

Solidarity

Different Issues in a Community Perspective

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Solidarity means thinking and acting in terms of community.

—Pope Francis, *Fratelli tutti*, § 16

4.1 SOLIDARITY IN SOCIAL SECURITY, IN A GENERAL AND THEORETICAL PERSPECTIVE

If one considers the social scheme that grounds social security, the principle of equality is revealed to be its core goal. Market forces, even if unavoidable, create social inequalities, and social security tends to contrast these inequalities. Equality in law does not prevent de facto inequalities – generated by the market – and social security belongs to the programme of facilitating de facto equality. A task of the Republic – according to Art. 3.2 of the Italian Constitution – which is a permanent one, because this last condition cannot be attained once and for ever, but it's the issue of a continuous struggle (Balandi 2005; Rodotà 2014).

De facto equality is not an overall condition but it is related to some values, as individuated by Art. 3.2: 'full development of the human person and the effective participation [of all workers] in the political, economic and social organization of the country'. The translation in terms of social implementation means to guarantee equality as regards education – primary but also at the highest level – healthcare, mobility and communication and other essential services. A very important instrument in furtherance of de facto equality is also income protection, the large series of monetary benefits encompassed in the social security schemes.

Solidarity plays a central role in this struggle towards de facto equality, but there is no doubt that the word solidarity is polysemic, maybe one of the most polysemic in the social arena. This characteristic implies that it's necessary to choose one possible approach and relevant notion of solidarity. Our focus is on a specific area of social security, the one that entails direct circulation of economic resources. It may

provide transfer of money or services, their cost being borne, entirely or partially, by others who are not the users of the services themselves.

There are examples of costs borne by a circle of people and services – or monetary benefits – enjoyed by a wider or smaller, or in any case different, circle of citizens. One of the clearest examples is offered by some measures financed by general taxation and provided for citizens with certain characteristics: allowances for non-sufficient people (needing care for ordinary life), who might or might not be taxpayers, according to the allowance being means-tested or not. Non-contributory means-tested social pensions are another example of the same kind. As regards mandatory contributory pensions, the difference between the two circles is based on a ‘generation’ difference: today’s workers pay for current pensioners (who in their time payed for contemporary pensioners): this is the ‘pay-as-you-go’ system, ‘solidarity between generations’ (According to EU wording).

At the very end, this is a problem of circulation of resources and the identification of its mechanisms is nothing but the identification of solidarity and of its ‘quantity’ or ‘measure’ implied in each social security institution.

Let’s therefore try to answer the question whether it is possible to measure solidarity; and which instruments are to be used for this purpose.

Elements qualifying solidarity in pension systems:

- a. The public mandatory system: (1) fragmentation; (2) contribution and general taxation; (3) ‘capitalization’ and ‘pay as you go’ financing; (4) calculation of benefits based on contribution or on retribution.
- b. The occupational system: see later discussing the s.c. corporate welfare.

Fragmentation: legal orders where the public mandatory pension system is fragmented in a plurality of – more or less large – groups of employees, according to their belonging to a branch, or a group of enterprises or any other criterium, are exposed to a corresponding fragmentation of solidarity. Each group tends to an egoistic view and to maintain its separation, considered – frequently wrongly – a source of privilege, the bureaucracy managing the relevant institutions being particularly involved in this egoistic view, of course. The same regards the different pension schemes for self-employed workers.

Contribution and general taxation: these different sources of resources identify different measures of solidarity: universalistic the latter, variable the former, according to the amplitude of the group involved.

‘Capitalization’ and ‘pay as you go’ financing system: the latter realizes the well-known – and oft-mentioned – solidarity between generations while the former, generally speaking, distinguishes systems organized on individualistic bases. As regards the ‘solidarity between generations’, one must note that, in any case, the real measure of solidarity depends again on the amplitude of the group of people involved.

Calculation of benefits based on contribution or on retribution: in principle it is not easy to appreciate the different measure of solidarity implied by the two different calculation methods depending mainly on the relevant rules. For example, ceilings to contribution and/or to benefits could play a significant role: the same holds for the period of reference for calculation, between the two possible extremes: the last month of retribution vs the entire working-life contribution.

