

# **HUNGER IS NO ACCIDENT:**

**New York and Federal Welfare Policies  
Violate the Human Right to Food**

**This report is produced by the New York City Welfare  
Reform  
and Human Rights Documentation Project**

**This report was made possible by funding from:**

**The Ford Foundation**

**Mazon: A Jewish Response to Hunger**

**The Rose and Sherle Wagner Foundation**

**The Shaler Adams Foundation**

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**New York City Welfare Reform and Human Rights Documentation Project**

The New York City Welfare Reform and Human Rights Documentation Project is a collaboration of anti-poverty organizations that work together to monitor the implementation and impact of welfare reform in New York City. Trained monitors gather quantitative and qualitative data that document the experiences of welfare applicants, recipients or former recipients throughout New York City. Using this data, the Documentation Project produces and disseminates reports in order to continue the push for a higher standard of government accountability for meeting basic human needs.

**The Documentation Project is coordinated by:**  
**Community Food Resource Center**  
**Hunger Action Network of New York State**  
**New York Immigration Coalition**  
**New York City Coalition Against Hunger**  
**Puerto Rican Legal Defense and Education Fund**  
**Urban Justice Center–Human Rights Project**

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July, 2000

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*“There is a saying in the motor vehicle field that ‘staying alive is no accident.’ Hunger is no accident either. The policies of denying assistance to many of the neediest people are for the most part the result of deliberate efforts at the federal and state levels to discourage otherwise eligible people from qualifying for public assistance.”*

*—Allen Rogers, Director of the Massachusetts Law Reform Institute, 1983.*



# **Acknowledgements**

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**Froska Alfonso**, New York Immigration Coalition  
**Minerva Delgado**, Puerto Rican Legal Defense and Education Fund  
**Julie Carlson** and **Heidi Dorow**, Urban Justice Center–Human Rights Project

And written with the assistance of:

**The International Women’s Human Rights Clinic of the CUNY Law School and  
The Human Rights Clinic of the Columbia University Law School.**

Thanks to **Maria Green** at the **International Anti-Poverty Law Center** for her input and encouragement.

Special thanks to the pioneering work of the following anti-hunger advocacy organizations in New York City: the **Community Food Resource Center**, the **Hunger Action Network of New York State** and the **New York City Coalition Against Hunger**. This report would not have been possible without their ongoing research and writings on hunger and food stamp issues in New York City.

Thanks also go to **Make the Road by Walking** for allowing us to use their Human Resources Administration complaints database to update this report.

Thanks to **Herb** and **Louise Spirer** for their early support and guidance.

Thanks to **Heather Boushey** for her technical assistance.

Finally, this report would never have been possible without the invaluable advice and tireless support of **Dorothy Q. Thomas**.

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# Executive Summary

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Every human being has the right to be free from hunger and have access to safe and nutritious food. The right to food is a human right that is recognized throughout the international community and guaranteed under international law in the Universal Declaration of Human Rights and in a host of international treaties. Yet for people living in the richest country in the world, the right to food is virtually meaningless because the U.S. government refuses to recognize and uphold this most fundamental human right.

**This report will focus on the impact of this refusal to guarantee the right to food on poor New York City residents within the context of welfare reform.**

**“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 lack of livelihood in circumstances beyond his control.”**

**—Universal Declaration of Human Rights, Article 25**

## The Context of Welfare Reform

In addition to eliminating the entitlement to welfare, the Personal Responsibility Act of 1996, more commonly known as welfare reform, severely weakened the federal Food Stamp Program. For example, to cut overall costs, Congress cut \$27 billion from the Food Stamp Program; initially barred most legal immigrants from participating, decreased benefit levels and limited eligibility to three months out of three years for able-bodied adults without dependents who did not (or could not) find a job. The Food Stamp Program was also weakened, perhaps unintentionally but not unforeseeably, by a national climate that demonized welfare and encouraged states to slash their welfare rolls regardless of outcomes. In response, some state and local governments (including New York City) treated food stamps as if they were a welfare benefit and slashed their food stamp rolls with equal vigor, despite signs of persistent hunger and food insecurity and the existence of federal laws prohibiting such measures.

**Beyond being irresponsible public policy, these policies and practices violate the international human right to food that requires the government not to interfere in people’s access to food and to ensure that everyone is, at a minimum, free from hunger.**

## New York and Federal Welfare Policies Violate the Human Right to Food

This report traces violations of the right to food from the local to the federal level. In New York City, government officials (under welfare reform) routinely deny needy applicants access to welfare and food stamps through the use of diversion, programmatic barriers, discrimination, degradation and arbitrary and inappropriate case closings. In New York State, government officials have failed to adequately monitor New York City’s actions and have failed to utilize and even redirected portions of federal welfare funds totaling over \$1 billion that could, and under human rights law must, be used to help lift individuals and families out of hunger and poverty. And at the federal level, the government has failed to ensure freedom from hunger as a result of its refusal to adequately fund and administer the Food Stamp Program, a program that has only been further weakened under welfare reform.

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## Why a Human Rights Approach to Hunger and Poverty?

**\_ It offers a powerful challenge to the existence of persistent hunger and poverty.**

Acknowledging that the international community has set a higher standard of government responsibility for meeting the needs of its people allows us to transcend the limited domestic debate that questions the morals of poor people and separates the deserving from the undeserving poor. A human rights approach articulates a set of norms for economic and social human rights that are widely accepted throughout the world. These norms enable advocates to push for a more humane standard of government accountability and policies that work toward eliminating poverty—not eliminating public assistance.

**\_ The human right to food is one of the most fundamental human rights: without it, all other rights are meaningless.**

Which is more important: freedom or food? Using a human rights framework, the answer is both. All human rights are interrelated and interdependent: freedom of speech or the right to vote means little when people are hungry, just as a full stomach without political freedom is not enough. Only when individuals are economically secure, as well as politically free, can all human rights be fully realized.

**\_ A human rights approach transforms needs into rights.**

A human rights model allows the issue of poverty to move out of the realm of charity and into the realm of rights. Charity degrades; it requires that people beg to have their most basic needs met, and too often those pleas are rebuffed. When the denial of basic needs is seen as a human rights violation, it allows those whose basic needs are not met to demand that their rights be upheld. The groundbreaking work initiated by the Poor People's Economic Human Rights Campaign spearheaded by the Kensington Welfare Rights Union is a testament to the power of this approach. The Campaign has organized poor people across the United States by raising the issue of poverty as a human rights violation. They have testified before the United Nations and brought a petition against the United States government to the Inter-American Commission on Human Rights arguing that welfare reform violates human rights.

**\_ A human rights approach internationalizes the struggle for economic and social justice.**

Using a human rights model, anti-poverty advocates can shine a spotlight on economic human rights abuses in the United States, enabling increased scrutiny and global pressure to compel the United States to act. Anti-poverty advocates may also gain from the awareness that other groups around the world are fighting similar battles and learn from the successes (and failures) of other non-governmental organizations (NGOs). The more international recognition of economic human rights, the harder it will be for the United States to deny its responsibility to ensure that everyone's basic needs are met.

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## Key Findings

**Problem:**        [Access Denied](#)

New York City policies and practices deny meaningful access to the Food Stamp Program. In December 1998, the United States Department of Agriculture (USDA) found that New York City welfare offices illegally denied needy applicants access to food stamps. By March 2000, Make the Road by Walking, a Brooklyn-based community organization, had gathered over 600 complaints from public assistance applicants and recipients, detailing continued problems with access to welfare and food stamps.

**Violation:**      Under human rights law, governments are prohibited from interfering in people's existing access to adequate food. The Food Stamp Program exists, at least in part, because the federal government realized that people with low incomes often do not have sufficient incomes to purchase an adequate diet without outside assistance. Thus local policies or practices that deny access to food stamps to eligible applicants also deny access to adequate food.

\*\*\*\*\*

**Problem:**        [Discrimination](#)

Testimony in a class-action lawsuit against New York City in 1998 revealed that welfare workers discriminated against immigrants, teenagers, and women who attempted to apply for welfare and food stamps without their husbands by refusing to consider their applications. Later in October 1999, the Office of Civil Rights of the U.S. Department of Health and Human Services found that New York City welfare policies and practices discriminate against people with limited English-speaking ability and the hearing-impaired by failing to provide them with interpreters, in violation of the Civil Rights Act and the Americans with Disabilities Act. Moreover, communities of color are disproportionately affected by city policies that deny access to food stamps. While receipt of food stamps declined among Black individuals (from 28 percent to 20 percent) and Hispanic individuals (from 35 percent to 28 percent) in New York City between 1995 and 1997, food stamp receipt *increased* among white individuals (from 6 percent to 8 percent).

**Violation:**      Any discrimination in access to adequate food on the basis of race, color, sex, language, age, religion, political or other opinion, national or social origin, property, birth or other status with the purpose or effect of nullifying or impairing the equal enjoyment or exercise of economic and social rights constitutes a violation of the human right to food.

\*\*\*\*\*

**Problem:**        [Federal Welfare Funds Have Been Redirected or Left Unused](#)

New York State has accrued \$1.1 billion in unspent welfare funds and has paid for tax cuts by using federal funds to decrease state funding of anti-poverty programs despite a statewide poverty rate of 17 percent and a child poverty rate of 25 percent.

**Violation:**      Under human rights law, governments must utilize "maximum available resources" to eliminate hunger and food insecurity. *At the very least*, funds already allocated to help poor people become economically secure must be utilized toward that end.

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**Problem:**

**Widespread Hunger**

According to the USDA, 10 million people in the United States live in households that suffer from hunger, and 400,000 of them live in New York City alone. Such hunger exists because the Food Stamp Program is under-funded and underutilized: benefits levels are too meager, participation rates are abysmally low and the federal government excludes entire classes of people such as immigrants, depending on the political climate of the day and without regard to human need.

**Violation:**

According to the United Nations Committee on Economic, Social and Cultural Rights, a country in which “a significant number of individuals” is deprived of food is, *prima facie* (at first view), violating human rights. The United States clearly has the resources and knowledge necessary to eliminate persistent hunger; therefore the U.S. government must allocate its resources toward that end.

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### **Impact of Violations**

The cumulative impact on low-income New Yorkers of these, and the other violations detailed in this report, is tremendous:

- \_ According to the Community Food Resource Center, 400,000 people in New York City live in households that suffer from hunger.
- \_ The food stamp rolls have dropped 35 percent in New York City since welfare reform was first implemented in 1996.
- \_ According to the Community Service Society, since welfare reform, *fewer poor people* are receiving the food stamps they need to survive (68 percent in 1996 vs. 58 percent in 1998).
- \_ According to the New York City Coalition Against Hunger, requests for emergency food assistance in New York City grew by 24 percent in 1997 and by 36 percent in 1998. Demand for emergency food is especially high among immigrants and working-poor individuals.
- \_ Food pantries and soup kitchens are unable to meet the growing demand. According to the New York City Coalition Against Hunger, in January of 1999 alone, 74,000 people (59 percent of them children) were turned away from emergency food providers across New York City because there wasn't enough food, up 26 percent over the previous year.
- \_ Welfare reform is not the answer. According to New York City's own data, at least three out of four families who leave welfare remain poor whether or not they work. Since only 29 percent of people who leave welfare statewide continue to receive food stamps one year after losing welfare, many individuals and families are without sufficient resources to purchase an adequate diet.

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## Recommendations

New York City, New York State and the federal government must uphold the human right to food. Creating the conditions in which individuals and families have the resources to feed themselves is the ultimate objective of an economic human rights approach. Until we can ensure economic security for all, we will never completely solve the problem of hunger in America.

Addressing the problem of hunger, even in the short run, will require making significant changes to welfare programs on the local, state and federal level, including adjusting eligibility criteria and benefit levels to adequately assist those in need. It will also require an ongoing investment to create jobs with living wages for all. But as we work progressively to realize that goal, we have an immediate obligation to repair the Food Stamp Program. The following recommendations, based on violations outlined in the body of this report, are the first steps toward that end.

### New York City Government

1. Acknowledge the obligation to “respect,” “protect” and “fulfill” the human right to food
2. Abide by the USDA’s recommendations to comply with federal food stamp laws including:
  - \_ Encouraging applicants to file an application on the day of their first contact with the food stamp office/welfare center
  - \_ Notifying applicants of their rights to apply for food stamps independent of welfare
  - \_ Processing all food stamp applications in a timely manner, consistent with federal law
  - \_ Screening all applicants for eligibility for expedited/emergency food stamps
  - \_ Not denying food stamp benefits based on eligibility standards that are not specified by federal food stamp laws and regulations
  - \_ Taking appropriate action to ensure uninterrupted food stamp benefits when appropriate at the time of welfare benefit termination
3. Abide by the forthcoming Office of Civil Rights recommendations to provide translated documents and interpreters/bilingual caseworkers to non-English speakers and the hearing-impaired to assist them in completing the application and re-certification process in compliance with federal law
4. Take advantage of the Able Bodied Adult Without Dependents (ABAWD) waiver to eliminate the time limit on food stamps to able-bodied jobless adults without children
5. Allow independent researchers to have access to all relevant case records in order to monitor the implementation and impact of welfare reform. The city must also *produce and disseminate all* relevant information on outcomes
6. Increase resources and address staff shortages at welfare offices and Job Centers so they can adequately meet the needs of applicants and recipients
7. Abolish degrading policies and practices at all welfare offices
8. Ensure that bureaucratic errors do not result in benefits being arbitrarily and erroneously cut off
9. Ensure that program requirements are minimal and do not deter otherwise eligible individuals from applying for and receiving benefits
10. Ensure that all documents necessary to pursue remedy, such as documents necessary to obtain a fair hearing, are available in a timely fashion
11. Establish an Advisory Council, in the same tradition as homeless-shelter monitors, to monitor welfare offices and Job Centers. The council should be composed of public-interest attorneys, local clergy, anti-poverty advocates and current and former public assistance recipients

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## New York State Government

1. Abide by the USDA's recommendations to monitor New York City's welfare and food stamp policies and practices including:
  - \_ Providing comprehensive policy and technical support to New York City to ensure accurate and fair implementation of food stamp policy in the welfare reform environment
  - \_ Carrying out consistent and effective monitoring of New York City operations to ensure compliance with all applicable Food Stamp Program law, regulations and guidance
2. Spend (or obligate) all of the unspent welfare funds on programs and subsidies that will help low-income New Yorkers move out of poverty and achieve economic security. These funds should be used to provide additional childcare subsidies; funding for higher education for welfare recipients and those who are mired in low-wage jobs, living wage policies or wage subsidies to help move low-income people out of poverty, an increase in the welfare-grant levels such that, when combined with food stamps, individuals and families have enough income to reach the poverty line, and housing subsidies for people making the transition from welfare to work

## The Federal Government

1. Ratify (without reservations) the International Covenant on Economic, Social and Cultural Rights, and the Convention on the Rights of the Child and amend national laws to reflect economic and social human rights
2. Ratify the Convention on the Elimination of All Forms of Discrimination Against Women and ensure implementation and compliance with all human rights obligations under treaties and instruments to which the United States is a party, including the International Covenant on Civil and Political Rights, the Convention on the Elimination of All Forms of Racial Discrimination, and the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
3. Perform ongoing federal monitoring of New York City welfare and food stamp policies and procedures. This should include periodically sending federal monitors to Job Centers and welfare offices to pose as potential public assistance applicants. Federal monitors should also review public assistance cases that are open, closed, denied or diverted; they should interview staff as well as applicants and monitor the daily operations of the Job Centers to ensure compliance with all federal laws
4. Respect, protect and fulfill economic and social rights, in particular the right to food through adequate programs and funding. Toward that end, implement the following specific proposals:
  - \_ Increase the benefit levels for the Food Stamp Program to meet the guidelines of the Low Cost Food plan (the dollar value of this plan is approximately 125 percent of the Thrifty Food Plan) to help adequately meet daily dietary needs
  - \_ Fund more adequate outreach programs to encourage all eligible individuals, especially the working poor, to apply and to achieve a 100-percent participation rate
  - \_ Mandate more flexible hours at food stamp-only offices, including evening and weekend hours, so those who work during the day can still apply
  - \_ Abolish all discriminatory food stamp eligibility restrictions—eligibility must be based solely on a means test. Toward that end, abolish ABAWD requirements, all immigrant restrictions and the Graham Amendment.



# **HUNGER IS NO ACCIDENT:**

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## Introduction

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Every New Yorker is entitled to be free from hunger and have access to safe and nutritious food. It is a human right, assured under international law and the New York State Constitution. Nonetheless, each day approximately 400,000 New Yorkers suffer from moderate or severe hunger—118,000 of them children. These men, women and children have little recourse for their suffering. Many are diverted from applying for food stamps and other public benefits by city policies and practices intent on eliminating the use of public assistance, and they are turned away from private food pantries and soup kitchens that struggle unsuccessfully to keep up with the mounting demand. They are hungry; some are malnourished, and although the government has the resources and the obligation to free them from this hunger, it fails to do so.

*Mayleen<sup>1</sup> is one of those hungry New Yorkers. She is 19, six months pregnant, and lives with her uncle and two other roommates because she was kicked out of her mother's apartment. She has applied for welfare and food stamps twice to no avail. The second time she applied she was sent to a job-training agency on Wall Street. She had been there for more than two weeks when her emergency food stamps ran out. Mayleen was hungry every day:*

*After two weeks I didn't have any money, no lunch money. I told them "How do you expect pregnant females to come here and look for jobs...and you don't give us lunch money? I'm hungry and I don't have any money." Then I spoke to the supervisor. She said, "Do you feel all right?" I said, "No. I'm hungry." She said, "Drink some water it will make you feel better." There were two pregnant women like me, six months pregnant [in the Job Search] program. We would put our money together. We would buy a roll and coffee just to fill us up.*

*Mayleen's welfare and food stamp applications were later denied because she missed an appointment with her welfare worker due to her having a doctor's appointment that same day. While Mayleen brought her proof that she had been at a doctor's appointment, her welfare worker told her she would have to reapply nonetheless. Since then, she has requested a fair hearing to appeal the decision but is awaiting her official letter of denial without which she can't begin the appeal. In the meantime, Mayleen has nothing. No money for food.<sup>2</sup> No money for transportation or any other essentials.*

Mayleen's story has become all too common since the passage of the Personal Responsibility and Work Opportunity Reconciliation Act (PRA) of 1996,<sup>3</sup> perhaps better known as "welfare reform." With the stroke of his pen, President Clinton replaced Aid to Families with Dependent Children (AFDC) with Temporary Assistance to Needy Families (TANF), eliminating the entitlement to welfare, imposing five-year lifetime limits on benefits and devolving the administration of the program—through the use of block grants—to the states.

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<sup>1</sup> Name has been changed to ensure confidentiality.

<sup>2</sup> Though Mayleen is eligible to receive Women, Infants, and Children (WIC), a nutritional assistance program for pregnant or nursing women and small children, she was unable to apply for the program while she participated in the job-training program. Her local WIC office was only open during the same hours that Maylene was required to be at her job-training program.

