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*New Social Movements and the
Deconstruction of New Governance:
Fragments of Post-Modern Theories in
Europuzzle*

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Giuseppe Allegri*

“There’s no certainty - only opportunity.”

Alan Moore, V for Vendetta

**The New Social Movements Activism: The “Slow Learning”¹ of Emerging European
Civil Society**

Global movements that have challenged globalisation since the 1990s may be viewed as the last generation of those “new social movements” (NSMs) to play a major role after 1968 and the crisis of the workers and socialist movement.² The NSMs have arisen separate from and

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¹ The title used here is taken from the first collection of stories by Thomas Pynchon, *Slow Learner. Early Stories* (Little, Brown & Company, 1984) to underscore the youthful path to the NSMs in the crisis of modernity and European public space.

² C. Offe, “New Social Movements: Challenging the Boundaries of Institutional Politics” in *Social Research*, 52/4 (1985); N. Luhmann, *Sociologia del rischio*, transl. G. Corsi, (Bruno Mondadori, 1996); see *Soziologie des Risikos* (Berlin: de Gruyter, 1991); I. Wallerstein, “New Revolts Against the System” in *New Left Review*, (Nov-Dec, 2002); M. Castells, *The Power of Identity, The Information Age: Economy, Society and Culture*, Vol. II (London: Blackwell, 2004)

beyond the crisis of the traditional workers movement and trade unions: descending from the political and socio-cultural innovations of the 1960s and 70s, they have developed a continuous dialogue with the political activism of the New Left. The “global insurrection” of 1968 and the “transnational political” vision³ opened the doors to a cycle of protests and public criticism against the traditional forms of political and workers organisations: collective action outside the statist framework and the tradition of mass movements (the Social Democratic and/or communist parties and the trade unions). The student movements that, in the middle the 1960s, crossed the “situationists avant-garde”; the feminist movement, that in those years disputed collectively the patriarchal family and the male-dominated society; the “*Bürgerinitiativen*” of the German local/civic movements, already investigated by Jürgen Habermas and Niklas Luhmann; the collective mobilisation for peace;⁴ the ecologist and environmentalist movements; the consumers’ movements; the human rights and post-colonial movements; the collective actions seeking for social justice for outsiders left behind by European Welfare. These NSMs are both “Anti-systemic Movements” and new political and social organisations.

Those NSMs, along with their innovations, cross the economic and institutional changes of late modernity in the old continent; they act on imaginary and symbolic fields and are able to transform the public space (*Öffentlichkeit*) of post-industrial society.⁵ The NSMs are aware that the relations between “time, space and society” are in a phase of radical change: the age of information and knowledge – where production is language – has generated a fragmentation of authority and powers. The social and technological innovation has conveyed

³ M. Watts, “1968 and all that...” in *Progress in Human Geography* 25 (2001) 157-188

⁴ A. Melucci, “The Symbolic Challenge of Contemporary Movements” in *Social Research* 52/4 (1985)

⁵ A. Touraine, “An Introduction to Study of Social Movements” in *Social Research* 52/4 (1985)

the pursuit of decision-making promptness through refined governance procedures and has fragmented in a multitude people claiming freedom and autonomy by powers. The relationship between society and institutions is an unresolved friction between permanent global war, control society, autonomy or subordination of social conflict, anti-political populism.

The legal modernity trajectory, a century after the announced crisis of Modern State, has now led us to the crisis the post-modern State, facing a network society based on information economy. On one hand, we are passing from von Jhering's "struggle for law" and from the theories of institutional pluralism and the *droit social* of the beginning of the last century to the perspective of the "conflict of laws";⁶ on the other hand, we are posing the singularity of the mobile and disorganised multitude before the deconstruction of the institutions and the consolidation of social connections, between the empire and new demands of being in common.⁷

In these 30 years of historical changes, the NSMs had a imaginative capacity of thinking and putting into practice a space between (state and supranational) institutions and "civil society": an "intermediate public space", where the autonomy of the movements prevented their institutionalisation but allowed for a conflict-dialogue-exchange between the NSMs' claims and the time of political decision-making.⁸ NSMs assert a new political space: avoiding the close alternative between private/civil society/market and statal/institutional and affirming the richness of new post-statal public spaces. The NSMs' activism has contributed to articulate

⁶ C. Joerges, "Rethinking European Law's Supremacy" in *EUI Working Paper Law 12* (2005)

⁷ H. Rheingold, *Smart Mobs: The Next Social Revolution*, (Cambridge, Mass.: Perseus, 2002) [trad. it. G. Rossi & R. Cortina, 2003]; M. Hardt & A. Negri, *Empire* (Cambridge, Mass.: Harvard University Press, 2000).

