
Food Waste at Time of Food Poverty: Are the EU and Its Member States Providing Sustainable Legal Solutions?

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Abstract

Throughout the global chain of production, food waste (and food surplus that are never inserted in the chain of consumption) represent a critical issue with significant social, economic and environmental consequences if not properly addressed. As a response, several legal initiatives to tackle food waste have been launched throughout the world: the legislative and regulatory choices made by the European Commission, France, Italy and the UK proposal of a Food waste (Reduction) Bill 2015-2015 are the object of our study.

The underlying message of these legal interventions is that law can be the instruments to nudge citizens and producers into engaging with the ethical, social and environmental unacceptability of food waste. As such, law becomes an active instrument of social transformation, although it often operates in different forms and through different patterns. However, a comparative glance to the ratio and principles behind most of these legislative interventions seem not to question the origins and roots of food insecurity, nor to challenge the systemic production of food waste, or even to investigate the long term implications of the legal intervention.

The aim of this paper is to present some of the main initiatives that have been launched as part of the ‘war on waste’ and reflect, through the use of local examples and expertise, on the validity or the current reforms and on the need to imagine alternative trajectories that not only look at the symptoms and at the causes of the problem.

Introduction

In the last years, food system experts and civil society have increasingly advocated that food waste represents one of the most significant and pressing issues to be tackled along the food chain.⁽¹⁾ According to Cicatiello et al. for example, food waste is a “major social, nutritional and environmental issue”,⁽²⁾ while Lucifero states that “food waste is reaching critical levels”.⁽³⁾ Such apocalyptic statements appear to be justified by data as an estimated 90 million tons of food is wasted in the EU each year,⁽⁴⁾ and that the number reaches 1.3 billion tons worldwide.⁽⁵⁾ In broader terms, it is clear now that at least a third of all the food produced all over the world is wasted, although with significant differences in terms of where, why and by whom.⁽⁶⁾ If food in the Global North is mainly thrown away at the level of consumption and production (because it is not harvested), in the rest of the world the loss of edible food mainly concerns the difficulty in transportation and storage.⁽⁷⁾ At a time of austerity and cutting

(1) Block et al. (2016), 292.

(2) Cicatiello, Franco, Pancino, and Blasi (2016), 96.

(3) Lucifero (2016), 283.

(4) European Commission (2011), 17; also cited in Cicatiello et al. (n 2) 96.

(5) FAO (2013), 6.

(6) Dorward (2012), 463.

(7) Ibid 464; also cited in Secondi, Principato and Laureti (2015), 25.

in social spending in the West, anti-food waste discourses are becoming particularly popular because of the paradox of high quantities of food wasted each year despite the fact that many people remain financially unable to buy food to feed their families and themselves.⁽⁸⁾

Along with the moral argument of wasted food in the presence of global hunger, those who are involved in the war on waste generally point at the environmental impact connected with the fact that biomass is sent to landfill and left to rot. To offer an overall image, Mallinson et al. state that the negative environmental impact of food production through the use of land, energy, water, and through the generation of greenhouse gases, is the reason the issue of food waste in households has been targeted by UK environmental policies since 2007.⁽⁹⁾ In particular, studies have shown that food left rotting in landfills or not harvested is responsible for a massive injection of methane in the atmosphere, so that halving the food waste in Europe would reduce the level of European greenhouse gases by 5%.⁽¹⁰⁾

In light of these dramatic numbers and of the diffusion of sustainable food approaches in several Western countries, bottom-up projects around food waste and corporate social responsibility initiatives have taken the lead in identifying possible ways of reducing the amount of food that is not consumed and in turn decrease the quantity of highly pollutant methane. Slowly, the issue has also been infiltrating the political discourses and

(8) Cicatiello et al. (n 2) 97.

(9) Mallinson, Russell and Barker (2016), 17.

(10) Stuart (2009), xix; also cited in Dorward (n 6) 463.

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led to the identification of regulatory interventions characterized by different treats and a common objective.⁽¹¹⁾ As far as the public sector is concerned, responses have been of different kind, mainly following the two parallel lines of incentives and regulation. While some governments sanction the fact of sending food to landfill,⁽¹²⁾ others incentivise the creation of circular economy by introducing fiscal measures or modifying food safety requirements to facilitate the distribution of the food or its use as energy or animal feed.⁽¹³⁾ Others are still deciding on which direction to take and how to identify the most appropriate combination of public, private and hybrid solutions.⁽¹⁴⁾

Overall, public intervention to tackle food waste in the EU is a new, uncertain and complex area of intervention. In particular, the identification of the regulatory ‘silver bullet’ is made particularly complicated by what we consider to be some unique features: the transnational nature of food chains and the multiplicity of local geographies where edible food is not consumed, the involvement and interaction of private and public actors from ‘farm to fork’, and the fact that most of the waste in the Western world takes place at the point of consumption behind the closed

(11) Mourad (2016), 471.

(12) In France, supermarkets can get fined for throwing edible food; See Loi n° 2016138- du 11 février 2016 relative à la lutte contre le gaspillage alimentaire, Article 1er.

(13) In Italy, the government provides tax incentives for supermarkets which donate surplus food; See Camera dei Deputati, Proposta di legge (Norme per la limitazione degli sprechi, l’uso consapevole delle risorse e la sostenibilità ambientale), n. 3057. XVII Legislatura, 17 Aprile 2015, Testo unificato delle proposte di legge C. 3057 e abbinate, art 17.

(14) E.g. In the UK, despite intervention by the Waste and Resources Action Program (WRAP) at the private level encouraging supermarkets to pledge to reduce their waste, the government is also targeting the issue through its Food Waste (Reduction) Bill 20152016-. See Mace (2017).

doors of the household. However, some countries in Europe have decided to be the precursors in this area and have introduced their national discipline of food waste – or are about to. This paper focuses on four examples (the EU, France, Italy, and the United Kingdom) to highlight three main elements: a) how the different legislators define and engage with the challenge of food waste and what is the final goal of their intervention; b) what are the technical measures introduced in each of these cases, what are their similarities and differences, and in particular what is the role of incentives and sanctions; c) what can other governments and parliaments learn from these experiences.⁽¹⁵⁾

When analysed, the four cases discussed in the paper reveal a strong common idea that law can be a useful instrument to nudge citizens and producers into engaging with the ethical, social and environmental unacceptability of food waste. Moreover, they appear to be oriented towards the possibility of using, laws to achieve the perfect scenario of zero waste and zero food

