Code of Conduct on
The Right to Adequate Food

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Etudes
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NOTES ET DOCUMENTS
POUR UNE RECHERCHE PERSONNALISTE - FOR A PERSONALIST APPROACH

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Jacques Maritain
The Universal Declaration of Human Rights states at Article 25 that a life lived in dignity requires that "everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing...". This right has been furthermore reaffirmed and developed in several pronouncements of the International community, as well as in many international agreements, both of a regional and of a universal character, most notably the International Covenant on Economic, Social and Cultural Rights (Art. 11) and the International Convention on the Rights of the Child (Art. 27). The right to be free from hunger has therefore the status of a fundamental right of mankind.

But what do we mean by right to adequate food? And how binding is it? What are its concrete implications for every human being? Who is responsible for implementing it? And how best to implement it so that everyone, everywhere has enough to eat?

These are the fundamental questions the International Jacques Maritain Institute has tried to answer by drafting and endorsing in 1997 together with FIAN - Food First Information and Action Network - and WANAHR - World Alliance for Nutrition and Human Rights - the Code of Conduct on the Right to Adequate Food that we publish in this issue's dossier.

The idea of an International Code of Conduct on the Right to Adequate Food was first advanced by the International Jacques Maritain Institute in a seminar held in Caracas in July 1996, with the title "The Right to Food as a Fundamental Human Right", organised in collaboration with Fundación Polar (Caracas) and Fundazione Mondo Unito (Vatican City), under the auspices of the President of the Republic of Venezuela. The seminar, whose proceedings have been published by Fundación Polar and whose contributions were published in N. 45/47 of Notes et Documents ("The Right to Food, a Fundamental Human Right", January-December 1996), discussed the idea of the Code and the possible structure of its draft in preparation for the World Food Summit (WFS) which took place in Rome in November that year.

In objective 7.4.e) of the WFS Plan of Action, the UN High Commissioner for Human Rights, in consultation with relevant treaty bodies and in collaboration with relevant specialised agencies and programmes of the UN system and appropriate intergovernmental mechanisms, is invited "to better define the rights related to food in Article 11 of the Covenant and to propose ways to implement and realise these rights as a means of achieving the commitments and objectives of the World Food Summit, taking into account the possibility of formulating voluntary guidelines for food security for all".

The International Jacques Maritain Institute has taken objective 7.4 of the Plan of Action very seriously, well aware that the promotion of the right to food requires a better clarification of its content and of the responsibility of all the actors concerned in ensuring its full realisation, as well as a clear definition of the basic concepts of economic, social and cultural rights as opposed to the reductive vision of human rights focused entirely on civil and political ones.

The Code of Conduct is the result of this commitment, which will continue through promotion and lobbying at both national and international levels in order to urge States to develop international instruments as well as to formulate their own national legislation or constitutional provisions drawn from the guidelines of the Code.

The Code has already been used as a "working tool" and discussion basis at many meetings and seminars (see Barth Eide & Kracht paper), and in particular at two important consultations organised by the High Commissioner for Human Rights in collaboration with FAO, with the participation of human rights experts, UN agencies, representatives of governments and non-governmental organizations: the first, in Geneva in 1997, where the final draft of the Code was officially presented, and the second in Rome, co-chaired by FAO, where the Code's definition of the content of the right to food was essentially adopted. Another big event in Summit follow-up where the Code was also discussed and well received, was the Symposium on "The substance and politics of human rights approach to food and nutrition policies and programming" organised in Geneva by the ACC Sub-Committee on Nutrition (SNC) on the occasion of its 26th session in April 1999.

This publication contains the full text of the Code, correlated by the comments of distinguished human rights experts and representatives of the international non-governmental organisations involved in the drafting of the Code, together with a final historical overview by the FAO Legal Office of FAO's past and present activities concerning the right to adequate food.

It is more than thirty years since the right to freedom from hunger was recognised as a fundamental right of every human being. Still, however, more than 800 million men, women and children on this planet do not have enough food to meet their basic nutritional needs. This is a situation which calls for immediate action, both at the international and national levels, by governments, international bodies, non-governmental organisations and all the actors concerned with economic development and the improvement of living standards worldwide.

The Code is a first important step, but much is yet to be done. To quote H. Fabrinez Ledeasma, one of the most fervid supporters and painstaking editor of the Code on behalf of the International Jacques Maritain Institute: "...this is not only a legal problem, it is an ethical one... if we do not solve it in the short run, it may threaten our political institutions, (...) the preservation of democracy and the maintenance of peace".

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**CODE OF CONDUCT ON THE RIGHT TO ADEQUATE FOOD**
THE RIGHT TO FOOD IN TIMES OF GLOBALIZATION: THE NEED FOR AN INTERNATIONAL CODE OF CONDUCT

Héctor Faúndez Ledesma

In November 1996, the heads of States and governments gathered at the World Food Summit, held in Rome, and expressed their concern over the intolerable situation that means that more than 800 million people in the world, particularly in developing countries, are suffering from hunger or do not have enough food to meet their basic nutritional needs. Accordingly, they started the “Rome Declaration” with the firm reaffirmation of “the right of everyone to have access to safe and nutritious food, consistent with the right to adequate food and the fundamental right of everyone to be free from hunger.” Moreover, they stated that the promotion and implementation of the right to adequate food must be a central objective of the endeavours of all States and other relevant actors, in order to put an end to hunger and malnutrition. Consistent with what had been stated in the 1974 Universal Declaration on the Eradication of Hunger and Malnutrition, the underlying idea in the spirit of the World Food Summit was the conviction that there are enough available resources to eradicate hunger and malnutrition or that, otherwise, it is the responsibility of States and of the international community as a whole to provide the conditions necessary for the full realization of the right to adequate food.

Hunger and malnutrition are, almost by definition, the result of poverty. In this regard, the process of globalization has not contributed to improve the condition of those millions of people suffering from hunger. Quite to the contrary, with the changing conditions in international society, with the now diminished capability of the State and with the more modest role reserved for it in this new situation, this human tragedy seems to have worsened. Nevertheless, the obligation of the State concerning the right to adequate food remains the same and, more than ever before, it has the duty to take care of the needs of those most vulnerable groups, unable to provide food for themselves. Even in a world with a globalized economy, poverty and hunger, both at the national and at the international level, remind us of the need to take appropriate measures to achieve social justice.

As it stems from the Rome Declaration, adopted at the World Food Summit, the right to adequate food is a fundamental human right firmly established in the International Law. This right, implicit in the Charter of the United Nations, has been reaffirmed and developed in several gatherings and pronouncements of the international community, including the Universal Declaration of Human Rights, the Universal Declaration on the Eradication of Hunger and Malnutrition, and the Declaration on Social Progress and Development, as well as in many international agreements, both of a regional and of a universal character, most notably among them, the International Covenant on Economic, Social and Cultural Rights, and the Convention on the Rights of the Child. Nevertheless, while the right to adequate food is firmly established as a fundamental human right, it has frequently been said that, in order to achieve its full realization, it needs to be further articulated. In this regard, the Rome Declaration and the Plan of Action adopted at the World Food Summit offers a milestone opportunity for this endeavour. In objective 7.4(e), the Plan of Action invites the UN High Commissioner for Human Rights, in consultation with relevant treaty bodies, and in collaboration with relevant specialized agencies and programs of the UN system and appropriate intergovernmental mechanisms: a) to better define the rights related to food in Article 11 of the Covenant on Economic, Social and Cultural Rights; b) to propose ways to implement and realize these rights as a means of achieving the commitments and objectives of the World Food Summit; c) to take into account the possibility of formulating voluntary guidelines for food security for all.

The Rome Declaration makes no mention concerning the adoption of a Code of Conduct on the right to food; it only mentions “the possibility of formulating voluntary guidelines for food security for all”, which is not quite the same. Nevertheless, the adoption of an International Code of Conduct on the Right to Food, apart from renewing the commitment of every relevant actor to fully respect and guarantee the right to adequate food, and to strengthen the implementation of this right, would contribute to the implementation of objective 7.4(e) of the Rome Declaration. In this regard, a Code of Conduct may contribute to clarify and make more explicit the content of the right to adequate food, as well as the responsibility of all actors concerned in ensuring its full realization under any circumstances. Hence, the goals of this Code would be: a) to provide principles and guidelines for the conduct of the States and the international community in the formulation of their policies and the measures they may adopt, in order to fully respect and guarantee the right to adequate food; b) to emphasize the special responsibility of States as regard the behaviour of individuals, corporations, and civil society as a whole, so as to facilitate and not to interfere with the right to adequate food; and c) to provide an orientation for future developments in this sphere, particularly in the drafting of new legislation, international agreements, or resolutions concerning the right to adequate food.

The idea of an International Code of Conduct on the Right to Adequate Food was first advanced by the International Jacques Maritain Institute in a seminar held in Caracas in July 1996, before the World Food Summit held in Rome in November that year. Being consistent with its earlier proposal, the International Jacques Maritain Institute took part in several meetings with other NGOs – particularly with FIAN and WANAHRI –, in order to prepare a draft Code of Conduct on the Right to Food. The draft endorsed by these three NGOs, as well as the different proposals that came up from these meetings (including a draft submitted by the International Jacques Maritain Institute), may be taken as a starting point for further discussion and for the adoption – either by the ECOSOC or by the United Nations General Assembly – of a Code of Conduct on this matter.

The nature of the Code of Conduct

According to general International Law, the realization of the right to adequate food
must be one of the main objectives of all States. However, albeit the content of the right to adequate food in itself may need no clarification, in order to facilitate the implementation of this right, it is of the utmost importance to make explicit the correlative obligations incumbent upon the State.

If this Code of Conduct is going to be adopted as a declaration of general principles, applicable to every State, it could not be adopted in the form of a treaty; accordingly, in a formal sense, it could not be binding. Nevertheless, if this Code is going to be of any use, its content should reflect an authoritative interpretation of the right to food and, to this extent, might be obligatory under general International Law. It would be nonsensical to undermine the legal character of the Code and weaken the obligations assumed by States in other International Instruments. Therefore, the proposed Code is not intended to be a document of purely moral importance, lacking any legal obligation.

On the other hand, since the Code of Conduct should be directed to all States, and not only to States parties to the International Covenant on Economic, Social and Cultural Rights (which has not yet been ratified by the international community of States as a whole), it should be based upon general International Law, which is applicable to every State, no matter whether it has ratified or not the International Covenant on Economic, Social and Cultural Rights. The above-mentioned treaty is not the only source of the right to adequate food and, in making explicit the content of this right and the obligations derived from it, the Code should take into account every other possible source, including the Universal Declaration of Human Rights, the Universal Declaration on the Eradication of Hunger and Malnutrition, the Convention on the Rights of the Child, and any other international agreement concerning the right to food.

The purpose of this Code is to develop the content of the right to food in International Law, indicating the general principles derived from it, and providing some guidelines which may help States in implementing this right. The Code is not meant to undermine the nature of the right to food under current International Law.

The role of the State

Since the purpose of Human Rights Law is to establish rules for the relations between the individual and the State, which has been called the "vertical" effect of human rights, it is the State the one who assumes the corresponding obligations. This is so, among other things, because it is the State the one who has the capability to protect these rights; it is the State the one who has signed and ratified international treaties on this matter, assuming the correlative obligations; and it is the State the one who has the power, and who is in a position, to provide for the needs of the most vulnerable ones. Therefore, the proposed Code points out the obligation of States parties to the Covenant on Economic, Social and Cultural Rights to take immediate steps to fulfill their obligations under the Covenant, and to achieve progressively the full realization of the right to adequate food.

The proposed Code reminds us that, according to Articles 55 and 56 of the Charter of the United Nations, it is incumbent upon States to take joint and separate action in order to achieve respect of human rights, including the right to adequate food. In addition to that, the proposed Code also reminds us that, according to the general theory of human rights, these rights impose three different obligations upon States: the duty to respect, the duty to protect, and the duty to facilitate and fulfill.

The role of the State is further emphasized by stressing that, according to International Law of Human Rights, all States have the duty to satisfy a minimum core obligation, which means that everyone is entitled to be free from hunger. But the realization of this minimum does not mean that the State has already fulfilled its obligation concerning the right to adequate food, which has much wider implications.

On the other hand, the Code also reminds us that, taking into account the legal nature of the right to food, which being a human right is part of jus cogens, the corresponding obligations of the State do not stop in its borders, or concern only people under its jurisdiction. In fact, the State cannot take any action which, in any way, may violate or may interfere with the realization of the right to food of anyone who is under the jurisdiction of another country. In this regard, under current International Law, it seems to be self-evident that political sanctions of one State to another cannot include restrictions on food supplies.

The role of International Organizations

In dealing with the realization of the right to adequate food, one ought to recognize the role of international cooperation, which has been the subject of a special mention, inter alia, in Article 56 of the UN Charter, in the Covenant on Economic, Social and Cultural Rights, and in the Rome Declaration of the World Food Summit.

Concerning International Organizations, there are some which, according to their respective mandates, have some limited responsibilities in the implementation of the right to adequate food, such as FAO, WHO, ILO, and IFAD, as well as UN programmes such as UNDP and UNICEF. It is true that there are other International Organizations, such as the International Bank for Reconstruction and Development (the so-called World Bank), the IMF, and the WTO, which in their constitutional instruments have shown no concern at all for human rights in general or for the right to adequate food in particular, whose policies may interfere with the enjoyment of the right to food.

Being International Organizations associations of two or more States, it should be borne in mind that, as a matter of logic, what a State cannot do on its own neither can be done in association with others.

Granted that International Organizations have not signed or ratified international treaties dealing with the right to adequate food, however, since this right has become part of general International Law, even with the status of jus cogens, International Organizations are also duty bound to respect it.

The responsibility of other actors

The proposed Code also deals with what is called "the responsibility of actors of civil society", and suggests that no actor of civil society shall contribute to violations of the right to adequate food. Moreover, it also stresses that every individual is under a
responsibility to strive for the promotion "and observance" of the right to adequate food. Nevertheless, I strongly believe this is something which should be revised once the decision to adopt an International Code of Conduct on the Right to Adequate Food is agreed upon.

It is true that, according to Article 29.1 of the Universal Declaration of Human Rights, "everyone has duties to the community in which alone the free and full development of his personality is possible". Besides, the final paragraph of the preamble of the International Covenant on Economic, Social and Cultural Rights says that "the individual, having duties to other individuals and to the community to which he belongs, is under a responsibility to strive for the promotion and observance of the rights recognized in the said Covenant, including the right to food. But, in my view, the drafting proposed in the Code goes against the general theory of human rights, including what has been called the "vertical effect" of human rights, putting on an equal foot the obligations of the State and what it is supposed to be the obligations of other actors of civil society in the realization of the right to food. This drafting undermines the duty of the State concerning the right to food and provides an excuse for its inaction. I hope this point will be the subject of an amendment, consistent with human rights theory and with the correlative obligations incumbent only upon States.

The fact that the State has the duty to protect everyone in the enjoyment of his right to adequate food leads to the need for regulations of the activities of multinational corporations and individuals which may interfere with the enjoyment of the right to adequate food. But that is another matter, which only underlines the fact that, in human rights law, the one who assumes the corresponding obligations is the State, and only the State.

Nevertheless, civil society may take part in monitoring and supervising the implementation of the right to adequate food, both at the national and at the international level. In particular, civil society may play an important role in providing comments on the reports submitted by States to international bodies under several international treaties, and may also prepare "shadow reports", or alternative reports concerning the realization of the right to food.

Conclusion

The proposed Code of Conduct will not be easy to adopt. But the transformation of international economic relations requires an urgent answer to a human tragedy of worldwide dimensions: hunger. This is not only a legal problem, it is an ethical one and we should be ashamed of it. If we do not solve it in the short run, it may threaten our political institutions, therefore, if we do not feel compelled to do something because of a moral duty, at least we should do it for practical considerations: the preservation of democracy and the maintenance of peace.
client resources, organizational ability and technology and hence the capacity to achieve this objective. The right to adequate food was also reaffirmed in the Declaration on the Rights of Disabled Persons of 1975, the provisions of the Convention on the Elimination of all Forms of Discrimination against Women of 1979 and the Declaration on the Right to Development of 1986. Furthermore, the Declaration of the Rights of the Child of 1989 and the Convention on the Rights of the Child of 1989 recognized the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development. The ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries also affirms the right to adequate food.


While the right to adequate food is firmly established as a fundamental human right, it needs to be further elaborated to facilitate its implementation. The Rome Declaration and the Plan of Action adopted by the World Food Summit offer a milestone opportunity for this endeavour. In commitment 7, objective 7.4 of the Plan of Action “invites the UN High Commissioner for Human Rights, in consultation with relevant treaty bodies, and in collaboration with relevant specialized agencies and programmes of the UN system and appropriate intergovernmental mechanisms, to better define the rights related to food in Article 11 of the Covenant (on Economic, Social and Cultural Rights) and to propose ways to implement and realize these rights as a means of achieving the commitments and objectives of the World Food Summit, taking into account the possibility of formulating voluntary guidelines for food security for all.”

This Code of Conduct starts from the recognition that there are more than enough resources available to eradicate hunger and malnutrition and that hunger and malnutrition are almost always the result of poverty. Therefore, the right to adequate food means, first of all, the right to feed oneself or to social safety-nets for those who are unable to do so, underlining the importance of access to productive resources.

This Code of Conduct is intended to clarify the content of the Right to Adequate Food and the responsibilities of all actors involved in ensuring its full realization. The Code is written in the context of the changing situation with regard to hunger and nutrition that is emerging from the new risks, opportunities and challenges presented by the unprecedented advances in technology, by the changing role of institutions at the national and international levels, and by the opening of borders in an increasingly globalized world. The Code of Conduct on the Right to Adequate Food will provide a guide for the conduct of the international community, states and all relevant actors in civil society to better focus their policies and action on those persons and groups vulnerable to hunger. The Code is intended to provide guidance for legislation at both national and international levels.

Moreover, the Code of Conduct will strengthen the follow-up of the Plan of Action adopted by the World Food Summit in Rome by providing an ethical foundation and legal guidance for its implementation.

PART I

Nature of the Code of Conduct on the Human Right to Adequate Food

Art. 1

According to international law, this Code provides general principles and guidelines for domestic and international implementation of the right to adequate food. In this regard this Code is directed to the States and other relevant actors that are responsible for securing this right.

Art. 2

This Code of Conduct develops provisions already enshrined in general international law as reflected in many international treaties including Article 11 in the International Covenant on Economic, Social and Cultural Rights (referred to below as the Covenant) and the Convention on the Right of the Child. In so far as general guidelines are concerned, this Code serves as an instrument of reference to help States and international organizations to adopt appropriate legal instruments to realize the right to adequate food or to improve the implementation of existing ones.

Art. 3

Nothing in this Code shall be interpreted as allowing a State to suppress or to limit other obligations that it may have and that are relevant to the right to adequate food, deriving from treaties or other commitments made, whether at the national or at the international level. This Code is to be interpreted and applied in conformity with the relevant rules of general international law that have established the right to adequate food, and in the spirit of the Rome Declaration on World Food Security. Nothing in this Code prejudices the rights and duties of States under the provisions of general international law concerning the right to adequate food.

PART II

Normative Content of the Right to Adequate Food

Art. 4

The right to adequate food means that every man, woman and child alone and in
community with others must have physical and economic access at all times to adequate food or by using a resource base appropriate for its procurement in ways consistent with human dignity. The right to adequate food is a distinct part of the right to an adequate standard of living.

The realization of the right to adequate food requires:

1. a) the availability of food, free from adverse substances and culturally acceptable, in a quantity and quality which will satisfy the nutritional and dietary needs of individuals;
b) the accessibility of such food in ways that do not interfere with the enjoyment of other human rights and that is sustainable.

2. The ultimate objective of the right to adequate food is to achieve nutritional well-being. Nutritional well-being is dependent on parallel measures in the fields of education, health and care. In this broader sense, the right to adequate food is to be understood as the right to adequate food and nutrition.

