

# The Platform-State. Government as an enabler of Civic Imagination and Collaboration

## *Politics and Institutions in the CO-century*

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The époque that saw Barak Obama as head of the State considered as the most efficient and worthy of emulation has come to an end. One of the few aspects I did not appreciate of Barak Obama's public policies is the idea of strongly rely on the nudge regulation trend, in some cases in an uncritical manner. Such approach entails an extreme and perhaps too brutal synthesis of law and of behavioral policies, consisting in an attempt to stimulate and orientate individuals' behavior from above, directing it towards customs and habits that would not be in conflict with a general interest outlined in the office of some director, minister or assessor, perhaps with the support of few experts and professors.

I must admit, at the time when I was studying and working in the United States, I was also subject to the charm of this idea. But any individual who is not afraid of illustrating his political culture and of studying and designing public policies able to change, innovate or, as I will later claim, re-imagine rather than reform, must look with fear and suspect at any policy treating and transforming people into a multitude of "hamsters", condemned to run in a wheel so well designed that the hamster himself is not aware of going around in circles. And the mechanism is already widespread, as it is clear that market economy is devised to transform citizens into consumers, and everything is constructed with the aim of stimulating the highest consumption possible from the citizen. Market and communication are used to orient people towards certain choices, which in the past where consumption choices, while today are presented through the nudge theory as choices made for the general interest. I want to clarify now that I do not oppose any view for ideological reasons. What I want to underline is that we need to treat the subject with great attention, as I do not want to find myself here in ten years fighting against a theorem as I had to do, as a student in the 90s and as a young scholar in the first years of the new century, against the theorem of privatizations at any cost. The private is always more efficient, because it is what Europe is asking us. I am between the few Italian scholars of public and administrative law to have warned against "privatization irrespective of anything", because it is not always the case that the private is better than the public and it is not always Europe who is asking us. Today we are aware of the groundlessness of that theorem, at least in the absolutistic forms under

which it was proposed. I hope I will not find myself in some years in a situation where we realize that we have been too focused on the trend of "gently pushing" towards public policy objectives to remember that those public policy objectives must be clearly defined. This happens because those theories are born in an age of compassionate conservatism, in which citizens are treated as if they were "dumb" (Beota) and needed omniscient politicians and bureaucrats to show them the right path, providing them with the complete directions to prevent them from making mistakes. This could represent a simple update of those rationalistic models on which market economy has been built, whose functioning mechanisms were designed around the abstract figure of the homo oeconomicus, who based all his actions on an economic rationality. This model is not truthful, and a more valid approach would be to pay greater attention to models of real behavior, as I tried to do through in-depth analysis as a student. But I soon realized that in a similar approach lies a potential danger for democracy and most of all for individual freedoms. There is in fact the possibility for those who are in power to hide behind a general interest which is abstract, ideological and only presumed and towards which all behaviors are directed, while the general interest should instead be built together with the citizens.

What I tried to do in the last ten years of my activity as law and public policy scholar and practitioner was to try to understand in which manner I could be of help to the administrations and to the communities that intend to move their first steps to overcome the traditional State paradigm. I believe I understood that the gap through which it is possible to "hack" institutions lies in the capacity to enable innovative social practices (also known as social innovation) able to generate economic solutions, which result in an intense pressure on institutions. Faced with a pressure of this kind only the institutions which are more equipped to undertake a path of institutional innovation are positively reacting, while unfortunately the others until now are only attempting to fill the hole.

Today we speak about beauty economy, knowledge and culture economy, but also sharing and pooling economy, circular economy, social, ethical and civil economy and, furthermore, trust and happiness economy. All these "new" economy forms are based on social innovation, meaning that they revolve around the central figure of the citizen, who becomes protagonist, as he is not

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only author of consumption choices, but also author of answers of general interest. I believe we are not in a period of crisis but instead in a period of transition from one social, institutional, economic and juridical paradigm to another. I do insist on these passages because I want the logical consecutio to be clear. In this, LabGov<sup>BIT</sup>'s (the Laboratory for the Governance of the City as a Commons) payoff is crystal clear: "Society runs, economy follows, let's re-design law and institutions together!". Each innovation process is guided by an update, up-grade and transformation in social practices. Change always begins with a social change, which then guides the economic and technological paradigm change. It is never the opposite as technology, the one that truly works, is a social product and technological up-grade always grows from social change, as many scholars studying the development of technology also stated. In France the instrument designed for telephonic communication became almost immediately a relational instrument, a way to maintain and cultivate social relations. The same happened with the first real time messaging instrument at the time when Internet was being designed in the USA. There is nothing wrong with this, on the contrary these examples teach us that modernity and innovation are inescapably tied with relational processes.