⁸ Melucci, *supra* note 4

processes of subsidiary redistribution of powers and functions between the multiple levels of government/administration in Europe; they have protected their reticular, non-hierarchical, horizontal self-organisation and the survival of autonomous communicative spaces of local-continental collective action. They have also taken advantage of their natural talent toward autonomy to create counter-institutions or, rather, independent institutions in the post-Fordist society, the “society of spectacle”; as Herbert Marcuse already said regarding 1968, they can be seen as “working against the established institutions while working within them”.⁹ As a matter of fact, during the 1980s and 1990s the innovative attitude of social movements, compared to the “changing structure of political opportunities in the European Union”¹⁰ has been evident, especially in terms of the environmentalists, NSMs and the regionalists-autonomous movements, and for the anti-nuclear and pacifist movements that have assumed the continental dimension of conflicts and claims. In those years, mechanisms of comparison and collaboration of the so-called EU “old governance” have been developed by the inclusion of the institutionalised part of the European civil society acting on single issues – for which the possibility to influence and transform specific institutional policies is crucial. On these issues the 80s NSMs have become lobbyists (as stakeholders) or players (as in the case of Green Parties) of the European political-institutional space in transition, only partially reducing their public activism. As for the peace movements and environmentalists on a global scale (from Amnesty International, Greenpeace, *Médecines Sans Frontières* and other NGOs), they try to keep radicalism in public actions, the capacity of communicating and raising the awareness of public opinion, forms of self-organisation and of direct action in the areas of crisis, together with mechanisms of influence and participation to institutional choices. We

⁹ Watts, *supra* note 3

¹⁰ G. Marks & D. McAdam, “Social Movements and the Changing Structure of Political Opportunity in the European Union”, in G. Marks, F.W. Scharpf, P.C. Schmitter & W. Streeck, eds. *Governance in the European Union* (London, Thousand Oaks, Calif.: Sage, 1996)

could re-affirm here what was said about the global context: this is the “quiet revolution” of the NGOs – understood as “motors of change” – but here it is often impossible to distinguish the boundary between the “private interest representation [and] civil society deliberation”.¹¹ Moreover, in Europe, there exists the hope that NGOs may act as “agents of political socialisation” in the process of “Europeanising civil society”, although the internal organisation of NGOs has to become truly democratic in order to give real instruments of intervention in the decision process of the EU.¹² The awareness and the richness of these new movements, in both the actions and the tactics aiming to institutional influence, survives in periods of deterioration of the spaces of political action and the ebbs of mobilisation, when only single-issue claims can establish an embryonic European public sphere. However, a continental public space, as a definite and permanent arena of public debate for European citizenships and of control of EU institutions, cannot be realised.

Actually, the grassroots statement of 15 February 2003 made by the “mass demonstrations in London and Rome, Madrid and Barcelona, Berlin and Paris” against the war in Iraq could be interpreted as a “sign of the birth of a European public sphere”:¹³ an evocative constituent date in the process of definition of political Europe, not only as a bureaucracy for EU policies, but as an area of activism, mobilisation and conflict practised by NSMs; in particular, those led by the “anti-war” ones, who met the action of post-Seattle global movements. The mass-

¹¹ D. Curtin, “Private Interest Representation or Civil Society Deliberation? A Contemporary Dilemma for European Union Governance” in *Social Legal Studies* 12 (2003); C. Beyer, “NGOs as Motors of Change” in *Government and Opposition* 42/4 (2007)

¹² A. Warleigh, “Europeanizing” Civil Society: NGOs as Agents of Political Socialization” in *Journal of Common Market Studies*, 39/4 (2001)

