Globalization and Competition Among Systems

Regulatory Capitalism and Administrative Cooperation: The Case of Social Rights

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***Abstract*—The paper looks at the possible role of administrative law and regulation in a period of economic crisis when the previous systems in place to protect social values have failed because their primary interest was in the market. The inter-systemic perspective highlights the role that regulation can have in balancing the needs of the market and those of citizens even in a globalized perspective in which must be reconsidered the role of administrative cooperation. The specific case of social rights is analysed as it can be understood as a cyclic quadrilateral whose vertex are represented by sustainability, feasibility, executability and capability of being judged and lie in the same circle that is the "legal reasonableness", and the challenges that it has to face in a situation of economic crisis magnify the risks, undermining the very existence of the binomial titularity/effectivity of the rights and the consideration and balance of the fundamental values of the system can avoid that the imperfect duties of which the state is titular might be at the basis of a dangerous dismantling of the idea of the welfare state.**

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I. GLOBALIZATION AND COMPETITION BETWEEN LEGAL SYSTEMS

Globalization is a phenomenon that has interested not only the economic system, but also the social one (science, culture, health, technology, etc.), which have gradually characterized themselves, in the light of the guarantee of their autonomy, in an independent and often different way from the schemes and matrixes of the national states.

Undoubtedly this is a phenomenon that started in the economic and financial area, but it expresses first of all a political idea, a political theory rather than an economic one (1). Due also to the absence of a clear distinction between the subjects operating in the political and economic sphere (2), during the years we have witnessed a homogenization of language, interpretative schemes, and "sensitiveness to some questions and insensitiveness to others" that brought politics to adapt itself to the needs expressed, or in a certain sense, imposed by the economic system.

In its simplest meaning globalization implies the elimination of all those spatial and temporal constraints connected to the conduct of business and human activities. But its effects on the regulatory national and international systems (including the European one) are evident. Focusing attention on the national regulatory systems, it is clear to everyone that it has led not only to the elimination of the existing rules, through the process of deregulation as it is known, but it has given rise to competition among (regulatory and administrative) systems that has had a great influence (not always positive in terms of guaranteeing fundamental values) on the production of the new rules that were supposed to substitute the ones considered as limiting for the market.

In fact, deregulation did not lead only to the elimination of pre-existing (state) regulation, but, in some cases, to the issuing of longer and more complicated provisions that have expanded dramatically the spaces within which the financial and economic institutions could operate. As some authors have pointed out, the negative consequences can be foreseen not only in the abolition of rules, but in the content of those issued in place of them or those that have never been issued (3). Rules that have not been able to regulate the financial system, or, it might be better to say, to protect the social one from the effects that the expansion or dominance of the first would have.

II. COMPETITION AND ITS EFFECTS ON SOCIAL VALUES

In addition to the influence that the liberal and neo-liberal political ideas had on the setting of the (new) regulatory framework, the effect that competition among systems inevitably had has to be taken into account.

Competition between systems, which is reflected necessarily in terms of localization of investments and productive structures, conditions the capacity of a nation to initiate and favour stable and dynamic processes of economic development. This necessarily implies, for the very economic and then social survival of the state, an adjustment of the legal framework in relation to the interferences/impulses coming from globalization imposed, among others, by the necessity to hold those human and economic resources which are essential for its existence; an adjustment that, for various reasons that cannot be analyzed here, did not lead to the rationalization of a legal system though the introduction of new rules which guaranteed at the same time the competitiveness (in terms of efficiency and economic convenience) of the system itself and the guarantee of those fundamental values necessarily involved. It did not draw any advantage from the impulses that came from the competition between systems because the political system (including the new Left) in a certain sense withdrew from its role of guarantor of the fundamental values of society, being "blinded" by the charm of the liberal or neo-

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liberal mythology that under the flags of deregulation and globalization not only have the previous rules been abolished but longer and more complicated liberalizing ones have been introduced. Rules that have substantially allowed any sort of behaviour, creating a downwards competition in values, to the advantage of the "rights of capital" (4).

So, if globalization on one side involves the elimination of constraints for the development of activities outside a single nation, in areas which result (for political, legal or economic reasons) as more convenient, guaranteeing the freedom of individuals to choose the location that is most convenient for their interests/needs, on the other side arise numerous questions connected to the abovementioned guarantee of fundamental rights, in relation to the prevalence of political ideas (such as the liberal one) which taken to the extreme give less (if any) space to fundamental (social) rights, and to competition among (legal and administrative) systems which naturally arises from this.