<sup>3</sup> For brevity, for the remainder of this report we will use the shorter acronym PRA for the Personal Responsibility Act.

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While, in theory, the purpose of the PRA was to reform the welfare (cash assistance) system, other public assistance<sup>4</sup> programs, including the Food Stamp Program, were severely affected as well. For instance, to cut overall costs, the federal government decreased funding to the Food Stamp Program by \$27 billion and initially excluded most legal immigrants from the program. Moreover, during the debate over welfare reform, the media and some members of Congress portrayed receipt of government assistance as tantamount to sloth, illegitimacy and drug abuse.<sup>5</sup> It should have come as no surprise that in this national climate, many state, county and city officials across the country unleashed attacks on all forms of public assistance for the poor—including food stamps and Medicaid.

*There was a misreading (by states) of what the food stamp program was all about. It's a nutrition assistance program, not a welfare program. But in an era of pushing people from welfare to work, the focus was on work*<sup>6</sup>

—Shirley Watkins, Under-Secretary, United States Department of Agriculture.

This attack against public assistance has been particularly aggressive in New York City. Since welfare reform was first implemented in 1996, New York City Mayor Rudolph Giuliani has made ending welfare<sup>7</sup> an administration priority and toward that end has slashed the welfare rolls by 43 percent.<sup>8</sup>

*We are going to end welfare by the end of this century completely.*<sup>9</sup>

—Mayor Rudolph Giuliani, 1998

To achieve this precipitous drop, New York City has intentionally obstructed access to welfare through a policy of diversion in which welfare workers are trained to aggressively, arbitrarily and sometimes illegally divert needy applicants from applying for benefits and to impose onerous program requirements that make compliance with welfare regulations virtually impossible. Since the welfare application is combined with the food stamp application, most of the city's attempts to divert individuals from applying for welfare deter them from applying for food stamps as well. Moreover, even when applicants successfully receive food stamps, problems with city administration of the program often lead food stamps to be cut off without notice or just cause. In their zeal to eliminate "dependency," city officials have obstructed access to the Food Stamp

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<sup>4</sup> The term "public assistance" used throughout this report includes welfare (cash assistance), food stamps and Medicaid.

<sup>5</sup> Two members of Congress, Congressman John L. Mica of Florida and Congresswoman Barbara Cubin of Wyoming, went so far as to equate welfare recipients with alligators and wolves—animals that had lost their ability to forage in the wild as a result of government assistance. "Debate on the Floor of the House of Representatives about the Personal Responsibility Act of 1995," *Congressional Record* (March 24, 1995), <http://thomas.loc.gov>; Lucy A. Williams, "Race, Rat Bites and Unfit Mothers: How Media Discourse Informs Welfare Legislation Debate," *Fordham Urban Law Journal* XXII (1995): pp.301–338.

<sup>6</sup> Jack Norman, "States Mistakenly Cut Back on Food Stamps, Officials Say," *JS Online Milwaukee Journal Sentinel* (November 18, 1999), [www.jsonline.com](http://www.jsonline.com).

<sup>7</sup> Welfare in New York City includes Family Assistance, known nationally as Temporary Assistance to Needy Families (TANF) and Safety Net Assistance (SNA), a state-funded program for individuals who do not qualify for TANF, which serves mainly adults without dependent children.

<sup>8</sup> Ilene Marcus and Swati Desai, "HRA FACTS: February 1996," The City of New York Human Resources Administration, Data Analysis and Research, Office of Policy and Program Analysis (February 1996); Andrew S. Bush, and Swati Desai, "HRA FACTS: March 2000," The City of New York Human Resources Administration, Data Analysis and Research, Office of Policy and Program Analysis (March 2000). Data are for January 1996 and March 2000.

<sup>9</sup> Mayor Rudolph W. Giuliani, "Reaching Out to All New Yorkers by Restoring Work to the Center of City Life," (speech made at the Republic National Bank New York, New York, July 20, 1998), [www.ci.nyc.ny.us/html/om/html/98b/welfare.html](http://www.ci.nyc.ny.us/html/om/html/98b/welfare.html).

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Program, causing, at least in part, a 35 percent decrease in city food stamp rolls between 1996 and 1999 in spite of persistently high poverty rates of around 24 percent.<sup>10</sup> Since the Food Stamp Program is our nation's best defense against hunger, declining participation is leading to increased demand at already overburdened food pantries and soup kitchens across the city, and an estimated 74,000 individuals are turned away each month.<sup>11</sup> In all, 400,000 New Yorkers are left hungry.<sup>12</sup>

In this preliminary report<sup>13</sup> we will argue that in addition to being irresponsible public policy, many of New York City's welfare policies and practices violate the human right to food as well. The right to food is a firmly established human right under international law. It guarantees every human being the right to be free from hunger and have access to safe and nutritious food.

*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 lack of livelihood in circumstances beyond his control.*

—*Universal Declaration of Human Rights, Article 25*

Federal, state and local governments are obligated to “respect”, “protect” and “fulfill” this right to food. The U.S. government has acknowledged this obligation, at least in part, in its establishment of the federal Food Stamp Program. Yet by denying eligible individuals access to the Food Stamp Program, New York City interferes with poor New Yorkers' access to food, violating the human right to food.

This report will also show that New York City is not the only government body at fault. New York State violated the right to food when it failed to monitor and ultimately intervene in New York City's implementation of welfare reform, giving the city carte blanche to do as it wished: allowing it to violate state, federal and international laws. In addition, New York State has failed to utilize and even redirected portions of federal welfare funds totaling over \$1 billion that could—and under human rights law must—be used to help people make a successful and permanent transition out of hunger and poverty.

To be fair, despite these serious violations, both New York City and State are known for their liberal and even generous social policies (in comparison to other states). Provision of aid for the needy is mandated by the New York State constitution, and the state has a more generous earned income tax credit than any other state, increasing the wages of low-income workers who apply for the credit by as much as \$2 per hour.<sup>14</sup> For its part, New York City was the first city in the country to establish a “right to shelter” law, guaranteeing homeless people a warm place to stay at night.<sup>15</sup> Though not nearly adequate to meet the

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<sup>10</sup> “HRA FACTS,” February 1996 and March 2000; Mark Levitan, “Poverty in New York City: A CSS Data Brief,” Community Service Society (October, 1999), [www.cssny.org/whatsnew/databrief/databrief.htm](http://www.cssny.org/whatsnew/databrief/databrief.htm).

<sup>11</sup> Nicole Woo, “Full Coffers, Empty Plates: Children Go Hungry in a City of Plenty,” New York City Coalition Against Hunger (October 14, 1999).

<sup>12</sup> Community Food Resource Center, Inc. “Who Are New York City's Hungry?” (April 1999).

<sup>13</sup> The Welfare Reform and Human Rights Documentation Project continues to document the implementation and impact of welfare reform in New York City and will release additional reports on economic human rights violations in the city.

<sup>14</sup> When combined with the federal earned income tax credit. Raymond Hernandez, “U.S. Welfare Limit May Put Thousands in Albany's Charge,” *New York Times*, March 21, 2000, [www.nytimes.com](http://www.nytimes.com).

<sup>15</sup> Wes Daniel, “Derelicts’, Recurring Misfortune, Economic Hard Times and Lifestyle Choices: Judicial Images of Homeless Litigants and Implications for Legal Advocates,” *Buffalo Law Review* 687 (fall 1997).

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increasing demand, the city provided approximately \$10 million last year in aid to emergency food providers throughout New York City.<sup>16</sup> Because some of the more liberal policies have been under attack by the current leadership,<sup>17</sup> social policy in New York looks like an odd amalgam of aggressive and punitive policies and practices adjoining a more generous overall tradition of support for the poor. So while we focus this report on human rights abuses in New York, one should certainly not infer that New York is “all bad” or that it is the only place where such abuses occur.<sup>18</sup>

Indeed hunger is not limited to New York. Hunger is widespread and can be found in every region of the United States: urban, suburban and rural. In fact, according to the U.S. Department of Agriculture, 10 million people across America live in households that suffer from hunger.<sup>19</sup> And 26 million are on the brink of hunger, classified by the USDA as food insecure—that is, they have limited access to nutritionally adequate and safe foods or obtain such foods in socially unacceptable ways, such as utilizing food pantries and soup kitchens, scavenging, begging or stealing.<sup>20</sup> That 36 million people live in households that suffer from hunger or are on the brink of hunger illustrates in itself the federal government’s failure to meet its human rights obligation. International law requires that the federal government uphold the right to food and where individuals or groups are unable to feed themselves, to fulfill that right directly. Yet while the federal government has done its part in monitoring New York City and State compliance with federal food stamp law, it is also part of the problem. The Food Stamp Program, our nation’s primary mechanism to prevent hunger, is under-funded and underutilized. The benefit levels are far too meager, participation rates—especially among the working poor—are abysmally low due to insufficient outreach, and the federal government excludes entire classes of people from the program, depending on the political climate of the day, with no regard for human need.

Before we examine these violations in greater detail and suggest recommendations to bring New York City, New York State and the federal government into compliance, we will first explore international law regarding the human right to food.

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<sup>16</sup> According to the New York City Coalition Against Hunger

<sup>17</sup> In January 2000 for example, New York City went to court to limit shelter to those who meet work requirements, severely limiting the City’s right-to-shelter decree. Nina Bernstein, “Stage Is Set for Court Debate on Limiting Right to Shelter,” *New York Times*, January 7, 2000, [www.nytimes.com](http://www.nytimes.com).

<sup>18</sup> For information about barriers to access and unlawful practices in other states, see Lissa Bell and Carson Stregg-Flora, “Access Denied: Federal Neglect Gives Rise to State Lawlessness; Families Denied Access to Medicaid, Food Stamps, CHIP and Child Care,” National Federation of Community Organizations & National Campaign for Jobs and Income Support (May 2000).

<sup>19</sup> U.S. Department of Agriculture, Food and Nutrition Service, “Household Food Security in the United States: 1995-1998, Advance Report,” (July 1999).

<sup>20</sup> *ibid.*

# The Human Right to Food

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The United States is the only industrialized country in the world  
with widespread hunger.<sup>21</sup>

Bread for the World

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While hunger in a land of plenty is a common—and to a certain extent accepted—feature of life in New York City, as in other parts of the United States, it is considered a human rights violation by the rest of the world. Indeed, the international community has acknowledged that as a matter of birthright every human being has the right to be free from hunger and have access to safe and nutritious food. The right to food is guaranteed under international law in the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, the American Declaration of the Rights and Duties of Man, and for children, under the Convention on the Rights of the Child.<sup>22</sup>

## Universal Declaration of Human Rights (UDHR), Article 25:

*“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 lack of livelihood in circumstances beyond his control.”*

## International Covenant on Economic Social and Cultural Rights (ICESCR), Article 11:

*“The State 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 the right to the continuous improvement of living conditions. ... The State Parties to the present Covenant, recognizing the fundamental right of everyone to be free from hunger...”*

## American Declaration of the Rights and Duties of Man (American Declaration), Article 11:

*“Every person has the right to the preservation of his [or her] health through sanitary and social measures relating to food, clothing, housing and medical care, to the extent permitted by public and community resources.”*

## Convention on the Rights of the Child (CRC), Articles 24 and 27:

*“State parties shall pursue full implementation of [the child’s right to the highest attainable standard of health] and...shall take appropriate measures...to combat disease and malnutrition...through the provision of adequate nutritious foods. ... States Parties recognize the right of every child to a standard of living adequate for the child’s physical, mental, spiritual, moral and social development. ... States Parties...shall...in case of need provide material assistance and support...particularly with regard to nutrition, clothing and housing.”*

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<sup>21</sup> Bread for the World, “A Program to End Hunger—Hunger 2000,” (annual report, February 2000). As cited by the Bread for the World press release, February 10, 2000, “A Program to End Hunger—Hunger 2000,” [www.bread.org/media/archives/pr000210.html](http://www.bread.org/media/archives/pr000210.html).

<sup>22</sup> The right to food is also recognized in a host of other documents including the Protocol of San Salvador, Article 12 and the Charter of the Organization of American States (OAS), Article 34. It is even implied in the International Covenant on Civil and Political Rights, Article 6, a treaty that was ratified by the United States. United Nations Committee on Economic, Social and Cultural Rights, “General Comment 6: The Right to Life,” par. 5. (1982), [www.unhchr.ch](http://www.unhchr.ch).

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## What Does Having a Right to Food Mean?

*The right to 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 means for its procurement.*<sup>23</sup>

—UN Committee on Economic, Social and Cultural Rights

The right to food may sound like an amorphous concept, but over the years, human rights law and practice have defined it to include freedom from hunger and access to safe and nutritious food.<sup>24</sup> Every human being is thus entitled to “food in a quantity and quality sufficient to satisfy the dietary needs of individuals, free from adverse substances, and acceptable within a given culture.”<sup>25</sup> Such food must be available in “ways that are sustainable and that do not interfere with the enjoyment of other human rights.”<sup>26</sup>

### Government Obligations

The right to food is, of course, meaningless unless it is upheld. Under international law governments are the primary body responsible for ensuring that people’s human rights are met. As such, governments have several levels of obligation under human rights law:<sup>27</sup>

- \_ First, government must *respect* the right to food and therefore has a duty to ensure that its actions do not interfere with people’s existing access to adequate food or with their ability to feed themselves.
- \_ Second, government must *protect* the right to food by ensuring that “enterprises or individuals” do not deprive people of access to food.
- \_ Third, government must *fulfill* the right to food. Fulfilling the right to food means that government must take positive steps to ensure that everyone is, at a minimum, free from hunger.<sup>28</sup> This does not imply that government must feed everyone, since most people have the resources to feed themselves. Rather, it requires that government must create the conditions where people can feed themselves.<sup>29</sup> When “no other possibility exists,” for the elderly or the disadvantaged, when unemployment sets in, or for those who are marginalized by structural shifts in the economy, for

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<sup>23</sup> United Nations Committee on Economic, Social and Cultural Rights, “General Comment 12: The Right to Adequate Food,” par. 6. (May 1999), [www.unhchr.ch](http://www.unhchr.ch).

<sup>24</sup> Asbjorn Eide, “The Human Right to Adequate Food and Freedom from Hunger,” from The Right to Food: In Theory and Practice, (Rome, 1998) The Food and Agricultural Organization of the United Nations; United Nations Committee on Economic, Social and Cultural Rights, “General Comment 12: The Right to Adequate Food.”

<sup>25</sup> UN Committee on Economic, Social and Cultural Rights, “General Comment 12: The Right to Adequate Food,” par. 8.

<sup>26</sup> *ibid.*

<sup>27</sup> UN Committee on Economic, Social and Cultural Rights, “General Comment 12: The Right to Adequate Food,” par. 15. “Maastricht Guidelines on Violations of Economic, Social and Cultural Rights,” part II, par. 6 (Maastricht: January 1997) [www1.umn.edu/humanrts/instree/Maastrichtguidelines.html](http://www1.umn.edu/humanrts/instree/Maastrichtguidelines.html). The Maastricht Guidelines were developed by a group of 30 experts and reflect the evolution of international law since 1986. FAO Legal Office, “Implementation of the Right to Food in National Legislation,” from The Right to Food: In Theory and Practice, (Rome, 1998) The Food and Agricultural Organization of the United Nations.

<sup>28</sup> UN Committee on Economic, Social and Cultural Rights, “General Comment 12: The Right to Adequate Food,” par. 14 and 21.

<sup>29</sup> UN Committee on Economic, Social and Cultural Rights, “General Comment 12: The Right to Adequate Food,” par. 15; Asbjorn Eide, “The Human Right to Adequate Food and Freedom from Hunger.”



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example, government must provide direct subsidies of food or resources to procure food.<sup>30</sup> In addition, governments are also responsible for ensuring the full realization of the right to food including food security—that is, ensuring the ready availability of nutritionally adequate and safe food, using sustainable, socially acceptable and dignified means.<sup>31</sup>

Governments are obliged to move “as expeditiously and effectively as possible” toward fulfilling these rights, making “full use of their maximum available resources.”<sup>32</sup> With regard to ensuring freedom from hunger in particular, “resource constraints do not free governments of responsibility; it still has to show that every effort has been made to use all resources at its disposal in an effort to satisfy, as a matter of priority [freedom from hunger].”<sup>33</sup> Moreover, deliberate steps backward in the fulfillment of the right to food would generally be considered a violation of international law.<sup>34</sup> At the very least, any step backward would “require the most careful consideration and would need to be fully justified by reference to the totality of the rights provided for in the Covenant and in the context of the full use of the maximum available resources.”<sup>35</sup>

These government obligations cover various aspects of the right to food: from food distribution and food quality to minimum wages and measures that only government can undertake to ensure the right is adequately fulfilled. This report, however, focuses on what is widely considered the most crucial element of the right to food: government’s obligation to ensure freedom from hunger and unfettered access to adequate nutritious food.

### **The United States Is Bound to Uphold the Human Right to Food**

There are various international and domestic precedents that indicate that the United States, New York State and New York City are legally bound to uphold the human right to food.

#### *International Law*

The right to food is recognized in the Universal Declaration of Human Rights, a declaration that the United States was instrumental in drafting and endorsing. While this document is not a treaty, many legal scholars still believe that all countries are bound to uphold its standards.<sup>36</sup> In the Americas, the Organization of American States guarantees the right to food in the American Declaration on the Rights and Duties of Man, which is binding on the United States under international law.<sup>37</sup> In addition, the International Covenant on

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<sup>30</sup> *ibid.*; UN Committee on Economic, Social and Cultural Rights, “General Comment 12: The Right to Adequate Food,” par. 13 and 15.

<sup>31</sup> UN Committee on Economic, Social and Cultural Rights “General Comment 12: The Right to Adequate Food,” par. 14 and 21.

<sup>32</sup> UN Committee on Economic, Social and Cultural Rights, “General Comment 3: The Nature of States Parties’ Obligations,” par. 9.

<sup>33</sup> Asbjorn Eide, “The Right to Adequate Food and Freedom from Hunger: Updated Study on the Right to Food,” Submitted to the Sub-Commission on the Prevention of Discrimination and Protection of Minorities of the UN Commission on Human Rights (June 28, 1999), [www.unhchr.ch](http://www.unhchr.ch).

<sup>34</sup> United Nations Committee on Economic, Social and Cultural Rights, “General Comment 3: The Nature of States Parties’ Obligations,” par. 9. (1990), [www.unhchr.ch](http://www.unhchr.ch); ICESCR, part II, Article 2.1; Maastricht Guidelines on Violations of Economic, Social and Cultural Rights, par. 11, 15a and 15e.

<sup>35</sup> UN Committee on Economic, Social and Cultural Rights, “General Comment 3: The Nature of States Parties’ Obligations,” par. 9.

<sup>36</sup> Thomas Buergenthal, *International Human Rights in a Nutshell*, 2<sup>nd</sup> ed. (St. Paul, Minn.: West Publishing Co, 1995).