¹³ J. Habermas & J. Derrida, “February 15, Or What Binds European Together: A Plea for a Common Foreign Policy, Beginning in the Core of Europe” in *Constellations* 10/3 (2003) 291-297

media spoke of a “new power in the streets”, the “second superpower” of the “global peace movement”.¹⁴ In those days, the streets of global cities were crossed by multitudes that, at the turn of the century, had questioned, challenged and transformed the global order – “the End of History”, as Francis Fukuyama pretended. The “three roads” arising from the global protests of 1968 – Berlin in 1989, Chiapas in 1994 and Seattle in 1999,¹⁵ and after the Genoa G8 of 2001 and 9/11 – met to contrast Bush Jr.’s unilateralism and stand as a global critical public opinion.

This could have been a further advance in the definition of a “European public sphere”: such continental public dimension already existing in the artistic, cultural and scientific had known peaks of assertion even at the level of the public protest against the legitimacy of political institutions in the 1990s: the “negative advertising” brought by scandals such the Bangemann affair, “mad cow disease” (BSE) or the resignation of the Santer Commission, had played a role in the same direction, as well as the approval of ‘public’ procedure by the Prodi Commission.

This “slow learning” of a European plural and critical public opinion achieved a partial result as the “Convention on the Future of Europe” gave rise to the European Constitutional Treaty, sanctioned afterwards by the French and the Dutch referenda of 2005. The claims rising from the movements of that European public opinion remained unanswered, therefore, as well as lacking any real institutional counterpart. The question nevertheless still stands open: how to

¹⁴ “[T]he huge anti-war demonstrations around the world this weekend are reminders that there may still be two superpowers on the planet: the United States and world public opinion.” See P.E. Tyler’s famous article published in *The New York Times*, February 17 (2003), “Threats and responses: new analysis. A New Power in the streets”; also, J. Schell, “The Other Superpower” in *The Nation*, April 14 (2003)

¹⁵ Watts, *supra* note 3

act in the reticular meshes of European governance while both avoiding the institutionalisation that could reduce the movement to simple stakeholders and maintaining an autonomous capacity to control, protest, challenge and influence the decision-making process?

Dans les “institutions”, il y a tout un mouvement qui si destingue à la fois des lois e des

contrats

Gilles Deleuze, *Contrôle et devenir*¹⁶

The “New European Governance” dilemma

Already with the White Paper on European governance,¹⁷ the EU Commission felt the need “to strengthen the participation and interaction (consultation) of civil society,¹⁸ as well as “reinforc[ing a] culture of consultation and dialogue”,¹⁹ “involv[ing] civil society”, and rediscovering civil society, especially as a tool to reduce the gap between the structures of transnational governance companies governed by these structures.²⁰ However, the White Paper seemed to have been more the “symptom of the crisis” of the EU institutions rather than its remedy²¹ – the question of the legitimacy of the EU institutions remains and, as Olivier de

¹⁶ G. Deleuze, “Contrôle et devenir” in *Pourparlers* (Paris: Editions de Minuit, 1990)

¹⁷ COM (2001) 428 Final/2

¹⁸ O. De Schutter, “Europe in Search of its Civil Society” in *European Law Journal* 8/2 (2002) at 30

¹⁹ *Ibid*, 16

²⁰ K.A. Armstrong, “Rediscovering Civil Society: The European Union and the White Paper on Governance” in *European Law Journal* 8/1 (2002)

²¹ C. Joerges, K-H Ladeur & J. Ziller, with assistance from L. Dragomir, eds., “Governance in the European Union and the Commission White Paper”, in *EUI Working Paper Law* 8 (2002)

Schutter observes, Europe is still “in search of its civil society”²² as much as it is “in search of legitimacy”.²³ After the refusal of the “Constitutional Treaty” and pending the ratification of the Lisbon Treaty, the EU still maintains experimental modes of partial openness and participation in the regulatory process such as, for example, the “New Modes of Governance” (NMG) and the Open Method of Coordination (OMC) – in areas such as: employment policies (European Employment Strategy, EES), social protection and inclusion, youth policies, education and training – the committees system (“comitology”), the EU agencies, procedures of European social dialogue, and so on and so forth.