In other terms, if, on one hand, it promotes the freedom of movement of individuals (and businesses) allowing them to choose the legal and administrative system in which to operate, on the other, different issues arise connected to the organizational needs of the systems themselves and to the consequences that the changes in the organization and regulation (often aimed at guaranteeing a higher attractiveness of the system) have on the social sphere (e.g. the consequences on the guarantees of workers, on the systems of social protection, on social rights).

And in this sense it is sufficient to recall the human and social effects of the present crisis, which undoubtedly has solid structural, economic and mainly political foundations, whose origins have been detected considering different variables moving from so-called debtonation (5), to the pathological development of global finance; to the regulation of financial markets and their players; to the internal dynamics of financial capitalism, its systemic fragility, and the distortion that it imposes on the real economy; creating economic inequalities.

And it is precisely the consideration of the social impact of the crisis that requires a shift in the focus on to the attempt to bring everything within the framework of "constitutionalism" and, as suggested by Julia Black (6), the "rule of law doctrine", in order to limit the exercise of the legislative power first, and the executive one then, "by reference to higher norm and principles, in the light of a democratic governance".

III. THE ECONOMIC CRISIS AND THE ADEQUACY OF THE REGULATORY FRAMEWORK

The passage to the regulatory state, which summarizes the changes in the nature of state intervention represented a challenge to the traditional conception of the centrality of the very notion of state on the one hand, and for the guarantee of fundamental rights and democracy on the other. A guarantee that is more difficult to ensure in a situation of economic crisis like the one systems are going through in which the needs of globalized systems are barely reconciled with those of social systems.

The failure of (market) regulation, as much as the failure of (state) regulation, gave new life to the debate on the role of the state in the economic system, making the issue of the adequacy of the regulatory framework in order to meet the needs of the economic and social systems more urgent. And it is the "crisis" that recalls Zeno's Paradox of Achilles and the tortoise where the latter, thanks to the head start it gets, will never be overtaken by Achilles – if not by using the concept of infinity, with Achilles requiring an infinite time to travel through the infinite points that separate him from the tortoise.

The reference to the adequacy of the regulatory framework leads us to reflect on the relationship between state and economy and mainly on the contents of the legal rules, on the areas that it must intercept, moving from those aspects of weakness of the liberal paradigm that the economic crisis has shown and that have definitively debunked the "myth of the self-correction and self-regulation" of the market, showing the negative effects that its failures, and more in general the failure of regulation, had not only within the economic system but also in the social sphere.

And it is precisely the consideration of the social effects of the crisis which show the impossibility of considering the market exclusively in its narrower meaning referred only to its economic principle (of competition) on which it is based, a principle chosen in the political scenario, but it has to be considered in a wider sense, including other values (in addition to the mere economic one) such as the one of its stability, in a perspective that highlights the interrelations with the other (sub)systems, in particular the social one. From this perspective the first issue that arises is related to the adequacy of the regulatory framework.

The demolition of the myth of the viability of the market is certainly not without consequences. The first, and most evident, one is related to the necessity to set a legal and regulatory framework that responds to the needs of the market, in the wide meaning mentioned above, granting not only the respect of the economic principle, and therefore its (proper/correct) functioning according to this principle, but also its stability and more in general its compatibility with the general principles on which society is based.

From this perspective it is clear that the "norm", the rule, does not have an adaptive/conformative (to the market) value, a negative value, according to liberal theories. It cannot be treated as one of the imbalances that affect the competitiveness of the market, stifling the (economic) principle on which it is based, because the rule does not impose a different principle, it does not establish principles that are not in accordance with it. In other words the provision is just one element, one of the prerequisites of value, as well as the factual one, that the individual operator must take into account in order to make a rational choice; a simple assumption of individual behaviour. Therefore, not a denial of freedom of competition, the lack of which has been interpreted as an element that ends up affecting the same ethics of the market, in favour of particular interests of certain categories, imposing on the market an (economic) principle that is different to its "natural" one. The rule is neutral in itself, and

for this reason it can only have a technical content, to ensure the operation and compliance with the principle and values which characterize the system itself. In other words, given the option for the competitive model, the rule aims to solve a problem that is purely technical: "issue norms, establish bodies, provide criteria for the application and integration that are the most suitable to avoid any distortion or alteration of the economic reality considered" (7). In this perspective, therefore, state regulation is functional to the existence and the proper functioning of the regulated system, and in fact it does not denature its own features (in this case its being competitive).