3. The realization of the right to adequate food is inseparable from social justice, requiring the adoption of appropriate economic, environmental and social policies, both at the national and international level, oriented to the eradication of poverty and the satisfaction of basic needs.

Art. 5

5.1 In accordance with Articles 55 and 56 of the Charter of the United Nations, it is incumbent upon States to take joint and separate action to advance the respect and observance of human rights including the right to adequate food.

5.2 All State Parties to the Covenant on Economic, Social and Cultural Rights are under the obligation to take immediate steps to fulfill their obligations under the Covenant. The obligation to achieve progressively the full realization of the right to adequate food requires State Parties to move as expeditiously as possible towards its realization.

5.3 As is true of all other human rights, the right to adequate food imposes three different types of obligations on States: the obligation to respect, to protect, and to facilitate and fulfill. Failure to perform any one of these three obligations constitutes a violation of human rights.

5.4 The human right to adequate food must be guaranteed without discrimination as to national or social origin, property, race, gender, language, religion, political or other opinion.

5.5 Food should never be used as an instrument for political and economic pressure.

PART III
Corresponding Obligations

Section A: State Obligations at the National Level

Art. 6

6.1 In recognition of their obligation to respect the right to adequate food under all circumstances for everyone under their jurisdiction, States will respect physical and economic access to adequate food or to a resource base appropriate for its acquisition. The obligation to respect means that the State must not take political or other measures destroying existing access by vulnerable populations, and must respect ancestral land rights particularly of indigenous peoples. The State must also respect the right of women to breastfeed their babies for at least six months of life.

6.2 States will protect everyone under their jurisdiction from having their access to food being undermined by a third party. The obligation to protect includes the State's responsibility to ensure that private entities or individuals, including transnational corporations over which they exercise jurisdiction, do not deprive individuals of their access to adequate food. This involves the protection of the freedom to feed oneself and the use of resources to regulate other actors, through, inter alia, the adoption of legislation and administrative measures that protect the access to adequate food.

6.3 Whenever an individual or group is unable to enjoy the right to adequate food, States have the obligation to fulfill that right. This requires that States identify, and provide for, vulnerable populations within their jurisdiction, using strategies which ensure the long-term ability of people to realize this right for themselves. This obligation also applies to persons who are victims of natural or other disasters.

6.4 Even in the case where a State faces severe resource constraints, whether caused by a process of economic adjustment, economic recession or other factors, vulnerable persons are entitled to be protected through social programs directed to facilitate their access to adequate food and fulfill their nutritional needs. All States have the duty to satisfy a minimum core obligation, which means that everyone is, as a minimum, free from hunger. Additionally, governments should devise policies and programmes oriented to the full realization of the right to adequate food. Priority should be given, as far as possible, to local and regional sources of food in planning food security policies, including under emergency conditions.

Section B: State Obligations at the International Level

Art. 7

7.1 In the spirit of Article 56 of the UN Charter, the Rome Declaration of the World Food Summit and the specific provisions contained in Articles 2 (1), 11, 13, 22 and 23 of the ICESCR, States recognize the essential role of international cooperation, and reaffirm their commitment to take joint and separate action to achieve the full realization of the right to adequate food.

7.2 In meeting their obligations derived from general international law, States will not violate, nor assist in violating the right to adequate food of persons who are not under their jurisdiction.

7.3 States should, in international agreements whenever relevant, ensure that right to adequate food be given due attention, and consider the development of further international legal instruments to that end.
7.4 States' international policies and programmes must respect the full realization of people's right to adequate food. This has implications for their trade and finance policies, and for technology transfers. It also requires States to consider the international implications of their domestic agricultural policies and use of technology.

7.5 In cases of emergency, States shall provide disaster relief and humanitarian assistance to any country that may need it. Food should, as appropriate, be mobilized from the nearest available sources. Assistance as necessary for its distribution to the most vulnerable people will be provided.

7.6 Food aid should at all times be organized in ways that facilitate the return to food self-reliance of the beneficiaries.

Section C: Responsibilities of International Organizations

Art. 8

8.1 An international organization must never pressurize a State or other international organizations to violate the human right to adequate food.

8.2 International organizations are accountable under the international provisions relevant to the human right to adequate food and should submit to similar standards of transparency, public control and freedom of information as individual States. International organizations must not take any measure which would presuppose a violation of the International Covenant on Economic, Social and Cultural Rights by any of its member States duty-bound under this Covenant. People's access to adequate food must be respected and protected by international organizations. Moreover, international organizations must support States in protecting and fulfilling people's access to adequate food.

8.3 Nothing in the international treaties establishing international organizations or regarding other international matters such as international finance and trade, shall be construed to override the obligations of international organizations under the right to adequate food.

Section D: Regulation of Economic Enterprises and other Actors

Art. 9

9.1 States shall refrain from assisting or tolerating action by individuals, corporations or other non-state actors depriving persons both in and outside their jurisdiction of their access to adequate food. States will take all necessary steps to prevent individuals, corporations or other non-state actors from obtaining pecuniary benefits or advantages of any sort by interfering with the enjoyment of the right to adequate food, even if that action has taken place in another country. States are under the duty to prohibit such acts and prosecute those responsible for them. Economic enterprises, including transnational corporations, must be subject to regulations both at the national and international levels, ensuring that their activities do not adversely affect access to food, the means to acquire food, or food production resources. Economic enterprises themselves must respect the right to adequate food.

9.2 States should respect and actively promote the space needed by civil society, including individuals, families, people's community-based organizations, social movements and non-governmental organizations, to fulfill their role in realizing the right to adequate food. States shall respect and protect the work of human rights advocates and prevent all forms of discrimination of civil society.

PART IV
Responsibilities of Actors of Civil Society

Art. 10

This Code applies to all actors in civil society, whether they act as individuals, families, local communities or non-governmental organizations. For the full realization of the right to adequate food the active participation of all these actors is essential; this includes mechanisms of social mobilization as well as participation in planning, executing, monitoring and evaluating public policies relevant to the right to adequate food, while maintaining their autonomy in their relationship with the State. No actor of civil society shall contribute through personal or organized behaviour and programmes to violations of the right to adequate food.

Art. 11

Every individual, having duties to other individuals and to the community to which he/she belongs, is under a responsibility to strive for the promotion and observance of the right to adequate food.

Every individual and organisation in civil society shall strive, by teaching and education, to promote respect for the right to adequate food, helping to secure the universal and effective recognition, implementation and observance of this right, both among individuals and communities.

Art. 12

The essential role civil society should play in the realization of the right to adequate food shall in no way diminish the primary importance of the obligations of States in this respect.

PART V
Means and Methods of Implementation

Art. 13

All actors mentioned in this Code of Conduct: States, international organizations...
and the civil society including individuals, families, local communities and non-governmental organizations, and economic enterprises should contribute to the realization of the objectives and principles contained in this Code.

13.1 The implementation of the right to adequate food requires steps to be taken by all appropriate means, including in particular the adoption of legislative measures, supported by the necessary administrative capacity.

13.2 These measures shall address all aspects of the food system, including the production, processing, distribution and consumption of food, as well as parallel measures in the fields of health, care and education. To be effective, all these measures shall strengthen communal organisations and the empowerment of civil society.

13.3 Steps to ensure access to food producing resources require establishing and maintaining of land registries, respecting the usage of ancestral lands particularly by indigenous peoples, and preventing forced eviction or resettlement. Agrarian reforms must provide vulnerable smallholders and landless peasants with access to land. Change and innovation in farming systems must give due respect to traditional farming practices. Measures must be adopted to ensure sustainable patterns of production, preventing soil and water pollution and protecting the fertility of the soil, the biodiversity of genetic resources and the climate. Local food producers must be ensured access to markets for their products. Local food storage and distribution should be promoted and enhanced. The development of local and regional agro-industries stimulating the rural economy is an important step towards the realisation of the right to adequate food. Dumping of food products from other countries which undermine market opportunities for local producers must be prevented.

13.4 Steps to ensure satisfactory distribution of access to food should include measures to respect and protect self-employment, to promote access without discrimination to work with remuneration which provides for a decent living for wage earners and their families, and to ensure women full and equal access to economic resources, including the right to inheritance and the ownership of land and other property, credit, natural resources and appropriate technology, if necessary by legislative and administrative reforms.

13.5 Steps to ensure adequate consumption of food should include measures to respect and promote traditional food patterns, and to establish and implement legislation for food safety control and for the protecting of consumers from nutritional disinformation and commercial fraud. Products included in international food aid programs must be nutritionally safe and culturally acceptable to the recipient population.

13.6 States should abstain at all times from trade embargoes or similar measures which endanger necessary access to food in other countries. States should also not prevent access to humanitarian food aid in internal conflicts.

PART VI
National Framework for Monitoring and Recourse Procedures

Art. 14

14.1 States shall develop and maintain mechanisms to monitor progress towards the realisation of the right to adequate food for all, to identify the factors and difficulties affecting the degree of fulfillment of their obligations, and to facilitate the adoption of corrective legislative and administrative measures.

14.2 States shall develop and maintain effective and accessible recourse procedures including national human rights commissions and national ombudsman institutions, and ensure that these are made effective and accessible with regard to allegations made by individuals or groups on non-fulfillment or violations of their right to adequate food.

14.3 Furthermore, States shall monitor the impact of their external activities (agricultural, developmental, financial, trade etc.) and the activities of private actors under their jurisdiction on the enjoyment of the right to adequate food in other countries, with a view to take corrective measures to prevent or redress possible negative consequences of these activities.

PART VII
International Reporting, Monitoring and Support Mechanisms

Art. 15

15.1 States should fully comply with their reporting obligations under relevant international treaties, including the International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of all Forms of Discrimination against Women, and the Convention on the Rights of the Child. In doing so, States shall encourage the participation of non-governmental organisations and other non-state actors in the preparation of these reports.

15.2 The Committee on Economic, Social and Cultural Rights, the Committee on the Elimination of All Forms of Racial Discrimination, the Committee on the Elimination of all Forms of Discrimination against Women, the Committee on the Rights of the Child and other treaty bodies are called upon to strengthen their capacities for assessing the realisation of the right to adequate food in the context of examining country reports on the realisation of economic, social and cultural rights.

15.3 Specialised UN agencies, programmes, and funds as well as the international financial institutions and the World Trade Organisation, shall, within the sphere of their mandates, assess the impact of their activities in member countries on the realisation of the right to adequate food and take corrective measures as required.
15.4 The UN High Commissioner for Human Rights shall facilitate coordination among the United Nations bodies concerned with the right to adequate food, and to this end facilitate the exchange of reports and other relevant information among these bodies. The High Commissioner will report regularly to the Commission on Human Rights, to the FAO Committee on Food Security, and to the UN Administrative Committee on Coordination on progress made towards the realisation of the right to adequate food for all.

15.5 The High Commissioner for Human Rights shall consult with the relevant UN bodies, specialised agencies, programmes and funds on the practical follow-up and potential monitoring of the present Code of Conduct. The involvement of non-governmental organisations in such monitoring should be ensured.

The International Code on the Human Right to Adequate Food: Stepping Stone on the Road to Rights-based Development

Wenche Barth Eide and Uwe Krafft*

The right to be free from hunger and malnutrition is the most fundamental of all human rights: without it, there can be no other. It is among those most cited in solemn declarations of political intent and most neglected and violated in practice. It is not realized in the case of the over 800 million chronically hungry people; the 160 million malnourished children under the age of five; the millions of people suffering from famine as the result of natural disasters, civil strife and the use of food as a political weapon; and in the case of the more than 2,000 million people affected by various forms of micronutrient malnutrition such as vitamin A, iodine and iron deficiencies.

In a landmark decision, the 1996 World Food Summit challenged the international community to break with half-a-century of well-intentioned rhetoric and give operational meaning to the human right to adequate food and to be free from hunger. The response has been as exceptional as was the Summit decision. The United Nations system reacted with remarkable swiftness and zeal, considering its usual bureaucratic inertia; NGOs produced, within less than a year after the Summit, a set of “voluntary guidelines”, i.e. the Code of Conduct, for realising the right to adequate food as an instrument for achieving food security, as called for by the Summit and there has been growing interest among governments in applying a rights-based approach to food, nutrition and development problems, even though one would like to see accelerated progress in this regard.

The Code in the context of the Summit follow-up on the right to adequate food

The genesis of the Code and plans for its future promotion are described elsewhere in this issue. While the Code has yet to be adopted, it has already proven its value “as a great working tool, even if it is not immedia-
tely adopted by the international community" - these are the words of Mary Robinson, the UN High Commissioner for Human Rights.

As a "working tool", it has guided the drafting of the General Comment (GC) No. 12 by the Committee on Economic, Social and Cultural Rights (CESCR), as noted elsewhere, the GC will assist the CESCR in its function of monitoring Member States' performance. The Code has also facilitated broad-based agreement on the content of the right to food outside the CESCR: it served as discussion basis at two consultations organised by the Office of the High Commissioner for Human Rights (OHCHR) in Geneva in 1997 and in Rome in 1998 (co-hosted by FAO), with the participation of human rights and development experts, UN agencies, governments and NGOs; the latter consultation essentially adopted the Code's definition of the content of the right to food.

At a third consultation that may be organised in the year 2000 to focus on implementation issues at the country level, the Code's stipulation of responsibilities by various actors - States, private sector, NGOs and civil society, and multilateral and bilateral development organisations - will be a useful guide.

A major event in Summit follow-up on the right-to-food, at which the Code was also discussed and well received, was the Symposium on "The substance and politics of a human rights approach to food and nutrition policies and programming", organised by the ACC Sub-Committee on Nutrition (SCN) on the occasion of its 26th session in Geneva in April 1999. The SCN comprises all UN agencies with activities in, or related to, nutrition and seeks to harmonise, through its umbrella body, the Administrative Committee on Co-ordination (ACC), the nutrition-relevant policies and programmes of the UN system, by associating bilateral donors, NGOs and experts with its work. Its sphere of influence extends beyond the confines of the United Nations. At that session, the SCN emphasised the need to mainstream the right to food and other human rights in its overall work programme and that of its member agencies, rather than treating them in isolation. This will have important consequences for the ways in which the SCN and its members will operate in the future.

Corresponding follow-up action is under way, and a number of UN agencies, including WHO, FAO, UNICEF and UNDP are actively examining the operational modalities and overall implications for their work resulting from a rights-based approach to food, nutrition and related development problems. OHCHR, for its part, is exploring ways in which it could best support strengthened human rights collaboration in the food and nutrition area within the UN system and through the SCN.

An important event related to the Summit follow-up and the Code was the presentation of the updated study on the right to food prepared by Special Rapporteur Asbjorn Eide for the Sub-Commission on the Promotion and Protection of Human Rights. There is a mutual relationship between the "Code" and the update, in that the "Code" had drawn on Eide's earlier study of 1998, while the update had the benefit of the "Code"'s current version.

It is worth noting that updated study led to a potent resolution by the Sub-Commission with clear messages to the international community, nation States as well as the actors of international trade and finance. For example, not only does it call for "a coherent United Nations strategy to ensure - through various measures - a continued follow-up of the evolving process to identify the steps needed to implement the rights of all to adequate food and to be free from hunger"; it also recommends that "the High Commissioner for Human Rights organise a consultation involving representatives of the Treaty Bodies and relevant agencies and humanitarian organisations, and the international financial and trade institutions to enhance dialogue and encourage consultations on a regular basis and to prevent activities which would cause a further deterioration in the enjoyment of the right to adequate food" (emphasis added). There is a direct line here from the Code's statement that "nothing in the international treaties establishing international organizations or regarding other international matters such as international finance and trade shall be construed to override the obligations of international organizations regarding the right to adequate food".

The resolution also endorses a recommendation in the study that "the High Commissioner should organize a third expert consultation, following those held in 1997 and 1998, this time with a focus on implementation mechanisms at the country level, inviting government experts to bring experiences from their countries as a contribution to the operationalization at the national level of the right to food, including the drawing up of a financial strategy".

The Code is primarily concerned with the realisation of the right to adequate food.
of the right to food in “normal” times, although it does refer to crisis situations caused by natural disasters or civil strife and war. Realising human rights in crisis conditions, especially armed conflicts, poses a whole set of challenges of its own. International humanitarian law, whose primary instruments are the 1949 Geneva Conventions and their 1977 Protocols, seeks to protect a minimum core of human rights in times of war, of which the right to food is central. But the nature of armed conflict has changed significantly since the end of the Cold War, making the application of humanitarian law – tailored to “traditional” wars between States as opposed to the current high incidence of intra-state conflicts – increasingly difficult. The situation is further complicated by serious ethical concerns arising from the new conflict environment, which are particularly linked to the realisation of the right to food. These, together with operational concerns, have prompted many humanitarian actors to adopt their own codes of conduct in humanitarian situations. Working towards greater convergence of human rights and humanitarian law and ensuring that they together provide an adequate response to the conflicts of our times is a major challenge ahead.

Responding to conflicts when they occur is imperative; preventing them is better. Recent analyses of the causes of conflict suggest that food and nutrition security policies and programmes which contribute to the reduction of socio-economic disparities, promote food production and availability and correct macro-economic and sectoral policies in support of food security goals can actively contribute to reduced conflict potential and to conflict prevention. A rights-based approach to food and nutrition problems as stipulated in the “Code of Conduct on the Human Right to Adequate Food” is uniquely placed to contribute to conflict prevention.

The right to food and nutrition in the context of a rights-based approach to development

Human rights are interrelated and indivisible. The right to food and nutrition can no longer be dealt with in isolation. The profound changes coming with the global integration of national economies summarised under the “buzz word” of “globalisation”, including reduced State sovereignty and a reduced and shifting role of governments, will give human rights a new role in governance at all levels. In the 21st century, human rights will increa-

singly influence what happens in all aspects of life – civil, political, economic, social and cultural. This vision was, for example, prominent at the 1995 Copenhagen Summit on Social Development, when Heads of State and Government underlined their commitment “to a political, economic, ethical and spiritual vision for social development based on human dignity, human rights, equality, peace, democracy, mutual responsibility...”.

In his 1997 reform proposals for the United Nations, the Secretary General renewed the call for human rights to be mainstreamed in all activities of the UN system as a whole. UNICEF is the first UN institution to respond to this call, by shifting to a rights-based approach in its development co-operation policy and programmes. It is in this context that the human right to adequate food and nutrition must be seen as playing a critical role in efforts to deal with hunger and malnutrition in the years to come.

The “Code of Conduct”, once adopted and applied, would be a stepping stone on the road to a development process based on human rights. While not binding, the “Code” would introduce the framework of a rights approach to food and nutrition, based on rights of the so-called beneficiaries, duties by States and other actors, accountability by all concerned – thus removing the charity aspect inherent in conventional basic needs approaches where nobody has a rightful claim and nobody is accountable for the achievement (or lack of it) of objectives, goals and targets.

The Code and WANAHR

WANAHR is proud to have been associated with the “Code” since the inception of its idea. The World Alliance for Nutrition and Human Rights was conceived in 1992 at an international meeting held at the Norwegian Institute of Human Rights. The Alliance was formally established in 1994 at a meeting hosted by the UNICEF International Child Development Centre in Florence.

WANAHR is a network forum for people from a variety of backgrounds: human rights lawyers and activists, development scholars, some of whom are specialists in nutrition, university teachers, human rights and development NGOs, and interested government officials and staff of international organizations in their personal capacity. Its mission is to (i) contribute to establishing a
sound theoretical basis for linking food and nutrition as social development goals and as human rights; (ii) develop and improve practical approaches to addressing food and nutrition as human rights; (iii) actively link with networks and individuals who wish to contribute to developing and refining the basis for advocacy and action; (iv) keep updated on developments and disseminate relevant information; (v) strengthen interdisciplinary human resource building; (vi) consult, inform and lobby with governments, international organisations and NGOs to enhance their work to promote and protect the human right to adequate food and nutrition.

