

From marginalization to integration:

Universal, free and sustainable meals in Italian school canteens as expressions of the right to education and the right to food



Tomaso Ferrando

University of Bristol Law School
Wills Memorial Building
Queen's Road
Bristol
BS8 1RJ

bristol.ac.uk/law/research/legal-research-papers

The Bristol Law Research Paper Series publishes a broad range of legal scholarship in all subject areas from members of the University of Bristol Law School. All papers are published electronically, available for free, for download as pdf files. Copyright remains with the author(s). For any queries about the Series, please contact researchpapers-law@bristol.ac.uk.

From marginalization to integration: universal, free and sustainable meals in Italian school canteens as expressions of the right to education and the right to food

Dr. Tomaso Ferrando, University of Bristol Law School

Introduction

In mid-October 2018, the Italian media reported that more than two-hundred daughters and sons of non-EU parents had been refused access to school buses and canteens. The reason? They could not pay for their full price and were not guaranteed an exemption because their families had not provided the required documentation attesting that they do not own houses, cars or bank accounts in their countries of origin.¹ Despite the protests and the public anger, the discriminatory measures adopted by a Northern League city council came as no surprise. On the contrary, they confirmed Italy's slow regression towards the fascist 'ventennio' (twenty years of fascist dictatorship) and the diffused micro-violence that accompanied the macro-violence of detentions, imprisonments and persecutions. Similarly, they can be inscribed in a European political and cultural context that is increasingly affected by both individualized and institutional racism: food is no exception. In the last years, religious dietary requirements have become an opportunity for xenophobic and anti-Islamic conducts by Italian mayors and parents.² Similarly, the Flanders region of Belgium recently banned halal and kosher animal slaughter, a measure that has been praised by animal activists and severely criticized by both the Muslim and Jew communities.³

Luckily for the children in Lodi, private solidarity helped the Equal Duties Coordination (*Coordinamento Uguali Doveri*) raising over €100.000 so that families could receive what needed to put their children onto the buses and let them into the canteens.⁴ Few weeks after, the Milan Tribunal also confirmed the discriminatory nature of the measures and required the city council to guarantee equal conditions to access the exemptions between families of EU citizens and non-EU citizens.⁵ Yet, unless we believe in a society where the satisfaction of basic needs of children is guaranteed by charity and where free access to food for children in public institutions still depends on the family providing evidence that they have not enough resources to guarantee basic needs, there is very little to celebrate. Instead, it is claimed here that quick solutions to food-based marginalization are incompatible with the idea of a country that truly respects, protects and fulfils the right to education and the right to food of (at least) its children. Instead of praising the citizens who provided financial support, national and local

¹ Il Fatto Quotidiano, Lodi, 200 bambini stranieri esclusi dalla mensa per regolamento del sindaco leghista. Il reportage di Piazzapulita, Il Fatto Quotidiano, October 12, 2018, available online : <<https://www.ilfattoquotidiano.it/2018/10/12/lodi-200-bambini-stranieri-esclusi-dalla-mensa-per-regolamento-del-sindaco-leghista-il-reportage-di-piazzapulita/4688643/>>

² W. Bukowski, La sacra crociata del porco, Quinto Tipo, 2017.

³ Milan Schreuer, Belgium bans ritual halal and kosher animal slaughter over welfare concerns, Independent, January 7, 2019, available online: <https://www.independent.co.uk/news/world/europe/belgium-halal-kosher-bans-ritual-slaughter-meat-animal-welfare-muslim-jewish-religious-freedom-a8715551.html>>.

⁴ Il Fatto Quotidiano, Lodi, bambini stranieri tornano a mensa : spese coperte grazie alla raccolta fondi, Il Fatto Quotidiano, October 16, 2018, available online : <<https://www.ilfattoquotidiano.it/2018/10/16/lodi-bambini-stranieri-tornano-in-mensa-spese-coperte-grazie-alla-raccolta-fondi/4696235/>>

⁵ Zita Dazzi, Caso mense a Lodi, il tribunale di Milano sconfessa la sindaca : « Condizioni Uguali per tutti », Repubblica.it, December 13, 2018, available online : https://milano.repubblica.it/cronaca/2018/12/13/news/lodi_sentenza_tribunale_bimbi_discriminati-214194134/.

authorities should be held accountable for the breach of their obligations and forced into providing a systemic and long-term solution based on the special place that food canteens occupy for both individuals and the community. Especially because exclusion, discrimination and lack of school canteens are much more diffused than the exceptionalism created around Lodi suggests.

With this article, which originated as a reaction to the Lodi's scandal, I want to show the non-exceptional nature of what happens in Lodi and the insufficient nature of the position adopted by the Milan Tribunal. I thus begin by presenting the dire situation of Italian school canteens with the policies of austerity and privatization that have transformed food into a privilege and forced millions of people into food insecurity. Rather than being exclusively connected with racial discrimination, segregation and food insecurity are expressions of class dynamics and the absence of an appropriate welfare state. More dramatically, they can be seen as violations of the fundamental right to education and right to food of children, which is against the Italian Constitution and Italy's international commitments (Section II-III). If this is the case, I claim, the solution must go beyond guaranteeing equal access to a dysfunctional system that does not respect nor fulfil the basic rights of thousands of students around the country. Thus, a right-based approach to school canteens needs a radical reconsideration of the service and the role of the public administrations. France, where the access to school canteens is recognized as a right, Sweden and Finland, where free meals are available to all students in mandatory schools independently on their income, are presented in Section IV as potential political and legal alternatives. Overall, this contribution concludes that the State's respect of the students' right to food and right to education would not only improve the livelihood of thousands of children but would be central in reshaping the food system and the overall society. This would be achieved by recognizing school canteens as providers of adequate and healthy food but also as unique social spaces where pupils feel integrated, part of a broader group and are educated to the importance of food and food ecology. To achieve such goal, authorities and citizens should stop considering food as an object and treat it as a commons, while eating socially should not be seen any longer as a mechanic action but rather as commoning.

