

Expo 2015

Food right and food sovereignty: the legacy of Milan Charter

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1.- The food right as "right / duty"

The food right would seem, at first, one of those established rights, legal and peaceful in their declination which, worldwide, should not cause apparent contrasts of vision. Yet in the world there are about 805 million chronically undernourished people¹.

Examined as a whole, the food right can be seen as a right / duty: on the one hand everyone "has the right to a standard of living adequate for the health and well-being of himself and of his family, particularly with regard to "alimentation", as solemnly states Article 25 of the Universal Declaration of Human Rights, adopted on 10 December 1948 by the UN General Assembly; on the other there is a duty, not sanctioned by laws but, as we shall see, loose in morals, "feed the hungry", namely to guarantee this right to others.

This approach of food "right / duty", the duty to give food to those who have none, and to ensure everyone the food right, is fixed by the Gospel as much as by the Koran.

In the Gospel, the "feed the hungry" is one of the key parameters by which God values our life, as

written in Matthew, chapter 25, Verses 31 to 46². The right / duty related to food is, therefore, a source of salvation.

The Koran also express duty to ensure the other the "right" to food: in addition to the general reference to the charity to the poor fixed in Sura 2, 177, there is a specific recognition to those who "give food, in spite of Their love for it (or for the love of Him), to Miskin (poor), the orphan, and the captive" (Sura 76.8).

If the ancient calls are so strong moral and religious, surprisingly in modern legislation lacks a clear reference to the "food right".

Also Article 25 of the *Universal Declaration of Human Rights* – as we have seen – binds the food right to the more general right to a fair standard of living: the latter, in fact, is the very right protected by the Charter, that right serves "to the health and well-being of himself and of his family".

In European law there is no a food right defined as "the right to access to food" though - we should not forget - one of the five objectives of the Common Agricultural Policy laid down by the Treaty of Rome in 1957, and still unchanged in the Treaty on the Functioning of the European Union (art. 39.1.), is to "ensure security of supply."

Even in western Constitutions the food right did not find explicit mention: the Italian Constitution, except for the recall to food as a matter of shared competence between State and Regions (art. 117.3. Cost.), says nothing to a relatively autonomous "food right".

(¹) Source: Expo of Ideas, Table 1 Theme: "The world is hungry: old and new poor and the right to food". In <http://www.expo2015.org/it/le-idee-di-expo-verso-la-carta-di-milano-sabato-7-febbraio-a-milano-500-esperti-e-42-tavoli-tematici>.

(²) Text of citation is from <http://www.catholic.org/>: "31. When the Son of man comes in his glory, escorted by all the angels, then he will take his seat on his throne of glory.32 All nations will be assembled before him and he will separate people one from another as the shepherd separates sheep from goats.33 He will place the sheep on his right hand and the goats on his left. 34 Then the King will say to those on his right hand, "Come, you whom my Father has blessed, take as your heritage the kingdom prepared for you since the foundation of the world. 35 For I was hungry and you gave me food, I was thirsty and you gave me drink, (...). Then the upright will say to him in reply, "Lord, when did we see you hungry and feed you, or thirsty and give you drink? 38 (...) And the King will answer, "In truth I tell you, in so far as you did this to one of the least of these brothers of mine, you did it to me." 41 Then he will say to those on his left hand, "Go away from me, with your curse upon you, to the eternal fire prepared for the devil and his angels. 42 For I was hungry and you never gave me food, I was thirsty and you never gave me anything to drink, (...) 46 And they will go away to eternal punishment, and the upright to eternal life.'"

A recent FAO document³, that analyzed the situation of the world legislation on the food right, has shown that only in 28 countries the Constitution makes an explicit reference to the food right. However, this happens almost exclusively in developing countries. None of the major European countries has an express reference to the food right in their Constitutions⁴.

Nevertheless, the need to introduce stably a people's food right in the legislation is an essential point judged by FAO to meet the challenge of malnutrition and to promote sustainable development. In the final document of the Second International Conference on Nutrition held in Rome in November 2014, a document known as the "Rome Declaration on Nutrition"⁵, point 14 b) states that: *"the progressive realization of the right to adequate food in the context of national food security is favored by food systems sustainable, equitable, always accessible, resilient and diversified"*.

In summary, then, the food right/duty is deep-rooted in the moral of most of the inhabitants of the Planet, clearly established at the level of international organizations such as the ONU, FAO and OMS⁶, and, as explained below, widely welcomed by the major organizations NGOs.

