

Sabrina Lanni

*Not Just a Bug:
Brief Remarks of Legal Anthropology for New Food Choices*

SUMMARY: 1. Integrated Approach to Food Rights – 2. Food as Environmental Preoccupation – 3. Food as Inter-Cultural Choice – 4. Food as People's Right to Self-Determination – 5. Entomophagy as Right to Adequate Food – 6. Concluding Remarks.

1. *Integrated Approach to Food Rights*

In recent decades legal formants have shown how new food taxonomies have slowly arisen, leading to progress in the understanding that food is not only the tool by which to guarantee people's health and the satisfaction of their primary needs, or even how food is not only the way for harmonizing production and marketing rules in the European market¹. Food is much more.

Anthropological studies have broadened legal scholars' horizons, drawing their attention on a variety of fields, such as the cultural effects of ancient foodways, food-habit formation and change; food-related beliefs and symbols etc². It is thought that anthropological studies look at food

¹ According to central role of food in our life and in European market, it attracts many attention from law policy and enforcement; see TERLICKA, JUKES, *From Harmonization to Better, Smart and Fit Food Law: Reviewing the Legislators Attempts to Abolish Barriers to Food Trade Law*, in *European Food and Feed Law Review*, 9, 2014, pp. 302-313; MACMAOLÁIN, *Food Law: European, Domestic and International Frameworks*, Oxford, 2015. The increasing globalization of the food supply chain has resulted in unprecedented interest in the development of food standards and regulations: the topic is deepened in COSTATO, ALBISINNI (eds.), *European and Global Food Law*, Milanofiori Assago, 2016.

² For a long time anthropologists have been writing papers about single substances, food sources, plants, animals, ingredients and foods made from them. Anthropologists have more commonly recognized peoples on the move (i.e. migrants, refugees, and colonizers) as agents of dietary change. Ethnographic and anthropological studies provides a useful review of globalization of food production and transport, they driving the work of sociologists, political economists, and comparative scholars; for a wide framework see MINTZ, DU BOIS, *The Anthropology of Food and Eating*, in *Annual Review of Anthropology*, 31, 2002, pp.

from different perspectives: some scholars look at eating and drinking in connection with other aspects of social life (the so called 'Anthropology of Food'), others pay attention to dietary matters and how food-related practices and beliefs concern physical well-being (the so called 'Nutritional Anthropology')³.

The reading of legal sources in an anthropological key encourages the comparative lawyer's reflections on the new food profiles as a right. Food appears not only as a tool suited to the anthropic satisfactions of the single human being, but also as a culture and promotion of other's culture, as well as a way of preservation of the environment and of the human species, for example through the judicious use of monocultures or of bio-technologies within the framework of increasingly vulnerable ecological balances.

Legal scholars have pointed out how eating is also a 'geographical act' which connects mankind and land; it is also an «historical act» rooted in culture and civilisation; it can also be considered as a 'political act' in support of a specific model of producing and commercialising food and agricultural products⁴.

The legal-anthropological framework offers a wide range of features characterizing food, as to say: along with the oldest discourse, that of 'nutrition', it seems possible to find further arguments, which are added to the first determining an epistemic rereading, in the light of new sources of law, or rather 'environmental', 'cultural' and 'market' ones⁵.

Within the framework of these new assessments of 'food as a right', entomophagy and its controversial strength in the European food law landscape is placed⁶; for this reason I will try to briefly outline the mentioned issues, which represented the main argument of the report carried out for

99-119 which mark the synthesis of many years of studies on anthropological development.

³ One of the successful researches seems DIRKS, HUNTER, *The Anthropology of Food*, in *Routledge Handbook for Food Studies*, 2013, pp. 12 ss. A lot of researches and comment on current issues is found in a blog site entitled *Food Anthropology* (<http://foodanthro.wordpress.com>) founded by Members of the American Anthropological Association's Society for Food and Nutrition.

⁴ DEL CONT, Non solo cibo, *Not Just Food: Which Compatibility between Consumers' Ethical and Social Preoccupations and Trade and Commercial Law?*, in *Agriculture and Agricultural Science Procedia*, 8, 2016, p. 271.