I. In Italy you don't have to be foreigner to be left outside school canteens – it's 'enough' to be poor

Italy is the world's ninth-largest economy.⁶ However, in 2019 it is still impossible to access a full map of the overall state of Italian school canteens, of their services and of their impact on students' education and health.⁷ *Scuola in Chiaro* (Clear School), the Open Data online portal that was launched by the Minister of Education in 2016, has been criticized for being inaccurate and incomplete and is not constantly updated.⁸ In the absence of transparency and public accounting, support has been provided by the third sector and, in particular, by the annual reports published in the last four years by Save the Children on the basis of a survey conducted in 45 cities of more than 100,000 inhabitants. According to the 2017 document, entitled '(Not) everyone accesses food canteens' (*(Non) tutti a*

⁶ Focus Economics, The World's Top 10 Largest Economies (2019) available online: <https://www.focus-economics.com/blog/the-largest-economies-in-the-world>.

⁷ MP Palese in a Parliamentary interrogation asked the competent Ministers to conduct with urgency the mapping of the state of school canteens, region by region, city by city, in order to understand how bids take place, what are the standards, what the protocols of control and what the instruments in support of low-wage families. See <https://parlamento17.openpolis.it/atto/documento/id/299679>

⁸ SAVE THE CHILDREN, (Non) tutti a mensa 2017, Save the Children Italia Onlus, Roma, October 2017. Available online.

mensa'),⁹ figures are dire: in eight regions out of twenty, more than 50% of the pupils do not eat in school canteens and almost 40% of the schools do not have a canteen. More dramatically, the country is divided: only 29% of the schools in Sicily have a canteen, so that 80,04% of the pupils in primary school do not have the service. On the contrary, more than 90% of schools in Piemonte have the service and the percentage of students not using it is equal to 28.85%.¹⁰

Even where canteens exist, like in the case of Lodi, the cost of the service may represent a dire obstacle for several families. The data produced by Save the Children talk of a divided country with clear cases of price disparity, discrimination and exclusion. Reportedly, city councils with little or no financial resources have cut school canteens. The city of Messina, for example, did not provide any service in the 2016/2017 academic year because of the lack of budget. Among the cities that invest public funds in education, significant diversity exists in the levels of contributions towards canteens, school buses and pedagogical support: the city of Verona, for example, contributes to primary education with 99.49 Euro per student, while the city of Padova transfers only 14.46 Euro per student.¹¹ The differences in public support are also reflected in a discrepancy in the minimum and maximum costs of the service of school canteens that families have to bear: while the maximum cost in Ferrara is 7,28 Euro, it is 2,3 Euro in Catania. On the other extreme of the spectrum, minimum contribution in Rimini is 6 Euro while it is of 0,3 Euro in Palermo. In terms of full exemption for low-income families, this is not required by law and 11 of the 44 cities surveyed by Save the Children declared not to have one.¹²

In a context where food is a commodity and the provision of food in public school canteens is not perceived or provided as an essential service for children, the experiences and lives of several students across Italy have been affected by an increase in exclusion and marginalization. If we leave aside the (extremely important and serious) issue of racial discrimination, the case of Lodi described in the introduction to this paper does not seem so exceptional anymore. Throughout the country, pupils whose families did not ask for exemptions but could not pay, those whose parents could not pay and had no exemption or just a partial one, and those whose families had been late with payments, have been forcedly kept outside of school canteens and deprived of the possibility to have access to food. Between 2014 and 2016, the cities Brescia, Foggia, Modena, Novara, Palermo, Salerno, Sassari, Siracusa, Taranto, Ancona and Reggio Calabria, for example, had a policy in place to sanction the children of parents who were late with the payment of the fees, including the prohibition to access the service, the suspension of optional services and, in the case of Ancona in 2015/2016, the impossibility to enrol for the following year. In Branzate, Gignod, Covenago di Brianza, San Giovanni in Persiceto, Ardea and Ello, hundreds of students have been denied the access to the canteen or, in some case, allowed to the same room but without the possibility to be served any food.¹³ Four decades after the Chicago school occupied the global vision of economics, Friedman's idea that 'There's No Such Thing as a Free Lunch' could not be better expressed.¹⁴ In light of the current scenario, the reflection must be deeper than a consideration of exceptionalism and racism.

⁹ IBID.

¹⁰ Ibid.

¹¹ Quanto spendono I comuni per mense e scuolabus, in Openpolis, 2016. Available online.

¹² Save the Children (n 8).

¹³ Save the Children (n 8).

¹⁴ Milton Friedman, *There's No Such Thing as a Free Lunch* (Open Court Publishing Company, 1975)

II. Eating together is about receiving education, not being privileged

The ordinance of Lodi's city council has been criticized for its xenophobic content and judicially sanctioned for its discriminatory nature. This is certainly the case and this should not be underestimated. However, stating that all families and children have to be treated in the same way means to accept that access to public school canteens for children attending compulsory education may be dependent on their families' financial conditions and on their families' willingness to pay for the service. At the same time, it is not saying anything about the quality of the service and the role that it plays in the students' development process. Challenging the exclusion without questioning the commodified nature of the service (families who can afford must pay for their kids to be together with their friends during meal times) means, in my opinion, dismissing the link between food, canteens and children's right to education as recognized nationally and internationally. Moreover, it obliterates the unique opportunity to transform school canteens into a proxy to strengthen the Agenda 2030. Although the focus is often on the nutritional value of food and the link between 'eating well' and performing better at school,¹⁵ school canteens are not only about consumption but also about socialization. Eating in common with friends and peers must thus be seen differently from the individualized action of each student and interpreted as a moment for social and civic growth of the pupils, an inimitable educational experience in terms of promotion of healthy diets, nutritional education and socialization.¹⁶ As an example of this interconnection, a 2018 report by Save the Children stresses that the improvement of the life conditions of Italian children will inevitably require the increase in the number of schools that offer full time options (so that children stay at school in the afternoon) and free school meals for those who cannot afford it.¹⁷

In the context of public and compulsory education, canteens are not only an opportunity to eat for children who would otherwise go hungry, but also to eat healthy, foster their academic performances and socialize around meals, cultural diversity and the multiplicity of stories and personal experiences that food triggers. Food is, first of all, the energy that they need in order to grow. Healthy diets provided through school canteens can thus contribute to the physical wellbeing of students. Moreover, school canteen can also perform a crucial role in improving pupils' school outcomes and facilitate their learning process. Numerous studies conducted throughout the world have demonstrate that the lack of a balanced diet (if not the lack of food at all) is closely connected with learning and attention deficits, poor academic disadvantages, failures in exams and the overall progression in their education and social skills.¹⁸ For sure, authors recognize the complex and intricate

¹⁵ The link between eating well and doing better at school is evident in the 2013 UK School Food Plan, which states that 'A balanced and nutritious diet feeds the minds as well as the body. Many studies have shown that children who eat well perform better at school'. H. Dimbleby and J. Vincent, J., *The School Food Plan*, 2013, p. 30, available online: http://www.schoolfoodplan.com/wp-content/uploads/2013/07/School_Food_Plan_2013.pdf.

