

Towards Improving Traditional Food Access for Urban Indigenous People



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Images above provided by Rachel Engler-Stringer

Executive Summary

Our purpose in carrying out this project has been to support the development of actions that can remove barriers to traditional foods in urban environments for Indigenous people. Traditional foods are hunted, trapped, fished, gathered and cultivated to various extents depending on the community and their respective traditional territories. Communities and organizations across the country are finding innovative ways to bring traditional foods to urban residing Indigenous people, but they are often navigating the relevant policies and regulations on their own. This situation places the burden of navigating current policies and regulations on Indigenous communities.

More than half of Indigenous people in Canada live in urban contexts and urban Indigenous people are engaging more and more in their cultural practices. The Indian Act, a colonial tool of the Canadian state that continues to affect the lives of Indigenous people, created categories of Status and Non-Status Indians. Non-Status First Nations people and Métis people are most likely to live in cities with about two thirds and three quarters of each group respectively living in cities. Inuit, Métis and Non-Status Indians are considered “Indians” under Canadian law, however, and are therefore protected by the Constitution Act, 1982 as having “Aboriginal Rights”. While this means they can be entitled to certain rights when it comes to access to traditional food, these rights are limited by the state. For example, Non-Status Indians generally do not have the same hunting and fishing rights under provincial wildlife laws as Status Indians, and cannot be given country foods accessed via Status rights within kinship networks.



Image provided by CHEP Good Food Inc. Askiy Project 2.

We argue that sharing traditional foods within Indigenous communities outside immediate family is an inherent Indigenous right that arises from both Treaty and Aboriginal rights. Barriers to traditional food access in cities, however, include colonization and assimilation, the legacy of residential schools, urbanization and government restrictions, as well as practical considerations such as transportation costs, fewer foods being available and loss of food-related skills. Our review of provincial and federal laws related to wildlife and the rights of Indigenous People illustrates that the Canadian legal system often acts as a barrier to accessing traditional foods despite the existence of treaty and aboriginal rights that are protected by the Constitution.

Program and policy changes are needed at local, regional and federal levels to improve traditional food access for urban residing Indigenous people. High level solutions that are needed include empowerment of Indigenous people and the renewal of family and community relationships. Integration of Indigenous perspectives in the school system, the building of new relationships in urban contexts and the valuing of cultural traditions and teachings are also needed. At the local level, the claiming of rights, connecting Elders and youth for the passing on of cultural teachings and Indigenous food community programs are critical to improve traditional food access in urban contexts. It is our hope that individual organizations, government institutions and more will examine our recommendations and determine how to make needed changes to improve traditional food access for urban Indigenous people.

1. Introduction

This document results from community engagement and research in several communities across the part of Turtle Island now called Canada on the topic of traditional or country food¹ access for urban-residing Indigenous² people. We brought together community members, representatives of governmental, non-governmental and other organizations to facilitate productive conversations. **The purpose of this document is to support the development of actions to adapt regulations and remove other key barriers in order to improve access to traditional food in urban environments for Indigenous people.**

We will not delve into a detailed description of the wide variety of traditional foods consumed by Indigenous communities across the vast territory now called Canada. Other authors, many in our reference list, have done this and we would prefer that you refer to their work. Suffice it to say that traditional foods are hunted, trapped, fished, gathered and cultivated to various extents depending on the community and their respective traditional territories. Foods, medicines and much more were/are also widely traded between communities, and as a result those foods considered “traditional” by a community do not necessarily grow in that community.

Organization of this document:

- 1) Introduction to the topic of traditional food access for urban Indigenous people;
- 2) Explanation of the origins of the project that has culminated in this document;
- 3) Discussion of Aboriginal and Treaty rights and how these relate to traditional food access;
- 4) Discussion of how provincial laws in wildlife and public health impact traditional food access;
- 5) Description of court decisions that have impacted traditional food practices;
- 6) Recommendations for improving traditional food access for urban Indigenous people.

Assumptions made in preparing this document:

- Readers understand Canada’s colonial practices and how these have harmed Indigenous peoples and their food systems. For a brief but well described overview see Coté (2016).
- Our brief introduction to key concepts in Indigenous food is far from exhaustive. For further in-depth information we suggest reading some of the references provided.

We would also like to note that in writing about legal barriers to traditional food for urban Indigenous people living in Canada we have to focus on both federal and provincial laws. Because it’s not practical to discuss in one document all the different relevant provincial laws, we have focused on Saskatchewan where the authors are located, but similar provincial laws exist in the other provinces and territories. In addition, the legal precedents referred to in this document, while usually from the courts of one specific province, can be referred to in other provinces and therefore have influence beyond individual provincial boundaries. We would recommend, however, that readers in other provinces check their relevant provincial laws (such as Wildlife Acts and Public Health Acts) to determine how similar or different they are to Saskatchewan.

1 We use the terms “traditional” and “country” food interchangeably, along with terms such as “cultural” foods. These are foods that, while shifting, usually include native animal and plant species (Gerlach & Loring, 2013; Kuhnlein, 1996).

2 Indigenous people(s) includes, First Nations, Inuit and Métis people. It is used similarly to Aboriginal people, but is considered a less colonizing a term and generally refers to original inhabitants of the country now called Canada.

Currently “...the food regulatory framework privileges market foods from government-approved sources over healthier, local traditional foods” (Provincial Health Services Authority, 2016, p.5). There are already many communities and organizations across the country that are finding innovative ways to bring traditional foods to urban residing Indigenous people, but they are often navigating the relevant policies and regulations, and relationship-building with government officials on their own. As a result, the burden of navigating the current policies and regulations is placed on Indigenous communities. Similar to statements made in a report on traditional food in childcare settings produced by the B.C. Provincial Health Services Authority, we believe that governments should be centering the rights of Indigenous people and considering how to make sure those rights are realized (Provincial Health Services Authority, 2016).

1.1 Key Concepts in Indigenous Food Systems

Indigenous food sovereignty (IFS) focuses on reconnecting people with their food systems based on four principles:

- 1) recognition that food is sacred;
- 2) participation in food systems;
- 3) self-determination; and
- 4) supportive legislation and policy (Morrison, 2011).



Image provided by CHEP Good Food Inc.

Food justice is about “ensuring that the benefits and risks of where, what and how food is grown and produced, transported and distributed, and accessed and eaten, are shared fairly” (2010, p.6). Alkon and Agyeman (2011) argue that food justice is focused on two areas of concern - food access and food sovereignty. Food access is focused on economic and geographic factors that influence how individuals and communities are able to feed themselves, while food sovereignty is a community’s right to define their own food and agriculture systems (Wittman, Desmarais, & Wiebe, 2010).

Food security is most commonly described as ensuring access and affordability in socially acceptable ways (i.e. not through charity), and often does not explicitly focus on the power dynamics within the food system itself (Anderson, 1990; Power, 2008; Tarasuk, Mitchell, & Dachner, 2016; Willows, 2005). Food insecurity rates among Indigenous households both on and off reserve are much higher than among other Canadian households. In 2014, off-reserve Indigenous households in Canada experienced rates of food insecurity at 25.7% compared to 12% in the Canadian population as a whole (Tarasuk et al., 2016).

Saskatchewan Stories.....