It is clear, then, it is not the norm in itself that assumes a positive or negative value with respect to the competitive market, but the political choice that it expresses. And the choice not to provide rules for those who operate in a certain market can have purposes other than the simple compliance with the principle of competition and the belief in the ability of the market to regulate itself.

IV. From Regulation for Competitiveness to Regulation for the Market

In the light of the abovementioned observations the next step has to be referred to the consideration of the extent of state regulation.

In pondering the possible contents of the norm, it cannot be ignored that once a certain economic model has been chosen at a political level, the legal system has a triple task. The first is to provide a regulatory framework that, in application of the principles of solidarity and subsidiarity, guarantees the realization and operation of the economic system in itself, through a regulation that orders and coordinates activities, and structures and solves conflicts. The second is to guarantee its adaptation to the interference (which expresses need) from the social system, functioning as a guarantor of respect for those fundamental values which are the natural and intrinsic limit for the choice of the economic model. And it is from the point of view of the intimate interconnection between social, legal and economic subsystems that the third task of the legal system emerges, also in a globalized perspective, that of guaranteeing the application of the democratic principle, in relation to the principle of constitutionalism and the rule of law.

And this is because the relationship between law and economics places itself in a position of mutual inter-systemic relations which affect each other, so that the political system takes the stresses from the non-legal pole and transforms them into rules which will have their effects on the economic and social systems. Relations whose limit has to be found in the invariance of the organization or, more correctly, of those values around which the organization is built, that is, those characters and those networks of relations that determine the identity of the system itself. Relationships that, with reference to the Western countries, are declined in the constitutional moment, and more precisely in the invariable part of the constitution, and that outside of national experiences may well be traced in the international charters in which fundamental rights are provided.

In this sense "Die Systementsheidung", the global decision on the system cannot be separated from the realization and guarantee of that catalogue of rights and values that form the core of the political constitution. So a global decision that cannot ignore the individual, who, in accordance with the individualist neo-liberal theory, is seen as a free agent, but free to move and act according to the rules of private law, exercising his/her freedom in accordance with the overall decision.

The intervention of the state, therefore, must be functional to the competitiveness of the market, but at the same time it must be functional to the market considered as a whole and therefore must be realized through the introduction of external elements that ensure a balance also with elements of social policy in relation to which the state (or the public body) is the sole guarantor and at the same time limit those effects, particularly evident in relation to globalization, which leads to the construction of unequal citizenship in relation to the possession of means (not only economic) sufficient to ensure access to different and more convenient systems.

In other words, there should not be a separation between the economic and the social pole, the legal system having the duty to realize in itself the social order as well as the economic one, basing them on values that are implemented by the democratic state and expressed in the economic constitution, considered as the global decision on the organization of the economic life of a community. So, the role of the state, and of any public body, even supranational or international, in the economy should be the result of the interaction between non-economic value, judgments between citizens, consumer preferences between public and private goods, business decisions on resources allocation and growth, and the idea of a fair distribution of income between the owners of the means of production, on the one hand, and the system of power relations within the public sector on the other (8).

In this sense, therefore, the regulatory choice becomes, from a finalistic point of view, compatible with the choice of the competitive market, as it is structured in accordance with the binary (revenue/costs) system of the economic sector, the public regulation being in line with the choice of an economic model based on competition, and in accordance with the characteristics of the social system.

V. The Role of Administrative Law

In the light of the abovementioned observations the next step has to be referred to the consideration of the extent of state regulation.

And it is precisely on this point that, with regard to the economic crisis, the discourse on the role of the public sector is more pressing.

The point of reference must be identified in the meaning of the expression "proper and efficient operation of the system". It is clear, in fact, that if a perspective coordinated with the framework of fundamental values is

assumed, it is not possible to ignore, or rather not to include, those profiles more closely related to the stability of the system, extended to the protection of its investors/users.

And therefore, if the economic organization is based on the principle of competition, the possible (public) interventions on the market will move within a wide range that goes from a substantial non-intervention (where the conditions for perfect competition are fully realized) to a more or less consistent intervention, which can get, as today's reality shows, to the point of verifying the non-toxicity of financial products on the market. And it is on the latter aspect that market failures are more evident.

