



Revisiting subsidiarity: Not only administrative decentralization but also multidimensional polycentrism

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ABSTRACT

The discussion on “territorial governance” has gained traction in the last decade. The issue of territorial governance is particularly important because it invites us to revisit certain traditional ideas concerning institutions, their tasks, and the scale and level of intervention. In this regard, a crucial concept is that of “subsidiarity”. The concept of “subsidiarity” is widely used both in the academic literature and in the public debate, as well as in laws and directives. This article critically revisits the ideal of subsidiarity. As will be demonstrated, the ideal of subsidiarity can prove decisive for new forms of territorial governance. However, this will only happen if subsidiarity is understood in a truly innovative sense; that is, placing the emphasis (i) (not solely on vertical subsidiarity but, also) on horizontal subsidiarity, and not interpreting the latter (ii) only from a perspective of solidarity, or (iii) only as a services issue, or (iv) only as a form of action agreed and coordinated with public authorities. The point is that, while promoting vertical subsidiarity merely requires “administrative decentralization”, promoting horizontal subsidiarity requires a more radical revision of current national, regional and urban realities in a direction characterised by what can be called “multidimensional polycentrism”.

1. Introduction

The discussion on “territorial governance” has gained traction in the last decade (Berisha et al., 2023; Cotella, 2014, 2018; Cotella & Toto, 2021; Stead, 2013, 2014), and it has been relaunched recently as a consequence of the problems created for many contemporary institutional arrangements by the Covid-19 pandemic (Cotella et al., 2023; Cotella & Vitale Brovarone, 2024; de Campos-Rudinsky et al., 2024; Graziano, 2022; Moroni et al., 2023; Vampa, 2021). The issue of territorial governance is particularly important because it invites us to revisit certain traditional ideas concerning institutions, their tasks, and the scale and level of their intervention. In this regard (Bianchi & Richiedei, 2023; Janin Rivolin, 2005; Moodie et al., 2022), a central and crucial concept is that of “subsidiarity”.

The concept of subsidiarity is widely used, both in the academic literature¹ (including urban studies and regional sciences: e.g., Dardanelli, 1999; Seliger, 1999; Murphy, 2000; Wise, 2000; Albrechts, 2001;

Cameron & Ndhlovu, 2001; Begg, 2008; Minoia et al., 2009; Faludi, 2013; King, 2014; Sheppard & Ritchie, 2016; Rauf et al., 2024) and in the public debate. It is also crucial for many public laws and directives. First of all, the concept is fundamental for the European Union: the idea of subsidiarity was first considered in the European Single Act of 1986; in 1992, the principle of subsidiarity was officially introduced by the Maastricht Treaty and subsequently resumed by the Lisbon Treaty of 2007.² Second, the principle of subsidiarity has been introduced into the legislative framework of various European countries: the Italian Constitution, for example, included the principle, in 2001, in its art. 118³; as regards France, see the constitutional revision of 2003; see, moreover, art. 23 of the German Constitution. Third, the principle also entered many regional laws: for example, art. 1 of the law n. 12/2005 of the Lombardy Region in Italy.⁴

The principle of subsidiarity requires, in very general terms, that tasks be performed at the most suitable level of organisation. It is customary to trace the origin of this concept back to a papal encyclical

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¹ A search for the term “subsidiarity” in *Scopus* – and considering only “title, abstract, keywords” – found more than 2380 entries (in August 2024).

² On the role of the subsidiarity ideal in the EU in general, see e.g. Kersbergen and Verbeek (2004), Janin Rivolin (2005), Henke et al. (2006), Faludi (2013). More specifically on subsidiarity in the Lisbon Treaty, see Kiiver (2007), Schütze (2009), van den Brink (2011), and Craig (2012). A work that provides an archive-based analysis of the European debate on subsidiarity before introducing it in treaties, is Jaeschke (2024).

³ See on this e.g. Maltoni (2002); Groppi and Scatone (2006); Arban (2015).

⁴ On the adoption and implementation of the subsidiarity principle in Lombardy, see e.g. Colombo (2012), Powell (2012), and Trivellato et al. (2016).

(the *Quadragesimo anno* of 1931: Gabor, 2012; Bagot, 2013; Brennan, 2014), although the idea is older and is also found in traditions other than the Catholic one (Anderson, 2014; Finnis, 2016; Friesen, 2005). As Gosepath (2005: 157) notes: “Etymologically speaking, the Latin term *subsidiū* originated in the realm of the military and was used to refer to the third line of Roman soldiers, the *Triarii*, who would only join in a battle if the powers of the two front lines were insufficient”.