The four elements qualifying solidarity in pension schemes are of growing difficulty as regards their combined appreciation; this means that a correct evaluation of the rate of solidarity of a given scheme implies a very detailed scrutiny (which should be of great importance for any political decision in this regard).

Elements qualifying solidarity in labour market weakness protection (mandatory measures):

Unemployment insurance; short time allowances; other unemployment allowances: (1) source of resources: bilateral contribution, employers' contribution, general taxation; (2) subjective dimension (area of protection).

Source of resources: bilateral contribution, employers' contribution, general taxation: the three mentioned sources identify three different levels of solidarity from the most restricted one – being involved in the bilateral contribution and the potentially interested beneficiaries – to the universalistic one of general taxation. One must say, as regards the bilateral contribution, that actually it is difficult – and probably incorrect – to distinguish this one from the sole employers' contribution, because in any case it is considered a part of labour cost.

The recent experience of the s.c. corporate welfare: the provision in collective agreements – both at branch and plant level – of measures of welfare, a generic definition that may include many different kinds of benefits:

- a. In services directly by the company for example, nurseries and other parental aids;
- b. In services payed by the employer: student fees for children of employees; summer holidays for babies; gym subscription and so on;
- c. Health insurance (generic or specific: dental surgery etc.);
- d. Occupational pensions.

In principle – according to the declared purposes of social partners – these measures are in addition to public welfare provisions, but in the presence of substantive cuts in public expenditure – the harmful policy of 'austerity' – they tend to substitute for them, with an evident consequence on the extent of solidarity.

The vast majority of given examples show that a social security legal order encompasses different levels of solidarity when the circulation of resources measures it. From the maximum of a universalistic benefit payed by the general taxation to zero level of an individual insurance-based pension plan (even if partially payed by the employer).

Starting from this point we are able to discuss the different role of different actors: the state, and for it the law, in the form of Acts of Parliament; the social partners, and for them collective bargaining.

The dogmatic tradition individuates the qualifying characters of Acts of Parliament to be general and abstract. The qualities of that source of regulation relate it directly with the equalitarian function of solidarity. Of course, a specialized legislation may contradict this assumption, and we have a number of examples of this in every legal order, but generally speaking, it is only an Act of Parliament that can provide for universalistic measures. Therefore, a first achievement may be as follows: ensuring the role and responsibility of the state, through legislative activity, to promote and guarantee the egalitarian function of solidarity.

The social partners, and collective bargaining, may carry on a different task. A rich company could bargain to engage in welfare programmes, like the ones mentioned above, which in principle imply a transfer of resources – from shareholders to employees – that is, fragments of solidarity. But it is a particularistic one, aimed at socially redistributing part of the market gains of that employer. What is to be checked in order to exactly qualify the relevant solidarity is the relationship with the universalistic measures in which the same subjects are involved. If the adoption of corporate welfare measures are boosted by fiscal advantages for the company – which is the case in Italy – one must consider very carefully the general balance in the circulation of resources: the part really deriving from the earning of the company (the shareholder) and the part deriving from the general taxation through fiscal exemption. Even more clear is the question of the relationship between ‘general and particular solidarity’ when a particular corporate welfare provision is accompanied by a – partial or total – exemption from the corresponding public general one. This is a measure that seriously hinders the general level of solidarity – and consequently of tension towards equality – of a legal system.

4.2 TRANSNATIONAL SOLIDARITY AT THE STAKE

‘Transnational’ solidarity is one of the possible dimensions of interest in circulation of resources that involves EU citizenship, free movement and non-discrimination (O’Leary 2005; Costamagna, Giubboni 2021).