¹⁶ E. Priyadharshini and V. Carrington, 'Food, Youth and Education', *Cambridge Journal of Education*, Volume 46, Issue 2, 2016, 153-155; C. Sarojini Hart, 'The School Food Plan and the social context of food in schools', *Cambridge Journal of Education*, Volume 46, Issue 2, 2015, 211-231; P. Daniel and U. Gustafsson, 'School lunches: children's services or children's spaces?', *Children's Geographies*, Volume 8, Issue 3, 2010, 265-274,

¹⁷ C. MORABITO ET AL, *Nuotare Contro Corrente*, Save the Children, May 2018. Available online.

¹⁸ Diana F. Jyoti Edward A. Frongillo Sonya J. Jones , 'Food Insecurity Affects School Children's Academic Performance, Weight Gain, and Social Skills', *The Journal of Nutrition*, Volume 135, Issue 12, 2005, 2831-2839; Howard Taras, *Nutrition and Student Performance at School*, *Journal of School Health*, Volume 7, No 6, 2005. Annik Sorhaindo and Leon Feinstein, 'What is the relationship between child nutrition and school outcomes?' Centre for Research on the Wider Benefits of Learning, Institute of Education, University of London: London, 2006.

interconnection between school food policies, preferences, parental decisions and the wider socio-economic context (including advertising and the availability of cheap junk food), so that school canteens cannot be seen as the only place where nutritional improvements can be obtained.¹⁹ Yet, there is no doubt that schools' engagement with pupils, parents and communities have a central role to play. Thus, when children are not allowed in the canteen and their diet not properly assessed, they are thus exposed both to a nutritional and non-nutritional risk, with the latter that is closely connected to learning opportunities, academic performances and the long-term development of the children as citizens and active members of society.

However, the link between the right to education and school canteens goes beyond the physical health of children and concerns the role that mandatory education should play in socializing children and contributing to the development of civic consciousness. It's in the canteen, along with other spaces of socialization and dialogue, that children should learn about diversity, sharing and the origin of food. In a world where families spend less and less time around the table and where food at home has lost its collective character, schools are among the few last places where children do not eat alone, a condition that – according to a recent survey of 8,000 UK adolescents realized by the Sainsbury's Living Well Index, Oxford Economics and the National Centre for Social Research – can be cause of unhappiness.²⁰ By requiring students to pay and by separating them because of some families' impossibility to pay or to their national origin, public authorities are not only shaping a present based on segregation by census or ethnicity, but also reducing the possibility of a bright future for both individuals and the whole community.

In Italy as elsewhere around the world, austerity and neoliberal privatization have led to the commodification of education and its decomposition into as a sum of different services (teaching, learning, accessing documents online, eating, etc) rather than a holistic experience that is made of multiple elements and people and cannot be fully expressed with a price tag. Such measures appear to be in dire contrast with the right to education as one of the most important principles in the international human rights framework shaped by the UN Universal Declaration on Human Rights and the UN Convention on the Rights of the Child.²¹ Article 12 of the latter, for example, promotes children's rights to freely express their view and been heard both as individuals and as a group (e.g. a class of schoolchildren)²² with regards to all matters affecting them. The food that students eat and the role that food canteens play in the educational pathway of students, I claim, undoubtedly fall among the issues that affect the children both as individual and as groups and school canteens should thus be seen as a way to achieving this right, maybe by means of multi-stakeholders commissions in each schools where parents, children and school's representative can discuss practices and aims of the service. Moreover, the idea that education is the individualized object of consumption strides with the Sustainable Development Goal number 4 on inclusive and equitable quality education and with the content of most national Constitutions around the world. In Italy, for example, the right to education is explicitly contained in article 26 of the Constitution.

Despite the national and international normative framework just described, Italy is still far from a clear recognition of the universal access to school canteens as expression of the right to education. As

¹⁹ Annik Sorhaindo and Leon Feinstein, id.

²⁰ V. Philips, 'Eating alone can cause unhappiness: Study', FH News, May 23, 2018, available online: <<https://factsherald.com/eating-alone-can-cause-unhappiness-study/>>

²¹ United Nations Convention on the Rights of the Child (1989) (UNCRC).

²² Committee on the Rights of the Child, General Comment No. 12, The right of the child to be heard, CRC/C/GC/12, 1 July 2009.

example, in 2016 the Consiglio di Stato (highest administrative authority in Italy),²³ recognized that school canteens are ‘an essential service, functional to supporting and guaranteeing the pedagogical activity of the school’ and ‘instrumental to the overall process of education’, disposing, therefore, that the access could not be made dependent on income and financial availability. However, a recent attempt to obtain the judicial recognition of the school canteens as an essential service closely interconnected with the right to education was rejected. The case was brought by the parents of pupils in Corsico (a city near Milan with the lowest pro-capita income of the area) where the city council issued a directive denying access to the canteen to children of parents who had defaulted on the payment of the canteen’s fee. Against the implementation of the directive, which began after the 2015 Christmas break, the parents sued the school before the regional administrative court with the aim to obtain the recognition that the provision of food in school canteens and its access represent an essential service that cannot be dependent on the contribution of the user and that should be, therefore, free and universal.