But here another question arises. How law, and with reference to the Italian system, administrative law in particular, through which these interventions are realized, is functionalized, or rather, in order to be legitimate and compatible with the chosen market organization, what form should (public) action take, and after this, which (public) interests should be pursued.

The delicate issue of the public interest as the basis for regulatory choice is intercepted, an interest that, in the light of the above, is functional not only for the market system, but more generally for its stability declined in the social context; a complex interest that includes the interest in the respect of the rules of the game, but that inevitably has many other facets: the interest in the promotion and support of economic freedom, meant from a systemic perspective as freedom of competition in the logic of the construction of trade relations between free and equal persons; an interest to which reasons of social utility, or general utility or social purposes cannot be extraneous, as well as the protection of freedom, security and human dignity, that is, that set of values that can be traced back to the invariable part of the constitution that act, together with the others, as a limit for the (political) choice not only of the economic model but of the contents themselves of the regulatory framework.

Therefore, not only an interest that the specific sector is regulated in accordance with a general principle, but that in it is ensured the operation of principles and values in relation to which the administration is in a position of neutrality.

An interest in the proper functioning whose indirect effect is the guarantee of the freedom of all the subjects (individual and legal) of the system. In other words, the public interest, because of its nature, does not disappear, but, on the contrary, it becomes complementary to and competitive with the other sources of regulation that the system generates and maintains as active, placing itself as the centre for the emission of principles and binding decisions according to the rules of public and administrative law. Therefore, the public interest, far from putting itself outside the sector, like a snarling guard dog, is located in it, through the instruments of legislation and administration, in order to develop its constructive and reconstructive parts, in an unending process of monitoring and control, guarantee and protection.

VI. REGULATORY CAPITALISM AND ADMINISTRATIVE COOPERATION.

It cannot be denied, in fact, that the particular economic situation that has arisen at the end of the first decade of the new century brought an appreciable reconsideration of regulation, considered as regulation for the market. A reconsideration whose starting point must be brought back, as said before, to the evolution of the system and, more particularly, to the failures of the regulatory system based primarily on a system of controls made by the regulatory authorities on the actors operating on the national and global market, that, in line with the prevalence of liberal teachings, stood on *ex post* forms of control of the activities of these actors, thus confining the scope of intervention of the regulator to two moments: the establishment of the rules, essentially strictly limited to the economic aspect, and the guarantees of their compliance, pursued essentially through an activity of control following the course of action, possibly confluent in enforcement proceedings. And in this way have, thus, been neglected, in the name of free enterprise and competition, the many facets of the wide and complex concept of vigilance, that, and the reality in which we live demonstrates it, are essential for the guarantee not only of the competitiveness of the market but also of its own and social stability as well.

Therefore, a control (vigilance) for the market that provides a structure allowing its operation and its compatibility with the social system at the same time, and this since the market (which is also an economic fact) cannot be meant as a more or less abstract self-regulating entity, but rather as an entity that is only partly non-juridical and that requires, for its functioning, a legal status that necessarily has to be traced to a system of heteronymous rules, provided by the legal system and an adequate institutional system as well with respect to which the (public) institutions play a central role. And on this point we should recall the words of Galbraith (9) who affirmed that the public authorities play a role in the market system that even more complex. Competition, when it exists, inspires feeling of ambiguity, a deep attachment to the principle of the market, but the refusal to suffer imperatives. And to alleviate the pain, government intervenes to help even when oligopolies have trouble maintaining their competitiveness. State intervention, although in abstract it can be traced back to the concept of coercion, in fact is a necessary evil that, if not properly calibrated, can very easily turn into a factor of abuse of competition.

It is with reference to these profiles that those imbalances, due to the influence of the liberal theories, led to that downward competition between systems, as observed earlier.

In this framework the state (the national public authorities) becomes only one of the possible actors in a wider system of rules, applied by the administrations and guaranteed by courts, in which the relations between state, market and other non-state actors are re-modelled from the perspective of the construction of a legal area, significantly defined as regulatory capitalism (10), which is characterized not only

from the point of view of the rules (mainly the administrative rules which bring to a growth rather than a reduction of regulation) but also from a subjective point of view, and that can represent the instrument through which is guaranteed that system of safeguards, and the same competitiveness of a healthy system that uncontrolled deregulation had substantially destroyed.