(15) We are aware that there are numerous other interventions outside of our scope and that a zero-food waste future depends on the interaction and synergic cooperation of multiple actors, including civil society and the private sector. For example, in 2014 Massachusetts introduced a regulation banning any non-residential entities from disposing of food and green waste, if the quantity they produce exceeds one ton per week. Penalties and punishments apply in the case of violation. At the same time in Brazil, the restaurant chain Satisfaito encourages customers to select smaller portions in order to reduce the waste on people's plate, the money saved from the reduced portions is donated to combat malnutrition. We do not focus however on these examples, but we recognize the importance of looking at multiple interventions and at the dynamic nature of the sector in order to identify best practices, possible solutions and increase the level of dialogue and interaction between the public and the private sector. See 310 CMR 19.000: Solid Waste Management Facility Regulations, Section 19.006 and 19.017(3). It was estimated as a result of this law that by 2015 5,020 tons of food waste had been diverted from going into landfill; See CET (2015); see also Ruiz-Grossman (2016).

insecurity. In the legislations, the food that is saved from landfill becomes a resource that can be harnessed to solve the problem of food hunger, the classic ‘two birds one stone’ idealism. Instead of challenging the inherent connection between production and the generation of food waste—i.e. the fact that food waste is often the foreseen and accepted consequence of procurement strategies and of the industrialized food system—, legislators are focusing on the distribution of the surplus as a win-win-win solution (state, private sector and hungry people), without considering the long term implications and the importance of constructing a sustainable and ecologically viable food system.

In order to achieve its goal, the article is divided into three main sections. Section I presents food waste as a pressing issue and a glocal⁽¹⁶⁾ regulatory challenge and offers a brief insight into non-public interventions within the European Union. Section II enters into the details of the four different public interventions—namely EU, France, Italy, UK—and briefly presents their legislative history and main elements. Finally, section III engages with the underlying rhetoric that accompanies these interventions and that looks more at how to use food waste to fix hunger rather than thinking of both zeroing food waste and implementing social policies that will get rid of hunger without the need of using scrapped food and maintaining social inequality.

I. Food Waste as a Glocal Regulatory Challenge

(16) We adopt the notion of “glocal” to refer to an event that is mainly defined by local circumstances (the fact that individuals throw food away throughout the chain) but has significant global consequences. The idea is borrowed from Boaventura de Sousa Santos, who claims that “is no global condition for which we cannot find a localroot”. See de Sousa Santos (2001). See also Sedda (2016) and Ferrando (2017).

The idea that the global food system generates 1.2 billion people who are medically obese and at the same time 800 million people who are undernourished reveals, per se, flaws and paradoxes in the way in which food is globally allocated. However, one of the most shocking contradictions concerns food waste, and in particular the fact that despite the persistence of starvation and hunger, enough food is produced in the world every year and over one billion tons of food is wasted annually.⁽¹⁷⁾ Saving only a quarter of this worldwide food waste could feed 870 million people.⁽¹⁸⁾ In addition, if we also consider that in the US, for example, 40% of the corn is used for biofuels and 36% is used for animal feed,⁽¹⁹⁾ we may easily agree with scholars who claimed that “food insecurity is often more a question of access [...] than a supply problem”⁽²⁰⁾ and that “starvation is the characteristic of some people not having enough food to eat. It is not the characteristic of there being not enough food to eat.”⁽²¹⁾

In light of these data and of the continuous food crises experienced throughout the world, the way in which food is allocated throughout the world has been increasingly questioned in the last years. However, because of the increase demand of meat⁽²²⁾ and ‘green’ energy,⁽²³⁾ these two sectors have been diverting a growing amount of food resources and are seldom

(17) Lucifero (n 3) 283.

(18) FAO (2017).

(19) Foley (2013).

(20) Gustavsson et al. (2011), 1.

(21) Sen (1981), 1 ; also mentioned in Lambek, Claeys, Wong and Brilmayer (2014), 76.

(22) Worldwatch (2016).

(23) REN21 (2016), 22.

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under scrutiny.⁽²⁴⁾ On the contrary, food waste has become a central element of food policies throughout the world and a privileged area for Corporate Social Responsibility interventions. At the centre, there are several questions that must be taken into consideration before any form of intervention: a) what is causing this waste?; What are the consequences? And What can be done in order to reallocate food in a more fair way?

Regarding the cause of food waste, Lucifero argues that the answer can vary depending on whether we are talking about low-income or high-income countries.⁽²⁵⁾ If we look at low-income countries, waste is mainly the result of a lack of organization or infrastructure at the production level. In high-income nations, on the contrary, waste is often linked to consumer behaviours and sociological factors such as people's lifestyles. In both cases, and especially if we are talking about exotic products and transnational food chains that link the Global South with the Global North, overproduction, long distances and strict product requirements are also on the bench of the accused.⁽²⁶⁾ As a consequence, the political desire behind regulatory interventions is confronted with the complexity of chains, the partiality of the measure and the fact that successful regulatory intervention in one legal order may not reach the source of the problem or, on the contrary, may cause unexpected consequences in terms of production, distribution and consumption.

However, the impacts of food waste are multiple and go

(24) The silence around the role of meat industry in contributing to climate change is very well portrayed in the documentary *Cowspiracy: The Sustainability Secret* (2014).

(25) Lucifero (n 3) 283.

(26) *Ibid* 284285-.

beyond the sole loss of opportunities to feed people. For example, several studies point out that food waste is linked with a significant emission of greenhouse gases, as it is calculated that the production of methane resulting from food rotting in landfill is estimated to represent 22% of the global greenhouse gases emission.⁽²⁷⁾ Similarly, one of the aspects of food waste that is often overseen is that what is wasted is not only the material lettuce thrown in the bin of our kitchens but also all the water, energy, gas emission, and land which were used to produce that lettuce.⁽²⁸⁾ To provide some statistics, Gunders estimated that 80% of the United States' freshwater is used in getting the food 'from farm to fork' and that 40% of the food the country produce is wasted.⁽²⁹⁾ In practical terms, this means that 32% of the water used in the food chain ends up being wasted.

Despite food being wasted locally, it is therefore important to understand that it produces negative consequences that go beyond the location where it takes place. While local actors may be responsible for waste generated up and down the food chain, and while hunger and landfill are geographically located in specific places, the impact of food waste is therefore global and affects everyone. Food waste is not only an issue for those who do not have access to food, but it is also part of a global challenge which impacts the wellbeing of people, nature and the planet on every single day. Because of this, we are interested in presenting the regulatory frameworks that have been constructed by some countries and in questioning their ability to offer systemic and

(27) FAO (2011), 11.

(28) Gustavsson et al. (n 20) 1.

(29) Gunders (2012), 4; see also Munesue, Masui and Fushima (2015), 46.