Cases of employment and social inclusion²⁴ show how the civil society organisations have been able to use the Open Method of Coordination (OMC) “to strengthen their agendas and positions *vis-à-vis* governments”, and define the OMC as a “perfect laboratory for them to defend and develop their existing agendas and to develop stronger means to influence Social Ministries”. On the other hand, some observe that the current evolution of the OMC, a tool for the intergovernmental cooperation, is harmful to the EU system due to the centrality of the governments and the marginal role which is confined the EU Commission, and thus are hopeful that what they see as a necessary “communitarisation” of the OMC will take place.²⁵

However, a major question remains open: do these “new modes of governance” suffice to

²² Schutter, *supra* note 18

²³ E.O. Eriksen & J.E. Fossum, “Europe in Search of Legitimacy: Strategies of Legitimation Assessed” in *International Political Science Review* 25/4 (2004)

²⁴ C. de la Porte, “Good Governance via the OMC? The Cases of Employment and Social Inclusion” in *European Journal of Legal Studies* 1 (2007)

²⁵ V. Hatzopoulos, “Why the Open Method of Coordination Is Bad For You: A Letter to the EU” in *European Law Journal* 13/3 (2007)

establish good governance and include real openness and participation for the new social players, excluded from the institutional system? This is the new governance dilemma behind the “participatory myth”²⁶ and the somewhat instrumental use of the terms “participatory democracy”.²⁷ Is it possible to go beyond the merely functionalist orientation of European governance? There exists instead a mechanism of mutual influence between “the power of institutions” and the hundreds of groups of civil society, which is nevertheless often crucial for the interference of bureaucracies from national governments, as government institutions have a significant and often dark and non-transparent “ability to influence the dynamics of the interest group system”.²⁸

We should undertake the criticism of the participative rhetoric inscribed in the meshes of the new European governance, which is ever-oscillating between self-reference and openness. The co-existence of a “dark” and a “golden” side in the governance ideology and procedures should be interpreted as an opportunity to rethink the forms of democratic participation, starting from some positive experience of a possible meeting between the “democratic aspirations and the political reality” as happened for environmental and regional policies, and the debate about food safety and genetically modified organisms (GMOs). The participation of civil society in these areas could become a principle of “cure for the democratic deficit”?²⁹

²⁶ S. Smisman, “New Modes of Governance and the Participatory Myth” in *European Governance Papers* 06/01 (2006)

²⁷ J.N. Pieterse, “Participatory Democratization Reconceived” in *Futures* 33 (2001)

²⁸ C. Mahoney, “The Power of Institutions: State and Interest Groups Activity in European Union” in *European Union Politics* 5/4 (2004)

²⁹ J. Steffek, C. Kissling & P. Nanz, *Civil Society Participation in European and Global Governance. A Cure for the Democratic Deficit?* (Basingstoke: Palgrave, 2007)

One should reduce the most elitist aspects of procedure complexity in the ways of access to the European governance system and enhance the instruments of transparency, administrative simplification, proximity to the citizenships and thus of openness and inclusion, preventing the danger of normalising the public sphere and neutralising the institutionalised civil society, as would happen if the praxis was restricted to the top-down approach of functionalist governance. One may valorise the “golden side” of new modes of European governance to release the decision-making procedures from the statal dimension, to reconsider the forms of inclusion beyond the institutions of the representative mediation and to imagine and practice new forms of legal (self-) regulation, beyond the crisis of parliamentary democracy and law. One should conceive a dimension that puts the “new social movements” of the last generation before the “new modes of governance”. Indeed, NMGs and NSMs invest in the gap between institutions and society, exceeding the worn-out forms of political and labour representation. Here, therefore, I propose a comparison between NMGs and NSMs under the triple profile of the crisis of state-centric, democratic and normative paradigms, or – if we proceed by slogans – NMGs and NSMs between non-state public space, post-democracy and self-government/regulation. An impossible squaring of the circle, this recombines new criticisms of the institutions and a deconstruction of the governance with the new social movements’ imaginative practice.

