

New Welfare Models and Community Enterprises: Commons and Sustainable Economy

By Roberta Caragnano*

The authoress outlines new welfare models and community enterprises, in the context of the Third Economy, with the aim of defining guidelines and interventions for the promotion of social enterprise and the strengthening of the social and solidarity economy. The Third Economy understands enterprise as an integral part of society and aims to create a new economic model that combines profit and sustainable development in line with the goals set by Agenda 2030. The goal is to define new development paradigms that put people at the centre, heeding the next generation. Sustainability is the file rouge of this study offering a rich review of the literature on the concept of the commons, while illustrating practices that have already been initiated. The essay also discusses the draft law on Community Social Enterprises as a welfare model, and concludes with de iure condendo perspectives.

Keywords: Welfare; Commons; Third economy; Worker participation; Social responsibility.

Introduction

Today's economic scenario is characterised by a paradigm that, on the one hand, consumes energy and resources and, on the other hand, produces both positive and predominantly negative impacts on people and on the planet and ecosystems. As such, questions need to be asked about the direction of the economic model towards which our economy is heading.

The COVID-19 global pandemic, in this regard, has made clear the interdependence between the global economic fabric and the fragility of every human being in the face of environmental, social and economic phenomena generated by unforeseen emergency situations.¹

This is the context for the Third Economy: a scenario in which the needs of citizens and communities weigh as much as the demands of shareholders and in which the entrepreneur directs the mission (free of mere philanthropic intent) not only towards the achievement of profit goals, but to community welfare.

It follows that the strategic and fundamental creation of a new culture, a new economic model is called for: the "Third Economy" crafted by intelligent entrepreneurs that combines profit and sustainable development in line with the

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¹Gregori (2020).

goals set by the 2030 Agenda for Sustainable Development. [...] We need a new civil economy and a new humanism guided by the concrete goal of defining new development paradigms that put people at the centre. Companies that have already been carrying out a new model of sustainable development for several years that, among other things, has been clamoured for in Europe, and that hopefully can be translated into a new approach towards the reconstruction of *Sistema Italia*.²

The essay aims, therefore, to initiate a shared process among the various stakeholders and, under the coordination of the Ministry of Labour and Social Policy, lead to a new civil economy and a new humanism to define new paradigms of development that put people at the centre and look towards the new generations.

In the documentary "The Third Industrial Revolution: A Radical New Sharing Economy," Jeremy Rifkin analyses precisely the aspects related to sustainability and the role of the new generations, which are central to the future of national systems. A new economic model, starting with addressing issues related to poverty and fair work, continuing on with climate change, aims to create a new pillar called the Third Economy Pact, in a general scenario in which technology dominates.

Given these premises, it seems fundamental to push questions about what can and should be the contribution that the management of the commons can provide in the search for the common good tout court in a political society.³ This is precisely the propaedeutic approach needed for the launching of the Third Economy, a reflection that moves the foundations from the concept of the commons that distinguish it from the "common good."

Sustainability, the common thread of the path taken, is an aspect of sustainable economy, which Italy presented between 2019 and 1920 in concrete technical proposals (with the Ministry of Labour and Social Policy). Italy also presented the need for a resolution at the level of the United Nations General Assembly in the Entrepreneurship for Sustainable Development that points to specific issues of sustainability, particularly to the role of social and solidarity enterprises for the purposes of sustainable development, especially in the response to COVID19 and in the phase of post-pandemic recovery. At the international level, in fact, the Resolution on "Entrepreneurship and Sustainable Development" with Italian comments was presented to the UN General Assembly and was accepted.

The complexity of the markets and the new scenarios of the globalised economy, in fact, impose paradigm shifts yet to be addressed, in order to make more and more system in the elaboration of shared planning that see among the assets constructive confrontation and dialogue, synergy and networks for development, territory, and sharing. The vision of the Pact aims at an integrated

²"Undersecretary of State Stanislao Di Piazza on September 28, 2020 visiting the international pharmaceutical group Chiesi Pharmaceuticals, at its main production plant and research center in Parma". See Adnkronos (2020).

³Mattei (2011); Veca (2015); Viola (2016). On the relationship between common goods and the realisation of social justice see Zamagni (2015) at 51-80.

and shared approach, with all the players involved, to evoke virtuous circuit that will guide and strengthen investment and, at the same time, create new and more qualified employment to achieve ever higher levels of development and quality of life.