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sophisticated answers to a complex problem.

As we discuss in the next section, waste (and food waste in particular) has been put at the centre of international, EU and national political discourses.⁽³⁰⁾ In addition, the prominence of the issue and its strong moral taint have led some private actors to intervene with programs and initiatives that aim to reduce waste and improve good corporate citizenship. In the remaining part of this section, we offer a brief account of some of the measures that have been implemented by the private sector, and we pay particular attention to their objectives, scope, aim and opportunities. Although some of them are bottom-up interventions realized by actors who are not involved in the generation of food waste, most of the projects that have obtained more visibility were introduced by those players (mainly retailers) whose practices are closely connected with the problem.

One of the most interesting ideas is to create a new market for food that would otherwise be lost and, with it, its economic value and the resources that were used to produce it. Among the pioneers of this intervention there is Adam Smith, who, in the UK, funded The Real Junk Food Project (TRJFP) in order to utilize food that otherwise would have been wasted. The project involves the establishment of cafés in which the food served is made from food donations received from medium and large-scale food players which prefer to pass the food excess to the cafes rather than sending it to landfill. The project now has dozens of branches spread across UK, Europe and even Australia.⁽³¹⁾ The

(30) Lucifero (n 3) 283.

(31) The Real Junk Food Project (2016); also discussed in Mansuy (2016).

Foundation has now even open the first food waste supermarket in the UK based on a similar principle, which differs from the idea of food banks and their free distribution of donations (including from large corporate actors).⁽³²⁾ In Denmark, a phone applications was developed in order to allow food outlets to notify customers when food close to its expiration date is being sold at a reduced price.⁽³³⁾ Similarly in Italy, the app Last MinuteSottoCasa allows various independent retailers to send an alert to consumers that some of the food is being sold at a discounted price.⁽³⁴⁾

Retailers are thus particularly active, as demonstrated by the supermarket chain Tesco, which has also recently launched a line of frozen fruits—such as pomegranate, beetroot, watermelon and coconut—with the argument that it not only helps customers with fruits which are difficult to prepare, but it also helps reduce household waste as people can defrost only the quantity they need.⁽³⁵⁾ Similarly, UK supermarket chain Sainsbury's has invested £1 million into the town of Swadlincote, with a target to cut the town's food waste by 50%. The project – which was a pilot - included a community fridge, raising awareness about waste through school workshops, and distributing free fridge thermometers.⁽³⁶⁾ All these interventions are led by lead firms in the food chain and are characterized by the aim to combining efficiency and ethics. However, they seldom alter forms and processes of production and distribution and, as highlighted by a recent analysis conducted in the framework of the Food

(32) Sheffield (2016).

(33) Messenger (2017).

(34) Hackwill (2016).

(35) Barker (2017).

(36) Sheffield (2017); also discussed in Mansuy (n 31).

Collaboration Research, they are often ineffective.⁽³⁷⁾

In the rest of this paper, we analyse four different regulatory frameworks which have decided to deal with the environmental, social and economic implications of food waste. Through a comparative analysis of the content and history of the four frameworks, we aim to highlight the existence of a predilection over specific moments of the chain as those where interventions should take place. At the same time, there is a diffused perception of food waste as a resource to be harnessed in order to support the fight against hunger at the local level. Thus, extra production, excessive purchasing strategies, strict aesthetic parameters and the lack of economic resources to buy proper food are not seen as problems to be addressed, but opportunities to be kept unchanged and matched.

II. Zero-Food Waste Interventions at the EU and National Levels

In this section, we will explore the different public interventions targeting this issue of food waste which have occurred at the EU and national level. The section will first consider how the EU institutions have addressed the issue of food waste within the context of a broader anti-waste strategy. Then, we look at interventions by France, Italy and the UK legislators with the objective to introduce the main aspects of the regulatory frameworks (enacted or proposed), their rationale and main differences.

European Union: setting the stage and a multi-stakeholder

⁽³⁷⁾Caraher et al. (2017).

platform

Around 88 million tonnes of food are wasted annually in the EU, with associated costs estimated at 143 billion euros.⁽³⁸⁾ Despite the seriousness of the data and the fact that the European Commission (EC) already delivered a political statement in 2009⁽³⁹⁾, it is only in the last couple of years that a specific policy evaluation framework was launched.⁽⁴⁰⁾ Before, food waste was regulated EU through the 1999 Landfill Directive and the 2008 EU Waste Framework Directive.⁽⁴¹⁾ The former banned landfill of untreated waste and set targets of biodegradable municipal waste going to landfills to be enforced by individual States under the control of the European Commission.⁽⁴²⁾ The latter introduced the idea of the waste hierarchy which stated that waste should be managed in the following order of priority: “(a) prevention; (b) preparing for re-use; (c) recycling; (d) other recovery, e.g. energy recovery; and (e) disposal”.⁽⁴³⁾ In addition, the Waste Framework Directive of 2008 set binding and ambitious targets to be achieved in 2020 that may be considered to be at the basis of the ongoing efforts by some EU member states to tackle the issue of food waste, including with the recognition in their legal

(38) Stenmarck., Jensen, Quedsted and Moates (2016)

(39) European Court of Auditors (2016), 52.

(40) Ibid 9.

(41) Directive 200898//EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives.

(42) The Directive identified three different targets: 75% in 2006, 50% in 2009 and 35% in 2016. However, the reduction of biodegradable waste (i.e. mainly food) going to landfill is progressing at varying speeds. The slow pace of compliance is mainly linked to the significant increase in the generation of municipal waste. For this reason, the European Commission made a legislative proposal introducing new waste-management targets. In particular, it should be of 10% of biodegradable waste in 2030.

(43) Directive 200898//EC art 4; also mentioned in European Court of Auditors (n 39), 10.

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framework of the waste hierarchy.⁽⁴⁴⁾ .

Despite the lack of direct legislation on food waste at the EU level, it has been argued that some of the current EU policies could help tackling food waste.⁽⁴⁵⁾ However, some authors claimed that the European Commission had failed to review these accordingly.⁽⁴⁶⁾ As a response, after the publication of the circular economy package in 2014⁽⁴⁷⁾ and the adoption of the Sustainable Development Goals in 2015, the Commission has increased interventions around food waste. One of the most recent initiatives is the EC founded the 'EU Platform on Food Losses & Food Waste' which brings together numerous actors such as NGOs, food banks, and other actors in the food chain, in order to discuss the issue of food waste and how it can be tackled.⁽⁴⁸⁾ Although the official documents identify the date marking and food labelling as one of the main priorities, during the first meeting of the Platform, the EC stated that it would release EU guidelines on food donations.⁽⁴⁹⁾ Then, the EC also admitted that it has no plan on placing a ban on the labelling of 'best before' dates,⁽⁵⁰⁾ but it did state its intentions to publish guidelines on the use of former foodstuff as animal feed to be adopted in the second quarter of 2017.⁽⁵¹⁾ At the time of writing of this paper, these guidelines have yet to be published.