This article critically revisits the ideal of subsidiarity, taking Head's warning into serious account: “As a principle, subsidiarity is widely invoked and supported, but in practice it is highly contested and could be used to justify a variety of practical outcomes in different circumstances” (Head, 2006: 160; compare with Jaeschke, 2024; Peterson, 1994; Mulé & Walzenbach, 2019; Schreurs, 2023; Wanzenböck & Frenken, 2020). The article's intention is not to analyse the legal version of the principle of subsidiarity in some specific legislative framework; rather, it is to discuss its theoretical extent and potential.

In this regard, it is important to recall that the ideal of subsidiarity can be broken down into “vertical subsidiarity” and “horizontal subsidiarity” (Føllesdal, 1998)⁵: (i) in the former case, the idea is that the low-level public institutions are the first ones in the institutional pyramid required to enter into action, leaving space for the involvement of the higher-level ones only when unavoidable; (ii) in the latter case, the idea is that when certain tasks are better performed by non-public realities closer to individuals, the State should let this happen. The main aim of the article is to show that too much attention has been devoted (in the academic and public debate, as well as in national and local policies and measures) to vertical subsidiarity at the expense of horizontal subsidiarity, with the consequence of reducing the innovative implications of the idea.

From this perspective, Section 2 clarifies two underlying issues concerning the (ethical and strategic) arguments in favour of the principle of subsidiarity and its normative scope (as a necessary but not sufficient condition). Section 3 examines four crucial questions regarding different dimensions of the principle of subsidiarity, with a particular focus on the “horizontal” version of it. Section 4 discusses the main findings by suggesting that a reductive interpretation of the principle of subsidiarity (i.e., subsidiarity as mere “administrative decentralization”) should be avoided, and that a more innovative and open notion of it should be adopted. Section 5 concludes.

Although the article is mainly analytical and conceptual, it is empirically informed⁶ and illustrated.⁷ The article is based on an extensive multidisciplinary review of the literature (including political philosophy, legal theory, political science, urban and regional studies).

2. Two underlying issues: reasons for the principle of subsidiarity and its scope

When discussing subsidiarity, two underlying issues are crucial: (i) why is subsidiarity desirable? and (ii) what is its normative scope?

2.1. First issue: why subsidiarity

The first issue concerns the *reasons* for adopting subsidiarity as a principle. The ideal of subsidiarity implies that the needs of individuals must be dealt with by the institutional or social organizations best suited

to the task, and from the bottom up. The principle of subsidiarity assigns the burden of proof to the advantage of the lower-level units of a society (Rinderle, 2021: 20). In other words, subsidiarity introduces “a rebuttable presumption for the local”, as a principle requiring that decision-making must take place at the lower level unless there are good reasons for shifting it upwards (Jachtenfuchs & Krisch, 2016: 6). It could therefore be said that the principle of subsidiarity expresses a preference for *proximity* (Cahill, 2021). This is for both ethical and efficiency reasons.⁸

First, for *ethical* reasons, because individuals – i.e., persons⁹ – are the only entities with legitimate moral claims, and any superordinate organisation or institution is therefore acceptable *only if it acts in their service* (Carozza, 2007; Føllesdal, 1998; Marshall, 2008). As Føllesdal (1998: 199) writes, according to the theory of subsidiarity: “The only ultimate bearers of value are individual human beings. Thus, arguments regarding the legitimacy of social institutions (including associations and nation-states) must be made in terms of how they affect the interests of all affected parties”. Compare with Marshall (2008: 80): Although various definitions of the principle of subsidiarity exist, “they generally share in common the implication that any particular task should be decentralised to the lowest level of governance with the capacity to conduct it satisfactorily. The original justification for this principle was moral, stemming from a conviction that each human individual is endowed with an inherent and inalienable worth, or dignity, and accordingly that all social groupings should ultimately be at the service of the individual”. In short, political power does not come from above but is instead granted from below, and it is transferred to institutions only on the condition that it expressly serves people (Höffe, 1996).

Secondly, for reasons of *efficiency*, because the closer one is to the problems to be addressed, the more effective the answer will be; in other words, easier availability of (local) information, lower experimentation costs, as well as a greater potential for innovation, provide good arguments for proximity decision-making (Jachtenfuchs & Krisch, 2016: 21).