To this end, the essay shifts the foundations from a rich review of literature on the concept of the commons, from Garret Hardin's studies to the present day with the legislative proposals that have taken shape over the years while also citing good practices. The aim is to provide initial scientific foundations on which to start a path of study and research that, starting from the interdisciplinary nature of the subject, refocuses into a field of inquiry that has as its beacon the "Third Economy" understood as a model of development that generates profits for the well-being of people.

Findings/Results

The Economic Debate on "the commons" from Hardin to Ostrom

The study of the commons found fertile ground in the Anglo-Saxon world in 1968 when Garret Hardin in his essay "The Tragedy of the Commons."⁴ published in *Science*, laid the foundations of his vision and initiated the debate that would investigate economic sociology regarding the exploitation of the commons.

The reference is to the Commons, i.e., the Anglo-Saxon designation of common lands. The author himself highlights the essentially economic nature expressing 'The very fact that the commons are free access and that there is no possibility of limiting the number of users leads to a situation where the rational behavior of each of them can only cause the degradation, the destruction of the resource itself, since they find themselves trapped in a tragedy of freedom based on an irresolvable conflict between individual and collective interests, with the inevitable prevalence of the former over the latter.'⁵ The starting point of Hardin's theory, therefore, is the dilemma between individual interest and collective utility, what he called the "tragedy of liberty in a common property"; a dilemma in which men "users" of the common good are trapped and only the state, an external authority, can put an end to the destruction and/or unwise use. Hardin, therefore, argued that the only way to avoid the tragedy was privatisation of the resource or its public ownership.

This statist vision in the 1980's was contrasted with a neoliberal vision viewed based on Milton Friedman's concept as the centrepiece of the doctrine which was based on deregulation, privatisation, and reduction of social expenditures. Further, at the political level, Margaret Thatcher and Ronald Reagan (whose famous phrase was "Government is not the solution of our problem; government is the problem"), were its major exponents.

⁴Hardin (1968).

⁵Hardin (1968).

The assumption was a market devoid of regulation and governed by market forces (supply and demand) alone, without any intervention by a state public authority in a broader concept, whereby common goods are market goods and the principle applies to them that a good belongs only to those who can pay for it.

To Hardin's thesis in 1990, in her study entitled "Governing the Collective Goods," Nobel laureate in Economics Elinor Ostrom contrasted a different view by showing that both centralised authoritarian management of goods and their privatisation are neither the solution nor without relevant problems. This theory was based on empirical cases which demonstrated the questioning of universally applicable models and pointed out that the set of individuals who are "users" of collective resources, under certain conditions, have the ability to manage natural resources in a way that is satisfactory to themselves with long-lasting resources.

It followed, according to his view, that community self-government could lead to proper management of the commons, thus refuting the dominant dichotomy between State and Market. This also demonstrated the existence of efficient and sustainable alternatives that could prevent the over-exploitation of collective resources and, consequently, also their destruction.

While privatisation of collective natural resources is not always possible (and therefore does not solve the problem of over-exploitation of resources), neither is socialisation the solution. As the economist Ostrom herself states "The choice of the bureaucratic Leviathan is not the only way to solve the dilemma of collective goods."⁶

On this basis, Ostrom defined eight "design principles" that can be considered "the coordinates of cooperative self-management of collective natural resources. The first principle the clear physical definition of the boundaries of the collective resource; the second, the congruence between the rules of appropriation and provision and local conditions; the third, the methods of collective decision-making; the fourth, the control of overseers over both the conditions of use of the collective resource and the behaviour of appropriators; the fifth, progressive sanctions; the sixth, the conflict resolution mechanisms; the seventh, the recognition of the right to organise by appropriators, and that is, the non-interference of external governmental authorities; the eighth, the multilevel organisation of the use of collective resources that are part of larger systems, so as to reduce their complexity and allow relatively small groups of people to self-manage the problem: easier indeed to solve a problem when people know each other personally and trust each other."⁷

⁶Ostrom (2002).

⁷Ricoveri (2013) at 134-135.

Discussion

The "Commons" between Economics and Law

The central point of the debate, however, intends to speak of the commons, either from the economic point of view as common goods or from a legal perspective that those goods tend to rise to universal rights. This has relevant effects, especially in terms of the policies that are put in place by states.