The Alliance will continue working with its principal partners, FIAN and the International Jacques Maritain Institute, and through its affiliates for the promotion of the “Code”, aiming at its formal adoption. It will continue working with UN agencies and institutions on the promotion of a rights-based approach to food and nutrition problems, including the Code; in the short term, specific activities are under way or planned with UNICEF, FAO, WHO, OHCHR and the SCN. WANAHR will also further develop its Web-based interactive tutorial on the “Fundamentals of the human right to food and nutrition”, designed and managed by Prof. George Kent of Hawaii University.

Consultations are under way with the Government of Norway on the creation of an international project for competence building, advice and study concerning the right to food as a human right, based at the University of Oslo and involving the Norwegian Institute for Human Rights and the Institute for Nutrition Research, but being international in scope, participation and outreach. Support for the “Code”, together with FIAN, the International Jacques Maritain Institute and others, would be among the project’s activities.

Conclusion

The “International Code on the Human Right to Adequate Food” is a major response to the World Food Summit’s call for giving operational meaning to the right to adequate food. It is a response coming from the NGO community, which has already made its impact on the UN machinery concerned with human rights, food, nutrition and development. It is also a response from concerned academic partnership which will continue to help shape the conceptual basis founded in legal human rights instruments and scholarship, and carry on the work to blend this with both down-to-earth and visionary insight and perspectives on food and nutrition matters and sustainable human development. The effort required for the formal adoption of the Code will be a long and difficult one. The challenge is there – and so are the opportunities. There are there to be seized, on the road to a human rights-based approach to all development.
GLOBALIZATION AND THE RIGHT TO FOOD: CHALLENGES TO STATES AND TO NON-GOVERNMENTAL ORGANIZATIONS

Asbjorn Eide*

Ours is the age of unprecedented speed of globalization. The recommendation by the World Food Summit in 1996 to prepare a set of voluntary guidelines on the human right to adequate food must be seen against the background of this accelerating process. The three non-governmental organizations or institutions which took up that challenge – FIAN International, the World Alliance on Nutrition and Human Rights and the International Jacques Maritain Institute – finalized by record speed in September 1997 the draft Code of Conduct on the Human Right to Adequate Food. It has since been endorsed by more than 800 NGOs. The urgency with which the NGOs have addressed this theme can be explained as a strongly felt need to develop a proper corrective response to the negative sides of the process of globalization.

The main features of globalization are an increasing reliance on a deregulated global market, maximally free trade, uncontrolled flow of investment, and the paramount role of the international financial market, with the IMF and the World Bank moving to the center stage of world power. In a wider perspective, the content of globalization is also affected by developments in science and technology, communication, and in particular the information processing which has substantially changed the structure of the global system. Positive aspects of globalization therefore include advances in communication and information and therefore much greater openness.

We have, however, seen too much of the downside of globalization. Imposed requirements of structural adjustment, and the burden of debt, are both part and parcel of the globalization process. The policies of structural adjustment pursued in the 1980s probably contributed in many places to intensified tension between the different ethnic, racial or social groups in society, and may have cost enormously in terms of lost development opportu-

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2 Declaration on the Right to Development, Article 63.
3 Declaration on the Right to Development, Article 42.
A constructive and corrective relationship between the forces of the market and the powers of the State requires good governance, which means that it shall be so structured that it optimally implements human rights. It requires rule of law, transparency, responsiveness, and accountability at the national level, and it also requires rule of law, transparency, and in particular responsiveness by the international community.

Prospects of developing biotechnological products appropriate to small-scale farming. Farmers' rights should be given attention by the human rights community and promoted as a positive challenge in the continued promotion of the right to food, since our future food supply and its sustainability may depend on such rights being established on a firm footing.

Finally, "consumer rights" is still another set of rights constructed outside the international human rights system and claimed by a particular interest group. Because all human beings are also consumers it may pay off to explore how the international consumers rights and duties as established by a large international consumers' organisation, backed up by UN-based guidelines for consumer protection, can help in the realisation of the right to adequate food as a human right. Consumer groups may benefit from using human rights norms, particularly those regarding the right to adequate food. Consumer rights can also serve as references in the interpretation of treaty-based provisions relevant to the right to food and nutrition.

The process of globalisation as it affects food has indeed many and complex features and we may be just at the beginning of understanding its long-term effects. In a situation where there is no agreement even among technical experts whether gene-modified organisms now slowly entering the food manufacturing arena are dangerous or not to health; should or should not be traceable by the consumer through food labelling; are or are not well enough identified through food control; and should or should not be subject to a precautionary principle (meaning proof has to be given that a gene-modified organism, GMO, containing food should be safe before marketed) - then the notion of the global supermarket born in the late 1970s takes on truly new dimensions. At the time it characterised the growing uniformity of dietary patterns and the threat to small farmers and food processing enterprises, of the trends towards monocultures and large processing conglomerates. Problematic enough, the added unsafety dimension and potential implications for health of the globalising supermarket warrant a stronger attention to the means to realise the universal right to adequate food.

State parties should, in international agreements whenever relevant, ensure that the right to adequate food is given due attention, and consider the development of further international legal instruments to that end.
new round of trade negotiations within the WTO, concerned States and NGOs may do well in keeping this statement in mind.

It is incumbent on the international community to ensure that the negative risks inherent in globalization can be guarded against. The implementation of the Code of Conduct would be an important tool in that task. This must be done concurrently with pursuing approaches which can improve the access to food for those who are most vulnerable.

There is today a much better and more widely shared understanding of the impact of hunger and malnutrition, and a more general awareness that its consequences are far worse than was previously recognised. There is also a much broader recognition of the right to be free from hunger and to adequate food as human rights. The adoption by the World Food Summit in 1996 of its Plan of Action was a major watershed in attitudes towards this issue. The adoption by the Committee on Economic, Social and Cultural Rights in May 1999 of General Comment No. 12 has contributed significantly to the clarification of the content of the rights and the corresponding State obligations.

International institutions now broadly endorse the human rights approach to food and nutrition issues and pledge themselves to act, separately and collectively, to contribute to the realization of these rights. The commitments by UNICEF, FAO, WHO, WFP, IFAD, UNCHR, and of bodies such as the ACC-Sub-Committee on Nutrition show that there is a new and potentially powerful momentum to act in a concerted way to eliminate this scourge on humanity.

Ultimately, however, the main responsibility rests with the States. Will they, in light of the urgency of the matter, take all possible steps within their available resources to bring hunger to an end and to move towards full realization of the right to food? Secondly, are other States and thereby the international community prepared to shoulder what is at least their moral obligations to respect and protect food and nutrition security in other countries and contribute as necessary, individually and collectively, to facilitate and fulfill such security in countries in need?

The next few years will show whether States are prepared to move from rhetoric to realization of these rights, which if done in a concerted way is fully within the power of the international community. Without ener-getic implementation both at the national and international level, however, the insight gained will not lead to the aims set, which as a minimum includes the reduction of the number of undernourished people to half their 1996 level no later than 2015. Only through determined and constructive action by the civil society and its non-governmental organizations can States be expected fully to live up to the commitments they have made.

Recommended action

To resist the negative aspects of globalization while maintaining the positive ones, a number of steps should urgently be taken.

States should elaborate a strategy for the realization for everyone within their territory of freedom from hunger and the right to adequate food. The strategy should include the elaboration of framework legislation setting out its purpose; the targets or goals to be achieved and the time-frame to be set for the achievement of those targets; the means by which the purpose could be achieved described in broad terms, in particular the intended collaboration with civil society and the private sector and with international organizations; institutional responsibility for the process and the national mechanisms for its monitoring.

As part of the strategy, States should develop or expand national indicators on food insecurity in line with the FIVIMS initiative coordinated by FAO and take into account the standards contained in the Code of Conduct.

Other essential parts of the strategy should be to develop and maintain mechanisms to monitor progress towards the realization of the right to adequate food for all. For this purpose appropriate mechanisms should be established to handle the technical food and nutrition dimension of domestic and international reporting. The difficulties affecting the degree of implementation of their obligations should be identified, and steps taken to adopt corrective legislative and administrative measures. This is important also where the country concerned has demonstrable resource constraints and where therefore international assistance is required to supplement exhausted domestic resources.

It is essential that States recognise the essential role of international co-operation and comply with their commitment to take joint and separate action to achieve
the full realization of the right to adequate food. They should respect the enjoyment of the right to food in other countries, and at all times abstain from using food as a weapon. States participating in international sanctions should ensure that these do not lead to the deprivation of necessary food for the population.

States should protect the right to food in other countries, which inter alia requires that they should monitor the impact of their external aid and trade, as well as the impact of transnational corporations under their jurisdiction on the enjoyment of the right to food in other countries, and take corrective measures where a negative impact can be shown.

States should facilitate access to food in countries other than their own, and provide the necessary aid when required. This does not necessarily or only mean food aid, but various categories of aid which enable the local population concerned to develop sustainable and effective entitlements to food either by own production or by income generation. Donor States should increase their awareness of the importance of the effective enjoyment of the right to food, and make that a major concern in their development assistance.

Creditor countries should adopt substantial debt relief measures in ways which facilitate the realization of the right to food and other economic and social rights for vulnerable groups in developing countries.

The World Food Summit has mobilized non-governmental organizations to devote more attention to economic and social rights, including the rights to food and nutrition. Links are now emerging between those NGOs which have focused their interest on the activities of the development agencies - many of which are Rome-based - and those which have focused on the activities of the human rights bodies and who tend to see Geneva or New York as their meeting place. The links between human rights and development need to be strengthened.

Since the Code of Conduct on the Right to Adequate Food has spelled out obligations of States as well as the responsibility of the civil society, it will prove itself as an important tool for all of these purposes.

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2 The World Food Council was formally abolished in 1997 and its functions entrusted to the FAO Committee on World Food Security (CFS).


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FAO and the Right to Adequate Food

Gerald Moore & Margreit Vicar*

1. Introduction

In this article, we will give an overview of present thinking and activities regarding the right to adequate food and the fundamental right to freedom from hunger, in the past, at present, and hopefully in the near future. We refer to the analytical framework proposed by Asbjørn Eide and adopted by the Committee on Economic, Social and Cultural Rights (CESCR) to illustrate FAO's role at each level of State obligation, and discuss the implications of the General Comment of the CESCR on the right to adequate food.

2. Past

In the past, FAO was very much involved in discussion about the right to food. In the 1960s it participated actively in the drafting of Article 11 of the International Covenant on Economic, Social and Cultural Rights (ICESCR). FAO's Director-General proposed the substance of what became paragraph 2 of that Article. In parallel, in 1965, the Preamble of the FAO Constitution was amended, to incorporate as one of its major purposes "ensuring humanity's freedom from hunger", echoing the wording of Article 11, paragraph 2 of the ICESCR. This was followed by the Freedom from Hunger Campaign in the 1970s. The World Food Conference in 1974 adopted the Universal Declaration on the Eradication of Hunger and Malnutrition and established the World Food Council jointly with the United Nations. In the same year, FAO adopted the International Undertaking on World Food Security and the World Food Security Compact in 1985.

2.1 World Food Summit (WFS)

Since the preparations for the World Food Summit...
(WFS) started, interest in the right to adequate food was renewed. This was accentuated by the general trend in the UN system to adopt a rights-based approach to development. FAO staff is thus increasingly exposed to human rights discussions, and increasingly interested in using that framework. More and more Member Nations of FAO also support further work on the rights related to food and the use of the human rights framework. In the preparations for the World Food Summit, some countries, and most of the NGOs, attempted to obtain agreement on the adoption of a Code of Conduct regarding the right to food. A workshop was convened in Caracas, Venezuela, with the participation of FAO, to discuss these plans. In the end, however, the idea proved not politically feasible at the time, and the Plan of Action of the WFS contains only a rather vague reference to such a code (see below). Nevertheless, the Summit and the Plan of Action did contain various references to the right to adequate food, and to human rights in general.

The very first words of the Rome Declaration on World Food Security are a reafirmation of the right to adequate food:

"We, the Heads of State and Government, or our representatives, gathered at the World Food Summit at the invitation of the Food and Agriculture Organization of the United Nations, reaffirm the right of everyone to have access to safe and nutritious food, consistent with the right to adequate food and the fundamental right of everyone to be free from hunger."

A few paragraphs later, the importance of human rights in general is acknowledged:

"Democracy, promotion and protection of all human rights and fundamental freedoms, including the right to development, and the full and equal participation of men and women are essential for achieving sustainable food security for all".

In the Plan of Action of the World Food Summit, Objective 7.4 is devoted to the human right to adequate food.

Plan of Action: Objective 7.4

To clarify the content of the right to adequate food and the fundamental right of everyone to be free from hunger, as stated in the International Covenant on Economic, Social
and Cultural Rights and other relevant international and regional instruments, and to give particular attention to implementation and progressive realization of this right as a means of achieving food security for all.

To this end, governments, in partnership with all actors of civil society, shall, as appropriate:

(a) make every effort to implement the provisions of Article 11 of the International Covenant on Economic, Social and Cultural Rights (the Covenant) and relevant provisions of other international and regional instruments;

(b) urge States that are not yet Parties to the Covenant to adhere to the Covenant at the earliest possible time;

(c) invite the Committee on Economic, Social and Cultural Rights to give particular attention to this Plan of Action in the framework of its activities and to continue to monitor the implementation of the specific measures provided for in Article 11 of the Covenant;

(d) invite relevant treaty bodies and appropriate specialized agencies of the UN to consider how they might contribute, within the framework of the coordinated follow-up by the UN system to the major international UN conferences and summits, including the World Conference on Human Rights, Vienna 1993, within the scope of their mandates, to the further implementation of this right;

(e) invite the UN High Commissioner for Human Rights, in consultation with relevant treaty bodies, and in collaboration with relevant specialized agencies and programmes of the UN system and appropriate intergovernmental mechanisms, to better define the rights related to food in Article 11 of the Covenant and to propose ways to implement and realize these rights as a means of achieving the commitments and objectives of the World Food Summit, taking into account the possibility of formulating voluntary guidelines for food security for all.


The main purpose of Objective 7.4 is to call for the clarification of the content of the right to adequate food and how it may be implemented. These questions were among the main objections made to considering and adopting a Code of Conduct on the right to food: there can be no discussions about a Code of Conduct unless the normative content and effective ways of implementation are clearer. Of course, this was not the only objection, but this need for clarification did provide the basis for the consensus that emerged.
Objective 7.a foreshadows a role for several actors, notably the UN High Commissioner for Human Rights (HCHR), the CESC, other treaty bodies, and specialized agencies—such as FAO—as well as governments and civil society. The HCHR has a draft held two Expert Consultations on the right to adequate food as a human right, and reported to the Commission on Human Rights therein in response to paragraph e) of the Objective 7a and the CESC recently adopted a General Comment on the Right to Adequate Food, as specifically requested by the Commission on Human Rights. NGOs have been active on the last words of paragraph e), drafting and advocating for a Code of Conduct on the right to food.

FAO has three to play an active supporting role in subsequent work of the UN human rights bodies, as well as working on its own on the right to adequate food. Indeed, the Director-General of FAO signed a memorandum of understanding with the High Commissioner for Human Rights in May 1997. FAO also drew the attention of the Commission on Human Rights and the CESC to the Plan of Action, participated actively in the two Expert Consultations of the High Commissioner on the right to adequate food — and co-hosted the second one of these in November 1998. In April 1999, FAO participated in a symposium on “The substance and politics of a human rights approach to food and nutrition policies and programmes”, organized by the Administrative Committee on Co-operation/Sub-Committee on Nutrition (ACC/SCN) of the UN, which was hosted by the Office of the HCHR. FAO also provided extensive comments and participated in the deliberations of the CESC in the process of its adoption of the General Comment on the right to adequate food.

The NGO initiative of drafting and advocating for a Code of Conduct (CoC) on the Right to Food is also of interest to FAO. Although the Organization has not been directly involved, it has followed actively those developments. The text of the CoC has been distributed internally for information, as well as reproduced in part in an FAO publication, albeit as an NGO contribution. However, as long as the CoC is not submitted to its governing bodies, the Secretariat refrains from having an official position on it. FAO’s function as a neutral forum for negotiations could be jeopardized otherwise. We note that despite this, the CoC has influenced other work, for instance, the Second Expert Consultations of the HCHR agreed that, with some modifications, it could be used as a basis for a definition of the normative contents on the right to adequate food. The CESC subsequently used that definition in its General Comment on the right to adequate food.

Internally, FAO has held seminars and meetings for awareness raising, including recent internal informal discussions on the implications of the General Comment for its work. FAO also makes sure that its governing bodies are aware of the work undertaken by the human rights bodies. The Office of the High Commissioner for Human Rights (OHCHR) addressed the FAO Committee on World Food Security (CFS) in 1997 and 1998. The CESC addressed it in 1999 to inform it about the adoption of the General Comment. Indeed, the CFS reacted favourably to the General Comment in its report of the 25th Session, which was endorsed by the Council of FAO.

2.3 50th anniversary of UDHR

On the occasion of the 50th anniversary of the Universal Declaration of Human Rights (UDHR), FAO published a book entitled The Right to Food in Theory and Practice and a leaflet entitled What is the Right to Food? Still forthcoming are other language versions of the two, as well as a trilingual legislative study containing extracts of relevant international and regional instruments and some authoritative texts with direct reference to the right to food. All these publications and many statements of FAO are accessible on the Internet - the Legal Office having launched a new WebPage dedicated to the subject of the right to food, also on the occasion of the 50th anniversary.

3. Present

In this section, we will briefly examine the legal obligations of FAO in regard of human rights, before turning to some present and ongoing activities of the Organization, which are relevant to the implementation of the right to adequate food.

3.1 Obligations of FAO

Article 56 of the Charter of the United Nations, and
3.2 Activities of FAO

All functions of FAO contribute, of course, to the realization of the right to food, at least implicitly. Efforts are under way to ensure that FAO’s work is based on a common understanding of the human rights related to food.

Rather than give an overview of FAO’s various departments, we have chosen below a few examples to illustrate FAO’s role regarding the right to food using the analytical framework advocated by Asbjørn Eds, Special Rapporteur on the right to food originally and now widely accepted, inter alia, by the CESC and FAO itself.

A) Respect

The obligation to respect the right to food essentially entails non-interference with people’s efforts to provide for themselves. According to General Comment 8 and 12 adopted by the CESC, respect for the right to food at the international level means that States have a duty when imposing sanctions on other States, even when this is done under the auspices of the UN Security Council, to respect the right to food and such essential necessities and ensure that the survival of the population is not endangered. In that connection, FAO has monitored and reported on food security and nutrition in Iraq in recent years, including reviews of the magnitude of the problems resulting from the imposition of sanctions, and with reference to the effectiveness of Security Council Resolution 986, and the consequent oil-for-food programme.

Conflict almost invariably goes hand in hand with lack of respect for the right to food, if not direct violations of access to food. FAO’s Global Information and Early Warning System (GIEWS) reports regularly draw attention to deterioration in food supplies and access, because of fighting, insecurity, displacement, looting and road blocks as well as natural causes.

B) Protect

The obligation of the State to protect refers to protection against infringements by third parties, namely through regulation of exchanges between individuals and other non-governmental actors, for instance in trade. Protection of the health of consumers and to ensure fair practices in food trade are the main objectives of the Codex Alimentarius Commission (CAC) which is a joint FAO/WHO intergovernmental body, currently with 165 member countries, engaged in preparing international standards and other recommendations, which promote the quality and safety of food, and consumer protection. In this regard, governments are expected to have an appropriate national food control legis-

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Footnotes:
tion and effective food control systems to protect the rights of consumers to fair marketing and food safety. Codex Alimentarius offers an appropriate framework for this. Many governments have taken the necessary steps to strengthen their food legislation in accordance with Codex standards and guidelines. Many developing countries however still require technical advice and assistance, by FAO, in establishing the necessary food legislation and food control systems.

Fulfill

The third level of obligation is the obligation to fulfill. In turn, a distinction may be made between obligations to facilitate, and obligations to provide. We will discuss each of these below.

