



Discussion Paper by the Aotearoa Human Rights Lawyers Association

Exploring the right to food in the New Zealand and Global context

16 October 2013
World Food Day

Contact person:

Edward Miller
Co-chairperson
Aotearoa Human Rights Lawyers Association
021 142 3772
Email: chair@hrla.org.nz

Exploring the right to food in the New Zealand and Global context

New Zealand is a proud agricultural nation that plays a significant role in a number of global markets as well as being a respected voice in multilateral negotiations. Here, agricultural production is expanding, with forested land being increasingly converted into pasture to take advantage of demand for New Zealand dairy products, especially milk powder. New Zealand is also committed to achieving the Millennium Development Goals, the first of which aims to eradicate extreme poverty and hunger.

Yet New Zealand is also increasingly a home to hunger. Stagnating wage growth, low commodity export prices and high retail prices have meant the growth of real poverty, through unemployment and underemployment.

On World Food Day – 16 October 2013 – the Aotearoa Human Rights Lawyers Association have released this Discussion Paper on the Right to Food, an international obligation that New Zealand has ratified.

This paper will address the current situation of food insecurity in New Zealand, the history of New Zealand's discussion with the right to food, the elements of the right to food and the scope for constitutionalisation of the right to food. This will be followed by a discussion of some of the areas that constitutionalisation of the right to food might affect, and what this means for domestic lawmaking. The focus here is to recognise the extent to which the relations that shape the production and distribution of food touch on many areas of policy that concern human rights.

ICESCR Article 11.1:

“...the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions.”

The Aotearoa Human Rights Lawyers Association (“HRLA”) a non-governmental organisation, established in June 2012 to promote human rights through education and advocacy. The Association is made up legal practitioners with an interest in human rights and is governed by an advisory council of eminent lawyers and academics with human rights expertise.

The Association is a non-partisan independent group dedicated to the study and advancement of human rights in NZ and abroad. We engage in educational projects and events, intervene in cases, assist in legal analysis and in the drafting of reports on human rights issues by other organisations, and undertake shadow reporting for international organisations. We also make submissions on new legislation and regulation to assess consistency with human rights obligations.

1 Food Insecurity in New Zealand

Food security exists when all people, at all times, have physical and economic access to sufficient, safe and nutritious food to meet their dietary needs and food preferences for an active and healthy life.

Food and Agriculture Organization of the United Nations, 1996

The 2013 flagship FAO report *State of Food Insecurity in the World* reports there are 842 million people suffering from chronic hunger and regularly not getting enough to eat. A growing number of those ranks are now from the developed world, as increasing financial austerity bites deeper and longer at the social safety net.

Before we can engage in direct discussions with facilitating the right to food in New Zealand, we must first establish a picture of national food insecurity. Three national nutrition surveys have measured household food security in New Zealand – the National Nutritional Survey 1997 ('NNS97'), the Adult Nutrition Survey 2008-09 ('ANS08') and the Children's Nutrition Survey 2002 ('CNS02'), which used data from ANS08. However there is a concerning lack of other official statistics and research to describe the extent of food insecurity in New Zealand.

According to NNS97, 13% of New Zealanders reported that their household 'can afford to eat properly' only *sometimes*. The highest proportion of households in this situation was reported by 19-24 year old females. 24% of Maori males and 33 % females could only afford to eat properly sometimes, along with 39% of Pacific Island males and 37% of females. 12% of New Zealanders' households run out of money *sometimes* and 2% *often* run out. These figures are significantly higher for Maori (26% often or sometimes for males and 36% for females) and higher still for Pacific Islanders (50% often or sometimes for males and 49% for females).¹ Four percent of the NZ population sometimes used food banks (higher for younger females and Maori and Pacific Islanders), and 12% of New Zealand households sometimes experienced stress because of not having enough money for food.²