However, before going into the merits, albeit briefly, of legal issues, it should be pointed out that the economic notion of the commons is independent of legal and moral notions. The commons are tangible or intangible resources shared and enjoyed by more or less large communities; these are goods that in themselves, and because of their intrinsic characteristics, are considered in an objective "neutral" sense, with respect to other goods also being far from the concept of primary good and on which there is ample economic literature. Just to give an example in the literature, we refer to grazing as a common good, precisely neutral without moral meaning "good" or "bad" and that is, however, not primary good.

Underlying Ostrom's vision is not only the definition of "common good" tout court, but the management of the good when community (management) itself, as demonstrated by her empirical cases, is more effective than private or state management. According to Grazzini, "Ostrom's discovery that communities can consolidate relationships of mutual trust and self-regulate through common interests, common practices, constant communication, trial-and-error experimentation, and can develop high skills. The advantage over private individuals and the state that communities have a greater interest in conserving and developing the commons because for them the commons can be essential resources, and because they have direct experience with it, and thus in general (though not always) communities have the best expertise to manage "their" commons in a sustainable way."⁸

In detail, the Nobel Prize-winning economist herself, who, to remove all doubt, clarifies the distinction between goods that are under common property, over which a group of people who share the good can dispose of the use of the resource (and also have exclusive rights over its use), from goods that otherwise are of open access and thus freely available and usable by all, such as the sea, water, and the atmosphere.

With respect to the legal question, it should be pointed out, however, that there is no recognised unambiguous definition of "common goods" but rather a majority consensus to consider them as neither public nor private goods, neither tangible nor intangible.⁹

A general, dominant view considers those goods to be managed, precisely, in a communal manner and for general protection that anticipates preserving them for future generations. It follows that, from an abstract legal point of view, not

⁸Grazzini (2012).

⁹On the forms of governance of common goods as a parameter for their legal qualification, see Micciarelli (2014).

only a good tout court circumscribed in its physical and spatial dimension, but also other entities such as communities as well as «trusts managed in the interest of future generations, village economies, water-sharing devices, and many other organisational structures both ancient and contemporary» that can rise to the status of common good.¹⁰

However, the issue inherent in the nature and legal status of the commons remains a fact. Stefano Rodotà, who was among the first to raise the issue in Italian law, stated, ‘if the category of common goods remains nebulous, and everything and the opposite of everything is included in it, then it may well be that we lose the ability to identify precisely the situations in which the ‘common’ quality of a good can unleash its full force’¹¹. The eponymous Rodotà Commission-formed in 2007 drafting an outline of a delegated law to amend the Civil Code rules on public goods has defined as common goods “those things that express functional utility for the exercise of fundamental rights as well as the free development of the person.”¹²

In this sense, the concept of the common good, as anticipated, became linked to goods that rise to universally recognised rights. More specifically, Rodotà continues, the common goods “are those functional to the exercise of fundamental rights and the free development of the personality, which must be safeguarded by subtracting them from the destructive logic of the short term, projecting their protection into the more distant world inhabited by future generations. The attachment to fundamental rights essential”. Moreover, with respect to the commons he believes that: “The emphasis is no longer on the subject of ownership, but on the function that an asset must play in society. [...] Commons are diffuse ownership, they belong to everyone and to no one, in the sense that everyone must have access to them, and no one can claim exclusivity. They must be administered according to the principle of solidarity. Unavailable to the market, the commons thus present themselves as an essential tool so that the rights of citizenship, those that belong to all as persons, can be effectively exercised.”¹³

Ergo, they are not *res nullius* but neither are they open-access goods, and their management must be marked in such a way as to reconcile individual and collective interests in a vision that aims at efficiency and sustainability.

Hence, there also follows in point of law a still open question about the legal regime applicable to commons, in that subtle difference between subjective and objective planes. In the age of digital communication networks, the example of the Internet is fitting. The Internet is in itself a common good managed by the community of users where other networks patented by private entities, and among them those managing big data, have limitations to access, including with respect to

¹⁰Mattei (2017).

¹¹Rodotà (2012).

¹²Rodotà (2011); Mattei (2011); Rodotà (2013); Marella (2012); Quarta & Spanò (2016); Nivarra (2016); Quarta (2017).

¹³Rodotà (2012).

the discipline on patents and intellectual property. Wikipedia is another similar example; a worldwide encyclopedia managed by the community of user-users.

Common goods in this sense, understood as collective enjoyment, thus include water, the environment, education, communications as well as, for some, health, housing rights, parks, and social security.