The claim made reference to a first instance administrative judge’s ruling of 2013 issued in Tuscany that supported the parents’ case,²⁴ the Consiglio di Stato’s intervention of 2016, the IV National Plan for Infantry of 2016 and the international obligations that Italy has undertaken when it ratified the Convention on the Right of Child in 1991.²⁵ However, going against the jurisprudence (given the lack of binding precedents in the context of civil law), in January 2018 the regional administrative court issued its judgment denying the essential nature of the service and any connection with the right to an adequate education. To make things worse, the court considered that the lunch break does not form part of the school’s hours and therefore does not fall under the provision of education as a universal service. Contrary to the idea of interconnected and interrelated rights, the court fragmented the experience of the students and did not consider the health, social and moral implications of denying one or multiple students from having access to the food served in the canteen. An appeal to the Consiglio di Stato could be filed by the claimants in the hope that the favourable precedents are confirmed also in the case of Corsico: the current political scenario and the sensation triggered by the case of Lodi, may play in favour of the children and their rights. However, relying on judicial interventions on a case-by-case scenario could hardly lead to a systemic reform of the way in which both education and food are conceived, particularly if we consider the increasing perception that they are services that must be exclusively assessed on a value-for-money basis rather than considering the production of the long term non-monetary benefits for both individuals and the whole society.

It is thus interesting to look at the broader discussion that has been happening at the political levels and at the attempts to imagine a legal framework that recognizes the multiple implications that school canteens have in terms of children’s development and growth. So far, two bills have been proposed by Members of the Italian Parliament that abandon the individualist approach to school canteens and focus on the essential nature of the service as an expression of the right of education of the pupils. In 2014, the proposal entitled “*Disposizioni per garantire l’eguaglianza nell’accesso dei minori ai servizi di mensa scolastica*” (Dispositions to guarantee that minors have equality of access to school canteens) was submitted by MP Scuvera in order to recognize access to school canteens among the essential series that the State must provide to all its citizens according to Article 117.2 m) of the Constitution.²⁶ In 2015, MP Pignedoli deposited as first signatory the proposal entitled “*Disposizioni in*

²³ Consiglio di Stato, Sez. V, November 5, 2012 n. 5589, in line with Cons. di Stato n. 6529 of September 10, 2010.

²⁴ Judgment n. 559 April 11, 2013 of the TAR Toscana.

²⁵ Parliamentary question presented by Rocco Palese on Wednesday 9, November 2016, session n. 704.

²⁶ SCUVERA et al.: “Disposizioni per garantire l’eguaglianza nell’accesso dei minori ai servizi di mensa scolastica” (2308) presented on April 16, 2014.

materia di servizi di ristorazione collettiva” (Dispositions on services of catering): similar to the 2014 proposal, the 2015 document makes reference to L. 146/1990 on the safeguard of the rights constitutionally recognized to ask the Parliament to recognize the provision of food in school canteens as an essential service.²⁷ In both cases, the proposals have only began the parliamentary procedure and have been superficially discussed in the parliamentary commissions. Given the urgency of the matter and the intensification of the pressure over pupils and their family, it appears obvious the necessity to launch an open, transparent and comprehensive debate capable of assuring the full realization of the obligations assumed by the Italian state at the international, European and national level. More interestingly, support to the reform could be provided by considering access to school canteens not only as an expression of the right to education but also of the right to food.

III. Charging fees or separating children in compulsory schools’ canteens is not only against students’ right to education but also their right to food

The right to food has been recognized as a human right since the Universal Declaration of Human Rights in 1948. Later, it was mentioned in several binding international treaties, most notably the 1966 International Covenant on Economic, Social and Cultural Rights (ICESCR, art. 11), the Convention on the Elimination of All Forms of Discrimination against Women (1979) and the Convention on the Rights of Persons with Disabilities (2006). Importantly, it is also contained in Article 24.2(c) of the UN Convention on the Rights of the Child of 1989 that Italy ratified in 1991.²⁸ Although there is a diffused misconception that the right to food is inherently connected to situations of extreme vulnerability and marginalization, like those of the egregiously famous pictures of starving Sub Saharan babies, General Comment 12 on Article 11 of the International Covenant on Economic Social and Cultural Rights, provides an expansive definition. The right to food, according to the Committee:

“... imposes three types or levels of obligations on States parties: the obligations to respect, protect and fulfil (facilitate and provide) the right. The obligation to respect existing access to adequate food requires States parties not to take any measures that result in preventing such access. The obligation to protect requires measures by the State to ensure that enterprises or individuals do not deprive individuals of their access to adequate food. The obligation to fulfil (facilitate) means the State must pro-actively engage in activities intended to strengthen people’s access to and utilization of resources and means to ensure their livelihood, including food security. Finally, whenever an individual or group is unable, for reasons beyond their control, to enjoy the right to adequate food by the means at their disposal, States have the obligation to fulfil (provide) that right directly. This obligation also applies for persons who are victims of natural or other disasters.”²⁹

The Italian Constitution of 1948 does not make any express reference to the right to food. However, there are several legal reasons to affirm that such right has constitutional value in the Italian context and that any law and regulation must respect it and be informed by it. Since 2001, the reformed article 117 establishes that ‘Legislative powers shall be vested in the State and the Regions in compliance with the Constitution and with the constraints deriving from EU legislation and international

²⁷ Atto Senato n. 2037, Disposizioni in materia di servizi di ristorazione collettiva, 2015.

²⁸ UNCRC (n 21) Art. 2. States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures: (c) To combat disease and malnutrition, including within the framework of primary health care, through, inter alia, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution;

²⁹ GC No. 12 of the CESCR, above n 2, par. 15.

obligations'.³⁰ As a consequence, the obligations to implement the right to food contained in the international treaties indicated above, all of which have been signed and ratified by the Italian Parliament, must be considered binding and hierarchically superior to any internal legislative act.