- ▶ Court Cases impacting hunting and gathering rights
- ▶ Sovereignty
- ▶ Chronic Wasting Disease
- ▶ No urban indigenous organization specifically tackling Indigenous Food Systems due to jurisdictional
- ▶ Urban and On-reserve
- ▶ Metis



Insights from informal community conversations:

- ▶ Provincial pathways to legislated Cultural and country food exemptions
- ▶ Gathering rights for Indigenous peoples access to gather in National Parks
- ▶ Indigenous Foods Markets- plants gathered
- ▶ Education and cooking classes for preparing Indigenous Foods
- ▶ Program and curriculum development for schools for connecting Indigenous Food systems to cultural identity
- ▶ Wild Food Bank



Images by Glenda Abbott

According to Cidro, Adekunle, Peters and Martens (2015) there has been little research examining urban Indigenous people's preferences and attitudes towards traditional/country foods. The Urban Aboriginal Peoples Study gathered in-depth information on the values, experiences, identities and aspirations of several thousand Indigenous people in Canada across 12 large metropolitan areas (EnviroNics Institute, 2010). Over 40% of respondents reported that food was an aspect of Indigenous cultures that they considered most important to be passed on to the next generation. Research from Alaska has shown similar results with large proportions of Alaskan Native respondents reporting the cultural importance of traditional foods (Smith et al, 2009; Walch & Bersamin, 2019; Walch et al, 2019). Research examining the challenges faced by urban Indigenous mothers has found that access to cultural foods was seen as particularly important for them to be able to pass their culture on to their children, yet they consistently described a lack of access (Baskin, Guarisco, Koleszar-Green, Melanson, & Osawamick, 2009). According to Cidro et al. (2015)

Being disconnected from food coincides with a disconnection from culture and contributes to poor mental, physical, emotional, and spiritual health. In an urban context, revitalizing the ability of community members to address food insecurity through IFS (Indigenous Food Sovereignty) is one way to move beyond the issue of food as being about immediate sustenance. (p.38)

Regulation of hunting, trapping and fishing has generally been conceived for recreation and conservation purposes rather than subsistence or ensuring inter-generational cultural survival (Norgaard, Reed, & Van Horn, 2011). Public health regulations were primarily designed for large producers rather than acquiring wild foods for distribution among kinship networks (Taylor, 2008). In order to work towards food justice, especially in an urban Indigenous context, regulations must take into account the importance of traditional foods and facilitate and support country food consumption in the city, rather than hinder it.

More than half of Indigenous people in Canada live in urban contexts and consider cities their home and Urban Indigenous people are engaging more and more in their cultural practices (EnviroNics Institute, 2010). In many parts of Canada cities are the only place where Indigenous people can advance their education (in some cases beyond elementary or middle school) and where there are jobs to be had. They have also become home to Indigenous people who have been removed from their communities by practices such as the Sixties and Seventies Scoops. Non-Status First Nations people and Métis people (as defined by the Canadian state) are the most likely groups of Indigenous people to live in cities with about two thirds and about three quarters of each group respectively living in cities. There is also wide diversity in the make-up of the Indigenous populations across cities (EnviroNics Institute, 2010).

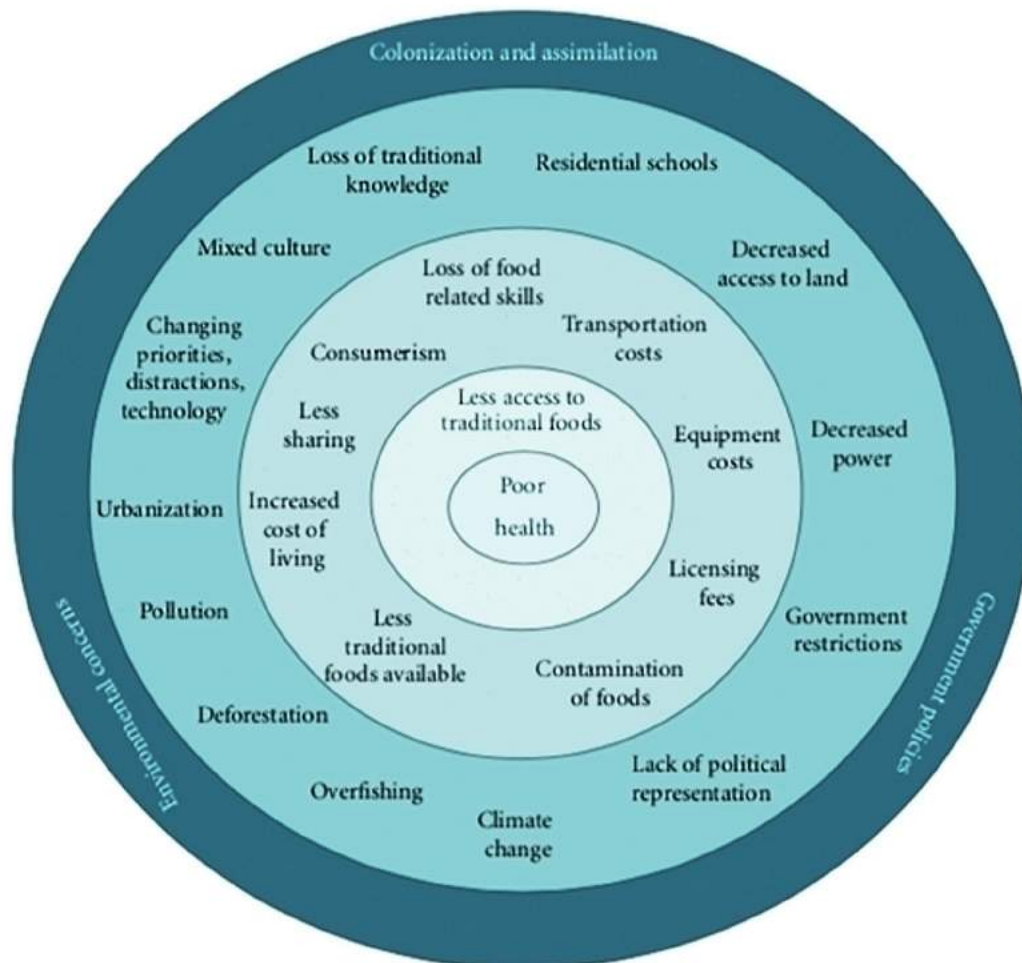
The Indian Act, a colonial tool of the Canadian state that continues to affect the lives of Indigenous people, created categories of Status and Non-Status Indians (Crey & Hanson, 2009; Henderson & Bell, 2017). Bill C-31, an amendment to the Indian Act that was passed in 1985, created new categories of status, those classified as Status under sub-section 6(1) and those under 6(2). While Bill C-31 did allow some people who did not have status (most often because their mother married a Non-Status person) to regain their status, it also made the stipulation that if those Status Indians under 6(2) had children with a Non-Status person, those children would not have status. The source of one's Status rights is important for access to traditional foods because Non-Status Indians generally do not have the same hunting and fishing rights as Status Indians under provincial wildlife laws and cannot be given country foods accessed via Status rights within kinship networks as is the case for Status Indians. Being unable to rely on kinship networks is particularly relevant in urban contexts given that a two thirds majority of urban residing Indigenous people are Non-Status.

Inuit, Métis and Non-Status Indians are considered “Indians” under Canadian law, however, and are therefore protected by the Constitution Act, 1982 under Section 35 as having “Aboriginal Rights” (as discussed below in part 3)(Henderson & Bell, 2017). While this means there is formal legal recognition of certain rights when it comes to access to traditional food, there are significant limitations to this recognition in reality as will be discussed below.

Elliott, Jayatilaka, Brown, Varley and Corbett (2012), in one of few studies examining urban Indigenous perspectives on traditional food access and its importance for food security and health, produced Figure 1 below summarizing the barriers to traditional food access. The barriers are summarized in three concentric circles. The outermost circle includes the biggest picture barriers (such as colonization and assimilation), the next circle are factors that indirectly decrease access to traditional foods (such as residential schools, urbanization and government restrictions), and the third circle includes factors that directly decrease access to traditional foods (such as transportation costs, fewer foods being available and loss of food-related skills).