Collaborative Economy and the Commons: What Relationship (brief insights)

Building on Ostrom's vision but with a modern twist is both the strand of study of the collaborative¹⁴ or sharing economy associated with the commons and the entrepreneurial vision of those who advocate a sustainable human economy.¹⁵

The collaborative or sharing economy¹⁶ is defined, according to the Initiative Opinion of the European Economic and Social Committee (2014), as those production and exchange activities that can be traced back to the 'traditional way of sharing, exchanging, lending, renting and giving redefined through modern technology and communities.'¹⁷ There are four forms of such an economy: collaborative consumption; collaborative production; collaborative learning; and collaborative finance, the latter of which includes crowdfunding.

To quote some of the literature, it is "a new model of production, one party shares an asset that belongs to them with another who has only an interest in using it temporarily and not in acquiring ownership. Functioning according to this description are time banks, leases that individuals can make on the Airbnb platform, and transportation contracts that arise between travelers who meet on the BlaBlaCar site."¹⁸

Among the earliest forms of collaborative economy that have emerged in our country, there is the (controversial) case of Uber for management in the transportation of people;¹⁹ but also Airbnb for the rental of vacation apartments.

The link between collaborative economy and commons, therefore, albeit in their respective divisions, is metaphorically well described by Quarta as a "circular image: a community can identify a good that enables the satisfaction of its needs and decide to take care of it; on the other hand, the collective work on and for the common good - and therefore: social cooperation itself - to create the community, cementing social ties."²⁰

¹⁴On the relationship between the economy of collaboration and the civil economy, see Bruni & Zamagni (2015); Zamagni (2007); Becchetti (2014); Becchetti (2016); Montesi (2016). On the evolution of the concept of civil economy in light of the demands determined by the pandemic and in the new vision, read The Florence Charter for the civil economy. The future after the Coronavirus, delivered to the President of the Republic, Sergio Mattarella, on 25 September 2020 at the opening of the second edition of the Civil Economy Festival.

¹⁵Spedicato (2010) refers, for example, to the peer economy, the collaborative economy, collaborative consumption.

¹⁶Smorto (2015); Benkler (2004); Moeller & Wittkowski (2010); Capecci (2015).

¹⁷Own-initiative opinion. Brussels, 21 January 2014. Speaker: Hernández Bataller.

¹⁸Quarta (2016); Quarta (2017).

¹⁹Caragnano (2016).

²⁰Quarta (2017).

The aspect that emerges and paves the way for an innovative and interesting line of study, and which we will also analyse below in light of the new vision of "sustainable" economy, lies in the way the common good(s) is managed for the protection and satisfaction of community interests.

On this point, authoritative civil law doctrine states that the law of goods 'represents the set of tech-nics by means of which the utilities of things are distributed among people, a set that encompasses, but does not coincide with, traditional real rights, because it also includes the techniques of organising the groups to which a situation of ownership over the goods is ascribed, techniques which, precisely, serve to plan the distribution of the utilities of the goods among the subjects participating in the organised structure whether it is a profit-making or mutual society, a nonprofit association or other'²¹, hence the intersection with commons, which finds the tipping point between property and forms of group organisation.

It is the opinion of the writer that within such new models of the sharing economy - also referred to as collaborative consumption - there are a complex number of activities and organisational structures based on a community of subjects as opposed to traditional-style systems and oriented in the direction of resource sharing, as well as the use of new technologies, the use of the Internet, geolocation systems, smartphones. While this makes the use of goods more usable and reduces the steps in the distribution chain, linking them directly to production and affecting the costs of services (which tend to be progressively reduced), it also generates problems on the side of both competition law and labour law, leading to a *tertium genus*.

New Models toward the Third Economy

This section analyses the current perspective in which the Third Economy is placed on a path that aims at the "humanisation" of the economy and the model of different and sustainable development (§ 5.1) - also widely taken up by the Catholic social doctrine both in the Apostolic Exhortation "Evangelii Gaudium" of 2013 and in the encyclical "Laudato sì on the care of the common home" of 2015 - that do not neglect the relationship between ethics and social responsibility of the entrepreneur (§ 5.2) and place the person at the center. The section closes with the already established experiences of Acqua Bene Comune and Teatro Valle Bene Comune (§ 5.3) and the *de iure condendo* framework of community social enterprises and new welfare scenarios (§ 5.4).