The case of the law of the Court of Justice can be useful to better define the boundaries of the reflexion and could be interesting to signal, in particular, the changes since the early decisions: from Martinez Sala to Brey, Dano and Alimanovic cases.¹ One can appreciate a shift in the Court of Justice case law, from

¹ Court of Justice 12 May 1998, C-85/96 Martinez Sala; Court of Justice 11 November 2014, C-333/13 Dano; Court of Justice 15 September 2015, C-67/14 Alimanovic.

a protection based on the rights conferred by primary law (in ex. Art. 21 TFUE)² to another based on secondary law and its limitations (dir. 2004/38/EC Art. 24.2). In Brey and Dano we can analyse the possible interference between Regulation 883/2004 – that promotes a coordination rather than a harmonization of the different national social security systems – and Directive 2004/38/EC on the right of citizens of the Union and their family members to move and reside freely within the territory of the member states.

EU social coordination law can be described as ‘the sum of all primary and secondary legal provisions, rules and principles that aim to remove social security barriers, which could prevent an individual from exercising his/her rights to freedom of movement’ (Pennings 2015, p. 6).

At the centre of the dispute there are social non-contributory benefits and the risk of so-called ‘social tourism’. Whether in Brey the Court of Justice established that national authorities have to consider special features of the specific case, considering also proportionality principle (Verschuere 2015, p. 205), in Dano the state could exclude inactive citizens who have not sufficient resources. In other words, the member state has the possibility, pursuant Art. 7 Dir. 2004/38, ‘of refusing to grant social benefits to economically inactive citizens who exercise their right to freedom of movement solely in order to obtain another Member State’s social assistance although they do not have sufficient resources to claim a right of residence’ (pt. 78); the inactive person cannot invoke the principle of non-discrimination in Art. 24.1 of the dir. 2004/38.

Articles 4 and 70 of the Regulation n.883/2004 and 24.1 of the directive are overcome, indeed, by Art. 24.2, which establishes a derogation to non-discrimination principle. Therefore, the directive becomes an instrument of defence against the risk of social tourism and, at the same time, the circulation of resources and the freedom of movement are limited: in the European Union of the crisis, the financial stability of welfare systems prevails on transnational solidarity.

In Alimanovic, we can observe a generalized exclusion of inactive citizens, going beyond the relevance of proportionality test found in Brey: national authorities can skip the individualized control of the economic situation of the applicant. Also in *Commission vs UK*, the Court of Justice argues that ‘the need to protect the finances of the host member state justifies in principle the possibility of checking whether residence is lawful when a social benefit is granted in particular to persons from other member states who are not economically active, as such grant could have consequences for the overall level of assistance which may be accorded by the State’ (pt. 80). Again, ‘in specific cases, where there is a reasonable doubt as to whether a

² “Union citizenship is destined to be the fundamental status of nationals of the Member States, enabling those who find themselves in the same situation to enjoy the same treatment in law irrespective of their nationality, subject to such exceptions as are expressly provided for” pt. 31. See Court of Justice 20 September 2011, C-184/09, Grzelczyk.

Union citizen or his family members satisfy the conditions set out in those articles, member states may verify if those conditions are fulfilled. Article 14(2) provides that this verification is not to be carried out systematically' (pt. 82).

There is, also, a 'new' phenomenon that deserves attention: the expulsion of EU citizens from the countries in which they are established; in Belgium, statistics show only eight expulsions in 2008 and 2,712 in 2013, with a very large increase in a few years (Gottardi 2018, p. 634): this is a sign of a silent social crisis.

The European pillar of social rights could be a possible answer on the way to re-politicize the European deliberative process. The contents of social pillar – in twenty principles – could inspire future actions and initiatives at both the EU and member-state levels: 'it reaffirms some of the rights already present in the Union acquis' but also new principles in order to address the challenges arising from societal, technological and economic developments.

We can find traces of solidarity in Chapter III about 'Social protection and inclusion', though there are no specific provisions about the level of the regulatory intervention. At point 14, we can read, 'Everyone lacking sufficient resources has the right to adequate minimum income benefits ensuring a life in dignity at all stages of life, and effective access to enabling goods and services. For those who can work, minimum income benefits should be combined with incentives to (re)integrate into the labour market'; it qualifies minimum income as 'adequate' to ensure dignity at all stages of life: it is not conditioned.