Figure 1: Summary of the Barriers to Traditional Food Access and Impacts

(Elliot et Al., 2012)



- First (largest) circle: the “big picture” issues decreasing access to traditional foods.
- Second circle: factors indirectly decreasing access to traditional foods.
- Third circle: factors directly decreasing access to traditional foods.
- Poor health: includes elements of physical, emotional, spiritual and mental wellbeing.

These barriers are consistent with the top five barriers to hunting and gathering reported in the First Nations Food, Nutrition and Environment Study (FNFNES) (Chan et al., 2019; Chan et al., 2018). These were lack of knowledge, lack of time, lack of a hunter, government and firearms regulations and lack of transportation and equipment. Also similar to Elliott et al. (2012), the FNFNES discusses the importance of self-determination and respect for Inherent and Treaty Rights to increase control of food systems in order to positively affect food security and the environmental health of Indigenous communities (although their focus is on-reserve communities) (Chan et al., 2019; Chan et al., 2018).

2. The Project

The work towards this action plan began in the city of Saskatoon, in particular in its inner city where 30-40% of the population is Indigenous. While there is poverty and ill health experienced by many people living in Saskatoon's inner city, there is also a cultural resurgence and empowerment taking place. Like other cities in Canada with large Indigenous populations (Winnipeg, Thunder Bay and Edmonton as a few examples), Saskatoon is home to deeply rooted Indigenous people who are navigating the complex relationship between indigeneity and urbanity, in a context where urban land is not often recognized as Indigenous land (Tuck, McKenzie, & McCoy, 2014).

Over the past several years, this action plan's contributors have been part of many community conversations across Turtle Island discussing the legal and other barriers to traditional food harvesting and sharing activities that could be overcome via policy, education, and outreach. Traditional foods are more nutritious than market foods and people who consume traditional foods have healthier diets than those who do not (Chan et al, 2019; Chan et al, 2018; De Shutter, 2012; Kuhnlein, 1996; Kuhnlein, Soueida, & Receveur, 1996; Smith, Saylor, Easton, Wideman, & Elders from the Alaska Villages of Buckland and Deering, 2009; Walch & Bersamin, 2019; Walch, Loring, Johnson, Tholl, & Bersamin, 2019). We have heard many individuals and organizations express a strong desire to improve traditional food access for Indigenous people living in cities. We have documented through critical ethnographic research in Saskatoon the complex food practices of Indigenous families that include food from conventional sources (grocery stores), from community-based food sources (both charitable and self-help type programs), as well as traditional/country food (Kossick-Kouri, Engler-Stringer, Thomson, & Wood, 2020). We found a culture of resilience with families rightly claiming, as their own, the urban environment that appears on the surface to be devoid of traditional food practices.

While many people are discussing the importance of traditional food access and the barriers faced, there has been less attention on finding policy solutions for improving availability of these foods. Some have been suggested, but sometimes without the necessary legal expertise, or without a way to engage policy makers to spur change. It is our hope that by making specific recommendations for policy change, in partnership with others we can contribute to having some of those policy changes made. It is our intention to encourage program development to systematically bring Indigenous traditional foods into cities, through support for hunters, fishers and gatherers, and to establish places to store these foods for distribution.

This project was developed as a collaboration bringing Indigenous worldviews and Western worldviews together. This project has been framed in an attempt to create an "ethical space" which is formed when two societies with disparate worldviews work to engage each other (Ermine, 2007). Ermine's "ethical space" was specifically framed around legal discussions where Indigenous ways of knowing and the Canadian legal system intersect, and is

therefore particularly relevant for this project, given the importance of law and policy-making regarding access to cultural foods for urban Indigenous people. Our intention is to contribute productively, with a focus on social change, to what are complex rights, sovereignty, public health and conservation issues. We know we cannot fully explain these issues in one document, but we attempt to demystify major relevant policies, and present possible paths towards increased Indigenous food access in Canadian urban contexts.

In 2018 we began engagement with Elders and other experts on the topic of traditional food access for urban Indigenous people. We also consulted with hunters, trappers and gatherers, community activists, legal, conservation and Indigenous rights experts throughout 2018 and 2019 on activities and policy changes that need to be undertaken to improve urban access to traditional foods.

Our workshops were carefully planned to create a space to highlight the strengths of communities.

- We highlighted results from our research led by Lise Kossick-Kouri (see book chapter entitled **Food Justice in the Inner City: Reflections from a Program of Public Health Nutrition Research in Saskatchewan** by Kossick-Kouri, Engler-Stringer, Thomson, & Wood (2020); in **Indigenous Food Systems: Concepts, Cases and Conversations** edited by Priscilla Settee and Shailesh Shukla.
- We showed a short documentary film **Pathways: Feeding Each Other** (directors Tasha Hubbard and Lise Kossick-Kouri). This 8-minute film illustrates the importance of traditional foods for urban Indigenous people. <https://www.youtube.com/watch?v=2LMBK2EYT-A>
- We held staged readings of an abridged version of a play on land, Indigenous language and food called **Pimatsiwin** (written and directed by Curtis Peeteetuce) read by local actors, local youth and members of our team.



Images provided by Charles Levkoe

- Then we asked workshop participants the four questions we developed based on our consultations and research.

Our Questions:

We brought together research results, a short documentary film and staged readings of a play to spur guided conversations around 4 questions:

- What do you envision as aspects of a healthy Indigenous food system in the city?
- What are the most important assets urban residing Indigenous peoples in your community have to support access to traditional foods?
- What are the most important policies and regulations needed to be in place in your community to support traditional food access for urban Indigenous peoples?
- What are the most important barriers to traditional food access for urban residing Indigenous peoples in your community?

Where We Held Workshops:

- 1) The first workshop was held in Montreal as part of the Food Secure Canada Assembly (November 2, 2018) and at this workshop there were about 50 participants from a wide range of geographical communities across Canada.
- 2) We went to Winnipeg (December 3rd, 2018), at Thunderbird House where there were about 40 people in attendance, primarily from in and around Winnipeg.
- 3) We held a workshop in Saskatoon (December 14, 2018) at Station 20 West with about 75 people in attendance.
- 4) We held two workshops in Thunder Bay on January 23rd and 25th, 2019, first as part of an Indigenous Food Systems gathering (about 100 people in attendance) and then second at the Indigenous Friendship Centre (about 10 people in attendance). We were also invited to a gathering of Thunder Bay's Indigenous Food Circle and participated in an additional informal discussion.



Image provided by Rachel Engler-Stringer

The workshops were lively and exciting events. The humour in the play and film led to lots of laughter and the questions spurred thoughtful comments and ideas. We took notes at all of the workshops, and during all of our meetings with experts, and the information either presented to us or expressed as important to bring together in our culminating document is presented in the subsequent sections.

3. Government Policies, the Canadian Constitution and Traditional Food

Internationally, there are various international covenants that touch on Indigenous food sovereignty and food systems. In particular the United Nations Declaration on the Rights of Indigenous Peoples has several articles relevant to these issues (United Nations, 2007). For example, Articles 11 and 12 address the maintenance and revitalization of cultural traditions and ceremonies, Article 24 addresses the right to maintain traditional health practices and medicines, and Articles 25 and 26 address the rights to traditionally occupied and used lands. A full discussion of these international covenants is beyond the scope of this document, but it is important to note how Canada is a signatory to several, such as the Universal Declaration of Human Rights, and that they are relevant for consideration on the issue of traditional food access.