⁵ On the issue see: BOTTIGLIERI, *The Protection of the Right to Adequate Food in the Italian Constitution*, in *Forum di Quaderni Costituzionali*, 11, 2015, www.forumcostituzionale.it

⁶ The different legal declinations of entomophagy (consumer's rights, food safety, food security, environmental protection) was already analyzed in another essay: I should like to refer LANNI, *Entomophagy. European Food Market Regulation and Consumer Protection*, in *Annuario di diritto comparato e studi legislativi*, 2019, pp. 861-885.

the XX AIDC-Parma Conference, and which is published here with the addition of some in-depth information and its related bibliography.

2. Food as Environmental Preoccupation

For the consumer, the right to adequate food includes the right to make free and well-informed choices about one's diet, according to single preferences and expectations. These concerns appear multidimensional and relate not only to nutritional quality and health (the so called food safety), but also to specific characteristics of different foods, such as the environmental ones. Environment and food sustainability seem two sides of the same coin.

It is widely known how the common European space is characterized by the rise of sustainability in the field of law, especially regarding environmental law. Comparative lawyers taking just a look at the different European national constitutional law reforms are able to figure out how sustainability represents a successful qualification for environmental law⁷.

Consider, for example, the reference to the «ecosystem» (which is found in art. 117, paragraph 2, letter s, Italian Const. after the 2001 reform), to that of «nature and the human environment» (art. 3 Croatian Const. 2010) or «healthy environment» (art. XXI Hungarian Const. 2011), as well as the duty to regulate the «on the use of the reproductive and genetic material of animals, plants, and other organisms (..) take account of the dignity of living beings as well as the safety of human beings, animals and environment» (art. 120, 2 Swiss Const.).

In the context of climate change and a rapidly increasing world population, many efforts are underway across Europe, USA and Latin America to increase the sustainability of the current agri-food system. The protection and enhancement of sustainable food is not always the result of endogenous developments; not infrequently, it is influenced by a common globalization of the perception of the environmental phenomenon, and by that of its preservation⁸.

⁷ See GROPPI, *Sostenibilità e costituzioni: lo Stato costituzionale alla prova del futuro*, in *Diritto pubblico comparato ed europeo*, 1, 2016, pp. 47 ss. for an in-depth analysis on the use of the adjective 'sustainable' in 54 recent constitutions.

⁸ On the issue POZZO, *La responsabilità ambientale e l'apporto delle scienze sociali*, in GRAZIADEI, SERIO (a cura di), *Regolare la complessità. Giornate di studio in onore di Antonio Gambaro*, Torino, 2017, p. 86.

As far as food law is concerned, sustainability represents an ‘added value’, or better: it is added to ‘food safety’, understood as a priority value, at least in order of time, for the protection of consumer rights, as it is possible to achieve in the desired goals of the European Treaties and most recently in the European Commission’s White Paper on food safety⁹.

The reconciliation of the right to food with the right to sustainability irremediably favors for scholars the abandonment of an anthropocentric vision of law, and even before an anthropocentric vision of constitutional guarantees, as well as favors the rethinking of food as a mere object of commerce and of marketable economic value.

In different legal experiences, such as the Italian one, the above mentioned approach requires an interpretation connected to the so-called ‘Right to adequate food’. Conversely, in Latin-American experiences it takes advantage of the rise of the ‘Rights of Nature’, by which Nature has been emphasized as private-law entity¹⁰.

The perspective is the one drew by the 2011 amended Ecuadorian constitution «Nature or Pachamama, where life is reproduced and exists, has the right to exist, persist, maintain and regenerate its vital cycle» (see especially arts. 71-74). These are the contexts where the constitutionalisation

⁹ The EU Commission’s food guiding principle – primarily set out in the so called White Paper on Food Safety (COM/1999 719 final) – regards an integrated approach from ‘farm’ to ‘fork’, covering all sectors of food chain in the framework of a wide consumer’s protection. Consequently, the adoption of many rules aimed at ensuring the traceability of food has been strengthened, including those on the presence of GMOs (EC Regulation 1830/2003), on biological composition (EC Regulation 834/2007), on consumer’s information on gluten issue (EU Regulation 828/2014), and on Novel foods (EU Regulation 2283/2015).