(i) Facilitate

The obligation to facilitate is the duty to create an enabling environment where people can become self-sufficient. Most people nowadays rely on the food market to purchase their food or sell their surplus production. But markets sometimes fail to enable fair exchanges. Rather than intervening directly, the State may facilitate the effective functioning of the market, for instance by reducing the barriers to obtaining trade licenses, charging reduced value-added taxes on food commodities, prohibiting monopolies or oligopolies, and setting up market information systems.

FAO supports the provision of market information in many countries of the world, giving support to food security policy makers through capacity building of domestic statistical services, provides support to early warning and food information systems and directly provides food security and world market information. This information enables States to intervene in cases of market failures, etc. It also helps private traders to operate more efficiently and keep food prices down.

(ii) Provide

Even in a country where State policies are optimal to ensure self-sufficiency, there might still be persons who cannot provide for themselves, besides the physically disabled, the old and the young. Unemployment or disaster may prevent people from feeding themselves, at least temporarily. Therefore, as a last resort, the State has a duty to provide, in order to ensure, as a minimum, freedom from hunger. This obligation does not necessarily have to be carried out by the State itself; it may also rely on community structures, churches, mosques and other actors of civil society. If the State is unable to do so, or ensure that it is done, it has the right, and even a duty to request international assistance. FAO, together with WFP, undertakes joint missions to identify food aid needs in emergency situations and to estimate the international resource requirements where domestic governments have little control or highly restricted resources. FAO provides timely information in the form of faxed and e-mailed reports, alerting the international community of the magnitude, locations and causes of these emergencies. Increasingly, FAO is involved in mobilising resources for emergency agricultural interventions to restore the food production sectors.

3.3 Rights-based approaches

Moving from these selected examples of the many ways in which FAO contributes at present to the respect, protection and fulfillment of State obligations, we will now touch briefly upon the rights-based approach, which all UN agencies have been encouraged by the Secretary-General to adopt. Many UN bodies and agencies, for instance UNICEF, ILO and UNDP have already declared that their policies are rights-based. FAO is yet to issue a clear statement in that regard, but is following these developments with great interest. As stated earlier, human rights, democracy, empowerment and the rule of law figure prominently in the WFS Plan of Action. In addition, the Strategic Framework of FAO for the years 2000-2015, in the form in which it is being submitted to the FAO Conference for approval and adoption in November 1999, contains references to human rights and international law.

Despite the lack of an explicit policy document on a rights approach, some specific programs of FAO have already adopted many of the inherent principles of a rights-based approach. For instance, the Women in Development Service, refers to the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), periodically reports to the treaty body, and generally strives through participatory training methods to promote the rights of the disadvantaged, who often are women. FAO's last World Food Day also drew attention to the essential roles that women play in food security.

The Special Programme on Food Security (SPFS) has also adopted explicit principles that are compatible with
the rights approach. The SPPS was initiated in 1994 to help developing countries to improve their national food security - through rapid increases in productivity and food production, reducing year-to-year variability in production and through improving people's access to adequate nutritious food - on an economically and environmentally sustainable basis. The SPPS is founded on the concepts of national ownership, a participatory approach, environmental awareness and sensitivity, and regard for the role of women, all of which are principles inherent in or consistent with the rights approach, and the notion of State responsibility.

4. Future

Despite the recent important developments, much remains to be done. FAO needs to continue normative development in many areas, establish better links with the CSBRCR, WFP, IFAD and other partners and explore further the implications of the General Comment on its regular work. Country case studies and projects need to be undertaken to learn by doing how to better assist Member Nations. We shall now explore some selected questions that are the focus of FAO's attention for further action in the future.

4.1 Policy advice

One of FAO's roles in assisting its Member Nations is to give them advice on policies and strategies for food security. At present, this advice is mainly based on traditional economic analysis and does normally not refer to State human rights obligations, but assumes that sovereign States adopt the policies they choose. In other areas, however, FAO has a long-standing experience of advising States on complying with international obligations, in particular regarding international trade and agreements negotiated under FAO's auspices.

If FAO's food security policy advice was based on the notion of the right to food as its starting point, the advice would remind States Parties to the International Covenant of their obligations and the restrictions these put on the policies adopted. Some obligatory administrative and legal measures would be identified, as well as, of equal importance, which policies and measures were not permissible for States Parties. However, this may not yet be politically feasible, nor is it yet clear to FAO analysts how this could be done and what exactly these rules would be. This is an area that will need more work and internal thinking, analysis and digestion, before it could be ventured upon. Normative development, in conjunction with country case studies, would constitute the first steps towards equipping FAO in taking international human rights obligations into account in its policy advice work.

4.2 Social Safety Nets

The obligation to provide may imply the need to establish safety nets for the food insecure. The implications of a rights approach for such social safety nets need to be explored, in particular with respect to a fair eligibility criteria that balance the need to prevent abuse with the duty to ensure, as a minimum, freedom from hunger for each individual. The right to food also necessarily entails that there must be an accessible and just recourse system for individuals whose claims on transfers under a safety net system have been rejected. As a practical measure, a stronger case needs to be made for the benefits of social spending, as malnutrition may seriously hinder productivity, economic growth and development. Linking social responsibility at the community level with infrastructure projects is being explored. Debt forgiveness to enable investment in food security is also being discussed. Following a study on national legislation on the right to food, FAO is currently researching social security legislation and administrative measures in various countries, and a "best practices" study on social safety nets is to be undertaken in the autumn of 1999.

4.3 Indicators: FIVIMS

FAO hosts the international secretariat for the Interagency Food Insecurity and Vulnerability Information Mapping Systems (FIVIMS) initiative, which endeavours to build a technical consensus on standards for national food security information systems and seeks to provide co-ordinated cross-sectoral technical and material support to these systems. The establishment of FIVIMS was called for in the World Food Summit Plan of Action. Information at the national and global levels, about who is food insecure and why, is an essential tool for action.

20 This is also reflected in the World Food Summit Plan of Action Objectives 2.2.

21 Ibid., paragraph (a): "Develop and periodically update, where necessary, a national food insecurity and vulnerability information and mapping system, indicating areas and populations, including at local level, affected by or at risk of hunger and malnutrition, and elements contributing to food insecurity, making maximum use of existing data and other information systems in order to avoid duplication of efforts".
The indicators will be of direct use for those involved in targeting policies and support measures for the food insecure, and for those involved in monitoring success or failure in reducing the number of hungry and malnourished, at both the national and international levels, in accordance with the goals of the World Food Summit. For this purpose, FIVIMS could also generate quantitative as well as qualitative indicators of performance in respecting, protecting and fulfilling the right to food. It would thus also serve as an information bridge between different bodies, such as FAO’s Committee on World Food Security (CFS) and the CESC.

Developing the FIVIMS indicators and methodologies is a lengthy process given the current weakness of many of the national systems, which need to be addressed. The CESC and other socio-economic rights experts should at some point be involved in the development of appropriate indicators, for instance by participating in an annual meeting of the Inter-Agency Working Group (IAWG). Although the purpose of FIVIMS is ultimately to measure the enjoyment of the right to food, it has not yet been formally on the agenda of the IAWG. One of the tasks in the near future will be to elaborate the conceptual and operational links between FIVIMS and the food-rights framework, to demonstrate the mutual benefits of cross-fertilisation.

4.4 Cooperation with CESC

The role of FAO is distinct from the role of the CESC. While monitoring the implementation of the ICE-SCR through State reports, information from other sources and dialogue with the State party, the CESC may express its concerns over State performance and violations of the ICE-SCR. Such is not FAO’s role, nor should it be. But as the primary provider of global information and technical assistance in matters related to food and agriculture, the CESC obviously looks towards FAO for cooperation and information. In turn, FAO looks towards the CESC, and other human rights bodies, for a better understanding of the obligations of its Member States related to the right to adequate food.

At the last session of the Committee on World Food Security (CFS), in June 1999, a member of the CESC presented the General Comment on the right to adequate food. The CFS welcomed the General Comment as an important step in implementing Objective 7.4 of the WFS Plan of Action. The CFS noted the reference to the need for UN agencies, including FAO, to provide assistance to developing countries, upon request, and noted that this assistance should draw fully upon the expertise of the OHCHR. The CFS commended the collaboration between FAO and CESC and welcomed the proposal that the cooperation between these institutions should be strengthened on a continuing basis.22

In addition to defining rights-indicators as described in the previous section, FAO now needs to decide on the modalities of strengthened and continuing cooperation. First, how its public domain information may be shared systematically and at the relevant times with the CESC, and secondly whether, and eventually how, other information, unpublished or confidential reports could be shared with the CESC. Finally, FAO must consider whether to participate in pre-sessional meetings, contribute to the list of issues prepared in connection with the examination of a State report, or participate in the dialogue with the State Party. These questions need careful consideration to ensure transparency and complementarity and avoid duplication as well as possible controversies.

4.5 Legislative framework

One of the recommendations in General Comment 12 on the Right to Adequate Food relates to the adoption of framework legislation for the implementation of the right to food23. FAO advocated for the idea in its publication on the right to food on the occasion of the 50th Anniversary of the Universal Declaration of Human Rights. We believe that the adoption of such framework legislation at the national level could also be most useful as a tool for achieving the goals of the WFS. Thus, we need now to explore, as a first step, in a particular country that is interested in such an exercise, and committed to human rights and improving food security, how such legislation might be formulated and drafted with wide and meaningful participation. Donor contributions would have to be sought to help financing workshops and other preparatory work.

Framework legislation would include spelling out the basic principles, identifying the relevant public and private agencies and setting up processes for progressively achieving the full realization of the right to food, as well as containing mechanisms that enable accountabi-
lity. The exact content of such legislation would reflect the particularities of the situation in each country, and should be tailor made to suit its legal and administrative system. Therefore, it would seem premature at this stage to attempt to draw up a model law.

As there are many intentional agencies concerned with aspects of food security and human rights, close collaboration would be necessary between international actors, in particular FAO, WFP, IFAD, UNICEF, UNDP, the World Bank and of course the OHCHR or the CEDCR. International NGOs, such as IFAN, WANNH, Global Forum for Food Security and Institut International Jacques Maritain, should also be involved, as well as academics. Participation of Governments and NGOs from other countries to share their experiences and compare approaches would definitely be most valuable. Most crucial of all, however, is the participation and commitment of all relevant government departments, NGOs and grassroots organizations of the country in question in any legislative process.

It must be borne in mind that this has not been done yet, and that FAO does not know - yet - how exactly it might be done. Workshops would be a mutual learning exercise, rather than top-down technical advice. It may be hoped, however, that learning by doing would eventually build up FAO ability to give sound policy and legislative advice to its Member Nations. As a by-product, the experiences would greatly enhance a general understanding of the right to food and its implications at the international level, and help more effective implementation of this right.

4.6 Emergency aspects

There are many layers of questions that relate to the right to food in emergencies that are still inadequately researched and considered as human rights and humanitarian laws questions.

Some guidance regarding violations of the right to food in armed conflicts is to be found in international humanitarian law, both about humanitarian assistance, and other aspects. For instance in Article 14 of Protocol II to the Geneva Conventions of 1977, and relating to the protection of civilians in non-international armed conflict, which states:

"Starvation of civilians as a method of combat is prohibited.

It is therefore prohibited to attack, destroy, remove or render useless, for that purpose, objects indispensable to the survival of the civilian population, such as foodstuffs, agricultural areas for the production of foodstuffs, crops, livestock, drinking water installations and supplies and irrigation works."

The problem, of course, is that such actions may often be undertaken for strategic and military purposes, rather than with the purpose of deliberately starving civilians.

Although most of the chronic hunger in the world today is the result of poverty, inadequate policies and structural problems, direct and deliberate violations of the right to food are not unknown. Such violations are often discriminatory in nature, directed against ethnic or religious minorities and often take place in the context of internal strife or armed conflicts and such man-made emergencies. The international community has many times proclaimed that food must never be used as a political weapon, but warfare usually entails breaking off supply lines, including for food, restricting or forcing population movements and laying of landmines, which undermines production and access to food. Requisition of food, looting and feeding of soldiers before civilians further exacerbate the problems.

The right to access of victims of conflict to humanitarian assistance, including food aid, is therefore vital to uphold. The humanitarian community, however, is often faced with deliberate lack of such access, and thus a violation of the right to food in emergencies. The right to receive national and international assistance, the duty to request international assistance in emergencies and the international duty of States to assist other countries in emergency situations, are all questions that have not been fully explored, although it would seem that most if not all developed countries do indeed regard it as at least a moral duty to render humanitarian assistance.

There are other aspects that merit consideration in a human rights frameworks, such as the effects of food aid on local production and local markets. And what do human rights entail for programming and planning of assistance? Is it enough to keep people fed to ensure their right to food? How can emergency assistance become rule-based, fair and empowering? For international organizations, such as FAO, WFP, UNHCR and UNICEF, which are engaged in food assistance, there are implications regarding food quality, quantity and safety that
ON THE RIGHT TO FOOD

Introduction

The right to adequate food and freedom from hunger are fundamental human rights enshrined in international law. They have been recognized as part of the right to life, development, and dignity. In light of the current global food crisis, it is crucial to ensure that these rights are respected, protected, and fulfilled. This essay aims to explore the legal and policy frameworks that could support the realization of these rights.

Discussion Notes

1. The right to food is not just a matter of ensuring access to sufficient food, but also involves the right to food sovereignty, which includes the right to determine local food systems and food practices.

2. Governments have a duty to ensure that the right to food is realized, including through policies that support food production and distribution, and that protect small-scale farmers and indigenous communities.

3. International law provides a framework for protecting the right to food, including through the International Covenant on Economic, Social, and Cultural Rights (ICESCR). However, challenges remain in translating these rights into practice.

4. There is a need for a comprehensive approach that addresses the structural causes of hunger, including poverty, inequality, and environmental degradation, in addition to immediate measures to improve food access.

5. Citizens and civil society organizations have a role to play in monitoring the implementation of the right to food and advocating for policy changes that uphold these rights.

Conclusion

The right to food is a fundamental human right that requires a multi-dimensional approach to ensure its realization. This includes policies that support food sovereignty, protect small-scale farmers, and address the root causes of hunger. International law provides a framework for realizing these rights, but it is up to governments, civil society, and citizens to ensure that these rights are respected, protected, and fulfilled.
- Does an emphasis on socio-economic rights distract Governments' attention from civil and political rights and freedoms?

- How can Governments be forced to comply with socio-economic rights undertakings and treaties?

We present a mythological debate between Mammom, an exponent of the neoclassical tradition in economics, typically opposed to rights-based formulations, and Minerva, the goddess of justice.

The Problem of Agency

Mammom:

The first criticism of the right to food or the right to freedom from hunger is that it has little legal content. For an international legal instrument to be effective, we need to be able to attribute duties and responsibilities to States and monitor compliance. We should be able to say that the presence of under-nourished or malnourished people in a country indicates that a breach of law has occurred and therefore the State is liable for sanction. It should be possible for undernourished people to launch individual or class action suits against a Government in an international court. This seems unlikely, because a Government can easily and correctly deny responsibility. Whereas an individual’s civil and political rights imply a duty on the part of the State, this symmetry is lost when we talk of private goods, like food. It is the individual’s duty to obtain his or her own food, through cultivation or purchases on a free market.

Where agency is unclear, it is difficult to assign obligations and responsibilities and impossible to sanction violations. We cannot take a free food market to court. Perhaps confusion arises because we make a false analogy here between civil and political rights, which are claims on public goods, and socio-economic rights, which are generally claims on private goods. An individual’s civil and political rights are either violated by the State or by a third party. It is only with reference to public goods that the State has a clear responsibility both in the assignment of freedoms, duties and in terms of the protection of individual claims from third party interference.

My concern is that this multiple-agency problem makes it impossible to identify the violating parties, and it is unclear how effective legal instruments can be established on this basis.

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Minerva:

At a very basic level, this criticism is correct. We take the state of “being under-nourished” as indicating that the individual’s rights have been violated. Yet we cannot necessarily say who has violated those rights. This is especially true in liberalised food markets, which may conform to the neoclassical model of large numbers of autonomous and competitive traders. Indeed, we cannot say that a State is 100 percent responsible for the violation. This does not mean that we have to accept that the right to food does not have a concrete and identifiable content unless institutionalised. I would argue that it is possible to identify agency and responsibility, and that much of the responsibility falls on the State.

One cannot simply regard the process of food acquisition as a one-step transaction between an impersonal market and a free individual. The reality is a complex process of interactions between large number of agents, sometimes called the “food system”, which begins with land rights and food production and extends to food marketing, product labelling and food safety. The individual’s income, and hence claims on food (whether on the market place or from her own produce) is, in turn, dependent on a large number of transactions. At each step in the process, the Government may be an agent alongside private institutions. The Government’s responsibility can be identified in areas ranging from minimum wage and land tenure legislation to food quality control and product description in the market place.

So, while it may be impossible to attribute State full responsibility for the final outcome, the State can be held responsible for malfunctions in any of the processes that have resulted in that outcome. The main role of the State, even in the most liberal economies, is to regulate the various actors and ensure fair play.

Efficiency and the Public Provision of Private Goods

Mammom:

My concern at this point is that you see a Government role in everything from the labour market to the grocery store. Since the early 1980s, international organisations have been urging their member States to abolish the old marketing parasitats and pull out of food markets. Are you now proposing a return to intervention? The experiments in social markets and blanket
food subsidies in the 1970s are widely thought to have been an expensive failure. Are you now suggesting that international law obliges Governments to intervene? Economists argue that private markets should allocate private goods, like food.

Minerva:
This is only one possible interpretation of the right to food. The defence of socio-economic rights has often been associated with heavy intervention in markets, food price subsidies, protectionism, and regulation of trading activities. But to say that the Government must ensure that the food system works does not mean that markets should be micro-managed. There are numerous instruments for ensuring the realisation of food rights that do not conflict with market liberalisation and deregulation and the principles of efficiency.

But first, let us consider ways in which Governments should not intervene. While our main emphasis in this discussion is on Government positive obligations, the question of reining in Governments is also fundamental and perhaps the most important contribution of international law. In the analytical framework proposed by Ashby Eide’s6 and adopted by the Committee on Economic, Social and Cultural Rights7 for all human rights this element of restraint, and the explicit recognition of the inviolable nature of rights, falls under the obligation to respect. Fundamental areas in which a Member State can exercise restraint relate, for example, to placing trade embargoes or blocking humanitarian convoys to “starve out” rebel areas.

A second area where the Government can and should intervene, without disrupting markets or undermining efficiency is in the protection of rights. A clear example of non-distorting instruments is consumer protection. This takes numerous forms, including protection from cheating, systematisation of weights and scales, and enforcement of food hygiene, quality and labelling standards. Provided these measures are implemented without creating lengthy bureaucratic procedures and high administrative costs for food retailers, efficiency need not be compromised.

Markets do not always work. A considerable body of literature points out that some of the markets that are critical for an efficient food system may be weak or under-developed. Ravallion, for instance, traces the links between famine and the failure of the food storage market in Bangladesh. Here, market failures lead to prolonged price rises, which could have been avoided. While market failures have sometimes been taken as an excuse for public control of food markets, less interventionist public solutions to market failure are also possible. For food markets, for example, public provision of price and market information and the establishment of strong anti-trust (anti-monopoly) legislative instruments are two policies that are widely practised. Both serve to increase market efficiency, while contributing to the realisation of food rights. In the “Elide” framework, such policies come under the heading of facilitation and fulfilment.

We have concentrated on food markets. Of course, food rights cannot be realised without adequate income. Here too, food rights-based policies can enhance efficiency. For most income-generating activities (farm production, wage labour, and investment in small industries) rights are central to income earning. Ensuring equality of opportunity for all is sometimes referred to as procedural fairness. It may comprise legislation, for example, on equal gender opportunities in the workplace, equality of treatment in the assignment of land rights or in the criteria for business loans. In societies that are prone to bias (against women, ethnic minorities or even “the poor”) effective equal opportunities legislation unleashes the productive power of people that might otherwise have been excluded from income-earning possibilities.