A review of provincial and federal laws related to wildlife and Indigenous people is a more immediate concern and illustrates that the Canadian legal system often acts as a barrier to accessing traditional foods despite the existence of Treaty and Aboriginal Rights that are protected by the Constitution. We point to several ways that these barriers arise. We also suggest some recommendations for change that can be implemented in order to continue the practice of these traditions without restrictions imposed by Canadian law.

There are three main ways that the Indigenous methods of hunting, trapping and fishing for food have been regulated in Canada. The sections below discuss Treaty Rights, Aboriginal Rights, and provincial legislation. This research will explain and analyze these areas to understand issues faced by Indigenous families in their quest for food sovereignty. As our focus is on challenges to accessing traditional foods, we do not discuss the extensive Indigenous laws that also regulate how Indigenous Peoples acquire traditional foods.

3.1 Treaty Rights

Many parts of Canada are subject to Treaty. The numbered treaties of western Canada, for example, were signed during the years 1871 and 1877 between the British Crown and the First Nations people of this country. Treaties do not expire upon the death of the signatories; treaties impose and confer continuing and evolving obligations and rights on the successors of the First Nations that entered into them as well as on the Crown (Isaac, 2016). These treaties continue in their relevance and are still a founding basis for recognition and application of Indigenous rights. A treaty can be defined as a negotiated agreement between two or more nations (Price, 1991). Although there was misinterpretation in application due to language barriers, the treaties that were signed between the First Nations and the British Crown held the common understanding that the purpose of the treaties was to allow the parties to live together in peace and share the land and its resources (Report of the Royal Commission on Aboriginal Peoples: Vol 2, 1996).

First Nations people understood the treaties to be of a sacred nature. The treaties represented many different things to First Nations including a way to share the land, have peace, continue with their way of life and assure the future of their children by learning how to survive in the white man's world. From a European perspective, treaties were created to ensure military support from First Nations, to ensure that First Nations could be self-sufficient, and to create agreement for sharing the land (Price, 1991). These two perspectives help to understand the interpretation, context of the legislation and the creation of the law that followed the signing of the treaties.

Some argue that Treaty Rights are historical and should not be applied to modern times. To the contrary, Indigenous people still carry out many of the practices that they have for millennia. Values, traditions and practices are still alive among the people, even those who do not reside in their respective communities. Modernization of these cultural practices and values should have legal protection to ensure that Indigenous rights are not unfairly confined simply due to changes in the economy and technology when these activities themselves serve the same purpose (Isaac, 2016). The hunting and food sharing practices of the past are still relevant and practiced in today's modern Indigenous family and should be protected.

While treaties are very important to the recognition of hunting, fishing, and trapping rights of Canada, we note that not all Indigenous peoples have Treaty Rights. For example, the Métis rarely have Treaty Rights. In addition, discriminatory practices and policies by the Canadian government when the treaties were signed and throughout Canada's history have resulted in many people not being recognized as having the 'status' to claim Treaty Rights. As a consequence, many Métis people and Non-Status First Nations people cannot rely on Treaty Rights to access traditional foods. They can, however, rely on Aboriginal Rights to wildlife as will be explained below.

3.2 Aboriginal Rights

Since the 1973 decision in *Calder v Attorney-General of British Columbia* whereby the Supreme Court of Canada (SCC) rejected the claim by the government that all 'Indian title,' to lands had been extinguished, courts have been struggling to identify and define the enduring rights of Indigenous people. This task took on new significance when "existing aboriginal and treaty rights" were recognized and affirmed in s.35 of the Constitution Act, 1982. Over time, Aboriginal Rights protected in s.35 came to be understood in the Canadian courts as:

those rights held by Aboriginal people that relate the activities that are an element of practice, custom or tradition integral to the distinctive culture of the aboriginal group claiming such rights, and that have not otherwise been extinguished prior to 1982, or the treaty (Isaac, 2016)

As a result, the courts have recognized that activities such as hunting, fishing and trapping are practices that are integral to Indigenous people's lives and therefore protected by s.35 regardless of whether those rights are also protected by a treaty. In *R v. Van der Peet*, the SCC stated that s.35 affirms that Indigenous people have inherent Aboriginal Rights because they were living in communities on this land and participating in distinctive societies when Europeans first arrived in North America.

It is important to note, however, that the Constitution only recognized "existing" Aboriginal and Treaty Rights. Prior to 1982, the federal government had the authority to unilaterally extinguish Aboriginal Rights. As a result, the courts have ruled that Indigenous people no longer have the right to hunt, fish, or trap on any land that is now held as private property without the owner's permission.

Furthermore, where Aboriginal Rights have not been extinguished, the SCC in *R v Sparrow* ruled that governments can still infringe on Aboriginal and Treaty Rights provided they have a valid reason. Infringement is permitted if there is a valid legislative objective and the infringement is consistent with the honour of the Crown. Factors considered when determining whether the Crown has dealt honourably with Indigenous people include whether there has been as little infringement as possible, fair compensation paid and consultation.

Unfortunately, recent legal and political commentary on the role of s.35 in reconciliation has had little influence on how the court defines the scope of Aboriginal and Treaty Rights related to wildlife. Canadian law on the hunting, fishing, and trapping rights of Indigenous people were some of the first to be litigated in order to define the scope of s.35 rights. Therefore, the law in this area is generally considered to be settled even though it is founded on flawed and racist precedents from the 18th and 19th centuries (McNeil, 2019).

Canadian courts' continued use of the outdated Sparrow test has extensively narrowed Aboriginal Rights to wildlife over time. For a court to recognize these rights, the scope of the rights is based on the practices and traditions as they existed at the time of first contact between Europeans and First Nations.³ This approach has been widely criticized because, unlike other constitutional rights which are interpreted broadly and progressively to reflect changing values and perspectives over time, Aboriginal Rights are frozen in the past and have not been permitted to evolve by the Canadian courts (Borrows, 2016). This approach raises real challenges to accessing traditional foods by Indigenous people living in cities. The Courts expect that individuals will have the skills and ability to go out on the land to hunt, trap or fish for food for their immediate family. Currently, Aboriginal Rights prohibit Indigenous people from relying on these rights to operate a commercial operation that could meet the demand for traditional foods in cities.

In addition, in order to prove the existence of an Aboriginal right, Indigenous people must meet standards of evidentiary proof that have traditionally been dismissed as unreliable - the knowledge passed through oral traditions. The courts have only recently begun to consider oral evidence provided by knowledge keepers as legitimate even though the SCC has repeatedly stated that Indigenous perspectives on the nature of their rights must be considered. As a result, Indigenous people have been at a disadvantage when fighting to have their rights recognized or to prevent them from being infringed because the oral testimonies of knowledge keepers have routinely been ignored.

3.3 Provincial Wildlife Regulation

The Canadian Constitution divides law-making authority between the provincial and federal governments. Under section 91(24) of the Constitution Act, 1867, the federal government retains exclusive authority to legislate in regard "Indians and lands reserved for Indians." The Natural Resource Transfer Agreement (NRTA), however, transferred the responsibility for resources to the provinces in Saskatchewan, Alberta and Manitoba. Section 12 of the NRTA provides that 'Indians' have the right of access to hunt on lands for their support and subsistence provided that the land is not put to any incompatible use.

Specifically, section 12 of the NRTA states that:

In order to secure the Indians of the province the continuance of the supply of game and fish for their support and subsistence, Canada agrees that the laws respecting game in force in the province from time to time shall apply to the Indians within the boundaries thereof, providing, however, that the Indians shall have right, which the province hereby assures to them, of hunting, trapping and fishing game and fish for food at all seasons of the year on all unoccupied crown lands and on any other lands to which the said Indians might have a right of access.

³For the Métis, the time considered is when the Crown asserted sovereignty over their homelands as there were no Métis at the time of contact.