¹⁰ The recent Latin American constitutions underline a very interesting trend conferring a legal framework to the Nature (for a detailed reference see: CARDUCCI, *Diritti della Natura*, in *Digesto delle Discipline Pubblicistiche*, Update 7, 2017, pp. 486-520; BALDIN, *Il buen vivir nel costituzionalismo andino. Profili comparativi*, Torino, 2019). A lot of initiatives has been undertaken by the Andean Countries and some of these aim to have international encouragement; deserves to be remembered, for example, the Universal Declaration of the Rights of Mother Earth, that was proclaimed in the context of the World Peoples Conference on Climate Change and the Rights of Mother Earth (held in Cochabamba, on April 2010). The first article proclaims Mother Earth as a living being, a community of related creatures, having all the innate rights recognized in the legal text, without distinction between species, origin or other status (on the Document see: CULLINAN, *The Universal Declaration of The Rights of Mother Earth: An Overview*, in *Does Nature Have Rights? Transforming Grassroots Organizing to Protect People and the Planet*, 2011, p. 12 ss., available in www.globalexchange.org/sites/default/files/RON%20REPORT.pdf). The references to Nature are included in the discourse on the intercultural State (cf. SENENT DE FRUTOS, *El derecho a la alimentación en la sociedad global. La (necesaria) emergencia intercultural de los sistemas jurídicos*, in *Revista del Cisen Tramas/Maepova*, 2014, on line).

of the chthonic tradition values has fostered the State interculturality and its different declinations, not least that of food¹¹.

What environmental sustainability implies in the right to adequate food? The answer is pleonastic. Del Cont with an effective summary reports how «access to a diet which is consistent with one's ethical and social concerns would imply that consumers have two distinct rights: the effective right to information on modes and conditions of production of food, and the effective right to choose, namely the right to find products which fulfill their expectations on the market»¹².

The topic here addressed doesn't concern within consumer law, however it is interesting to note how food as an environmental preoccupation finds in that context an immediate response by the labeling. The labels fulfill some customers' expectations and participate in the level of information needed for an effective right to choose environmentally friendly food¹³. For this reason, the incompleteness of each label harms the effective readability and understandability of the information: they are tools not only for profitable food market but also for the consumer's environmental choice.

3. *Food as Inter-Cultural Choice*

If the awareness of the reflection of food choices on the preservation of the world's ecosystem represents a recent choice, which is the outcome of a broad synergy of interventions in the international field, thanks also to the investigations promoted by FAO, and sometimes to their fully developed in many local contexts, certainly the knowledge of the close bonds that unite 'food' and 'culture' is more developed in legal bibliography¹⁴.

¹¹ RICCA, *Sapore, sapere del mondo. Tradizioni religiose e traduzioni dei codici alimentari*, in *Quaderni di diritto e politica ecclesiastica*, 2014, pp. 33 ss.; FUCCILLO, *Saziare le anime nutrendo il pianeta? Cibo, religioni, mercati*, in CHIZZONITI (a cura di), *Cibo, Religione e Diritto. Nutrimento per il corpo e per l'anima*, Tricase, 2015, pp. 27 ss.

¹² The reference is to DEL CONT, *Non solo cibo. Not Just Food: Which Compatibility between Consumers' Ethical and Social Preoccupations and Trade and Commercial Law?*, cit., p. 271.

¹³ To strengthen the impact of product labelling, some scholars suggest that labels should not only inform consumers about product quality but also influence their choices more strongly by ranking products and providing explicit information about environmental consequences: DUVALEIX TRÉGUER, SOLER, *Prescriptive Labelling of Food Products: a Suitable Policy Instrument?*, in *Revue d'Économique Politique*, 126, 2016, pp. 895-919.

¹⁴ This approach emerges widely in the recent collection of essays edited by LUTHER, BOGGERO, *Alimentare i diritti culturali*, Roma, 2018.

The one just mentioned appears as a binomial mostly anchored to the analysis of the religious factor, and more specifically to the analysis of the so-called 'religious foods', which have represented the main vehicle of the research carried out (in the Italian legal context) primarily by the ecclesiastical law scholars¹⁵. Through them it was possible to develop the idea how in today's multicultural society religious freedom is the exit of different perspectives. Religious freedom must be guaranteed within food-use patterns too.

It's well known how religious adherents follow prescribed behaviors as an opportunity of expressing their religious belonging and actualizing their faith. The alimentary prescriptions with religious origins appear real legal rules which empower to determine what is eaten and what is not.

Indeed, beyond the more strictly 'religious' profile of food, the comparative lawyer reconstructs the salient features of a dialogue, which, although starting from a specific culture, can become intercultural. The State law may profoundly influence culture as consequence of the protection of religious rights or paying attention to the habitual dietary customs. So that the food market economy is directly influenced by religious food patterns; religious food patterns put 'food of Europeans' and 'food of others' closely together.