2.2. Second issue: necessary but not sufficient

The second issue concerns the normative scope of the principle of subsidiarity interpreted in the above-mentioned terms.

In this regard, it is important to point out that the principle of subsidiarity can be interpreted as a *necessary* condition for adequate political and social systems, although it is not a *sufficient* one. Other normative principles – not discussed in this article – should obviously be added in order to obtain a substantive institutional solution (Da Silva, 2023; Dietsch & Rixen, 2014; Melé, 2005).¹⁰

This notwithstanding, the principle of subsidiarity is of crucial importance in framing certain primary and basic issues. It acts as a normative “filter” that excludes undesirable options and creates the framework in which more substantive institutional and societal solutions can be specified.

In this perspective, *subsidiarity* does not overlap with *federalism*. Subsidiarity is a principle, whereas federalism – or, better, specific forms of federalism – are institutional arrangements that may satisfy this principle (Calabresi & Bickford, 2014; for further critical discussions on this topic, see e.g. Aroney, 2016; Bermann, 1994; Da Silva, 2024; Deem et al., 2015; Golemboski, 2015).

⁵ On this crucial distinction, see also Bercusson et al. (1997), Henry (1999), Flanagan (2014), Zejnuni (2015), Mulé (2019), Ballantyne and Mascioli (2024).

⁶ It is based on long empirical investigation in the fields of intentional communities in general and energy communities in particular (previous publications resulting from this empirical investigation – started 20 years ago – will be cited throughout the article).

⁷ Various examples will be provided in regard to the issues at stake, and repositories and directories collecting numerous cases of forms of organizations and associations relevant in terms of subsidiarity will be indicated.

⁸ For these (and other) levels of discourse in the case of public issues, see e.g. Chiappero-Martinetti and Moroni (2007).

⁹ Note that the terms “individual” and “person” are treated here as equivalent. Indeed, unless the term “individual” is understood in a surprisingly reductive way (as has never happened, not even in the classical liberal tradition: Machan, 2000), it is difficult to find significant differences between the two terms *when dealing with subsidiarity*.

¹⁰ Consider for instance the principle of the “rule of law” and the two Rawlsian “principles of justice” (interpreted as constitutional level principles: Moroni, 2023).

3. Focus: four key points

In accepting this ideal of subsidiarity as a crucial aspect of new forms of territorial governance, it is necessary to stress four key points:

- (i) the fundamental (and more innovative) dimension of subsidiarity is the horizontal one;
- (ii) horizontal subsidiarity is not only solidarity;
- (iii) horizontal subsidiarity does not concern only services;
- (iv) horizontal subsidiarity is not just “administered”, top-down coordinated subsidiarity.

Let us consider these points one by one in detail.

3.1. First point: not only vertical subsidiarity

The trap that many scholars and decision-makers seem to fall into is that of taking only vertical subsidiarity seriously into account, leaving horizontal subsidiarity completely in the background. It is no coincidence that most of the subsidiarity debate focuses on the division of (public) powers between the European Union and the member states. In an analysis of this debate and issues connected with it, [Faludi \(2016: 305\)](#) comments: “The focus is always on vertical relations between member states and the EU. What is far less prominently present in discussions is horizontal subsidiarity”. Similarly, [Fattore and Vittadini \(2021: 10\)](#) note: Vertical subsidiarity is a way to achieve multilevel governance, “guaranteeing that decisions are taken [as close as] possible to the social issues to be addressed. Indeed, it is this meaning of subsidiarity that it is mainly referred to in constitutions and in the institutional architecture of many states and supranational entities, like the European Union [...]. It is however horizontal subsidiarity [that is] of particular interest in view of adaptive policy-making and sustainability”.

The danger in giving total prominence to the idea of vertical subsidiarity – neglecting the idea of horizontal subsidiarity – consists of moving in a direction in which the rule is simply: “Everything the public does not do, the public does anyway” ([Antiseri, 1994](#)). In other words, what the European Union does not do concerns the State, what the State does not do concerns the Region, what the Region does not do concerns the County, what the County does not do concerns the Municipalities, and so on. With this reasoning ([Drew & Grant, 2017](#)), we do nothing but return to the old ideal of *administrative decentralization* ([Kaufman, 1969](#); [Moya Palencia, 1974](#); [Yin et al., 1974](#)), only refurbished for the occasion with, e.g., a new, important role granted to cities ([Boulos & La Barbera, 2023](#); [Geertjes, 2023](#); [King, 2014](#); [Murphy, 2000](#)).