The choice to deepen the specific issue of the access to social benefits – in this general reflection – is connected to the potential conflict between the free movement of citizens and the closure of member states' welfare systems: transnational solidarity in Europe represents an open question. We think the talking point reflects, on one hand, clearly the difficulties of the growth of social Europe construction; on the other hand, the strengthening of transnational social solidarity is one of the first steps to reconstruct a real, common European social policy. Pope Francis in *Fratelli tutti* says that 'solidarity means thinking and acting in terms of community'; in the actual European Union – in particular in the COVID-19 era – there is a strong need to recognize a real solidarity community in which the social needs of persons are on the front line.

4.3 GEOGRAPHIES OF SOLIDARITY IN THE ERA OF THE GIG ECONOMY

There is a section of the present world of labour that is particularly in need of solidarity: the s.c. platform jobs. The reason is that platform workers are denied the belonging to a community or a group, they are organized – their activity is organized – as individuals, although a very powerful organization exists, coordinating the activity of those individuals.

Generally speaking, the organization pretends to be self-employed workers – small entrepreneurs – and the platform to be a commercial agent operating only for the contact between clients and suppliers of service. Some judges all over Europe have recognized that the formal and substantial reality is quite different. In Italy, some collective agreements have been bargained and concluded regulating the ‘urban delivery of goods operated by transport means usable without a driving licence’, a complicated jargon meaning bicycles and small motorcycles: so the special section of the national collective agreement for transport and logistics devoted to the regulation of the s.c. ‘riders’ (18 July 2018). In this case, the riders are considered ‘employees’ in all respects, and enjoy all the social security measures of ‘normal’ workers. But this agreement has been signed by the employers’ unions organizing the big companies of transport and logistics but not by the usual ‘platforms’, and therefore it has no relevance for the vast majority of riders.

In May 2018, the Municipality of Bologna promoted the adoption of a Charter of fundamental rights of digital work in an urban context (*Carta dei diritti fondamentali del lavoro digitale nel contesto urbano*) establishing some rules defined as ‘minimal standard of protection’ – so Art. 2 – including information about contractual clauses, reputational mechanisms, right to fair and dignified compensation, no discrimination, health and safety, privacy, freedom of union organization and the right to strike. To be noted, Art. 7 regulates the withdrawal from the contract by the platform, lawful only in case of just cause or notable breach of contract, while the withdrawal of the worker is not clearly regulated. The Charter is formulated according to the pattern of a European Charter – several followed by chapters and articles – but it has the nature of a local collective agreement signed by a local union of riders (Bologna Riders Union), the three main confederations, CGIL, CISL, UIL, and two food delivery platforms. The local authority is committed to widen the application of the Charter by the signature of other platforms.

In the last weeks of 2019, the legislator intervened on the issue by enacting a modification of legislative decree n.81 of 2015 introducing a Chapter V *bis* devoted to the *Protection of work organized by digital platforms*. Apart from a widespread discussion about alternative self-employment vs contract of employment, or rather the boundaries of that particular self-employment in which the rules of subordinate contract are applicable, some rules are clearly stated. The right to a contract and to all information about its terms and conditions; the right not to be discriminated; the right to a fair remuneration, the right to personal data protection according to European rules. Also, the application of the rules on health and safety at work is stated by the over-mentioned legislative decree. During the COVID-19 pandemic some tribunals cleared the right of delivery riders to the same protection as employed workers (e.g., full supply of personal protection equipment) and not the more limited one reserved for the self-employed. Finally – and so I attain the main focus of this note – they have the right to social insurance for accidents at work and professional diseases, on the same grounds as normal workers.