VII. THE CASE OF SOCIAL RIGTHS.

The abovementioned elements are particularly relevant with reference to social rights whose contextualisation in the framework of globalization and the economic crisis stresses moments of great uncertainty on the basis of which some legal scholars have written about the death of socio-economic rights (11).

The complex of challenges that globalization poses for these rights, from the perspective of their substantial profile (the one connected with the positive action that the public subject has to make in order to guarantee the service that gives consistence to the right) risks undermining the very existence of the binomial titularity/effectivity of the rights that characterises pluralist democracies: the first connected to the profile of the resources available for the realisation of those interventions aimed to give the due consistency to the aforementioned rights that, recalling a formula that has been understandably criticised, but that is unfortunately actual, are financially conditioned; the second concerns the profile of the (public) organisation responsible for the material offering of the services, essential for the satisfaction of these rights.

On this point it is sufficient to recall the negative consequences to which the Welfare State has been exposed because of the decrease of sovereignty of the national states in the economic sector, and deriving from the political-institutional vacuum following the handing over of sovereignty to the European institutions, and therefore to the absence of a capacity of the institutional system to regulate the productive and distributive processes aimed at the growth of a lot of economies as well as the degree of inequalities within the systems.

With reference to the Italian experience, it is interesting to focus the attention on the consequences deriving from the unfinished constitutional transition that has further fractured the framework of the institutional reference points, undermining irremediably what should be an integrated approach to the problem of disability and more in general of social disadvantage because of the undeniable unity and inseparability of needs.

The attempt to realize a resettlement of competences, in the perspective of the construction of a system that from devolution should have gone towards a federalist model following a stronger application of the principle of subsidiarity intended also in its vertical extension referred to the participation of private entities in the market of services, had a counter effect on the attempt at the rationalisation of the system ensured by the vicinity of the provider and the beneficiary of the service. In fact, it provoked the multiplication of the referring centres and of the regulation, because of the fractioning of competences, that ended up undermining the very effectiveness that was being pursued. A fractioning that is contrary to the direction indicated by the European Union in the Resolution of the Parliament of February 2009 on social economy that stresses the importance of the promotion of networks of solidarity for the guarantee of social rights, hoping for a stricter collaboration between public and private entities.

In addition to the problems considered, the situation is more complex if we move our attention on to the profile of the balance with other public needs, among which is that of the budgetary balance, that as a matter of fact has been moved outside the political-institutional spheres, to became reserved to the bureaucratic ones.

The consideration of these profiles opens up a different panorama for studies represented by the sustainability of these rights that cannot be separated from the consideration of those aspects connected with the due reduction of internal public debt whose redistributive function intercepts necessarily the services provided to the collectivity and that are coessential with respect to the satisfaction of fundamental rights unless the guarantee is not meant just in principle.

And it is in this context - in which the complete and effective guarantee of social rights must face the multilevel guarantee, typical of what has been defined in terms of social federalism, and the increasing scarcity of resources – the specification at a central level of the essential level of those performances concerning civil and social rights has a fundamental importance in order to guarantee the substantial homogeneity of the conditions of life and the socio-economic cohesion as an expression of the principles of equality, fairness and unity.

The relevance of these aspects emerges more evidently in a context characterised from the passage, common to the majority of the systems, from a logic of public performance to a logic of integration between public and private, synthesised in the formula of circular subsidiarity.

In this perspective the regulatory instrument, and therefore administrative cooperation, could assume a role of primary importance in the perspective of the realization of what Margalit (12) defines in terms of “decent society”, that is a society that does not humiliate its members offending their dignity, that does not allow the “excluded” to receive the paternalism of the state or the pity of the institutions.

The abovementioned situation can be represented, from a figurative point of view, as a cyclic quadrilateral whose vertices – that in our case are the sustainability, feasibility, executability and capability of being judged – lies in the same circle that is the “legal reasonableness”, identified in a systemic perspective, and as a result of that dynamic interactive operation, of Haberlesque memory, that is of a balance of value that, necessarily, cannot exclude the consideration of the economic aspects, as well.

With respect to the Italian experience, the evolution of the decisions of the Constitutional Court in the matter is

very significant. In fact, it shows clearly how with the passage from the abstract provision to the concrete guarantee of these rights the abovementioned cyclic quadrilateral must be taken into consideration, with a central role for the profile of economic sustainability, on which the feasibility depends (referred essentially to the provision at a legislative level of the service, based on the consideration also of the economic profiles, from which depends the exercise by the individuals of their rights and therefore the possibility to bring a case in front of a judge.