<sup>37</sup> The Inter-American Court of Human Rights, in Advisory Opinion OC-1089, states that “[f]or the member states of the Organization, the Declaration is the text that defines the human rights referred to in the Charter...with the result that...the American Declaration is for these states a source of international obligation related to the Charter of the

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Economic, Social and Cultural Rights (ICESCR) and the Convention on the Rights of the Child (CRC), both international treaties, were signed by Presidents Carter and Clinton respectively. These signatures mean that, at the very minimum, the United States cannot violate or contravene the “object and purpose” of these treaties.<sup>38</sup>

Congress has yet to ratify the ICESCR or the CRC, an important step toward the enforceability of these rights in U.S. courts.<sup>39</sup> However, many legal scholars believe that the United States has obligations with regards to the rights in these treaties because the rights have become so common that they are now part of customary international law.<sup>40</sup> That is, the right to food has become an accepted legal norm within the international community, in the same way that the right to be free from torture, for example, is universally acknowledged.

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**142 countries—including every other major industrialized nation—have ratified the International Convention on Economic, Social and Cultural Rights and 191 have ratified the Convention on the Rights of the Child.<sup>41</sup> In fact, the United States remains the only nation in the world, save Somalia, a country without a functioning government for much of the 1990s, that has yet to ratify the Convention on the Rights of the Child.**

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Despite its failure to ratify the ICESCR and the CRC, the United States has admitted that the right to food exists. In fact, on World Food Day in 1998, President Clinton acknowledged it as a fundamental human right: “World Food Day is a sober reminder that millions of people across the globe are denied the most basic human right: the right to food.”<sup>42</sup> However, the United States adamantly denies any responsibility or accountability to the international community in fulfilling this right. At the World Food Summit in 1996, the United States argued that “the right to food” or the “fundamental right to be free from hunger” is a goal or aspiration to be realized progressively that does not give rise to any international obligations.<sup>43</sup> This statement was made, according to Melinda Kimble (head of the U.S. government delegation to the World Food Summit in Rome in 1996), because the United States recognized that the new welfare reform law

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Organization.” As cited by Peter Weiss, “Economic and Social Rights Come of Age: United States Held to Account in IACHR,” from *Human Rights Brief* 7, no. 2 (winter 2000) by the Center for Human Rights and Humanitarian Law.

<sup>38</sup> Restatement of the Law, Third, Foreign Relations Law of the United States, Section 312(i).

<sup>39</sup> Indeed, the United States Supreme Court held that the U.S. government has no affirmative constitutional duty to create the conditions necessary to protect social and economic rights. See *Harris vs. McRae*, 448 U.S. 297 (1980). Under Supreme Court case law the legislature has full discretion to limit or even eliminate social welfare programs. See *Lyng vs. UAW*, 485 U.S. 360 (1988). However, this does not imply that the United States does not have a duty to respect, protect and fulfill economic and social rights under international law.

<sup>40</sup> Prominent legal scholars believe that the ICESCR and the CRC, as with other human rights treaties, are elaborations of the rights found in the Universal Declaration of Human Rights. Since the rights contained in the UDHR are widely viewed as part of customary international law, States have obligations with respect to economic, social and cultural rights whether or not they have ratified these treaties. Louis B. Sohn, “The New International Law: Protection of Individuals Rather than States,” *American University Law Review* (fall 1982).

<sup>41</sup> Office of the United Nations High Commissioner for Human Rights, “Status of Ratifications of the Principal International Human Rights Treaties” (May 15, 2000).

<sup>42</sup> President William Jefferson Clinton, “World Food Day Message,” (October 16, 1998).

<sup>43</sup> Food and Agricultural Organization of the UN, “Report of the World Food Summit, Nov. 13–17,” 1996 Rome: Part I, Annex II. As cited by Uwe Kracht, “Food is a Human Right,” World Hunger Education Service (June 1998), [www.worldhunger.org/articles/kracht.htm](http://www.worldhunger.org/articles/kracht.htm).

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would then be in violation of international law and the right to food.<sup>44</sup> That the United States does not want to be held accountable to this standard is outrageous, but that does not obviate this standard's existence. Access to food is a human right, inalienably and incontrovertibly.

### *Domestic Precedents*

Although the U.S. government has often failed to endorse and affirm international economic and social human rights, the general principle behind these rights—that government is responsible for meeting the basic needs of individuals living within its borders, including freedom from hunger and access to adequate food—has been articulated and recognized domestically.

While the right to food is not specifically mandated by the U.S. Constitution, the preamble to the Constitution does establish that promotion of the general welfare is a primary responsibility of government:

*We the People of the United States, in Order to form a more perfect Union, establish justice, insure domestic Tranquility, provide for the common defense, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish the Constitution for the United States of America.*<sup>45</sup>

The establishment and subsequent institutionalization of the federal Food Stamp Program in 1964 was a clear acknowledgement of our government's responsibility to ensure freedom from hunger and access to adequate food:

*It is declared to be the policy of Congress, in order to promote the general welfare, to safeguard the health and well-being of the Nation's population by raising levels of nutrition among low-income households. Congress finds that the limited food purchasing power of low-income households contributes to hunger and malnutrition among members of such households. ... To alleviate such hunger and malnutrition, a food stamp program is herein authorized which will permit low-income households to obtain a more nutritious diet.*<sup>46</sup>

—Congressional Declaration of Policy for the Federal Food Stamp Law

Moreover, since the Great Depression, U.S. Presidents have often articulated our government's responsibility to end hunger, both as a moral obligation and as requirement or precondition for the protection and enjoyment of civil and political rights.

*We have come to the clear realization of the fact that true individual freedom cannot exist without economic security and independence. "Necessitous men are not free men." People who are hungry and out of a job are the stuff of which dictatorships are made.*<sup>47</sup>

—Franklin D. Roosevelt

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<sup>44</sup> Anuradha Mittal, "Report from the World Summit," *Food Rights Watch* (December 1996). As cited in *America Needs Human Rights*, edited by Anuradha Mittal and Peter Rosset (Oakland, Calif.: Food First Books, 1999).

<sup>45</sup> U.S. Constitution, Preamble.

<sup>46</sup> U.S. Code. Federal Food Stamp Law Sec. 2011 (U.S. Code as of January 5, 1999).

<sup>47</sup> Franklin D. Roosevelt, "Annual Message to Congress" (January 11, 1944). As cited in Anuradha Mittal and Peter Rosset, eds., *America Needs Human Rights*, p. 209.

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*We want no American in this country to go hungry. We believe that we have the knowledge, the compassion and the resources to banish hunger and to do away with malnutrition if we only apply those resources and those energies.*<sup>48</sup>

—Lyndon B. Johnson

*We have long thought of America as the most bounteous of nations. So accustomed are most of us to a full and balanced diet that, until recently, we have thought hunger and malnutrition as problems only in far less fortunate countries. [But now] there can be no doubt that hunger and malnutrition exist in America, [a situation] embarrassing and intolerable, [where] the honor of American Democracy is at issue.*<sup>49</sup>

—Richard M. Nixon

New York State's obligation to guarantee the right to food is recognized not only under international human rights law,<sup>50</sup> but under its constitution as well. Provision of aid to the needy is assured by the New York State constitution under Article XVII: "...Aid, care and support of the needy are public concerns and shall be provided by the state and by such of its subdivisions and in such a manner and by such means as the legislature shall from time to time determine." By virtue of this article the constitutional convention moved the question of public assistance into the realm of rights.<sup>51</sup> The New York State Court of Appeals in Tucker vs. Toia subsequently interpreted this provision as binding. "In New York State, the provision for assistance for the needy is not a matter of legislative grace; rather it is specifically mandated by our constitution."<sup>52</sup> Assistance to the needy must certainly include, at the very least, relief from hunger.<sup>53</sup>

New York City's obligations in this regard are further underscored by the New York City Council's adoption of a resolution in 1989 supporting the Convention on the Rights of the Child. It called on all city agencies "to ensure that their activities and funding processes comply with the Convention." They specifically acknowledged that children have inalienable human rights—such as the "right to food, shelter, health care, protection from abuse, education and the right to develop in a safe environment free from discrimination."<sup>54</sup> Other city councils across the country have signed similar declarations: San Francisco, Oakland and Berkeley, California, for example, have all signed a resolution supporting the International Covenant on Economic, Social and Cultural Rights.<sup>55</sup>

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<sup>48</sup> Quoted in Elizabeth Drew, "Going Hungry in America," *Atlantic*, (December 1968), p. 58. As cited in Peter K. Eisinger, *Toward an End to Hunger in America* (Washington, D.C: Brookings Institution Press, 1998), p. 4–5.

<sup>49</sup> Richard Nixon, "Message of the President to Congress, May 6, 1969," contained in *White House Conference on Food Nutrition and Health, Final Report* (1970). As cited in Peter K. Eisinger, *Toward an End to Hunger in America*, p. 5.

<sup>50</sup> Restatement of the Law, Third, Foreign Relations, Section 111(d). While state and city governments are not themselves parties to international treaties, they are required to uphold federal laws, which includes ratified treaties and customary international law. State and local governments can also thus be held liable for violations of human rights. See also UN Committee on Economic, Social and Cultural Rights, "General Comment 12: The Right to Adequate Food," par. 20.

<sup>51</sup> New York State Constitutional Convention 2126 (1938).

<sup>52</sup> *Tucker vs. Toia*, 43 N.Y.2d 1, 371 N.E.2d 449, 400 N.Y.S.2d 728 (1977).

<sup>53</sup> While *Tucker* dealt with housing and subsequent cases have yet to address issues of hunger, it is evident that aid to the needy concerns food as well.

<sup>54</sup> New York City Council Resolution Number 1891, November 21, 1989.

<sup>55</sup> Alyssa Katz, "Human Rights on Wheels," *The Nation* 267, no. 22 (December 28, 1998).

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The United States and its state and city agencies clearly have an obligation, both legal and moral, to uphold the right to food. Despite this obligation, federal and local governments continue to fail to uphold even the most fundamental tenet of this right: freedom from hunger.



## **New York City Violates the Human Right to Food**

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*I count food stamps as being part of welfare. You're better off without either one.*<sup>56</sup>  
—NYC Human Resource Administration Commissioner, Jason A. Turner

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**Requests for emergency food assistance in New York City grew by 24 percent in 1997 and by 36 percent in 1998.**<sup>57</sup>  
New York City Coalition Against Hunger

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In this section we will show that New York City's welfare policies and practices deny meaningful access to the Food Stamp Program and are degrading, discriminatory and deny due process. We will also show how these policies violate state, federal and international human rights laws and how they appear to be increasing hunger, thereby compromising the health of all poor New Yorkers. New York City officials would certainly argue that these impacts are necessary, if unfortunate, short-term effects of a policy that aims to promote self-sufficiency and perhaps even a positive step toward remedying hunger and food insecurity. However, available evidence indicates that welfare reform, as it has been applied in New York City, lifts less than one quarter of former recipients out of poverty. Because the working poor are not immune to hunger, the majority of people who leave welfare, whether they find employment or not, will only continue their struggles to keep food on the table.

### **The Study**

This preliminary look at the implementation and impact of welfare reform in New York City is based, in part, on findings from a survey conducted by the Urban Justice Center (UJC) in the spring of 1999. Between April and June, human rights monitors, trained by the UJC, interviewed 212 public assistance applicants outside city Job Centers—the city's newest name for its welfare offices. In-depth interviews with individuals who had attempted to apply for benefits were also conducted and their experiences can be found throughout this report.

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<sup>56</sup> Rachel L. Swarns, "Judge Delays Giuliani Plan on Welfare," *New York Times* (January 26, 1999).

<sup>57</sup> Judith Walker, "Rationing Charity: New York City Struggles to Keep Up with Rising Hunger" (October 15, 1998) New York City Coalition Against Hunger; Nicole Woo, "Full Coffers, Empty Plates."

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### The Job Center Process

In 1997, in the spirit of ending welfare, New York City began converting its welfare offices to “Job Centers,” altering the public assistance application process to emphasize diversion and program requirements over needs assessment and public assistance relief. Since the application for welfare and food stamps is combined,<sup>58</sup> these new welfare policies also affect receipt of food stamps. To date, the city has converted 13 of its 33 welfare offices to Job Centers.

The Job Center process is time-consuming and arduous, and any complication along the way, whether caused by an applicant or a welfare worker, can send the applicant back to the beginning to start the entire 35 to 50-day process anew. What follows is a brief description of how the Job Center process is technically supposed to function for the average public assistance applicant.<sup>59</sup>

1. When applicants first arrive at the Job Center, they are interviewed by a Financial Planning Receptionist. This receptionist explains that benefits are time-limited and that applicants must seek employment in order to obtain benefits. The receptionist then gives the applicant an application form, formally known as a Participant Job Profile (PJP) form, to fill out. Once the applicant completes this form and hands it in, the application process officially begins.
2. Next the applicant meets with a Financial Planner. The Financial Planner reviews the applicant's application and determines whether the applicant has emergency needs, including any need for emergency food stamps. These emergency food stamps are critical because they help those who have no food or resources survive while they wait to receive ongoing benefits. The Financial Planner also explores potential alternatives to cash assistance such as additional income or gifts from relatives who might be able to help out, access to a bank account or other government benefits such as Social Security Income (SSI) or pensions. The applicant is again reminded about the time-limited nature of cash assistance and scheduled for subsequent appointments with other welfare workers.
3. Next the applicant meets with an Employment Planner, the welfare worker responsible for facilitating job search activities. If the applicant needs help finding childcare before beginning work activities, the applicant is sent to speak with a Social Service Planner. When the barriers to employment have been addressed, applicants attend an orientation and are subsequently placed in job search. Job search activities are performed each day from 9 a.m. to 4 p.m. for up to six weeks and generally entail résumé writing, cold calls to potential employers, or job interviews.
4. Normally, within five working days of the initial application and often while applicants are involved in job search activities, an “I” interview is held in which the applicant's eligibility for various benefits, including cash assistance, food stamps and Medicaid, is determined. This interview consists of an Evaluation Verification Review (more commonly known as EVR) by front-line fraud detection staff. During EVR applicants must undergo an in-depth interview, a home visit and finger imaging.
5. Only when applicants have successfully completed each stage of this process, which takes 35 to 50 days, can they receive ongoing benefits.

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<sup>58</sup> If applicants wish to apply for food stamps and not welfare, they apply at a separate “food stamp-only” office. This section on New York City's human rights violations applies only to applicants who apply at Job Centers and welfare centers, not food stamp-only offices.

<sup>59</sup> As we will show in this report, the Job Center process rarely seems to work according to plan. The following description was constructed from notes from a New York City judge in a court case about the Job Centers, *Reynolds vs. Giuliani*. This case will be discussed in more detail in the body of the report.



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## 1. Human Rights Violation: Denial of Access to the Food Stamp Program

*The obligation to respect means that the state must not take political or other measures destroying existing access [to adequate food] by vulnerable populations.<sup>60</sup>*

—*International Code of Conduct on the Human Right to Adequate Food*

Under human rights standards, neither the United States nor its state agencies (in this case New York City) can interfere with people's physical or economic access to adequate food.<sup>61</sup> New York City welfare offices, however, do just that, by denying access to food stamps through three principal mechanisms: 1) intentional and systematic diversion of applicants, 2) onerous program requirements and 3) wrongful denials of benefits. The Food Stamp Program exists, at least in part, because the federal government realized that people with low incomes often do not have sufficient incomes to purchase an adequate diet without outside assistance. Thus, policies that deny access to food stamps to eligible applicants deny access to adequate food.

### *Intentional and Systemic Diversion*

Diversion is the process by which welfare workers discourage applicants from completing the joint welfare and food stamp application process. Diversion can take many forms, some more overt, such as telling applicants that welfare no longer exists, and others more subtle, such as encouraging applicants to find an alternative to welfare. Both approaches have the same results: eligible applicants walk away from the welfare office without the welfare or food stamp benefits they felt they needed to survive.

According to a report from the *New York Times*, the city manual for Job Center workers is unambiguous about city priorities: The primary goal of welfare reform is to divert people from applying for public assistance; employment is a secondary goal.<sup>62</sup> While policies that divert people from applying for welfare are often legal,<sup>63</sup> it is illegal to divert applicants from applying for food stamps. In fact, under federal law the city must *encourage* them to apply.<sup>64</sup> The city however has been hesitant to comply.

*The USDA has been insisting that the city is obligated to follow outdated regulations that requires cities to "encourage" individuals to apply for food stamps on the first day they visit*

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<sup>60</sup> International Code of Conduct on the Human Right to Adequate Food, Part III, Article 6.1 (September 1997), [www.foodfirst.org/progs/humanrts/conduct.html](http://www.foodfirst.org/progs/humanrts/conduct.html). This code of conduct was created and endorsed by various non-governmental organizations (NGOs) including Food First Information and Action Network (FIAN) and World Alliance for Nutrition and Human Rights (WANHR) in order to create a common set of principles to clarify the right to food and lobby the United Nations for an international code of conduct. See also UN Committee on Economic, Social and Cultural Rights, "General Comment 12: The Right to Adequate Food," par. 15.

<sup>61</sup> International Code of Conduct on the Human Right to Adequate Food, Part III, Article 6.1; FAO Legal Office, "Implementation of the Right to Food in National Legislation," in *The Right to Food: In Theory and Practice* Food and Agricultural Organization of the United Nations (Rome, 1998). UN Committee on Economic, Social and Cultural Rights, "General Comment 12: The Right to Adequate Food," par. 15.

<sup>62</sup> Rachel L. Swarns, "Stiff Rules Gut Welfare Rolls at Two Offices," *New York Times* (June 22, 1998).

<sup>63</sup> The PRA granted states great flexibility to run welfare programs. According to the Center for Health Policy Research, more than half of states have enacted formal diversion programs to divert families from cash assistance. Leonard Sherp, "A Description and Assessment of State Approaches to Diversion Programs and Activities under Welfare Reform," (September 1998) The Center for Health Policy Research.

<sup>64</sup> "The Regulations at 7 CFR 273.2 (c)(2) provide that State Agencies shall encourage households to file an application form the same day the household...contacts the food stamp office." U.S. Department of Agriculture, Food and Nutrition Service, Northeast Region Food Stamp Program, "New York Program Access Review, November–December 1998" (February 5, 1999).

