they could benefit from the tax breaks. As an alternative, foundations could avail themselves of the related tax break. Of course it has to do with verifying the feasibility of either solution under tax profile.

In a second direction, foundations could carry out an action of moral suasion toward the local public decision maker in order to approving the implementing regulations necessary to give effective and immediate operation to the model of urban governance shown here. Reputedly, you might also imagine creation of institutionalized partnership forms between the local authority and the local foundations, to put at citizens' disposal the administrative and economic reforms necessary for the implementation of urban design small-scale projects.

The national character does not conflict with the necessary development of local level actions that should implement it. It comes from two needs. The first is that you establish nationwide a pattern of action through definition of general guidelines and, therefore, it must be a minimum of uniformity in the activities of different foundations. This is necessary both for subsuming the good local practices (today already existing in this sector), within a basic model built on the virtues and defects noticed at the local level, and preventing escape by single foundations which may expose the entire plan to responsibilities, claims, expectations that would prejudice the plan success. Therefore it has to do with foundations as subjects of social innovation. The second requirement is to maintain at a central level monitoring and evaluation on possible inequalities that the implementation of a plan of this type could generate among different communities or territorial areas. The consideration of these inequalities could lead to the adoption of adjustment measures such as the creation of a "national fund for the civic maintenance of community goods", also with the financial support of the central institutions.

All this cannot mean at all that you should do without of the public authorities intervention or their administrative and economic resources. Nor this can legitimize their retraction.

In fact, the disappearance of the "public" would prejudice the ability to mobilize these additional civic resources you want to motivate for the local common goods care, with this action. A large part of society rightly does not intend at all to act in substitution of public authorities to facilitate their institutional tasks neglect.