In fact the starting phase of guarantee, characterised by the so-called decisions aimed at adding the duty to give a certain service enlarging the categories of the beneficiaries of the single performance provided by law, followed a sort of step backward in the guarantee which therefore found a limit represented by the full guarantee of fundamental rights.

So, in evaluating the constitutionality of a legislative provision which for economic reasons limited the right of a disabled person to primary education, the Court stated that it was in contrast with the constitution (Art. 3 and Art. 34) because the reduction would cause "The lack of one of the factors which would favour the development of the personality" and moreover it could "risk to stop [it] if not to cause a regression". Making an appreciable balance between the constitutional values it stated the unconstitutionality of the provision, being based on an improper evaluation of capacity and merit.

In line with this interpretation a limit has been identified on the discretion of the legislator represented by the provision of the indefeasible nucleus of guarantees which permit a complete satisfaction to the right. So, again, in relation to the right to education, but referring to a legislative provision which reduced the numbers of hours of support teaching despite the degree of disability of the student, it has been stated that the "organisation of support teaching by the schools cannot ... compress or breach that right recognised to the individual by the Constitution... and support teaching must be provided in a substantial way, that is with interventions that are adequate to the degree of disability".

In this perspective, if the principle of equality from the beginning represented the turning point for the development of social rights, the fact that they are financially (economically) conditioned cannot bring to postulate their inexistence. The fact that the state has an imperfect duty cannot represent an element that brings to the denial of the same right but at the most it is an element that, as Sen (13) would stress, leads the way to a fecund public debate and eventually to a proper pressure.

Going back to the example of the cyclic quadrilateral, the reference to the balance among values shows the impossibility for the economic burdens to cause a complete dismantling of the Welfare State, and therefore the denial of social rights, but they should lead to a remodelling of the structures that characterise it. Otherwise the worse Kelsen would win, that according to which all the vices of a law would be just formal so the politicians of the day would simply need a majority to do as they like.

[1] See L. Gallino, "Finanzcapitalismo. La civiltà del denaro in crisi", Turin, Einaudi, 2011, who underlines that neoliberalism worked since its origins as a political theory disguised as an economic one, being influenced by the "think tanks" financed by financial groups and industrial corporations.

[2] Very significant is the reference to the idea of revolving doors between politics and economy.

[3] The abolished rules are not the real problem, but those that have never been rewritten in order to adapt financial regulations to a reality that was changing at the speed of light, M. Onado, "I nodi al pettine. La crisi finanziaria e le regole non scritte", Laterza, Bari, 2009, p. 18.

[4] J. W. Smith, "Economic Democracy. The Political Struggle for the 21th Century", Institute for Economic Democracy Press, Sun City, 2005, p. 221.

[5] A. Pettifor, "Debtonation: How Globalization Dies", in http://www.opedemocracy.net.

[6] J. Black, "Decentring Reglation: The Role of Regulation and Self Regulation in a 'Post-Regulatory' World", Current Legal Problems, 2011, pp. 103-146.

[7] See G. Miele, "Il problema dell'adeguamento della norma giuridica al fatto economico. Tecnica giuridica e fatto economico", in Diritto dell'economia, 1956, p. 6.

[8] A. Heertje, "Introduzione", J.E. Stiglitz, "Il ruolo dello stato", Il Mulino, Bologna, 1997, p. 14

[9] J. K. Galbraith, N. Salinger, "Sapere tutto o quasi dell'economia", Mondadori, Milan, 1995, p. 15.

[10] D. Levi-Faur, "The Global Diffusion of Regulatory Capitalism: Sectors and Nations in the Making of a New Global Order", in Governance. Special issue, 19, 2006; "The regulatory state and regulatory capitalism; an institutional perspective", in D. Levi-Faur (ed.), Handbook on the Politics of Regulation, Cheltenham, Edward Elgar, 2011, pp. 662-672.

[11] P. O'Connel, "The Death of Socio-Economic Rights", in The Modern Law Review, 74(4), 2011, pp. 532-554.

[12] A. Margalit, "La società decente", Guerini e Ass. Ed., Milan, 1998.

[13] A. Sen, "L'idea di giustizia", Mondadori, Milan, 2010.

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