We have provided examples of selective public interventions and legislation that may enhance the efficiency of the economy while contributing to the realisation of food rights. It is possible that even with efficient markets and procedural fairness, the poorest elements of society will still be deprived of their food rights despite their best efforts. At this point, some level of redistribution of resources may be the only solution. This falls under the heading of the State’s obligation to provide in international law. The question of distributional fairness has solicited hot debate.

There is a common perception that socio-economic rights mean the establishment of universal (blanket) benefit schemes. These systems are widely judged to be inefficient and wasteful. The provision of some basic level of welfare support for the worst-off members of society (those who cannot satisfy their food needs through their own endeavour) is a central obligation under

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6 General Comment 12, cit., paragraph 15.

7 Ibid.

international socio-economic rights law. This does not mean that Governments are committed to wasteful universal benefit schemes that undermine work incentives.

Whether the provision is inefficient depends on the instruments that are used. Highly targeted interventions (directed only to the worst off), supported by controls to avoid “welfare parasites” do not undermine incentives. Research suggests that there are efficiency gains to interventions to prevent episodes of under-nutrition, especially among children. Under-nutrition during childhood, reflected in reduced growth, stifies physical attainment and thus capacity for physical work in adulthood. Early episodes of under-nutrition have a decisive influence over future attainment and may not be reversible. Child under-nutrition is also clearly linked to poor educational attainment, through retarded intellectual development and poor concentration in the classroom. In other words, provision of welfare support, especially for families with school aged children, can improve the quality of the work force. Provided they are correctly executed, public support and economic growth need not be seen as a trade-off: there are also “positive links”.

To conclude, the food rights framework need not entail blanket market interventions or universal benefit systems. This is nowhere implied in international law. Although Governments do have the obligation to take administrative and legal measures, the exact tools are not prescribed by law, leaving policy choices open to Governments. With carefully selected and implemented policy instruments, a Government can fulfil its international obligations regarding food rights without the inefficiencies of direct intervention. At best, a facilitating policy environment will increase economic efficiency.

**Government Intervention and Economic Freedom**

**Mammon:**

Proposals to increase Government regulation of markets naturally impose limitations on private freedom. By regulating food quality, limitations are placed on trader’s freedom of action and on consumers’ freedom of choice. If people want to purchase poor quality food, surely they should have the right to do so? Involuntary taxation to finance social insurance restrains the freedom of the individual to dispose of his income as he chooses. It is no coincidence that in many authoritarian societies, socio-economic rights based arguments have been used to justify the denial of basic economic freedoms in the spheres of production and exchange.

**Minerva:**

We have suggested that the State can play a critical role in market regulation, without directly controlling market transactions. Heavy-handed regulation will naturally impose limitations on individual economic freedom. Ideally, Government regulation should strike a correct balance between ensuring a safe, fair and efficient food system, and imposing restrictions on economic behaviour. There must be some trade-off between the obligation of the State to protect those under its jurisdiction from corrupt, unfair or damaging practices, and individual freedom in economic transactions. Unbounded economic freedom is not permitted in any society, and all individual rights and freedoms are subject to constraints. Legislation to prevent usury protects individuals from racketeering and impoverishment, while limiting the freedom of creditors to charge interest rates as they wish. The right to food under international law does not prescribe the optimal balance between consumer protection and economic freedom. Governments, trade unions, consumer organisations and so on, must strike an agreeable balance.

It certainly does not imply that all economic freedoms should be suppressed in the interests of defending socio-economic rights. Indeed, the right to food in the first instance obliges States to respect economic freedoms, and individual’s efforts to feed themselves.

**Fiscal Constraints**

**Mammon:**

The majority of under-nourished live in developing countries. All the proposed interventions have fiscal implications, particularly the obligation to provide. Are we not tying countries to obligations that are not fiscally sustainable? Who is going to pay? In many countries, the State can not even afford basic education and health services.

Surely the priority is to increase growth so that the economy can support welfare systems. Why should a poor State waste its resources on welfare?
Evidently, the fiscal costs of honouring commitments to socio-economic rights will depend on the instruments that are selected. Hence, it is impossible to say how much it would cost. Many of the instruments and policies, especially those to ensure procedural fairness in access to goods and services, do not present a significant fiscal burden. Dasgupta suggests that States can make major inroads in guaranteeing minimum of socio-economic entitlements by shifting from military to social expenditure.

The International Covenant on Economic, Social and Cultural Rights (ICEDCR) and other treaties, such as the Covenant of the Rights of the Child (CRC), oblige States to shift resources towards socially beneficial expenditure, such as health, education and nutrition. These treaties do not impose spending norms as such, though it would make sense to explore the possibility of defining international minimum expenditure targets for social investment as a percentage of total Government expenditure. The responsibility of the State does not mean either that the State must only spend its own resources from (involuntary) tax contributions. The State may also draw on voluntary private and community contributions.

The case for allocating scarce resources to public investment becomes much stronger if we explore the relationship between economic growth and health, nutritional and education status. There are undoubtedly cases in which heavy social expenditure has impeded growth, particularly where blanket subsidy schemes have represented a major fiscal drag, and forced Governments into indebtedness or inflationary money creation. Whereas much research in the 1980s presented social expenditure and (private) expenditure in the productive sector as a trade-off between short-term welfare and long-term growth, the paradigm has shifted. It is now recognised that investment in the socio-economic status of a population (human capital) can enhance growth prospects, provided that interventions combine carefully designed instruments and selective targeting mechanisms. Put another way, a relatively educated, healthy and well-fed population will be more productive and more capable of robust economic growth. It is important that policies are fiscally and economically sustainable. In some countries, fiscal resources can only sustain the most basic social service provision. For the poorest of countries, and those with a weak tax base, there is a clear role for international assistance. The International Covenant on Economic, Social and Cultural Rights explicitly recognises the importance of international co-operation, including transfers.

**Short-term Violations and Long-term Realisation**

**Monmonor:** It is clear that the realisation of the right to food will take time. FAO data suggest that over 800 million people currently suffer under-nourishment. The target of a 50% reduction in the number by 2015, albeit less ambitious than many previous international goals, is based on optimistic assumptions of a concerted effort on the part of the Member Nations of FAO. Does it make sense to declare a right that is routinely violated and that will not be realised for many decades?

The problem is one of current violations. Suppose in State X a number of people’s food rights are violated now, because there are no effective food safety regulatory structures. The Government is committed to financing and establishing a regulatory body, but the agency will only be operational in three years because it takes time to hire and train staff and establish local networks. Does this mean that the Government is committing a rights violation now? Is it wise to talk about a viable right, rather than simply aiming for the goal of freedom from hunger?

**Minerva:**

The high frequency of under-nourished people (now) does not invalidate the right. On the contrary, rights are proclaimed and codified because of infringement or danger of infringement, not because of their universal enjoyment. Of course, it will take time to create a world in which food rights are realised. However, if immediate implementation is not feasible, this does not necessarily imply a violation. It is not uncommon in rights legislation to set a long time horizon for implementation and realisation. Even the realisation of civil and political rights often entails the lengthy establishment of appropriate institutions. Constitutional, structural and institutional change cannot be implemented overnight. This is explicitly recognised in the International Covenant on Economic, Social and Cultural Rights.

A State violation of socio-economic rights is failure to take the necessary steps to establish the appropriate...
human rights record as a whole, which includes everything, from freedom from torture to freedom of opinion to freedom from hunger. United States President F.D. Roosevelt famously articulated the “Four Freedoms” almost sixty years ago, namely freedom from want, freedom from fear, freedom of speech and expression, freedom of worship. It is nonsense to suggest that the realisation of one right might justify the violation of another.

THE PROBLEM OF NON-COMPLIANCE

Minerva:

The Universal Declaration of Human Rights and subsequent treaties and declarations have set ambitious targets and codes of conduct for Governments, but what are the mechanisms for ensuring that the treaty obligations are met? It certainly appears that States can ratify treaties without fear of legal recourse. A State can always deny violating the law, and claim that the lasting presence of hunger and under-nutrition is caused by factors outside its control. The problem of non-compliance relates to all aspects of international law. There is no powerful international judiciary, with the ability to threaten or punish non-compliant States. The rule of sovereignty is the strongest. Is it not realistic to expect States to comply with international law in this respect?

Minerva:

We should avoid making a false analogy between international and municipal or national law. International law does not provide for similar judicial systems to national law, and is unlikely to do so. It uses other methods. The International Covenants on Civil and Political Rights, and Economic, Social and Cultural Rights respectively, basically employ the same implementation and monitoring mechanism, that of State reporting to treaty bodies. The Committee on Economic, Social and Cultural Rights can call States Parties to the book over socio-economic rights and adopt Concluding Remarks in respect of States reports. The embarrassment factor is strong. Most States want to have a good human rights record. However, there is a clear need to enhance the regulatory instruments at both the international and national levels. Socio-economic rights are still underdeveloped in comparison with civil and political rights, mainly for lack of attention to them by policy makers.

23 P. Dasgupta, op. cit., p. 120.
27 However, an Optional Protocol to the former allows individual complaints, on which the Human Rights Committee gives its “verdict”, whereas there is not yet an Optional Protocol to the latter Covenant.
The General Comment on the Right to Adequate Food, recognised the need for closer monitoring of socio-economic rights performance against clearly defined targets and benchmarks, which States would report on. The more the implications of the right to adequate food are clearly spelled out, the better compliance can be monitored at the international level.

Most States have yet to take the necessary legislative measures for the right to food, defining the institutional rights. In other international fora, such as in trade negotiations, the right to adequate food should also be a strong concern. The Security Council should take action against violations of the right to food, in particular the deliberate starvation of civilians as a method of war.

Finally, donors could start exercising their considerable influence on recipient States in a more positive manner, and set conditions for socio-economic rights spending and good governance in that field. For example, human rights conditions may be placed on debt-forgiveness.

CONCLUSIONS

Although the right to food/freedom from hunger has been part of international treaty law since 1976, and explicitly recognised by the United Nations since 1948, the concept still raises concerns. Food rights provisions in international law along with other socio-economic rights can be interpreted as a clarion call for highly interventionist public policy, and consequent fiscal drains, inefficiency and limitations on individual choice.

The potential and actual misuses of the provisions to justify inefficient and repressive economic policies, or even the suppression of civil and political rights, do not undermine the basic validity of the law. In this paper we have argued that the interventionist position is neither a unique nor a correct reading of the spirit or letter of international law, which leaves Governments with considerable flexibility in the choice of instruments. Cost-efficient and fiscally sustainable instruments exist that do not impose undue constraints on private markets and individual liberty. Provided the correct choices are made, food rights-based policies need not cause undue distress to proponents of efficiency and economic liberty.

26 General Comment 12, ibid., paragraph 29.
I - La Genèse

1. La récente publication de la correspondance entre Jacques Maritain et Dom Louis Baillot intitulée *Péguy ou porche de l'Eglise* est intéressante à plus d'un titre. Elle nous mène aux rapports réputés difficiles entre les deux hommes, aux années de jeunesse, à la Conversion. Sur le chapitre de la Conversion, à la suite de rumeurs tenaces, Jacques Maritain passait pour un inquisiteur passionné et peu compréhensif des réalités humaines. Sur ce plan la correspondance met les choses au clair. Leur relation apparaît alors dans toute sa complexité, avec ses humeurs, son indiscutable profondeur, ses malentendus aussi.


Cette situation entraîne les deux hommes dans un imbroglio délicat. Ce qui est sûr, et qui ressort nettement de cette correspondance, c'est que Jacques admirait Péguy, qu'il l'a aidé humainement et matériellement, et que de son côté Péguy comptait beaucoup sur Jacques. Faut-il oser l'expression de paternité spirituelle ? Un jour, peut-être, Maritain pourrait lui succéder à la tête des *Cahiers de la Quinzaine*. Sensible que le jeune homme devait vraisemblablement éprouver bien des difficultés à accepter.

D'autant qu'il vit, avec sa femme Raïssa, un bouleversement intérieur. La philosophie bergsonienne, tant approuvée par Péguy, ne parvient plus à étancher leur soif. La suite est bien connue : la rencontre avec Léon Bloy, le bapteme à St Jean l'Evangeliste, Geneviève Favre en désaccord avec ces choix qui lui semblent trahir la mémoire de son père Jules Favre. Puis il y a Bloy, cet inquiétant fanaticque dont elle désapprouve l'influence sur
Jacques. De plus si Bloy admire Péguy, Péguy n’aime pas Bloy. On ne dira jamais assez combien cette convocation fut un arrangement de tout l'être profond pour Jacques, Raisa et Vera : “un changement de fin dernière”. Là est le cœur de tous les problèmes et désaccords futurs. L’homme des années qui suivent le baptême est un être blessé : tous ses repères ont changé. De plus, il faut tout revoir avec fougue et énergie. C’est ce qu’il nommait lui-même plus tard “le zèle du nouveau converti”.

II - Le zèle du nouveau converti

1. La correspondance entre Maritain et Dom Baillot, moine de Solesmes réfugié à Appuldurcombe dans l’île de Wight à la suite de la politique anticléricaliste du gouvernement Combes, est largement consacrée à Péguy, ami de jeunesse de Louis Baillot. C’est à la demande de Péguy que Maritain s’adresse à Dom Baillot ; il est chargé d’une mission spirituelle, d’une ambassade. Il écrit à Dom Baillot, puis se rend à l’île de Wight avec le message secret du retour de Péguy à la foi chrétienne. Maritain note dans son Carnet de Notes du 24 août 1907 : “Chargé de mission par Péguy, j’arrive à l’île de Wight, à l’abbaye d’Appuldurcombe. Baillot, Dom Délaité. Il dit que Péguy doit tout donner, ne pas attendre. Je suis chargé d’une contre-ambassade, lui dire qu’il doit faire baptiser ses enfants” (Correspondance, p. 35).

Les rapports vont de ce fait devenir plus durs et osciller entre hésitations, ruptures, retrouvailles, sur un fond d’assez grande incompréhension. Il est évident que Maritain souffre de voir son ami hésiter à “franchir le pas” et le ton utilisé n’est sûrement pas toujours celui qu’il fantaisait. Dom Baillot le fait observer à Jacques, plusieurs fois, comme à propos d’une lettre à Péguy qu’il corrigea : “Tout ce qui s’adresse, dans votre lettre, à sa personne est blessant : le ton est souvent dur, ironique” (Correspondance, p. 165).

Il ne faut cependant pas oublier que si Jacques ne peut accepter que Péguy ne pleure pas de cœur ouvert dans la foi, il le fait en s’engageant lui-même sincèrement dans cette médiation auprès de Dom Baillot. Il est facile de venir critiquer, comme cela a été souvent le cas, une fois que tout est terminé. Maritain y a mis beaucoup de cœur, d’enthousiasme, de sincérité. Également un zèle apostolique qui à la fois appartient à une époque différente de la nôtre, allié à un tempérament fougueux et à un esprit fraîchement convenu, qui avait tant profondément et cruellement l’absence de Dieu dans sa propre existence. Il lui était difficile d’admettre les atroces de Péguy. Dans une lettre publiée en avril et mai 1972, quelques mois avant sa mort, dans les Feuilles minaudières de l’Amitié Charles Péguy, il fit cette mise au point : “En ce qui concerne les lettres qui touchent aux débats religieux (nous avons été baptisées, Raisa, Vera et moi), le 11 juin 1906 et en août 1907 Péguy m’a envoyé annoncer son propre retour au père Baillot) : je me sens honteux maintenant, non pas des certitudes que je tâchais de lui ramener, mais du ton dogmatique et de la manière naïvement et insupportablement arrogante que j’employais pour cela, croyant de mon devoir de ne tenir aucun compte de la sensibilité de Péguy, et montrant d’autant plus de violence à son égard qu’il était plus cher à mon cœur. Jusqu’à quel degré de sottise on peut aller quand on est jeune, et que, de plus, on vient de subir ‘le coup dur de la conversion’, ces lettres en administrer bien la preuve...” (Correspondance, p. 231).

2. Mais il y a plus grave. Et sur le chapitre qui vient, il n’est certainement pas le seul responsable, ni celui qui porte la plus forte responsabilité. Mais gardons-nous de tout jugement à posteriori, sans tenir compte du contexte ! La femme de Péguy est opposée à toute opinion religieuse et ses enfants ne sont pas baptisés. L’attitude de Dom Baillot, de ses collaborateurs, du Père Clerissac est sensiblement la même. Les choses ne peuvent rester en l’état : Péguy doit se marier religieusement et faire baptiser ses enfants. Il ne peut y avoir d’autres alternatives : “Hors de l’Eglise, point de salut”. Il est même envisageable, en cas de refus de sa femme, que Charles Péguy se sépare d’elle. Comme ces réflexions dureront être dures au cœur de Péguy ! On est frappé maintenant de la lecture de ces lettres par le dogmatisme inébranlable des convictions et surtout par l’aspect univoque de leur application : “Un condition s’impose : faire cesser l’irrégularité de son union... son premier devoir est non pas d’aller à la messe, mais de régulariser son union : c’est un devoir impératif, il le doit, le plus tôt possible et quelles qu’en puissent être les conséquences : qu’il n’envisage même pas auparavant les conséquences

3 L’évolution de leurs relations est analysée avec précision par Michel Bressoulet dans son texte cité ci-dessus, pp. 6 à 10.
possibles, qu’il les confie à Dieu” (23 juillet 1908; lettre de Dom Baillot à Maritain).  

C’est avec terreur qu’on peut imaginer les dégâts commis par ce genre de réflexions sur certains esprits: l’appel à la rupture, l’abandon des considérations humaines les plus élémentaires. Cette façon de faire de la théologie n’est grandement plus celles de notre temps. On ne peut que s’en réjouir!

3. Cependant Jacques fait toujours preuve de noblesse et de grandeur d’âme. Désemparé il reste jusqu’à la fin de son mandat, que Péguy lui retiendra de manière assez hâtive (Correspondance, p. 181), et même après. Il continue à s’émerveiller dans les lettres à Baillot ou au père Clérisse des progrès décélés çà et là, à espérer un retour public à la foi chrétienne de Péguy, malgré les déceptions, et reste attentif à ces problèmes familiaux. Le 18 décembre 1912, Maritain envoie une dernière carte postale à Baillot concernant Péguy:

“J’ai reçu Péguy, qui vient de publier quelques beaux vers. Il m’a chargé de vous écrire qu’il a toujours pour vous la même affection profonde et que son silence ne doit être interprété que comme la retraite d’une âme très malheureuse, qui souhaiterait se terre dans son trou et se replier sur elle-même. Il a fait allusion à une douleuruse crise sentimentale qu’il aurait traversée à son honneur!”

Ce fut l’un des derniers contacts sur notre terre entre Dom Baillot qui mourut en 1913 et Charles Péguy en septembre 1914.

III - L’héritage

1. Péguy et Maritain sont deux auteurs aux personnalités très marquées et très différentes. Au-delà de leur relation parfois difficile, comme on l’a vu précédemment, il est possible d’ouvrir quelques pistes de réflexion sur le sujet des influences reçues par Jacques Maritain dans Conférence de Foi n’écrivait-il pas: “Avant d’être pris par Saint Thomas d’Aquin, les grâces humaines que j’ai subies sont celles de Charles Péguy, de Bergson, de Léon Bloy?” Le mot “influences” est imprécis; il s’agit plutôt de tendances fondamentales, de points d’accord centraux que l’on peut observer à la lecture de leurs œuvres. Péguy n’est pas philosophe, mais sa puissante réflexion spirituelle et politique, son génie poétique, n’ont pu que recevoir un écho important dans la pensée de Jacques Maritain; vraisemblablement à l’état d’intuitions natives.

