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**THE LAW OF INTENTIONAL HUMAN COMMUNITIES: NEW
LEGAL ORDINAMENTS?**

COMMUNITY CONCEPT

The noun 'community', derives from the Latin term *communis*, and besides belonging to the language of current use, its use is also found in the technical terminology of different disciplines: with meanings of not easy explanation it is mainly used in anthropology and in sociology, but also in philosophy, in law, and in political science¹.

In the social sciences the noun community is mainly employed with two meanings.

In classical sociology, in fact, the term community indicates a peculiar type of social relationships that totally involve the individual of an organized collectivity: therefore, the noun, in this broad meaning, contains both the small village communities and it is the largest national community, including entities like the family, but also any other social

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¹ Cfr. A. BAGNASCO, Voce “*Comunità*”, in *Enciclopedia Treccani delle Scienze sociali*, 1992, 1 s.

nucleus in situations of high integration, up to delineate the peculiar form of traditional society before the current one.

In contemporary sociology, however, the meaning of community coincides with that of the local community.

The concept of community, therefore, has been well defined in the social sciences, in which the theories of some important scholars representing both classical sociology stand out, such as Ferdinand Tönnies² (who enumerates the concept of community-society, *Gemeinschaft-Gesellschaft*, as a basic means of capturing social change. For the Author, the community must be understood "as a living organism", while society must be understood "as an aggregate and mechanical product"), or Max Weber (for whom the notion of community is situated at the level of social relations, that is, for the Author, a social relationship can be defined as a community "if, and to the extent that, the disposition of social action rests [...] on a common belonging, subjectively felt (emotional or traditional) by the individuals who participate in it")³, both in contemporary sociology, such as Talcott Parsons⁴, who uses the concept of community only to identify that type of community "whose members share a territorial area as the basis for operations for daily activities".

Parsons also enumerates the concept of "corporate community" whose purpose is integration; in this subsystem the Author identifies "loyalty obligations towards the society as a whole, both for the whole of its

² F. TÖNNIES, *Comunità e società*, (tit. orig.: *Gemeinschaft und Gesellschaft*, Darmstadt, 1935), Roma, 2011, 47 ss.

³ M. WEBER, *Wirtschaft und Gesellschaft*, Tübingen, 1922 (tr. it.: *Economia e società*, Milano 1961), 23 ss.

⁴ T. PARSONS, *The social system*, III ed., London, 1951 (tr. it.: *Il sistema sociale*, Milano 1965), 97 ss.

members, and for the various categories, diversified by their status and role, which are found within society"⁵.

It seems clear that the use of the term community is certainly problematic, not only for the evident fact that in the same word different meanings are superimposed, but more in general due to the difficulty of conceptual clarification and lack of research capacity.

The problem of the notion of community has, however, assumed a new relevance, if related to the decadence of the concept of State, understood in the traditional sense, and to the procedures of globalization.

As Z. Bauman rightly says, "today the community is considered and sought as a shelter from the rising tides of global turbulence, tides usually originated in remote places that no locality can control in the first person"⁶.

A further and quick etymological reference, however, in my opinion, can be adequate in order to motivate and understand the evolution of the different lines of thought indicated above.

The term community, as already stated at the beginning of this contribution, can be traced back to the concept of *communitas* and also of *koinonia*. In the word *koinonia*, the concepts of denotation and connotation merge into the meaning of a union (koinè), in which the individual does not have an existence independent of what the community represents and represents: its fate is delineated within the confines of the community of membership. The term *communitas*, on the other hand, can have a different meaning than *koinonia* if we highlight the concept of *munus*, in its connection to the prefix cum. In fact, if one emphasizes how *munus* is going to indicate 'unite', the meaning of community will not be set in the belonging identity,

⁵ T. PARSONS, *The system of modern societies*, Englewood Cliffs, New Jersey, 1971 (tr. it.: *Sistemi di società*, Bologna 1973), 28 ss.

⁶ Z. BAUMAN, *Voglia di comunità*, Roma-Bari, 2001, 138 ss.

but in the biunivocal correspondence of the obligation to donate; the community bond, therefore, coincides with a 'give-given' relationship⁷.

CONCEPT OF INTENTIONAL COMMUNITY

Within the notion of community fits the more specific conception of 'Intentional Community', which goes to define a global phenomenon that encompasses different realities, such as intentional eco-sustainable (or ecoreversible) communities, ecovillages, cohousing and solidarity condominiums .

For the Fellowship for Intentional Communities -FIC- an Intentional Community represents "a group of people who have chosen to work together with the goal of an ideal or a common vision", and there are no doubt the ecovillages, which represent a reality increasingly widespread in the world⁸.