Local administrations, like the Lodi City Council and the other public bodies that directly or indirectly deprived children of the access to the canteens, are thus bound by the same obligations of the central state when it comes to international obligations. This is so both because of the way in which human rights obligations and the way in which the Italian constitutional framework is structured. With regards to the latter, the starting point is Title V of the Italian Constitution, which is dedicated to the distribution of powers, rights and responsibilities between the central State, Regions, Provinces and Cities. The section, which was the object of a broad reform in 2001 and at the centre of numerous political campaigns in the following years, is based on the recognition that the legislative power is co-exercised by the State and the Regions and exercised based on the subject matter: unless the Constitution expressly allocates the competence to the State or to the State and the Regions together, it is for the Regions to enact laws and implement them. At the same time, administrative functions (i.e. the management of the daily life of citizens and the implementation of the national and regional legal framework) are exercised by cities and metropolitan cities (conglomerates of cities).

When it comes to '*alimentazione*' (which could be translated as food or diet), the legislative power belongs to the concurrent competence of States and Regions (art. 117). As such, each region and local authority should have the autonomy to define their own legal framework, but the State should determine the fundamental principles. However, a systemic understanding of the right to food requires to think of the other sectors and who has the authority to legislate them. For example, the central State has exclusive competence over immigration (art. 117b), social security (art. 117o) and the protection of the environment, ecosystems and cultural heritage (art. 117s). On the other hand, it is for the State and the Regions together to legislate on protection and security of labour, health, government of the territory, promotion of cultural and environmental goods, rural banks, credit providers for agriculture and research and development.

According to the Constitutional distribution of legislative and administrative powers, the implementation of the right to food in Italy is thus closely linked to the actions of all levels of authority, from the State to the city councils. This should not represent a problem per se and is in line with international human rights law. As highlighted by the Human Rights Council in 2015, "the principle of shared responsibility of different tiers of government for the protection and promotion of human rights has been on several occasions underlined by the United Nations human rights treaty bodies."³¹ Before then, the Human Rights Council had already stressed the 'Role of local government in the promotion and protection of human rights' and concluded that "Local authorities are actually those who are to translate national human rights strategies and policies into practical application."³²

Thus, if there is no doubt that access to food is a right that should not be made dependent on income, it is evident that in the context of compulsory public education, children's right to food is respected and fulfilled only through the provision of an adequate, nutritional, appropriate and free amount of food to be enjoyed together with the rest of the students. If school is mandatory and this is where

³⁰ Constitution of Italy, 22 December 1947, available at: <https://www.refworld.org/docid/3ae6b59cc.html> [accessed 10 January 2019]

³¹ Final report of the Human Rights Council Advisory Committee on the Role of local government in the promotion and protection of human rights, A/HRC/30/49, August 7, 2015. [Hereinafter Final Report on the Role of local government].

³² Ibid.

most of the children eat, a system based on financial discrimination, material separation between kids and two-classes of students depending on their families' origin or financial possibilities is incompatible with the basic idea of the duty to protect, respect and fulfil the right to food. Moreover, the importance of school canteens should be assessed in the context of diffused poverty and malnutrition. In Italy, 1.2 million children live in condition of absolute poverty, i.e. in contexts where they have access to less money than needed to purchase a basket of essential goods and services. This means that almost a quarter of the whole population who is experiencing this form of marginalization is less than 18 years old, 12.5% of all the children living in Italy. Each day of the year, more than one child every ten who live in Italy struggles to have access to food. Moreover, rather than improving the situation seems to be spiralling downward: in 2005 the percentage of children living in extreme poverty represented the 3.9% of the total. It was 10,3% in 2012, almost twenty percent lower than 2018.³³

In this socio-economic scenario, school canteens offer a unique opportunity to the state to provide young generations with the nutritional intake that they need in order to be healthy and to fill dietary imbalance (malnutrition, obesity, etc) that is created by financial insecurity, marginalization and socio-economic exclusion. Moreover, if we adopt Olivier De Schutter's definition of the right to food as a transformative tool that must be leveraged to achieve the socio-environmental sustainability of both consumption and production,³⁴ we realize that the link between the right to food and school canteens goes beyond healthy students and the fight against discrimination.

First of all, school canteens can be used by States and territorial administrations to consolidate sustainable food chains that respect the planetary boundaries and strengthen the social foundations of the food system.³⁵ As a matter of fact, millions of Euro every year are spent in fulfilment of public procurement contracts that concern the sourcing, transformation and distribution of food in school canteens. As the case of Rome proved in the past, where a majority of the students in mandatory schools was provided with organic, seasonal and locally sourced food, school canteens represent a unique opportunity to transform the food system. As discussed by Sonnino, Rome city council introduce a bidding policy according to which:

“catering companies were required to provide fresh organic fruit and vegetables during the first year of contract and to add organic legumes, bread, baked products, pasta, rice, eggs, and canned tomatoes during the second year. An exception was made for vegetables with a short harvesting season, such as peas, green beans, and spinach, which could be supplied frozen. In addition, the tender introduced a set of very innovative award criteria that aimed to stimulate bidders to further develop the socioenvironmental quality of the products and services offered.”³⁶

In addition to the parameters, a “permanent roundtable was established to ensure dialogue between city authorities and contracted suppliers, who were encouraged to improve the sustainability of their

³³ ISTAT, La povertà in Italia, Anno 2017, July 2018, available online: <https://www.istat.it/it/files//2018/06/La-povert%C3%A0-in-Italia-2017.pdf>.

³⁴ Olivier De Schutter, Final report: The transformative potential of the right to food, of the Special Rapporteur on the right to food Olivier De Schutter, A/HRC/25/57, United Nations, Geneva, 2014. For De Schutter, the right to food requires States to guarantee the environmental and social sustainability of food systems, so that public authorities must be actively engaged in building food systems that respect the planetary boundaries and the rights of future generations, eradicate poverty and inequality, and establish a strong system of legal entitlements secured by accessible accountability mechanisms.

³⁵ Kate Raworth, Doughnut Economics (Penguin Random House, 2017).

