

# The Human Right to Food

Australia's Right to Food Coalition exists to improve the health and wellbeing of all Australians by working to ensure equitable access to nutritious food. We are a Coalition of organisations, practitioners, researchers and community workers united in our cause.

The Australian government is failing to fulfil its legal and moral obligation to guarantee the human right to adequate food for at least 1.2 million people who don't have access to safe, affordable and nutritious food. This position statement outlines the challenges presented by food insecurity in Australia and presents numerous opportunities which would allow our Government to respect, protect and fulfil the right to adequate food in Australia.

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## SUMMARY

This document breaks down what it means for every person in Australia to have respected their fundamental and inalienable human right to adequate food, meaning food which is nutritious, safe, culturally appropriate, affordable, accessible and from dignified sources. The following opportunities would allow our government to fulfil their moral and legal obligations.

### **Governments – Federal, State / Territory, Local**

- That the Australian Federal Government, all State and Territory governments and all local governments, publicly recognise and affirm their legal and moral obligations to guarantee the fundamental human right to adequate and culturally appropriate food for all persons living in Australia
- That the Australian Federal Government commit to the timely development of a comprehensive and participatory *National Food and Nutrition Strategy which links production, security and nutrition*, ensuring that the voices of the most marginalised and vulnerable members of our community are heard and respected in this process
- That the Australian Federal Government and all State and Territory governments, commit to allocating sufficient financial and human resources to guarantee the full enjoyment of the human right to adequate food for all persons living in Australia

### **Food Industry**

- That the food industry commits to enter into constructive dialogue with relevant food system stakeholders in the development of a participatory and transparent *national food strategy which links production, security and nutrition*
- That food industry representative bodies, both Australian and multi-national corporations, publicly recognise and affirm their legal and moral obligations to respect the fundamental human right to adequate food for all persons living in Australia
- That the food industry acknowledges the central role it plays in affecting the health and wellbeing of all persons living in Australia, and the impact its business operations have on the social and environmental sustainability of Australia's food system

### **Philanthropy**

- That the philanthropic sector publicly acknowledges and affirms its commitment to working with all food system stakeholders to ensure that all persons living in Australia enjoy the fundamental human right to adequate food
- That the corporate social responsibility policies of relevant companies (particularly those who fund work in remote areas of Australia) address the rights of Aboriginal peoples to an adequate, affordable and accessible food supply
- That representatives of philanthropic foundations work with the Right to Food Coalition and other food system stakeholders in support of participatory and inclusive research and advocacy initiatives that prioritise the universal achievement of the human right to food
- That key stakeholders from relevant sectors collaborate to monitor and document levels of compliance with respect to the right to food in a 'watch dog' capacity

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## THE CHALLENGE: inequitable access to food

Food insecurity can occur at the individual, household, community or national level. Studies undertaken in Australia and other developed countries over the last 15 years have shown that the prevalence of food insecurity ranges from 4 - 14% among population-representative samples, and up to 82% among disadvantaged groups such as ethnic minorities, single-parent families, and other vulnerable populations. [1]

The consequences of food insecurity are far-reaching and long-lived. Food insecurity can have a major impact on both short-term and long-term physical and mental health. Food insecurity has been associated with lower household income, poorer general health, increased health-care utilisation and depression. These associations remained after adjustment for age, gender and household income. [1]

For food security to exist, the following four elements or pillars must be achieved; [2]

- 1. A STABLE FOOD SUPPLY:** Australia currently produces enough food to feed 60 million people [3], therefore, food supply issues are a matter of distributional justice and consequently community recognition and participation. [4]
- 2. AVAILABLE FOOD:** Fruit and vegetable availability in Australia is insufficient to meet dietary guidelines [5], due to the high volume of produce being exported [3]. The availability of high quality, nutritious foods, particularly fruit and vegetables is inadequate in many remote Aboriginal and Torres Strait Islander communities, and in the outer suburbs of many of our cities. [6]
- 3. ACCESSIBLE FOOD:** Income inequality and rising food prices are major barriers to food access in Australia. The average cost of food continues to increase, with the price of fruit and vegetables rising faster than the Consumer Price Index. [7] The cost of healthy food in remote Aboriginal communities is 20-40% higher than in capital cities. [6] Inequality in Australia is at a 75-year high [8], with the top 20% of Australians having 70 times the wealth of the bottom 20%. [9] Increasing income poverty, underemployment, rising housing, transport and utility costs and the reductions to the social safety net mean that food is often sacrificed when there is not enough money to pay the rent and other bills. [9]
- 4. FOOD THAT IS ABLE TO BE UTILISED:** Over 2.5 million Australians are living in poverty, almost a quarter of whom are children. [10] Homeless people and Australians with inadequate housing infrastructure do not have the facilities to store, prepare and cook food.