The perspective is anthropological even before legal: in the construction of the political community food and eating habits contribute to the logic of identification / disidentification between people¹⁶. Consider, just to give some examples, the *khat* of the Somali culture or the *hojas de coca* of the Andean culture, whose assumptions in both cases seals occasions of social, family and community life.

Consider also the rules of food and the reasons that can convey an 'extra-group' spread. Two of the most interesting examples are those of *kosher* and *halal* cuisine, that have been widely successful in Italy and in the broader European context, convincing ever higher numbers of consumers every day. Which is the reason? Respecting strict animal slaughter standards, for example, reduces the risk of infection, so that kosher products are considered key to health and safety¹⁷.

¹⁵ See FUCILLO, SANTORO, *Diritto, religioni, culture. Il fattore religioso nell'esperienza giuridica*, Torino, 2017.

¹⁶ For a more detailed bibliography, see: RICCA, *Culture interdette. Modernità, migrazioni, diritto interculturale*, Torino, 2013, pp. 37 ss.

¹⁷ REGENSTEIN, CHAUDRY, REGENSTEIN, *The Kosher and Halal food laws*, in *Comprehensive Reviews in Food Science and Food Safety*, 2, 2003, pp. 111-127. The topic is not just religious; it is also linked to a growing compatibility with animal rights, which in Europe are enjoying increasing attention by lawyers (cf. RESCIGNO, *I diritti degli animali. Da res a soggetti*, Torino, 2014).

Social, religious and cultural data make up a framework of analysis in which comparative and anthropologist scholars work closely together. Anthropologists can be key in discovering important food habits and customs, and legal scholars can help find relevant legal rules taking into account different cultural needs¹⁸.

The analysis of these needs allow us to understand not only the wishes of the consumer, and even before the person, it can also benefit from the opportunities that emerge from consumption analysis filtered by religious data. These are data that however cannot be isolated from psychological and sociological factors.

Alongside the cultural phenomenon, the movement of 'the other people's food' brings with it further effects, which are intertwined (first) to mold themselves (then) between them. Indeed it bears multiple effects linked to the economic problem.

Zygmunt Bauman showed how ethnic food can mean exotic food, novelty, something that breaks the monotony and boredom of postmodern life¹⁹. From the analysis of the Polish sociologist it emerges a configuration of food as a precious resource for those who want to make a 'difference' into an object of 'consumption' and 'status symbol', or even a tool for economic success.

What it's interesting to highlight is the presence of a submerged component; viz, the circulation of new foods is not always connected to a 'cultural' or 'identity' factor; or, the diffusion of 'other people's food' does not always represents an advantageous tool to interculturality. The introduction and spread in the food market of the mentioned food may also depend on socio-economic reasons or even neo-colonialists ones, linked to the food globalization process that follows not uncommonly the admiration towards a specific model²⁰.

Not least it must be considered the continuous evolution of tastes and social identity forms²¹. Indeed, the anthropological dimension of everyday life and the search for the 'belonging oasis' push, above all the second generations immigrants, to an ongoing comparison between 'tradition' and 'innovation'. Food patterns emerge and push to allow new trends between

¹⁸ FUCILLO, SORVILLO, DECIMO, *Law, Religions and Food Choices*, in *Calumet. Intercultural Law and Humanities Review*, 2016, p. 3.

¹⁹ The reference is mainly to BAUMAN, *Consuming Life*, Cambridge, Polity, 2006; ID., *Culture in a Liquid Modern World*, Cambridge, 2011.

²⁰ Regarding discourses of cultural symbolism and self-identification see BELASCO, SCRANTON, *Food Nation. Selling Taste in Consumer Societies*, New York, 2002.

²¹ For an in-depth study: LENTZ, *Changing Food Habits: Case Studies from Africa, South America, and Europe*, Amsterdam, 1999.

the global and the local dimension; to which the so called fusion food would like to give an answer.

Scholars of the food phenomenon do not necessarily have to anchor their research on the McDonald's phenomenon or of other worldwide fast food groups, which commonly contribute to the logic of assimilation and the loss of traditions (not only in the sociological sphere), but they must also have adequate knowledge of new realities powered by the 'tradition' factor.

Consider, for example, those foods that sociological literature frames in the so-called ethnic foods, such as *couscous* (Morroc), *ceviche de pollo* (Peru), *kebab* (Turkey), *sushi* (Japan), *falafel* (Maghreb). These foods in the European market are all growing in popularity. In Italy, for example, it is by no means a minor proportion of the growing market, followed by a conspicuous ethnic business, considering a plurality of factors and, not least, the growing European immigration²².