Further evolution of the matter can be illustrated as follows: the mentioned collective agreement has been integrated – November 2020 – by a protocol stating the application to self-employed workers in the delivery sector of some wage rules of employees. Assodelivery – an association of employers – and a minoritarian union signed a very disputed agreement providing some equipment to the riders but pretending to define in any case as non-subordinated the relationship. This is contrary to a principle in civil law. Very recently, in March 2021, Assodelivery signed with the main unions – CGIL, CISL, UIL – a protocol aimed at protecting the most important rights of riders, in the field of health and safety and in general in the organization of their activity. Two important enterprise-level agreements have been signed: one obliging the company to hire riders with employment contracts, with all the consequences in terms of implied rights; the other obliging particular fulfilments as regards health protection and stipulating a private integrative insurance for illness and accidents. Moreover, some judges have recognized the subordinate character of the employment relationship of platform workers in good delivery, contributing to a case law that is spreading in different tribunals all over the country.

This complex regulation illustrates the main point of our idea about social security – as one of the most important areas in the geography of solidarity – that it should be organized with reference to the recent forms of fragmented employment. The point is that it looks to be necessary to abandon what has been for more than a century the unitary instrument of organization of social protection: social insurance. Fragmentation of employment imposes the need to articulate the answer in relation to protection. The ideal reconstruction of a universalistic system of social safeguards may be tackled from several points of view. Here I begin choosing the safeguard of ‘solidarity’, of its dimension, its organization, its direction: who is in solidarity with whom.

- a. Dimension of solidarity. The fluidity of society – as defined in recent studies – implies a mobility of individuals, in the sense of the near impossibility of belonging to the same social group for the majority of one’s life. In this way the background of solidarity within a professional group, a branch of economy or whatever other partition of society, fails. It is to be noted that, beside the fluidity already mentioned, the upward social mobility has been frustrated in many western societies: poor mobility remains within poverty, while middle classes move downward. The growth of inequality is one of the outcomes of almost forty years of neo-liberalism. That characteristic widens the dimension of solidarity towards universalism: all the citizens are involved – should be involved – in the supply and redistribution of resources.
- b. Organization of solidarity. Being not any longer possible to identify the belonging to a group as the main social characteristic of a citizen, for the purpose of intervening in case of need, equally, the organization of

solidarity cannot any longer be assigned to the mechanism of social insurance, which needs exactly the previous identification of the group involved. If the citizen is relieved not as a member of a certain group but as a citizen as such, it can't be but general taxation to provide for the relevant resources.

- c. Direction of solidarity. If the recipient of solidarity is the citizen in need, the provider should be, for opposition, the citizen not in need. But here time comes into play as a fundamental component of the theoretical scheme. If the collection and the redistribution of resources is in the same moment, solidarity goes from citizens not in need to citizens in need. This is the sketch of the financial system called 'pay-as-you-go'. The alternative scheme, called 'capitalization', requires resources to be collected in a period of no-need to be redistributed when in-need. This system implies an individual recording of resources and in fact was used – and somewhere still is – for old-age pensions. In this case the solidarity moves along a 'time line' and involves a limited transfer of resources between groups of citizens. If old-age pensions are at stake, in the first hypothesis, solidarity is called inter-generational, because the young people collect the resources for the retired citizens.

Besides 'solidarity', another point of view is 'responsibility'. This can be called into question when the condition of need is the result of the action of an identifiable legal entity. This is typically the case of industrial accident and diseases. In these hypotheses, a social insurance scheme could still be the instrument of solidarity, this character being revealed by some features that one can't find in commercial insurance. And it is necessary to pay attention to this issue, because the solicitation, by market forces, to solve the problems of dangerous activities with private insurance has been – and still is – very strong. A 'social' insurance should guarantee, for example, full efficacy since the very first moment of employment and, regardless of the payment of contribution by the employer, full salary replacement rate and to be inspired by the relief of the need and not by commercial profitability.

A partially analogous consideration may be developed as regards some conditions of 'weakness' in the labour market: unemployment, short time working or cases of 'poor' employment. There may be cases in which the principle of 'responsibility' should operate together with one of 'solidarity': the first period of unemployment in case of unjustified dismissal (if the law provides for its legalization by the judge, as in Italy), or of economic or technological redundancy, should remain covered by some form of contribution by the employer. General solidarity could guarantee relief in a second moment, when unemployment may be considered grounded on conditions of the labour market.