The most recent statement on NZ food security came in 2008. ANS08 report demonstrated some positive improvement on NNS97 – there was, for example, a decline in the contribution of saturated fat to total energy intake, a decrease in blood cholesterol and an increase in daily fruit servings. On food security, however, we had stepped backwards. 80% of the population aged 15 and over reported they could always afford to eat properly.³ Food often ran out due to lack of money in 2.5% of New Zealand household and sometimes in 11.5% of households, while 2.9% often eat less due a lack of food and 12.5% sometimes eat less.⁴ Accordingly only 59.6% of households were classified as fully/almost food secure (down from 78.5% to 61.5% in males and from 73% to 56.6% in females from 1997), 33.7%

¹ David Russell, Winsome Parnell and Noela Wilson *NZ Food: NZ People. Key results of the 1997 National Nutrition Survey* (Ministry of Health, 1999) at 100. Available at [http://www.moh.govt.nz/notebook/nbbooks.nsf/0/62C5D9D4C418C4E74C2567D9007186C2/\\$file/nns.pdf](http://www.moh.govt.nz/notebook/nbbooks.nsf/0/62C5D9D4C418C4E74C2567D9007186C2/$file/nns.pdf).

² *Ibid.*, at 102.

³ University of Otago and Ministry of Health *A Focus on Nutrition: Key findings of the 2008/09 New Zealand Adult Nutrition Survey*. (Ministry of Health, 2011) at 259. Available at <http://www.health.govt.nz/system/files/documents/publications/a-focus-on-nutrition-v2.pdf>.

⁴ *Id.*, at 260.

moderately food secure and 7.3% of households classified as low food security. Among Pacific households 28.4% of females aged 31-50 years reported low food security.⁵

Data around food price changes is often difficult to interpret, due to the seasonal (and thus fluctuating) nature of many healthy food options. According to the Reserve Bank of New Zealand, food price inflation has been 45% from 2000 to 2013, and 9% from to 2013.⁶ At the same time, inflation adjusted wage growth for middle- and low-income earners has been practically stagnant from 1984 until now.⁷

There have been some other analyses undertaken by the government to assess the growing cost of food. The 2011 Parliamentary Inquiry into the price of milk yielded interesting discussion around food insecurity in New Zealand. There, submissions from groups like Consumer NZ noted retail dairy prices had increased by 50% in five years (double the general rate of food inflation at the time),⁸ while the NZ Dairy Workers Union's submission looked at food security in the context of the accelerating financialisation on the food chain.⁹

Reports from interested community groups have also deepened our understanding of food insecurity in New Zealand. The Child Poverty Action Group ('CPAG')'s 2012 report have looked at food poverty in Whangarei found that at least 1793 children in Whangarei received food assistance weekly,¹⁰ and other reports have looked issues like the child health and poverty, education and employment outcomes.¹¹ A 2009 report from the Obesity Action Coalition, titled 'Food Security for Pacific People in New Zealand' shows the way that factors important to Pacific people, such as debt and 'loan sharks', religious events and remittances, contribute to the disproportionate impact of food insecurity upon Pacific Island people.¹²

A 2011 food security study undertaken by a University of Otago researcher of families living in Dunedin and Wellington found that 87% of low-income families reported food insecurity. Physical access to food was not so much the problem, rather lack of money.¹³ For that reason, it is presented that in New Zealand access to sufficient income – either through paid employment or government transfers – is a critical determinant of food security in New Zealand, and thus key to achieving the right to food.

⁵ Id., at 262-3.

⁶ See http://www.rbnz.govt.nz/monetary_policy/inflation_calculator/

⁷ Max Rashbrooke *Inequality: A New Zealand Crisis* (Bridget Williams Books, Wellington, 2013) at 28.