*a public assistance office. This is inconsistent with federal welfare reform, and it sends exactly the wrong message.*<sup>65</sup>

—NYC Mayor Rudolph Giuliani

The United States Department of Agriculture (USDA) is the federal agency responsible for overseeing state and local compliance with federal food stamp laws. Prompted by complaints of systemic diversions from applicants applying for welfare and food stamps, USDA officials investigated New York City welfare offices in November and December of 1998. They found evidence of numerous illegal diversionary policies and practices that violated federal food stamp laws:<sup>66</sup>

- \_ USDA officials found that city welfare workers failed to notify the households of their statutory right to file a food stamp application the same day they contact the Job Center and of their right to apply for food stamp benefits independent of welfare.
- \_ Welfare workers referred hungry applicants to food pantries instead of considering them for emergency benefits.
- \_ City welfare workers failed to make food stamp applications immediately available as required by law and instead insisted that applicants return at a later date to complete their applications.
- \_ Welfare offices illegally required applicants to search for jobs before receiving food assistance.
- \_ City workers encouraged or pressured many applicants to withdraw their welfare applications and subsequently automatically withdrew the applicants' food stamp applications as well.

Interviews conducted by the Urban Justice Center (UJC) uncovered similar violations:

*I left empty-handed after a week and a half. ... I wasn't given emergency food stamps. The caseworkers know that they can give you emergency food stamps and an emergency check and she didn't tell me about that.*<sup>67</sup>

—NYC public assistance applicant

*I went to the [Job Center] at 4 p.m. The man at the front door told me to come back the next day because I had no chance of being seen that day. ... The next day I still wasn't given an application.*

—NYC public assistance applicant

People Who Apply for Welfare and Food Stamps Are in Desperate Need:	Report any emergency	Singles (N=134)	Families (N=76)
	<b>93 percent of single and 83 percent of family applicants surveyed by the Urban Justice Center reported coming to the Job Center because of an emergency.</b>	Food emergency	93%
Housing emergency		76%	78%
Medical emergency		79%	64%
		61%	44%

Source: Urban Justice Center

<sup>65</sup> Mayor Rudolph W. Giuliani, "The Welfare Reform Battle Isn't Over Yet," *Wall Street Journal* (February 3, 1999).

<sup>66</sup> U.S. Department of Agriculture, Food and Nutrition Service, "New York Program Access Review."

<sup>67</sup> Unless otherwise noted, all quotes by New York City public assistance applicants were gathered by the Urban Justice Center as part of their Job Center study, as outlined on page 21 and in the appendix on page 57.

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As a result of these policies and practices, overall diversion rates at city Job Centers reached record highs. At the Jamaica Job Center in Queens, for example, during the first four weeks of operation in April 1998, 84 percent of the individuals seeking assistance were turned away without having filed applications.<sup>68</sup> Worse yet, those who were diverted from welfare offices were seldom referred to apply for food stamps separately even though they may have been eligible. According to the *New York Times*, of the 4,825 individuals who were discouraged from applying for public assistance at the city's first four Job Centers between April and September 1998, only about 12 percent were referred to food stamp- or Medicaid-only offices.<sup>69</sup>

*I told the lady [Job Center financial planning receptionist]...I have a seven-month-old baby...what am I supposed to do, how am I supposed to feed her, how am I supposed to feed myself? ... She said, "that's your problem."*

—NYC public assistance applicant

Many of the USDA's findings were also revealed in a class-action lawsuit, Reynolds vs. Giuliani. In this case, the plaintiffs alleged that the city "systematically prevents otherwise eligible individuals from obtaining food stamps, Medicaid and cash assistance."<sup>70</sup> As a result of this court challenge, the city has been placed under the mandatory oversight of the court and has agreed to change some of its policies and practices. In May of 1999, the judge accepted the city's corrective action plan but acknowledged that it "remains to be seen" whether the plan will yield acceptable changes of city policies and practices.<sup>71</sup> Indeed, as of April 2000, the judge had not yet determined whether the city had redressed any of the problems cited in this case. Even if the diversionary policies have been remedied as a result of the investigation, litigation and ongoing monitoring by the USDA, the damage has already been done.

*A lot of people are not even coming in to apply for food stamps, even if they are eligible, because the culture has changed.*<sup>72</sup>

—HRA Commissioner, Jason A. Turner

*I know a lot of people in this neighborhood that just walked away after they had been there 20 days with no food in their stomach and knew they didn't even have an application.*

—NYC public assistance applicant's advocate

### *Onerous Program Requirements*

Applicants who are not diverted at the front end must endure onerous and unnecessary administrative hurdles and program requirements throughout the application process that make compliance with welfare and food stamp rules virtually impossible. These hurdles deny meaningful access to the Food Stamp Program and therefore deny access to food.

Applicants must keep various appointments and attend job search each day from 9 a.m. to 4 p.m. for 35 to 50 days in order to receive ongoing benefits. When applicants miss a day of job search or a Job Center appointment, even for valid reasons such as lack of childcare, a doctor's appointment or a family emergency, they are often forced to begin the entire process anew. This at best delays receipt of welfare

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<sup>68</sup> *Reynolds vs. Giuliani*, 98 Civ. 8877 (1998).

<sup>69</sup> Abby Goodnough, "City to Speed Applications for Welfare," *New York Times* (November 9, 1998).

<sup>70</sup> *Reynolds vs. Giuliani*, 98 Civ. 8877 (1998).

<sup>71</sup> Rachel L. Swarns, "Judge Finds Improvements in Procedures for Welfare," *New York Times* (May 25, 1999).

<sup>72</sup> Abby Goodnough, "City to Speed Applications for Welfare."

and food stamp benefits. Indeed, 48 percent of families and 39 percent of single applicants were reapplying for benefits when they were surveyed by the UJC and more than 10 percent had already applied three or more times (See Table 1). Of those who had already applied at least once before, 43 percent were doing so because of a missed appointment. But missed appointments can be caused by the Job Centers themselves. The judge in *Reynolds vs. Giuliani* found that applicants are sometimes not notified of mandatory appointments; others are given conflicting appointments and rejected for failure to be in two places at once.<sup>73</sup> Eventually many simply walk away without the benefits needed to survive.

**All of This and You're Lucky to Even Get a Job...**  
**Of the first 5,300 people to enter the job search program, only 256 (5 percent) were placed in jobs.<sup>74</sup>**

*They put a hold on my application (I had to wait 45 days before I could reapply)...because they gave me two appointments on the same day and EVR (Eligibility Verification Review) was supposed to come. They said they couldn't help it...I just said, Forget it, so I went to the food stamp [only] office, but I was denied because [my application] was still pending [at the welfare office].*

—NYC public assistance applicant

*I missed the EVR appointment because I went to take [the twins] to the hospital [to be treated] for an asthma attack...so they closed the case though I showed documentation that I had to go to the hospital. They said there was nothing they could do.*

—NYC public assistance applicant

*I won't reapply now because my child is sick and going into surgery, and I don't have time to spend another 10 days in somebody's office trying to get financial help.*

—NYC public assistance applicant

**Table 1: Number of Times Applicants Have Applied For Public Assistance and Why**

No. of Times Applied	Single Adults (N=134)	Families (N=76)
Once	61%	52%
Twice	27%	37%
Three +	12%	11%
<b>Why Reapplied</b>		
Missed appointment	43%	45%
Application rejected	25%	38%
Sanctioned/Case closed	5%	14%
Don't know why	11%	7%
Other	28%	20%

Source: Urban Justice Center

<sup>73</sup> *Reynolds vs. Giuliani*, 98 Civ. 8877 (1998). The later issue is especially problematic and is currently being documented by advocates.

<sup>74</sup> Jason DeParle, "What Welfare-to-Work Really Means," *New York Times Magazine* (December 20, 1998).

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### Wrongful Denial of Benefits

As a result of this inflexible bureaucracy, the applicant rejection rate has soared over the last decade. In 1994, 27 percent of applicants were rejected from welfare.<sup>75</sup> By 1999, 75 percent of Job Center applicants and 52 percent of applicants overall were rejected.<sup>76</sup> According to USDA officials and the judge in *Reynolds vs. Giuliani*, when applicants' welfare applications are rejected, their food stamp applications are often automatically and inappropriately rejected as well. Since applicants are not told of their statutory right to apply separately for food stamps, these practices effectively deny them the food assistance to which many are entitled.<sup>77</sup>

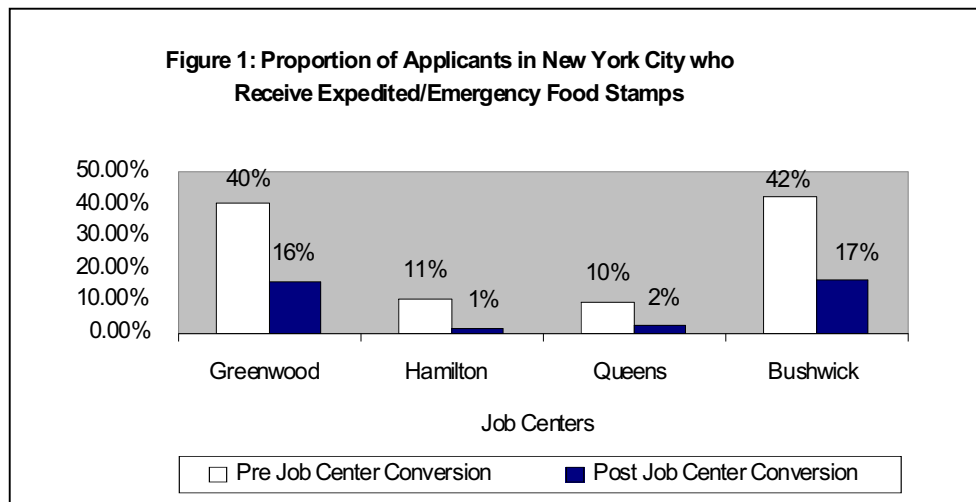
And while the applicants wait 35 to 50 days to find out if they will receive ongoing benefits, it appears as though many are not screened for emergency needs as required by law.<sup>78</sup> The Richmond welfare office in Staten Island, for instance, gave out 50 percent fewer emergency food stamps when it became a Job Center and implemented the new application procedures that emphasized diversion<sup>79</sup> (see Figure 1).

*I filled out that part of the form where it said, "Do you need emergency food," and I said yes...but that was overlooked. ... I never got it.*

—NYC public assistance applicant

*I couldn't buy any food. I couldn't do anything. I couldn't buy a piece of toilet paper if I wanted to.*

—NYC public assistance applicant



Source: New York City Human Resource Administration

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<sup>75</sup> New York City Mayor's Management Report, 1995.

<sup>76</sup> Jason DeParle, "What Welfare-to-Work Really Means"; Community Food Resource Center, Inc., "NYC Human Resources Administration: Public Assistance Applicant Rejection Rates" (November 1999).

<sup>77</sup> U.S. Department of Agriculture, Food and Nutrition Service, "New York Program Access Review."

<sup>78</sup> U.S. Department of Agriculture, Food and Nutrition Service, "New York Program Access Review." The USDA found that there was not adequate documentation to determine whether applicants were properly screened for emergency food stamps.

<sup>79</sup> *Reynolds vs. Giuliani*, 98 Civ. 8877 (1998).

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### And All of This to Live in Poverty...

The maximum monthly public assistance benefit for the average family of three (a mother and two children) in New York City in 1999 was \$577 for rent, utilities, transportation, clothing, personal care, etc., plus \$279 in food stamps.

The family's total income amounts to just \$856 per month or \$10,272 annually—well below the federal poverty level of \$14,150 for a family of three and just 59 percent of what that family realistically needs to live in New York City.  
Community Food Resource Center

While little quantitative data is available to evaluate the city's progress in redressing issues of the systemic and intentional denial of food stamps, many service providers, applicants and even the welfare workers themselves see signs that problems persist.

*The "Mayor's agenda"...has been to slash the welfare rolls by denying assistance to people, making the application process impossibly cumbersome and forcing people into the labor market or demeaning workfare assignments.<sup>80</sup>*

—Local 1180, New York Administrative Employees

Complaints of violations and illegalities, including diversions and inappropriate denials, are in fact so numerous that Make the Road by Walking, a Brooklyn-based community organization, has begun the task of documenting these and other welfare and food stamp policy infractions. To date, over 600 formal complaints have been filed with the group since June 1998, but since applicants must know of the complaint procedure in order to file their grievances, these complaints represent only a small fraction of problems citywide.

## 2. Human Rights Violation: Degrading Treatment

*The right to 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.<sup>81</sup>*

—International Code of Conduct on the Human Right to Adequate Food

New York City welfare offices use degradation as a tool to divert individuals from applying for welfare, a tactic which violates human rights standards that require the right to food be fulfilled with dignity. This phenomenon is certainly not new, nor is it limited to New York City. In their groundbreaking book, *Regulating the Poor: The Functions of Public Welfare*, Frances Fox Piven and Richard Cloward explained

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<sup>80</sup> Local 1180, New York Administrative Employees, Communications Workers of America, "Union Fights Back as HRA Management Scapegoats 1180 Members," *Communique* (March/April 2000). Local 1180 represents HRA workers.

<sup>81</sup> International Code of Conduct on the Human Right to Adequate Food, Part II, Article 4. See also UN Committee on Economic, Social and Cultural Rights, "General Comment 12: The Right to Adequate Food," par. 4 and 8.

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that systemic and often ritualized practices of degradation have been employed by American public welfare systems for decades in order to make receipt of welfare seem so debased that the poor would avoid it at all costs.<sup>82</sup>

*Dramatic allegations that recipients are slothful, shiftless, promiscuous, criminal and indifferent to the rules others value constitute rituals of public degradation...their treatment is so degrading and punitive as to instill in the laboring masses a fear of the fate that awaits them should they relax into beggary and pauperism.<sup>83</sup>*

—Regulating the Poor

Jackie,<sup>84</sup> a single woman without children, explained to the Urban Justice Center the treatment she received when she attempted to apply for welfare, food stamps and Medicaid at a New York City Job Center after an illness forced her to leave her last job:

*I went to the Job Center because I needed temporary assistance to help me get back on my feet. At the orientation meeting, that woman [the welfare worker]—I don't remember her name—said "This is the worst thing you can do in your life is come here [the Job Center]...the bottom of the barrel...you are dirt here...you are nothing. If you don't have a job, you have to go to clean the park and they put a sign on your back so that everybody will know that you're from workfare, and that's the most humiliating, terrible thing." She said so many horrible things to us that I said, "My God." I felt like running away from that place.*

*But that was nothing compared to what she said that made me cry. We were like seven or eight people there but only two women. The other woman was about 60 years old or so. [The welfare worker] said, "I know you're in a hurry to go to your home or your husband or your pimp" to me and the other woman there...she said it three times! She wants to make us feel so badly that we never go back. At the time I couldn't think. It was horrible...why is she doing this to us? Why, I don't know...I cannot stand to go through all this pain. If she wants me to get away from there, she got it. She did it on purpose so we wouldn't come back. They don't help you at the Job Center; they help you to commit suicide if you're depressed.*

Such rituals of degradation are unfortunately not uncommon. Even the USDA was concerned about "many reports of rude or unprofessional treatment received at HRA offices."<sup>85</sup> However degradation is not only limited to individual actions of particular staff. Rather, it is institutionalized. For instance, the general presumption of fraud pervades the welfare office culture. Applicants are made to endure finger imaging, home searches and a litany of invasive and personal questions conducted by the front-line fraud detection unit. These indignities are, of course, only meted out to poor people who receive government subsidies, not to the affluent who receive similar government subsidies. Imagine the outcry if fraud investigators performed home searches of every household that claimed a mortgage interest deduction or if corporate executives were finger-imaged before they received any corporate welfare.<sup>86</sup> Degradation, whether institutionalized or

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<sup>82</sup> Frances Fox Piven, and Richard A. Cloward, *Regulating the Poor: The Functions of Public Welfare* (New York: Vintage Books, 1993): pp. 3, 395–397.

<sup>83</sup> *ibid.* pp. 3, 396.

<sup>84</sup> Name has been changed to ensure confidentiality.

<sup>85</sup> U.S. Department of Agriculture, Food and Nutrition Service, "New York Program Access Review."

<sup>86</sup> According to Ralph Nader, the founder of Public Citizen, corporate welfare occurs when the benefits conferred on corporations by the government exceed the corporate payment or any goods and services provided to the government.

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not, is an effective mechanism of diversion, and it therefore denies meaningful access to the Food Stamp Program. Moreover, degradation itself is a violation of human rights under the International Covenant on Civil and Political Rights (ICCPR), Article 7; and the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Article 16.<sup>87</sup>

### 3. Human Rights Violation: Discriminatory Treatment and Impact

*Any discrimination in access to food, as well as to means and entitlements for its procurement, on the grounds of race, colour, sex, language, age, religion, political or other opinion, national or social origin, property, birth or other status with the purpose or effect of nullifying or impairing the equal enjoyment or exercise of economic, social and cultural rights constitutes a violation of the Covenant.*<sup>88</sup>

—UN Committee on Economic, Social and Cultural Rights

#### *Discriminatory Treatment*

New York City welfare policies and practices are discriminatory. Indeed, testimony at the Reynolds trial revealed that Job Center workers would not consider applications of immigrants and teenagers, or women who attempted to apply for public assistance without their husbands.<sup>89</sup>

Moreover, in August 1999, a class-action discrimination lawsuit, Ramirez vs. Giuliani, was filed challenging HRA's failure to provide individuals who have limited English-speaking ability with access to the Food Stamp Program. According to the suit, the plaintiffs claimed that HRA failed to provide interpreters and translated documents to those who needed them, violating federal food stamp law, Title VI of the Civil Rights Act of 1964, the equal protection clause in the federal constitution, and international human rights law.

*When I am at welfare to talk to my caseworker, they tell me to go find an interpreter. I have to look in the waiting room for someone who speaks English and Spanish. I have to find one, because if I don't...I know I won't be able to make my caseworker understand what I am saying, and then my case might be closed.*<sup>90</sup>

—NYC Spanish speaking public assistance applicant

Federal investigators from the Office of Civil Rights (OCR) at the U.S. Department of Health and Human Services found evidence of discrimination at New York City welfare offices as well, buttressing the claims of the plaintiffs in the Ramirez case. According to investigators' report, the welfare offices failed to provide

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Ralph Nader, "Testimony of Ralph Nader Before the Committee on the Budget U.S. House of Representatives" (June 30, 1999), [www.nader.org/releases/63099.html](http://www.nader.org/releases/63099.html).

<sup>87</sup> Both the ICCPR and the Convention Against Torture are treaties that were ratified by the United States. The United States submitted reservations to both of these treaties, however, stating that it understands "cruel, inhuman or degrading treatment or punishment" to mean the cruel and unusual treatment or punishment prohibited by the 5<sup>th</sup>, 8<sup>th</sup>, and 14<sup>th</sup> Amendments to the U.S. Constitution, which do not prohibit degrading treatment or punishment.

<sup>88</sup> UN Committee on Economic, Social and Cultural Rights, "General Comment 12: The Right to Adequate Food," par. 18.

<sup>89</sup> *Reynolds vs. Giuliani*, 98 Civ. 8877 (1998); Rachel L. Swarns, "Judge Delays Giuliani Plan on Welfare," *New York Times* (January 26, 1999).

<sup>90</sup> This quote comes from the following report: "System Failure: Mayor Giuliani's Welfare System is Hostile to Poor and Immigrant New Yorkers," (April 1999), from Make the Road by Walking, Inc.