Innovation is the "kind rupture" of a dominant paradigm. Here I would like to quote Edmond Burke, a great political analyst who states that innovation distinguishes itself from reform because of its discontinuity – and this shall help us re-think the role of reformism in the XXI century. A qualitative change with respect to the actual state of affairs stands out. This is innovation. Thus, in the XXI century the battle might not be between reformers and conservatives, but instead between collaborative and competitive actors, meaning with this that individuals but also economic, institutional, social and cognitive actors that enter in a relationship as equals to overcome social, economic and technological divides while challenging the existing paradigm to re-imagine it have to confront subjects that compete to protect their privileges and profits and pursue the maximization of their benefits. I am not sure this can be defined as conservatism, because conservatism has always been politically identified with the right, while today we observe a tendency to preserve privileges and incomes also on the left side of the political spectrum. Additionally, the theory of acquired rights that today prevents the new generations from creating a better country for the generations to come is the result of the short sightedness of the past generations which, in a moment where it was possible to afford certain rights, have consolidated and frozen those rights, that today are defined as acquired. This has been done through public debt by a narrow group of people, an oligarchy. Furthermore, these rights are not the instruments of mass emancipation that we imagined in the XX century, but are instead defense instruments used by oligarchies and by that portion of society that does not accept to

share or downsize the wealth they have accumulated. Those are not the rights that our constituent fathers left us. What is more, it is not always easy to distinguish innovators from non-innovators and reddeners (income bearers), as they both frequently act under false pretenses.

Coming to the institutional paradigm change, that we are inheriting from the economic and social paradigm change, I believe it will be based on the concept of collaboration. Perhaps we are entering in the "CO-" era, where key words seem to be community, collaboration, cooperation, communication, commons, co-design, co-production, co-management, co-housing, sharing, knowledge etc.. These are all words characterized by a co- root, which recalls the making, living and growing together. This means that the administration has to re-think itself as an organization starting from the co-'s concept. Besides, even big organization are re-modelling themselves, as they understand that great part of their value comes from external energies, from the sharing of resources and knowledge and from the collaboration enabled by sharing. If we take Facebook as an example we observe that its value is not produced only by Zuckerberg and his engineers' algorithms and social communication experts, but it is also produced by us, users, through our relationships and exchanges, and through reciprocation, mutual trust and collective organization. Institutions must be re-thought from this viewpoint, with the aim of becoming relationships, circuits and relational ecosystems' administrators and of developing an answer which is public not just in a subjective but also in an objective way. In this new model, public, private, third sector, cultural institutions such as schools and universities, single citizens and social innovators work together to provide an answer to society's problems. I defined this a quintuple helix governance model, as it builds on the triple helix model (summarized in a public-private-community formula) created in Stanford to explain Silicon Valley's success. A minimum or maximum State, able to respond to citizens' needs, cannot exist anymore, as such needs have become more and more uneven. The administration conceived in the XIX century as an elitist body, a container able to answer to the needs of a community understood as unable, illiterate and lacking consciousness. Today the situation has changed, and the relationship has been inverted. Thanks to technology and public investment on knowledge and education, opportunities are now to be found outside rather than inside, therefore we are left with an unequipped administration, ill-suited to intercept, support and manage change. It is not those who work to serve the State and its citizens who are at fault and, regardless of all the training courses and rejuvenations that we attempt to launch, we will never be able to deliver to our society institutions able to have and give all the answers. For this reason, we need to re-think the organization and the culture of institutions in a framework of open-source and circularity: we need a State-Platform that does not want to guide the process but choses to act from below, supporting a circuit of relationship and allowing the above-mentioned actors to become

<sup>1</sup> LabGov (Laboratory for the Governance of the Commons), is a training-intervention and research-action project on the civic re-imagination of institutions that I coordinate at Luiss Guido Carli University in Rome).