An Australian Foodbank study suggested that children going to school hungry lose more than 2 hours a day of learning time, with ongoing impact on life chances. [11] Anglicare conducted another study which revealed the serious impact of stress, anxiety and hunger on family relationships, social isolation and motivation. [12] Food insecurity can also increase the risk of conditions such as cardiovascular disease, obesity and diabetes [13,14,15] and can impede the successful management of these chronic illnesses. [16, 17]

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As a result, food insecurity substantially influences public expenditures in health care. [18] Furthermore, the numerous consequences of food insecurity, such as poorer educational outcomes, mental ill-health and diet-related chronic disease, result in broader social and economic impacts. [19] Therefore, not only is there a legislative and moral imperative to act [20], but implementing policies to alleviate food insecurity also makes economic sense. [21]

## THE POLICY CONTEXT

Historically, governments have prioritized economic growth over reducing inequality. [9] The harsh reality is that climate change, soil acidification and erosion; and loss of agricultural land to urban sprawl are all threatening the future stability of Australia's food supply. [22] Australia currently has no national food plan; no systematic monitoring of food insecurity; no recognised and up to date national nutrition policy; and no mechanism for ensuring the human right to food for all of its citizens.

### International Human Rights Law

The concept of human rights recognises universal, inalienable, interdependent, indivisible and interrelated rights necessary for the wellbeing of individuals and humanity. The founding statement of these rights is the 1948 Universal Declaration of Human Rights (UDHR) [23], which includes the right of every person "to an adequate standard of living for himself and his family, including adequate food, clothing and housing". While the UDHR is not legally binding under international law, it has led to the development and ratification of subsequent conventions that are binding.

### Human rights responsibilities of the Australian government

The major content of the human right to adequate food is set out in Article 11 of the *International Covenant on Economic, Social and Cultural Rights 1966 (ICESCR)* [24]. Ratified by Australia in 1975, Art 11 requires, first, that all state parties take immediate steps to guarantee the right to freedom from hunger for all persons in their jurisdiction; and secondly, that all state parties take appropriate steps towards the "progressive realization" of the right to adequate food.

There are three levels of obligations on States with regards to this and all other human rights: to *respect* (not to impede existing access to adequate food); to *protect* (ensure that third parties do not deprive individuals of access to adequate food); and to *fulfil*. The obligation to fulfil in the first instance is an obligation to *facilitate*, which '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'. [25]

In the second instance it is an obligation to *provide*, i.e. to guarantee access to adequate food when 'an individual or group is unable, for reasons beyond their control, to enjoy the right to adequate food'. More generally, all states must implement measures needed to improve food production, conservation and distribution, and ensure an equitable distribution of world food supplies in relation to need. "Progressive realisation" acknowledges that change takes time, but that countries must demonstrate they are taking steps toward the full realisation of rights to the maximum of their available resources.

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Also relevant is the *Convention on the Rights of the Child 1989 (CRC)* [26]. Ratified by Australia in 1990, the CRC requires that countries take appropriate measures to combat disease and malnutrition among children through "the provision of adequate nutritious foods and drinking-water". Increasing numbers of Australians are living in or precariously near food insecurity and homelessness, despite the fact that Australia has become more prosperous as a whole [9]. In these circumstances, it appears that the government is not meeting its commitment to guarantee the fundamental right to freedom from hunger, and despite increased resources it is regressing - not progressing - in the realisation of the right to adequate food for all.

Ratification alone does not make a convention enforceable in the Australian courts. Implementing legislation must be passed. Laws relating to the provisions of the CRC exist, but the direct rights set out in the ICESCR do not. As a result, there are no domestic legal remedies through which the community can compel government to meet its ICESCR obligations. Further, unlike many other treaties (including the CRC), the ICESCR is not declared under the *Australian Human Rights Commission Act*, which means that the Human Rights Commission has no jurisdiction to hear and comment on cases relating to it. [27]

The UN drafted a further Optional Protocol to the ICESCR, which provides an international forum for individual complaints to be made to the UN Committee [28]. Australia has not signed the Optional Protocol. The ICESCR requires the government to submit periodic reports to the UN on its progress, which provide a degree of international scrutiny; however without a complaints mechanism the role of the UN is limited to commentary on areas for improvement.