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translated documents or interpreters for individuals with limited English-speaking ability, illegally discouraging many people from completing an application for public assistance regardless of need, violating Title VI of the Civil Rights Act.<sup>91</sup> The report also found that Job Centers and other public assistance offices discriminated against people with hearing impairments by failing to provide them with interpreters.<sup>92</sup> This practice denies equal access and discriminates against the hearing-impaired based on their disability in violation of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act of 1990.<sup>93</sup>

To date, the problems of discrimination have yet to be adequately addressed. The city's response to the OCR investigation was a two-page corrective action plan, submitted by the state and produced only after the city requested two 30-day extensions. Moreover, OCR has deemed the city's plan to be inadequate and has submitted its own recommendations to the city.<sup>94</sup>

In the meantime, community organizations, applicants and even welfare caseworkers bear witness to ongoing discrimination at city welfare offices. Make the Road by Walking has collected 189 complaints of discrimination by city welfare workers. At a hearing of the New York City Council's Committee on General Welfare held on April 6, 2000, two applicants with limited English-speaking proficiency and the welfare caseworker's union representative testified about their recent experiences at city welfare offices:

*My experience is that when I want to talk to my caseworker, I can't communicate with her, because I do not speak English. ... Because of these problems with the welfare system, my children have gone hungry and perhaps I will have to become homeless, because I do not have the money to pay rent. ... They are humiliating us, the poor, but we will not accept it anymore.*<sup>95</sup>

—NYC public assistance applicant

*I am seeing almost every day that the problems in the Welfare Centers are worsening, and it breaks my heart to see so many people desperate because their rights are being violated. ... We must put an end to this discrimination that every day worsens in New York City against us, the immigrant community.*<sup>96</sup>

—NYC public assistance applicant

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<sup>91</sup> According to OCR, federal policies, procedures and practices may not deny or have the effect of denying access to their programs on the basis of race, color, or national origin. By denying interpretation services, the OCR found that NYC denies access to food stamps based on national origin. Office of Civil Rights, Department of Health and Human Services, *Letter to Commissioners Novello, Wing, Turner, Wingate and Assistant Commissioner Clement, regarding docket number 02-99-3130* (October 21, 1999); Raymond Hernandez, "Welfare Offices Break Law on Interpreters, U.S. Says," *New York Times* (October 28, 1999).

<sup>92</sup> Office of Civil Rights, Department of Health and Human Services, *Letter to Commissioners Novello et al.*

<sup>93</sup> Both the OCR investigation and the Ramirez case are ongoing. No immediate actions have been taken by the city to remedy the situation beyond the submission of a plan of action to OCR. OCR has responded with its own plan to be used for negotiations.

<sup>94</sup> New York City Council Committee on General Welfare, *Oversight: HRA's Failure to Provide Access to Benefits for Non-English-Speaking and Hearing-Impaired Claimants*, testimony of New York City Councilman, Stephan DiBrienza (April 6, 2000).

<sup>95</sup> New York City Council Committee on General Welfare, testimony of Ana Gomez, Member of Make the Road by Walking and the Committee for Equality for our Community. Testimony translated from Spanish to English by Make the Road by Walking.

<sup>96</sup> New York City Council Committee on General Welfare, testimony of Irania Sanchez, Member of Make the Road by Walking and the Committee for Equality for our Community. Testimony translated from Spanish to English by Make the Road by Walking.

*Our members working for HRA offices that serve the public—Job Centers, Income Support Centers and public assistance, food stamps and Medicaid offices—agree that barriers to access to programs and benefits exist for people with limited English proficiency and hearing impairments. In addition to the other indignities applicants may face because of the deteriorating physical conditions, burdensome, ever-changing procedures and understaffing at HRA offices, the lack of interpreters and printed materials in a wide range of languages makes it hard to ensure services for everyone who needs them.<sup>97</sup>*

*—Deborah Bell, Public Policy Coordinator of District Council 37,  
A.F.S.C.M.E., AFL-CIO*

Such discriminatory policies not only violate domestic law, they violate human rights standards as well. According to human rights law, the right to food must be guaranteed to everyone under a government's jurisdiction, and any discrimination in access to food constitutes a violation of the Covenant.<sup>98</sup> This principle of non-discrimination is reaffirmed in the American Declaration, Article 2; the ICESCR, Article 2; the CRC, Article 2; the UDHR, Article 2 and a host of other international treaties.

#### *Discriminatory Impact*

While the U.S. Constitution only protects against intentional discrimination,<sup>99</sup> international human rights law also protects against policies or procedures that have a discriminatory impact on a protected group, such as all women, or men and women of color.<sup>100</sup>

New York City's restrictive welfare and food stamp policies have a discriminatory impact on Black and Hispanic communities in New York. Across the United States, as in New York City, people of color are more likely to be poor, hungry, and to require the assistance of food stamps (See Table 3). This is one of the legacies of centuries of racism and discrimination. As a result, when New York City interferes in poor people's access to food stamps, the policy will have discriminatory effect on communities of color, whether or not the intent was to discriminate. That is, a significantly larger proportion of Black and Hispanic communities will be denied access to adequate food.

**Table 3. Poverty and Food Stamp Receipt in New York City by Race and Ethnicity, 1997.**

<b>Race/ Ethnicity</b>	<b>Poverty Rate<sup>101</sup></b>	<b>Food Stamp Receipt <sup>102</sup></b>
African American/Black	27.4%	19.5%
Hispanic/Latino(a)	38.1%	28.1%
White	13.2%	8.3%

Source: Community Service Society; Current Population Survey

<sup>97</sup> New York City Council Committee on General Welfare, testimony of Deborah Bell, Public Policy Coordinator of District Council 37, A.F.S.C.M.E., AFL-CIO.

<sup>98</sup> UN Committee on Economic, Social and Cultural Rights, "General Comment 12: The Right to Adequate Food," par. 14 and 18.

<sup>99</sup> *Personnel Admin'r of Mass. vs. Feeny*, 442 U.S. 256 (1979); *Arlington Heights vs. Metropolitan Housing Development Corp.*, 429 U.S. 252 (1977); *Washington vs. Davis*, 426 U.S. 229 (1976).

<sup>100</sup> International Convention on the Elimination of All Forms of Racial Discrimination, Article 1.1; International Convention on the Elimination of All Forms of Discrimination against Women, Article 1.

<sup>101</sup> Data is for individuals. Mark Levitan, "Poverty in New York City: A CSS Data Brief."

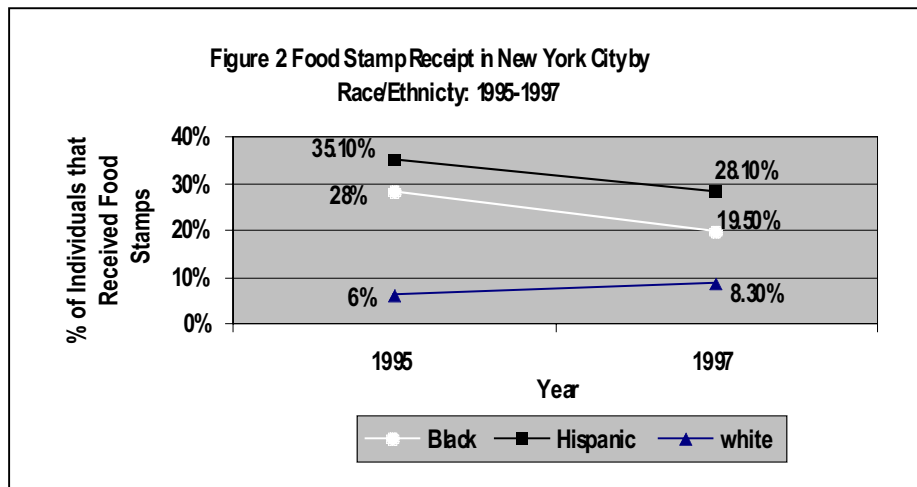
<sup>102</sup> Data is for individuals. Analysis of Current Population Survey (CPS) data.

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**Nationwide, Black and Hispanic households are nearly three times as likely  
as white households to go hungry.<sup>103</sup>**  
United States Department of Agriculture

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Even more disturbing is the fact that while the food stamp rolls have decreased by 35 percent in New York City since welfare reform was first implemented, this decrease has not been distributed evenly across various racial/ethnic communities. In fact, while receipt of food stamps declined among Black and Hispanic individuals in New York City between 1995 and 1997, food stamp receipt *increased* among white individuals (see Figure 2). Moreover, USDA data suggest that this is not the case nationwide.<sup>104</sup> While we have no clear or single explanation for this phenomenon, it does raise some serious concerns about the impacts of the city's welfare and food stamp policies.



Source: Current Population Survey

Moreover, while gender-based data on food stamp participation in New York City were not available to us at the time this report was published, women outnumber men on the food stamp program nationwide by over two to one.<sup>105</sup> This is not surprising given that women (especially single women with children) are more likely to be poor and therefore require the assistance of food stamps. Policies that interfere in access to food stamps would therefore most certainly disproportionately impact women, violating international law.<sup>106</sup>

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<sup>103</sup> U.S. Department of Agriculture, Food and Nutrition Service, "Household Food Security in the United States."

<sup>104</sup> U.S. Department of Agriculture, Office of Analysis, Nutrition and Evaluation, Food and Nutrition Service, "Who Is Leaving the Food Stamp Program? An Analysis of Caseload Changes from 1994 to 1997"(March 1999). There was virtually no change in the racial make-up of the food stamp program between 1994 and 1997, so no one racial category is leaving the food stamp program faster than any other.

<sup>105</sup> U.S. Department of Agriculture, Food and Nutrition Service, "Characteristics of Food Stamp Households: Fiscal Year 1998"(July 1999).

<sup>106</sup> International Convention on the Elimination of Discrimination of All Forms of Discrimination Against Women, Article 1.

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#### 4. Human Rights Violation: Denial of Due Process

*Any person or group who is a victim of a violation of the right to food should have access to effective judicial or other appropriate remedies at both the national and international levels.*<sup>107</sup>

—UN Committee on Economic, Social and Cultural Rights

New York City policies and practices deny due process and New York City does not provide adequate remedies for applicants or recipients when it violates their right to food.

##### *Inappropriate Case Closings*

For those applicants who successfully navigate the complex application process and actually receive food stamps, the hurdles are not yet ended. According to the Community Food Resource Center, a local anti-hunger/poverty organization, large and growing numbers of New York City food stamp participants are being cut off from food stamps due to no fault of their own. The stated reason is failure to attend a biyearly interview called re-certification that ensures participants are still eligible for food stamp benefits. What actually happens is that participants complete their re-certification, but HRA fails to enter the re-certification information in their computers in a timely fashion. As a result, participants are automatically cut off from their food stamp benefits and many do not understand why. In fact, between July of 1996 and January of 2000, 10.5 percent fewer public assistance recipients received food stamps for which they were automatically eligible.<sup>108</sup> In fact, *in December of 1999 alone*, HRA closed the food stamp cases of 4,278 households for this reason.<sup>109</sup> According to local union 1180 which represents many HRA employees, these sorts of problems arise because of inadequate staff and resources: “There is simply too much work, not enough workers and no way the job can get done on time.”<sup>110</sup> Because the recipient’s case is closed without just cause or notice, this practice violates due process.

##### *Increase in Requests for Fair Hearings*

Applicants who feel that their welfare or food stamp case was inappropriately denied, reduced or closed can request a fair hearing to contest the determination. Since welfare reform was enacted there has been a 71 percent increase in the number of requests for fair hearings, from 80,600 in 1994 to 138,200 in 1999, despite the drop in welfare rolls<sup>111</sup> (see Figure 3). In other words, in 1994 roughly one out of every seven welfare recipients requested a fair hearing; by 1999, that rate had tripled to three out of every seven.<sup>112</sup> What is more, those who request a fair hearing are most often vindicated: more than 80 percent of decisions at fair hearings are in the client’s favor.<sup>113</sup> Clearly, this illustrates that the city’s policies and practices

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<sup>107</sup> UN Committee on Economic, Social and Cultural Rights, “General Comment 12: The Right to Adequate Food,” par. 32.

<sup>108</sup> HRA FACTS, as computed by the Community Food Resource Center, “New York City Public Assistance Recipients Also Receiving Food Stamps.” Document is a fact sheet, no date of publication.

<sup>109</sup> By April 2000, the number has decreased to 1184 wrongful case closes per month. Data from the New York State Department of Social Service Division of Temporary Assistance. Memo to Rochelle Eisenstein from Stephen Cohen, re: Y66 Closing (May 2, 2000). Memo on file at the Urban Justice Center.

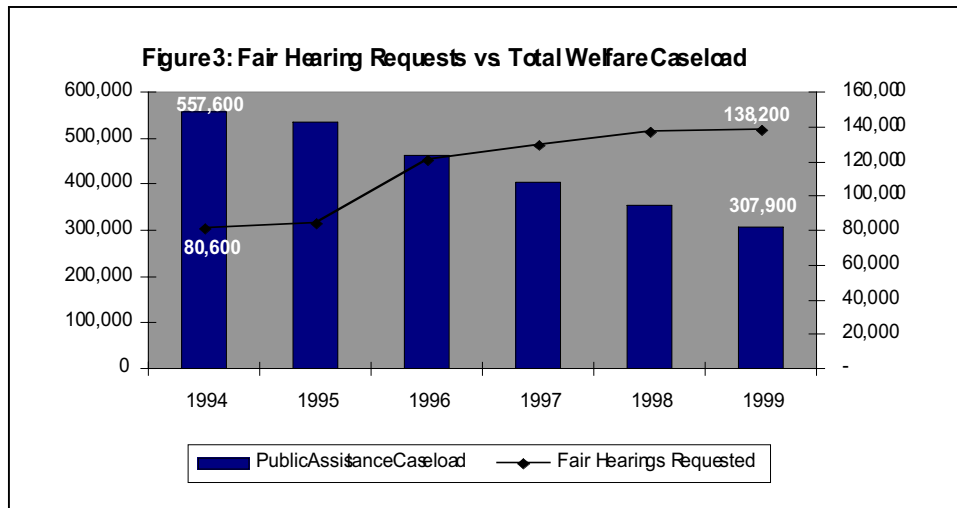
<sup>110</sup> Local 1180, New York Administrative Employees, Communications Workers of America, “HRA Management Scapegoats 1180 Members.”

<sup>111</sup> Liz Krueger, “NYC Public Assistance Fair Hearing Trends and Outcomes” (November 1999) Community Food Resource Center, Inc.

<sup>112</sup> *ibid.*

<sup>113</sup> *ibid.*

improperly deny access to public assistance, and place the burden on the applicant/recipient to remedy the city's error.



Source: New York City Mayor's Management Report

Despite the trends shown in Figure 3, evidence suggests that only a fraction of individuals can actually avail themselves of a fair hearing, hence these figures might actually underestimate the true scope of the problem. Our own data found that 58 percent of the applicants who had applied for public assistance two or more times were not told of their right to request a fair hearing. And in *Reynolds vs. Giuliani*, the judge found that “many applicants are unable to avail themselves of [a fair hearing] because many applications are denied without written notice to the applicant explaining the basis for the denial.”<sup>114</sup> These practices not only violate federal and state due process laws,<sup>115</sup> they also violate international human rights law under the ICESCR because there is no “effective” or “appropriate” remedy when the city violates an applicant’s right to food.<sup>116</sup>

## 5. New York City Policies and Practices Decrease Food Security and Increase Hunger, Threatening the Health of Low-Income New Yorkers

*We didn't do lengthy planning [when rolling out the Job Centers], followed by implementation. Instead we acted first and worried about the consequences later, and that seems to have worked for us.*<sup>117</sup>

—NYC HRA Commissioner, Jason A. Turner

<sup>114</sup> *Reynolds vs. Giuliani*, 98 Civ. 8877 (1998).

<sup>115</sup> Benefits that are entitlements cannot be taken away without due process. See *Goldberg vs. Kelley*, 397 U.S. 254 (1970). Moreover, in a due process case in Colorado, the judge in the case found that due process concerns continue to apply to welfare recipients even though welfare is no longer an entitlement program. Center for Community Change “Ensuring Due Process in the Use of Sanctions,” from *Organizing*, no. 18 (February 2000).

<sup>116</sup> UN Committee on Economic, Social and Cultural Rights, “General Comment 12: The Right to Adequate Food,” par. 32.

<sup>117</sup> Jason Turner, “Welfare Reform in New York State,” speech given at a policy forum at the Nelson A. Rockefeller Institute of Government, Albany, New York (November 17, 1998).

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**Each day in New York City, 400,000 individuals suffer from moderate or severe hunger—118,000 of them are children.<sup>118</sup>**

Community Food Resource Center

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What makes these policies and practices so troubling is evidence that hunger and food insecurity are widespread, on the rise, and the direct result of policies that deny access to food stamps, threatening the health of low-income New Yorkers.

The 35 percent decline in the food stamp rolls over the last four years well outpaced the decline in poverty—a decline of only two percentage points—indicating that people in need may be going without adequate food.<sup>119</sup> Indeed in 1996, 69 percent of poor families in New York City received food stamps; by 1998 that rate had dropped to 58 percent.<sup>120</sup> At the same time, requests for emergency food assistance in New York City grew by 24 percent in 1997<sup>121</sup> and by 36 percent in 1998.<sup>122</sup> Meanwhile food pantries and soup kitchens struggle unsuccessfully to meet the growing demand. The New York City Coalition Against Hunger estimates that 74,000 individuals—59 percent of them children—were turned away from pantries and soup kitchens in New York City in January 1999 alone—up 25 percent from the previous year.<sup>123</sup>

*I waited two months to get my money. ... [I was surviving] by going to churches and food pantries.*

—NYC public assistance applicant

*Our church gave \$2,500 to pay for extra food. At the present time we have over 150 families, and still people find our site closed because of short staff. Our church can't take this financial burden.<sup>124</sup>*

—Brooklyn food pantry director

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**There is a correlation between the drop in the number of people on public assistance and the number of people receiving emergency food.<sup>125</sup>**

New York City Council (emphasis in the original)

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Three-quarters of the emergency-food providers surveyed by the New York City Coalition Against Hunger (NYCCH) in 1998 and 1999 report that increased demand for emergency-food services like food pantries and soup kitchens is caused by a loss of food stamps and welfare benefits.<sup>126</sup> Indeed, families who lose

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<sup>118</sup> Community Food Resource Center, Inc., “Who Are New York City’s Hungry?” (April 1999).

<sup>119</sup> “HRA FACTS,” February 1996 and March 2000; Mark Levitan, “Poverty in New York City: A CSS Data Brief.”

<sup>120</sup> Mark Levitan, “Poverty in New York City: A CSS Data Brief.”

<sup>121</sup> Judith Walker, “Rationing Charity.”

<sup>122</sup> Nicole Woo, “Full Coffers, Empty Plates.”