2. Il suffit de compléter les index des 15 volumes actuellement publiés des Oeuvres Complètes de Jacques et Raissa Maritain pour s’apercevoir de la présence de Péguy. Son nom revient souvent, particulièrement à certaines époques. Il y a tout d’abord le Péguy des souvenirs, présent dans Les grandes années, qui impressionnait tant Raissa. Très souvent son nom est associé à celui de leur ami commun Psichari, mort lui aussi en 1914: “On dirait que pendant son séjour de 1908-1909 à Paris et à Versailles, le puissant intellectuel rencontré auprès de Péguy, qu’il aimait profondément, l’aide à prendre mieux conscience de lui-même et de cette vocation”.

3. Ce n’est pas dans le domaine de l’art et de la poésie que Péguy a le plus marqué Maritain. C’est dans le domaine de la réflexion sociale que ses intuitions sont le plus exploitées par Jacques. Au premier plan, se trouve le désir profond d’ouvrir à la transformation du monde dans un sens plus juste, “à la révolution sociale”. C’est tout le débat présenté par Péguy en terme de “mystique et politique” qui se retrouve certainement dans la réflexion fondamentale de Maritain sur les rapports “du spirituel et du temporel”. Si, à partir de sa démarche, il y a cette question de la distinction des deux plans: aucune confusion, ni séparation. L’autonomie d’un temps vivifié en profondeur par le spirituel, mais pas dominé “d’en haut”: “La politique se moque de la mystique, mais c’est encore la mystique qui nourrit la politique”. Une espérance temporelle qui se traduit par un sens aigu de l’incarnation, au fur et à mesure que le “Péguy socialiste” devient le “Péguy chrétien”.

Une espérance que l’on trouve particulièrement dans la célèbre phrase de Péguy: “La révolution sociale sera morale si elle sera pas” reprise plusieurs fois par Maritain. Dans deux ouvrages fondamentaux comme Du régime temporel et de la liberté et Humanisme intégral, il commente librement, profondément ces propos: “C’est se condamner à une œuvre avant tout destructive que vouloir changer la face de la terre sans d’abord changer son propre cœur, ce que nul homme ne peut par lui-même. Et peut-être, si l’amour tout-puissant transformait vraiment nos coeurs, le travail extérieur se trouverait-il à moitié fait déjà”.

Au coeur d’Humanisme intégral il reprend ses développements avant d’évoquer le “style nouveau de sainteté”:
"Ce mot célèbre de Charles Péguy peut être entendu à contresens. Il ne signifie pas: avant de transformer le régime social, il faut d'abord que tous les hommes aient été convertis à la vertu. Ainsi compris, il ne serait qu'un prétexte pharisaïque pour éclater tout effort de transformation sociale. Les révolutions sont l'œuvre d'un groupe d'hommes relativement peu nombreux qui leur concèdent toutes leurs forces: d'abord, parmi ces hommes-là que le mot de Péguy s'adresse. Il signifie: vous ne pouvez transformer le régime social du monde moderne qu'en provoquant en même temps, et d'abord en vous-mêmes, une rénovation de la vie spirituelle et de la vie morale, en créant jusqu'à nous les fondements spirituels et moraux de la vie humaine, en renouvelant les idées morales qui président à la vie du groupe social comme celles éveillant dans les profondeurs de celui-ci un état nouveau."

Espérance encore: avec la question de la pauvreté et de la misère. Vertu de pauvreté et scandale de la misère, sacrée tentée de dire. Là encore, spontanément, le nom de Péguy revient sous la plume de Jacques et de Raissa: "Tant que les sociétés modernes scelleront la misère comme un produit normal de leur fonctionnement, il ne peut..."(15) Cette magnifique phrase, très péguyisme, suscita la colère de Paul Claudel. Péguy et Bloch symbolisent pour les Maritain l'abomination de la condition misérable, l'intolérable souffrance provoquée par la misère. En opposition le thème de la pauvreté court d'un bout à l'autre de l'œuvre de Maritain: le détachement des biens matériels, la lutte contre la misère pour accéder à la dignité humaine, l'objectif d'une vertu de pauvreté partagée par tous pour combattre les excès, la pauvreté de l'esprit, les moyens pauvres: l'admirable hymne aux moyens pauvres qu'aimait tant Henry Barès et que Péguy aurait sûrement compris.

"Ce qui fait du monde moderne un terrible tentateur, c'est qu'il propose, il vulgarise tellement les moyens temporels riches, lourds, écrasants, qu'il les emploie avec une telle ostentation et une telle puissance qu'il fait croire que ce sont là les moyens principaux. Ils sont principaux pour la matière, ils ne sont pas principaux pour l'esprit."

On peut raisonnablement penser que le fils de l'humile rempailleuse de chaises, le gérant des Cahiers de la Quinzaine aux prises avec les difficultés matérielles quotidiennes aurait senti son coeur vibrer en lisant ces phrases!

14 Humanisme intégral, pp. 438 et 429 (propoz lepros de Du régime temporel et de la liberté).

4. Plus encore il y a un moment où naturellement le nom de Péguy s'impose à Maritain: ce sont les instants tragiques de l'histoire. Quand la France humiliée agonise aux mains des nazis et que les collaborateurs français utilisent la pensée de Péguy dans leur propre intérêt, Maritain retrouve le ton douloureux du poète: "Compagnons de Joinville et de Péguy, peuple de Jeanne d'Arc, douce France humiliée, France que Dieu relèvera..."

Les références à Péguy sont très nombreuses dans les messages qu'il adresse à la France de 1941 à 1944 et dans son recueil d'articles intitulé Pour la justice. L'image de Jeanne d'Arc s'impose très fortement à Maritain en ces temps d'asservissement, de mensonge et d'attente de la libération. Et il y associe spontanément Charles Péguy: "On sait que malgré les efforts faits là et pour falsifier sa pensée, la loi de Péguy, celle qu'au travers les siècles il a reçue de Jeanne d'Arc et qui est de ne pas céder, est inscrite dans les cœurs et est maintenue et est appliquée..." Il est le symbole, la figure emblématique d'une France qui souffre mais qui lutte:

"Mais le plus cher aux Français aujourd'hui est Charles Péguy, qui a eu en septembre 1914, entraînant son bataillon contre les Allemands aux premiers jours de la bataille de la Marne. En tant que journaliste, Pégu y avait une conception religieuse, éthique et heroïque de la révolution. 'La révolution sociale sera morale', disait-il, 'ou elle ne sera pas'. Par suite des circonstances de sa propre vie, même sa foi catholique intense ne réussit pas à le faire obéir aux règles communes de l'Eglise. Mais sa position paradoxale et affligée, son génie, son expérience spirituelle, sa communion de sentiments avec le peuple lui permirent d'exercer une influence très stimulante sur la jeunesse intellectuelle. Aujourd'hui tout le monde en France invoque son nom, même des personnes qui déformament son pensée d'une manière qui l'aurait indigné à l'extrême. Les jeunes catholiques ont appris de lui comme de Jeanne d'Arc qu'on ne doit jamais se rendre..." L'image de la France, de ce pays qui a perdu à son cœur hante Jacques Maritain de son exil américain: "la patrie qui enseignait au monde la liberté", cette république qui a été traitée et qui se relève uniquement si une mystique l'anime à nouveau, un nouvel idéal. "Il ne fait aucun doute que la France a deux vocations dans le monde et que si elle est quelquefois fatiguée au temporel, et mé-
me au spirituel, et diminuée, et quelquefois privée de forces, c'est qu'elle est doulement fidèle, c'est qu'elle est fidèle deux fois, c'est qu'elle a à pourvoir à deux tâches et à deux fidélités, à sa vocation de chrétien; à sa vocation de liberté. 22

5. Pour achever ces quelques notes sur Péguy et Maritain nous voudrions placer la réflexion de Péguy au cœur de deux mystères fondamentaux de notre foi: le mystère d'Israël et celui de l'Eglise 23.

Péguy, à travers l'Affaire Dreyfus, a aimé et compris en profondeur la destinée du peuple d'Israël: ce peuple qui "n'a pas sur le peau un point qui ne soit dououreux" 24. La contemplation du mystère d'Israël par Jacques Maritain doit quelque chose aux intuitions de Péguy: la certitude que ce peuple témoigne dans l'histoire de la présence de Dieu et qu'il appelle à la fois l'admiration et en contrepartie la haine, qu'il est le peuple-aiguillon irritant le monde pour mieux le faire avancer. D'autres sources viendront compléter et approfondir la pensée de Maritain sur le peuple juif: Raisa, Bloy, et bien d'autres 25. Mais la première rencontre avec ce peuple "de la souffrance" et "du témoignage", Jacques Maritain le doit à Charles Péguy.

Le 5 mars 1907, Péguy et Maritain déjeunent ensemble chez Geneviève Favre. Au cours de la conversation Péguy lui dit cette phrase: "Le corps du Christ est plus étendu qu'on ne pense". Comment ne pas y lire un symbole de la méditation future de Jacques sur l'Eglise 26 et tout le dialogue avec Charles Journet sur l'Eglise sainte "sans péché mais sans sans pécheur", l'Eglise invisible recevant en son sein tous ceux qui vivent, parfois sans le savoir, de la charité.

Approfondir ces mystères d'Israël, de l'Eglise, du monde exigerait un travail bien plus important, mais si Maritain a pu pousser ses recherches parfois très loin dans ces domaines, il le doit en partie aux intuitions de Charles Péguy.


COMPTES RENDUS


Qui était Louis Massignon ? "Un homme tout de noir habilé, mince comme un hidalgo, les cheveux blancs, l’œil bleu très clair, assez dur, me semblait-il, quand il n’était pas mouillé d’une mystérieuse tendresse, le verbe net même si souvent la voix était basse, un mélange curieux d’un ‘Monsieur’ de Port Royal et d’on ne sait que Don Juan mystique...", comme le dépeint son ami libanais, Sallah Stélie (I, p. 259), ou bien encore, selon le Père (et cardinal) Daniélou : "Je me souviens encore de l’impression extraordinaire qu’il me fit par la précision de sa pensée, par sa probité morale qui lui permettait de citer des faits et des documents qu’il était seul à connaître et de faire des rapprochements vagues par la splendeur de son langage ; mais plus encore, on sentait en lui à la fois la présence d’une vie spirituelle, d’un esprit d’adoration exceptionnel et en même temps une sympathie humaine très large, allant vers les plus abandonnés et s’exprimant de la façon la plus effective" (I, p. 165).

Tel était l’homme qui se définit par le mot arabe de badala, il dit de lui-même : "J’ai fait le voeu de les aimer (les musulmans), de vivre pour eux, d’être à leur place, auprès du trône de Dieu et que ma vie et toute éternité, je demande pour eux la lumière...". Massignon est tout entier dans ce voeu de "substitution" (badala), comme celle du Christ pour tous les hommes ; une orndie qui n’est pas un jugement Êcontre", qui sépare ou qui oppose, mais une invitation à aller ensemble vers Dieu, la marque du Christ ouvrant la route. "La badalita est fondée sur la trilogie : hospitalité, compassion, substitution..." (I, pp. 50-52).

L’hospitalité : Massignon en a fait l’expérience, une expérience décisive pour toute sa vie, alors qu’il se trouvait en Irak, malade et souffrant d’espionnage, en étant reçu comme un hôte chez des amis musulmans inconnus ; c’est au cœur de ce moment de détresse qu’il fit l’expérience divine. "Le prenant par la main, l’Etranger est venu le visiter et ce fut une bénédiction..." (I, p. 242). C’est le sens mystérieux de la badala. Il ira jusqu’à dire : "Il n’y a pas huit œuvres de miséricorde, il n’y en a qu’une : l’hospitalité" (I, p. 168).

Massignon est allé jusqu’au bout de cet "expatriement culturel" pour devenir par la "visitation de l’Etranger" un "expatrié" spirituel, converti au christianisme par le témoignage de Dieu qu’implique la foi musulmane.

Que signifie un voeu pour Louis Massignon ? Il en donne une idée extrêmement profonde lorsqu’il parle de sa vocation (II, p. 138) : "Je me suis imaginé pendant six années que pour prouver à Dieu que j’étais tout à Lui, il fallait que j’émette des voeux solennels comme religieux. Mais ensuite j’ai compris que le seul voeu qui lie à Dieu, c’est celui qu’on lui jure à chaque réveil, sans témoin, sans appuis vivants, dans le dénouement total et que les voeux solennels ne valent qu’alléments par celui-là, qui vous rend prêts à tout pour Lui. Ma prière est de chercher Dieu qui se cache. Dites-vous bien que l’essentiel de cette perfection est dans le renouvellement du cœur et de l’offrande.

chacun matin de la journée qui vient : heureuse ou triste, pour Lui seul..."

Peu importe alors qu’il ne suivie pas son ami Charles de Foucauld dans sa vie d’ermite au milieu des Touaregs, qu’il se marie (II, p. 77), qu’il soit finalement ordonné prêtre (II, pp. 82, 153, 167, 227).

Les contemporains de Massignon sont choqués de ces deux livres : ils sont une quatorzaine, allant de Paul Claudel à Gabriel Marcel, de Lanza del Vasto à Jacques Maritain, de Jean de Menasce à Jules Morchon - nous font revivre le renouveau catholique en Europe et ailleurs durant les 50 dernières années de notre XX siècle ; c’est le temps passionnant de l’avant-Comédie, si riche pour la vie de l’Église universelle - et du monde - avec ses éléments dramatiques, comme la guerre d’Algérie, moment-clé ou Massignon s’engage à fond. Qu’aurait-il dit en apprenant la mort violente de sept mois de Tibérine, dont nous commémorons le 22 mai 1999 le deuxième anniversaire, ne sont-ils pas une image-type de la badala ?

Insondable le mystère de l’histoire humaine et des religions monothéistes que Dieu "connaît" tout en respectant nos libertés et le rôle de ces libertés dans notre histoire ! Il faut lire à ce sujet le chapitre 3 intitulé "Le secret de l’histoire et l’invention de Bloy par L. Massignon", de Jean Sarocchi (II, pp. 46 à 53).

Mais il n’y a pas seulement le passé ; il y a l’aujourd’hui et le demain. L’Islam est de plus en plus présent dans notre monde occidental et souvent nous le conscions et jugeons à mal ; ce qui domine dans l’opinion c’est avant tout le mouvement intérieur violent, les assassins d’Algérie et d’Afghanistan et d’ailleurs. Massignon nous permet d’entrevoir un autre Islam, celui de la masse du petit peuple à la théologie franche et simple, mais d’une solidité de foi à toute épreuve, ceux que nous voyons circuler autour de nous à Rome, Paris, Londres et Bruxelles et qui ne rêvent pas de guerre sainte et de fanatisme religieux. Nous en avons eu un exemple il y a plus de deux ans lors du récent - et terrible - drame causé par les pédophiles. Nabela Benissa, une jeune fille de 18 ans, sœur d’une des enfants enlevées, âgée de 9 ans, a donné à toute la communauté musulmane un exemple éminemment de sagesse et d’équilibre, trouvant les mots justes pour exprimer à la fois sa douleur et la souffrance des siens, s’imposant comme porte-parole non seulement d’une famille mais encore de toute une communauté méconnue.

Massignon nous a ouvert également au monde des mystiques, et spécialement au grand mystique persan al-Husayn ibn Mansur al-Hallaj, qu’il a fait connaître en Occident et dans le monde entier, cet homme qui porta du "point vierge" qui se trouve en tout homme comme un lieu secret de Dieu et qui reste entier et intact, que nous soyons riches ou pauvres, illettrés ou instruits, que nous le méritions ou non, sans considération de nos créations ou de nos souffrances ; ce "point vierge" qui est un appel à reconnaître le Transcendant parmi nous et à dominer nos illusions de pouvoir et d’autorité (II, p. 280).

Ces livres nous ouvrent à tout ce monde qui a la même origine que le nôtre - le monde chrétien - qui nous porte à une spiritualité "universelle" (II, p. 35) en Abraham, notre père dans la foi et ses deux fils, Ismaël et Isaac, tous deux aimés dans la même mesure, le fils de la servante et de la femme légère (Gen 16,1-2).

Partant de ces prémisses, on comprend mieux ce que Claudel disait à Massignon : "Quand je pense au gouffre intellectuel qui existe actuellement entre nous et l’Islam, je pense que ce n’est pas sans raison que vous avez été suscité" (I, p. 79); et ce qui disait Lanza del Vasto : "Massignon me faisait entrer la haine, la largeur, la profondeur de l’Islam" (I, p. 229).
Allons comprendre mieux la phrase de Pie XI à Massignon lors d’une audien-
cée de 1934 : “Il a bêni ma vocation, disant que je suis devenu ‘musulman’ à force de
les aimer” (p. 42).

Mais l’intérêt de Louis Massignon a été bien au-delà de l’Islam. Sa vaste culu-
ture l’a mis en contact avec toutes les forces spirituelles qui se manifestent dans
le monde et l’a rendu “curieux” des ressource-
ces inenchaînées de l’esprit humain dans
la recherche du beau, du vrai et du bien.

Parmi ses sujets d’intérêt, je cite en partic-
ulier la doctrine du Satyaagraha de
Gandhi. Massignon a rencontré Gandhi
en 1961 à Paris pour la première fois.
Devenu Président de l’Association des
amis de Gandhi en 1954, il avait aupara-
vant publié dans la Revue du monde musul-
man une longue note rédigée par le
Mahatma lui-même où il exposait la doc-
trine du Satyagraha : “La signification étu-
dologique de ce mot est ‘l’affronte in-
defective de la vérité’, d’où la force de la
Vérité. Je l’ai aussi appelé la force de l’A-
mour ou la force de l’Ame. En appliquant
le Satyagraha je découvris, dès les premiers
temps, que la poursuite de la vérité n’admettait point que violence soit
infligée à l’adversaire, mais qu’il devait être sévéré de son erreur par la patience et
la sympathie...” (p. 334). Ce qui mettait
Gandhi et Massignon en synthèse, c’était
avant tout l’exigence intérieure de vérité.
L’œuvre de Yousif Moubarek, dans le chap-
itre intitulé “Louis Massignon et Gandhi”,
s’attache à ce qu’il ait évoqué
Massignon vers Gandhi n’est pas plus
que l’intérêt de Gandhi pour l’Islam, la
pénétration gandhiennne au cœur des cer-
titudes chrétiennes, de la même manière
que Massignon pénétrait au cœur des cer-
titudes musulmanes” (p. 333).

Voilà un compte-rendu qui voudrait
aider le lecteur à découvrir toute la
richesse de ces deux volumes, dont il faut
remarquer Jacques Keryell de les avoir réa-
lisés grâce à la collaboration de spécia-
listes les plus variés, mais tous particulie-
rement préparés et de l’avoir fait avec
autant d’amour pour ce personnage
exceptionnel qu’était... et reste... Louis
Massignon.

Jean-François Noithombé

GABRIEL RINGLET, L’Évangile d’un libre
penseur. Dieu serait-il latéral? Ed. Albin

C’est un livre tonifiant que nous donne
Gabriel Ringlet, vice-recteur de l’Université de Louvain-la-Neuve; il prouve
que certains chrétiens de vieilles
souches peuvent encore donner le meil-
deur d’eux-mêmes au renouveau qui nous
viendra des “jeunes Eglises”, dont la lon-
gue expérience de la pauvreté cache une
vie qui surgit peu à peu et donnera des
fruits en abondance (cf. 1 Co 1,16-2,9).
D’ailleurs tout au long de la lecture de cette
ouvrage, je n’ai cessé de penser aux diffé-
rentes Théologies de la Libération qui
laborent le sol de nos Eglises, que ce
soient en Amérique Latine, en Asie ou
en Afrique; et cela malgré que de nombreux
occidentaux proclament à haute voix leur
lent et inexorable déclin, qui ne peut
conduire qu’à la mort.

Gabriel Ringlet, dans la présentation
qu’il donne de son livre, n’hésite pas à dire :
“Comme de proches parents trop
longtemps séparés, Évangile et libre
pense...” Mais je me permets de réajuster
alors que de l’Évangile, il est sûr que se
poseront pour se saisir de lui en rejetant à
qui veut l’entendre, en même temps qu’il
est hors de son sens” (p. 111).