## **Human rights responsibilities of the food industry**

As well as governments, corporations have obligations under international human rights law to *respect* human rights. This means that businesses must:

- "Avoid causing or contributing to adverse human rights impacts through their own activities, and address such impacts when they occur"; and
- "Seek to prevent or mitigate adverse human rights impacts that are directly linked to their operations, products or services by their business relationships, even if they have not contributed to those impacts" [28].

As noted at the Oslo Conference on Obesity in 2014 [29]:

- "The now dominant role and power of major commercial undertakings in the food sector in the agricultural field, areas of industrial production, processing, trade, and marketing of foods and drinks...may be in potential conflict with human livelihood and health, especially of the most vulnerable and marginalized groups in society"; and
- "[There is an] imperative need for valid business interests and responsibilities to develop in a manner fully compatible with respect for human rights, the protection of the environment, and the long-term sustainability of food security and healthy nutrition for all."

Given the serious health, social and environmental challenges facing the Australian food system, it is clear that the food industry needs to take its human rights responsibilities far more seriously than is presently the case.

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## **Australia's National Food Plan**

Australia's neoliberal policy approaches have been criticised for seeking to benefit big businesses at the expense of population health and environmental sustainability, and for their inability to ensure long-term food and nutrition security. [30, 31] The development of Australia's National Food Plan was heavily influenced by industry concerns and a focus on export before the new coalition government abandoned it. [32] When it was released in 2013, concerns were raised about the extent to which the National Food Plan addressed factors influencing fruit and vegetable access. [33] Investments in health promotion and nutrition education were outlined, but few strategies to improve access to nutritious food were included. [34] According to the coalition government, food insecurity is primarily an outcome of an insufficient global food supply, so increasing global food production and reducing trade barriers is considered the solution. [35] The Right to Food Coalition believes that they are wrong in this thinking.

## **Australia's National Nutrition Policy**

In January 2011, the Legislative and Governance Forum on Food Regulation agreed to develop a National Nutrition Policy, which promised to provide a comprehensive framework to identify, prioritise, drive and monitor nutrition initiatives within the context of the governments' preventative health agendas. In an effort to create this policy, a well-resourced scoping study was completed by July 2013 and has only recently become available to Australian citizens via FOI request in March 2016. [36] "The evidence identified in this scoping study confirms that a new comprehensive nutrition policy is required urgently in Australia to address the high and increasing rates of diet-related disease and risk factors, including overweight and obesity, and to promote the health and wellbeing of the population, particularly vulnerable groups." There remains no further progress from the government regarding the development of Australia's national nutrition policy and as such, Australian citizens continue to bear the burden of diet and nutrition issues. [37]

## **OPPORTUNITIES: the demands of the Right to Food Coalition**

These recommendations apply to governments, the food industry and philanthropic organisations. Since Australia is a signatory to the UN Covenant on Economic, Social and Cultural Rights, and has ratified that legal instrument, all Australian governments are legally bound to ensure the full enjoyment of the universal human rights it delineates, including the right to adequate food.

Similarly, the food industry is legally obliged under international human rights law to respect internationally recognised human rights, including the right to adequate food. In addition, food industry representatives, and philanthropic organisations, as members of the Australian society – and, in the case of the food industry, as significant beneficiaries of public resources and infrastructure – have a moral and ethical responsibility to work constructively and collaboratively with all stakeholders to uphold the human right to adequate food for all persons living in Australia. These recommendations draw significantly from expertise disseminated by the United Nations' Special Rapporteur on the right to food. [38]

