THE RIGHT TO FOOD: A RECIPE FOR ACTION



ABSTRACT

This paper considers the role of the right to food in the development of an integrated food policy in Canada and the achievement of national food security. Prevailing high levels of household food insecurity constitute a hidden and neglected national crisis of food poverty unaddressed by a broken social safety net and an institutionalized reliance on charitable food banking. Evidence of the incidence, nature, and causes of food poverty is presented and Canada's domestic failure under international law to 'respect, protect, and fulfill' the human right to adequate food is explored. An agenda for a Canadian food policy and poverty reduction action plan is considered informed by the right to food.

RÉSUMÉ

Cet article examine le rôle que joue le droit à l'alimentation dans l'élaboration d'une politique alimentaire intégrée et dans l'atteinte de la sécurité alimentaire au Canada. Le niveau élevé d'insécurité alimentaire au sein des familles constitue une crise nationale à la fois cachée et négligée qu'un sytème d'assistance sociale défaillant et une dépendance institutionnalisée aux banques alimentaires ne peuvent régler. Cet article examine la fréquence, la nature et les causes de la pauvreté alimentaire, ainsi que l'incapacité du Canada à remplir son obligation, en vertu du droit international, de respecter, de protéger et de mettre en œuvre le droit à une nourriture saine sur son territoire. Nous proposerons également un programme pour l'instauration d'un plan d'action s'appuyant sur le droit à l'alimentation et visant l'élaboration d'une politique alimentaire canadienne ainsi que la réduction de la pauvreté.

GRAHAM RICHES is Director of the School of Social Work and Family Studies at University of British Columbia.

Introduction

In the first decade of the 21st century, household food insecurity remains a troubling and politically neglected health and social issue in Canada. For the last 25 years, food poverty – the inability of low income Canadians to purchase nutritionally adequate and nutritious food to feed either themselves and or their families – continues to be denied by all levels of government of all political stripes. As a society we take for granted the abundance of the national food supply, domestically produced or imported – and its everyday market availability. Yet, what is hidden from sight is that, for many Canadians, their right to an adequate standard of living, including the right to food – which was ratified in 1976 in the *International Covenant on Economic, Social and Cultural Rights* (ICESCR) – is no longer upheld by the state. Canada's domestic failure to comply with its international obligations to the right to food is particularly troubling given the recent strong economic growth and massive Federal Government budget surpluses.

What should be done to address food insecurity in Canada? Since 1981, feeding the hungry poor has become the primary responsibility of charitable food banks. Yet how morally supportable, legally just and effective is such institutionalized dependence on charity and the private sector? Should we not be adopting a national food policy and poverty reduction action plan informed by the human right to adequate food as a more effective, socially responsible and politically accountable response? In addressing this question, this article considers the incidence, nature and causes of food poverty in Canada, the meaning of the right to food, internationally and in the Canadian context, and its potential as a tool for action in informing a comprehensive and "joined-up" national food policy directed both at the optimal nourishment

of the population (MacRae, 1999) and poverty reduction. In other words, is food policy and food access to be informed by charity or justice?

Incidence and nature of food poverty

In 2001, the Canadian Community Health Survey (CCHS) found that 3.7 million Canadians (14.7% of the population) were having difficulty putting food on their plates: those who worried about not being able to feed themselves and their families (11%); those unable to purchase the foods of their choice (12%); and those unable to put food on the table (7%). In 2004, using a more restrictive instrument, CCHS reported 2.1 million people or 6.8% of the population struggling with different levels of food insecurity (Power and Tarasuk, 2006). In other words, despite Canada's cheap food policies, too many Canadians lack the necessary incomes to be able to feed themselves and their families. Indeed, as research makes clear, the problem of hunger and food poverty constitutes a hidden national crisis in Canada.