Jésus surprend par sa liberté et son
originalité, ses enseignements et son com-
portement sont audacieux; lorsque la vie
d’un homme est en cause, le Soudan ou
le Temple ne tiennent. Sa révélation pour les
humbles est celle de son mère, Marie de
Nazareth, qui chante dans son Magnifi-
cat: “Il a renversé les riches, les maes
vides et il a relevé les humbles”.

L’Église – les Églises – devraient
retrouver la même liberté. Qu’attend-elle
pour aller à la rencontre de ceux qui de
plus en plus la quittent, non pour les
récupérer à tout prix mais pour leur don-
nier la parole? “L’Église se grandirait si
elle invitant ceux qui quittent son sein à
lui expliquer le pourquoi de leur fuite.
Bien souvent et sur beaucoup de matière,
elle devrait plus indiquer qu’imposer. Si
elle osait débarquer. Si elle osait penser. Si
elle osait inventer. Si elle osait se trom-
pper”. Dans notre société pluraliste, elle doit
apprendre à ne pas tout dire et sur
ensuite les sujets. Le christianisme doit pas-
ser la Mer Rouge sans se retourner sur ce
qui est périmé : “Il doit prendre le large
non pour convertir mais pour se conver-
tir” (p. 147). Il doit accepter être minori-
taire sans devenir une secte (p. 253).

Pour Gabriel Ringlet, Erasme reste un
point fixe; le “prince des humanistes”
cherche la vérité, non pas une vérité scé-
lée dans un dogme, car la vérité reste
toujours en chemin, elle est fugace, frag-
mentaire, par tout un côté, provisoire.
“Quand je lis aujourd’hui Erasme, j’ai
l’impression de rencontrer un contempo-
rain...” (p. 71). A côté de lui, il y a Thomas
More, l’autre humaniste dont Maurice
Schumm disait: “Plus il est fort, plus il
fouille; plus il croit, plus il cherche” (p.
73). Grâce à Dieu, l’Église latine repart à
la rencontre de Martin Luther, en qui le
 Cardinal Congar - ensemble avec Georges
Bermanos - voyait un des plus grands
génies religieux de l’humanité. Une voix
comme celle de Paul de Tarse.

L’Évangile est à chaque époque tale-
tement original. Son aventure, vieille de
2000 ans, reste jeune et viene de commen-
cer; elle ne concerne pas les seuls chré-
tiens (p. 98). Allusion, apparemment sans
le savoir, au livre du père Alexandre
Men, Le christianisme ne fait que commen-

Alessandro Loggielo

Dans le dernier chapitre du livre recensé ici, et intitulé "Culture chrétienne et transendance des fondements de la cité" (pp. 215 à 230), Yves Floucat l’un des meilleurs connaissances actuels de Jacques Maritain, donne un résumé très densé de sa pensée politique. Il y dit que "Tangle de vue qui commande un ouvrage comme Humanisme intégral est certes premièrement théologique, puisque c’est la question des fondements d’une civilisation chrétienne qui domine l’ensemble du propos. Mais c’est également au meilleur de l’anthropologie philosophique chrétienne qu’il est fait appel avec la conception métaphysique de la personne et de son rapport à la société et à la culture" (p. 215).

C’est le point de départ de ce que Maritain a appelé la "charte démocratique", ayant le souci de mettre en lumière les principes pratiques autour desquels pourraient se rassembler, par-delà la diversité proposée des fondements spéculatifs, les citoyens de croyances ou de philosophies différentes; et Floucat ajoute: "Qui ne voit la pertinence de son propos au moment où la démocratie – c’est trop manifeste – traverse une redoutable crise? S’agit-il d’une crise de croissance ou bien la civilisation occidentale, qui a été le berceau de la démocratie moderne, est-elle entrée dans une phase de décomposition sans issue prévisible?" (p. 216).

Malgré l’évolution de sa pensée, depuis sa collaboration avec Maurras et l’Action française au stade final du Pape de la Censure, les grands principes qui ont été l’épine dorsale du philosophe de Meudon donnent la preuve d’une constance assez remarquable. Son intranquility contre "le principe de souveraineté" qui serait "un pouvoir illimité, absolu, séparé, transcendant le corps politique et responsable devant Dieu seul" (p. 76), transférant purement et simplement d’un propriétaire (le peuple) à un autre (le prince) le droit de commander, comporte que l’idée d’une responsabilité du prince devant le peuple n’a plus de sens. Mais c’est surtout la haute idée que se fait Maritain de la démocratie qui commande sa pensée. La démocratie est "le nom profane de l’idéal de chrétien" (p. 75); elle appartient à ces "germinal naturellement produites au sein de la conscience profane et temporelle elle-même sous l’action du ferment chrétien" (p. 71).

Tout cela est redit – très bien redit – et devait être redit; il faut en remercier Yves Floucat. Maritain reste une pierre angulaire de toute idée de démocratie, dont le berceau s’est forgé au cœur de la pensée occidentale chrétienne. C’est justement sur ce point que je voudrais essayer d’ouvrir une brèche vers un horizon qui instiguerait la pensée thomiste renouvelée par Maritain à porter son regard sur l’évolution actuelle de l’Église, ou mieux, des Églises. Je voudrais m’expliquer sur ce point de vue tristement personnel, qui j’ai exprimé dans un article de Notes et documents, no 48, intitulé "La papauté un changement de perspective?" (pp. 67-73) et dans le no 54/55 dans la recension au dernier livre de Giancarlo Zizola La Riforma del Popolo. Il nuovo cattolicesimo alle svolte del Duemila (pp. 80-83). Ma réaction est provoquée par une phrase du P. (et cardinal) de Lubac dans un de ses premiers livres, Catholicisme, citée par Floucat page 233: "L’Église est partout chez elle, et chacun doit pouvoir se sentir chez soi dans l’Église" (op. cit., p. 229).

L’Église catholique a été un des environnements majeurs de ce berceau de la démocratie et son modèle n’a pas été sans influencer sa formation. De nos jours, peut-on encore parler du monolithe de celle qui se prétendent l’unique Église de Jésus-Christ auquel toutes les autres Églises devaient obligatoirement revenir?: alors qu’il est évident que nous sommes dans une nouvelle époque de l’occuménisme, celle de la "pro-existence", dans laquelle chaque Église, ne voyant en son centre que Jésus-Christ, veut offrir aux autres son propre charisme, selon le modèle de la lettre aux Corinthiens 12,12-26. Cette ouverture toute nouvelle est née de l’esprit de Vatican II et de ses méditations de Jean-Paul II, spécialement Ut unum sint.

Devant le désarroi des démocraties modernes que dénonce Yves Floucat à la suite de Jacques Maritain, cette démocratie ne devrait-elle pas chercher d’autres sources d’inspiration – non pas hors de la Bible et de l’esprit évangélique – mais au cœur même des nouvelles et jeunes chrétiens; et même hors de celles-ci dans de grandes religions mondiales, comme le bouddhisme par exemple?

S’agit-il d’un défi réel ou d’une question inutile? J.F.N.


Les livres traitant de l’intégration européenne sont de plus en plus nombreux: c’est en fait un bon signe, parce que cela signifie que l’Europe devient de plus en plus un sujet de réflexion, d’étude ou de simple information. Et si ce volume, en plus d’être le résultat d’une connaissance approfondie de ce sujet, est aussi un hommage à un homme, Jacques Vandamme, "dont la vie et le travail - comme l’écrit Jacques Delors dans la "Préface" du livre - résume toute la richesse et la diversité qui font de nous, européens, ce que nous sommes" (p. 13), alors sa signification, sa valeur, son importance éducative assument un relief particulier.

Le livre analysé est une œuvre collective, à laquelle ont participé des personnalités comme par leur compétence spécifique et qui affermissent les perspectives nouvelles du processus d’intégration européenne bien au-delà de la Conférence intergouvernementale d’Amsterdam pour explorer des thèmes et des problèmes qui sont à l’ordre du jour de la construction européenne, considérée comme sujet politique et non pas seulement comme réalité économique.

Le sommaire de l’ouvrage en donne témoignage: à partir des aspects constitutionnels jusqu’à la nécessité de progresser démocratiques urgents et réels, de la coopération intergouvernementale à la création d’une politique étrangère européenne authentique et efficace, du rôle de la Cour de Justice de la Communauté - essentielle pour dépasser les tendances intergouvernementales et ouvrir à un système communautaire - à l’inspiration personnaliste, les pages de ce livre permettent de réfléchir sur des perspectives qui cheminent entre la mémoire, l’espérance et l’engagement militant.


Gianfranco Martini

Voici le quatrième volume de la monumentale œuvre de l'historien Henry Amouroux - qui en comptera cinq - , La grande histoire des Français sous l'occupation. Il ne viendra à personne de résumé toutes les détails du livre : disons avant tout que le différend de Gaulle-Pétain est la toile de fond qui l'accompagne. Car le cas français est unique, avec cette double légitimité, qui n'a existé nulle part ailleurs, remplissant celui-ci d'une grande part d'ambiguïté. "Double légitimité": d'une part Pétain dans la collaboration franco-allemande pour sauver le sauveur, dans l'incertitude au début de savoir qui sortait vainqueur de l'aventure. Pétain déclara dans son dernier message au peuple français: "Pendant plus de quatre ans décidé à rester au milieu de vous, j'ai, chaque jour, cherché ce qui était le plus propre à servir les intérêts de la France. Loyalement mais sans compromis, j'ai eu un but: vous protéger du pire..." (p. 755). Mais Hitler voulait plus: que Pétain ait une position nette: "Il faut être avec nous ou contre nous" (p. 340).

D'autre part, de Gaulle rappellera toujours - même à Roosevelt et à Churchill - quel a été le principe premier de son action: "C'est moi qui détiens la légitimité. C'est en son nom que je puis appeler la nation à la guerre et à l'unité, imposer l'ordre, la loi, la justice, exiger au dehors le respect des droits de la France. Dans ce domaine je ne saurais le moins du monde renoncer, ni même transiger. Sans que je méconnaissais l'intention suprême qui inspirait le message du Maréchal, sans que je mette en doute ce qu'il y a d'important pour l'avenir moral de la nation, dans le fait qu'en fin de compte c'est vers De Gaulle qu'est tombé Pétain, je ne puis lui faire que la réponse de mon silence" (p. 762). De Gaulle a eu raison, le 18 juin 1940, dans le trouble, le doute et la tremblante résignation, d'annoncer, ce qui était prophétique alors, que cette guerre serait une guerre "monodrome" (p. 832).

Pétain, Laval, Darlan, Philippe Henriot, Déat, de Gaulle contre Giraud, le procès Puech à Alger, où le ex-ministre de Pétain tombait fusillé par les Français, etc., tant de choses qui remplissaient les chroniques de l'époque, mais Amouroux rappelle le silence gardé par les Américains, les Anglais et les Russes sur les six millions de Juifs anéantis dans les fours crématoires des sinistres camps de la mort, alors qu'il était impossible qu'ils n'en aient pas eu connaissance... (p. 266 et le livre de Arthur Morse qui y est cité).


Ce livre est le fruit de cinquante ans de vie d'un homme heureux d'avoir reçu une vocation qui lui a valu un gant à notre époque, où l'on insiste sur les malheurs qui nous accablent, ces textes évangéliques gardent toute leur fraîcheur... et ce n'est pas tellement à l'ordre du jour.

Ce livre "de spiritualité" est la conséquence d'une vie dont la régularité est impressionnante, centrée sur une vie de prière répétée tous les jours que Dieu a faits, sur la lecture de la Bible, méditée constamment, sur le partage de la vie conrète d'hommes. Ainsi particulièrement, ces africains (rwandais, tchadiens) dont les qualités naturelles sont contagieuses pour un occidental qui les aime comme un autre "lui-même". Aussi, au-delà de toute une vie qui semble banale, se découvre une originalité dans l'approfondissement de textes où Jésus-Christ enseigne à ceux qui sont désireux de l'écouter; de la provoquent toutes ces "perles" qui donnent un regard tout neuf à des choses que semblent vieilles.

Par exemple le chapitre XXI, intitulé "Le bonheur de la compassion", commentaire de la phase évangélique qui demande de pardonner "jusqu'à soixante-cing fois". Notthomb dit à ce sujet: "L'expérience de plus de 50 ans de ministère du sacrement de pénitence m'a révélé que le pardon des offenses est extrêmement difficile pour un nombre relativement grand de personnes. Cela m'a parfois étonné et j'ai essayé de comprendre. Je pense qu'il y a d'abord un malentendu sur l'idée de pardon. J'ai découvert un jour qu'il n'y a de pardon donné que s'il y a un pardon désiré et demandé. Dieu ne pardonne qu'au pêcheur qui se repent, c'est-à-dire qui reconnaît qu'il a fait le mal, qui le regrette et qui demande à Dieu de lui pardonner..." (p. 158). Oui, il faut toujours aimer le pêcheur comme Dieu le fait et demander sa "conversion", mais le regret de la faute est indispensable pour que le pardon soit octroyé.


Le problème du rapport entre identité nationale et stratégie éducative est au centre de l'activité de la Faculté des Sciences de la Formation de la LUMSA (Libera Università SS. Maria Assunta) de Rome: celle-ci en effet aide depuis longtemps les enseignants des écoles secondaires à en découvrir tous les secrets pour les transmettre à leurs élèves respectifs. On doit trouver là les enseignements que comporte le contexte social-culturel et les dynamiques de transformation qui ont un si grand rôle sur l'aujourd'hui de l'action éducative.

Voilà pourquoi il faut non seulement signaler ce livre, mais surtout en recommander la lecture.

Ce rapport sur la situation des droits de l'homme dans la République fédérale de Yougoslavie représente l'information la plus importante pour tout ce qui touche aux droits de l'homme dans ce pays. L'intention du Belgrade Centre est d'examiner tous les aspects sous lesquels ces droits ont été manifestés, bafoués ou favorisés, restreints ou violés en 1998, et de décrire les circonstances qui les ont entourés.


Ce volume reproduit quasi intégralement les divers exposés du Ve Colloque international personnalisiste, organisé par le Centre Recherches Personnaliste et par la revue Prospettive Persona, en septembre 1998 à Bari et à Andria. Un bref passage de l'introduction de Giulia Paola Di Nicola et Attilio Dantese résume bien l'ampleur de cet important Séminaire: "Dans la vision biblique, le fait que l'homme et la femme renvoient à un troisième (à l'image de Dieu ils le créa) met en corrélation les essais de définition de l'identité propre de chacun des deux partenaires en jeu. (...) L'homme et la femme dans leur réciprocité se sauvent eux-mêmes de la liberté de ne pas se définir, d'accepter la difficulté de se connaître et de se reconnaître mutuellement, et par là même sauvent le mystère d'une relation que doit conserver, comme la Trinité à laquelle elle renvoie, quelque chose d'inexprimable. Il

AN INTERNATIONAL MASTER'S DEGREE IN CULTURAL POLICIES

Roberto Papini

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In the industrialised countries, society is steadily shifting towards what we now call "the information society". This concentrates the major part of its resources on inventing increasingly flexible technologies and on the production and consumption of non-tangible goods, which means that we have to radically rethink our ideas about nature and communication. In this context, the different forms of knowledge and the quality of education take on a central role if we are to understand the reality in which we live and then orientate it towards human change.

The cultural policies of public bodies and private ones (profit and non-profit) can play a strategic role not only in guiding this change but also in opening up new economic and job opportunities. It is becoming more and more clear that the alternative to growth based prevalently on economic and financial values - with the conditioning to which society is subjected by the current model of globalisation - may well be development that takes the needs of peoples and their cultures into account.

These are the lines along which the major international cultural organisations - the Council of Europe and UNESCO, for example, but also the United Nations Development Programme, the European Union and, to some extent, the Inter-American Development Bank and the World Bank - have been moving for some time, in order to ensure that cultural policies and the training of human resources will play a more inclusive role in directing national policies towards sustainable development.

1. Cultural policies for human development

The urgent need to orientate culture towards not just economic development but the development of the whole of civil society was re-affirmed by the UN General Assembly in 1986, with the proclamation of the World Cultural Development Decade (1987-1997) and, again, by the World Commission for Culture and Development, operating within UNESCO, in 1996, subsequently confirmed by the Plan of Action adopted by the Intergovernmental Conference on Cultural Policies for Development in Stockholm, 1998, organised by UNESCO. The two years 2000 and 2001 will mark the first phase of UNESCO's strategy to induce governments to draw up and apply wider-ranging cultural policies centred on development, in the spirit of the Stockholm Plan of Action.

Culture is thus becoming a more and more central feature of contemporary society, not just as a factor of communication strategy and an expression of humanity's capacity to create and conserve its cultural heritage, but also as an interpretative grid and factor for mediation between diverse aspects of contemporary life and as a development engine, a notion that is coming back into fashion after being eclipsed for quite a long time. The ways in which the two dimensions - culture and development - interact certainly need to be analysed in greater depth, in order to make development more human and to provide the appropriate instruments for making it so. Moreover, looking afresh at the concept of development itself forces us to reflect creatively on its philosophy, theories and strategies, as well as on its paradigms of rationality. In the era of global scenarios, development must be re-thought in its essential terms (which can no longer be defined merely by indicators of economic growth), starting from a less reductive view of man than that which emerges from utilitarian models, through and not against the diverse cultural identities that exist on our planet. Stress must be placed on the profound relationship between culture and development, entrusting to the former the task of defining the ends of the latter.

In any case, experience teaches us that the growth of civil society and democratic institutions is essential for the growth of a regulated market and, in general, for the development of an integral society.

What this situation calls for is innovative thinking, new institutions, new ideas and avant-garde policies. The public sector and the private sector - including the growing non-profit sector - can cooperate fruitfully. It is enough to think of the promotion of cultural policies in their inter-relation with other policies (educational, economic, social etc.), of the preparation of democratic cultural policies aimed at sustainable development, of policies to improve the communication technologies and cultural industries that mould society, of policies that encourage respect for cultural identities and, hence, cultural rights, understood, in their highest form, as human rights, of policies that promote social participation and cultural democracy.

The question is more and more frequently being posed at the level of the European Union, and should not be tackled simplistically by attacking the Americans or Japanese (as the French in particular tend to stress) but with a view to a better quality of life. Making our firms more competitive and our labour market more flexible are not the only answers - development must also be given a human meaning, it must be based on shared values, and to do this a central role in the integration process must be played by cultural policies. It means "inserting the Europe of culture into a concrete European construction that will make the EEC the hard kernel of a European identity that is continuously open to integration of the other European countries, in the hope that one day the other Europe, step by step, may become a member". We must rediscover, through concrete political action, that our primary link with eastern Europe is cultural.

2. Training people for cultural policies

Recognising the need for highly-qualified professional people who can conceive, draw up and implement public cultural policies and private cultural strategies, bearing in mind the ethical dimension of these actions and with a sense of service towards the communities in which they work, a group of universities from different countries decided to introduce a post-graduate course (open also to persons already working in public and private organisations who want further training) leading to a master's degree in "Communication and Management for Public and Private Cultural Policies". The
aim of the course is to train people to operate in the cultural field at local, national and international levels, both public and private. The most innovatory feature of the course is the fact that cultural policies will be tackled not just in relation to the traditional cultural sectors - cultural heritage, artistic creation, information, communication etc. - but also in relation to the much broader field of work and industry, with a view to making life morelivable for everyone.

The effect of broadening the spectrum of cultural policies which ranges from the cultural policy for a city to that for a local area, a country or a supranational region - should be to create an understanding and a virtuous circle between the different policies involved (social, educational, economic, ecological etc.) with an eminently political objective: the common good. The modern version of the "king's counsellor" will more and more frequently be the expert in cultural policies. This can already be seen in the growing importance of the tertiary sector, but the ethical, ecological and cultural dimensions are becoming more and more important in the industrial sector - business ethics, for example, is now taught in universities.