⁸ Consumer NZ "Submission to the parliamentary inquiry on the price of milk 2011" at [1.2]. Available at: <http://www.parliament.nz/resource/0000171371>

⁹ New Zealand Dairy Workers Union "Submission to the parliamentary inquiry on the price of milk 2011". Available at: <http://www.parliament.nz/resource/0000171690>

¹⁰ They found that at least 1793 children in Whangarei received food assistance weekly. Sheryl Caren and Alina Mancini *Empty food baskets: Food poverty in Whangarei* (Child Poverty Action Group, March 2012) at 5-7. Available at: <http://www.cpag.org.nz/assets/Publications/Empty%20Food%20baskets%20final%2029.3.12.pdf>

¹¹ M. Claire Dale, Mike O'Brien and Susan St John (eds) *Left further behind: how policies fail the poorest children in New Zealand* (Child Poverty Action Group, September 2011). Available at: <http://www.cpag.org.nz/assets/Publications/121204%20LFB%20CPAG%202011.pdf>

¹² Elaine Rush *Food Security for Pacific People in New Zealand: A report for the Obesity Action Coalition* (Obesity Action Coalition, March 2009). Available at: http://www.ana.org.nz/sites/default/files/PacificfoodsecurityreportfinalMarch09_3.pdf

¹³ Claire Smith "Barriers and Solutions to Achieving Food Security for New Zealand Families" (PhD Thesis, University of Otago, 2011) at 3. Available at <http://otago.ourarchive.ac.nz/bitstream/handle/10523/2010/SmithClaire2011PhD.pdf?sequence=3>.

2 The history of the Right to Food at International Law

The Right to Food has been recognised in international law since the beginning of the articulation of a post-WWII human rights corpus, and continues to be recognised in several key international human rights agreements. It was recognised in the Universal Declaration (which New Zealand played a key role in drafting), and the International Bill of Human Rights.

Universal Declaration of Human Rights

Article 25

1. *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 and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.*
2. *Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.*

New Zealand took on specific responsibility to progressively realise the right to food when it ratified the International Covenant on Economic, Social and Cultural Rights on 28 December 1978.¹⁴ The full content of that right involves obligations to realise an adequate standard of living, including access to adequate food and a right for everyone to be free from hunger, and to undertake measures to develop resources efficiently while ensure an equitable distribution of food across importing and exporting nations:

International Covenant on Economic, Social and Cultural Rights

Article 11

1. *The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The State Parties will take appropriate steps to ensure the realization of this right, recognising to this effect the essential importance of international co-operation based on free consent.*
2. *The States Parties to the present Covenant, recognizing the fundamental right of everyone to be free from hunger, shall take, individually and through international co-operation, the measures, including specific programmes, which are needed:*
 - a. *to improve methods of production, conservation and distribution of food by making full use of technical and scientific knowledge, by disseminating knowledge of the principles of nutrition and by developing or reforming agrarian systems in such a way as to achieve the most efficient development and utilization of natural resources;*

¹⁴ 1966 *International Covenant on Economic, Social and Cultural Rights* 993 UNTS 3 / [1976] ATS 5 / 6 ILM 360 (1967) Article 2.

- b. taking into account to problems of both food-importing and food-exporting countries, to ensure an equitable distribution of world food supplies in relation to need.

However, New Zealand has not signed the Optional Protocol which submits contracting parties to the jurisdiction of the Human Rights Committee to hear complaints. This issue was raised in the Concluding observations of the Committee on Economic, Social and Cultural Rights, where concern was raised that economic, social and cultural rights had not been incorporated into the Bill of Rights Act 1990.¹⁵ We strongly recommend that New Zealand ratify this Optional Protocol.

Under the Convention on the Elimination of All Forms of Discrimination Against Women, article 12 recognises the right of pregnant and lactating women to special protection with regard to adequate nutrition, and article 14 provides the right of rural women to equal access to land, water, credit and other services, social services and adequate living conditions.¹⁶ Article 24(2)(c) of the United Nations Convention on the Rights of the Child recognises a requirement that State Parties “combat disease and malnutrition, including within the framework of primary health care, through, inter alia, the application of readily available technology and through the provision of adequate nutritious food and clean drinking water...”¹⁷ One final area where the right to food is relevant is under the United Nations Convention Against Torture (NZ has also signed the Optional Protocol to this Convention). In the *Greek* case from the European Court of Human Rights, the definition of torture was defined to include the deprivation of food and other items.¹⁸ New Zealand is a signatory of all three of these Conventions.