The fact of the matter is that Canada's social safety net is broken and has been for a quarter of a century (Robertson, 1990; Tarasuk, 1996; Riches, 1986, 1997, 2004). Charitable food banks have become the new markers of emergency relief for the hungry and testimony to inadequate and deeply flawed Employment Insurance and social assistance programs in all provinces and territories. 823,856 people turned to a food bank in one month of 2005, an increase of 24% since 1997 and 118% since 1989. The first food bank opened in Edmonton in 1981. Today they number 650 providing 2.7 million meals a month. 40.7% of food bank users are children and young people (CAFB, 2005).

Food banks are symptoms and symbols of a welfare state in crisis, with charity, rather than rights based income support and social programs, now established as the publicly accepted and institutionalized response to hunger in Canadian society. This, despite the fact that 38.8% of food banks report difficulty in meeting demand and 90% of Canadians regarding the problem of hunger as the responsibility of government (Heimann, 2004). Food banks offer no guarantee of food or nutritional adequacy and allow governments to look the other way with little regard for a failing welfare system. As Louise Arbour, former Supreme Court Justice and Current UN Commissioner for Human Rights, has observed in reflecting on Canada's hesitant approach to economic, social and cultural rights (of which the right to food is elemental), 'There will always be a place for charity but charitable responses are not an effective, principled or sustainable substitute for enforceable human rights guarantees' (Arbour, 2005:3). In short, the food bank recipe is a stigmatizing and band-aid response undermining the rights of citizenship of Canada's hungry poor.

Causes of food insecurity

Lack of access to food in Canada is the result of complex forces and springs from a number of interrelated causes. It is primarily rooted in poverty and inequality and the failure of public policy to address distributional market failures. There is a careless, if not deliberate, government neglect of vulnerable peoples – the socially excluded poor – seeking to exist outside the labour market.

In 2003, 4.9 million Canadians or 15.9% of the population lived in poverty, a welcome decline from 20.6% in 1996 but still higher than the 14% rate of 1989. In the same year, female poverty stood at 17.1% in 2003 and 1.2 million children (17.6%) were poor (NWC, 2006). In light of the fact that 40.7% of food bank users are children, it is instructive to note that the 2005 UNICEF review of child poverty in the rich member countries of the Organization for Economic Cooperation and Development reported a rate of 14.9% in Canada, placing it 19th out of 26 states (UNICEF, 2005: 6). The Scandinavian countries at the top of the league table (Denmark, Finland, Norway, Sweden) had rates of child poverty varying between 2.4% - 4.2%. Significantly, as the study states, "variation in government policy appears to account for most of the variation in child poverty levels between OECD countries" and "there is nothing inevitable or immutable about child poverty levels; they reflect different national policies interacting with social changes and market forces (ibid, 3)."

Despite the decline of poverty in Canada in overall terms since 1996, policy neglect between 1989 and 2003 is directly responsible for the expansion of the depth of poverty. The number of people living with incomes less than half the poverty line grew by 50% for two parent families, by 55% for single parent families; and by a staggering 70.6% for unattached individuals under 65 (NWCa, 2006). In 2005, welfare incomes of the 1.7 million people in receipt of social assistance (5% of the population) were woefully inadequate and in many cases at their lowest point since 1986 (NWCb, 2006: ix, 29). Between 2005-2006, five

provinces (Ontario, Manitoba, Saskatchewan, Alberta, and British Columbia) recorded their lowest levels of welfare incomes (ibid, ix). In BC, which in 2006 recorded a provincial budget surplus in excess of one billion dollars, single "employable" adults on social assistance are expected to live on $510 per month (rent and all living expenses) or $6 a day. Harsh reductions in benefit levels have become the order of the day. Social assistance benefits which are thousands of dollars below accepted poverty lines are insufficient to meet housing costs and put food on the table, let alone ensure access to nutritious diets. And with charity leading the way, no longer can it be claimed that social assistance or welfare is the social safety net of last resort in Canada.

The ascendancy of neo-liberalism with its commitment to market ideology, minimal government, and social spending cutbacks has resulted in social policy falling off political agendas (in favour of health and education). The abandonment of the *Canada Assistance Plan* in 1996 and the introduction of block funding under the new *Canada Health and Social Transfer* confirmed political endorsement of U.S. style welfare reform. This resulted in the introduction of stringent eligibility for social assistance benefits based not on need but on labour market attachment and strict work requirements resulting in the screening out of those for whom paid (low-waged) work was not an option.

