

## PE1733/B

Petitioner submission of 9 December 2019

Following consideration of this petition at its meeting on 19 September 2019, the Public Petitions Committee had agreed to seek the views of the Scottish Government. The Committee's letter asked, in particular, about the Scottish Government's strategic approach to securing the right to food and whether the right to food will form part of the Good Food Nation Bill. I am writing in consideration of the Scottish Government's response, submitted on 31 October 2019.

I welcome the measures taken by the Scottish Government to mitigate the impacts of welfare reform and invest in dignified responses to food insecurity. I also welcome the steps taken, to date, to measure household food insecurity through the Scottish Health Survey and the integration of this data into the National Performance Framework outcomes. Additionally, it is positive to see the work of the National Taskforce to develop a statutory human rights framework that brings human rights into domestic law in the course of the next Parliament.

It remains my belief that the right to food should be incorporated into Scots law as part of the Good Food Nation Bill for four reasons:

1. The right to food provides the legal underpinning for a framework bill on food
2. Timely action is needed in the context of other legislation and the likelihood of the UK leaving the EU
3. Incorporating the right to food is in line with the aspirations of both the Scottish Government and the Scottish Parliament to show leadership on human rights
4. Incorporating the right to food reflects international best practice.

### **1. The right to food provides the legal underpinning for the Good Food Nation bill, which Scottish Government has confirmed will be a framework bill**

The Scottish Government's vision for a Good Food Nation<sup>1</sup> recognises that the food system cuts across health, the environment, social justice, businesses and workers' rights. Policy in these different areas is the responsibility of different departments and ministers, and this presents a challenge to policy coherence, in Scotland and in other nations. Making progress towards achieving this vision requires framework legislation, which the Government has proposed for the Good Food Nation Bill.

The right to food provides an organising principle and a body of international law and guidance which puts in place a whole-system approach to food governance and achieving the Good Food Nation vision.<sup>2</sup>

---

<sup>1</sup> "It is the norm for Scots to take a keen interest in their food, knowing what constitutes good food, valuing it and seeking it out whenever they can. People who serve and sell food – from schools to hospitals, retailers, cafes and restaurants – are committed to serving and selling good food. Everyone in Scotland has ready access to the healthy, nutritious food they need. Dietary-related diseases are in decline, as is the environmental impact of our food consumption. Scottish producers ensure that what they produce is increasingly healthy and environmentally sound. Food companies are a thriving feature of the economy and places where people want to work. Other countries look to Scotland to learn how to become a Good Food Nation." See: <https://www.gov.scot/policies/food-and-drink/good-food-nation/>

<sup>2</sup> Scottish Human Rights Commission's Response to Scottish Government Consultation on Good Food Nation Proposals <http://www.scottishhumanrights.com/news/change-the-law-to-protect-the-right-to-food-for-all/>

The right to food includes geographical and economic access for all: the costs associated with the acquisition of food for an adequate diet should be at a level such that the attainment and satisfaction of other basic needs are not compromised.

However, the right to food as set out in international law goes beyond adequate access to include nutritional need, freedom from adverse substances, cultural appropriateness, environmental sustainability as well as access to land for food production and market systems. The right to food therefore provides, as part of international human rights law, a robust set of principles and guidance which join up the different aspects of the food system. This is helpful context for meeting the Good Food Nation vision.

The Scottish Human Rights Commission believes that the Good Food Nation Bill provides an excellent opportunity to take a rights-based approach to the food system and incorporate the right to food in Scotland.<sup>3</sup> While the Commission envisions that recourse for violations of the rights to food is best addressed as part of the future New Human Rights Act of the Scottish Parliament, they believe that separate incorporation of the right to food is complementary and mutually supportive of future human rights legislation.<sup>4</sup>

## **2. Timely action is needed**

Incorporation of the right to food in this Parliament, rather than waiting for a broader Human Rights Act in a subsequent Parliament, puts in place an important safeguard, frames other current and pending legislation, and accelerates action on longstanding challenges to the food system.

First, as the Scottish Human Rights Commission highlighted, the Brexit context calls for leadership in addressing challenges in relation to the right to food. A strong legal foundation for Scotland's food system, grounded in international human rights law, provides a defence against regression and will assist the Scottish Government and other actors to maintain a progressive approach to food system governance. Incorporating the right to food does not impose an obligation for the State to advance at a certain pace with specific deadlines, rather it facilitates continual improvement across all components.

Second, the right to food framework sets a direction of travel and assists policy coherence in relation to pending legislation – for example on the future pattern of farm support, on food waste reduction, on promotion of healthy diets and on the environment.

Third, establishing the right to food in law in Scotland both signals and supports a sense of urgency in tackling Scotland's food system challenges. Policy to date has not been effective in reversing longstanding patterns of poor diet and associated burdens of ill health. The environmental impact of our food system from production through to waste remains high, while many food producers struggle to make ends meet. Food insecurity is at unacceptable levels, and recent figures reveal that

---

<sup>3</sup> Scottish Human Rights Commission's Response to Scottish Government Consultation on Good Food Nation Proposals <http://www.scottishhumanrights.com/news/change-the-law-to-protect-the-right-to-food-for-all/>

<sup>4</sup> Ibid.

emergency food aid provision is rising<sup>5</sup>. High-impact fishing and climate change are affecting Scotland's inshore and territorial waters which is likely to affect fish availability in the future.