<sup>123</sup> *ibid.*

<sup>124</sup> As quoted in Nicole Woo, “Full Coffers, Empty Plates.”

<sup>125</sup> A. Gifford Miller, New York City Council Member “Hungry City: Are We Doing Enough to Feed the Needy?” *New York City Council* (May 1999). See also Peter Eisinger, “Food Pantries and Welfare Reform: Estimating the Effect,” in *Focus* 20, no. 3 (fall 1999).

<sup>126</sup> Judith Walker, “Rationing Charity”; Nicole Woo, “Full Coffers, Empty Plates.”

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food stamps (whether or not they still qualify for them) often report significant levels of food insecurity. They worry that food will run out or that they might have to seek emergency food assistance from food pantries and soup kitchens. According to a national study, about two-thirds of families who recently left the Food Stamp Program reported some “food affordability issue,” and one-third reported “severe difficulties in affording food.”<sup>127</sup>

*I need my food stamps back right now to survive. I need the money too, but I need the food stamps more than anything. That was helping me with [my son's] diabetes.*

—Former NYC public assistance applicant

*We're getting by on [my] husband's check, \$548 a month...and going to food pantries...just trying to accumulate as much food as we can to get by...and paying for my son's medical expenses by using food money for medicine and borrowing \$60 here, \$40 there.*

—Former NYC public assistance applicant (family of five)

The impact of the loss of food stamps on the immigrant community (a category of people initially automatically cut off food stamps by PRA in 1996) may be especially severe. Almost half (48 percent) of the food pantries and soup kitchens surveyed by NYCCA report more immigrants coming to them for food in 1998.<sup>128</sup> Moreover, in March of 1998, Physicians for Human Rights examined the impact of food stamp cuts on legal immigrants in California, Illinois and Texas. These states, like New York, have large legal-immigrant populations and also provided state-funded partial restoration of food stamps for children and the elderly. In the study, the physicians found that 79 percent of the 682 legal immigrant households surveyed were food insecure—seven times the rate in the general U.S. population.<sup>129</sup> In the same study, 8.5 percent were found to suffer from severe hunger (a situation where both the adults and the children in the household are hungry)—more than 10 times the rate of the general population.

*Our part of the city [the Bronx] has the biggest immigrant population. Some were afraid to come to the pantry. Most have small children. We have great need for baby food. The food lines keep getting longer.*<sup>130</sup>

—Bronx food pantry director

### *Health Effects of Hunger*

While it may be too early to assess the overall health impacts of New York City's policies, much research has already been performed on the general health impacts of hunger and malnutrition.<sup>131</sup> Among adults, hunger and malnutrition have been linked to weakness and lethargy, osteoporosis, impaired functioning of

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<sup>127</sup> Sheila R. Zedlewski and Sarah Brauner, “Declines in Food Stamp and Welfare Participation: Is There a Connection?” The Urban Institute (October 1999), p. 27.

<sup>128</sup> Nicole Woo, “Full Coffers, Empty Plates.”

<sup>129</sup> Jennifer Kasper M.D., “Medical Group Finds High Prevalence of Food Insecurity and Hunger Among United States Legal Immigrant Populations” (May 1998) Physicians for Human Rights.

<sup>130</sup> As quoted in Nicole Woo, “Full Coffers, Empty Plates.”

<sup>131</sup> Some physicians are reporting possible impacts of food stamp cuts. A study in a Minnesota county hospital found that 19 percent of their diabetic patients had suffered complications that resulted from not having enough to eat. Moreover half the patients in the overall study (which included diabetics and non-diabetics) had recently had their benefits reduced or cut. K. Nelson; M.E. Brown; and N. Lurie, “Hunger in an Adult Patient Population,” *Journal of the American Medical Association* 279 (April 15, 1998), pp. 1211–4.

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the immune system and increased susceptibility to infectious diseases.<sup>132</sup> It can also exacerbate existing health problems such as diabetes.<sup>133</sup>

*Surviving has become harder. I'm depending on my cousin for everything, which is difficult for her. ... I still have to walk to school without eating. While this happened while I was in school, I was very tired. I didn't feel like doing work.*

—NYC public assistance applicant

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**Nationwide, 58 percent of food stamp households contain children.<sup>134</sup>**  
U.S. Department of Agriculture

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For children, the health effects of hunger and malnutrition can be especially harmful. The health impacts of inadequate food intake on children include: stunting, unwanted weight loss, reduced immune function and increased number of days missed from school, inability to concentrate, increased susceptibility to lead poisoning and limited cognitive development.<sup>135</sup> Access to food stamps, however, has been proven to mitigate those effects. Researchers at the Tufts Center on Hunger and Poverty have shown that food stamps reduce dietary deficiencies among low-income youngsters by 30 to 50 percent for certain nutrients and 70 percent for others.<sup>136</sup>

*Right now I am out of milk. There isn't any milk in the house. I can't feed the one-year-olds. It's been a rough week, oodles of noodles and pork and beans for all the kids. They are not getting the normal food they're supposed to get.*

—NYC public assistance applicant

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**Even short periods of under nutrition can affect children's behavior, cognitive development and future productivity.<sup>137</sup>**  
Tufts Center on Hunger, Poverty and Nutrition Policy

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Hunger and malnutrition among pregnant women also poses a threat to the health of their unborn children. Low birth-weight, a key indicator of inadequate nutrition, increases infant mortality, impedes educational performance and may even be linked to lower future earnings.<sup>138</sup>

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<sup>132</sup> J. Larry Brown, "Hunger in the U.S.," *Scientific American* 256 (February 1987), p. 36 (6).

<sup>133</sup> K. Nelson; M.E. Brown; and N. Lurie, "Hunger in an Adult Patient Population."

<sup>134</sup> U.S. Department of Agriculture, Office of Analysis, Nutrition and Evaluation, Food and Nutrition Service "Characteristics of Food Stamp Households, Fiscal Year 1998" (July 1999).

<sup>135</sup> Food Research and Action Center, "Hunger in the U.S.: Health Consequences of Hunger," [www.frac.org/html/hunger\\_in\\_the\\_us/health.html](http://www.frac.org/html/hunger_in_the_us/health.html).

<sup>136</sup> John T. Cook, Laura P. Sherman, and J. Larry Brown, "Impact of Food Stamps on the Dietary Adequacy Among Poor and Non-Poor Children," (June 1995) The Tufts Center on Hunger and Poverty.

<sup>137</sup> The Nutrition-Cognition Initiative, "Statement on the Link Between Nutrition and Cognitive Development in Children, 1998" (1998) The Tufts Center on Hunger and Poverty.

<sup>138</sup> Food Research Action Center, "Health Consequences of Hunger"; Richard S. Strauss, M.D., "Adult Functional Outcome of Those Born Small for Gestational Age," *Journal of American Medical Association* 283 (February 2, 2000).



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*My [obstetrician] said I lost four pounds...it's because I can't eat while waiting at the Job Center all day.*

*—Pregnant NYC public assistance applicant*

## **6. Welfare Reform: The Ultimate Tool to End Hunger?**

Proponents of New York City's policies would argue that these impacts are necessary short-term effects—or a critical ingredient of the city's "tough-love" approach. HRA Commissioner Jason Turner described his philosophy in a speech in the fall of 1998: "We need to create, if you will, a personal crisis in individuals' lives, which can be constructively used as a tool for helping them."<sup>139</sup> The implicit assumption, of course, is that, prompted by empty cupboards and no safety net to fall back on, these individuals will find employment and in the long run everyone will be well fed and better off. This, however, appears unlikely.

To date, little reliable data exists on the impact of welfare reform in New York City. HRA conducted a follow-up study of 126 families leaving welfare, but the study relies on a biased sample, over representing families with high levels of education, families that were more likely to leave welfare for employment and families that had endured shorter spells on welfare than the general welfare population.<sup>140</sup> It also excluded families without telephones, an important indicator of economic insecurity. Nonetheless, only 54 percent of this "optimal" subset of families left welfare for work and only 25 percent had annualized incomes that lifted them out of poverty.<sup>141</sup>

If at least three out of four people who leave welfare in New York City still live in poverty as HRA's study suggested, then people who leave welfare would also be at great risk of hunger and food insecurity. A study by the Rockefeller Institute revealed that less than a third (29 percent) of individuals who left welfare in New York State receive food stamps one year after their welfare case was closed, even though most would generally still be eligible.<sup>142</sup> Moreover, even those who find employment are at risk of hunger. According to the National Center for Health Statistics, half of those nationwide who are hungry live in households where at least one member works.<sup>143</sup> And according to Second Harvest, the nation's leading distributor of emergency food, nearly 40 percent of those they served in 1997 lived in households where at least one member worked.<sup>144</sup> Despite a "booming economy," it appears these trends may only be worsening. In New York City, nearly 40 percent of emergency food programs surveyed by NYCCAH reported an increase in the number of working poor seeking emergency food assistance in 1998.<sup>145</sup>

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<sup>139</sup> Jason Turner, "Welfare Reform in New York State."

<sup>140</sup> Carl H. McCall, "An Update on the Evaluation of Welfare Reform in New York State" (June 1999) State of New York, Office of the State Comptroller.

<sup>141</sup> It is important to note that annualized income tends to overestimate actual annual income because annualized income does not take into account periods of unemployment or underemployment. Andrew S. Bush, Swati Desai; and Lawrence M. Mead, "Leaving Welfare: Findings from a Survey of Former New York City Welfare Recipients" (September 1998) Office of Policy and Program Analysis, New York City Human Resource Administration.

<sup>142</sup> The Nelson A. Rockefeller Institute of Government, "After Welfare: A Study of Work and Benefit Use After Case Closing" (July 1999).

<sup>143</sup> K. Alaimo, et al., "Food Insecurity Exists in the United States: Results from the Third National Health and Nutrition Examination Survey (NHANES III)," *The American Journal of Public Health* 88. (March 1998), pp. 419–426. As cited by the Food Research and Action Center, "Hunger in the U.S.: Recent Studies on Hunger in the United States," [http://www.frac.org/html/hunger\\_in\\_the\\_us/hunger\\_studies.html](http://www.frac.org/html/hunger_in_the_us/hunger_studies.html).

<sup>144</sup> America's Second Harvest, "Hunger 1997: The Faces and the Facts" (1997) [http://www.secondharvest.org/policy/97\\_hungerstudy.html](http://www.secondharvest.org/policy/97_hungerstudy.html).

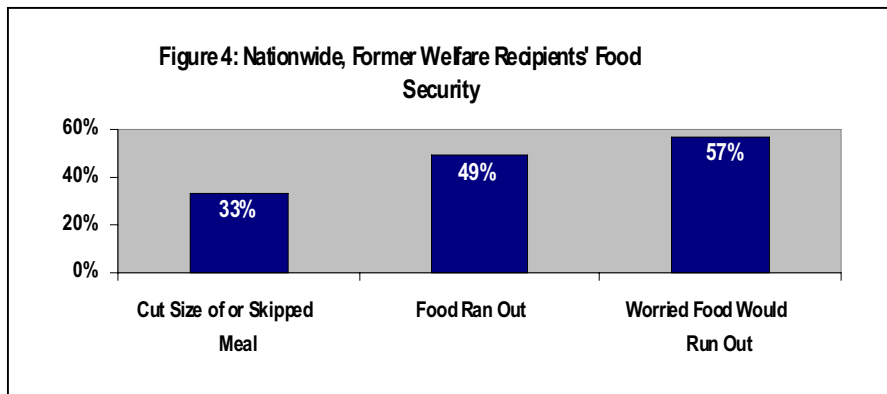
<sup>145</sup> Nicole Woo, "Full Coiffers, Empty Plates."

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**An individual working full-time at the minimum wage would earn only \$10,700 per year—well below the \$14,150 poverty level for a family of three.**

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Consequently, families who leave welfare, working or not, often wind up in soup kitchen and food pantry lines, hungry. Nationwide, a third of former welfare recipient families reported having to cut the size of or skip meals in 1998 because there wasn't enough money for food; 49 percent reported that often or sometimes food didn't last until the end of the month and they did not have money for more; and 57 percent reported they often or sometimes worried food would run out before getting money to buy more<sup>146</sup> (see Figure 4).



Source: *The Urban Institute*

Why are so many families who leave welfare for work hungry or food insecure? As we will see in the latter half of this report, the state and federal governments lack the political will to marshal their resources to end hunger.

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<sup>146</sup> Pamela Loprest, "Families Who Left Welfare: Who Are They and How Are They Doing?" (June 1999) The Urban Institute.

# **New York State Violates the Human Right to Food**

Under both international and federal law, New York State has a duty to monitor New York City's welfare and food stamp policies and practices, and to intervene when obstacles in accessing food stamps exist. Despite this mandate, New York State abdicated its oversight responsibilities by allowing New York City to systematically deny access to the Food Stamp Program. What is more, despite a child poverty rate of 34 percent in New York City and 25 percent statewide in 1998, by the fall of 1999 New York State had over \$1 billion in unspent Temporary Assistance to Needy Families (TANF) money. Portions of the TANF money that should have been used to help increase economic security and reduce hunger and food insecurity (and under human rights standards must be used for those purposes) funded tax breaks instead.

## **1. Human Rights Violation: Failure to Monitor and Remove Barriers to the Food Stamp Program**

*States parties shall develop and maintain mechanisms to monitor progress towards the realization of the right to adequate food for all, to identify the factors and difficulties affecting the degree of implementation of their obligations, and to facilitate the adoption of corrective legislation and administrative measures.*<sup>147</sup>

—UN Committee on Economic, Social and Cultural Rights

The federal investigation of New York City Job Centers by the USDA's Food and Nutrition Service occurred because the New York State Office of Temporary Disability Assistance (OTDA)—the agency that is responsible for ensuring statewide compliance with all pertinent federal statutes, regulations and guidance issued by the Food and Nutrition Service—failed to do its job.

*[Problems of access to the food stamp program] appear to have resulted from a combination of inadequate technical support to local districts during the implementation of welfare reform and a lack of thorough oversight of local district operations [by OTDA].*<sup>148</sup>

—U.S. Department of Agriculture

While it appears that OTDA has begun to address some of the issues raised by the USDA, other problems persist. For example, federal investigators from the Department of Health and Human Services' Office of Civil Rights (OCR) found fault not only with New York City's HRA, for discriminating against people with limited English-speaking ability and the hearing-impaired, it implicated the State Department of Health and the Office of Temporary Disability Assistance as well.<sup>149</sup> According to the OCR report, New York State was also responsible for New York City's discriminatory practices because it failed to adequately monitor New York City's implementation of its welfare programs.

This failure to adequately monitor and intervene constitutes a human rights violation.<sup>150</sup> Governments cannot adequately assess their progress in realizing economic rights, including the right to food, unless they are "aware of the extent to which various rights are, or are not, being enjoyed."<sup>151</sup> Since it remained

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<sup>147</sup> UN Committee on Economic, Social and Cultural Rights, "General Comment 12: The Right to Adequate Food," par. 31.

<sup>148</sup> U.S. Department of Agriculture, Food and Nutrition Service, "New York Program Access Review."

<sup>149</sup> Department of Health and Human Services, Office of Civil Rights, *Letter to Commissioners Novello et al.*

<sup>150</sup> Maastricht Guidelines on Violations of Economic, Social and Cultural Rights, par. 15g.

<sup>151</sup> UN Committee on Economic, Social and Cultural Rights, "General Comment 1: Reporting by States Parties," par.3 (1989), [www.unhchr.ch](http://www.unhchr.ch).

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oblivious to city practices, New York State failed to take any actions against New York City's policies of diversion, discrimination and violation of due process in violation of human rights standards under the ICESCR.

## 2. Human Rights Violation: Failure to Utilize Maximum Available Resources

*The failure to utilize maximum available resources towards the full realization of the [ICESCR]... is a violation of economic, social and cultural rights.*<sup>152</sup>

—Maastricht Guidelines

Under the PRA, the federal government issues each state block grants that are based on their 1995 welfare caseloads to finance their welfare programs. States that experience declines in their welfare caseloads are allowed to keep any surplus monies. While states are encouraged to use any surplus to help families make the transition from welfare to work—to help increase economic security (and thereby food security) by providing child care subsidies, wage supplements, housing vouchers or access to higher education, for example—under federal law, states are not required to do so.<sup>153</sup>

Under human rights law, however, governments are obligated to “utilize maximum available resources towards the full realization” of economic rights. Thus, at the very least, all surplus welfare monies should be used to help low-income families achieve economic and food security. Yet even this minimal obligation is not being met. Indeed, by the fall of 1999, New York State had accrued \$1,122.9 million in unspent TANF funds—the nation's second largest TANF surplus.<sup>154</sup> At the same time, the state used federal funds to decrease state funding of welfare-related programs by \$403 million in fiscal year 1999–2000—freeing these monies for use for tax breaks.<sup>155</sup> While the state is currently spending 21 percent more per welfare case than it did in 1995, most of it for childcare subsidies,<sup>156</sup> only 18 percent of eligible families are receiving those subsidies.<sup>157</sup>

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**In New York State, 1 in every 4 children lives in poverty.**<sup>158</sup>

**In New York City, 1 in every 3 lives in poverty.**<sup>159</sup>

Community Service Society, National Campaign for Jobs and Income

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<sup>152</sup> Maastricht Guidelines on Violations of Economic, Social and Cultural Rights, par. 15e.

<sup>153</sup> Eileen Sweeny et al., “Windows of Opportunity: Strategies to Support Families Receiving Welfare and Other Low-Income Families in the Next Stage of Welfare Reform,” (January 12, 2000) Center on Budget and Policy Priorities; Ed Lazere, “Welfare Balances After Three Years of TANF Block Grants: Unspent TANF Funds at the End of Federal Fiscal Year 1999,” (January 12, 2000) Center on Budget and Policy Priorities.

<sup>154</sup> Deepak Bhargava and Ray Abernathy, “Poverty Amidst Plenty: Amount of Unspent Federal Anti-Poverty Funds Grows Despite Persistent Need: New York” (February 24, 2000) National Campaign for Jobs and Income, [www.communitychange.org/nationalcampaign/tanfsurplus/newyork.asp](http://www.communitychange.org/nationalcampaign/tanfsurplus/newyork.asp).

<sup>155</sup> *ibid.*

<sup>156</sup> Raymond Hernandez, “U.S. Welfare Limit May Put Thousands in Albany's Charge,” *New York Times* (March 21, 2000), [www.nytimes.com](http://www.nytimes.com).

<sup>157</sup> Deepak Bhargava, and Ray Abernathy “Poverty Amidst Plenty.”

<sup>158</sup> *ibid.*

<sup>159</sup> Mark Levitan, “Poverty in New York City: A CSS Data Brief.”