On the one hand, there are reported experiences that have placed the "common good" at the center, representing models, innovative and laboratory, of experimentation for the elaboration of a legal framework that gives normative status to "common goods"; on the other hand, the theme of welfare is viewed as declined both in social enterprises, with the proposal of further amendments to the

²¹Gambaro (2012). On the concept of goods, see also Grossi (2012).

Code of the Third Sector to broaden its scope, and in the perspectives of territorial welfare.

Sustainable Human Economy and Worker Participation

On the economic side of social entrepreneurship, California entrepreneur Peter Barnes, building on Ostrom's theory but revisited in a modern key, reiterates the idea of a human economy based on the rules of the commons economy that is sustainable. As such, he argues that the defense of the commons can be entrusted to nonprofit foundations with the goal of preserving the good for future generations.

Barnes himself, while recognising the value of profit, admits that the current capitalist system, strictly speaking, unloads environmental and social costs on society and proposes a third way of development that is based on the "humanisation" of the economy.

The model to which Barnes refers is that of the Alaska Permanent Fund Foundation, which annually remunerates citizens with dividends derived from the state's oil revenues; all in a logic of regeneration of the commons also in line with a vision of eco-rights of communities in a kind of legal consciousness that points to the enhancement and protection of the commons. In this setting, for example, would be the conversion of intensive industrial agriculture to organic agriculture that reduces pollution while preserving, on the one hand, the environment (reducing CO2 emissions but also the use of fossil fuels for industrial production) and, on the other hand, the health of individuals.

This would produce not only direct effects on the world population but also on the labour front noting that many diseases, including chronic ones, are a consequence of both the environment and nutrition. Moreover, from a strictly technical point of view, illnesses result in greater absence from the workplace and impact both the state system of support and protections, and the pension system as well as the health care system.²² The focus, then, is the tout court protection of goods such as water,²³ environment, health, technology, education, culture, to name a few.

In the same objective the theme of the "humanisation" of the economy, which sees many companies engaged in the forefront and where a part of the revenues is invested and reinvested not only in corporate organisations, is linked with a common thread to the legal-economic theme of worker participation and the construction and implementation of participatory models in companies.²⁴ The

²²World Health Organization (2011); Schmitz (2011); OECD (2012); European Network for Workplace Health Promotion (2013); United Nations (2013); Bell, Lutz, Webb & Small (2013); Varva (2014); Kubo, Goldstein, Cantley, Tessier-Sherman, Galusha, Slade, Chu & Cullen (2014); Pollak (2014); Tiraboschi (2015).

²³In Italy in 2011 there was a referendum on water as a common good; for further information, please refer to § *Water Common Good and Valley Theater Common Good*.

²⁴Treu (1988); Pedrazzoli (1989); D'Antona (1992); Cella (2000); Caragnano (2011). On the classification of the various forms of participation made by Baglioni which distinguishes it into antagonistic, collaborative and integrative see Krieger & O'Kelly (1994); Baglioni (1995); Molesti (2006).

connection between the two strands of study in the new and modern vision of the realisation of the aforementioned goals from the perspective of protecting the common good also has spillover effects on the territories for the enhancement of places and tourism.

At a conference organised in 2013 by the Sat Italia School²⁵, which aimed to share good practices in this regard, case histories of a number of realities were brought to light, and these included, to name a few, Loaker and Hotel La Perla in the Dolomites. The former (Loaker) had initiated a business model of so-called circular organisation, where choices are made following a vision that aims at democratic participation. The second (Hotel La Perla), in the vein of family management that aims to consider customers not per se but rather as guests to be pampered and to whom to introduce the scenic beauty of the area, has started a path shared also by other hoteliers that tends to enhance the territory but concurrently to also investment in social welfare. A part of the hotel's revenue, in fact, donated to the Costa Family Foundation Onlus that finances the construction of facilities for children in Tibet and Uganda²⁶ all with the logic of sharing and participation between ownership and employees.

Third Economy between Ethics and Social Responsibility of the Entrepreneur

Returning to the concept of the common good in relation to sustainability there is, therefore, the need to intervene, including from a legislative standpoint, on a definition of the concept that underlies the vision of the new development model of the Third Economy on which the government is working. We are, in fact, on the path toward a Third Economy that, generated by the need to guarantee the rights of each person, is now embarking on challenges called upon by the entire world.

The next decade will be opening in a complex scenario, as marked by a pandemic and suffering in which ethics seems to succumb to the ruthless logic of profit at any cost. The munitions market, pollution, and the struggle for water are among the most obvious manifestations.