[Chaplin \(1997: 117\)](#) already highlighted this risk at the end of the 1990s:

“The current debate about subsidiarity has concentrated almost exclusively on its significance for the distribution of competencies between different levels of political authority. But this is only one specific application of a wider sense governing the distribution of functions between the State and any other communities, requiring that the State not assume tasks which other communities can perform adequately for themselves”.

The situation did not change very much thereafter ([Quadrio Curzio, 2007](#)).

In conclusion: the aim should be to seek not only *decentralization* (e.g., by giving more power and tasks to regional and local municipalities – which is anyway desirable) but also *polycentrism* (i.e., by multiplying the kinds of decision-making entities, both public and private: [Goldthau, 2014](#); [Moroni & Tricarico, 2018](#)).¹¹

¹¹ The issue of polycentrism has been authoritatively discussed and developed by [Andersson and Ostrom \(2008\)](#), [Ostrom \(2010a, 2010b, 2012\)](#), [Nagendra and Ostrom \(2012\)](#). On this topic with specific reference to cities, see [Baer and Marando \(2001\)](#) and [Baer and Ihrke \(2004\)](#). Note that polycentrism here is referred to in the context of governance, and not in the sense of urban form.

3.2. Second point: not only solidaristic subsidiarity

However, once the central role of horizontal subsidiarity has been recognised – which seems indispensable – other reductionist interpretations are unfortunately possible. A further risk is that horizontal subsidiarity may be understood as something that concerns *solely* activities focused on social solidarity. In other words, subsidiarity and social solidarity mutually and necessarily entail each other. As [Soudan \(1998: 185\)](#) writes: “The subsidiarity principle calls for concrete solidarity between communities” (see also [Brakman, 2020](#); [de Campos, 2020](#); [Ekins, 2021](#); [González & Scalzo, 2024](#); [Gustafson, 2024](#); [Schweigert, 2002](#); [Westerhäll, 2004](#)).¹²

However, horizontal subsidiarity entails not only organized groups of individuals providing services – which were traditionally in the public domain – to others for social solidarity purposes (e.g., to help individuals in need), but also organized groups of individuals guaranteeing services – traditionally in the public domain – to their members for functional purposes (e.g., to reduce certain costs). As an example of the former case, consider an urban non-profit association providing help to homeless people; as an example of the latter, consider a local energy community set up by a group of individuals in order to increase their independence and autonomy and to reduce certain expenses.

If the point of horizontal subsidiarity is that public institutions must give space to citizens when they can do something autonomously, this may happen both when groups of citizens organise themselves to altruistically help others and when groups of citizens organise themselves to functionally help members of their own, organized group.

In summary, horizontal subsidiarity concerns not only the action of the “third sector” inspired by solidarity with those in need ([Buttschi & Cattacin, 1993](#); [Chiodo, 2022](#)) but also that of any non-state organisation or association able to provide services and benefits to its members for functional purposes.

It is of interest to underscore here that [Tocqueville \(1840/1998\)](#), in a book much-quoted in the subsidiarity debate, expressed his astonishment at how free American private organizations and associations were able to deal with so many problems. But he did not place the emphasis solely on solidarity activities; he did so on *any* activity freely undertaken to obtain whatever outcome a group deems desirable.

Tocqueville emphasised this point in several famous passages on nineteenth-century America:

“Americans of all ages, all conditions, and all dispositions constantly form associations. They have not only commercial and manufacturing companies [...], but associations of a thousand other kinds, religious, moral, serious, futile, general or restricted, enormous or diminutive. [...] I met with several kinds of associations in America of which I confess I had no previous notion; and I have often admired the extreme skill with which the inhabitants of the United States succeed in proposing a common object for the exertions of a great many men and inducing them voluntarily to pursue it” ([Tocqueville, 1840/1998: 215](#)).