Again, a hypothesis of joint 'solidarity' and 'responsibility' is the one of old-age or retirement pensions, but here the protected citizen itself should be partially

responsible for the characteristics of her or his pension benefit. Solidarity should operate in two directions: in the inter-generational system of financing and in assuring a minimum level of benefit at a fixed age; individual responsibility should emerge in the value of the contributions paid during the working life – used as a base for calculation not capitalized, being in a pay-as-you-go system – and in the choice of the retirement age (within a fixed range).

On the ground of these articulations of ‘solidarity’ and ‘responsibility’ one could think to reorganize a system of social protection capable of encompassing many of the new forms of organization of labour and human activity.

In a society that maintains the centrality of ‘labour’ as a source of dignity and freedom for the individual and creation of utilities and wealth for the collectivity, the income guarantee should be very carefully organized in order to avoid, on one side, leading people into deprivation but, on the other, creating a sort of forced labour.

Once gone beyond this point, which is not under discussion here, and ascertained that human activity is going to be more and more organized in fragmented individualistic portions, that will lead every citizen to carry out more than one activity, also in different fields, implying the commitment in retraining and also life-long learning, in order to avoid an individualistic drift dismantling social protection, solidarity should remain the point of reference, abandoning the unitary scheme of the Fordist twentieth century and of insurance, and adapting to the new reality.

Summarizing what we have tried to argue in these pages, the main points to adapt a social protection based on solidarity in a society maintaining ‘labour’ at its centre, are as follows: universalism, general taxation as the main source of resources, coordination with responsibility of employers and of individuals.

4.4 A POST SCRIPTUM DURING THE S.C. SECOND PHASE OF THE COVID-19 PANDEMIC (AUTUMN 2020)

The tragedy of the epidemic that affected – and is still and will be affecting, till a complete diffusion of vaccines – the whole world has modified, or at least should have, the perception of solidarity and of its need.

The first field is obviously the one of public health organization. The virus is attacking everybody almost in the same way even if some social differences linked to housing conditions, public transport and general availability of hygienic resources (fresh water etc.) matter significantly. But this hasn’t prevented the contamination of people belonging to middle and even high social classes, politicians included. Let’s put it like this: the COVID-19 virus is a universalistic one. Therefore, the response must retain the same characteristics.

A universalistic public health system involves two issues. The first one is the subjective wideness of protection: every citizen, better every single human being, present in the given jurisdiction must be eligible for intervention, without any distinction regarding her or his occupational or insurance conditions.

The second is the factual organization of the service, which must be coherent with the aforementioned principle of generalized protection: services should be diffused in the territory and not concentrated in big – even if of high quality – centres.

Universalistic protection and territorial services are a materialization of solidarity, not only because taking care of someone's health is as such solidaristic, but also because to organize it as described implies a circulation of resources – via general taxation – from those who could afford private care in excellence centres to those who will be cured in decentralized institutions. Ultimately, universalism means equality of treatment: everybody has the same right to the same quality and quantity of medical care. We should never forget the famous statement attributed to distinguished reformer Richard Titmuss at the beginning of the last century: 'Services for the poor tend to be poor services.' This is the principle that has inspired the institution of several national health services, especially in Europe: the pandemic demonstrated its necessity beyond political opportunism, to guarantee the survival of entire communities.

The COVID-19 virus is somehow contradictory: while it is egalitarian in its infection potentiality – as underlined before – it is a powerful multiplier of inequalities. Here the reference is to its social and economic effects in contemporary societies. As is well known, and deeply studied from many points of view, the last decades have been characterized by a significant increase in inequalities, a direct by-product of neoliberal policies, generally widespread in the western world and in great part in the southern one, while in the post-communist countries, like Russia – or self-pretending still communist, like China – it's a sort of hard old-fashioned capitalism that favours inequalities.

There are short-term consequences of this pandemic but also – presumably – more long-term or structural ones.