³⁶ Ibid, 430.

products, including the use of fair trade products and the introduction of food education initiatives, through various award criteria.”³⁷ Ten years after the choice was made, 14% of the food served in the city’s schools was certified as fair trade, 26% was local, and 67.5% was organic.³⁸

When it comes to children’s health and future, it must be taken into consideration that public opinion’s support may strengthen political demands aimed at stricter requirements and procurement protocols. Healthy, sustainable and equitable procurement for food canteens could represent, therefore, a politically feasible way for the State to fulfil its legal obligations towards its citizens. Similarly, school canteens are privileged spaces for food literacy and education to food sustainability: if the right to food is satisfied when current generations are aware of their rights, of the rights of future generations and of what are the environmental and social implications of their eating practises, what best place than school to have such discussion? On the contrary, when access to food depends on financial means, when thousands of children are kept out from school canteens, when procurement practices are exclusively determined by monetary considerations, when children do not participate in the definition of their diets and when there is no education to food and sustainability, we can only conclude that the State is violating its obligations to respect, protect and fulfil the right to food.

Thus, despite the enthusiasm that surrounded the popular response to the case of Lodi, the Italian government is not only not fulfilling its obligations towards children’s right to education but also their right to food. Rather than letting the discussion unfold at the local level, the national authority should be at the centre of a coordinate effort to cut across geographical and administrative differences, to guarantee information, homogeneity and effectiveness. A multi-level and cross-sectorial coordination would be in line with the advice that the Committee on Economic, Social and Cultural Rights gave in the General Comment No. 4 on the right to adequate housing, where it noted that States parties should take steps “to ensure coordination between ministries and regional and local authorities in order to reconcile related policies (economics, agriculture, environment, energy, etc.) with the obligations under article 11 of the Covenant.”³⁹ A significant step forward would certainly be represented by the express recognition of the right to food in the Italian legal framework and of the universal access to school canteens as one of its core manifestations. A more superficial intervention would be for the State to support the introduction of a National Observatory on the Right to Food, an inter-ministerial table with multiple stakeholders like the one that Spain has recently implemented⁴⁰ or to add school canteens as a new ‘service’ in the list of topics that are discussed by the Permanent Conference for the relationship between the State, Regions and the Autonomous Provinces of Trento and Bolzano. However, it is the whole approach to food and education that should be changed.

IV. What can be done? Bottom up, comparisons and reform

In several parts of the world, delocalization, austerity and the condition of public finance have played a crucial role in determining the availability and accessibility to what used to be public services. In the

³⁷ Olivier De Schutter, (2014) The power of procurement: Public purchasing in the service of realizing the right to food, Briefing Note 08 – April 13.

³⁸ Kevin Morgan and Roberta Sonnino, *The School Food Revolution: Public food and the challenge of sustainable development*, Earthscan, London/Sterling, 2008.; Kevin Morgan and Roberta Sonnino, *Rethinking School Food: The Power of the Public Plate*, In: 2010 State of the World - Transforming Cultures: From Consumerism to Sustainability, The WorldWatch Institute, 2011, pp. 69-74.

³⁹ Committee on Economic, Social and Cultural Rights General Comment No. 4, the right to adequate housing (art. 11 (1) of the Covenant), para. 12, adopted at the Sixth Session of the Committee on Economic, Social and Cultural Rights, on 13 December 13, 1991.

⁴⁰ Observatorio del Derecho a la Alimentación, available online : <https://www.derechoalimentacion.org/>.

case of Lodi discussed at the beginning of this contribution, the fear of the other and the rhetoric of the invasion have done the rest. Cuts in budgets and the privatization of public services have contributed to a deep change in the way in which eating in schools is considered. Eating in schools with friends according to a diet that has been structured on the personal needs of the students and the environmental and social needs of society is seen as an additional service rather than an integral part of the curriculum. Collective and transformative food moments are seen as separated from both the right to education and the right to food as the right to a socially and environmentally sustainable food system. For the Italian Consiglio di Stato and for the Italian Parliament, receiving food in public schools is nothing more than an individual and private service that is provided by cities according to their budgetary considerations and their own visions. Who gets to eat and what becomes, therefore, a political decision of city councils with full discretion in deciding whether to guarantee the service and how to provide it, but also full responsibility with regards to budget and funds. More dramatically, commodification, austerity and privatization have changed the approach towards food and the way in which the public and the private interact with an essential component of our lives.

The people's reaction against the blatant exclusion of non-EU children from public canteens orchestrated by the Lodi city council and discussed at the beginning of this paper can be interpreted as a sign that some people still believe that food and children must be spared from the wave of xenophobia and political violence. At least when they are already in Italy and not on the Libyan coast or in the middle of the Mediterranean, where thousands of migrants are kept on a daily basis without access to food or water. This renewed interest around school canteens must look within and without Italy to find virtuous and bottom-up examples to learn from.

In Italy, several city councils and private actors understood the strong potential behind school canteens and tried to improve the participation of teachers, children and their families. Of these projects, the author is familiar with the 'Participatory Menu', which was launched by the City of Turin in 2013-2014 that has involved more than 750 students in the first three years of life.⁴¹ The initiative, managed by the Educational commissioner of the City (which stresses the link between education, food and sustainability) aimed to train teachers to the principles of a sustainable and healthy diet, provide them with pedagogical tools to be used in their classes, and support the education of the students (and their families) to the importance of healthy diets and build all together a participatory menu (including by visiting the main farmers market of Turin).⁴² Although not centred on the right to food or the right to education, the project aimed to promote a diet based on energy efficiency, sustainable production and distribution, short chains, social cohesion, cultural diversity and active citizenship, all concepts that could be connected with the holistic understanding of the right to food discussed in this report.⁴³

Along similar lines, the Fondazione Monte Paschi di Siena and the Barilla Center for Food and Nutrition Foundation (two private entities) launched in 2016 the sCOOL FOOD project, an initiative aimed at providing primary schools' students with the notions and the tools to become sustainable citizens and the future professionals (educators, politicians, journalists, etc) who will draft innovative policies and

⁴¹ Città di Torino, Alimentazione, consumatori, territori transfrontalieri. Programma ALCOTRA 2007-2013, progetto n. 121, le buone pratiche in materia di ristorazione collettiva, Menu partecipato Il progetto "il menu l'ho fatto io" Un modello replicabile. Available online.

⁴² M. CONTINISIO, Il Menù l'ho fatto io, in *Torinoclick*, April 22, 2016.