## The Federal Government Violates the Human Right to Food

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*Every man woman and child has the inalienable right to be free from hunger and malnutrition in order to develop fully and maintain their physical and mental faculties. Society today already possesses sufficient resources, organizational ability and technology and hence competence to achieve this objective.<sup>160</sup>*

—Universal Declaration on the Eradication of Hunger and Malnutrition

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**Approximately 10 million people in the United States  
live in households that suffer from hunger.<sup>161</sup>**  
U.S. Department of Agriculture

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Under international law, the U.S. government must ensure, at a minimum and regardless of resources, freedom from hunger. It must also take steps toward ensuring food security using “maximum available resources.” The U.S. government, however, fails in both of these regards. This failure represents nothing more than a lack of political will. The Food Stamp Program, our nation’s primary hunger-relief program is inadequate and under-funded. Food stamp benefit levels are too meager, participation rates are abysmally low and the government excludes entire classes of people regardless of need. The United States has both ample resources and sufficient know-how to end hunger—in fact some have argued that we nearly did so once before.

### 1. Human Rights Violations: Failure to Ensure Freedom from Hunger

*Every State is obliged to ensure for everyone under its jurisdiction access to the minimum essential food which is sufficient, nutritionally adequate and safe, to ensure their freedom from hunger.<sup>162</sup>*

—UN Committee on Economic, Social and Cultural Rights

#### *Millions Are Hungry and Food Insecure*

The USDA estimates that there are 6.6 million adults and 3.4 million children across the nation living in households that suffer from hunger.<sup>163</sup> What is more, an additional 26 million are on the brink of hunger—classified by the USDA as food insecure without hunger. According to the standards of the UN Committee on Economic, Social and Cultural Rights, the body charged with monitoring compliance with the ICESCR, the fact that 10 million people in this country are hungry indicates that the federal government is violating human rights.

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<sup>160</sup> “Universal Declaration on the Eradication of Hunger and Malnutrition,” adopted by the World Food Conference in Rome (1974), [www1.umn.edu/humanrts/instreet/q1udehm.htm](http://www1.umn.edu/humanrts/instreet/q1udehm.htm).

<sup>161</sup> U.S. Department of Agriculture, Food and Nutrition Service, “Household Food Security in the United States.”

<sup>162</sup> UN Committee on Economic, Social and Cultural Rights, “General Comment 12: The Right to Adequate Food,” par. 14.

<sup>163</sup> U.S. Department of Agriculture, Food and Nutrition Service, “Household Food Security in the United States.”

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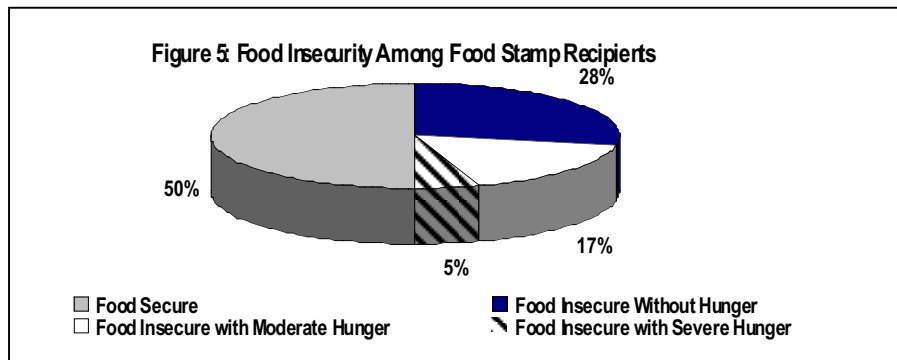
*A State party in which any significant number of individuals is deprived of essential foodstuffs, of essential primary health care, of basic shelter and housing, or of the most basic forms of education is, prima facie, violating the Covenant.*<sup>164</sup>

—Maastricht Guidelines

### *Why Millions Are Hungry and Food Insecure*

#### Benefit Levels Are Inadequate

Food stamp benefit levels are so meager that many of those who manage to get them still face hunger and food insecurity. In New York City, for example, individuals who participate in the Food Stamp Program receive only \$0.88 per meal per person—or less than half the average meal cost (\$1.76 per person), calculated by the New York City Department of Consumer Affairs.<sup>165</sup> As a result, many are forced to cut down on the size of their meals, skip them altogether, or join countless others at food pantries and soup kitchens the third and/or fourth week of every month when monthly food stamps may run out. In fact, according to the USDA, 50 percent of food stamp participant households nationally experience some level of food insecurity: 28 percent are food insecure without hunger, 17 percent are food insecure with *moderate hunger* (only adults in the household experience hunger), and five percent are food insecure with *severe hunger* (adults and children in the household experience hunger)<sup>166</sup> (see Figure 5).



Source: USDA

High levels of food insecurity among food stamp recipients exist because the food stamp benefit levels were never designed to provide an adequate diet. Based originally on the Economy Food Plan, the benefits provided the nutrients necessary for an emergency diet only—not for long-term health needs. In 1975, the government replaced the Economy Food Plan with the Thrifty Food Plan, the plan in use today, when a lawsuit challenged the nutritional adequacy of the original plan.<sup>167</sup> But the Thrifty Food Plan is only

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<sup>164</sup> *Prima facie* (at first view) suggests that the evidence is sufficient to establish fact unless rebutted. Maastricht Guidelines on Violations of Economic, Social and Cultural Rights, par. 9; see also UN Committee on Economic, Social and Cultural Rights, “General Comment 3: The Nature of State Parties’ Obligations,” par. 10.

<sup>165</sup> As cited by Community Food Resource Center, Inc., “Who are New York City’s Hungry?”

<sup>166</sup> U.S. Department of Agriculture, Office of Analysis, Nutrition, and Evaluation, “Food Stamp Participants’ Food Security and Nutrient Availability Summary Findings” (July 1999).  
[www.fns.usda.gov/oane/menu/Published/fsp/FILES/sumnfsps3.htm](http://www.fns.usda.gov/oane/menu/Published/fsp/FILES/sumnfsps3.htm).

<sup>167</sup> Peter K. Eisinger, *Toward an End to Hunger in America*, p. 54. See also *Rodway vs. USDA*, 168 U.S. App. D.C. 387 (1975).

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marginally better: 80 percent of households that spend an amount equal to the Thrifty Food Plan on food do not obtain the recommended dietary allowances for nutrients.<sup>168</sup>

*I don't have nothing. I've been going to food pantries. When I did get emergency \$39 in cash and \$69 in food stamps (to last 30 days), tell me: how are you, a family of three, with an 11-year-old daughter and 16-year-old son supposed to survive on that?*

—NYC public assistance applicant

**Evidence of U.S. Failure to Fulfill the Right to Food:  
Low Birth-Weight and Infant Mortality**

Low birth-weight and infant mortality rates are indicators of inadequate access to food and therefore a violation of the right to food. Pregnant women who do not receive adequate nutrients during their pregnancy run high risks of giving birth to low birth-weight babies.

These infants are also significantly more likely to die in the first year of life.

Despite virtually unparalleled resources, the United States lags behind 16 industrialized countries (and even some developing countries)

in the percentage of children born with low birth-weight.<sup>169</sup>

And the United States ranks 22<sup>nd</sup> among industrialized nations in infant mortality.<sup>170</sup>

Children's Defense Fund

In addition, the Thrifty Food Plan was designed under the assumption that low-income individuals spend 30 percent of their income on food. When it was first implemented, this rule of thumb may have been an accurate assumption, but today it is not: many households cannot devote 30 percent of their income to their food budget because they spend an increasingly large share of income on housing. In fact, housing costs have risen so sharply that low-income households often spend 50 to 80 percent of their income on housing alone, leaving little to pay for food, utilities, transportation, clothing and other personal care items, and often causing people to make the difficult if not impossible choice of whether to “heat or eat.”<sup>171</sup>

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<sup>168</sup> The Physicians Task Force on Hunger in America, *Hunger in America, The Growing Epidemic*, (Middletown, Conn.: Wesleyan University Press, 1985), p. 134.

<sup>169</sup> Children's Defense Fund, “Where America Stands” (April 2000), [www.childrensdefense.org/facts\\_america98.html](http://www.childrensdefense.org/facts_america98.html).

<sup>170</sup> *ibid.*

<sup>171</sup> According to the U.S. Department of Housing and Urban Development, 5.4 million renter households have worst-case housing needs—that is, they are very low-income renter households living in severely substandard housing or paying more than one half of their income for rent. U.S. Department of Housing and Urban Development, Office of Policy Development and Research, “Rental Housing Assistance—The Worsening Crisis: A Report to Congress on Worst Case Housing Needs” (March 2000), [www.hud.gov/pressrel/worscs00.html](http://www.hud.gov/pressrel/worscs00.html).

### Heat or Eat: The Rising Cost of Rental Housing

Each day, millions of households must decide between paying the rent and utilities or buying food. This impossible dilemma—often called “heat or eat”—is an increasing problem for low-income people across the country.

As a result of decreases in the stock of affordable housing and concurrent decreases in the value of low-wage labor, 5.4 million low-income households in the United States pay more than 50 percent of their income in rent—and all of these households are at severe risk of hunger and homelessness.<sup>172</sup>  
U.S. Department of Housing and Urban Development

According to the National Low-Income Housing Coalition, the fair market rent for a two-bedroom unit in New York City is \$825/month. A worker earning the federal minimum wage would have to work 123 hours per week in order to afford this apartment.<sup>173</sup>

#### Just New York City? Think again.

Where in the United States can a full-time worker earning minimum wage afford a basic 2-bedroom apartment?

**Nowhere!**

National Low-Income Housing Coalition

#### Lack of Outreach/Barriers to Access

The Food Stamp Program is also plagued by low levels of participation, which are largely the result of a lack of federal and state funding to conduct outreach.<sup>174</sup> The participation rate among eligible individuals is only 63 percent nationally<sup>175</sup> and 52 percent in New York City.<sup>176</sup> A recent national survey found that nearly three quarters (72 percent) of those who were eligible for food stamps but did not participate were not aware they were eligible.<sup>177</sup> Hunger relief programs can hardly be effective when those who are hungry or food insecure do not know that they can or should apply.

<sup>172</sup> *ibid.*

<sup>173</sup> Affordability implies that rental costs consume no more than 30 percent of total household income. National Low Income Housing Coalition “Out of Reach: Rental Housing at What Cost: New York” (September 1999), [www.nlihc.org/cgi-bin/data.pl?getstate=on&state=NY](http://www.nlihc.org/cgi-bin/data.pl?getstate=on&state=NY).

<sup>174</sup> Peter K. Eisinger, *Toward an End to Hunger in America*, pp. 51–53. Eisinger argues that failure to participate in food stamps is largely the result of a lack of information about the Food Stamp Program, due mainly to insufficient federal funding to conduct outreach. The Food Research and Action Center argues also however that states fail to utilize available federal matching funds for food stamp outreach programs at [www.frac.org/html/news/fsfeb00nos.html](http://www.frac.org/html/news/fsfeb00nos.html).

<sup>175</sup> Food Research Action Center, “8.6 Million Fewer Food Stamp Participants in February 2000 Than February 1996: Yet Studies Show Persistent Need,” [www.frac.org/html/news/fsfeb00nos.html](http://www.frac.org/html/news/fsfeb00nos.html).

<sup>176</sup> Community Food Resource Center, “Who Are New York City’s Hungry?,” (April 1999).

<sup>177</sup> Mathematica Policy Research, Inc. (July 1999). As cited by the Food Research Action Center, “Over 7 million Fewer Food Stamp Participants in September 1999 than September 1996,” [www.frac.org/html/news/fssept99nos.html](http://www.frac.org/html/news/fssept99nos.html).



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**Half of those who are hungry live in households where at least one member works.<sup>178</sup>**  
Food Research and Action Center

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For working parents, the limited hours of the food stamp offices—generally 9 a.m. to 5 p.m., Monday through Friday—make access difficult at best. Many are simply unable to take the time off work, afford the loss of pay, or find appropriate childcare to get to the food stamp office.<sup>179</sup> Nationwide, fewer than 50 percent of eligible working households participate in the Food Stamp Program.<sup>180</sup>

For many, the onerous administrative hurdles that require extensive documentation and frequent visits to the food stamp office are both too complex and too degrading, and the social stigma of accepting public assistance too considerable to overcome.<sup>181</sup>

*Food stamps mean welfare, and welfare means you're trash.*<sup>182</sup>  
—Eligible Food Stamp Program non-participant

*[Applying for food stamps] is very degrading and humiliating. They [the FSP] want you to get on your knees.*<sup>183</sup>  
—Eligible Food Stamp Program non-participant

#### Arbitrary and Discriminatory Restrictions

Besides insufficient benefit levels and inadequate outreach, the Food Stamp Program also excludes entire classes of people arbitrarily and often due entirely to the political climate of the day. When President Clinton signed the Personal Responsibility Act, he barred many legal immigrants, regardless of need, from the Food Stamp Program. Nine hundred thousand legal immigrants lost their eligibility nationwide due to PRA—147,000 of whom were New Yorkers.<sup>184</sup> While many immigrants, including children, the elderly and disabled individuals found that their benefits were restored by a subsequent federal act in 1998, the Community Food Resource Center in New York City estimates that at least 53,500 New York legal immigrants remain ineligible for food stamps.<sup>185</sup> The Supreme Court recently upheld this ban on food

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<sup>178</sup> K. Alaimo, et al., “Food Insecurity Exists in the United States.”

<sup>179</sup> Sheena McConnell and Michael Ponza, “The Reaching the Working Poor and Poor Elderly Study: What We Learned and Recommendations for Future Research” (December 1999) Mathematica Policy Research, Inc.

<sup>180</sup> *ibid.* In 1994, 46 percent of working FSP-eligible households participated in the program.

<sup>181</sup> Sheena McConnell and Michael Ponza, “The Reaching the Working Poor and Poor Elderly Study.” This study showed that the application process is very time-consuming. On average, applicants for food stamps will spend five hours in the application process with an average of two trips to the Food Stamp Office and \$10 spent on transportation to get there. See also Peter K. Eisinger, *Toward an End to Hunger in America*, pp. 51–52.

<sup>182</sup> *ibid.* These quotes were gleaned from a focus group of individuals who were eligible to participate in the Food Stamp Program but refused because of the stigma involved.

<sup>183</sup> *ibid.*

<sup>184</sup> Liz Krueger, “Fact Sheet on Federal Restoration of Benefits for Immigrants” (August 1998) Community Food Resource Center.

<sup>185</sup> *ibid.*

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stamps for legal immigrants, upholding a lower-court ruling that the federal government policy was “rationally related to legitimate government interests.”<sup>186</sup>

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**Roughly four out of five legal immigrant households surveyed in March of 1998 across the United States were food insecure—seven times the rate of the general U.S. population.**

**Legal immigrants households were also 10 times more likely to go hungry than households in the general population.<sup>187</sup>**

Physicians for Human Rights

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The PRA also set three-month time limits (three months out of three years) on food stamp eligibility for able-bodied adults without dependents (ABAWD) who do not (or cannot) find a job. The Center on Budget and Policy Priorities, a Washington D.C. based think tank, called this provision “probably the single harshest provision written into a major safety net program in at least 30 years.”<sup>188</sup> Until this change, food stamps had been the only truly universal safety net: every person had the right to food stamps if their income was low enough. Nationwide, as many as 892,000 people are affected by this ABAWD provision.<sup>189</sup> While states may choose to get a waiver from this provision for areas of high unemployment, they are not required to do so. For the first time this year, New York City has not claimed the ABAWD waiver, despite unemployment rates that are higher than virtually every other major metropolitan area.<sup>190</sup> Consequently, approximately 15,500 poor New York City food stamp participants face the possible loss of benefits under this provision, and given that food pantries and soup kitchens are already stretched beyond capacity, many will have few, if any means to help alleviate their hunger.<sup>191</sup>

Furthermore, federal law, under the Graham Amendment, arbitrarily denies food stamps to persons convicted of a felony that involves possession, use or distribution of a controlled substance after August 1996, when welfare reform was enacted. Because government must fulfill the right to food for “everyone under its jurisdiction” without discrimination, these practices that deny access to food stamps to immigrants,

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<sup>186</sup> Joan Biskupic, “Court Upholds Ban on Welfare Benefits to Immigrants,” *Washington Post* (March 27, 2000) [www.washingtonpost.com](http://www.washingtonpost.com). Case was brought under due process and equal protection claims. See also *Alvarez vs. Shalala*, 189 F. 3d 598, 7<sup>th</sup> Cir. (1999).

<sup>187</sup> Jennifer Kasper M.D., “Medical Group Finds High Prevalence of Food Insecurity and Hunger Among United States Legal Immigrant Populations.”

<sup>188</sup> Peter Edelman, “The Worst Thing Bill Clinton Has Done,” *Atlantic Monthly*, March 1997, p. 48. As cited in Janet Poppendieck, *Sweet Charity?: Emergency Food and the End of Entitlement* (New York: Penguin Books, 1999), p. 284.

<sup>189</sup> Michael Stavrianos and Lucia Nixon, “The Effect of Welfare Reform on Able-Bodied Food Stamp Recipients,” (July 23, 1998) Mathematica Policy Research, Inc.

<sup>190</sup> The unemployment rate in the New York City metropolitan area was 5.2 percent in December 1999 and 4.1 percent nationwide according to the Bureau of Labor Statistics. Of the U.S. cities with over 1 million residents, only Los Angeles had as high a level of unemployment. Bureau of Labor Statistics, “Metropolitan Area Employment and Unemployment Summary”; “The Employment Situation: January 2000,” <http://stats.bls.gov/newsrels.htm>.

<sup>191</sup> Liz Krueger, “Fact Sheet on the Federal Food Stamp Waiver for ABAWDs,” (February 23, 1999) Community Food Resource Center.

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able-bodied adults without dependents and persons convicted of certain categories of felonies, violate the human right to food.<sup>192</sup>

## 2. Human Rights Violation: Taking Steps Backward in the Fight against Hunger

*The principle obligation is to take steps to achieve progressively the full realization of the right to adequate food. This imposes an obligation to move as expeditiously as possible towards that goal.*<sup>193</sup>

—UN Committee on Economic, Social and Cultural Rights

The United States has an obligation to move progressively toward fulfilling the right to food under human rights standards. This means that government must ensure that it advances gradually and consistently toward food security for all.<sup>194</sup> As a result, any deliberate step backward in fulfilling the right to food that results in increased hunger or reduced food security is a violation of human rights.<sup>195</sup> Despite this mandate, hunger and food insecurity have increased over time and federal support for anti-hunger programs has waned.

The problem of domestic hunger first came to our nation's attention during the 1960s when Senator Robert Kennedy made a momentous and highly publicized trip to Appalachia, the Mississippi Delta and various other regions, substantiating claims of a national hunger epidemic. But by the late 1970s, doctors from the Physicians Task Force on Hunger in America (many of whom had joined Senator Kennedy on his trip a decade earlier) found that the hunger problem had virtually been eliminated.<sup>196</sup> Success was directly attributed to the unprecedented expansion of the Food Stamp Program, the Women Infants and Children (WIC) program, and the school lunch program.