The first consequences are a temporary stop of certain economic activities, finalized to contrast the diffusion of the virus. They generate the obvious differences between workers – and small entrepreneurs – of open and closed activities or activities connected or not to certain interdictions (e.g. to travel). Under these circumstances are to be implemented and strengthened all the instruments of protection of weakness in the labour market: unemployment benefits, short time working allowances and so on. But implement and strengthen means, on one hand, to provide more substantial financial resources and, on the other, to also modify some criteria of eligibility in order to allow people irregularly attached to the labour market to enjoy that protection. Actually, it is mainly the precarious workers – employed, self-employed and also small-trade and service entrepreneurs – who suffer the activity restrictions provoked by the pandemic. And this means widening the solidarity, both in economic – more resources devoted to social protection – and legal terms by modifying the conditions of admittance.

The second consequences – long-term or structural – are connected to the fact that the pandemic acted as an accelerator of certain processes already underway: the use of ICT in the organization of goods and services production is an example. The diffusion of so-called ‘smart working’ – remote working – for many office tasks involved tens of thousands of employees. Probably only a portion of them will go back to the company building at the end of the pandemic: the employees – some of them – will discover that working at home is more comfortable and time saving; employers – some of them – will discover that it is resource saving for permanent structures; urban areas will discover that it’s saving in transport, pollution and so on. But all the services – food but also cleaning, delivery and so on – that have grown and developed around offices in cities will lose clients and working opportunities.

This change in urban organization will involve, in turn, modifications in the scope of solidarity, always toward a universalistic dimension. Small entrepreneurs, practitioners and every kind of self-employed worker facing income precarity will deserve general solidarity.

Let’s put it like this: twenty years after the publication of Bauman’s *Liquid Modernity* (Bauman 2000) one can affirm that the pandemic is providing a formidable contribution to make society more and more liquid. Therefore, in this post scriptum we can confirm and specify what had already been underlined in the first part of this paper. The stability of social roles that was typical of a certain period of capitalistic modernity – working-class, employed and self-employed middle-class, capitalistic entrepreneurs – could foresee a limited solidaristic circulation of resources aiming at maintaining a certain regularity of social life. The social insurances ‘invented’ by Bismarck were nothing but this: a tool to keep social peace (and to ‘cut socialists “nails”’), and to guarantee the access to the goods market of a fraction of the working class. In today’s societies social roles and economic positions are vulnerable and insurgence of ‘need’ is almost always and everywhere possible. Solidarity must therefore be endowed with legal tools different from the past, what above has been mentioned as ‘organization’ and ‘direction’ of solidarity.

To complete the points, one may stress that two issues are at the core of this new pattern: the sunset of the s.c. ‘social risk’ and the opportunity of using services as an alternative to income transfers. In the traditional social security scheme, the ‘social risk’ means the individuation of a typical social situation implying the insurgence of need: for example, the industrial accident of an employee. This mechanism exonerates the victim from demonstrating the need and the administration to ascertain it. Liquidity deprived of meaning the ‘social risk’ and individual need – or at the family level, an extremely sensitive theme – must be precisely verified: the return, but now as a positive instrument, of means tests one century and a half later!

To offer services to citizens in need is an especially important item in a redefined notion and practice of solidarity. When healthcare is at stake, the distinction is of great relevance: money transfer means the prevalence in the system of a private market-oriented offer of healthcare, with consequences in terms of inequality of

access of poor and rich people. Solidarity and equal treatment march together in general, particularly in healthcare. In other fields of social protection too, a shift from income transfer to services may better qualify solidarity. In principle this diminishes the influence of the market, which is always a source of inequality and allows to control the efficacy of measures of protection.

The new pattern of social protection in the light of a universalistic solidarity that have been sketched suggests a final reflection of the theme of the relationship between solidarity and market. Generally speaking, are solidarity and market in contradiction? Yes and no. Yes, if one considers a basic definition: solidarity as circulation of resources according to need and availability (of resources); market as circulation of resources according to interests of actors. No, from the point of view of the coexistence in the same legal order of parts bound to a solidarity pattern – a sort of solidarity agreement of the whole citizenship – and other parts left to the free market. The first part corresponds to the protection of fundamental rights, among which are health, education, employment and minimum wage, old-age care: in a word, a dignified life. The market can operate elsewhere, politics finally being in charge of controlling it and not trespassing the boundaries of fundamental rights.