In 2000 a Special Rapporteur on the Right to Food was appointed by the United Nations Commission on Human Rights, a position initially held by Jean Ziegler and held by Olivier de Schutter since 2008. The Rapporteur is authorised to receive communications (from NGOs and individuals) on alleged violations of the right to food and transmit them to those allegedly responsible. There is no further legal obligation for the country to address the alleged violation, but it can have a significant impact, as summaries of communications are periodically sent to the Human Rights Council.

3 The elements of the Right to Food

At the 1996 World Food Summit governments reaffirmed “the right of everyone to adequate food and the fundamental right of every one to be free from hunger”. But what does that mean?

¹⁵ *Committee on Economic, Social and Cultural Rights: Consideration of reports submitted by State parties under articles 16 and 17 of the Covenant: New Zealand*. Forty-eighth session. E/C.12/NZL/CO/3 (May 2012).

¹⁶ *1979 Convention on the Elimination of All Forms of Discrimination Against Women* 1249 UNTS 13/ [1983] ATS 9/ 19 ILM 33 (1980). Available at <http://cil.nus.edu.sg/rp/il/pdf/1979%20Convention%20on%20the%20Elimination%20of%20All%20Forms%20of%20Discrimination%20Against%20Women-pdf.pdf>.

¹⁷ *1989 United Nations Convention on the Rights of the Child* 1577 UNTS 3/ [1991] ATS 4 / 28 ILM 1456 (1989). Available at: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx>.

¹⁸ European Court of Human Rights, “The Greek case”, Denmark v. Greece, Communication 3321/67.

General Comment 12 of the Committee on Economic, Social and Cultural Rights underscores the fact that the right to adequate food is of crucial importance for the enjoyment of all rights, affirming its indivisible link to the inherent dignity enshrined in the International Bill of Rights.¹⁹ The Committee considers the core content of that right as:

The availability of food in a quantity and quality sufficient to satisfy the dietary needs of individuals, free from adverse substances, and acceptable within a given culture;

The accessibility of such food in ways that are sustainable and that do not interfere with the enjoyment of other human rights.

Violations of that right can be by way of direct action by a state or “other entities insufficiently regulated by States”.²⁰ Implementation of the right requires “a national strategy to ensure the right to ensure food and nutrition security for all, based on human rights principles...”²¹ Those who suffer violations of the right to food are to have access to effective judicial or other appropriate remedies.²² States are also to recognise the critical role of international cooperation, and assist other countries in achieving the right to food.²³

In 2005 the UN Special Rapporteur on the Right to Food published a set of voluntary guidelines “to support the progressive realization [sic] of the right to food in the context of national food security”.²⁴ These guidelines cover many areas, including governance, legal frameworks, education and awareness raising, vulnerable groups, and monitoring.

4 The Right to Food in New Zealand’s Constitution

South African Constitution

Section 27

Everyone has the right to have access to

- (a) Healthcare services, including reproductive health care;*
- (b) **Sufficient food and water**; and*
- (c) Social security, including, if they are unable to support themselves and their dependants, appropriate social assistance. [emphasis added].*

¹⁹ The reference to the International Bill of Human Rights refers to the International Covenant on Civil and Political Rights, coupled with the International Covenant of Economic, Social and Cultural Rights. *Committee on Economic, Social and Cultural Rights - Substantive Issues Arising in the Implementation of the International Covenant on Economic, Social and Cultural Rights General Comment 12 Twentieth Session E/C.12/1999/5* (1999) at [1] and [4]. Available at <http://www.unhcr.ch/tbs/doc.nsf/0/3d02758c707031d58025677f003b73b9>

²⁰ *Id.*, at [19].

²¹ *Id.*, at [21].