Given the multiplicity of experiences, it is difficult to trace a profile that can exhaustively belong to all community projects. Therefore, remaining in general terms, it is possible to state that in the Intentional Communities there are three synergistic aspects:

- 1) the sharing of the same life project, which often also reflects in the workplace;
- 2) an internal organization, able to develop solidarity mechanisms and mutual aid;
- 3) the adoption of sustainable lifestyles, which allow a reduced environmental impact.

⁷ A. BAGNASCO, Voce "*Comunità*", cit., 1 ss.

⁸ Cfr. M. OLIVARES, *Comuni, comunità ed ecovillaggi*, London, 2010, 5 ss.

It could therefore represent the idea of intentional community with that of a large extended family, where what matters are not the kinship but the intention, the will of the people who are part of creating a space of life out of the logic of competition and oppression.

Therefore, the founding element of every intentional community is the sharing of ideas, passions, visions of the world but also spaces, goods of various kinds and money. The levels of sharing practiced by members of intentional communities are different. For example, there are ecovillages in which the properly communitarian element predominates and where almost no type of private property is recognized, where land, housing, means of production and locomotion, as well as currency reserves, belong to the community. There are others - with a more individualistic orientation - in which private property and collective ownership perform different and complementary functions⁹.

INTENTIONAL COMMUNITIES AND LAW

With these premises, in the absence of a specific reference discipline that can regulate their activities, it is not uncommon for the life of the Intentional Communities to arise problems of various kinds, such as in relation to the ownership of real estate, the organization of work and urban solutions tailored to groups, which have different needs for space and organization than those of a family.

In this regard, at present, in Italy a political debate has opened about the legal recognition of intentional communities, which resulted in the drafting of a draft law just presented in Parliament¹⁰: the main topics addressed in the aforementioned draft law concern the definition of intentional

⁹ Cfr. M. OLIVARES, *Comuni*, cit., 5 ss.

¹⁰ Proposal by the On. Mirko Busco, under discussion in the Italian Parliament on 7 June 2017.

community; the rights and duties towards members of one's community; the possible attribution or management by the communities of rural and liminal properties; the tax and labor regime and the ethico-social balance.

The Intentional Communities, however, regulate the inter-subjective relations within them with provisions that have an independent legal value and which regulate, for members of the community, both the areas of private law, in particular the problems inherent to the ownership of goods, (often as already outlined above, the legal institution of collective ownership is set up), relationships within the family; both those of public law, with the issuance of Constitutional Papers that contain rules with public value: they are therefore real legal systems.

INTENTIONAL COMMUNITIES AND LAW: THE CASE OF DAMANHUR

As part of my current research into intentional communities, I have been able to focus my attention on three intentional communities in the world: Damanhur in Italy, Les Amanins in France, Arcosanti in the United States of America. It appears evident, as for example. in the case of Damanhur¹¹,

¹¹ J. MERRIFIELD, *Damanhur, The Story of an Extraordinary Italian Artistic and Spiritual Community*, London, 2006. Specifically, Damanhur is a Federation of Spiritual Communities located north of Piedmont, between Turin and Aosta, within a radius of 15 kilometers that includes the Valchiusella in the center, a still green and clean valley where the six hundred citizens of Damanhur who live there have created a multilingual society, open to exchanges with the world and the different cultures of peoples. It was founded in 1975 on the inspiration of Falco Tarassaco, spiritual name of Oberto Airaudi (1950-2013). His enlightened and pragmatic vision has created a fertile reality based on solidarity, sharing, mutual love and respect for the environment, so much so that in 2005 he obtained recognition as a model of sustainable society by the United Nations Global Human Settlements Forum (UN). On Damahur cfr. O. AIRAUDI, *Sincronicità e linee sincroniche*, Torino, 1981; L. BERZANO, *Damanhur. Popolo e comunità*, Torino, 1998; J. MERRIFIELD, *Damanhur: The Real Dream*, London, 1998; ID., *Damanhur, The Story of an Extraordinary Italian Artistic and Spiritual*

located in Piedmont, it is an Intentional Community with a well-defined formal and juridical structure, with a vast territory by extension and a fairly high number of residents: an organized community in the true sense of the word .

In Damanhur there is a Constitution drawn up in articles that encompasses the fundamental rights of the residents, as well as a series of well-established rules governing legal relations of a private and public nature. The new constitution of Damanhur was drafted in 2007, consists of 15 articles and was replaced by the previous Constitution of 1981, which developed the 130 articles.