Italy, especially in the last two decades, is credited with introducing new approaches and visions into the political and economic debate. It speaks of the common good and the centrality of the person as essential and unavoidable elements. A natural continuation of the thought by Olivetti its best exponent. He is the man who appears today to be of absolute modernity and is recalled every time the debate puts corporate welfare and corporate social responsibility at its foundation.

The starting point is the centrality of the person and their wellbeing in this case young people, who will have to live and manage the evolution of society oriented toward a model of sustainability of the economic system, in light of the themes of Agenda 2030. 'The central role of the person as an engine of innovation

²⁵La SAT ITALIA is a non-profit organisation founded in 2012.

²⁶Bartolini (2013).

and development, both in the enhancement of human resources in productive spheres with attention to the needs of citizens, whether workers, consumers, service users, savers or taxpayers, is a central theme of the current debate as well as of the warning from the encyclical of Pope Benedict XVI'.²⁷ The key phrase is "human capital."

More than models boxed in the norms of law, they will have to be legislated by giving breathing space to initiate processes. Article 41 of the Constitutional Charter defines economic initiative as a necessary tool for the realisation of the common good, without harming what the fundamental values of the person are.²⁸

This line of reasoning leads back to the real innovative content of the debate of recent years, that of the social responsibility of the entrepreneur, who, like a politician, assumes through his/her actions an obligation to citizens. It is by this route that one will secure the economy from unwise choices that feed the dark side of progress (speculative finance, munitions market, environmental destruction, water speculation). It is important, therefore, to start talking about community enterprises that operate for an innovative idea of profit: one that will contribute to the needs of entire communities (on this point see *infra* § 6). 'The economy will grow and develop for the common good and relational goods, thanks to concrete good practices. Not just a desirable and possible future, but a concrete ideal that will lead us to sustainability for Italy and the entire planet.'²⁹

In line with the innovative vision illustrated so far, a virtuous pair has taken shape over the years: that of Economy and Ethics, expressed in the all-Italian vocation to the Third Sector. The introduction of a new Code,³⁰ aimed at intervening in an area in which regulations were previously derived from other rights, is set to instil a new soul for the Economy; a State no longer a concessionary of models that left little margin for the needs of people, territories and communities. No longer resources to produce goods and services and then induce their consumption. 'In harmony with the goals of Agenda 2030 and the cry of alarm from civil society, a Third Pillar Economy between State and Market. A development process that has an ambitious goal, starting from the Welfare State and arriving at the Welfare Society. Work, no longer hostage to the market economy, but declined around the centrality of the person. A paradigm shifts and new visions in which passive and active labour policies are being redesigned.'³¹

²⁷Caragnano (2011).

²⁸Di Piazza (2020).

²⁹Di Piazza (2020).

³⁰The reference to the Third Sector Code (Legislative Decree 3 July 2017 n.117 and subsequent amendments) which has reorganised and revised the current regulations on the subject overall, defining, for the first time, both the perimeter of the so-called Third Sector and the entities that are part of it, with homogeneous and organic definitions.

³¹Thus in the Report by S. Di Piazza to the European Network on the Monitoring of Regional Labour Markets – ENRLMM. Annual Meeting – 15th Anniversary. Video conference – Rome, Thursday 17 September 2020.

Water Common Good and Valley Theater Common Good

More recent examples of economic democracy linked to the common good include Acqua Bene Comune, a public entity of the city of Naples, and the Fondazione Teatro Valle Bene Comune. Basically it is an entity established ad hoc and open to citizen participation that, based on the model of the French company Eau de Paris, is responsible for the management of water in the Neapolitan city in the interest of both the community and future generations.

Naples was the first Italian city to implement public management of water, following the Referendum of June 12 and 13, 2011. In fact, on October 26, 2011, there was the acknowledgement by the City of Naples (sole shareholder), of the transformation of ARIN Spa (Azienda Risorse Idriche) into ABC (Acqua Bene Comune). The Preamble of the Statute states that the special company 'takes its cue from the awareness that the profound transformations of law and economy on a global scale call for a rethinking of the category of public goods.'

Evidence of such a requirement is provided by, among others, the Supreme Court of Cassation United Civil Sections Decisions No. 3665 of Feb. 14, 2011 and No. 3831 of Feb. 16, 2011. Pivotal to the perspective if one has reason to adopt it, is the subversion of the principle that defines the characteristics of public goods according to the legal regime imposed on them by the state, given the latter's inadequacy, as a conceptual category no less than as a political entity to become the sole promoter of the interests of the populations, containing and directing the forces that carry out economy and law. By identifying goods according to their specificity and the nature of the benefit derived for the users, the category of common goods is delineated.