²² *Id.*, at [32].

²³ *Id.*, at [36].

²⁴ The 19 voluntary guidelines look at the following areas: (1) democracy, good governance, human rights and the rule of law, (2) economic development policies, (3) strategies, (4) market systems, (5) institutions, (6) stakeholders, (7) legal framework, (8) access to resources and assets, (9) food safety and consumer protection (10) Nutrition, (11) Education and awareness raising, (12) National financial resources, (13) Support for vulnerable groups, (14) safety nets, (15) International food aid, (16) Natural and human-made disasters, (17) monitoring, indicators and benchmarks, (18) National human rights institutions, (19) International dimension.

The right to food does not currently have constitutional or statutory protection in New Zealand. The New Zealand Bill of Rights Act 1990 ('NZBORA') is part of New Zealand's constitutional canon. It incorporates many of the ICCPR rights, and s 7 provides a process for assessing proposed legislation for consistency with these rights. However, it has been criticised for not including ICESCR rights including the right to food.

New Zealand has been undergoing a constitutional review process over the last year, and in mid-2013 accepted submissions on the constitutional question. What should our constitution aim to protect, and how should we think about achieving that protection? A number of organisations raised the issue of the need for stronger protection for economic, social and cultural rights in New Zealand law.

Congo, Finland, Haiti, Nicaragua, Russia, Uganda, Ukraine and South Africa have all provided for the right to food in national constitutions. The landmark 1996 South African Constitution is the best example of this recognition (see above), and violations of the right can bring a case before regional and national constitutional courts.²⁵

Internationally, the right to food is also gaining increasing recognition through interpretation of other constitutionally protected rights. In India, cases can now be brought to the Supreme Court where there has been a violation of the right to life, which has been interpreted to include the right to food. In 2001 the Union for Civil Liberties filed a complaint in the state of Rajasthan where communities were dying of hunger while several kilometres away the Indian public agency in charge of food distribution had significant food stocks. Judges ordered reform of the stock management to supply school lunches and make food allowances for the poorest.²⁶ This year the Indian government passed a food security law that seeks to implement that right.²⁷

The initial White Paper that produced the Bill of Rights Act 1990 argued that it should not "attempt to capture (or more accurately impose) a temporarily popular view of policy."²⁸ Yet the centrality of these rights is growing. Opie has written about the constitutionalisation of economic, social and cultural rights in New Zealand (ESCR):

...ESCR are fundamental rights, they should be expressly affirmed in the NZBORA. A common law presumption of statutory interpretation in favour of ESCR is at best (and if in fact applied by the court) an indirect, limited and potentially convoluted way of giving some effect to these rights in domestic law. As has already been recognised in the case of CPR, such a presumption is no substitute for the enactment of ESCR in the NZBORA as freestanding, enforceable rights (included in the express statutory direction

²⁵ One case brought before the South African Equality Court demanded protection of the right to food of traditional fishermen, after a new national fishing law prevented access to traditional areas. In 2007 the Court demanded an alteration of that policy to comply with the right. See Olivier de Schutter (United Nations Special Rapporteur on the Right to Food) *Countries tackling hunger with a right to food approach* (Briefing Note 01 – May 2010). Available at http://www2.ohchr.org/english/issues/food/docs/Briefing_Note_01_May_2010_EN.pdf

²⁶ Christophe Golay and Melik Özden *The Right to Food: A fundamental human right affirmed by the United Nations and recognized in regional treaties and numerous national constitutions* (Europe-Third World Centre) at 25. Available at <http://www.cetim.ch/en/documents/Br-alim-A4-ang.pdf>

²⁷ That law is available here: http://www.thehindu.com/multimedia/archive/01404/National_Food_Secu_1404268a.pdf

²⁸ Geoffrey Palmer "A Bill of Rights for New Zealand: A White Paper" [1984–1985] 1 AJHR A6, at 3.14.

in s 6 of the NZBORA to the courts to interpret legislation consistently with the affirmed rights where possible, and coming within the Attorney-General's reporting obligations under s 7).²⁹

The right to food is getting increasing recognition and constitutional protection internationally. New Zealand's current constitutional review provides an ideal opportunity to revisit and strengthen the place of this right in our own constitutional arrangements. It is important that the right to food be given due consideration during this constitutional review. At the very least, ICESCR rights, including the right to food, should be subject to the same s 7 vetting process as NZBORA rights to ensure greater consistency and engagement with our international obligations.