This right was not made explicit in the basic law of the richest countries on the Planet.

2.- Right to food and food sovereignty: new awareness

In parallel to the concept of the food right, in the last two decades has been emerging the concept of

food sovereignty, a concept that complete, even legally, the real meaning of the food "right / duty".

The birth of the concept of food sovereignty is dated 1996, when the International Conference of "Via Campesina"⁷ coalition, held in Tlaxcala (Mexico) has theorized and widespread food sovereignty as a good practice to ensure the food right at all latitudes. Also in 1996, the "Via Campesina" officially presented at the Forum parallel to the World Food Summit of FAO in Rome the definition of "food sovereignty", understood as:

"The right of peoples, communities and countries to define their own agricultural, labor, fishing, food and land that are appropriate in the ecological, social, economic and cultural development of their unique reality. It includes the true food right and to produce food, which means that everyone has the right to healthy, nutritious and culturally appropriate resources to produce it and the ability to support themselves and their society."

About ten years after the definition of food sovereignty was taken at the conclusion of the World Forum on Food Sovereignty⁸ in Mali and summarized in the so-called "Declaration of Nyéléni" (village of Mali):

"Food sovereignty is the right of peoples to healthy and culturally appropriate food produced in a sustainable and environmentally friendly, and also the right to define their own food and agriculture systems."

It must be noted that the concept of food sovereignty introduces an interesting element in the framework of the food right/duty, that is the element of protection of local food systems. It is an element

⁽³⁾ FAO, *The Right to Food: Past commitment, current obligation, further action for the future. A Ten-Year Retrospective on the Right to Food Guidelines*. 2014, in <http://www.fao.org/3/a-i4145e.pdf>.

⁽⁴⁾ Niger, Bolivia and Ecuador are among the countries that have recently amended their constitution in putting the right to food.

⁽⁵⁾ The document is available on web at <http://www.fao.org/3/a-ml542o.pdf>.

⁽⁶⁾ Although FAO and WHO are UN organizations, not always the three structures have convergence of views. In the case of the right to food, however, there is a clear convergence.

⁽⁷⁾ "La Via Campesina" is the international movement born in 1993 which brings together millions of peasants, small and medium-size farmers, landless people, women farmers, indigenous people, migrants and agricultural workers from around the world. It defends small-scale sustainable agriculture as a way to promote social justice and dignity. It strongly opposes corporate driven agriculture and transnational companies that are destroying people and nature.

La Via Campesina comprises about 164 local and national organizations in 73 countries from Africa, Asia, Europe and the Americas. Altogether, it represents about 200 million farmers. It is an autonomous, pluralist and multicultural movement, independent from any political, economic or other type of affiliation.

⁽⁸⁾ For more information about the origin of the food sovereignty see <http://www.worldsocialagenda.org/1.5-Sovranita-alimentare/>.

that is very familiar to European legislation: EU legislation on protected names or geographical indications is precisely to protect not only the organoleptic quality of the food, but also - and above all - its quality of tradition and culture.

The concept of food sovereignty, in short, is not simply a vision of "Third World" derived from non-governmental organizations, but examined carefully, it is a concept already well present in European legislation. And EU also protects against different visions of other cultures, starting with those American and Chinese.

Two examples only - due to the limits of this work - may help to illustrate how the EU has in mind the principles of food sovereignty: the issue of "Top level domains/Common names" on the internet and TTIP negotiations with the United States.

In the case of the dispute between ICAAN, the Internet regulator that controls the assignment of IP addresses and the registration of top-level domains (the so-called top level domains "TLD") and the EU, the reason for the dispute lies in the possibility to protect the sovereignty of European food web, preventing the "appropriation" on the web of protected names, through the sale of TLDs with generic names - for example. www.wine, www.cheese, www.food, www.pizza⁹.

In the case of negotiation on TTIP, it is known that one of the main unresolved issues is the very different views between the EU and the United States to ensure the protection of European geographical indications. Symptomatic in this regard that the Wall Street Journal, March 25, 2014, opening day of negotiations TTIP, has made a provocative article¹⁰ entitled "What's More American Than Parmesan Cheese? Plenty, according to Functional the European Union. And its complaints could scuttle a trans-Atlantic trade deal."

The sensibleness that the food is not only sustenance, but is something more complex, and that the

right/duty is linked to food sovereignty is therefore an issue of comparison with the most industrialized countries.