Fourth, the Good Food Nation Bill is an exceptional and historic opportunity to transform how our food system works, to ensure it is founded on principles of social and environmental justice, and meets the needs of current and future generations.

### **3. Incorporating the right to food is in line with the aspirations of both the Scottish Government and the Scottish Parliament to show leadership on human rights**

The Scottish Government has made several high-level commitments to the Sustainable Development Goals and a National Performance outcome to ensure rights are respected, protected and fulfilled. Incorporation of the right to food in the Good Food Nation Bill advances these aims.

The Scottish Parliament has a strong commitment to human rights<sup>6</sup>. In its November 2018 report 'Getting Rights Right: Human Rights and the Scottish Parliament', the Equalities and Human Rights Committee stated:

There needs to be a shift from an essentially reactive role of checking Government Bills, policies or actions to ensure that they comply with Convention rights, to a more positive and proactive role. An approach where the Parliament helps the Government and public bodies to identify opportunities to advance human rights, including by taking positive steps where those are necessary.<sup>7</sup>

In order to achieve this cultural shift, the Equalities and Human Rights Committee has offered to provide proactive leadership and coordination across Parliament and to establish an integrated approach (Rec 20). The Committee in turn asked 'the rest of Parliament, its Committees, Parliamentarians and staff, to help us to embed human rights across the Parliament' (Rec 22).

I believe that the Good Food Nation Bill is an exceptional opportunity to advance human rights and the Bill would be greatly strengthened by the Equalities and Human Rights Committee considering this opportunity during the pre-legislative stage or in Stage 1.

### **4. Incorporating the right to food reflects international best practice**

---

<sup>5</sup> Trussell Trust (2019) *State of Hunger* <https://www.trusselltrust.org/wp-content/uploads/sites/2/2019/06/SoH-Interim-Report-Final-2.pdf>

<sup>6</sup> Getting Rights Right: Human Rights and the Scottish Parliament, 6th Report, 2018 (Session 5), para 187 <https://sp-bpr-en-prod-cdnep.azureedge.net/published/EHRIC/2018/11/26/Getting-Rights-Right--Human-Rights-and-the-Scottish-Parliament-3/EHRICS052018R6Rev.pdf>

<sup>7</sup> Getting Rights Right: Human Rights and the Scottish Parliament, 6th Report, 2018 (Session 5), para 212 <https://sp-bpr-en-prod-cdnep.azureedge.net/published/EHRIC/2018/11/26/Getting-Rights-Right--Human-Rights-and-the-Scottish-Parliament-3/EHRICS052018R6Rev.pdf>

By incorporating the right to food into framework law on good food, the Scottish Government would be demonstrating leadership in a UK context and building upon work already done on the international level.

The 2018/19 consultation proposed that the legislation which establishes the Good Food Nation framework will have regard to the international human rights framework, in line with Scotland's human rights obligations, but will not seek to 'incorporate a right to food in isolation from any larger package of human rights measures'.<sup>8</sup>

In its most recent Concluding Observations to the UK (2016), the UN Committee on Economic, Social and Cultural Rights (CESCR) raised a concern 'about the lack of adequate measures adopted by the State party to address the increasing levels of food insecurity, malnutrition, including obesity, and the lack of adequate measures to reduce the reliance on food banks' (para 53). The Committee recommended the development of 'a comprehensive national strategy for the protection and promotion of the right to adequate food in order to address food insecurity in all jurisdictions of the State party and to promote healthier diets' (para 54).

CESCR has made clear that the preferred approach is to incorporate the right to food, and other economic, social and cultural rights into domestic legal frameworks. CESCR emphasises that national legislation is desirable, and sometimes indispensable, in implementing the substance of economic, social and cultural rights.<sup>9</sup> The Office of the High Commissioner for Human Rights also states that: "The legal framework for institutional coordination is particularly important for the right to food, responsibilities for which typically go well beyond the mandate of any one sectoral ministry".<sup>10</sup>

Scotland has the opportunity to reflect international best practice by incorporating the right to food into its domestic legal framework through the Good Food Nation Bill.

## Conclusion

There are strong policy and legal drivers for the incorporation of the right to food in Scots law. As well as being a driver for improved outcomes for people, the incorporation of the right to food through this legislation will be a driver for the implementation and progressive realisation of other rights, such as the right to health or the right to social security. A right to food framework will assist in providing the needed cohesion across multiple policy areas such as health, education, social security and agriculture. Ultimately, it would act as a catalyst and driver of change towards a stronger human rights culture in Scotland.

For the reasons detailed above, I believe that the right to food should be incorporated into Scots law as part of the Good Food Nation Bill and that the Bill would be strengthened by consideration from the Equalities and Human Rights Committee during the pre-legislative stage or in Stage 1.

---

<sup>8</sup> See: <https://www.gov.scot/policies/food-and-drink/good-food-nation/>

<sup>9</sup> CESCR (1990) General Comment No. 3 on the Nature of States Parties Obligations, UN Doc E/1991/23, para 3.

<sup>10</sup> Office of the High Commissioner for Human Rights, The Right to Adequate Food Factsheet <http://www.ohchr.org/documents/publications/factsheet34en.pdf>