The *CPAG v Attorney General* case provides an example where greater constitutional recognition of the right to food could have a real impact. In this case, the appellants argued that many of the poorest families were missing out on the In Work Tax Credit ('IWTC'), a government transfer that is part of the low wage earners social assistance package 'Working For Families', and was scaled up according to the number of children. The IWTC was designed to alleviate child poverty and incentivise work, however it did not have a commensurate assistance package for the children of beneficiaries. CPAG challenged the policy. The Court of Appeal found that while there was discrimination against beneficiaries, that limit was justifiable in a free and democratic society.³⁰ The case was argued under the grounds of discrimination under section 19 of the Bill of Rights Act 1990: it did not raise the right to food. If the right to food held the same weight as questions of discrimination under the Bill of Rights, however, it would be hard to come to such a conclusion.

5 Trade and Aid Policy

Trade and aid policy is an area that has key impact on food security in New Zealand, and New Zealand's contribution to food security in the international community.

New Zealand is a key player in a number of bilateral and multilateral trade and investment initiatives and negotiations. In recent years this has included the NZ-ASEAN free trade agreement ('FTA'), the NZ-China FTA and the wide-reaching Trans-Pacific Partnership Agreement ('TPPA'). These negotiations are growing in terms of scope, magnifying the potential of these agreements to impact on many kinds of human rights, including but not limited to the right to food. In 2011 the United Nations Special Rapporteur on the Right to Food issued a set of 'Guiding principles on human rights impact assessments of trade and

²⁹ Joss Opie "A case for including Economic, Social and Cultural Rights in the New Zealand Bill of Rights Act 1990" (2012) 43 VUWLR 471, at 514-515. Available at:

http://www.victoria.ac.nz/law/research/publications/vuwlr/prev-issues/pdf/vol-43-2012/issue-3/04_Opie.pdf

³⁰ *Child Poverty Action Group (CPAG) v Attorney-General* CA457/2012 [2013] NZCA 402. Available at:

<http://www.cpag.org.nz/assets/CPAG%20v%20Attorney%20General/130830%20CPAG%20Court%20of%20Appeal%20Decision%20CA4572012.pdf>

investment agreements'. The first principle holds that all states should prepare human rights impact assessments prior to the conclusion of trade and investment agreements.³¹

This has not been done in the case of TPPA negotiations, where the question of expanding scope is critical. TPPA goes deeper 'beyond the border' than other agreements, imposing controls on the regulatory process to ensure transparency and coherence, while giving private investors the right to sue over regulation the 'indirectly expropriates' profits. Agreements that include investor-state dispute settlement procedures have a direct impact on the right to food. Three separate firms have taken the Mexican government to court under NAFTA's Chapter 11 investor-state dispute settlement process for introducing legislation that regulated to reduce the flow of high-fructose corn syrup, which has been linked to obesity, awarded over US\$160 million.³²

In May 2011 an Auckland University law professor, with the assistance of the Equal Justice Project, submitted to the NZ Human Rights Commission (NZHRC) making the case for a Human Rights Impact Assessment of TPPA. No such commitment was made by NZHRC, due to a lack of resources. It is important that there are checks in place to ensure trade policies and agreements do not negatively impact on food security. Therefore we recommend that institutions such as the NZHRC be given sufficient scope and resource to explore the right of food and possible impacts of trade agreements on it.