3.- EXPO 2015 and the Milan Charter

The way to a focus of the theme of how to give legal soundness of the concept of the food right /duty and food sovereignty found in EXPO 2015 an extraordinary opportunity.

EXPO 2015, the Universal Exhibition that Italy hosted until October 31, 2015, has been the biggest event ever organized about food and nutrition. Its title, "*Feeding the Planet, Energy for Life*", summarizes the challenge even conceptual which Italy launched in all countries of the world and international organizations to define new parameters, including legal, to the food right.

The challenge of EXPO 2015 does not deal just with the big theme of how to feed 9 billion people expected to inhabit the planet in 2050, but also tries to find a common denominator among different worldviews for common rules on a new food right.

Italy has already organized in 2013 a route towards EXPO 2015 based on the identification and processing of issues related to the theme of "*Feeding the planet*", functional to define a "*world constitution of Food*", not to be shared only by institutions, but, above all, by the components of the so-called civil society: citizens, companies, NGOs.

To build a document apt to take into account the many elements of the food - for example, health issues, land use, gas emissions, preservation of local traditions, access to water, respect for human dignity in agricultural work, just to mention some of the key issues - the organization of EXPO 2015 and the Italian government organized a course called "*Expo of Ideas*", which led to the presentation, April 28, 2015, of the *Milan Charter*, a document that, in

(⁹) To give a concrete example, ICAAN sells to the highest bidder the TLD www.cheese. Imagining that it is purchased by a company of US law, or the Cayman Islands, the company could use, for commercial purposes, a domain like www.cheese.pecorinoromano or www.cheese.parmigianoreggiano. At this point the true owners of the right, that is, the producers of real Parmesan or Pecorino PDO, should bring a civil action against the company that owns the international domain and against ICAAN. To give an idea of the complexity of the issue, the forum for US cases involving ICAAN is San Jose, California.

(¹⁰) The article is available on web at <http://www.wsj.com/articles/SB10001424052702303802104579455560641038786>.

the Italian expectations, shall constitute the real legacy of EXPO 2015.

Before examining the *Milan Charter* in detail and try to understand its potential, it is useful to describe its genesis.

The course "*Expo of Ideas*" had its most important moment in Milan, February 7, 2015, when 500 experts from around the world, assisted by contributions of extraordinary level - just think of the intervention of Pope Francesco - have operated simultaneously in 46 thematic groups¹¹, with the objective of defining, for each thematic table: the main problem areas, the legislation and the bibliography, the best practices worldwide, the keywords for topics.

At the end of the work, each table summarized in 2.000 words the key message for the *Milan Charter*, which, as indicated by the scientific coordinator of the Milan Charter, Mr. Salvatore Veca, was referred as "*the tool that will enable citizens, at Expo Milan 2015, to build and win the challenge of the right to healthy food, safe and nutritious food for all as a basic human right. The Milan Charter will be, then, a poster, an act of political and global awareness of the role of food and nutrition for a better quality of life*"¹².

On the same occasion, the Italian Minister of Agriculture and Forestry defined the *Milan Charter* as: "*The Milan Charter will be above all a great act of awareness, an intangible heritage built with the conscious participation. Represent the contribution of Italian and Expo to the definition in the ONU next "Millennium Development Goals". It represents a commitment that everyone who subscribes, citizens, associations, companies and governments, must respect*"¹³.

It is symptomatic that the first of the thematic groups has been dedicated to the theme "*The world is*

hungry: old and new poor and the food right".

Table No 1, coordinated by Yohannes Mengesha¹⁴, in addition to producing a wealth of documentation on the subject of the right to food and the different facets of this right in the different continents, summed up the main ideas on the right to food: "*The right to food must be recognized, confirmed and protected within the frameworks of the states, in their policies and in public and private investment. Italy can take the lead in demanding that this right is included in the constitutions of EU member. Effect to this law, however, requires an effort that goes beyond legal frameworks, policies, and investments. It requires a deep change in food systems now prevailing in the world, toward greater inclusiveness and sustainability and to a systematic recognition and an active exercise of rights and citizenship. Everyone should feel empowered in her choices. Businesses must not only be involved but become promoters of good practices. Governments must recognize and protect the right to food of its citizens through a new legal and regulatory framework and through targeted investments to achieve this aim, with a focus on support for small producers and equal gender opportunities. The civil society organizations must play advocacy targeted*".¹⁵

On this basis the Milan Charter has gradually structured itself: in Florence, March 28, 2015, during a further stage of the *Expo of Ideas*¹⁶, the Scientific Committee on the Milan Charter presented the 42 coordinators of thematic tables in Milan the result of the first assembly of the Charter. During the confrontation it was further developed terminology, including legal, to be used for the Milan Charter, which finally was presented on April 28, 2015 by the Minister Martina, three days before the inauguration of EXPO 2015.