(44) European Court of Auditors (n 39), 10.

(45) Ibid 22.

(46) Ibid.

(47) The Circular Economy Package consist of an EU Action Plan for the Circular Economy and annex to the action plan outlining the timetable for proposed actions, and related legislative proposals on waste including a revised directive on waste.

(48) European Commission (2017), 6.

(49) European Commission (2016), section 4.

(50) Ibid.

(51) Ibid, section 6.

Although the EU claims some responsibility for the reduction of food waste, it also seems to underplay its role by stating that its action will have limited global impact. In particular, it appears to suggest that Member States bare a much greater responsibility to tackle the issue of food waste than the EU as a central coordinator.⁽⁵²⁾ This seems a far cry from the November 2016 EU Platform discussion, which portrayed the motivation of making the EU as “the region leading global efforts to fight food waste with active national food waste prevention programmes in place in all countries and involving all key stakeholders”.⁽⁵³⁾ As recently stated by the European Court of Auditors, it appears possible to say that, “despite [...] repeated political statements, the Commission has decreased in ambition over time and the action taken until now has been fragmented and intermittent.”⁽⁵⁴⁾ In addition, the multi stakeholder nature of the platform, its composition and internal structures of governance would require some scrutiny and a better assessment that cannot be developed in the context of this paper.⁽⁵⁵⁾

France: Loi 2016-138 and the disciplinary state

“According to official estimates, the average French person

(52) European Court of Auditors (n 39), 15.

(53) Summary of statement made by Commissioner Vytenis Andriukaitis, see European Commission (n 49), section 2.1.

(54) European Court of Auditors (n 39), 19.

(55) The use of multi-stakeholders platforms to engage and solve complex issues has been increasingly diffused. This is true at the local level as much as at the level of international and regional organizations like the European Union. However, the technical and neutral image of the tool often hides issues of power, participation, representation, visibility, equity, sustainability, rights and obligations that define the scope and effectiveness of the mechanism. For a critical assessment of multi-stakeholderism in the area of global food governance, see McKeon (2017).

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throws out 20kg-30kg of food a year – 7kg of which is still in its wrapping. The combined national cost of this is up to €20bn.”⁽⁵⁶⁾ Despite of the urgency and of the statistics, the regulatory ‘war on food waste’ in France only started with an online petition pleading to make it illegal for supermarkets to throw away unsold food. In response to the diffusion and political strength of this bottom-up movement, the national legislator decided to intervene on the issue and to propose a solution that happened to be a mediation between the spirit of the petition and a purely libertarian approach to market. The law which resulted was passed the 11 February 2016 and was the first national law in the world to directly address the problem of food waste.⁽⁵⁷⁾ As such, it has been widely celebrated and object of imitation. For this reason, our discussion starts with it and aims to highlight its innovative aspects and the blurred areas.

In its preamble, the law states that its aim is to hold producers, transformers, retailers, consumers, and organisations accountable in the fight against food waste.⁽⁵⁸⁾ It appears therefore clear that the legislator is not interested in ‘enabling the market’ by providing incentives, but rather in making responsibilities visible and sanction behaviours that are incompatible with the objective of reducing food waste.⁽⁵⁹⁾ In an interesting dialog with the 2008 EU Directive on waste and the notion of ‘waste hierarchy’, the law states that the order of use of food waste is as follows:

(56) Chrisafis (2015).

(57) Loi n° 2016138- du 11 février 2016 relative à la lutte contre le gaspillage alimentaire.

(58) Ibid, art. L. 5414-15-.

(59) The text of the article states that “La lutte contre le gaspillage alimentaire implique de responsabiliser et de mobiliser les producteurs, les transformateurs et les distributeurs de denrées alimentaires, les consommateurs et les associations.”

prevention, donation or reuse, animal feed, composting or use as energy.⁽⁶⁰⁾ In it, the legislator seems to attempt to refer to a fight against food waste more broadly, and includes the need for the various actors to raise the awareness of the issue, through local projects.⁽⁶¹⁾

Despite this broad vision and punitive approach, most of the law seems to be targeting food wastes generated by large-scale retailers (i.e. supermarkets). In particular, retailers with a footprint of 400 sq meters or more are now required to sign contracts with charities next year or face penalties including fines of up to €3,750. By forcing retailers to distribute food, the law identifies supermarkets as a crucial hub in the chain, and introduces sanctions aimed to tackling the most disturbing and unethical behaviours that had long been reported in France and elsewhere: voluntarily destroying food, making it inedible or locking it inaccessible.⁽⁶²⁾

Without any doubt, the most interesting aspect of the law is represented by the specific focus on the suppliers and the contractual agreements that they may conclude with the retailers with regards to products sold under the supplier's brand. In particular, 15-5-II states that "Aucune stipulation contractuelle ne peut faire obstacle au don de denrées alimentaires vendues sous marque de distributeur." As a consequence, the law recognizes that not all food waste generated at the level of retailers may be the direct responsibility of the supermarkets,

(60) Loi n° 2016138- (n 57), art. L. 5414-15-.

(61) Ibid

(62) Chrisafis (2015).

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but it may also be due to the use of contractual clauses that prevent the retailers from distributing food in order for producers to maintain high volumes of sales and avoid that consumers may access their products for free, along with contractual penalties and product take-back clauses.⁽⁶³⁾ This is directly addressed by the law, and demonstrates the role that legal arrangements and legal structures all over the world may play in contributing to the waste of essential resources.

In conclusion, the French legislator's approach to food waste is characterized by the identification of the state as disciplinary and productive of social dynamics. On the one hand, public authority (in the form of criminal law) is utilized to limit and sanction idiosyncratic conducts that reduce access to food by most deprived parts of the society. On the other hand, the prohibitions are enriched with the introduction of an obligation to conclude agreements of redistribution in favour of recognized actors of the third sector, i.e. by the mandatory provision of different and socially oriented conducts.