In regard to this point, Tocqueville asked some crucial questions and foresaw certain risks:

“A government might perform the part of some of the largest

¹² To make clear that what it at stake here is social solidarity, consider e.g. [Schweigert \(2002: 33\)](#): “Solidarity refers to shared membership characterised by mutual care and mutual respect, that is, a sense of belonging enriched by a commitment to human dignity – to love one’s neighbor as oneself”. In this sense, “Solidarity [...] is not reducible to reciprocity; rather, reciprocity presumes solidarity” ([Schweigert, 2002: 33](#)). See also [de Campos \(2020: 213\)](#): “As a principle of justice, solidarity has the purpose of protecting the human dignity of each and every human life, in the reality of our interconnectedness and mutual vulnerabilities [...]. This means that solidarity requires, as a matter of justice, that both individuals and institutions be committed to promote the good of each and every person – also known as the common good”. See finally [Brakman \(2020: 63\)](#): “Solidarity in practice means that individuals, institutions, and communities should act to promote the welfare of all and each individual”.

American companies [...] but what political power could ever carry on the vast multitude of lesser undertakings which the American citizens perform every day, with the assistance of the principle of association? [...] [The more the government] stands in the place of associations, the more will individuals, losing the notion of combining together, require its assistance [...]. The morals and the intelligence of a democratic people would be as much endangered as its business and manufactures if the government ever wholly usurped the place of private companies" (Tocqueville, 1840/1998: 217).

3.3. Third point: subsidiarity not only in the field of services

A further reductionist interpretation consists in thinking that horizontal subsidiarity (whether solidaristic or not) can concern almost only services – for instance, local welfare services. A large part of the reflections on horizontal subsidiarity – and a large part of concrete attempts to implement it – are in fact focused exclusively on the possibility and ability of private organizations and associations to provide certain services (for example, certain forms of help and assistance at the local level) usually considered to be of solely public concern.

However, the most interesting and disruptive side of (horizontal) subsidiarity is the idea that *private entities* can also provide helpful *rules*. As Enriques et al. (2014: 88) write: "Horizontal subsidiarity refers to the preference for self-regulation by private actors over [...] regulation from public bodies".

Among the most interesting examples in this regard are "contractual communities" (Lavoie, 2024: 40–42) which provide (to their members, in this case) not only services but also rules, such as homeowners associations (Nelson, 2005), cohousing complexes (Fromm, 1991), community properties (MacCallum, 2003), residential cooperatives (Turner, 1997).¹³ These arrangements have recently flourished in many countries, in both urban and non-urban contexts (as well known, some of them have anyway a long history).

According to 2023 data, in the US there are around 220,000 homeowners associations (i.e., private planned communities), housing about 45 million residents in 17 million housing units¹⁴; around 9000 of them are large-scale community associations (i.e., those possessing at least two of the following features: a single, contiguous community with a general manager; a minimum of 1000 lots and/or homes; and a minimum annual budget of \$2 million).¹⁵ The interesting point is that private contractual communities of this kind provide their members not only with *services* (e.g., infrastructure such as parking lots, playgrounds, sport facilities, green and recreational spaces, as well as their management, and collective services such as snow removal and trash collection) but also, and above all, with *rules* of coexistence (e.g., rules concerning what is permitted and prohibited in the use and transformation of buildings and spaces: with reference, for instance, to adding floors to a building, changing structural elements, modifying building uses and functions, altering the shape and decorations of facades, planting new trees). These rules are of voluntary and contractual origin, in the sense that they are freely and expressly accepted by the members when they join the association (Boudreaux & Holcombe, 1989, 2002; Ellickson, 1982; Epstein, 2002; Foldvary, 2011; Gordon et al., 2005; Nelson, 2005).

¹³ On "contractual communities" in general, see Brunetta and Moroni (2012), Moroni (2014), Brunetta (2015). Sometimes these organisational forms are also called "intentional communities" (Hausknot et al., 2018; Lopez & Weaver, 2019; Mulder et al., 2006; Sager, 2018; Sanguinetti, 2012; Schäfer et al., 2018). A directory with around 1000 contractual/intentional communities distributed all over the world – and detailed information on each of them – can be found at <https://www.ic.org/directory/> (accessed May 2024).

¹⁴ My elaborations on data available at <https://www.caionline.org> (accessed May 2024). Consider that the figures do not include residential cooperatives and condominiums.

¹⁵ See again <https://www.caionline.org> (accessed May 2024).