An End (h)as a Start: NSMs and Post-Modern Constitutional Theories: Preliminary Notes on Fragments of Possible Experiments

In these last considerations I assume the horizons of the procedures of new governance and the NSMs exist in a relationship of ongoing tension with the changing law production and the redefinition of political relationship, in order not to fall into the trap of the statal legitimacy. This new context made of often irreducible pluralism, systemic complexity, procedural

fragmentation and reticular relationships gives birth to a plurality of new actors: those who are not rooted in state sovereignty, nor recognise themselves in the traditional forms of social mediation.

In this multilevel space, the governance procedures face the intermittent emergency of the active portion of NSMs. The political autonomy of conflicts, considered as “pillars of democratic societies”³⁰ lies between the places and times of the decision and the need for public control and protest; but such players act against the idea of state sovereignty and the mediation exerted by parties and unions, which is based on the parliament centrality and on the hierarchy of the sources of law.

The Europeans NSMs of the last generation, who have learned from autonomy of the feminist movement, from the “information guerrilla” of the Zapatistas and self-organisation of social spaces in the European metropolis, turns to be active minorities into the disorganised public opinion. They are autonomous, informal, anti-conformist movements, who perform their collective public actions to deconstruct and de-structure the language and the practice of powers, and even claim a constituent attitude. They represent the other side of organised civil society, which has been admitted to institutional levels: they want to involve it in the mobilisation and lead campaigns on single issues to influence decision-making; but the NSMs remain outside institutional mechanisms. In fact, the NSMs seem to be immediately “constituent” from the communicative point of view and, while protesting, claim the possibility of a “law in movement”, from where it is possible to keep autonomy and ongoing “institutional deconstruction” together, based also on the “flexible alliances between

³⁰ A. O. Hirschmann, “I conflitti come pilastri della società democratica a economia di mercato” in *Stato e*

Mercato 4 (1994)

autonomous social spheres and various levels of global governance”.³¹

NSMs practice autonomy as a tool of self-government and constituent imagination of heterogeneous institutions with respect to established powers. This trend displays a “constitutional irresolution”³² and, at the same time, the hypothesis of transforming the “post-modern Global Governance” before the “critical legal Project”.³³ Thus the thoughtful reading, which proposes to recover the tradition of civil society in the “re-imagination of European Constitutionalism”,³⁴ while appearing extremely interesting although probably biased, still sets itself apart from “European constitutionalism beyond the state”.³⁵ Here one would like to remove the question mark from John Erik Fossum’s “*Adieu to constitutional élitism?*”³⁶ in order to question what the constituent processes will become in Europe after modernity. One could also opt for proposing “constitutional insurgency”³⁷ by simply accepting a non-formalistic interpretation of the Constitution and considering it to be an unsettled project, open to a network writing by social outsiders of the hierarchy of powers.³⁸

³¹ M. Blecher, “Law in Movement. Paradoxontology, Law and Social Movements” in J. Dine & A. Fagan, eds., *Human Rights and Capitalism* (Cheltenham: Elgar, 2006)

³² E. Christodoulidis, “Constitutional Irresolution: Law and the Framing of Civil Society” in *European Law Journal* 9/4 (2003)

³³ A. Negri, “Postmodern Global Governance and Critical Legal Project” in *Law and Critique* 16 (2005).

³⁴ M.A. Wilkinson, “Civil Society and the Re-imagination of European Constitutionalism” in *European Law Journal* 9/4 (2003)

³⁵ J.H.H. Weiler & M. Wind, *European Constitutionalism Beyond the State* (Cambridge: Cambridge University Press, 2003)

³⁶ J.E. Fossum, “Adieu to Constitutional Elitism?” in *ARENA Working Papers* 10 (2006)

³⁷ J.G. Pope, cited by J. Brecher, “Global People’s Law?” in *Znet*, May 4 (2006)

³⁸ F. Ost & M. van de Kerchove, *De la pyramide au réseau ? Pour une théorie dialectique du droit* (Bruxelles: Publications des Facultés universitaires Saint-Louis, 2002)

In this sense, NSMs are the richest fragment of critical public opinion, fighting for new welfare systems, common goods, commons, environmental issues, new rights of the digital age, autonomy and metropolis self-government. How can these new players and their instances question, meet, change what we call the post-modern constitutional critical theories? On one hand, one could follow the paths of the reforms of new governance, no matter how radical. Particularly interesting approaches are those of Jonathan Zeitlin,³⁹ alone and with Charles F. Sabel,⁴⁰ where it is argued that the OMC is a form of Social Europe “experimentalist governance”, in addition to which they situate other instruments of the “new architecture of experimentalist governance in the EU”, such as the “federated regulations in privatized infrastructures” (electricity and telecommunication infrastructures) and the “networked agencies”, as far as proposing these operational models of the EU as being “an exemplary architecture for global governance”.