*America's nutrition programs had succeeded. While we still saw immense poverty, we no longer saw widespread hunger and malnutrition. Poor people reported that they had food to eat. Teachers no longer reported children coming to school hungry. And doctors and nurses found that malnutrition was not a severe problem among the poor. To be certain, things were not perfect, but they were greatly improved.*<sup>197</sup>

—Physicians Task Force on Hunger in America

But hunger reappeared with a vengeance during the 1980s. Increased hunger was the result of federal government policies that decreased welfare benefit levels and slashed the Food Stamp and school lunch

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<sup>192</sup> UN Committee on Economic, Social and Cultural Rights, "General Comment 12: The Right to Adequate Food," par. 14.; George Kent, "Nutrition Rights: The Human Right to Adequate Food and Nutrition," Section IV-f, World Alliance on Nutrition and Human Rights [www2.hawaii.edu/~kent/tutorial2000/titlepage.htm](http://www2.hawaii.edu/~kent/tutorial2000/titlepage.htm); Elisabeth Reichert and Robert J. McCormick, "U.S. Welfare Law Violates Human Rights of Immigrants," *Migration World Magazine* 26 (March–April 1998). This paper argues that according to the UDHR, if an individual lawfully resides or is lawfully present, that individual is entitled to the same social welfare benefits as anyone else.

<sup>193</sup> UN Committee on Economic, Social and Cultural Rights, "General Comment 12: The Right to Adequate Food," par. 14.

<sup>194</sup> Inter-American Commission on Human Rights, "Annual Report 1993," chapter V, part II. (February 1993).

<sup>195</sup> UN Committee on Economic, Social and Cultural Rights, "General Comment 3: The Nature of States Parties' Obligations," par. 9; Maastricht Guidelines on Violations of Economic, Social and Cultural Rights, par. 14.

<sup>196</sup> The Physicians Task Force on Hunger in America, *Hunger in America*, p. xx.

<sup>197</sup> *ibid.*

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programs.<sup>198</sup> At the same time, the stock of affordable housing shrunk nationwide, and the economy underwent structural shifts, away from manufacturing and toward a service-based economy, marginalizing low-wage workers. Subsequently, when the Physicians Task Force set out to assess hunger in the 1980s, they were shocked and dismayed. “It is now 1985, and hunger has returned as a serious problem across this nation. ... [Hunger] returned, we believe, because the programs which virtually ended hunger in the last decade have been weakened.”<sup>199</sup> Policy-makers failed to heed the warning and did nothing to reverse their regressive public assistance policies. As a result, since 1985 hunger continued to spread rapidly, rising by 50 percent according to some experts.<sup>200</sup> Under PRA, food stamp policy has been tightened further, and though unemployment rates are at 30-year lows, hunger and food insecurity continue to increase. Two million more children and three million more adults lived in households that suffered from hunger and food insecurity in 1998 than in the year before.<sup>201</sup>

What is more, earlier this year the USDA released its proposed regulatory changes to the federal Food Stamp Program. According to various policy and advocacy organizations, including the Community Food Resource Center in New York City, most of the proposed changes would negatively impact low-income families and reduce their access to the program.

### 3. Human Rights Violation: Failure to Devote Sufficient Resources

*Violations of the Covenant occur when a State fails to ensure the satisfaction of, at the very least, the minimal essential level required to be free from hunger. Resource constraints do not free Government from responsibility; it still has to show that every effort has been made to use all resources at its disposal in an effort to satisfy, as a matter of priority, those minimum obligations.*<sup>202</sup>

—UN Commission on Human Rights

Regardless of resources, the U.S. government is obligated to ensure, at a minimum, freedom from hunger. As the richest nation in the world, the United States can certainly make no excuse based on a plea of inadequate resources. Human rights law goes even further and stipulates that government is bound to utilize the “maximum extent of its resources” as it takes steps to eliminate food insecurity.<sup>203</sup> Despite this obligation, pervasive hunger and food insecurity occur in America in spite of an abundance of resources.

All told, before welfare reform, total federal spending on all food programs (including Food Stamps, Women, Infants and Children (WIC), school lunch and elderly feeding programs) accounted for only 2.5 percent of

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<sup>198</sup> *ibid.*

<sup>199</sup> *ibid.*, xx-xxi.

<sup>200</sup> Institute for Food Development Policy, “Should America Be Measured by Its 3.5 Million Millionaires...or by Its 30 Million Hungry?” *The Nation* 267 (December 21, 1998), p. 20.

<sup>201</sup> Food Research and Action Center, “New Data Show Sharp Rise in Hunger and Food Insecurity for American Families” (September 1999), [www.frac.org/html/news/usdafoodsecuritypr.html](http://www.frac.org/html/news/usdafoodsecuritypr.html).

<sup>202</sup> Asbjorn Eide, “The Right to Adequate Food and Freedom from Hunger: Updated Study on the Right to Food” (June 28, 1999).

<sup>203</sup> Maastricht Guidelines on Violations of Economic, Social and Cultural Rights, par. 15e; The ICESCR, Article 2.1; and the CRC, Article 4.

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the federal budget;<sup>204</sup> by 1999, that number was down to 2.1 percent of the federal budget.<sup>205</sup> In fact, half the cost savings of welfare reform were expected to come from cuts to the Food Stamp Program (in part due to a decrease in benefit levels) to the tune of \$27.7 billion despite persistent need.<sup>206</sup> By 1999, the Food Stamp Program accounted for a mere 1 percent of the federal budget or \$21 billion.<sup>207</sup> In contrast, \$125 billion (10 percent) of the federal budget goes to “corporate welfare,”<sup>208</sup> and more than \$500 billion (41 percent) goes to the military.<sup>209</sup>

*Every gun that is made, every warship that is launched, every rocket fired signifies...a theft from those who hunger and are not fed, those who are cold and not clothed. This world in arms is not spending money alone. It is spending the sweat of its laborers, the genius of its scientists, and the hopes of its children.*<sup>210</sup>

—Dwight Eisenhower

According to Bread for the World, a nationwide citizen’s movement against hunger, the United States could cut domestic hunger and food insecurity *in half* within two years for an additional \$5 billion per year, or \$18 a year for each person in this country.<sup>211</sup> In light of an estimated total federal budget surplus of over \$180 billion for the year 2000, and projections of totals nearing \$4 trillion by the end of the decade, the paucity of money spent on hunger relief is unconscionable.<sup>212</sup>

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<sup>204</sup> Figure is for 1994. Bread for the World Institute *Tell Congress: Hunger Has a Cure* (Washington, D.C.: Bread for the World Institute, 1997). As cited by Anuradha Mittal, Peter Rosset and Marilyn Borchardt, “Welfare Reform Violates Human Rights,” in *America Needs Human Rights*, p. 128.

<sup>205</sup> U.S. Department of Agriculture, Food and Nutrition Service Online, “Food and Nutrition Service Program Data,” [www.fns.usda.gov/fns/menu/about/PROGRAMS/PROGDATA.HTM](http://www.fns.usda.gov/fns/menu/about/PROGRAMS/PROGDATA.HTM) (June 5, 2000).

<sup>206</sup> Center on Budget and Policy Priorities, “The Depth of the Food Stamp Cuts in the Final Welfare Bill” (August 14, 1996), [www.cbpp.org/DEPTH9.HTM](http://www.cbpp.org/DEPTH9.HTM).

<sup>207</sup> U.S. Department of Agriculture, Food and Nutrition Service Online, “Frequently Asked Questions,” [www.fns.usda.gov/fsp/menu/faqs/faqs.htm](http://www.fns.usda.gov/fsp/menu/faqs/faqs.htm).

<sup>208</sup> Public Citizen, “Our Position on Corporate Welfare,” [www.citizen.org/congress/corwel/position.html](http://www.citizen.org/congress/corwel/position.html).

<sup>209</sup> Friends Committee on National Legislation, “Shift Budget Priorities Away from Military Spending and Toward Meeting Human Needs” (February 17, 2000), [www.fcnl.org/issues/military\\_spending/mil\\_fcnl doc\\_99inc.html](http://www.fcnl.org/issues/military_spending/mil_fcnl doc_99inc.html); Robert E. Robertson, “Measuring State Compliance with the Obligation to Devote the “Maximum Available Resources” to Realizing Economic, Social and Cultural Rights,” *Human Rights Quarterly* 4 (November 1994), p. 693–714. This author argues that it is reasonable to look at government expenditures on items such as the military to assess compliance with devoting “maximum available resources” to fulfill the right to food.

<sup>210</sup> Children’s Defense Fund, “The State of America’s Children” in *America Needs Human Rights*: p. 57.

<sup>211</sup> Bread for the World, “A Program to End Hunger: Hunger 2000,” (annual report, February 2000).

<sup>212</sup> Congressional Budget Office, “Budget Options” (March 2000) [www.cbo.gov/showdoc.cfm?index=1845&sequence=1](http://www.cbo.gov/showdoc.cfm?index=1845&sequence=1).

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### Are Private Charities the Answer?

*Benevolent and charitable actions, while good, are insufficient from a human rights perspective.*<sup>213</sup>

—UNICEF

For the last two decades, political rhetoric in the United States has increasingly emphasized reliance on private charities, in the place of government entitlements, to care for the needs of the poor. Indeed, to mitigate the impact of food stamp and welfare cuts and increasing hunger, the number of food pantries and soup kitchens across the country has exploded during the last two decades. In 1980, New York City could count 30 emergency food programs; today there are over 1,100. However, by virtue of the sheer scale of the hunger problem, charities are not a viable answer because they are simply not sustainable.<sup>214</sup> Bread for the World estimated that to make up for the cuts in food stamps from welfare reform alone, *every church across the country would have to increase its budget by \$170,000.*<sup>215</sup>

More important however, charity is not the answer because charity is not a right. Indeed, soup kitchens and food pantries cannot guarantee that food will be available for all those who need it. For instance, in one month in New York City last year, 74,000 people were turned away from food pantries and soup kitchens. In addition, because charities are socially unacceptable means of procuring food, they violate human dignity and are thus unacceptable alternatives under human rights standards.<sup>216</sup> Though food pantries and soup kitchens are vital sources of last resort, they must not be used to relieve government of its responsibility to alleviate widespread or chronic hunger.

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<sup>213</sup> United Nations Children's Fund, "Human Rights for Children and Women: How UNICEF Helps Make Them a Reality" (June 1999), [www.unicef.org](http://www.unicef.org).

<sup>214</sup> Janet Poppendieck, *Sweet Charity?: Emergency Food and the End of Entitlement* (New York: Penguin Books, 1998).

<sup>215</sup> According to David Beckmann, President of Bread for the World. As cited in Janet Poppendieck, *Sweet Charity?: Emergency Food and the End of Entitlement*, p. 283.

<sup>216</sup> International Code of Conduct on the Human Right to Adequate Food, Part II, Article 4.1.

## **New York City, New York State and the Federal Government Must Uphold the Human Right to Food**

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*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 a national and international level, oriented to the eradication of poverty and the satisfaction of basic needs.<sup>217</sup>*

—International Code of Conduct on the Human Right to Adequate Food

**A**t its core, widespread hunger is the result of widespread poverty. People are hungry in the United States because they do not have the resources to purchase an adequate diet. Those who are hungry often pay exorbitant rents or make too little money at work. As we have seen in this report, some are denied access to food stamps and welfare by local and state government; those who do get benefits often find them too meager to help the recipients escape hunger and food insecurity. That roughly 30 million people in the United States are food insecure, and that half of those who are hungry live in households where at least one member works, reveals that the United States has failed to create the conditions necessary for individuals to adequately feed and care for themselves.

Creating the conditions where individuals and families have the resources to feed themselves is the ultimate objective of a social and economic human rights approach. This must be the minimal objective of all our social policies. For when we allow the ultimate objective of our social policies to be about reducing welfare caseloads, the “bottom line” and moral crusades to rid the nation of “dependency,” as we have done with welfare reform, we perpetuate poverty and violate poor people’s social and economic human rights.

Until we can ensure economic security for all, we will never completely solve the problem of hunger in America. Addressing the problem of hunger, even in the short run, will require making significant changes to welfare programs on the local, state and federal levels, including adjusting eligibility criteria and benefits levels to adequately assist those in need. It will also require an ongoing investment to create jobs with living wages for all. But as we work progressively to realize that goal, we have an obligation to immediately repair the Food Stamp Program to help end hunger at once. The following recommendations are the first steps toward that end.

### **Recommendations**

#### **New York City Government**

1. Acknowledge the obligation to “respect,” “protect” and “fulfill” the human right to food
2. Abide by the USDA’s recommendations to comply with federal food stamp laws including:
  - \_ Encouraging applicants to file an application on the day of their first contact with the food stamp office/welfare center
  - \_ Notifying applicants of their rights to apply for food stamps independent of welfare
  - \_ Processing all food stamp applications in a timely manner, consistent with federal law
  - \_ Screening all applicants for eligibility for expedited/emergency food stamps

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<sup>217</sup> International Code of Conduct on the Human Right to Adequate Food, Part II, Article 4.3. See also UN Committee on Economic, Social and Cultural Rights, “General Comment 12: The Right to Adequate Food,” par. 4.

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- \_ Not denying food stamp benefits based on eligibility standards that are not specified by federal food stamp laws and regulations
    - \_ Taking appropriate action to ensure uninterrupted food stamp benefits when appropriate at the time of TANF benefit termination
  - 3. Abide by the forthcoming Office of Civil Rights recommendations to provide translated documents and interpreters/bilingual caseworkers to non-English speakers and the hearing-impaired to assist them in completing the application and re-certification process in compliance with federal law
  - 4. Take advantage of the Able Bodied Adult Without Dependents (ABAWD) waiver to eliminate the time limit on food stamps to able-bodied jobless adults without children
  - 5. Allow independent researchers to have access to all relevant case records in order to monitor the implementation and impact of welfare reform. The city must also *produce and disseminate all* relevant information on outcomes
  - 6. Increase resources and address staff shortages at welfare offices and Job Centers so they can adequately meet the needs of applicants and recipients
  - 7. Abolish degrading policies and practices at all welfare offices
  - 8. Ensure that bureaucratic errors do not result in benefits being arbitrarily and erroneously cut off
  - 9. Ensure that program requirements are minimal and do not deter otherwise eligible individuals from applying for and receiving benefits
  - 10. Ensure that all documents necessary to pursue remedy, such as documents necessary to obtain a fair hearing, are available in a timely fashion
  - 11. Establish an Advisory Council, in the same tradition as homeless-shelter monitors, to monitor welfare offices and Job Centers. The council should be composed of public interest attorneys, local clergy, anti-poverty advocates and current and former public assistance recipients

## **New York State Government**

1. Abide by the USDA's recommendations to monitor New York City's welfare and food stamp policies and practices including:
  - \_ Providing comprehensive policy and technical support to New York City to ensure accurate and fair implementation of food stamp policy in the welfare reform environment
  - \_ Carrying out consistent and effective monitoring of New York City operations to ensure compliance with all applicable Food Stamp Program law, regulations and guidance
2. Spend (or obligate) all of the unspent TANF funds on programs and subsidies that will help low-income New Yorkers move out of poverty and achieve economic security. These funds should be used to provide additional childcare subsidies; funding for higher education for welfare recipients and those who are mired in low-wage jobs, living wage policies or wage subsidies to help move low income people out of poverty, an increase in the welfare grant levels such that, when combined with food stamps, individuals and families have enough income to reach the poverty line, and housing subsidies for people making the transition from welfare to work

## **The Federal Government**

1. Ratify (without reservations) the International Covenant on Economic, Social and Cultural Rights, and the Convention on the Rights of the Child and amend national laws to reflect economic and social human rights



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2. Ratify the Convention on the Elimination of All Forms of Discrimination Against Women and ensure implementation and compliance with all human rights obligations under treaties and instruments to which the United States is a party, including the International Covenant on Civil and Political Rights, the Convention on the Elimination of All Forms of Racial Discrimination, and the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
  3. Perform ongoing federal monitoring of New York City welfare and food stamp policy and procedures. This should include periodically sending federal monitors to Job Centers and welfare offices to pose as potential public assistance applicants. Federal monitors should also review public assistance cases that are open, closed, denied or diverted; they should interview staff as well as applicants and monitor the daily operations of the job centers to ensure compliance with all federal laws
  4. Respect, protect and fulfill economic and social rights, in particular the right to food through adequate programs and funding. Toward that end, implement the following specific proposals:
    - \_ Increase the benefit levels for the Food Stamp Program to meet the guidelines of the Low Cost Food plan (the dollar value of this plan is approximately 125 percent of the Thrifty Food Plan) to help adequately meet daily dietary needs
    - \_ Fund more adequate outreach programs to encourage all eligible individuals, especially the working poor, to apply and to achieve a 100-percent participation rate
    - \_ Mandate more flexible hours at food stamp-only offices, including evening and weekend hours, so those who work during the day can still apply
    - \_ Abolish all discriminatory food stamp eligibility restrictions—eligibility must be based solely on a means test. Toward that end, abolish ABAWD requirements, all immigrant restrictions and the Graham Amendment



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## Appendix

### Survey Methodology

In April, May and June of 1999, the Urban Justice Center sent human rights monitors to survey public assistance applicants outside city Job Centers. In all, 212 completed surveys were collected in our observational study. Due to limited resources and a lack of bilingual monitors, almost all of the surveys were conducted in English (98 percent). A majority of the interviews were conducted at the Linden Job Center in Brooklyn (29 percent), and the Waverly Job Center in Manhattan (26 percent) (see Table 4).

**Table 4.**

Job Center Name	Surveys Collected
Linden	29%
Waverly	26%
Queens	9%
Hamilton	8%
Dykman	7%
Tremont	6%
Yorkville	5%
Bushwick	4%
Jamaica	3%
Bay Ridge	2%
East Harlem	2%

Monitors surveyed all respondents who agreed to participate in the study as they entered or left the Job Centers. A majority (134) of the respondents were applying for public assistance only for themselves, while 76 were applying for themselves and their children (see Table 5). While the survey sample was not randomly selected, this observational study allows us to draw conclusions about those whom we surveyed and gives us insight into how to focus our future research efforts in the most needed areas.

**Table 5. Demographics of Survey Sample**

	Families	Singles
<b>Total surveys collected</b>	<b>76</b>	<b>134</b>
<b>Median age</b>	<b>30</b>	<b>38</b>
<b>Sex</b>		
Female	89%	43%
Male	11%	57%
<b>Race</b>		
African American/Black	45%	56%
Latina/Hispanic	38%	25%
White	12%	14%
Other	5%	5%

In-depth follow-up interviews with individuals who have attempted to apply for benefits were also conducted, and their experiences, along with the experiences of participants in an earlier UJC survey (1998), can be found throughout this report.



**For information about this or other Welfare Reform and Human Rights Documentation Projects please contact the Urban Justice Center-Human Rights Project.**

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**Hunger Action Network of New York State**  
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**Puerto Rican Legal Defense and Education Fund**  
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