In *R v Horseman*, the SCC held that provincial laws cannot deprive 'Indians' of their right to take game and fish for food. In *R v. Powley*, the SCC has extended this protection to Métis rights. Nonetheless, the NRTA gives the provinces the authority to create laws that govern, among other areas, access and use of wildlife that can sometimes apply on reserve even though reserves fall under federal jurisdiction. In Saskatchewan, one of the ways that hunting and fishing is regulated is through the *Wildlife Act*.

There are two main sections in the *Wildlife Act* that deal with Indigenous people and governance of their rights. In Section 9:

Subject to regulations, the Minister may enter into an agreement with any person, Indian band, or government for the following purposes:

- a. Protecting, managing, conserving, reintroducing, or encouraging the propagation of wildlife and wild species and protecting, managing and conserving their habitats*
- b. Establishing and promoting programs respecting public safety, education about wildlife or wild species, or other conservation-oriented programs;*
- c. Respecting any matter considered to be necessary to the minister to carry out the provisions of this Act or regulations.*

Section 34 of the *Wildlife Act* states:

- (1) In this section and section 35, agreement means the agreement between the Government of Canada and the Government of Saskatchewan ratified by Chapter 87 of the Statutes of 1930*
- (2) subject to subsection (3) no person other than an Indian shall accept or have in his or her possession wildlife that has been taken by an Indian for food as permitted pursuant to section 12 of this agreement*
- (3) a non-Indian may possess wildlife that has been taken for food as permitted to section 12 of this agreement by an Indian who is a father mother grandfather grandmother brother sister child spouse or common law spouse of the non-Indian*

These sections expressly prohibit Indigenous people from sharing food with anyone other than immediate family. Sharing food and sustenance has always been a central value of the many Indigenous communities in Canada. Limiting the use of food and restricting the ability to share with the wider Indigenous community has become a barrier for modern day uses of food in urban settings as well as for communal use of wild meat. Many people's immediate family members reside with them in urban areas and do not hunt or fish often.

A review of the *Wildlife Act* reveals how this legislation forbids practicing traditions, customs and culture such as the sharing of meat and being able to hunt with whomever an Indigenous person wishes. Because provincial authority to regulate wildlife comes from the NRTA, which expressly protects Indigenous rights to hunt and fish, it can be argued that the provincial laws that infringe Aboriginal and Treaty Rights in this way are unlawful. This argument, however, has yet to be successful in court.

To understand how the *Wildlife Act* is enforced, we discussed questions of process, application, and the effect of this Act with representatives from Saskatchewan Environment. Saskatchewan Environment employs Conservation Officers whose primary job is to enforce the *Wildlife Act* and ensure compliance with hunting regulations. A conservation officer reported that strict enforcement of the *Wildlife Act* is not always their

practice. For example, the Chief of the Federation of Sovereign Indigenous Nations distributed wild meat to three food banks in the Province. He was able to do this by applying for and obtaining a sport license from the province that allowed him to share his meat as he pleased. He had to label the meat with his license number and have it professionally butchered. In conversation with the Prince Albert Food Bank about this gifting of meat, they confirmed that the meat needed to be labelled with the license number and had to meet provincial food safety regulations around butchering, handling and storage. Food bank staff also noted that the meat could only be distributed to First Nations people in the city and that they had to provide their status card to acquire any of this meat. In addition, the Saskatchewan Treaty Guide to Hunting, Fishing and Trapping, does note that First Nations people can share the meat within their communities.

Even though it appears that some policies may be improving informally through the way the *Wildlife Act* is actually enforced, which can benefit Indigenous people living in urban areas by providing more access to traditional foods, the Act needs to be updated to be consistent with the practice among conservation officers. A caution though is that without a legislative change, there is always the risk that the policy will revert back to strict enforcement of the rules that prohibit sharing traditional foods outside of one's immediate family.

3.4 How do these laws differ in application on and off reserve?

It is the case that not all provincial laws apply on reserve. Section 88 of the *Indian Act* allows provincial laws of general application to apply on reserve. Where those laws significantly conflict with an Aboriginal or Treaty Right, however, those laws have no effect. For example, in *R v. Badger* the provincial government's regulatory authority over wildlife was found not to extend beyond the realm of conservation. It can, therefore, be argued that even though provincial hunting laws are in effect across the entire province, conservation officers have more authority to enforce the laws off reserve especially where they deal with matters other than conservation.

As a result, there has been some recent activity regarding the enforcement of the legislation on reserve. A memorandum of understanding was signed in Saskatchewan in 2016 between the provincial government and the Federation of Sovereign Indigenous Nations that is a jointly endorsed set of guidelines related to the entry of conservation officers on reserve. The guidelines speak to a shared commitment to protecting and respecting our natural resources and to the continued cooperation between First Nations and the government. The memorandum outlines the contact that conservation officers must establish before entry onto a reserve, except in emergencies, and that there must be an explanation given as to the reason for entry onto the reserve. The need for this memorandum arises from the reality that provincial laws are not practically enforceable on reserve.

Off reserve, provincial laws apply to all Indigenous people. Hunting safety regulations, hunting storage and the sharing of the meat rules must be complied with to the extent that conservation officers choose to enforce these rules. As noted above, there has been relaxed enforcement of the hunting for food regulation but that remains at the discretion of an individual officer.

3.5 Additional Case Law and its Effects

In addition to those cases discussed already, below is a summary of relevant case law from across the country where the court reviewed the implementation of provincial wildlife laws on Indigenous people. This summary aids in understanding how Canadian courts have defined the substance of Aboriginal Rights as well as the changes that we seek to make for Indigenous food sovereignty.

In the case of *R v Morris* from British Columbia, Mr. Morris was charged with hunting at night which violated provincial safety law. He argued that the right to hunt at night was protected within the North Saanich Treaty of the area. Before the SCC, the province argued that hunting at night posed a danger to others and because they have jurisdiction over wildlife and safety, the province could regulate Treaty Rights to some extent. In the end, the provincial law was found to be of no force and effect and Treaty Rights prevailed. The case was dismissed and the charges were dropped.

The case of *R v Meshake* dealt with the Treaty Right to hunt in an area that was not included in the treaty boundary, rather was attained through marriage kinship. Mr. Meshake had married into a family in another treaty area and was charged with shooting a moose in that area. The court found that at the time of contact, Aboriginal people would travel to other communities to hunt and marry. In upholding Mr. Meshake's Treaty Rights, the court held that these historical practices supported an interpretation that sharing in community harvests through kinship is in harmony with Ojibway custom.

In the 1990 case of *R v Horseman* from the Alberta Court of Appeal, the appellant killed a bear in self-defence while he hunted for moose for food. He had obtained a bear hunting license after the fact and sold the hide to provide sustenance for himself. He was charged with unlawfully trafficking in wildlife pursuant to s.42 of the Alberta Wildlife Act. Mr. Horseman argued that the Treaty afforded him the right to hunt and barter the hide. The Court of Appeal in this case decided that the NRTA prohibited the right to hunt commercially in exchange for large hunting lands available for 'Indians.' The court denied the appeal and convicted Mr. Horseman of the charges. A dissenting opinion by the court in *Horsemen* noted that the right to hunt for food should include the right to sell the hide to provide sustenance. The dissenting opinion recognizes that s.35 rights must be allowed to evolve to reflect modern realities. As it becomes increasingly difficult to defend against criticisms that the earliest court decisions on Aboriginal Rights were influenced by systemic racism, the dissent may be relied upon in a future case to challenge the narrow interpretation of wildlife-related rights.