The lack of coordination within and between federal and provincial agricultural, environmental, health and social service departments (the perennial issue of jurisdictional disputes in Canada) has resulted in fragmented and disconnected food policy in terms of the need for both sustainable production and integrated health, nutrition, and social welfare programs.

At the same time the social construction of hunger in Canada as a matter for charitable relief and not publicly funded social security rooted in human rights and the claims of citizenship is continually advanced by the media, including the CBC, in their support of food bank drives. Given that hunger is a political question, it is useful to ask why the country's public broadcaster would take sides in actively promoting hunger as a matter of charity rather than government accountability. No wonder politicians look the other way.

Most significantly, however, the leading cause of food poverty has been the glaring disconnection between Canada's ratification of the ICESCR and its domestic failure to discharge its obligations in international law to "respect, protect and fulfill" the human right to adequate food on behalf of its impoverished citizens. Unhappily, the courts in their interpretations of the Charter of Rights and Freedoms (Sections 7 and 15) have been reluctant to promote the justiciability of social and economic rights including the right to food (Riches et al, 2004; Arbour, 2005).

Food policy and the right to food

If Canada is to adopt a national food policy directed at the optimal nourishment of the population and poverty reduction, the first objective must be to ensure that all citizens have access to affordable nutritious, safe, and culturally appropriate foods for themselves and their families. Furthermore, it should be anchored in the idea that food is a basic human need and a fundamental human right (ICESCR, 1966).

As Eide and Kracht (2005: 102) point out, "the right to adequate food is widely recognized in international law" with the most basic provision found in the *Universal Declaration of Human Rights*, Article 25.1 (UDHR, 1948). Beyond the UDHR, international human rights instruments and actions signalling Canada's adoption of the right to food include the *International Covenant on Economic, Social and Cultural Rights* (ICESCR, 1966, 1976), the *Convention on the Rights of the Child* (CRC, 1989,1992), two World Food Summits (1996 and 2002), *General Comment 12 of the UN Committee on Social, Economic and Cultural Rights* (1999), and the *FAO Voluntary Guidelines on the Right to Food* (2004).

However, it was not until 1999 that the Committee on Economic, Social and Cultural Rights General Comment 12, at the request of the 1996 World Food Summit, clarified the core content of the right to adequate food. It stated that this right "is realized when every man, woman and child, alone or in community with others, have physical and economic access at all times to adequate food or the means for its procurement… the core content of the right to food implies the availability of food in quantity and quality sufficient to satisfy the dietary needs of individuals, free from adverse substances, and acceptable within a given culture; [and] the accessibility of such food in ways that are sustainable and that do not interfere with the enjoyment of other human rights" (GC 12, para. 3, 1999).

All States Parties to the ICESCR are enjoined progressively to realize the right to adequate food with ratification of the Covenant imposing three types or levels of obligations upon States parties "to *respect*, to protect and to *fulfill (facilitate and*

provide)" the right to food. "Facilitate" means the State must pro-actively engage in activities intended to strengthen people's access to and utilization of resources and means to ensure their livelihood, including food security. Finally, whenever an individual or group is unable, for reasons beyond their control, to enjoy the right to adequate food by the means at their disposal, States have the obligation to *fulfill* (provide that right directly – GC 12, para. 15). In other words: hunger is not simply left to charity.

Four approaches to national implementation are set out: adoption of a *national strategy* to ensure food and nutrition security for all (compliant with human rights principles); the setting of *verifiable targets and benchmarks*; adoption of *framework legislation and remedy mechanisms*, and developing and maintaining *monitoring mechanisms* (see Eide and Kracht, 2005).

In 2004, as a practical directive to states to achieve food security, the UN Commission on Human Rights, the Committee on Economic, Social and Cultural Rights, and the FAO Council adopted Voluntary Guidelines to support the progressive realization of the right to adequate food in the context of national food security. The VGs incorporate many of the recommendations of General Comment 12 that, while undoubtedly directed at countries of the South, also have important lessons for rich countries including Canada. One lesson in particular is the injunction that "the progressive realization of the right to food requires States to fulfill their relevant human rights obligations under international law" (Oshaug, 2005).