In the Statute of ABC we read: 'Common goods are said to be those goods which, although in the diversity of the relations that for each type are established with their respective users, express utilities directly functional to the free development of the human person and the enjoyment of fundamental rights. Common goods are informed by the principle of intergenerational preservation of utilities». The *quaestio* always there in the concept and legal framing of common goods, such as water.'

Another experience is that of Teatro Valle Bene Comune, recognised precisely as a common good in 2011 and awarded the prestigious Princesse Margriet Prize in Brussels in 2013. The history of the Theatre has its roots in a long diatribe of some artists and workers in the performing arts who demonstrated opposition to the privatisation of the same (Theatre) and who gave birth to a project that later, as mentioned, led to declaring the property a common good, in which national and international artists performed free of charge for three years, managing the Theatre in a participatory manner, despite the fact that from many quarters there were doubts about the legal status of the initiative, including formal aspects (on this point it should be noted that the Court ruled in favour of recognising the operation).

Over the years, the Theatre has given birth to the Teatro Valle Bene Comune Foundation (made up of more than 6 thousand members), a non-profit entity

established in the interest of culture and future generations and that has become a model and a laboratory of experimentation of innovative models, alternatives to the public and private ones, towards the creation of a legal system that recognises, protects and gives legal status to the common goods as understood. Aspect which is still being debated in legal doctrine today.

The Third Economy: Community Social Enterprises and Welfare Scenarios

The topic so far, albeit briefly analysed, of for-profit and nonprofit management in the current scenario, including regulatory, finds elements of contact with an evolving legislative framework.

Bill No. 1650³² has been filed in the Senate with the aim of recognising and supporting community-based social enterprises, making amendments to Legislative Decree No. 112 of July 3, 2017 on social enterprise in order to broaden the scope of the current law and allow social enterprises to carry out a range of activities precisely typical of community enterprises, again within the Third Sector.

As stated in the explanatory report, 'community social enterprise [is] a new way of organising the production in an ongoing and professional form of goods and services of interest to a specific community, based on the direct participation of the inhabitants of a specific place, who recognise themselves in common objectives of development and regeneration of assets referable to a specific territory. Community enterprises, therefore, are distinguished essentially by two characteristics: the benefit for the community of reference, created through a business activity aimed at combating phenomena of depopulation, economic decline, social or urban decay, and the participation of its members, the ultimate recipients of the benefit. In this sense, the open and development-oriented community enterprise, guaranteeing all its members non-discriminatory access to the goods and services it produces, with a view to the common good.

In the aforementioned proposal - in line with the perspective of progressive development of Community Social Enterprises - the full implementation of the principle of subsidiarity is realised in the opinion of the writer. This principle is realised both in its horizontal dimension (through the action of private entities that provide for the care of collective needs and activities of general interest both individually and in an associated manner with a subsidiary role played by the public authorities that intervene in function, of what is planned by private entities) and in the vertical dimension where subsidiarity is articulated in the distribution of competencies among the different levels of territorial government with the enhancement of the role of territorial entities in an increasingly strategic perspective of planning, coordination and, in some cases, even management of welfare policies. Ascoli, in this regard, argues that the future of welfare models should tend toward the search for paths and tools capable of dealing with the new

³²Bill no. 1650 on the initiative of senators Fenu, D'Alfonso, Comincini, De Petris, Provisions regarding community social enterprises. The bill communicated to the Presidency on 13 December 2019 can be consulted online on the website of the Senate of the Republic.

issues related to overcoming state/market dualism since, in a welfare mix or welfare society perspective, 'it is necessary to move toward forms of "co-planning" and "co-assessment" of social interventions on the territory in which the different actors (public and third sector) manage to build networks of social protection and welfare promotion that would otherwise be unthinkable.'³³

A path of territorialisation of welfare ensues. The network of public and private actors that emerges is called the "diamond of welfare" which represents a virtuous model of collaboration and coordinated action between State, Market, Third Sector, Families/Individuals. As such, in the division of competences of multilevel government, the national level guarantees the basic services, which concern the essential services recognised by law, while the local level becomes the most balanced environment in which the subjects of the diamond, as per the needs of the territory, articulate appropriate tools and models of second welfare sewing on the territory of reference the most suitable dress to the existing social needs.