authors and actors of general interest. The State-Platform must break the monopoly of public care of the general interest, without withdrawing from the care of those interests which are inescapably public and becoming a system administrator, as it happens in the web. This means that that the Italian administrative law system should almost entirely be re-thought. The problem is that there is a strong unbalance between formal legality, administrative regularity defense, production of acts and measures and execution of orders (often deprived from critical thought) on one side and coordinated action and production of answers and results leading to a real, complete and measurable satisfaction of citizens on the other side. Part of the public law doctrine has called for a greater attention to "legality of result" but has eventually accepted its enchainment to bureaucratic measures and practices. Perhaps the legality commitment is not enough anymore, as all the sophisticated legal expedients characterized by great imaginative capacity which allow to bypass legality seems to show. Therefore what we need are not acts but actions. This means that, as we still are in a transition and paradigm-shift phase, we must accept that an ever-applicable and valid solution does not exist. There is no ready-made model. We took thirty or forty years to have the social state we inherited, which was born exactly as the contemporary collaborative state is emerging in the co-working spaces, in enterprises, in community cooperatives, in fab labs, in impact hubs, in cultural and creative collectives and enterprises, in the collective management of the commons and so on. I am talking about the thousands of people that are attempting to make not something new but something unique, something to take pride in as a country, because in Italy we are setting an excellency standard at international level: these people are reconstructing and regenerating the State starting from its foundations. If we look back into the history of the Social State and of its birth, we understand that it originated in society, in neighborhood associations, in self-managed mutual aid societies, in the world of cooperation and in workers' unions of first generation. From there the first mutual aid insurances against on-the-job injuries were generated, together with the first forms of income support. An old fox such as Otto Von Bismarck, who had foreseen what was happening, before being removed from power was able to build the Social State. He did so working from above, with a top-down approach, as he knew that hadn't he laid the foundations of the social state, the social state would have anyway emerged from the bottom-up action of these ante litteram innovators, that would definitely not have confirmed him in his role. This is when the first Social State was born. It is now a matter of understanding how contemporary institutions could build on the change that is currently taking place rather than being demolished by the flow, overwhelmed by what has happened in Spain, Greece and in the USA and that could also happen in France and Germany. We need to understand how to experiment, accepting that experimentation also involves the possibility of failure, that failing is allowed and that mistakes can result in occasions to improve, to better understand the new

paradigm and to identify solutions that could implement it and could function as an activation of the following public policy cycles. But why is this needed? It is needed to change the State morphology, up to the architectonic design of its headquarters, for example through less bureaucratic counters and more administrative co-working spaces. Through less arrogance and without the presumption of knowing how things should be done and of being the guardians of a legal, economic and bureaucratic rationality forged in the Oligocene and ill-suited to adapt to the speed and power of the social innovation phenomena characterizing the new era of the Anthropocene, where the traditional rationality demonstrates to be the heir of what Graeber would call "structural stupidity". Through more humility and through an inclination to work around a table with those actors which are endowed with the capacity to imagine and re-imagine the paradigm, considering that is not rationality that distinguishes humans from all other species, but is instead its capacity to imagine how to defeat those exact rational mechanisms, that constantly and structurally reconnect logical conclusions to the evaluation of reality. Science and arts have constantly demonstrated that it is only by doubting the established, consolidated and uniform schemes that the human kind can progress, by relying on his creativity. It is then necessary to find a way to free the creativity of the numerous civic imaginers who are entangled in the structures of our bureaucracy and in our territorial and urban communities. We need to ask the legislators to stop for a minute and, before legislating, spending some time to forge the instruments to free the imagination of those members of the administration who are willing to experiment, as the administration is not a machine but is instead a community. This community is made by women and men who are willing to do and to devote their time, even outside of their working hours, to the general interest, but are instead forced to spend their days dealing with the doctrine of administrative infallibility and fighting with those colleagues who are experts in hiding behind norms and quibbles when it comes to avoiding the effort of helping citizens and who use those same norms and quibbles to avoid complying with their public ethic duties and sometimes even with norms of the penal code. Such people must have the opportunity to make mistakes and must be free from the administrative fear of making mistakes, because those who are not afraid are eventually those who hide behind perfect forms, perfect calls and competitions that might work with the TAR but not with the DA's office of the Republic.