Certainly the Federal Government did respond to the 1996 World Food Summits call for national strategies with the release of *Canada's Action Plan for Food Security* in 1998 which considered Canada's role in relation to both domestic and international food security. However, the action plan attached no clear meaning to the right to food, set no clear targets, and was seemingly introduced without the knowledge or support of provincial governments. Moreover, it enjoyed little support from civil society and the developing Canadian food security movement. The demise of this report – it could hardly have been called a plan – should have been no surprise if one accepts Arbour's premise that socio-economic rights (of which the right to food is elemental), as soft rights, have always played second fiddle to civil and political rights dating back to Canada's initial reluctance to support their inclusion in the UDHR 1948 (Arbour, 2005:3). Indeed, of that time Arbour writes that "Canada's position on socio-economic rights, in particular, varied from ambivalence to outright hostility" (2005:3). Today one may wonder whether much has changed.

Moreover, the UN Economic and Social Council in its 2006 five year review of Canada's compliance with its ICESCR obligations regretted that most of its 1993 and 1998 recommendations had not been addressed in an effective manner, including the insufficiency of minimum wage and social assistance to ensure the realization of an adequate standard of living for all. It noted with concern that 51% of food bank users still had to resort to food banks because of the insufficient level of these benefits; and reminded Canada of its core obligation to fulfill (provide) the right to food when disadvantaged people are unable to meet this right for themselves (UNCESCR, 2006: 2-3, 5, 9).

In short, the evidence of continuing and widespread domestic food insecurity and Canada's lack of compliance with its treaty obligations is a matter of international concern and opprobrium, yet the federal and provincial governments continue to turn a blind eye.

The right to food: a recipe for action

What would a right to food recipe that focuses on food access imply for the development of a Canadian food policy?

- All levels of government should accept their obligations under international law (e.g. ICESCR, 1976; CRC, 1992) to recognize and act in compliance with the right to an adequate standard of living for all including the right to food and the right to be free from hunger.
- Social and economic rights, including the right to food, should be constitutionally recognized as justiciable rights under the protection of the Charter of Rights and Freedoms as well as under federal and provincial human rights legislation. As Louise Arbour has stated "Ultimately, the potential to give economic, social and cultural rights the status of constitutional entitlement represents an immense opportunity to affirm our fundamental Canadian values, giving them the force of law" (Arbour, 2005).
- Canada, in conjunction with the provincial and municipal governments and the Assembly of First Nations, should adopt

a National Action Plan for Food Security and Poverty Reduction requiring the full participation of all relevant ministries – including federal and provincial justice departments – and with the full representation of civil society. The plan would set verifiable goals, indicators, benchmarks, timeframes and accountability, and comprise remedy and monitoring mechanisms. It would set as an objective the phasing out of charitable food banking.

- The erosion of Canada's welfare state should be reversed, informed by the implementation of the proposed *Canada Social Transfer* that would earmark federal funds for provincial social safety net programmes with national conditions and federal monitoring, including adequate minimum wage incomes and social security benefits (including the real costs of food and housing).
- Food policy councils should be established and food policy charters adopted at the municipal level recognizing the human right to adequate food and the importance of developing just and sustainable local food systems.
- Civil society organizations working to advance food security within a framework of sustainability and social justice should be provided with adequate funding.

In conclusion, the human right to adequate food and nutrition is more than an act of charitable benevolence: it is an essential philosophy and springboard necessary to inform and shape an inclusive and comprehensive Canadian food policy. In light of Canada's ambivalence about social and economic rights, this will not be an easy task. As Arbour reminds us "The reason that 'rights talk' is resisted by the powerful is precisely because it threatens (or promises) to rectify distributions of political, economic or social power that, under internationally agreed standards and values, are unjust" (op. cit., 2005). The question is whether there exists the political will to abolish hunger from our midst.

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