From the reading of the norms an imprint of strong ethical inspiration is evident, which goes to connote the Constitutional Charter as regards the moral profile of the members (Article 1-8). But from a juridical point of view, some norms appear that are relevant to the social political organization of the Community which presents itself as a Federation of Community, in which it is possible to obtain citizenship (Article 10). There are rules concerning the greater directive role of the communities that is entrusted to the Guide King elected among the temporary associates (Article 11) and there is also a College of Justice (Article 12) which is in charge of the control over compliance rules of the affiliates and also assumes jurisdictional powers. There are also rules on the relations of private law (property and economic and financial contributions, and family

Community, London, 2006; M. OLIVARES, *Comuni, comunità ed ecovillaggi*, cit., 5 ss.; S. PALOMBO, *La mia Damanhur. La più grande comunità spirituale italiana raccontata da chi ci vive*, Vidracco, 2011; ID., *Tempio nel verde. Cos'è e cosa rappresenta il Tempio Bosco Sacro*, Vidracco, 2017; S. PALOMBO, F. CALATI, *Viaggio nei templi dell'umanità. La straordinaria opera sotterranea dedicata alla spiritualità*, Vidracco, 2015; A. TONICELLI, S. PALOMBO, *Visita a Damanhur. Vita quotidiana, pensiero, storia di un popolo capace di sognare*, Vidracco, 2016; R. SPARGIO, *I segreti del sistema politico di Damanhur. Agorà comunitarie ed elisir di lunga vita sociale*, Vidracco 2017.

organization, articles 8 and 9). In short, an organized community with rules and legislative powers ad hoc (articles 13-15)¹².

Also in this case we find ourselves in a context where the maximum Latin *ubi societas, ibi ius* is valid. But it is interesting to note how Damanhur is defined by the residents as a laboratory for the future of humanity, where thinking about the good of others, the drive for continuous inner transformation, solidarity and respect among citizens, always giving to others a 'further possibility of relaunching, care for the environment and for all forms of life appear as fundamental principles of the Community.

From these last considerations, I propose a conclusive question open, for the moment without an answer, which invites a wider reflection: intentional communities can represent the dawn of new human societies, that is they can represent a new model of alternative social organization, founded on fairer, participatory and supportive social models respecting territories and the environment? A question that I propose to solve in the context of my research that will soon be merged into a monographic publication.

¹² R. SPARAGIO, *I segreti del sistema politico di Damanhur. Agorà comunitarie ed elisir di lunga vita sociale*, cit., 6 ss.

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SUMMARY

The purpose of this paper is to analyze from a legal point of view the new, globalized phenomenon of intentional human communities, with the aim of understanding whether these new types of aggregation of individuals can be considered as alternative forms of organized production models of different models from the traditional ones, or capable of creating new legal systems, starting from the assertion *ubi societas ibi ius*. Starting from the definitions elaborated in the field of legal sociology and intentional communities, we analyzed the problem of the intentional communities capacity to produce legal rules to apply to community members. The legal organization of the Community of Damanhur, located in Piedmont (Italy), where there are internal rules of private and public law regulating the life of the subsidiaries, is a genuine legal system of the Community, which poses many problems in relation to Italian law. The new bill submitted to the Italian Parliament in 2017 on the legal recognition of the intentional Communities could definitively regulate this matter, namely the relationship between the Community and its Member State, with the consequent recognition of the existence of 'autonomous legal systems' to the Intentional Communities.

Keywords: Community; Intentional communities; Law; New legal systems

SOMMARIO

Il presente intervento si propone di analizzare dal punto di vista giuridico il nuovo fenomeno, oramai globalizzato, delle comunità umane intenzionali, con l'intento di comprendere se queste nuove tipologie di aggregazione di individui possano essere considerate come forme alternative di collettività organizzate produttive di modelli giuridici differenti rispetto a quelli tradizionali, ovvero

capaci di dar vita a nuovi ordinamenti giuridici, partendo dall'assunto *ubi societas, ibi ius*.

Partendo dalle definizioni elaborate nel campo della sociologia giuridica di comunità e di comunità intenzionali, si è poi analizzata la problematica inerente la capacità delle comunità intenzionali di produrre regole giuridiche da applicare ai componenti delle comunità. È stata poi esaminata l'organizzazione giuridica della Comunità di Damanhur, situata in Piemonte (Italia), in cui vi sono norme interne di diritto privato e di diritto pubblico che regolano la vita dei consociati, un vero e proprio sistema giuridico interno della Comunità, che pone non pochi problemi nel rapporto con il diritto italiano. Il nuovo progetto di legge presentato nel 2017 al Parlamento italiano, in merito al riconoscimento giuridico delle Comunità intenzionali, potrebbe regolare in maniera definitiva questa materia, ovvero i rapporti tra Comunità e Stato di appartenenza, con il conseguente riconoscimento della esistenza di 'ordinamenti giuridici autonomi' facenti capo alle Comunità intenzionali.

Parole chiave: Comunità; comunità intenzionali; diritto; nuovi ordinamenti giuridici.