Despite the broad success that the legislation obtained through the world and the fact celebrations of the fact that it has spared more than 10 million meals in one year,⁽⁶⁴⁾ some flaws are visible. Although the last section of this paper provides an overall discussion about the limits of current interventions, it is noteworthy here that the framework only targets a very fine section of the supply chains and disregards others, that the French Assembly completely disregarded the importance of

(63) Parfitt, Barthel and Macnaughton (2010)

(64) La Chesnais (2017)

other areas (such as education, technological innovations, aesthetic standards and dates) and that the mandatory provision of distribution without adequate investments may reduce the amount of food that is thrown away at the level of retail, but may de facto shift the burden to charities and increase the amount of food that is wasted by the operators of the third sector

Italy: Law 166/2016 and the state as facilitator

Italy was the second European country to approve a legislative intervention to specifically tackle the issue of food waste. Passed in June 2016, a few months after the conclusion of EXPO 2015 in Milan, the law is generally known as ‘Legge Gadda’ because of the name of the Member of Parliament Maria Chiara Gadda who proposed the bill. The target of the intervention was represented by the 149 Kg of food that is wasted - on average and per person - every year in the Bel Paese, a statistic that is almost twenty percent lower than the European average and that includes losses and waste generated from production to consumption.⁽⁶⁵⁾

Similarly to the French discipline, Article 1 specifies that the aim of the law is to reduce waste in each of the phases of the food chain, that is ‘production, distribution and provision’.⁽⁶⁶⁾ Moreover, the legislator identifies human consumption, animal consumption and aerobic digestion as the three possible patterns for waste, thus introducing the same waste hierarchy already formalized by the French legislator.⁽⁶⁷⁾ Despite the common purpose and the

⁽⁶⁵⁾ Cesvi (2017).

⁽⁶⁶⁾ Legge 19 agosto 2016 n 166, Disposizioni concernenti la donazione e la distribuzione di prodotti alimentari e farmaceutici a fini di solidarietà sociale e per la limitazione degli sprechi.

⁽⁶⁷⁾ Ibid, Article 3.

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reference to the same order of priorities, the Italian framework presents several differences compared to the French solution, both in terms of the role that the public administration has to play in redefining commercial practices, and in terms of the identification of the practices that are considered to be relevant from the point of view of food waste reduction, and therefore are specifically targeted.

The differences emerge already from the first two Articles, where the legislator clearly identifies the actors and the object of the law: the provision concerns both food surplus and food waste – which are kept distinct and defined – and is addressed to anyone ‘operating in the food sector’, meaning public and private entities, for profit or not, which undertake any phase of production, packaging, transformation, distribution and provision of food. Rather than focusing on large-scale retailers, the discipline is omni-comprehensive and recognizes the specific role of public authorities, which can be actively involved in the reduction of food waste by introducing adequate criteria in their public procurement notes but also through the establishment of educational projects, funds and other forms of intervention.⁽⁶⁸⁾

In comparative terms, it has been noticed by some food operators that the distinctive character of the Italian solution is represented

(68) Public procurement in schools, hospitals and public canteens is specifically addressed by Article 10 of the law, although the content of the regulation is left to the decision of the Minister of Health. It is our opinion that public procurement represents a central mechanism of social transformation given the unique opportunity to combine the regulatory power of the public administration, its purchasing power and the efficiency-oriented vision of market actors. By defining precise criteria for goods and services that they purchase, public administration are capable not only of operating in the market, but of shaping the market. Similarly, the area offers the opportunity to conduct horizontal comparative studies among different jurisdictions and also vertical analysis that inquire the role of different levels of the public administration within the same legal framework. Although the issue cannot be fully addressed here for lack of space, it is our interest to investigate it further in the future.

by the idea of a systemic approach to food waste that not only tackles one aspect and one point of the chain, but recognizes its complexity and the need to intervene at different levels and through multiple approaches.⁽⁶⁹⁾ As a matter of fact, that the law is constructed around the idea that the State is not a disciplining entity but a facilitator of social transformation. Instead of using sanctions and convictions, as in the case of France, the legislator is perceived as the source of authority that can relax food safety requirements and change the discipline around labelling and food safety, but also establish multi-stakeholder platforms, identify ad hoc educational programmes, favour innovative research and development in the area, and also provide forms of fiscal incentives.

For example, Article 4 of the ‘Legge Gadda’ introduces an exception in terms of expiration dates and cession of food: even if the food is expired, the actors operating in the food chain can transfer it to beneficiaries who will then utilize it to feed the needy, animals or to produce energy.⁽⁷⁰⁾ If the donor can guarantee the state of preservation of the food and its packaging, this can be transferred for free to the recipient: after that moment, the responsibility for the safety of the food is taken away from the donor and transferred to the receiver, which is then to consumers rather than professional food providers.⁽⁷¹⁾ The enforcement of a lower standard for charities and the relaxation of the requirements for the donors should find a remedy, from the point of view of

(69) Banca Alimentare (2017).

(70) Legge 19 agosto 2016 n 166 (n 66), Art 4, Modalita’ di Cessione delle Eccedenze Alimentari.

71 Legge 19 agosto 2016 n 166 (n 66), Art 13.

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the legislator, to the fear of being sued and legally responsible in case of food poisoning, which is among the most common responses when food operators are asked about why they do not distribute surplus and food waste.

Given the voluntary nature of the discipline, the legislator had to introduce a system of rewards and bonuses that could create an incentive towards its respect. This represents a crucial difference with the French model, but also a weakness of the framework that may reduce the effectiveness of the framework or, in the best scenario, intact the flow of fiscal revenues to local administrations. According to Article 17 of the law, in fact, non-domestic entities that produce or distribute food and that give it away for free to support human or animal needs, may benefit from a proportional reduction of the waste tax that they pay.

Without entering too much into the debate about voluntary or mandatory nature of the measure, it is interesting to stress the risk that lies behind the existing incentive mechanism. The rationale is that the waste tax is paid on the amount of waste generated, and therefore a reduction in the waste produced should be accompanied by the reduction of the tax. However, some basic law and economics principles teach us that an appealing incentive should be such to cover the benefit that businesses receive when they throw food away (for example the fact that consumers are forced to buy it) and the cost (in terms of organization and logistics) of organizing a distribution platform. Therefore, it may be the case that the central government established a system of bonuses that requires city councils to

promise more than the sole reduction in the waste tax dependent on the lower amount of discarded food, and therefore suffer an overall loss. In alternative, the system of incentives will not be appealing enough to change existing practices and conducts.