Built according to the rights and duties of the four

(¹¹) The list of the thematic tables is available on webpage <http://www.expo2015.org/it/le-idee-di-expo-verso-la-carta-di-milano--sabato-7-febbraio-a-milano-500-esperti-e-42-tavoli-tematici>.

(¹²) The communication of Mr. Salvatore Veca is available on webpage <http://cartadimilano.tumblr.com/>.

(¹³) The communication of the Minister Maurizio Martina is available on webpage <http://cartadimilano.tumblr.com/>.

(¹⁴) Yohannes Mengesha coordinates relationship between UN Agencies and Expo 2015. Formerly, he has been first assistant of UN Secretary general, Mr. Kofi Annan.

(¹⁵) A summary of the results of Table No 1 of "EXPO of ideas" is available on webpage: <http://www.expo2015.org/it/le-idee-di-expo-verso-la-carta-di-milano>.

(¹⁶) <http://www.toscana24.ilsole24ore.com/art/ogqi/2015-03-11/firenze-expo-idee-180235.php?uuid=gSLAtqG4z> <http://carta.milano.it/it/>

typical components of a social organization, that is, citizens, businesses, organizations and institutions, the Milan Charter consists of a preamble, an enunciation of common rights and of unacceptable situations for the man, a statement of awareness on the challenges of the Humanity and the possibility of overcoming them in a sustainable way, a list of specific commitments that citizens, businesses, organizations and institutions should take to overcome the challenges to feed the Planet and build a new sustainability.

Particularly important for the theme of this work, the commitment asked by citizens to the institutions:

"So we, women and men, citizens of this planet, by signing this charter in Milan, we strongly urge governments, international institutions and organizations to commit to:

- Legislative measures to guarantee and ensure the food right and food sovereignty".

The first commitment for the citizens of Planet is to guarantee the food right and food sovereignty. The effectiveness of that right must therefore go for the inclusion of the right in a constitutional framework, or at least having constitutional significance.

Expo has just ended and it was a great success. The Italian President Mattarella, during the EXPO closing ceremony, claimed that the Milan Charter: *"is a document of great importance, which affirmed the right to food and water as an essential part of a broader right to life, and from which henceforth not it is apart when assessing the implementation of universal human rights."*

Prestigious personalities - from the President of the European Parliament to many heads of government - and over 1.5 million of citizens have signed, supporting the hope that the commitments can be turned into deeds. On October 16, the Milan Charter and the list of subscriptions has been delivered to the ONU General Secretary, Ban Ki-Moon, as the legacy of the event.

Even in Italy the commitment to include the food right and food sovereignty in our Constitution has obtained important adhesions: three ministers of the current government, Boschi, Martina and Galletti,

respectively Ministers for "Reforms", "Agriculture" and "Environment", have publicly shared the goodness of this choice and the need to start as soon as possible the parliamentary process to give substance to the Milan Charter.

In parallel, the Committee instituted by Minister of Justice and the Minister of Agriculture for the reform of food crimes presided over by former Judge Giancarlo Caselli, concluded, on October 14, his works, delivering the two ministers a proposal for a complete rewrite of the penal legislation concerning the food industry.

A significant element of the proposal is the new name of Title VIII of Book II of the Criminal Code, *"the crimes against the public economy, industry, trade and agri-food heritage."*

Agri-food heritage becomes a value protected by law, a value for the nation, as well as for individuals. This is a tangible acknowledgment of the spirit of the charter of Milan.

If, as Salvatore Veca said mentioning Max Weber in the official presentation of the *Milan Charter*, *"is entirely accurate and confirmed by any historical experience that you would realize what is possible if the world did not always aspire to the impossible."*

The hope that the *Milan Charter* will become a tool for sharing among nations a new food right and food sovereignty, appears therefore not so impossible.

ABSTRACT

The right to food is closely linked to the "duty to food". There is a moral duty, enshrined for centuries, obliging every man intimately to "feed the hungry".

The paper attempts to investigate the legal applications of the right/duty to food, as well as the legal implications linked to the right/duty to food is the issue of food sovereignty. The article shows how it is not a theme of "Third World", but it has an impact on the Western countries, Italy first, in the lead in matters of TTIP and internet governance.