Note that this is a case of "law of private entities" rather than of "private law". To understand this point better, it is helpful to reconsider the classic distinction drawn between "public law" and "private law" (as regards regional and urban planning, see Needham, 2006). Both types of law are introduced by the State: the former covers the interrelations between a state and its citizens (e.g., planning laws), whereas the latter regulates the interrelations among citizens (e.g., the exchange of goods like real estate assets). It is fundamental to distinguish private law in this sense (i.e., the branch of statutory legislation concerning the types of interaction that can take place between private individuals) from the "law of private entities" (i.e., that type of regulation which – within the framework of private law – emerges freely and contractually from the effective interaction between private entities). While "private law" is always an offshoot of statutory law – i.e., law that is decreed by the State – the "law of private entities" does not come from the State; it is instead introduced by private entities (Fuller, 1969). Recognising the role and importance of the law of private entities – one example being the type of law produced by contractual communities – entails rejecting the doctrine of certain versions of *legal positivism*, which continues to prevail (in urban studies and planning theory too) and according to which State and law must necessarily overlap.¹⁶

Resuming the central argument, it can be observed that many decades of welfare state have accustomed too many to think that the availability of good *services*, rather than good *rules*, is the key feature of a just and functioning (e.g., urban) society. But it is time to once again give a central role to the problem of the rules of coexistence and not only to that of services (which is undoubtedly important, but neither exclusive nor primary). Apart from top-down general "rules of the game" that must be identical for all (e.g., public rules prohibiting certain negative externalities in the territory of a local municipality), there can be variegated, more specific place-based rules emerging from the bottom-up through agreements among groups of citizens (e.g., at neighbourhood or sub-neighbourhood level) (Andersson & Moroni, 2014; Beito et al., 2002).

In summary, and to conclude, horizontal subsidiarity can concern both *services* and *rules*: substantial innovations can occur in both cases. Note that when the meaning of horizontal subsidiarity is restricted to social solidarity alone – an aspect criticised in the previous section – the issue of *non-state services* can be understood, but the one of *non-state rules* is completely missed.

3.4. Fourth point: beyond "administered" subsidiarity

The last possible reductionist interpretation is to understand horizontal subsidiarity as something that the public "allows" private individuals to implement, granting them this possibility always within a general coordination framework of public definition. Indeed, part of the reflection on horizontal subsidiarity adopts a perspective centred on the coordination and integration of the various initiatives (e.g., in an urban area) within a still public framework. According to some commentators, horizontal subsidiarity is, for example, nothing but a new form of public-private agreement or partnership (Ambrusi et al., 2010; Del Baldo & Demartini, 2010; Jain, 2003; Portaluri, 2021; Wakely, 2020).

Instead, it seems crucial to imagine a process broader than the formal involvement of private individuals and groups – especially, "civic-minded actors" – through agreements with the state (e.g., the local administration).¹⁷ This is something that is desirable (Bellè, 2021, 2023)

¹⁶ For a critique of legal positivism in this sense, see in particular Hayek (1982). Note that rejecting legal positivism implies a non-monistic view of law and its sources (Bell, 1999; Mackaay, 1998).

¹⁷ This latter type of thinking can be found also in certain Italian "pacts of collaboration" which entail entering into some form of public-private agreement in the management of public buildings and spaces (e.g., underused public buildings or urban green areas in poor conditions).

but does not imply any special or innovative idea, particularly in terms of subsidiarity; and, moreover, it is an option exposed to the risk of “complete domestication” by the state (Freise, 2012).

Consequently, the widest possible leeway should be given to private individuals to organise themselves as they see fit in order to provide others – or grant to themselves – the benefits and services that they deem most appropriate, in simple compliance with the general legislation and without necessarily requiring any formal agreement/partnership with the public sector.

4. Discussion: towards a non “moderate” idea of subsidiarity

The issue here is to abandon the traditional and recurrent idea that only an integrated and harmonised social whole (e.g., an urban or metropolitan society) can work. In other words, the preferable systemic results are not necessarily obtained by coordinating social and economic activities in a top-down manner (Moroni, 2011, 2012). In many cases, a general framework of public safeguards and guarantees (e.g., certain negative and positive individual rights granted to all) is sufficient to obtain a situation within which many social sub-systems – that could be positively redundant, explorative, unpredictable – can develop. Interestingly, Marshall (2008: 86) observes that one of the main barriers to a true implementation of subsidiarity “is the lingering perception by many policy makers that the multiplicity of organisational subunits in polycentric systems of governance – including subsidiarity-guided nested systems – is necessarily inefficient”.