United Kingdom: Work in Progress

Until recently, the Waste (England & Wales) Regulations 2011 was the only piece of legislation close to dealing with the issue of food waste in the whole United Kingdom. Indeed, these regulations were the transposition of the 2008 EU Framework Directive on Waste, a sign of the importance of EU regulation in requiring Member States to think and act in sensitive areas like the one at stake.⁽⁷²⁾ Like the Directive, the Waste Regulations 2011 deals with waste in general and imposes a duty on entities to follow the waste hierarchy system.⁽⁷³⁾

More recently, and most likely due to the current political discourses and public pressures, the legislator brought forward the Food Waste (Reduction) Bill 2015-16. The idea of the Bill, which was proposed by the MP Kerry McCarthy and has not been approved yet, is to expand the current actions of the Governments and to tackle industrial food waste in a more effective way than the existing household policies, voluntary schemes and landfill incentives can do. In the words of MP Kerry “So far, Government policies have primarily focussed on household food waste – which has reduced by 21% since 2007 – but has largely ignored the waste generated by the food industry

(72) Waste (England & Wales) Regulations 2011.

(73) *Ibid*, s 12.

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throughout its supply chain.”⁽⁷⁴⁾ In light of this objective and focus, the idea behind the bill is to impose a general duty on the Secretary of State to encourage a reduction in food wasted by individuals, businesses, and the public sector.⁽⁷⁵⁾ with an overall goal of reducing the amount of food waste per capita in England by 50%.⁽⁷⁶⁾ In order to do so, the Secretary of State would need to publish a food waste reduction strategy⁽⁷⁷⁾ and to set yearly objectives as well as indicators of progress.⁽⁷⁸⁾

One of the most interesting aspect of the Bill is represented by its focus on information, accounting and publicity. In particular, the Bill focuses on retailers as the lead actors of the UK food system and requires them to adopt an industry-wide benchmark to measure industrial waste by 2018.⁽⁷⁹⁾ Once the measurement is homogenized and data is public, it should be easier to establish reduction strategies.⁽⁸⁰⁾ The other two relevant characteristics are the mention of the “food waste reduction hierarchy”⁽⁸¹⁾ and the statement that large businesses will have to reduce their food waste by 30% by 2025. The shift from a voluntary scheme to a mandatory target is evident and strongly affirmed.⁽⁸²⁾ A plan for a 50% reduction by 2030 is also discussed.⁽⁸³⁾

(74) Kerry’s Food Waste Bill, available from http://www.kerrymccarthymp.org/news/westminster_news/news.aspx?p=1091233 [last accessed April 27, 2017]

(75) Food Waste (Reduction) Bill 201516-, s 1(1).

(76) *Ibid*, s 1(2)(a).

(77) *Ibid*, s 1(3).

(78) *Ibid*, s 1(5)(a).

(79) *Ibid*, s 2(1)(b).

(80) *Ibid*, s 2(1)(c).

(81) *Ibid*, s 1(5)(b)-(c).

(82) *Ibid*, s 2(1)(a).

(83) *Ibid*, s 2(1)(d).

When it comes to identifying solutions and spaces of intervention, the Bill does not follow the systemic and complex perspective of the Legge Gadda but rather the narrow approach to food redistribution that was discussed in the case of France. Acting within the diffused paradigm of food waste as an opportunity to feed the hungry, MP Kerry recognizes that

“The UK redistributes just 2% of its fit for purpose surplus food, in comparison to France which redistributes 20 times this volume. It cannot be right that good edible food is thrown away - or turned into compost or energy - when people are going to bed hungry, skipping meals, or can't afford to give their children a nutritious evening meal.”⁽⁸⁴⁾

In order to find a remedy to the paradox of waste at the time of hunger, the UK Bill follows the French example and introduces the idea of mandatory agreements with redistribution organisations to donate unsold in-date food, which should be concluded in the first 6 months of this act being in force.⁽⁸⁵⁾

Despite the attempt of this Bill to reduce the level of food waste, the visibility that the issue is having in the media and the urgency of food hunger, this Bill is still not in force and was last heard of when it went through its first House of Commons reading over a year and a half ago on the 9th September 2015.⁽⁸⁶⁾ Leaving aside the narrow approach and the lack of a fully systemic vision,

(84) Supra n 74.

(85) Food Waste (Reduction) Bill 201516-, s 2(1)(e).

(86) UK Parliament (2016).

which will be discussed in the next section, it is our opinion that the values and target years of this Bill are becoming increasingly more meaningless and unachievable as years pass.

III. Impolite conversation on the war on waste: is food distribution a long-term and legally acceptable solution?(87)

The elements presented above demonstrate that there is an increasing interest by national and regional legislators in taking action to regulate the issue of food waste. Whether it is the outcome of social pressure, the consequence of more stringent EU discipline or the realization of the unacceptable nature of throwing away an essence of life, it is evident that several public authorities agree with the importance of being directly engaged in finding a solution to food waste and its multiple negative externalities. Throughout the four experiences, the level of the food chains that is targeted is fairly homogeneous: most of the legislators, as a matter of fact, recognize the leading role of retailers and the fact that a change in their conducts may lead to an increase in the food that is spared from the bins and redistributed to the needy.

However, it also seems that the various interventions described above are characterized by the desire to find a ‘quick fix’, such as enhancing distribution of surplus food, blaming or regulating retailers, and overall shifting the burden of feeding the hungry on charities and associations that receive the food. With the

(87) This section is an expanded version of Ferrando (2016).

sole exception of the Italian example, where a more systemic approach is counterbalanced by the lack of mandatory character of the discipline, EU and national legislators seem to focus their efforts on the level of the chain at which the food is sold to consumers, but to disregards two main aspects of the problem. On the one hand, they tend to forget that the production of food waste and food surplus is often inherent to the industrial food system. On the other hand they seem to accept the creation of two classes of citizens, one that can afford proper food and the other one that can only be fed with whatever is left unsold. In our opinion, both these elements must be critically assessed and considered, especially by academics, legislators and activists who are interested in pushing for further interventions in the area of food waste reduction.

Can redistribution reduce food waste?

In the first section of this Article, we have provided elements and data that demonstrate the relevance, extension and urgency of food waste as a local and global issue. Food waste at the time of hunger and climate change questions the allocative logic of the market and the fact that rational decisions are actually contributing to increase the overall well-being of people and the planet. The need for a public intervention is, therefore, clearly justified by the progressive increase in the amount of food that is wasted at all levels of the chain. At the same time, the increase in hunger and food poverty in several countries of the world, including in numerous European countries, offer a strong legitimation to the use of food surplus, food waste and third sector's associations as food aid providers. However, the

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existence of an urgent and immediate need, that of feeding people, may obscure the long-term implications of the solutions adopted by the public legislator. This appears the case of most of the interventions discussed above.