In 2013 a trade and investment lobby group made a submission to the United Nations Human Rights Committee pursuant to NZ Universal Period Review process. The submission argued that the extreme secrecy and lack of parliamentary oversight of the negotiation undermined the right to participate in public affairs, while the agreement itself had the capacity to impact on the right to food, the right to health and the rights of indigenous people.³³

The right to food has also been considered in the context of trade with Pacific nations. A key finding of the 2010 Pacific Food Summit was the threat to Pacific food security from imported foods, and in recent years New Zealand has been criticised for its export of poor quality meat, which has been argued to contribute to poor health outcomes, for example in Fiji.³⁴ States have an extraterritorial obligation with regard to the right to food through their aid and trade policies. New Zealand has provided aid to Fiji and other Pacific nations, especially in the context of disaster relief. Our aid policy states that "economic growth must be achieved in a manner consistent with human rights": it is therefore critical critical our trade and aid policies simultaneously foster and facilitate the right to food. As Barrett argues:

³¹ Olivier De Schutter, Report of the UN Special Rapporteur on the right to food to the UN Human Rights Council. Addendum Guiding principles on human rights impact assessments of trade and investment agreements, A/HRC/19/59/Add.5, 19 December 2011. Available at:

http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session19/A-HRC-19-59-Add5_en.pdf

³² See Karen Hansen-Kuhn *Who's at the Table? Demanding Answers on Agriculture in the Trans-Pacific Partnership* (Institute for Agriculture and Trade Policy, February 2013). Available at:

<http://www.itsourfuture.org.nz/wp-content/uploads/2013/09/IATP-Ag-in-TPPA.pdf>

³³ It's Our Future NZ "Submission of to the United Nations Universal Periodic Review of New Zealand 2013". Available at: <http://www.itsourfuture.org.nz/wp-content/uploads/2012/09/submission-of-its-our-future-nz.pdf>

³⁴ Laura Barrett "An Analysis of New Zealand's Role in Food Insecurity in Fiji" (PhD Thesis, University of Wellington, 2011). Available at:

<http://researcharchive.vuw.ac.nz/xmlui/bitstream/handle/10063/1955/thesis.pdf?sequence=2>

As the world fails to address the issue of global hunger and malnutrition, the right to food and obligations associated with this are gaining strength internationally. Under this premise, New Zealand has clear obligations to account for the impact of its trade on the right to food of those in other countries. Greater attention must be paid to what and how trade is undertaken. For trade to be harnessed so as to support health and life rather than contribute to poor health and poverty in Fiji it will require the right to food of all people, regardless of territorial boundaries, to receive greater priority.³⁵

6. Recommendations

- 6.1 ***That the New Zealand government ratify the Optional Protocol to the ICESCR to give the Human Rights Committee jurisdiction to hear complaints about the right to food in New Zealand and to thereby encourage more practical exploration of how this right can be achieved;***
- 6.2 ***That legislation that affects the rights contained in the ICESCR be submitted to the Section 7 vetting process of the BORA to facilitate greater consistency of NZ law with our international obligation to progressively realise the right to food;***
- 6.3 ***That the right to food receives due weight throughout the course of the Constitutional Review process;***
- 6.4 ***That the NZ Human Rights Commission be given greater scope and resource to explore pathways to strengthening the realisation of the right to food in the NZ context, as well as promoting research on the interconnection with questions of employment, the right to health and the right to adequate housing.***

The Aotearoa Human Rights Lawyers Association (“HRLA”) a non-governmental organisation, established in June 2012 to promote human rights through education and advocacy. The Association is made up legal practitioners with an interest in human rights and is governed by an advisory council of eminent lawyers and academics with human rights expertise.

The Association is a non-partisan independent group dedicated to the study and advancement of human rights in NZ and abroad. We engage in educational projects and events, intervene in cases, assist in legal analysis and in the drafting of reports on human rights issues by other organisations, and undertake shadow reporting for international organisations. We also make submissions on new legislation and regulation to assess consistency with human rights obligations.

³⁵ Id., at 121.