A path that, in the new configuration of the empirical research also determined by the crisis and the continuous transformations of the economy, sees 'a progressive rapprochement of the four points, which tend increasingly to collaborate overlapping like the petals of a flower. Thus emerged a new configuration in which - in some territories and policy areas - State, Market and private social work together to provide solutions and answers for the well-being of individuals and families, considered not only passive beneficiaries, but increasingly subjects called upon to contribute responsibly and as far as within their means. In this new configuration, there coexist areas in which stakeholders from the four arenas act "mostly alone," and areas in which bilateral synergies are developed, up to cases-significantly increased in recent years-in which stakeholders belonging to the four spheres "network" and together design, manage, and produce programs and initiatives, marked precisely by a higher degree of sharing of financial and project resources'³⁴.

On this basis and in order to respond to the changing needs of the labour market [1] business networks together with cooperatives and consortiums [2] have become increasingly widespread, especially among small and medium-sized companies. This has also resulted in the economic crisis that imposes a paradigm shift in the vision of the role of the public entity and a necessary rethinking of development models. Lest we forget the role of bilateral bodies, which, however, assume a greater role in guaranteeing forms of assistance of a health and social security nature.

In this vein, Community Enterprises can represent an integral part in the new vision of welfare policies to consolidate and create added value, as well as greater competitiveness, and thus aim to create pacts of collaboration with the reference territory, in particular with local public institutions, concretely realising a system of second welfare responding to the economic and social needs of each reality.

³³ Ascoli & Pasquinelli (1993).

³⁴ Maino & Razetti (2019) at 34.

Conclusion

The *de iure condendo* perspective of this and in the whole path initiated at the ministerial level, put legislative measures in place that are based on a definition (including legal) of "common good." On the one hand this perspective rewards for-profit businesses supporting the common good and the community; As indicated to us by Article 41 of Italy's Constitution: 'Free private economic initiative [...] cannot be carried out contrary to social utility [...]' (meaning the Common Good). On the other hand, such a perspective must make it possible to build a "Third Economy" that is not an alternative to the first (the market economy) or the second (the state), but that serves to support them realise the principles of the Constitutional Charter.

This is the path of building a "Pact for a Third Economy" that is supportive of the state and the market economy. It is a path shared with social partners and businesses to initiate growth processes that also carry out co-designing in the management of the common good, extended to all businesses that meet positive requirements for the community. A path now to be started in such a way that can in the long term ensure that tomorrow will bring "enlightened" enterprises that manage common goods such as health, education, environment, water, highways.

Therefore, the concept of a sustainable economy is to be considered from a systemic perspective and in relation to employment policies in the vision of a development that is capable of producing employment growth, especially among young people, with policies and measures aimed at supporting growth and competitiveness. This is also reaffirmed by the European Commission, which in its annual survey on Employment and Social Developments in Europe (ESDE), published in the summer of 2017, highlighted the importance of investing in people and enabling them to take advantage of quality employment opportunities. These elements are the notable aspect of the New Skills Agenda for Europe, in order to support the development of citizens' skills to prepare them for a changing work world.

The Covenant today has been signed by eighteen of the most representative business associations in the world of corporate social responsibility: benefit corporations, B. corporations, community economy, circular economy, responsible consumption, social enterprises, and the world of cooperation, to name a few.

The goal is to initiate a policy dialogue to convey entrepreneurs' proposals through direct dialogue with policy makers by starting with the involvement of new businesses and, thus, experimenting with business models that also consider social impact.

Similarly, the aim is to involve new businesses, including those that also consider social impact. Additionally, the Project also aims to follow the cultural transformation by supporting all the events that have already been initiated that promote a new way of doing business: from the Florence Festival, to Regeneration in Parma, to the *Economie di Francesco*, to the Bertinoro Days to the Festival of Social Doctrine, from Festambiente to the Festival of Soft Economy, to name a few.

In conclusion, the path is also aimed at the establishment of an institutional container, such as a Study Centre, that can act as a Design Laboratory of the strategic vision and be a real lever, in terms of research and development, for the implementation of Covenant policies and actions. The model, that of Adriano Olivetti, who pioneered the idea of the factory as an idea of Community, is based on democratic participation in the life of the enterprise. Olivetti himself had shown how profit can create open communities that create employment and well-being, care for people and do business. The die is cast and the path set in motion.

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