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## Federal Government

- Develop in a participatory, inclusive and timely manner, *a comprehensive rights-based National Food & Nutrition Strategy*, which
  - clearly delineates the responsibilities of public officials at the federal, state/territorial, and municipal/local levels,
  - commits governments at all levels to the progressive elimination, in a timely manner and with clearly stated targets and milestones, of food insecurity in Australia,
  - drawing on the 2013 scoping study for a National Nutrition Policy, identifies the measures to be adopted and the associated time frames, with a particular focus on urgent action to tackle diet-related disease and growing food insecurity, especially amongst vulnerable and marginalised groups,
  - commits the government to adequate financing of income support payments so that all Australians, regardless of social status, can access a weekly basket of healthy foods
  - ensures that initiatives adopted at local and state levels, particularly for the rebuilding of local food systems, are adequately supported,
  - creates a nationally funded children and food strategy (including school-lunches and breakfast, food literacy curricula, and school garden programmes) to ensure that all children, at all times, have access to healthy and nutritious food, and
  - embeds a process of regular, transparent and participatory monitoring, evaluation and reporting on progress, with periodic reviews and updating of the Strategy as required
- Support regular, Nation-wide measuring and monitoring of food insecurity using a more comprehensive multi-item tool
- Launch the process of adoption of a framework law on the right to food, beginning with a public acknowledgement and affirmation of the government's legal and moral obligations to uphold the human right to adequate food for all persons living in Australia
- Sign the Optional Protocol to the ICESCR, so that Australians can hold their governments to account on international legal commitments
- Introduce a sugar tax to reduce the consumption of harmful food and beverage products, and use the revenue raised to reduce the cost of healthy foods for low income and vulnerable population groups, thereby directly tackling food insecurity
- Introduce stricter regulation of food products high in saturated fats, salt and sugar
- Regulate and restrict the advertising of unhealthy food products, especially to children
- Support local food production so that consumers have secure and affordable access to healthy, fresh and nutritious foods
- Ensure that any proposed reforms quarantining welfare payments do not contravene Australia's obligations under international human rights law
- Sustainability and climate change policies should be reflected in Australia's National Dietary Guidelines (eg. Dietary Guidelines for the Brazilian Population, 2014)
- Establish a high-level National Food Security and Right to Food Taskforce, located within the Prime Minister's Office, and with representatives of all food systems sectors, to address the food insecurity in Australia, and with responsibility for the implementation and monitoring of the *National Food & Nutrition Strategy*

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## State and Territory Governments

- Public acknowledgement and affirmation of legal and moral obligations to uphold the human right to adequate food for all persons living in Australia
- Commit to develop State- and Territory-wide food and nutrition strategies, in coordination with the *National Food & Nutrition Strategy*, clearly delineating responsibilities of public officials and government departments for the implementation of each element of the Strategy
- Commit to legislate a Right to Food Act that *inter alia* mandates responsible Ministers to set targets for the progressive elimination of food insecurity, with the development of transparent and measurable indicators to monitor and report on progress
- Commit to measures which support the rebuilding of local and regional food systems to ensure long-term, diversified, adequate and resilient supplies of healthy food

## Local Governments

- Public acknowledgement and affirmation of legal and moral obligations to uphold the human right to adequate food for all persons living in Australia
- Drawing on existing best practice food systems policy and strategy development (e.g. City of Melbourne, City of Greater Geelong), commit to participatory processes for the development of comprehensive food system policies and strategies, ensuring that the voices of marginalised and vulnerable population groups are included in such processes
- Commit to targets and milestones for the progressive reduction and elimination of food insecurity in each municipality (and ultimately state and federal government levels), with the development of transparent and measurable indicators to monitor and report on progress

## Food Industry

- The food industry, both Australian and multi-national corporations, publicly recognises and affirms its legal and moral obligations to respect the fundamental human right to adequate food for all persons living in Australia
- The food industry acknowledges the central role it plays in affecting the health and wellbeing of all persons living in Australia, and of the social and environmental sustainability of the Australian food system in general
- The food industry commits to enter into constructive dialogue with all food system stakeholders in the development of a participatory and transparent *National Food & Nutrition Strategy*
- The food industry commits to work with the *Right to Food Coalition* and other food system stakeholders to undertake a full and participatory audit of the human rights impacts of its operations in Australia, consistent with its obligation to respect the human right to food

## Philanthropy

- The philanthropic sector publicly acknowledges and affirm its commitment to working with all food system stakeholders to ensure that all persons living in Australia enjoy the fundamental human right to adequate food
- Representatives of philanthropic foundations work with the *Right to Food Coalition* and other food system stakeholders in support of participatory and inclusive research and advocacy initiatives that prioritise the universal achievement of the human right to adequate food

# RIGHT TO FOOD COALITION

To find out more or to join our Coalition please get in touch

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