⁴³ Città di Torino Provincia di Torino Regione Piemonte - DorS MIUR - Ufficio Scolastico Regionale del Piemonte Camera di Commercio di Torino Laboratorio Chimico Camera di Commercio Torino ASL TO1 - Dipartimento di Prevenzione, "Il menù l'ho fatto io" Un percorso partecipato sull'Educazione Alimentare, Presentation, Available online.

change the rules of the game.⁴⁴ In both cases, schools and food are seen not only as an opportunity to provide healthy diets and improve the children's lives, but also as unique importance of educating to sustainable food practices and to strengthen new generations' understanding of the food system. The success of these projects gives hope for the future and provides an example of the need and opportunity for a truly bottom-up approach to the Sustainable Development Goals, also in the context of an advanced economy like Italy.⁴⁵

In the absence of the explicit recognition of the right to food at both the European and national level, intra-EU comparative experiences may represent another important ally in the struggle for accessible, healthy and open school canteens. Although the situation is equally dramatic in several member states, including the pre-Brexit United Kingdom, the French judiciary seems to have adopted a strong position in support of a right to school canteens for students of mandatory public schools. In an opinion issued in 2014, the Conseil d'Etat (highest administrative court) accepted the claim of the City of Paris against the decision of three of the wealthiest local councils in Paris to unilaterally define the cost of the service and concluded that the law Ferry of 1882 on the gratuity of schools also guarantees the right of all students, without financial discrimination, to the canteen, in particular of those students who are the most disadvantaged.⁴⁶ For the Conseil d'Etat, the canteen service is considered, as a matter of fact, part of the educational experience of students. More recently, in December 2017, the administrative tribunal of Besançon was asked to decide whether a school with limited space available could introduce a cap to the number of students who could benefit of the canteen.⁴⁷ Reinforcing the position of the Conseil d'Etat, the court concluded that all students enrolled in a primary school have the right to access the school canteen and that no limitation can be imposed: if the lack of space is not a justification, it is hard to imagine that the lack of documents attesting the financial condition of the family in the country of origin could be considered a valid exception.

Public subsidies and easy access to meal vouchers – a solution tested in the United Kingdom - represent a step forward compared to several realities in Italy and around the world. However, access to the canteen and free food for those who cannot afford it may not be enough to create the educational and social space that children need and have a right to. A 2012 research realized in Scotland by Holford on eating habits in Scottish schools revealed that almost 300,000 children who had the right to free meals because of their financial condition preferred not to use the service and to bring their own food.⁴⁸ The reason? They were often eating in different rooms and were feeling the stigma of poverty. Similar problems arose after an administrative judge in Turin, Italy, recognized that children opting out from the canteen service had the right to eat a sandwich at school, but in a separate room: although for someone the sandwich was a cheaper alternative, in reality this became a way for wealthier families to provide their children with better food and to distinguish them from

⁴⁴ FONDAZIONE MONTE DEI PASCHI DI SIENA, *sCOOL FOOD*, educare ad un consumo consapevole, 2016. Available online.

⁴⁵ SDG target 4.7 states identifies the following objective: 'By 2030, ensure that all learners acquire the knowledge and skills needed to promote sustainable development, including, among others, through education for sustainable development and sustainable lifestyles, human rights, gender equality, promotion of a culture of peace and non-violence, global citizenship and appreciation of cultural diversity and of culture's contribution to sustainable development.' School canteens, democratic decisions on food and the participation of students, schools and parents in the preparation of menus and discussions around food go in the right direction.

⁴⁶ Conseil d'Etat, Avis du 11 juin 2014, Nos 359931.

⁴⁷ Tribunal Administratif de Besançon, N 1701724, December 7, 2017.

⁴⁸ Angus Holford, *Take-up of Free School Meals: Price Effects and Peer Effects*, Institute for Social and Economic Research, No 2012-12.

those children who received subsidized meals.⁴⁹ The recognition of access to food as an individual right to choose the diet rather than a collective moment where students are collectively participating in decision-making and eating (and sometime cooking the food) led to segregation rather than cohesion.

Some countries have found a solution against these undesired effects of differential financial and legal treatment. They have legislated that all children in primary schools have the right to healthy, nutritious and free food independently from their families' income. This is the case of Sweden and Finland, where all kids in primary school receive a free cooked meal, irrespective of their possibility to pay. In Sweden, since 2011 the Swedish School Law forbids schools to charge for meals and guarantees that 260 million cooked meals are served for free every year, each one accounting for a third of the recommended daily intake of energy and nutrients. In Finland, "all pupils in comprehensive schools, upper secondary schools, and vocational schools are provided with a free meal every school day."⁵⁰ More interestingly, since 2004 school catering is considered a part of the curriculum in comprehensive school education, i.e. an integral part of student welfare and of their education. Therefore, a written plan that describes the goals and core principles of student welfare must be included in the curriculum, indicating the goals of health and nutritional education when organising school meals.⁵¹ If eating nutritional food together plays a crucial role in the academic and personal growth of children, and if school canteens can be used as a leverage to fulfil the right to food as the State's obligation to actively engage in the construction of a sustainable food system and in fighting inequality, we must move beyond the idea of eating at school as a pay-per-eat privilege whose price is defined by the market and that represents an extra. Rather than regulating tariffs on the basis of financial conditions and creating division, the future must be that of free and universal access to adequate, healthy, nutritional and socio-environmentally sustainable food for all children attending compulsory public schools. In order to achieve this result, it is crucial to recognize the unique nature of food and eating as essential components of any society: they are not a simple commodity and a simple action, but a commons and a way of commoning.

Conclusions: Food as a commons as the basis for universal free meals

To say that food is a commons means to realize that all material (food, seeds, land, labour) and non-material (culture, knowledge, personal relationships, biodiversity, etc) elements that compose the food system are jointly developed and maintained by a community.⁵² This is not limited to the proprietary arrangements but affects the way in which food and the social utility produced throughout the food system are shared according to community-defined rules that are redistributive and historically constructed, redistributive in their outcome and based on the recognition of the constant interaction between nature and society as co-constructed.⁵³ In addition, food as commons means to

⁴⁹ P. ITALIANO, *Riconosciuto il diritto al panino: ora gli alunni possono portarsi il pasto da casa*, La Stampa, June 22, 2016.