4.1. Three main steps

In short, while promoting vertical subsidiarity largely asks for “administrative decentralization” (namely, the transfer of certain decision-making powers from the higher institutional levels to the lower: for instance, from the national level to the regional and municipal ones), promoting horizontal subsidiarity requires a more radical revision of current situations in a direction characterised by what can be called “multidimensional polycentrism” (i.e., multidimensional polycentric governance). In short, while vertical subsidiarity is a case of *multi-level governance*, horizontal subsidiarity is a case of *multi-centred governance*.

In the latter case, it is first of all necessary (e.g., in many European countries) to redraw the line between *statutory law* and *contractual law* (i.e., between those rules which must be set by public authorities and those rules which can be created by private organizations and associations¹⁸: e.g., by intentional communities), simultaneously giving more space to the latter.¹⁹

Second, it is necessary to redraw the line between those infrastructures and services which must be provided by public authorities (at various levels) and those infrastructures and services that can be provided by private organizations and associations (e.g., by intentional communities), again giving more space to the latter.

¹⁸ On the relationships between horizontal subsidiarity and freedom of contract, see Maisto (2021).

¹⁹ As Lavoie (2024: 40) for example notes: “The principle of subsidiarity suggests a permissive approach towards [...] property-based community governance [...]. This permissive approach to property-based community governance suggests, for instance, that the categorical rule against positive covenants running with the land ought to be relaxed. Positive obligations can serve to reinforce community governance in important ways, notably by ensuring owners contribute to shared facilities as well as to the maintenance and improvement of their own properties”. And he adds: “Relaxing the rule against positive covenants would affirm the presumptive capacity of common interest communities to engage in a range of collective activities, even though some of these may overlap with the functions of local governments” (Lavoie, 2024: 40). On the issue of “covenants”, see in general Korngold (2004), Sabey and Everton (2018).

Third, it is necessary to avoid straitjacketing a priori all the possible forms of private organizations and associations and instead leave the maximum room for experimentation and innovation.

In this regard, classic arguments in favour of public intervention based on the idea of “public goods” and the problem of “free riders” in the case of non-excludability (for planning regulation and action, see e.g. Moore, 1978), should be recognised as not absolute but based on contextual and contingent aspects (Block, 1983, 1989). An example is provided by innovations in the field of organisational and technological arrangements (Andersson & Moroni, 2014; Foldvary, 1994): consider for instance how easy it is today to install electronic devices that charge for the transit of vehicles on any type of road.

The same applies to arguments based on “economies of scale”: the latter are rarely present in the case of various traditional (public) government interventions. As Tullock (1994: 91) writes:

“The existence of uniform economies of scale is a myth. [...] The problem here is that not only do different government activities have different optimal sizes depending on local conditions, but the whole thing changes from time to time due to technology. I can only recommend that decisions of this sort be carefully calculated, taking into account externalities, and that the people calculating it avoid any mythological feelings of universal economies of scale”.

4.2. An example

Let us return to the already-mentioned idea of “energy communities” (e.g., De Franco et al., 2023; Moroni et al., 2018; Moroni, Alberti, et al., 2019; Moroni, Antoniucci, & Bisello, 2019) that is recently gaining increasing traction in academic and public debates. An energy community is a group of people jointly acting as *prosumers* (e.g., producers and consumers of energy that jointly own micro-plants based on renewables). Energy communities are usually conceived as multiple nodes in a distributed energy production system mainly based on renewable sources and alternative to the highly centralized traditional one. In short, energy communities are contractual communities that could implement precisely the horizontal idea of subsidiarity *in the field of energy* (Miccu & Bernardi, 2022).²⁰

The European Community strongly supports energy communities (see e.g. EU Directive 944 of 2019, art. 2 and EU Directive 2001 of 2018, art. 2).²¹ However, at the moment (2024) in the whole of Europe there are only around 9500 energy communities in operation.²² In Italy, the number (2024) is around 150 (Legambiente, 2024; see also De Vidovich et al., 2021, for a first mapping).