There is a need to say things as they truly stand. We speak about digital administration when in many administrations e-mails are still being printed out, phonograms (fonogrammi) are still being sent "via motociclista" envelopes and piles of documents are still transferred from one office to the other through "walkers" (camminatori). We must accept this experimental logic and this eco-systemic element, we cannot keep thinking only in terms of calls and competitions, as they function to exclude instead of including and collaborating, and are often launched to justify choices already made at

the top. We need the courage to enter this new logic and to counter-balance collaboration with maximum transparency, going beyond the Decree 33. If I have dinner with someone to discuss a problem I must be able to put the check online, this in the perspective of openly and transparently activating processes in the general interest and of spreading a collaborative and co-design viewpoint between the civic and entrepreneurial for the collectivity.

In Bologna as in Rome, in Reggio Emilia as in Battipaglia, in Tuscany as in Palermo or in Terni we understood that local entrepreneurial forces build their activity on the genius loci, on their territorial vocation. They cannot escape, they are not only entrepreneurs but also actors for the general interest who are active on the local dimension and are willing to have an open, clear and stable relationship with institutional and socially reliable partners. Such relationship does not require extreme actions from the public administration, but only asks it to be present, to be not the protagonist of change but its enabler, to not ask and insist but instead to offer to regenerate public spaces and to open private spaces to a more dynamic use. Public administrations should become incubators of collaborative enterprises, asking to be partners in the co-design processes and in public policies. This happened for example in Mantova, where it was possible to intercept the new ideas coming from schools and from young people living in the territory, or in Battipaglia, a municipality under compulsory administration for mafia activities, where peculiar conditions required us to develop peculiar answers. In Battipaglia it was impossible to create a collaboration pact as it was done in Bologna or in Mantova, but we had to decide what to do in the compulsory administration period, thus we worked through the article 145 of the local authority's TU. This allowed to propose a community pact for the future administration, bringing together in the process Libera, Legambiente, WWF, ARCI, Cittadinanza Attiva, the citizens who were taking care of the beach, of the public spaces, of the abandoned school and stimulating the coordination and organization of the civil society. Criminality is always capable of organizing itself, while legality is not. This is because each of the actors of legality moves on its own way, and it is for this reason that in Battipaglia I tried to suggest taking the path of constructing a "collaboration pact for organized legality". A similar path would be needed also in Rome, where through the platform co-roma.it we are attempting to support and to bring the attention to those actors who truly work for legality. One of the things we are doing as a laboratory is therefore to construct all around Italy projects who have the capacity to adapt and to iterate a process (adattivi e iterativi), and to do so through the forces of civil society, of culture, of knowledge and of a healthy local enterprise willing to walk on this path while saying: In Italy a new government method, centered on collaboration is growing from the peripheries, a method that Obama, or better Betty Noveck, defined as open government. We are interpreting it and declining it in a less digital and technological way, while at the same time we are trying to fill the thought-gap on how to reorganize the administrative community depending

on those technological innovations, that require innovations in organization. Collaborative forces are the best economic and social forces of the local civic society and the best political, bureaucratic and technical forces of the institutions, that come together and work side-by-side for the general interest. Not everyone has to fit, not everyone is needed. It is not about participation but about collaboration and concrete project-making to build new forms of occupation starting from the weaknesses and exclusions generated within the single territories, exclusions that result in loss of wealth, knowledge and capacity. Any territory has to find his own path towards collaboration and has to build on his own vocations, as there is no universal principle. The differentiation principle has to be applied and interpreted as an enabling principle for auto-differentiation or "institutional diversity" – as Elinor Ostrom, who won the Economics Nobel Prize in 2009 thanks to her studies on the commons, would say. Institutional diversity is necessarily implied in the principle of civic collaboration of the Constitution and is fundamental to imagine a new form of State, a State which is plural because distributed, because it can be found in the different worlds of society, economy and knowledge and not anymore confined to the offices and hallways our institutions. Thus, a program of large-scale experimentation is needed to regenerate institutions, a program able to strengthen administrations' institutional capacity to manage change without suffocating it nor attempting to direct it. The State should accompany, enable, monitor and value such change by becoming a platform. A State-Platform will be ready to make his time, competences, human, technical and logistic resources available in order to organize processes and territorial laboratories where things begin to happen regardless of the administration, but in a more controlled and legitimate way. It will grant everyone the possibility to experiment, allowing everyone to be informed on what projects others citizens are undertaking and perhaps to join them. Making sure that basic norms on security and inclusion are respected, it should provide a free license to experiment and imagine. The multitude of mistakes made and even more of lessons learnt should become the base from which we begin to re-think the State in the XXI century. There are resources available, which are called PON governance. Let us use them in the best way possible, as we will not get another chance.