In this respect, one can debate the central role played by the “system of committees”, one of the “new instruments of transnational governance in the EU”, which needs a reform in the sense of greater correspondence to the criteria of openness, access, pluralism: a “constitutionalisation of comitology” without a re-stating of state-centric paradigm but, rather, for the purpose of settling “the conflicts of law”.⁴¹

This analysis has many similarities to those that propose to investigate the “new governance”

³⁹ J. Zeitlin, “Social Europe and Experimentalist Governance: Towards a New Constitutional Compromise?” in *European Governance Papers* 4 (2005)

⁴⁰ C.F. Sabel & J. Zeitlin, “Learning from Difference: The New Architecture of Experimentalist Governance in the European Union” in *Eurogovernance Papers* 2 (2007)

⁴¹ Joerges, *supra* note 6

as a form of “democratic experimentalism”, to reverse the top-down approach and promote action “from the bottom-up”⁴² instead. This is a very inspiring framework, frankly dealing with the critical thought on powers, albeit from a pragmatic approach in the wake of John Dewey, which also provides many insights starting from the “Toyota jurisprudence” as “a kind of “post-Fordism” for legal theory”.

One analysis includes the role of case law, which becomes crucial during all institutional transformations: this highlights the importance of dialogue between the courts in the Old Continent, where sometimes the protection of fundamental rights becomes a comparison, but also of conflict between multi-level courts (ordinary-national, constitutional, European),⁴³ civil society and Union citizens.⁴⁴ This is a level that consumer associations, some advocacy of social movements, the active minorities, etc. have been already aware of for quite a long time: namely, how to protect their rights at the highest degree and introduce new ones. This demand will become even more urgent as a result of the possibility of making creative use of the EU Charter of Fundamental Rights, solemnly re-proclaimed by the European Parliament last December.

Which principles of justice? Such question, too, is constantly present in the various schools of “post-modern theories of jurisprudence”, such as those analysed in the US by Gary Minda.⁴⁵ And this is certainly the search for a “postmodern concept of justice”, starting from the “law

⁴² Wilkinson, *supra* note 34

⁴³ M. Cartabia, ed., *I diritti in azione. Universalità e pluralismo dei diritti fondamentali nelle Corti europee* (Bologna: Il Mulino. 2007)

⁴⁴ S. Wernicke, “Au nom de qui? The European Court of Justice between Member States, Civil Society and Union Citizens” in *European Law Journal* 13/3 (2007).

⁴⁵ G. Minda, *Postmodern Legal Movements. Law and Jurisprudence at Centur's End* (NY: New York UP, 1995)

in movement” in Michael Blecher’s recent work,⁴⁶ which maintains that the “emancipatory concepts of law and social justice today comes from systems theory”.

In particular, let us consider the work by Gunther Teubner, who has been dealing with the “critical legal thought” since the 1980s, firstly in terms of the definition of a new *lex mercatoria* and then with the global law in the sense of a “constitutionalism societal” as an alternative to State-centred constitutional theory:⁴⁷ going as far as to question forms of resistance and the self-claiming of “human rights”, against the pervasiveness of communication processes of the “Anonymous Matrix”, and moving the idea of justice closer to “spontaneous indignation, unrest, protest”.⁴⁸ There is a *fil rouge* in the Teubner’s thought, crossing from the demand for universal political access to digital communication (*qua* cyberspace), with the definition of a *lex digitalis*, but which does not exclude the acknowledgment of a “reasonable illegality”; up to the promotion “prompting regime-internal self organisation so the different regimes can establish their own grammars for their version of a global *ius non dispositivum*”, in a process that the French philosophers, Deleuze and Guittari, might have characterised as being “rhizomorphic” in nature”.⁴⁹