When the French and the UK governments decide to introduce a mandatory system of food redistribution, they are certainly aiming to increasing the amount of food available to charities and third sector's associations. However, they are not considering the fact that these organizations may not dispose of the infrastructures and logistics that are needed in order to properly collect, store and distribute the thousands of extra-tons of food that is available. Similarly, when retailers are forced to donate unsold or improperly labelled food, the transaction is not happening on the basis of the needs of the recipient but on the needs of the donor: depending on the moments and the circumstances, food banks and associations may be flooded with the same product or with products that do not represent a priority for people in need.

Finally, and more importantly, the decision of the states to impose distribution and to sanction voluntary destruction, bleaching or removal of unsold food from the reach of people, represents a straightforward condemnation of unethical practices. However, this does not touch or criticize at all the purchasing practices, the enforcement of aesthetic standards, the fact that for shops its more efficient to have full shelves and throw food rather than having empty shelves and reduce waste. In one sentence, mandatory donations do not challenge the 'consumptive environment'

where the “demands of the customer takes precedence,”⁽⁸⁸⁾ nor the role that large-scale food actors have in supporting it and thriving out of it. In the long term, the narrow focus on what is left on the shelves or warehouses of large-scale private retailers does not seem capable of changing the underlying assumption of an industrialized food system based on mass production, mass consumption, cheap price and waste. Similarly, it does not offer a systemic improvement of the life conditions of those who live in poverty, but rather exacerbate their dependency on excess of the system – because if the food system stops producing surplus and waste, they will be starving.

A stronger solution seems to be that of the Italian legislation, which is based on the combined provision of fiscal incentives to redistribution, a wider approach to the multiple moments of the food chains (from production to transformation, retailing and food provision), the establishment of resources for innovative research, a focus on public campaigns and education, the recognition that labels may be misleading, and the strategic use of public procurement in order to reward more sustainable bidders. Similarly, the Italian legislation recognizes the importance of a dialogue and coordination between the central authority and local constituencies directly involved in the redistribution of food and in the conception of more sustainable food systems. Such approach, structural and multi-dimensional, should be capable of highlighting the behaviours and conducts that most contribute to the generation of surplus and waste, and at the same time identify the most effective solutions and innovative remedies.

(88) Caraher et al (n 37).

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However, the complexity and broad approach of the Legge Gadda are counter-balanced by three main limits: the voluntary nature of the law, and therefore the lack of mandatory or sanctioning provisions; the blind reliance on food distribution and on better techniques to save food that has already been produced without questioning the fact itself that there is too much food produced in the world; the complete disregard for the life conditions of the recipients of the donations, as it was not important to put them in the economic and social condition to provide for their own food and purchase what they desire and want, but was enough to feed them.

As pointed out by an increase number of scholars and practitioners, we believe that “the use of surplus food by food banks [or any other charity or association] is not an effective or sustainable solution to improving the situation of our most vulnerable citizens.”⁽⁸⁹⁾ Whether mandatory or voluntary, the idea that food surplus and food waste are a resource to be harvested so eliminate hunger is functional not to challenge the inherent production of surplus and waste by the food system, and therefore reinforces a paradoxical mechanism of allocation of inputs and food rather than challenging its underlying premises. Moreover, it naturalizes and crystallizes the idea that legislators should do nothing more than matching the two extremes of the global food system (waste and hunger) without questioning how they are produced and what a long-term solution would be. Finally, and this is the point that we want to discuss in the next sub-section, it

(89)Ibid, 16,

legitimizes a two-tier citizenship where someone's food security is dependent on the fact that they can buy or produce food while someone else's food security is completely dependent on the purchasing mistakes made by retailers, consumers' irrationality and the existence of food that has no exchange value anymore.

Resource or legitimation of a two-tier citizenship?

The second aspect that needs to be addressed concerns the regulators' acceptance of the idea that it is legally and morally acceptable that certain groups of people, i.e. those who cannot afford to buy food, are fed with food that is not good enough to be sold on the market or that the market was incapable of absorbing. In a sentence, all the legislations discussed in this Article assume that redistribution is an opportunity rather than a crystallization of a two-tier citizenship where those at the bottom are fed with whatever trickles down from above. Although we agree that the use of food surplus and possible waste may be justified as a mechanism of emergency food aid, we would like to question the legal and moral validity and social sustainability of a food system based on the idea that second-class citizens are fed with whatever first-class citizens do not consume.

Morally, we think that the creation of such a system would intensify the existing marginalization and the sense of exclusion that often characterize families and individuals who are forced to live out of food aid. Although it is true that the redistribution of surplus food determines ecological and cost-savings, because food and the energy involved in its production are not thrown away but used, it is also true that it increases dependency and

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the uncertainty that already characterize the life of those who cannot cater for themselves. As emerges in an interview with a food bank operator reported in Jane Midgley's paper on The logics of surplus food redistribution:

“You don't know what you're going to get from week to week... they'll phone up and say we're just getting a big batch of veg, or we're getting some milk or yoghurts and they need to go out today, they've got a couple of days life left on them, and what we'll normally do is say well, just bring us what you've got, bring us some down”⁽⁹⁰⁾

In this way, it is the same logic that produces exclusion and lack of accessibility, to determine when, what and who gets food. Of course, assuming that it exists an appropriate and effective system of collectors, food banks and distributors. Rather than an opportunity, the redistribution of food surplus appears a paradox: feeding people on the basis of the same mechanism that would otherwise starve them.

And this consideration takes us to the second aspect of this social stratification: can we say that a state is fulfilling its right to food obligations when it relies on food surplus and food waste that are not absorbed by the market? According to Olivier de Schutter, former UN Special Rapporteur on the right to food, the answer is negative for two reasons: schemes dependent on donations and good will do not offer a reliable source of food and therefore are inconsistent with the duty to respect and fulfill people's right to food; the reliance on the market and

(90) Midgley (2013), 1884.

on voluntary work to gather and distribute food has the effect of shifting responsibilities away from the government rather than putting its human rights obligations at the centre of the food system.⁽⁹¹⁾ In addition, we also think that the idea that it is enough to provide people with food in order to comply with the right to food obligations dismisses the long-term transformative aspirations of human rights approach, i.e. the importance of using human rights to improve once for all the life conditions of people rather than simply to provide them with temporary relief. Moreover, the provision of food without a planning and an appropriate nutritional consideration fails in recognizing that the right to food can be fully fulfilled only when what is available is appropriate for health and nutritious.⁽⁹²⁾

Although it is true that some of the regulatory interventions discussed in this Article try to adopt a broader and more encompassing attitude towards food waste and the construction of a sustainable food system, we must recognize that all the legislators fail in addressing the inherent paradox of increasing the link – and dependency - between food security and surplus/waste. On the contrary, it is our opinion that a right to food based approach towards food waste should reject redistribution as a valid long-term strategy and focus on the consolidation of other forms of interventions capable of addressing the systemic flaws of the food system rather than offering false solutions. If

(91) Speech delivered by De Schutter in London, reported in Winnie (2009, 9).