In this context – increasingly open to the international dimension – religious beliefs are often excluded or better set aside. Halal certificates, or rather the activities certificates carried out in accordance with Sharia in the Halal store, which are often written in Arabic and therefore mainly intended for Muslim customers, tend to disappear in kebab shops. For example, despite the Halal prescriptions, which it wouldn't properly mean for the trader the requirement to sell only meat 'ritually' butchered, but also don't sale 'Haran products' (such as for example alcoholic beverages), Italian kebab stores, which often sell pizza, also sell alcoholic beverages like beer. Products such as kebab give rise to a socio-religious syncretism between the natives and the Muslims.

The spread of these foods represent a transition from 'other people's foods' to the foods that support encounter between 'us' and 'others'²³. They promote a direct relationship between two kind of freedoms, the one as a result of religious belonging, the other as result of people's primary needs.

²² Otherwise ethnicity, like nationhood, is imagined and associated cuisines too: MINTZ, DU BOIS, *The Anthropology of Food and Eating*, cit., p. 109; BELASCO, SCRANTON, *Food Nation. Selling Taste in Consumer Societies*, cit., p. 77.

²³ In the background, an inter-culture concept appear: CHOI, *The Concept of Multi-culture, Trans-culture, and Inter-culture as a Strategy of the Social Integration*, in *The Korean Journal of Political Science*, 24, 2016, pp. 59-83; COLOMBO, *Dal multiculturalismo all'interculturalità*, in AMBROSINI, COLOMBO, PACE (a cura di), *Migrazioni e futuro dell'Europa*, Vicenza, 2017, p. 37; BAGNI, *Lo Stato interculturale: primi tentativi di costruzione prescrittiva della categoria*, in BAGNI, FIGUERO MEJÍA, PAVANI (eds.), *La ciencia del derecho constitucional comparado. Estudios en Homenaje a Lucio Pegoraro*, II ed., México, 2017, p. 117.

4. *Food as People's Right to Self-Determination*

It emerges an inherent feature of food as intercultural tool, which seems by a synchronic-comparative analysis as a 'neutral', or better still as a 'secular' element. It is a border area (geographical/spatial), a fuzzy item (us/others) that shows in critical light the traditional aprioristic food taxonomies (good/bad, healthy/harmful, allowed/prohibited) as a reflection of an uninterrupted cultural activity²⁴.

From an anthropological point of view, food appears as a 'contamination tool'. In addition to the already mentioned Doener Kebab example, one could think to the most famous one, the Hamburger, USA emblem, but which derives from the Frikadellen, typical food of the Hamburg immigrants (hence the name Hamburger).

Foods such as kebab, hamburger or sushi change food borders, from lines of separation to lines of unification, to be able to re-invent them again. In other words, these foods carry out one of the possible passages from strong multiculturalism, characteristic of the end of the last century, to interculturalism, as a goal desirable of current European policies.

All the proposed interpretations of the concept of food underline the centrality of the human person and not only that of the consumer. As if to say that the right to food, while finding multiple connections with consumer law, should be evaluated without it. It's useful to rethink food concept with a broader trans-disciplinary approach, that should focus on the person and the right to self-determination, as to say in my legal background to which I belong, that food as a person's fundamental right is able to assess its self-determination according, for example, to the interpretative tools allowed by arts. 13 and 32 of the Italian Constitution, and guaranteed by the provisions of art. 2 (in terms of guaranteeing individual rights), as well as by art. 19 (in relation to religious freedom) and by art. 21 (in the context of the right to express one's thinking) of the constitution itself²⁵.

The legislative framework outlined by the Italian constitution offers to the lawyers many tools to recognize people's right to act according to individual food choices, in compliance with their cultural, ideological or religious convictions. The reason why the eating choices of the individual (and, even before, to have a way of feeding himself) in the forms most appropriate to him must be assured and therefore protected by the public

²⁴ RICCA, *Sapore, sapere del mondo. Tradizioni religiose e traduzioni dei codici alimentari*, cit., p. 40.

²⁵ More widely BOTTIGLIERI, *The protection of the Right to adequate food in the Italian constitution*, cit.

authorities. For this reason the person's choice to food (and, even earlier, to have a way of feeding himself) according to most appropriate choice must be ensured, and therefore protected by the public authorities.