The point is that if we really want the number and importance of energy communities to grow, we must embrace the idea of horizontal subsidiarity in a more radical way, avoiding straitjacketing their role and scope, as is instead happening both in the European directives and certain national legislative acts. In the former case, consider that EU directives on energy communities mandate that energy communities must have as their primary purpose the provision of environmental, economic or social community benefits rather than the generation of “financial profits” (EU Directive, 944 of 2019, art. 2 and EU Directive 2001 of 2018, art. 2). In short, the “non-commercial purpose” of communities is explicitly fixed (Roberts, 2020). In the second case, consider that the 2018 Greek legislation, for example, limits the legal form of

²⁰ Not surprisingly (at least according to the view propounded here: i.e., that vertical subsidiarity has obtained all the attention while horizontal subsidiarity has obtained much less), a search for the terms “horizontal subsidiarity” and “energy communities”, in Scopus – and considering “title, abstract, keywords” – found only 6 texts (in August 2024).

²¹ See on this Inés et al. (2020), Mengolini and Masera (2021), Krug et al. (2022, 2023), Sciuillo et al. (2022).

²² See <https://energy.ec.europa.eu> (accessed May 2024). For further data and figures in this regard, see Koltunov et al. (2023).

qualified renewable energy communities to that of a cooperative. Law 4513 of 2018 on energy communities adopts cooperatives – as defined in Law 4430 of 2016 on Social and Solidarity Economy – as the basis for its definition of energy communities.²³ In conclusion, as Meitern (2022: 6) observes: “Institutions determine the legal form that an energy community can take. In some cases, the models permitted can pose a barrier to community growth. For example, a not-for-profit nature may limit the long-term financial stability of the organisation, rendering the community dependent on voluntary work”.

4.3. Not anarchy but *nomocracy*

To avoid misunderstandings, it is important to emphasise that the view suggested here does not envisage an anarchic social reality, but a reality in which the public institutions (both national and local) radically modify their role, focusing above all on providing a stable and reliable general framework of guarantee and safeguard within which individuals, alone or in a group, can freely experiment with the most varied forms of exchange, mutual aid, or solidarity. The approach here is that of *nomocracy* rather than of anarchy (with specific reference to regional and urban planning, see Moroni, 2010, 2018b; Holcombe, 2013; Slaev, 2016a, 2016b, 2018; Cozzolino & Moroni, 2022, 2024).

From this perspective, to be accepted is not only the “negative” side of the idea of subsidiarity (i.e., the idea that central public institutions must withdraw where other local public institutions, or private organizations of all kinds, can do better), but also the “positive” one (i.e., the idea that forms of centralisation are possible, and highly desirable, in cases where the decentralised units cannot achieve their objectives by themselves: consider large infrastructural networks, e.g., transport networks: Brunetta & Moroni, 2012: 54ff.).²⁴ However, the sense and scope of both the negative and the positive sides have to be substantially reconsidered. This will be easier if we avoid interpreting the option of subsidiarity as a dichotomic choice between a *neo-liberal* approach allegedly based only on a drastic state retrenchment in order to leave more room for market activities and a *solidaristic (anti-neo-liberal)* one focused instead only on social, civic initiatives; as if the only and main question was to distinguish between, and take a stance on, profit-based activities and non-profit based ones (Moroni, 2018a). Various *transversal*, and more innovative, alternatives are available. This article has aimed to contribute to the discussion in this regard.

5. Concluding remarks

In conclusion, when discussing territorial governance the ideal of subsidiarity can prove decisive (Brunetta & Moroni, 2011, 2012). However, this will only happen if subsidiarity is understood in a more radical sense than is usually the case: that is, placing the emphasis (i) (not solely on vertical subsidiarity but, also) on horizontal subsidiarity, and not interpreting the latter (ii) only from a perspective of social solidarity; (iii) only as a services issue; (iv) only as a form of action agreed – and coordinated – with public authorities’ action. Otherwise, also the idea of subsidiarity, weakened and straitjacketed, will become yet another tool for maintaining the *status quo* – that is, what in many national, regional and urban contexts seems to have happened until now.

²³ See in particular art. 1: “The Energy Community (EC) is a cooperative with the sole purpose of promoting a social and solidarity economy [...] and innovation in the energy sector, tackling energy poverty and promoting energy sustainability [...]” (REScoop and ClientEarth, 2020: 16–17).

²⁴ On *negative* and *positive* subsidiarity, see e.g. Carozza (2003), Zejnuti (2015), Lavoie (2024). For a slightly different characterisation of this distinction, see Lodigiani and Pesenti (2014). More in general on the issue, see also Ederveen et al. (2008).

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Declaration of competing interest

The authors declare that they have no known competing financial interests or personal relationships that could have appeared to influence the work reported in this paper.

Data availability

No data was used for the research described in the article.

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