The assertion of new rights and modes of regulation is also the domain of labour law scholars

⁴⁶ M. Blecher, “The Continuous Becoming: Towards a Post-Modern Concept of Justice, presented at the Conference on ‘Human Rights and Capitalism’, Queen Mary’s College, London, (September, 2006)

⁴⁷ G. Teubner, “Societal Constitutionalism: Alternatives to State-centred Constitutional Theory” in C. Joerges, I-J Sand & G. Teubner, eds., *Transnational Governance and Constitutionalism* (London: Hart, 2004)

⁴⁸ G. Teubner, “The Anonymous Matrix: Human Rights Violations by ‘Private’ Transnational Actors” in *Modern Law Review* 69/3 (2006).

⁴⁹ A. Fischer-Lescano & G. Teubner, “Regime-Collisions: The Vain Search for Legal Unity in the Fragmentation of Global Law” in *Michigan Journal of International Law* 25 (2004).

dealing with the transformations of labour and of welfare systems over the past 30 years, especially in the context of Europe.⁵⁰ The search for social systems recognising rights and guarantees to the laborious citizen “*au delà de l'emploi*”,⁵¹ the analysis of the new forms of regulation⁵² and the composition of rights in Social Europe⁵³ are attempts to answer to the new forms of post-Fordist labour within the information society. The planning of “new welfare systems” meets the need for new protections for the independent worker of second generation,⁵⁴ proposing the hypothesis of a basic income – *allocation universelle*⁵⁵ along with the “flexicurity” policies and principles now discussed at EU level.⁵⁶

On these issues, as the rethinking of a radical and critical federalism, from a reinterpretation

⁵⁰ B. Caruso, “Changes in the workplace and the dialogue of labor scholars in the ‘global village’”, *WP C.S.D.L.E. - Massimo D'Antona*, 50 (2007)

⁵¹ A. Supiot, *Au-delà de l'emploi* (Paris: Flammarion, 1999)

⁵² M. Barbera, ed., *Nuove Forme di Regolazione: Il Metodo Aperto di Coordinamento delle Politiche Sociali*, (Giuffrè, 2006)

⁵³ S. Sciarra, “La costituzionalizzazione dell'Europa sociale. Diritti fondamentali e procedure di soft law”, *WP Massimo D'Antona*, 23 (2003); S. Giubboni, *Social Rights and Market Freedom in the European Constitution: A Labour Law Perspective* (Cambridge: Cambridge University Press, 2006)

⁵⁴ S. Bologna & A. Fumagalli eds., *Il lavoro autonomo di seconda generazione. Scenari del postfordismo in Italia*, (Feltrinelli, 1997)

⁵⁵ Y. Vanderborght & P. Van Parijs, *L'allocation universelle, La Decouverte* (2005) [trad. it. *Il reddito minimo universale*, di G. Tallarico (Università Bocconi Editore, 2006)]; C. Pateman, “Democratizing Citizenship: Some Advantages of a Basic Income”, in *Politics and Society* 32/1 (2004); BIEN – [Basic Income Earth Network](#)

⁵⁶ G. Bronzini, “Flexicurity for all?” in *Centro per la Riforma dello Stato*, <http://www.centroriformastato.it> (2006); G. Allegri, “Oltre l'Europa convenzionale: i mille piani dei movimenti sociali nell'Europa politica”, in G. Bronzini, F. Heidrun, A. Negri & P. Wagner, eds., *Europa, Costituzione e movimenti sociali*, (Rome: Manifestolibri, 2003).

of the relationship between “city and the grassroots”,⁵⁷ one wishes for the eventual meeting between European NSMs’ imaginative practice in the continental spaces and these innovative critical theories of powers and rights. This is a part of the toolbox, to be filled with more tools if these are still the times to conceive the self-organising society, experiencing the right of every generation to live a life of dignity.

⁵⁷ M. Castells, *The City and the Grassroots: A Cross-cultural Theory of Urban Social Movements* (University of California Press, 1983); see also, “Re-reading Castells” in *International Journal of Urban and Regional Research* 30/1 (2006)