In the 2015 case of *R v. Pierone*, the defendant, a Treaty 5 First Nations man from Manitoba, was charged with hunting on private land where he had no permission to hunt. He shot a bull moose in a slough bottom approximately 70 meters off the roadway. Mr. Pierone did not have permission to hunt on the land. The private land was not identified as such, and it appeared that the land had not been cultivated for several years. Pierone argued that he had the right to hunt on the land that was not put to any visible use as per the law in *R v Badger*. Pierone was found not guilty at trial, but the Crown appealed to the Queen's Bench where the trial decision was set aside and a conviction was entered. The Court of Appeal then overturned the conviction and reinstated the acquittal. The province filed leave to appeal to the SCC and in November of 2018 the appeal by the Crown was dismissed because there was not sufficient evidence that Pierone's hunting rights were incompatible with the use of this land. This case reaffirms that First Nations people have the right to hunt on unoccupied Crown land and if private land has not been taken up and put to a visible use, Treaty Rights will prevail. The Pierone case adds further to the notion that Treaty Rights to hunt for food supersede the NRTA as well as the *Wildlife Act*.

Indigenous people of this country have the right to hunt for food, with few exceptions.

Finally, in the 1985 case of *Dick v Le Reine* from the SCC, a non-treaty Indian had been charged with killing a deer for food out of hunting season. He was convicted by trial and appellate levels of court. He appealed to the SCC on the basis that the legislation affected the ability to practice his culture and that this was a constitutional breach. The SCC concluded that to avoid being found unconstitutional, the Wildlife Act of BC could not apply to this appellant. As a result, we have clear statements from the SCC affirming the rights of First Nations to hunt for sustenance whether or not they belong to a community that has signed treaty.

The review of these cases shows that Treaty and Aboriginal Rights to hunt for food will usually supersede provincial wildlife laws. Only and unless there have been significant safety breaches or hunting that is perceived to be for commercial purposes rather than sustenance, can the province regulate hunting, fishing, and trapping by Indigenous people. Nonetheless, Indigenous people continue to face prosecutions for breaching provincial wildlife laws and must undertake the effort and expense of defending themselves. In the meantime, the food is typically confiscated and destroyed. As a result, the threat of prosecution and the emotional and financial burdens of defending oneself remain a significant barrier to accessing traditional foods.

These cases also highlight the scope of Treaty Rights as they relate to hunting, fishing and trapping. One needs to be reminded that the purpose of treaties was to ensure the continuance of Indigenous cultures. This was the primary purpose for the protection of hunting, fishing and sustenance rights in Canadian legislation. The treaty must be the basis for protecting rights to livelihood. Since rights to livelihood are constitutionally protected under s.35, the government must recognize that they are to be upheld and that the honor of the Crown is also at stake in their interpretation and application. Restricting and violating the rights bestowed by Treaty violate the original law and the founding laws of this country and is not consistent with the government's stated commitment to reconciliation.

3.6 Summary of Legal and Policy Review

Based on the above analysis, we conclude that there is a strong argument that sharing traditional foods within Indigenous communities outside your immediate family is an inherent Indigenous right that arises from both Treaty and Aboriginal Rights. Therefore, laws that prevent the sharing of meat and other practices related to traditional foods are a breach of constitutionally protected Aboriginal and Treaty Rights. Even though some Indigenous people have found ways around provincial law that prohibits the sharing of traditional foods, legislative change is required in provincial wildlife acts to secure the ongoing recognition of these rights and to avoid litigation to affirm these rights.

3.7 Public Health Food Safety Regulations

Urban contexts are rarely reserve contexts and therefore the vast majority of the time it is provincial food safety regulations that apply rather than federal ones. As a result, we will focus this section on those regulations and in particular on how traditional foods can be served in a community context under provincial food safety regulations.

While the literature on the topic is limited, foodborne illness risk exists in both traditional country foods and commercial market foods, with many market foods being riskier (Provincial Health Services Authority, 2016).

The National Collaborating Centre for Environmental Health (NCCEH) conducted a thorough review on how to safely prepare and store country foods (Food Safety Network, 2009). It is beyond the scope of this action plan to discuss potential food safety issues of traditional foods in detail, but the NCCEH report, available at: http://www.ncceh.ca/sites/default/files/Aboriginal_Foods_Mar_2009.pdf is the most thorough discussion of food safety and country foods we have found.

Food regulatory systems were created to protect public health. Even with benevolent motives, these systems communicate the message that foods outside of the regulatory framework may be unsafe. It is important to note that foods inside and outside the regulatory system can cause foodborne illness; however, the methods used by hunters and fishers to ensure food safety are treated as inadequate, if not dangerous, and traditional knowledge is devalued in favour of professional expertise (Provincial Health Services Authority, 2016, pp., p.6).

Broadly speaking, provincial Public Health Acts require that foods being served to the public in any context that is not on reserve come from provincially or federally inspected sources. This means that foods served in schools, daycares, health facilities, restaurants, by community/Indigenous led organizations and other public places should come from provincially or federally inspected sources. While it is beyond the scope of this project to examine food safety regulations in detail, we will discuss some specific technical guidelines that exist within food safety regulations in Saskatchewan (that likely exist elsewhere) that can be used to incorporate traditional foods for cultural practice in an urban context. We were cautioned by public health inspectors that these guidelines are not made public because they require judgement, experience and interpretation and should not be taken at face value by the public. However, current practice of not openly sharing these guidelines (and the discretion being left to individual public health inspectors) has meant there is a culture of uncertainty and even fear that is being expressed by Indigenous communities and organizations because the application of food safety regulation is not understood. Currently, Indigenous organizations wanting to serve wild foods are having to figure out if and how they can serve their traditional foods on their own and in many cases are being left thinking they will get into trouble if they serve these foods.

The technical guidelines discussed here can be the starting point for making traditional foods more easily incorporated into the activities of community-based organizations, public institutions and others. We encourage readers in other jurisdictions to partner with public health in their communities to find out if similar technical guidelines exist and to ask for them to be translated into plain language and shared (see recommendations for more on this).

In Saskatchewan Technical Guideline 172 within the Food Safety Regulations is titled Food – Community Organization Functions. The guideline specifies:

“community organization function” means a function open 6 or less times a year to the general public at which food is provided for attendees by volunteer caterers, where the function is run by a community organization exclusively for the purpose of raising funds for the operation of the community organization or for another social or charitable purpose, including but not limited to community sports events, fall harvest suppers and wild game dinners.

What is stated in the technical guideline is that the Food Safety Regulations are not intended to apply to community organization functions although the health authority should be informed of events. Those attending the event should be informed that foods not prepared in an inspected establishment are being served. It states that any meat served should come from approved sources or meet Technical Guideline 169 – *Unapproved Meat at Community Functions*. Technical Guideline 169 is meant to be used for fall suppers, potluck suppers, fundraisers by service clubs, sporting event barbecues, and similar. In discussions with a Senior Public Health Inspector we learned that this guideline can apply to cultural events and ceremonial feasts. This guideline specifically mentions its application to “wildlife banquets”. It states:

While the health region urges that farm or game meat be processed by an approved processor, the reality is that sometimes a function will offer meat slaughtered and processed by a farmer or killed, dressed and processed by a hunter. In these cases (i.e. no approved processor involved), the health region will have to make a determination, based on verbal or written information provided by the farmer or hunter, that the slaughter, dressing, and processing was done under conditions that would prevent or minimize contamination of the meat.