The course, which will last from 10 January to 21 July 2000, will consist of two terms. In the first term, students will be taught the skills required in order to understand cultural dynamics in general and cultural projects in particular, as well as the operational skills involved in management and communication. It will be divided into five theme areas: culture and cultural policies; management of cultural policies and strategies; marketing and management for cultural institutions and projects; cultural communication; culture and development. The first term will take place at the eighteenth-century Villa Albrizzi-Franchetti near Treviso,

about 20 kilometres from Venice. The teaching staff has been chosen from internationally-known university lecturers and leading figures in cultural policies from various countries. Subsequently the students - who will also be from various countries - will be able to choose which of the partner universities to attend while they work on a module that will explore one of the themes in depth.

The second term will consist of an in-house training period at an institution, company or non-profit organisation operating directly or indirectly in the cultural sector, or perhaps with an international or multinational organisation, an insurance company, a bank or a manufacturing company that gives cultural choices an important role in its development strategies.

In short, the aim of the course is to train cadres of local institutions, both public and private, to ideate and implement territorial cultural policies - experts who can improve the preparation and management of national and international cultural policies, who can make the most of human resources and can operate skillfully in the various fields of the cultural sector, inventing and managing new relationships between culture, communication, and market.

The following are three concrete examples of areas in which an adequate cultural policy is needed. First, Parliament has just approved a bill regulating the act of cultural policies. These foundations have substantial assets and can therefore deploy large amounts of resources. In deciding where to deploy them, they are, in fact, acting cultural policies. When they become fully operational, they will certainly need skilled personnel at different levels, not just committees of experts.

Second, there are the institutions in which the country's cultural policy is drawn up and put into effect. Which think-tank do they rely on? How are the people working in Italian cultural institutions abroad trained?

Third, there is an open debate today in the western world on reconciliation and the reconstruction of the Balkans in general and Kosovo in particular. The recent wars there have had a high cultural element, and a purely economic approach coupled with top-level political solutions is patently inadequate. What sort of cultural policy is needed for reconciliation, reconstruction and participation in the Europe of the Communities? The civil societies of those countries must be re-founded on the basis of tolerance, if not integration.

3. Conclusions

We live in an era of globalisation, with all that this means not only in terms of communication, opening of markets, financial flows and circulation of people but also in terms of disease and crime, the globalisation of wealth but also of poverty. Less attention has been given to the globalisation of cultures, or their progressive interaction. This may one day lead from a history of tribes to a history of humanity, but it also carries the risk of levelling cultures, making them all the same, eroding traditions and languages, and also the risk of what Huntington calls "the clash of cultures", as well as the creation of new, hybrid cultures. Perhaps we are moving towards a future that will be open to all cultures - a situation with consequences that are difficult to foresee.

The dangers of cultural levelling are the most frequently mentioned of these, partly because the predominant model of globalisation is the American one (to use Michel Albert's celebrated distinction between the different types of capitalism), and this naturally brings with it a certain type of culture that is not always in line with the cultures of Europeans and other peoples of the world. Inside the process of globalisation there is also a confrontation (or clash) of cultural models. If we are not content to live in the past, but wish instead to be protagonists in the great changes taking place today, we must see the magnitude of the challenge clearly and equip ourselves to respond adequately on the level of culture (and science), cultural policies and training, overcoming the sectorialisation of hyper-specialised disciplines that have ceased to communicate with each other and with the world at large, obeying rules that by now have become purely self-referential.

1 The 1982 UNESCO World Conference in Mexico City on cultural policies recognised that, in addition to power-linked political factors, one of the reasons for the failure of the "Development Decade" was that cultural factors had not been sufficiently considered. "The acceleration of technological progress, the standardisation of consumption models and demographic pressure all pose problems that are unprecedented in the history of humankind. It is true that the cultural aspects of these matters have not been sufficiently taken into account [. . .] perhaps they were not as important as they are today, for now they are decisive." Interview with P-M. Lasser, President of the French Committee for the Cultural Development Decade. in Culture, published by UNESCO, December 1990, p. 6). Cf. also M. Claverton, The cultural dimension of development. UNESCO document. Paris 1994.


3 Actions in this sense are multiplying. In March 1999 the Inter-American Development Bank (which has its headquarters in Washington) and UNESCO held a forum in Paris for the Economic and Cultural Ministers of Latin America to discuss culture and development.

4 Cf. the report of the Council of Europe, La culture au cœur, contribution du Albert au contrat et le développement en Europe. Strasbourg 1998.
5 The difficulties of reconstructing the former Communist countries of Europe and the emergence of situations that are very different from those that had been imagined have highlighted the fact that, after more than half a century of totalitarian regimes, their problems are above all ethical and cultural. Seeing the development of these countries just in terms of privatization and indicators of economic growth has already led to deep disappointments. The collapse of these regimes involves not only a transition to a free economy but also the organization of new democratic political spaces and a new concept of the state and public administration: it means the growth of civil society, the only basis for a regulated market.


7 These are LUMSA - Libera Universita Maria SS. Assunta, Rome, in conjunction with the International Jacques Maritain Institute, Rome and the Fondazione Cassamarca, Trevirio. The partner universities are: Raman UIU University, Barcelona; Budapest University of Economic Sciences; the Andrés Bello Catholic University of Caracas; the Catholic University of Louvain-la-Neuve (Belgium); the San Pablo-CEU University of Madrid; and Padua University. The Master's Degree Course is under the patronage of UNESCO, with the support and recognition of the European Union. Special mention should be made of the support given by the Cassamarca foundation (Cassamarca) for such a culturally important project.

8 The course fee is €6,000.000 Italian lire (4,132 euro), including VAT. Some scholarships and financial assistance will be available. Application forms will be available from 1 September 1999 on the internet website www.lumsa.it or from the Course Secretary's Office (Via della Trespontina 21 - 00193 Roma - tel/fax 06.68422,279 - e-mail: master@lumsa.it). The completed forms should be returned to the Course Secretary by 30 October 1999.

"Maritain, Gilson, and the Many Ways of Knowing"

Just as Jacques Maritain presented a panoramic view of the gallery of thought in The Degrees of Knowledge, so too did the American Maritain Association's 1999 international meeting entitled "Maritain, Gilson, and the Many Ways of Knowing". The meeting, held in Berkeley, California, challenged the participants with papers ranging from the communication of dolphins to the mystical knowledge of God. The proceedings, held from October 21-24, may be divided into five main groupings: Reason and Morality, Faith and Reason, Knowledge of God, Knowing and Knowledge, Art and Education.

Several thought-provoking presentations probed the issues surrounding "Reason and Morality". Within this framework, Ralph Nelson (University of Windsor), in his paper "The Nature and Role of Moral Philosophy", addressed Yves R. Simon's reflection on the importance of defining the nature and role of moral philosophy. Agreeing with Simon, Nelson called moral philosophy a "system of exploration". Addressing the issue from a different perspective, Christopher Toner's (University of Notre Dame) paper, "Communicating the Incommunicable: Moral Education and the Degrees of Practical Knowledge", explored moral education. Following MacIntyre, Toner proposed "good play" as a training ground for virtuous action. Other papers found in this framework include: Mario Ramos-Reyes (Consul General of Paraguay), "Maritain, Philosopher of the Practical or Practical Philosopher? The Debate with Father Meinventle About Just or Holy War"; John F. Morris (Rockhurst University), "Known and Unknown Moral Responsibility: When We Know That We Don't Know", and Rockhurst student Emily Towner's, "Ethics and Complex Knowledge: The Case of Cloning".

Inscribed by the recent encyclical Fides et Ratio, the conference continued the dialogue between "Faith and Reason". Fr. Joseph M. De Torre (University of Asia and the Pacific) presented his "Reflections on Fides et Ratio", reiterating the value of the human person, his intellectual poverty, and his movement towards truth. Organized within this context, a panel by the Dominican School of Philosophy and Theology and the Graduate Theological Union, presented further reflections on the encyclical. Moderated by Jeanne Helftman (Pepperdine University), the theme developed into three different discussions. Eugene Ludwig, O.F.M., began by showing the various influences of Maritain on John Paul II. Michael Dodds, O.P., distinguished science and theology as two separate ways of knowing - each moving forward without the help of the other. Yet, echoing John Paul, he joined faith and reason calling them, as does the encyclical, "two wings on which the human spirit rises on the way to truth". Lastly, Hilary Martin, O.P., concluded the panel by defining faith as "a cultural artifact", and thereby linking Fides et Ratio and culture. Following the addresses, there was an additional half-hour of questions, furthering the dialogue between faith and reason.

Paralleling faith and reason was the matter of the "Knowledge of God". Douglas Geivet (Biola University), in his
challenging presentation entitled “A Problem of Evil for Naturalists”, described evil as a way to prove God’s existence. He reasoned: evil, defined as a “departure from the ways things ought to be”, implies an order, and thus an orderer. From this, he argued that evil is at least as strong an argument for God, as against God. William Sweet (the current President of the Canadian Maritain Association) dealt with the difference and similarities of Newman and Maritain in his paper “Newman and Maritain and the Ways of Knowing God”. And Robert Delfino (St. John’s University), in his paper “Mystical Theology in Aquinas and Maritain”, proposed that mystical theology should be a third science, distinct from revealed theology. This generated much discussion, debate and disagreement, in particular on whether or not mystical knowledge could be considered a “science”.

Although papers on knowledge and intellectual knowing were sprinkled throughout the conference, one session in honor of Etienne Gilson was set aside exclusively for this particular question. At this session, moderated by Fr. Philippe Capelle, the newly established Chair of philosophy at the Institut Catholique, in Paris, were four prominent presenters. Jorge Gracia (State University of New York, Buffalo) brilliantly brought forth Gilson’s method for interpreting philosophical texts. “Texts are silent in themselves” he said, repeating Gilson, and one must interpret them in their context. Gilson, Gracia pointed out, did not try to make philosophical texts say what he wanted them to say, but rather let them speak for themselves. Peter Redpath (St. John’s University) reflected on “Maurer’s Understandings of Aquinas’ Notion of the Unity of the Sciences”, showing how they are related and united to each other.

Other well received papers included: Raymond Denehy (University of San Francisco) “The Loss of the Knowing Subject in Contemporary Epistemology”, and Desmond Fitzgerald (University of San Francisco) “Gilson and Maritain on the Principle of Sufficient Reason”.

Inspired by Maritain’s works on aesthetics, and displaying the range of interests at the conference, a group of presentations addressed the arts. Robert Falzon (University of California, Berkeley) critiqued Maritain’s understanding of musicology, and investigated the acquaintance of Maritain with Stravinsky and Messiaen. John Dunaway (Mercer University) spoke on “Maritain and the Song of Songs”, and on the non-conceptual knowledge of love and art. Mad Love (amaet Fors he said was the poetic inspiration for the “Song of Songs”. Steven Schneider (Dominican School of Philosophy and Theology), in “Recovery of the Symbolic”, critiqued the modern trend of making churches a simple assembly space, and called for an ongoing return to a symbolic liturgical environment. Accompanying these discussions was a panel on John Paul II’s “Letter to Artists”. Moderated by Carrie Rehak (Dominican School of Philosophy and Theology), the panel made up of practicing artists reacted both negatively and positively to the Letter, inviting heated discussions among the panelists themselves and the audience. Topics included the nature of religious art and architecture, the funding and commissioning of artists by the Church and John Paul II’s influence on the arts.

The last group, “Education”, in a way synthesizes the issues. Early in the conference, the Mortimer J. Adler Forum, “The Recovery of American Education”, grappled with the question: what is the fundamental failure of American education? Moderated by Peter Redpath and made up of Bill Cather and Desmond Fitzgerald, the panel, following the writings of Adler, found the failure to be in the teachers themselves, and in their skepticism of moral values. To combat this, Cathers called for a renewal of virtue by inspiring students to disciple their emotions by way of the intellect. Also encompassing the question of education, John G. Trapp (Jr. (Walsh University) gave an excellent presentation entitled: “The Air We Breathe: Our Knowledge of Reality and the Reality of Our Knowledge”. Illiciting our culture environment to the air we breathe. Trapp pointed out the dangers of “second-hand smoke”. He said that because we do not live in a neutral environment, nurtured or neglected virtues can “naturally” turn into their corresponding moral vice, thus leading us away from the fulfillment of our nature.

After three days of papers and panels, the Association gathered for its final banquet, and was addressed by the President of the Association, Curtis Hancock (Rockhurst University). After thanking the co-sponsors of the meeting, the Dominican School of Philosophy and Theology, the Graduate Theological Union, the Yves R. Simon Institute, the Gilson Society, and the Erasmus Institute, and the individual members who made the conference possible, he proceeded with handing out awards. Three awards were given: the Most Valued Participant Award was awarded to John F. Morris; the Maritain Award for Excellent Scholarship was given to Fr. Schall, of Georgetown University; and a special award was bestowed on Charles Jones for his generosity to the Association. Following the awards, Michael Torre (University of San Francisco), Vice-President of the International Maritain Institute, offered warm greetings to Roberto Papi. Torre spoke of a new initiative to compile an internet directory of “Maritainists” and the need for the American Maritain Association seriously to consider the possibility of a joint meeting with the International Institute, perhaps on the subject of a new “concrete historical ideal” for the new millennium. He also spoke of the International Institute’s series of conferences on Globalization and of a new 27 week International Master’s Degree, offered through the International Jacques Maritain Institute. As has become traditional, Raymond Denehy gave witty concluding remarks, after which informal discussions continued.

The 1999 American Maritain meeting was well attended by both new and long-time Maritainists, and on many levels was seen as a success. Some 50-60 teachers, students, and enthusiasts attended the conference. The 2000 meeting will be at the Jacques Maritain Institute at the University of Notre Dame.

Kathia Usenga
(Ph.D. student at the Graduate Theological Union)

Université et culture dans la pensée de Luigi Sturzo
Rome, 28-30 octobre 1999

Le Colloque international organisé par l'Institut "Luigi Sturzo" à Rome a été des plus intéressants; les trois journées de travail ont été introduites par un long exposé du prof. Gabriele De Rosa, président de l"lstituto Sturzo", dont je cite un passage qui me bien en valeur la "nouveau" de ce qui a été dit sur le prêtre sicilien: "10 marqué la vie culturelle de l'Italie des 50 premières années du siècle."

"Je pense qu’une recomposition générale des études sur la pensée de Sturzo..."
a commencé lors de la publication de son échange de lettres avec son frère Mario, qui va de son départ pour l'exil de Londres jusqu'au mois de novembre 1960. (…) Il s'agit de plus de 2400 lettres - qui furent publiées en 1985 - qui constituent un précieux matériel qui offre la clé de lecture pour une compréhension nouvelle et plus intérieure de la vie de Sturzo, non seulement pour son aspect politique, mais surtout pour son côté intellectuel, philosophique, religieux, sacerdotal; sa vie divisée entre mystique et affaires historiques, entre la prophétie et la politique, entre le réel concrét et le surnaturel.

Il s'agit des Lettres von publiées, analysées avant tout par Pietro Scoppola, dans une remarquable intervention intitulée "L’expérience de l’exil: aspects religieux". Une des découvertes de Sturzo à cette époque est l’œuvre de Henry Brémond, grâce à laquelle Sturzo prend contact avec un nombre important de "mystiques" récents, comme François de Sales, Jean de Chantal, Vincent de Paul, etc. Scoppola a fait remarquer combien Sturzo a aimé l'Eglise: il cite une lettre au Cardinal anglais Bourdon où le prêtre sicilien écrit: "Vous savez bien ma pensée après ce que vous avez communiqué de la part de S.E. le Cardinal Secrétaire d'État. Je n'ai pas besoin de vous répéter que pour l'Eglise je suis prêt à faire le sacrifice de tout moi-même. Pendant les 32 ans de mon sacerdoce, consacré presque entièrement au service de la vie publique, je n'ai eu d'autre but que de servir la cause du bien…". Mais cela n'allait pas sans une critique lucide de ce qui se passait, accompagnée d'une volonté de silence sur les raisons qui ont entraîné les décisions et le départ pour l'exil.

"J'ai fait à Dieu l'offre de tout ce qui m'appartient, j'ai travaillé pour que ça aille. Mon nom disparaîtra, mais certaines de mes idées continueront à vivre et à fructifier. Ce que je vous conte là est très personnel. Pour quelle raison vous aje fait cette confiance? Il m'a semblé ce matin que je devais dire à quelqu'un pourquoi je n'écris pas mes mémoires, d'autant plus que beaucoup d'amis (catholiques ou non) insistent pour que je le fasse", écrit-il à un ami.

Les explications que donne Sturzo sont de grand intérêt et expriment toute la complexité de son action et de son rôle et mettent bien en lumière le fait que le troisième élément de son attitude vers les institutions ecclésiastiques est le silence: aucune politique publique qui est la condition pour que le sacrifice de son obéissance soit fécond dans l'Eglise et puisse donner des fruits dans le futur. De fait son silence n'est jamais mis en discussion et lors de la fin de son exil nord-américain, l'évêque de Brooklyn, Thomas E. Molloy, envoie au délégué apostolique Amleto Cicognani - sur sa demande - un rapport dans lequel on peut lire: "Sturzo a été un prêtre exemplaire… En effet, sa spiritualité de base a toujours été ésotérique et il a toujours eu une loyauté parfaite envers l'Eglise. Il a toujours été prudent, indulgent et sévère dans ses relations avec les hommes, je suis heureux, d'en témoigner à la face de tout le monde…"

Revenons à l'action politique de Sturzo pendant son séjour aux États-Unis durant la deuxième guerre mondiale, alors que dans l'opinion publique du pays il y avait une partie des gens qui désirait une solution de compromis avec l'Allemagne et que l'URSS se battait pour l'autre. Il faut dire que les États-Unis n'étaient pas à l'époque entrés en guerre contre les troupes de l'Axe. Sturzo intervint dans ce débat par un important article publié dans The Commonweal, intitulé "Les voies de la Providence". Il y voyait la question de l'aide à l'URSS (et à Staline) comme une occasion historique "providentielle" pour aider le communisme à évoluer vers plus de sens démocratique. Il ne faisait pas de doute pour Sturzo que "l'aide à l'URSS soutient une idéologie de 'sans Dieu', surtout après l'écueil du catholicisme social où trop peu de catholiques avaient réussi à prendre fait et cause pour la classe ouvrière à l'époque de la grande industrialisation".

Les pistes de recherche et l'action de Sturzo se sont donc fortement élargies durant les 22 ans de son exil: non seulement le sort de l'Italie, mais la rencontre avec les mondes culturels français, anglais et nord-américain. Sturzo écrivit en septembre 1926 dans le journal de Londres The Weekly Mail un article qui résume bien le sens de sa vie d'alors: "La tolérance m'a donné une nouvelle expérience encore plus intime que le jeu du raisonnement dans la vie est moins efficace que ce qu'on croit et que l'intellectualisme exagéré ne conduit pas à une convergence des esprits humains entre eux. L'onde mystique - plus que la logique - est comme un rappel inconscient qui va dans le sens de la tolérance…"

Jean-François Nothomb

Jaime Castillo Velasco distingué par l'UNESCO

Dans le Comité de Direction de Notes et documents figure, parmi les autres, Jaime Castillo Velasco, directeur de la revue chilienne Política y Escritura, fondée en 1945 et d'inspiration personnaliste et communautaire. Aussi avons-nous été particulièrement heureux d'apprendre que l'UNESCO avait décidé pour 1999 de compter le nombre des trois personnalités distinguées à travers le monde pour leur rôle dans l'"Educaiton aux Droits de l'Homme", notre ami Jaime Castillo Velasco.


Son âge en tant qu'avocat dans la défense des libertés civiles et des droits de l'homme et ses travaux universitaires de philosophie politique lui ont valu d'être deux fois reçus au Chili à l'époque du gouvernement de Pincheri : il a fondé et présidé aujourd'hui encore la Commission chilienne des Droits de l'Homme.

Nous profitons de notre revue pour présenter au récipiendaire les chaleureuses félicitations de l'Institut international Jacques Maritain.
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