The mentioned approach enjoys multiple legal connections within the European context. In the case *Jakobski v. Poland* (December, 2010), it was established that the denial to a Buddhist prisoner to receive vegetarian meals in compliance with his religion, infringes upon his religious freedom, and constitutes a violation of Article 9 of the Convention²⁶. On the other hand, from a strictly legal point of view, the new European Prison Rules confirmed by Recommendation n. R(2006)2, established that "prison conditions that infringe prisoners' human rights are not justified by a lack of resources" (art. 4), «prisoners shall be provided with a nutritious diet that takes into account their age, health, physical condition, religion, culture and the nature of their work» (art 22.1) and «prisoners' freedom of thought, conscience and religion shall be respected» (art 29.1)²⁷.

The topic is broad but limited. Reading food as a tool for the person's self-determination finds support in the supranational legal sources too, not only where it is linked to crucial rights, such as those related to the health and the environment, but also where it is the outcome of a revised concept of food, in view of the new scientific discoveries concerning food production (as for biotechnology or genetic cloning foods), or even following the re-evaluation of edible things (as for insects).

This last issue drew my attention here. It offers to comparative scholar many points for reflection, following the introduction of new 'ingredients' and new 'foodstuffs' in the European concept of 'food', thanks to the European Regulation 2283/2015 on "Novel foods", promoted within the framework of interpretative perplexities powered by the EC Regulation 258/1997²⁸.

²⁶ For the final judgment (European Court of Human Rights, 7/3/2011) see http://www.ceceurope.org/wp-content/uploads/2015/08/CASE_OF_JAKOBSKI_v._POLAND-1.pdf

²⁷ FUCILLO, SORVILLO, DECIMO, *Law, Religions and Food Choices*, cit, p. 6.

²⁸ Regulation 258/97 of the European Parliament and of the Council of January 27, 1997, concerning novel foods and novel food ingredients, commonly referred to as the "Novel Foods Regulation" (NFR) provides a framework for the entry of new food products into the European market. In view of the research carried out in this essay, it is useful to point out that the objective of the Regulation is essentially to protect the European market, indeed Recital (1) «Whereas differences between national laws relating to novel foods or food ingredients may hinder the free movement of foodstuffs; whereas they may create conditions of unfair competition, thereby directly affecting the functioning of the internal market». In other words, the Regulation provides that national differences in novel foods regulation may damage the function of the internal market, and therefore an EU novel foods regulation

Regulation (EU) 2283/2015 contains new measures of undoubted interest for the legal scholar who wants to in-depth the food issue in a legal-anthropological key. It marks a fundamental breakthrough in the evolution of food habits in Europe. One of the main and most meaningful elements is the introduction of edible insects into the food category.

From an anthropological point of view this is not something new. From prehistoric time to present days, it has been well known that insects (especially with reference to some arthropods belonging to the arachnid and crustacean classes) have always been a traditional food source in many Countries of the World²⁹. On the contrary, interest in edible insects is recent in European society and is predominantly linked to the development of multicultural societies.

It follows that from a legal point of view the introduction of edible insects through Regulation 2283/2015 in the framework of European nutrition marks a crucial stage of the so-called 'food rights'. As if to say that the legal scholar is called not only to rethink the consumer choices and, consequently, the need to balance food safety with food security, but even before to reassess the traditional legal content of the food-concept.

5. *Entomophagy as Right to Adequate Food*

New foods recognized in the European context, as well as traditional foods produced by new ingredients, spur the food's traditional concept reevaluation. Foods like edible insects require to the legal scholars to attempt

is necessary to ensure that new foods are able to freely access the European Single Market. A significant market attention shines through the analysis of HYDE, HARTLEY, MILLAR, *European Novel Foods Policy at a Critical Juncture: Drawing lessons for future Novel Food Governance through a Retrospective Examination of Regulation 258/97*, in *Food and Drug Law Journal*, 72, 2017, pp. 472-505.

²⁹ Despite a large use of edible insects all over the world (VIEJOS MONTESINOS, RAMOS-ELORDUY, *Los Insectos como Alimento Humano. Breve Ensayo sobre Entomofagia, con Especial Referencia a México*, in *Boletín de la Real Sociedad Española de Historia Natural*, 102, 2007, pp. 61-84; CHEN, FENG, CHEN, *Common Edible Insects and their Utilization in China*, in *Entomological Research*, 39, 2009, pp. 299-303; GAHUKAR, *Entomophagy and Human Food Security*, in *International Journal of Tropical Insect Science*, 2011, pp. 129-144.), by anthropological point of view it is difficult to identify a common practice of eating insects, because they are not at all the same, and the same species may be eaten in a number of different ways (EVANS et al, *Entomophagy: An evolving terminology in need of review*, in *Journal of insects as Food and Feed*, 1, 2015, pp. 293-305).

the cultural and economic development of European society in line with legal principles that are a meeting point between the different food taxonomies.