The new technologies – at the ground of the gig economy dealt with in the first pages of this paper – and the pandemic are upsetting the old world and advance a strong demand for new solidarity. They may cause all the damages of an increased inequality, but at the same time they may offer the opportunity to shape a new and more inclusive model. The deal is in the hands of politics.

4.5 A BIBLIOGRAPHIC NOTE

The greatest part of the reflections on solidarity in social security schemes is based on a wide series of studies; these studies have been recently summarized in some essays: Balandi (2017, 2018, 2020) and, in collaboration with the same co-author of this contribution, Balandi and Buoso (2017).

The social protection of platform workers emphasizes all the difficulties of the transition from the twentieth-century model of the welfare state to a new already undefined model: two important recent volumes deal with the issue also with a comparative approach: Daugareilh, Degryse and Pochet (2019), and Becker and Chesalina (2020).

The Sars-Cov 2 pandemic dramatized, in a worldwide scenario, the inequalities generated by the globalized neoliberal economy. Economic and social literature has widely treated the theme: several comparative contributions collected by the Association Française de Droit du Travail et de la Sécurité Sociale under the titles *Covid-19 et droit du travail* and *Quel avenir pour l'Etat Providence après la crise du Covid ?* can be found at www.afdt-asso.fr/covid19-et-etat.

REFERENCES

- Balandi, Gian Guido. 2005. 'Sulla possibilità di misurare la solidarietà', in *Rechtsgeschichte*, pp. 14–30.
2017. 'Mercato del lavoro (tutele nel)', in *Enciclopedia del diritto, Appendice X*. Milano: Giuffrè, pp. 519–535.
2018. 'L'eterna ghirlanda opaca: evoluzione e contraddizione del sistema italiano di sicurezza sociale', in *A' droit ouvert Mélanges en l' honneur d'Antoine Lyon-Caen*. Paris: Dalloz, pp. 87–101.
2020. 'Del diritto del lavoro e della sicurezza sociale, del metodo e della comparazione', in *I lavoratori e i cittadini. Dialogo sul diritto sociale*. Bologna: il Mulino, pp. 9–38.
- Balandi, Gian Guido & Buoso Stefania. 2017. 'Sicurezza sociale' (I aggiornamento), in *Digesto commerciale* (online), pp. 1–9.
- Bauman, Zygmunt. 2000. *Liquid Modernity*. Cambridge: Polity Press.
- Becker, Ulrich & Chesalina, Olga, eds. 2021. *Social Law 4.0. New Approaches for Ensuring and Financing Social Security in the Digital Age*. U. Baden-Baden, Nomos.
- Costamagna, Francesco & Giubboni, Stefano. 2021. Free movement of persons and transnational solidarity, in *Rivista di diritto della sicurezza sociale*, pp. 1–31.
- Daugareilh, Isabelle, Degryse, Christophe & Pochet, Philippe, eds. 2019. *The Platform Economy and Social Law: Key Issues in Comparative Perspective*. Bruxelles: ETUI.
- Gottardi, Donata. 2018. 'Le modificazioni del sistema delle fonti e l'impatto delle istituzioni Ue', in *Rivista Giuridica del Lavoro*, pp. 621–642.
- O'Leary, Siofra. 2005. 'Solidarity and Citizenship Rights in the Charter of Fundamental Rights of the European Union', in Grainne de Burca, ed., *EU Law and the Welfare State*. Oxford: Oxford University Press, p. 62.
- Pennings, Frans. 2015. *Research Handbook on European Social Security Law*. Cheltenham: Elgar Publishing.
- Rodotà, Stefano. 2014. *Solidarietà. Un'utopia necessaria*. Roma: Laterza.
- Verschueren. 2015. 'Libera circolazione o turismo sociale: l'eccessivo onere nel caso Brey', in *Rivista Giuridica del Lavoro*, pp. 205–239.