⁵⁰ Irma Tikkanen, Ulla-Marja Urho, (2009) "Free school meals, the plate model and food choices in Finland", *British Food Journal*, Vol. 111 Issue: 2, pp.10-119, 103.

⁵¹ Lintukangas, S., Manninen, M., Mikkola-Montonen, A., Palojoiki, P., Partanen, M. and Partanen, R. (2007), *Kouluruokailun kaikkikirja, Laatuvaikuttavuus koulutyo"ho"n, Opetushallitus*, referenced in Tikkanen and Urho, *ibid*.

⁵² Vivero Pol J.L., T. Ferrando, O. de Schutter and U. Mattei, 'The Food Commons are Coming..', in Jose Luis Vivero Pol, Tomaso Ferrando, Olivier de Schutter and Ugo Mattei, *The Routledge Handbook of Food as a Commons* (Routledge, 2018).

⁵³ J.W. Moore, *The Capitalocene, Part I: on the nature and origins of our ecological crisis*, *The Journal of Peasant Studies*, 44:3, 2017, 594-630,

think of a food system that is inherently respectful of the ecological equilibrium between past, present and future of both people and planet, incapable of exploiting without regenerating and structured on the need for healthy and nutritional diets.

On the other hand, saying that eating in school canteens is an act of commoning means, in my opinion, thinking of the action not as a privatized and individualized moment but as a way in which each student is connected with the rest of the group and with all the people that contribute to the production, transformation and distribution of the food. Eating – along with all the interconnected phases of the food system – should be thus seen as the dynamic and ecological interaction between people and nature that regenerates nature and redistribute values. In a nutshell, food is not just a ‘thing’ produced and allocated according to its market value (the price defined through demand and offer) and eating is not a service or a mechanic action, but rather part of a broad and complex network that connects all the actors and inputs that make food possible.

According to the political vision that I am adopting here, school canteens are both a commons and a moment of commoning. Better, they are a commons because of the process of commoning that takes place where students, teachers, parents and the whole food system are taken into consideration in the moment where decisions are made, food is produce, distributed and consumed.⁵⁴ It is “commoning” that confers a material, or non-material, common resource its commons consideration and its emancipatory character.⁵⁵ Imagining food and eating as non-commodities does not mean to be radical or transgressive: on the contrary, the history of the people-planet relationship is one where food and the food systems have been much more than a matter of monetary exchange, speculation and figures. Thinking in terms of commons and commoning is a recognition of the importance of looking backward and learning from the past rather than believing that all solutions are coming from the future.

No better place than school canteens offer a better opportunity to think about food as a non-commodity and to challenge the intellectual and practical enclosure of austerity and neoliberalism. They are the space where future generations learn the academic and personal skills that are needed in order to imagine and build a different world. Studies and researches on school canteens have proved that when students have universal access to nutritional food and when their families are directly involved in the definition of the menu, there is an improvement in the physical condition of the pupils, a stronger engagement with sustainability and a strengthening in academic performances. On the contrary, when canteens are enclosed spaces limited by financial opportunities and where the menu is defined by economic considerations rather than collective decisions, the result is segregation, shame, poor performances and disengagement. The shift from commodity to commons may seem Utopian, but Sweden and Finland prove that universal and healthy meals coordinated with families are already a reality and that they work. For sure, providing universal free and healthy school meals requires resources: still, the same is true for meals that are provided to patients in public hospitals, soldiers, and several other people whose access to food is taken for granted by the State.

If budget represents an obstacle, this can be overcome in several ways. Firstly, commons and commoning are entrenched in the idea of wealth and income redistribution as tools that can reduce the gap between those who have and those who have none. If resources are needed, they can be obtained by prioritizing the allocation of tax revenues or adding a progressive taxation to guarantee food for all. Who would be opposing a fairly structured contribution to make sure that children go hungry? Secondly, Pirani recently suggested that a diet low in animal products, local, with minimal

⁵⁴ Dardot, P. and C. Laval, C.. 2014. *Commun, essai sur la révolution au XXI^e siècle*. Paris: Le Découverte.

⁵⁵ *Ibid.*

waste and supported by fiscal incentives is not only better for the planet but can also be cheaper than what is currently provided.⁵⁶ Third, there is little doubt that long-term socio-environmental sustainability, the Sustainable Development Goals and the construction of a strong society are much better obtained through investments in children's health and academic performances than many other sectors. Public procurement, i.e. the way in which schools buy food, can be used to achieve economic efficiency and ecological results (social and environmental sustainability): in the past, the city of Rome has proved that it is possible to buy better, cheaper and fairer. Other administrations should follow the example.⁵⁷

At a time of multiple deprivations, recession, austerity and social disintegration, school canteens represent one of the last bastions of resistance. There, the new generation of citizens, workers and leaders could provide the opportunity to learn not only algebra and the history of Western colonization, but also how to live together, share and the importance that food has for each of us, society as a whole and the planet. The facts of Lodi and the other examples reported in this paper show that the Italian government and several local administrations are breaching their obligations towards their people and missing the opportunity of investing in the future of the people and the country. The right to food and the right to education, two pillars of modern citizenship, can offer some support and could be leveraged in court to obtain the immediate redressal of violations and breaches of public duties. However, a real transformation can only be achieved by dismissing the paradigm of food as a commodity and eating in school canteens as an individualized mechanical action. They are first of all expression of fundamental rights and essential components of our lives, but also political actions that shape the present and future of society and the planet. If we want to avoid a world stuffed with walls, hatred and stigma, we have to start from what, how and where children eat.

⁵⁶ S. De Carli, La mensa scolastica dovrebbe essere gratis : 4 mosse per arrivarci, Vita.it, October 17, 2018, available online : < <http://www.vita.it/it/article/2018/10/17/la-mensa-scolastica-dovrebbe-essere-gratis-4-mosse-per-arrivarci/149414/>>.

⁵⁷ R. SONNINO, Quality food, public procurement, and sustainable development: the school meal revolution in Rome, 2009, in 41 *Environmental and Planning A*, pp. 425-440.