In accordance with this approach, it seems useful to give attention to those principles by which it's possible to argue the right to entomophagy, or at least to recognize the people's right to feed themselves with insects³⁰. In my opinion, two research channels are emerging that seamlessly follow and overlap, namely the principle that the right to food should be actually interpreted as 'the right to culturally adequate food', and the principle of the right to food as a 'right to participate in environmental protection'.

The right to culturally adequate food proceeds according to an argumentative structure that goes from the 'right to cultural identity', then follows the 'food's right appropriate to the own culture' and reaches the promotion of inter-cultural legal space. The entomophagy as a widespread food practice among the African and Asian people – that is to say the main European migratory flows – represents a recent question for the European lawyer and certainly connected to the multicultural society development and its dynamic dimension (that is to say not only with reference to the native Europeans, but also in relation to the new ones).

Indeed, despite the awareness of an European dislike linked to many factors limiting the idea of eating insects as food – due to their psycho-sensory characteristics (unpleasant taste and consistency) or even to the intrinsic fear of their health risk (as in the case of Chagas disease) – taste and / or food choices should be considered by scholars in a dynamic key.

That's like saying that the intercultural process must be placed on a multiple basis (forbidden / permitted / advised / discouraged / local / worldwide) through which the legal rule could demarcate the assessment of 'food adequacy', with reference for example to the food use patterns used within social groups³¹.

Food preferences are not permanent and may change over time, as happened in the past with the acceptance of Japanese sushi in the Western World, or even with the spread of extra-regional territorial products, as happened in Italy in the dairy products sector where it's possible to identify some precedents for the use of insects in food processing (for example 'Casu Marzu' cheese), even before EU Reg 2283/2015³².

³⁰ On the topic see LANNI, *Entomophagy. European Food Market Regulation and Consumer Protection*, cit.

³¹ See PACILLO, *Nutrire l'anima. Cibo, diritto e religione*, in *Quaderni di diritto e politica ecclesiastica*, 2014, pp. 3 ss.

³² Moreover, the need to regulate edible insects stems from a harmonizing law perspective. According to the Regulation (EC) 258/1997, insects were not included among the novel foods,

The evaluation of entomophagy in the European context is linked to the epistemological assumption of food anthropology. The different presence of the practice itself is commensurate to the different presence of food products based on insects, and therefore to the different request to access edible insects and their derivatives by the citizens of the all EU countries. On these data the centralization of the authorization procedure for novel foods and its simplification in EFSA was determined³³. As if to say that the EFSA centralization of all requests for the introduction of new foods in the European market has indirectly favored its harmonization.

Coming to the second proposed interpretations related to the right to food, one might ask: why speaking about entomophagy as a food choice linked to environmental protection? The answer could be in the research developed by EFSA on the line activities promoted by FAO³⁴. Indeed, studies developed in the biological and nutritional field have shown multiple beneficial effects of edible insects not only for human health but also for the ecosystem.

As cold-blooded living beings, insects have a high nutritional conversion efficiency: on average, they are able to convert two kilos of food into a kilo of mass, while a bovine need eight kilos of food to produce one kilogram body weight increase.

Insect farming turns out to be more eco-sustainable than 'traditional' ones. Compared to the conventional animal stock, the greenhouse gas values produced would be lower for the majority of insects. Furthermore, scientific research has shown that insects use less water and their farming is less dependent on land availability³⁵.

but at the same time they were legally sold in some European countries (such as Belgium).

³³ Commission Regulation 178, 2002 J. laying down the general principles and requirements of food law, establishing the European Food Safety Authority (EFSA), a scientific body laying down procedures in matters of food safety, regarding the so called 'General Food Law Regulation' (for a general account of the role of EFSA, see ALEMANNI, GABBI, *Foundations of EU Food Law and Policy: Ten Years of the European Food Safety Authority*, Farnham, 2014). The inclusion of «food consisting of, isolated from or produced from animals» is important for food derived from insects, as before Reg. 2283/2015 it has previously been the case that whole insects sold as food could enter the market without going through the novel foods process, but ingredients isolated from insects had to be assessed under the novel foods procedure. From 2018, whole insects will have to undergo the process under Regulation 2283/2015.