Technical Guideline 169 also states:

- *To ... ensure the public makes an informed decision about consuming the meat, the event organizer should:*
 - i. prior to the event, advertise the meat menu and source (i.e. meat content of the menu is of a farm or hunting origin and not from an approved or regulated food processor or distributor) on ticket, invitation, poster, media advertisement, etc); and*
 - ii. at the time of the event, post the fact that the meat content of the menu is of a farm or hunting origin and not from an approved or regulated food processor or distributor. Such posting should be on the table if it is served, at the smorg line if self serve.*

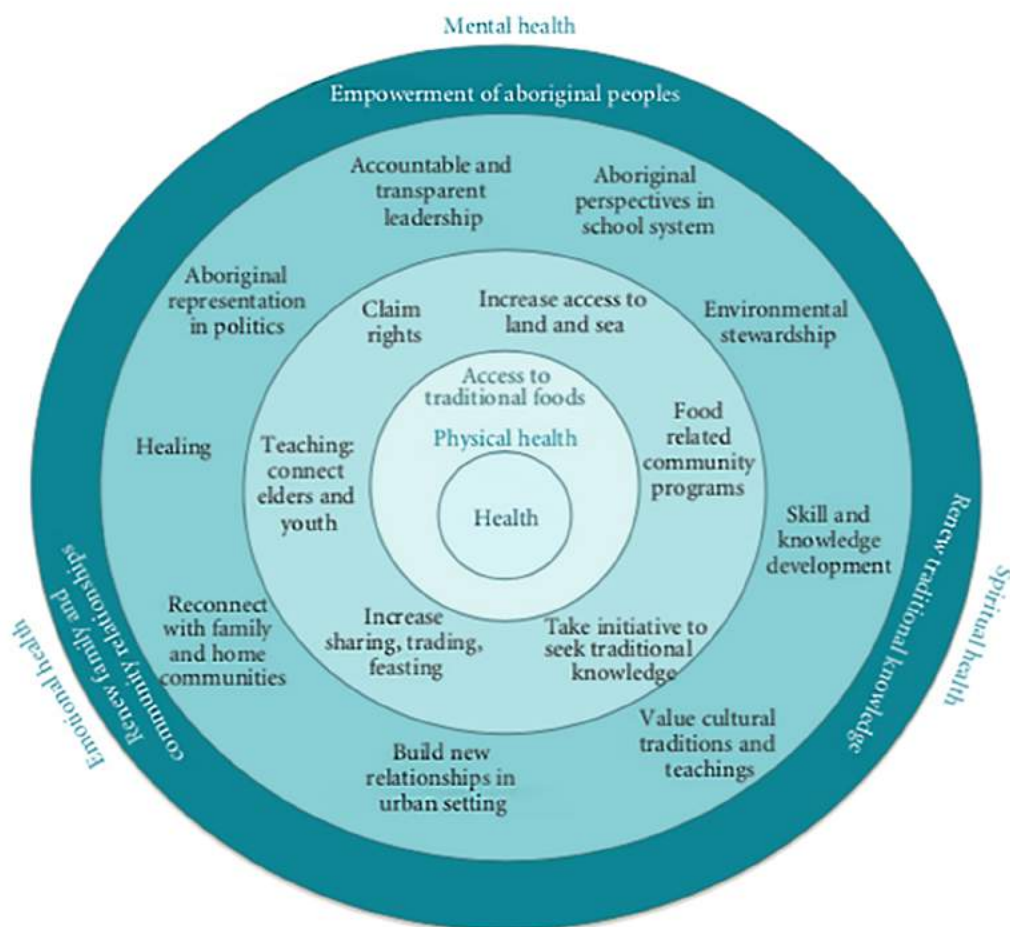
What these guidelines mean is that wild meat and other wild foods can be served, but that attendees should be informed that these foods are being served and have not been inspected. In our workshops we heard the concern expressed that informing people that wild game is being served and having to state that it has not come from an approved source could convey the message that wild foods are of poorer quality than store-bought foods. This is problematic and we think messaging should be done carefully to state that traditional foods are healthy foods and important for culture so as to limit any potential stigma caused from the notification.

3.8 Summary of Barriers and Moving to Improve Country Food Access in Cities

Barriers to traditional food access in cities include colonization and assimilation, the legacy of residential schools, urbanization and government restrictions, as well as practical considerations such as transportation costs, fewer foods being available and loss of food-related skills. Our review of provincial and federal laws related to wildlife and the rights of Indigenous People illustrates that the Canadian legal system often acts as a further barrier to accessing traditional foods despite the existence of Treaty and Aboriginal Rights that are protected by the Constitution.

Elliott et al. (2012) presented a figure highlighting actions to increase traditional foods in the city that is presented in Figure 2 below. In the outermost circle are the big picture or highlevel solutions that are needed, and they include empowerment of Indigenous people and the renewal of family and community relationships. In the next circle are those actions that would indirectly improve traditional food access in urban contexts and include integration of Indigenous perspectives in the school system, the building of new relationships in urban contexts and the valuing of cultural traditions and teachings. The next circle are those actions that would directly improve Indigenous food access in cities including the claiming of rights, connecting Elders and youth for the passing on of cultural teachings and Indigenous food community programs. The outcomes of these changes would contribute to physical, emotional and spiritual health.

Figure 2: How to Improve Traditional Food Access in Urban Contexts (Elliott et al., 2012)



- First (largest) circle: the “high level” solutions to increasing access to traditional foods.
- Second circle: factors indirectly affecting access to traditional foods.
- Third circle: factors directly affecting access to traditional foods.
- Health includes:
 - (i) physical health (healthy eating of traditional foods),
 - (ii) emotional health (social support through relationships),
 - (iii) spiritual health (increased cultural connectivity),
 - (iv) mental health (increased sense of cultural identity, pride and vision).

4. Recommendations

The recommendations here are taken from the thoughts and ideas put forward by the participants in our five workshops. As much as possible they are also rooted in ideas put forward in the published literature. Some of the resources and programs already exist in individual communities but we have listed them because many more are needed. We do not wish to take credit for any of the ideas presented, but rather our role has been to put them together in one document and think through how they might be approached and prioritized. We also understand that this list is by no means exhaustive and we hope others will build on it in the future.

Some of the policy actions are provincial or municipal in focus and we understand that the process of change-making may not look the same in each province. We live in Saskatchewan and therefore give examples and suggestions using our provincial regulations, but in most cases, other provinces will have similar laws and our recommendations should be relevant. Some recommendations did not fit neatly into a jurisdictional category so we have placed them with the closest fit (which may not be ideal or relevant in some contexts).

4.1 Recommendations for Local Communities to Improve Indigenous Food Practices

- ▶ **There is a need for a wide range of educational opportunities such as cooking, hunting, trapping and gathering classes to learn about Indigenous cultural food practices and ceremonies.** Classes should be aimed both at Indigenous people with connections to wider Indigenous communities, as well as to Indigenous people who have been disenfranchised from their communities by colonial practices such as the 60s Scoop, but it may not be appropriate to include both groups together because of the differing needs of each. Classes should include ways of incorporating traditional foods into modern recipes in order to help parents develop their children's palates for traditional foods. These classes are needed in communities as well as in schools. There are particular barriers to offering these classes in schools which will be addressed below.
- ▶ **Cookbooks using country foods are needed for those people who cannot take classes but wish to learn about their cultural foods on their own.** There need to be enough cookbooks produced to represent the diversity of geographies and practices across the country. There are currently some of these available and more are being published each year. This should continue and should include cookbooks focusing on simple day-to-day foods, on traditional food preservation and on hybrid Indigenous-Western cooking (amongst others).
- ▶ **Information on hunting, trapping, fishing and gathering rights of Indigenous people, both Status and Non-Status, as well Métis people should be gathered and put in an accessible format to be widely distributed to make sure both Indigenous people and government officials understand food sovereignty rights.** Distribution of this information is especially important to do for Non-Status Indians and Métis people given their Aboriginal Rights are much less widely understood. It's important to note that this information is not just for Indigenous people. It is at least as much for government employees such as conservation officers and public health inspectors to ensure they understand the rights of Indigenous people.
- ▶ **Information on where and how to access traditional foods should be gathered and put in an accessible format.** This includes information on traditional food banks and organizations that distribute these foods, on who is allowed to access these foods (which we believe should include all Indigenous people) as well as on organizations that offer classes by community leaders and Elders on traditional food practices.