(92) The fact that the right to food and the right to health are interconnected and that the former cannot be satisfied without the fulfillment of the latter is recognized at the level of international law, and in particular in the United Nations General Comments 12 and 14 that identify availability, accessibility and acceptability as essential elements of the right to food and health. See CESCR (1999; 2000).

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states want to build a sustainable food system where food is accessible, adequate and available, it should not be satisfied with redistributing left overs, but rather use public procurement to reward virtuous conducts, sanction unecological and anti-social conducts at all levels of the food chain, educate future generations, provide financial support to families and individuals, invest in common kitchens as places of solidarity and participation, and put food at the centre of its political agenda. As a matter of fact, having access to food should not be a privilege, but the fulfilment of everyone's human nature.

Conclusions

Some authors consider food waste as a wicked problem that has no solution but can only be managed. In our opinion, this is true only if we do not engage with the systemic causes of food waste and we try to find short-term fixes without questioning why the global food system, in particular in the Global North, generates massive amounts of waste and food poverty at the same time. For sure, a main barrier to solving the issue of food waste is the issue of regulatory intervention itself which is restrictive in terms of the width of what it tackles. Indeed, the regulatory (as well as voluntary) interventions which have been put in place in order to reduce food waste tend to focus on the surplus food existing at the end of the food chain.⁽⁹³⁾ We must therefore question whether regulatory interventions could instead target the chain as a whole, or at least target the appropriate stages depending on the country's waste profile, rather than simply focus on donating supermarket's surplus food. Furthermore, there are issues

(93) See Mansuy (n 31), 12.

in terms of the approach of certain food waste regulations in place, in the sense that there seems to be an underlying idea that food waste is a source that can be used by regulators to end food poverty.⁽⁹⁴⁾ Although evidence shows that a reduction in food waste in developing countries can contribute to reduce malnutrition,⁽⁹⁵⁾ this has nothing to do with using food leftover at the end of the food chain to feed those in need through food bank, but rather all to do with an increase in the overall supply of food in the chain leading to a decrease in food prices, giving the most destitute an improved purchasing power.⁽⁹⁶⁾

However, the four example critically presented in this paper demonstrate that the root of the problem lies in the diffused conception of food waste as a resource that can be reused (in the form of food, animals feed or biodiesel). Indeed, it is possible to find a second life for food waste, including its use to find a temporary alleviation of people's food insecurity, the priority is not any more the redefinition of the food regime in a way that avoids the generation of food surplus, but the identification of the best way to reintroduce waste in system and produce a 'circular economy', like in the case of the EU Directive. As a consequence, the fact that the food system is inherently based on the increasing extraction of natural resources, mass production and a series of socially and environmentally unsustainable behaviors is not challenged. On the contrary, the excesses are transformed into

(94) Loi n° 2016138- du 11 février 2016 relative à la lutte contre le gaspillage alimentaire, Article 1er; Camera dei Deputati, Proposta di legge (Norme per la limitazione degli sprechi, l'uso consapevole delle risorse e la sostenibilità ambientale), n. 3057. XVII Legislatura, 17 Aprile 2015, Testo unificato delle proposte di legge C. 3057 e abbinate; Mansuy (n 31) 13.

(95) Munesue et al. (n 29) 70.

(96) Ibid, at 49 and 61.

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a virtuous source of well-being for the 'less fortunate' and the environment.

In other words, governments' attitude towards reusing food to feed those who are food insecure, a sort of 'two birds one stone' attitude of the legislator, divert attention from reducing food waste as the primary step of the waste hierarchy and limits the possibility to express critical consideration. Of course, we are not claiming that food charity and recycling projects do not represent an important and often essential short-term intervention. As a matter of fact, it is important to mitigate the paradoxical and unsustainable allocation of the global food regime. However, if a real transformation is sought, it is important to get out of the comfort zone of the dominant and easy discourses around food waste and realize that there are several reasons why a food-charity and food-recycling based struggle against food waste may not be effective in the long term, if not counterproductive. To provide some trajectories for an 'impolite conversation' and engage regulators further, we have tried to claim that it is important to start from the consideration that the generalized enthusiasm around the 'war on waste' makes us overlook that public authorities and corporations are legitimizing the creation of two class citizenship (one that has access to proper food and one that is fed with waste), rather than offering solutions to narrow social inequality. We lose sight with the fact that international law requires States to protect, respect and fulfil the right to food of their citizens, a binding obligation that cannot be dependent on the will of the private sector and on the amount of food that is not consumed by 'first-class' citizens. Moreover, governments accept to exercise their duties in terms of food through charity and food banks, a situation that can lead to the

vicious circle of dependency. In addition, the goal of making food available (although it is discarded or surplus food) dismisses any consideration about the quality and adequacy of what is provided: no consideration is made about this point in any of the regulations discussed in this paper or in private schemes, as 'second-class' citizens should be happy to receive food and should not question its healthiness.

Moreover, national interventions within a transnational chain can only be partial: as a matter of fact, redistribution often happens in the urban context once food has already been taken away from the production sites, which are often equally food insecure. In addition, nothing is done to guarantee the fact that no waste or surplus is generated outside of the territorial boundaries of the country, a situation which conflicts with the increase in international trade in agricultural products. Why should the legislator be satisfied with less waste within its jurisdiction if its customers' preferences are still producing millions of tons of wasted food elsewhere in the world? In a nutshell, regulations that aim to providing food (i.e. waste or surplus) to impoverished families and individuals without tackling the roots of poverty, marginalization and environmental unsustainability only deal with the symptoms of a latent disease and do not address its causes.

The European Union, France, Italy and the UK are part of the Global North, a socio-economic and legal framework that is currently responsible for most of the food waste produced in the world and whose consumption pattern is certainly connected with the production of waste and unsustainable practices around the Globe. As such, legislators have the legal and moral obligation to commit to policy reforms that understand

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the systemic reasons behind food insecurity and that offer long-term and effective remedies, not short term and idiosyncratic solutions. At the national and regional level, food laws and policies have to undo the expansionary and quantity based trajectory of the dominant food regime, recognize everyone's full right to food and focus on remedies that focus on guaranteeing stable access to healthy, nutritious and culturally acceptable food without being dependent on the socially responsible or ethical behaviour of the market. Only then, when regulators, corporations and individuals do not feel comfortable and polite with the false solutions that are proposed, we could start moving towards a real transformation of the food system.

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