³⁴ On the topic the scholars refer to the research promoted by FAO, first of all to The Technical Expert Consultation on Assessing the Potential of Insects as Food and Feed in Assuring Food Security, held in Rome on 23–25 January 2012, on line: www.fao.org/docrep/015/an233e/an233e00.pdf

³⁵ On the various ecological feedback of edible insects see the wide analysis of PAGANIZZA, *Bugs in Law*, Milano, 2019.

The mentioned issues for the acknowledgement of edible insects in the framework of the European nutrition underline the taxonomic value of food as a democratic tool, allowing us to go beyond the human's needs to connect them to the ecological dimension. A conjunction thread emerges between humans, animals and nature: it needs a revision in the light of the new constitutional outlines. As a result of the stimuli coming from transnational law, new constitutions express necessary measures to protect not only the health and safety of consumers but also the preservation of the ecosystem that surrounds them.

The just mentioned perspective find a broad dissemination in the new Latin American constitutionalism. Examples are not absent in the European framework too, where they can be identified in a dynamic interpretative key in recent constitutions. One of the most interesting regulatory references appears in the Luxembourg Constitution, where explicit mention is made to the relationship between the need to 'safeguard nature' and the need to satisfy other 'needs of present and future generations' (art. 11 bis).

6. *Concluding Remarks*

Anthropological and sociological approaches help comparative law scholars to address some of the biggest issues related to food, such as those related to the new food choices. The attention to the strengthening of old traditions in European communities hosting newly arrived immigrants highlights other viewpoints yet to be explored³⁶.

For these reasons, the comparative scholar's research, and more specifically that which pays specific attention to legal anthropology, allows in my opinion to add fundamental issues to the heuristic path of European food law. In this way, the deconstruction of the 'food' traditional notion and afterwards the identification of its 'cultural' and 'environmental' focus underline the renewal of existing legal balances.

The research developed in this field has highlighted how the right to food presents challenges for modern legal systems. The most immediate one is linked to the 'healthy food' concept for having merged the legal and religious needs of an increasingly multicultural society.

A trigger for a renewed focus on food choices is found in the constitutional reforms that place the environment in the foreground: the renewal appears

³⁶ DIRKS, HUNTER, *The Anthropology of Food*, cit., p. 11.

underlined by the presence of a scientific shift of the conceptualization of the relationship, that links humans with the environment, or rather by the identification of a development of the relationship itself.

The legal-political framework of reference seems characterized by a fundamental transition: it's from the 'human-observer of nature' (that is, from the man who does not question the effects of eating choices in the perspective of environmental sustainability) to reach the 'human-promoter of nature' (and therefore to the man who supports lifestyle changes that will help the environment).

In this transition, comparative scholars could bring to the fore the issue of 'novel foods', and specifically that of edible insects. Their debated acceptance into European legal multiculturalism currently finds an obstacle in the development of more reliable scientific data on the subject, other than a greater consumer confidence.

In conclusion, the evaluation of the bugs requires an analysis that is undocked by merely legal boundaries, as well as by national food patterns. The anthropological analysis underlines to the lawyers that the eating habits are not fixed, but instead develops through the incorporation of many culinary trends, from various and diverse sources (trade, travel, technology etc.), that make food a constant evolving reality.

So, the edible insects as the 'new sushi' to achieve widespread acceptance in society need multilateral efforts: social studies, environmental and legal ones, and last but not least, marketing efforts have to analyze food's different aspects³⁷.

³⁷ Academic research suggests that disguising insects in eating could encourage consumer acceptance (HARTMAN, SHI, GIUSTO, SIEGRIST, *The Psychology of Eating Insects: A Cross-Cultural Comparison between Germany and China*, in *Food Quality and Preference*, 44, 2015, pp. 148-156) or that integrating insects into familiar food could be a suitable way (the best one) to introduce them into the market (VERBEKE, *Profiling Consumers who are Ready to Adopt Insects as a Meat Substitute in a Western society*, in *Food Quality and Preference*, 39, 2015, pp. 147-155). Otherwise the common approach, social and economic actors have to rely, in order to increase insects into diet, to the meaning of sustainability and healthiness prominent in pro-insects discourse (HOUSE, *Insects are not 'the New Sushi': Theories of Practice and the Acceptance of Novel Foods*, in *Social & Cultural Geography*, 2018, www.tandfonline.com/loi/rscg20).