- **Country food banks are needed where Indigenous people, regardless of Status, can request traditional foods for cultural food practices purposes.**
- **An organization (rather than individual bands) needs to undertake the role of supporting the transport of traditional foods to cities for distribution.** Networks of Indigenous-led organizations are needed to guide local efforts to improve Indigenous food access in this way. Currently getting traditional foods to cities can be an expensive and complicated process.
- **More programs are needed to take urban Indigenous people to the land to engage in experiential land-based learning related to food that is led by Elders.** There are quite a few of these already but not nearly enough to meet the needs of urban-residing communities.
- **Parks and other public land in cities should incorporate traditional medicines and foods and these should be documented and shared publicly, and their sustainable harvest should be actively encouraged by municipal authorities.** This can be done by labelling, but more importantly by online documentation with widely distributed maps that include the names of foods and medicines and some information about traditional sustainable use.
- **School divisions should dedicate growing spaces in school yards for planting medicines.** Elders should be involved in developing these spaces to ensure protocols are followed. Some individual schools are doing this, but resources including informational and skills support is needed to make this a more common practice.
- **On-going planning for a National School Food Program for Canada needs to ensure that any program that is established appropriately represents the needs and preferences of the diverse Indigenous communities across Canada.** The 2019 Federal budget stated: “Budget 2019 announces the Government’s intention to work with the provinces and territories towards the creation of a National School Food Program.” It is critical to include local control and Indigenous food sovereignty principles in plans for a national program.
- **The creation of urban land settings that do not belong to an individual Indigenous community for ceremonial, feasting, traditional knowledge classes and fostering of Indigenous culture is needed.** We recommend that there be the creation of various locations within the limits of cities for the specific purposes of providing space for sovereign food production, sharing, teaching and knowledge. An example to look to might be one undertaken by students at the First Nations University of Canada in Prince Albert. Their focus was the lack of ceremonial space in the City and they lobbied the City to create space for this purpose. Students created a petition, drafted proposals to highlight the need for the space and attended city council meetings. The City eventually granted the students land on the outskirts of the city to use for their cultural purposes. The planning phases and proposal for funding phase is now being undertaken (T. Cook, personal communication, April 8, 2019). Groups in various cities should approach their respective cities with the help of community members, students, non-profit organizations and researchers to gain the support to develop these spaces. Much planning and research are needed as well as alliances with City leadership.
- **Land in cities is needed dedicated to Indigenous food practices including gardening, gathering and where public health exemptions can be sought for teaching about animal butchering and food preparation, and where ceremonies can take place.** This could be the same land as in the recommendation above. This land should be under the direct control of Indigenous communities.

4.2 Recommendations at Regional or Provincial Levels to Improve Indigenous Food Practices

- **Updated provincial food safety guidelines are needed in each province for traditional food** (see reference Provincial Health Services Authority, 2016, p.54 for some of the details on what is needed). These updated guidelines should then be widely shared in an accessible format.
- **Regional/Provincial Food safety guidelines and exemptions that can apply to serving wild foods need to be communicated clearly on health authority websites and distributed in paper form to Indigenous organizations.** This information should be made public as a decolonizing effort on behalf of public health. For example, in Saskatchewan under technical guidelines 169 and 172 (not published publicly but can be referred to by organizations) of the Public Health Act, community events like community dinners and fundraisers are exempt from food safety regulations and hunted, not provincially inspected meat can be served. This can apply to feasts and other Indigenous cultural events. If attendees to these events must purchase a ticket they can be notified that food does not come from a provincially inspected source and then those country foods can be served.
- **Health inspectors should be included in discussions about the importance of traditional foods** (for further details on this recommendation see p. 17, 25 and 53 of the *Increasing Indigenous Children's Access to Traditional Foods in Early Childhood Programs* report (Provincial Health Services Authority, 2016)). More concretely, the report states: "Ensure that health authority staff working in food safety, licensing, food security and healthy eating at all levels are culturally competent to work with Indigenous populations, aware of their status within the Canadian Constitution, and familiar with the findings and recommendations of the Truth and Reconciliation Commission of Canada".(p.25)
- **Incorporate a more culturally appropriate definition of family into the provincial Wildlife Act and change the act accordingly to clarify the right of kinship in customs, laws and traditions.** For example, section 34 which allows for a Status Indian to only hunt with immediate family could be defined to also include community. This would allow anyone from "community or family" to be able to hunt with their Indian family. Many Indigenous communities, particularly in urban settings, have a large intertwined community that help and support each other. It is these groups of people that are being restricted the most by such legislation. Tam Findlay, in research conceptualizing families, states that government and regulatory agencies use specific measures to define families for specific objectives. More appropriate family and community definitions within the *Wildlife Act* would help to ensure that the legislation is meeting its purpose. By having solid law in place that matches the policy practice, Indigenous communities can plan for how to support their networks.
- **Create a funded program to get Urban First Nations individuals registered as legal hunters with licenses.** First Nations and non-profit organizations could come together to offer for free the Personal Acquisition License and the Firearm Safety courses needed to purchase ammunition and guns for hunting as well as ensure compliance with hunting regulations. If the training were completed by a handful of people each year, there could be a supply of traditional meat coming in steadily a few times a year. There are other barriers and considerations to be made here as well, but this would be a good starting point for self-sufficiency and sovereignty in urban Indigenous communities.

➤ **Create an urban hunter/trapper/medicine and food gatherer program that could provide small grants to people who become designated as Indigenous food sovereignty practitioners in their cities.** A hunting or trapping trip can easily cost \$500.00 for travel and supplies. Medicine and wild food gathering can cost almost as much. These costs are often barriers to engaging in food sovereignty practices for the purposes of sharing within the larger urban Indigenous communities.

4.3 Federal and Other Recommendations to Facilitate Indigenous Food Practices

➤ **Policy-making around Indigenous Food Practices must be framed within the context of the UN Declaration on the Rights of Indigenous Peoples as well as within the Truth and Reconciliation Calls to Action.** For example, nation to nation relationships are critical and must include governance of land, water and thereby food systems.

➤ **Clarity is needed on the jurisdiction questions that continually impact on the cultural food practices of Indigenous people of Canada.** Further legal research and legal challenges are needed to clarify the issues as they pertain to Status and Non-Status Indians, Inuit and Métis people living off reserve.

➤ **Indigenous led food policy development is needed both federally and provincially.**

➤ **Any and all policy change needs to carefully consider the maintenance of the sacredness of food within Indigenous cultures.**

➤ **The development of resurgent trade between Indigenous nations is needed.** There is a very long history of trading which should be supported to continue because without trade traditional foods will be eliminated from diets.



Image provided by Charles Levkoe



Images provided by CHEP Good Food Inc.

5. Conclusion

Our purpose in carrying out this project has been to support the development of actions to change regulations and remove other key barriers to improving access to traditional foods in urban environments for Indigenous people. We did this by presenting an overview of the topic of traditional food access, how Treaty and Aboriginal Rights support access to traditional foods and the legal limitations to these, and a description of some recommended program and policy changes at various jurisdictional levels that could improve traditional food access for urban residing Indigenous people. It is our hope that individual organizations, government institutions and more will examine our recommendations and determine how to make the needed changes, many of which require little more than political will.



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