

ORIGINAL ARTICLE

Faces of hunger: an intersectional approach to children's right to food in the United Kingdom

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Abstract

This article explores the extent to which the right to food is currently enjoyed by children within the United Kingdom (UK) using image analysis of the food parcels received by children eligible for free school meals during the COVID-19 pandemic. It argues that child food poverty serves as an illustration of the failings of neoliberalism in the UK context, which had already been observed prior to the pandemic in relation to the current Universal Credit system. The article adopts an intersectional approach, connecting the increased risk of food insecurity experienced by Black, Asian, and minority ethnic (BAME) children from low-income backgrounds to the broader notions of racial capitalism and food oppression. It concludes by offering proposals to target inequalities and improve the realization of the right to food for all children in the UK, which could be adopted by other states to enhance the protection of children's right to food around the globe.

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1 | INTRODUCTION

While the United Kingdom (UK) is the sixth richest nation in the world,¹ approximately four million of the country's children live in food insecurity² – understood as households with ‘limited or uncertain availability of nutritionally adequate and safe foods or limited or uncertain ability to acquire acceptable food in socially acceptable ways ... without resorting to emergency supplies, scavenging, stealing or other coping strategies’.³ The pervasiveness of food insecurity is indicative of the more complex issue of food poverty, which captures the underlying economic, socio-legal, and political causes of hunger.⁴ This has coincided with the prevalence of neoliberalism, an ideology predicated on the free market whereby personal responsibility supersedes state intervention.⁵ Moreover, the COVID-19 pandemic and, most recently, the rising cost of living in the UK have inflamed the issue, further impeding children's access to food.⁶ Yet, as a matter of international law, the state is legally bound to realize the right to food under Article 11 of the International Convention on Economic, Social and Cultural Rights (ICESCR),⁷ as well as children's right to food specifically via Articles 24 and 27 of the United Nations (UN) Convention on the Rights of the Child (UNCRC), which protect children's rights to health and development respectively.⁸ Demonstrably, there is a huge discrepancy between the UK's obligations under international law and its fulfilment of the right.

This article contributes to the burgeoning literature that transposes the intersectional framework from feminist theory to human rights law ‘to shape a more just and equitable society’, particularly as states rebuild after the COVID-19 pandemic.⁹ This lens is used to highlight the barriers that hinder access to food for Black, Asian, and minority ethnic (BAME) children from low-income backgrounds and to inform proposals designed to redress inequalities.¹⁰

¹ International Monetary Fund (IMF), *World Economic Outlook Database* (2022), at <<https://www.imf.org/en/Publications/WEO/weo-database/2022/October>>.

² Food Foundation, ‘Food Insecurity Tracking’ *Food Foundation*, September 2022, at <[https://foodfoundation.org.uk/initiatives/food-insecurity-tracking#:~:text=month%20\(September%202022\),4%20million%20children,past%20month%20\(September%202022\)](https://foodfoundation.org.uk/initiatives/food-insecurity-tracking#:~:text=month%20(September%202022),4%20million%20children,past%20month%20(September%202022))>.

³ A. Taylor and R. Loopstra, *Too Poor to Eat: Food Insecurity in the UK* (2016) 3, at <[https://www.nuffieldfoundation.org/sites/default/files/files/FoodInsecurityBriefing%20May%202016%20FINAL\(1\).pdf](https://www.nuffieldfoundation.org/sites/default/files/files/FoodInsecurityBriefing%20May%202016%20FINAL(1).pdf)>.

⁴ N. O'Connor et al., ‘What Is Food Poverty? A Conceptual Framework’ (2015) 118 *Brit. Food J.* 429, at 431–433.

⁵ D. S. Grewal and J. Purdy, ‘Introduction: Law and Neoliberalism’ (2015) 77 *Law and Contemporary Problems* 1.

⁶ Trussell Trust, *Trussell Trust Data Briefing on End-of-Year Statistics Relating to Use of Food Banks: April 2021–March 2022* (2022), at <<https://www.trusselltrust.org/wp-content/uploads/sites/2/2022/04/EOY-Stats-2022-Data-Briefing.pdf>>.

⁷ International Convention on Economic, Social and Cultural Rights (adopted 16 December 1966, entered into force 3 January 1976) 993 UNTS 3 (ICESCR) Art. 11, at <<https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights>>.

⁸ United Nations Convention on the Rights of the Child (adopted 20 November 1989, entered into force 2 September 1990) 1577 UNTS 3 (UNCRC) Arts 24 and 27, at <<https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>>.

⁹ S. Sekalala et al., ‘An Intersectional Human Rights Approach to Prioritising Access to COVID-19 Vaccines’ (2021) 6 *Brit Medical J. Global Health* 1, at 4, at <<https://gh.bmj.com/content/6/2/e004462>>. See also K. Crenshaw, ‘Mapping the Margins: Intersectionality, Identity Politics, and Violence against Women of Color’ (1999) 43 *Stanford Law Rev.* 1241; I. Truscan and J. Bourke-Martignoni, ‘International Human Rights Law and Intersectional Discrimination’ (2016) 16 *Equal Rights Rev.* 103; G. De Beco, ‘Protecting the Invisible: An Intersectional Approach to International Human Rights Law’ (2017) 17 *Human Rights Law Rev.* 633.

¹⁰ Sekalala et al., id., p. 7.

The spearhead for this inquiry is an empirical case study of children's right to food in the UK during the COVID-19 pandemic using image analysis of photographs shared on Twitter and traditional media of food parcels offered by the state to children in receipt of free school meals in January 2021.¹¹ As the identities of the children in receipt of the parcels are concealed for their privacy, the photographs are supplemented by statistics confirming the increased food insecurity of children from BAME, low-income backgrounds.

The experiences depicted in the images provide a snapshot of national child food poverty, giving rise to a discussion of its principal causes and implications beyond the pandemic. The withdrawal of state support for families and the subsequent rise in reliance upon charitable provision of food among BAME, low-income households are analysed in light of the threats posed to children's nutrition. It is argued that the inimical impact of the retreat of the welfare state is demonstrative of both food oppression and racial capitalism, institutionalizing race- and income-based health inequalities.¹²

Finally, proposals to improve the realization of children's right to food in the UK are formulated from an intersectional perspective. While unequal access to food has been laid bare during the COVID-19 pandemic, these racial and socioeconomic inequalities were already a reality prior to the disease's outbreak and are only set to worsen as the cost-of-living crisis in the UK persists. Thus, the impetus that the right-to-food movement has gained in recent years must be directed towards sustainable strategies that provide ongoing support. The key recommendation presented here is that the government must replace its neoliberal policies with a system of increased welfare provision, facilitating access to food for children from BAME, low-income backgrounds.

2 | STUDY BACKGROUND

Crises are known to amplify food poverty, and the COVID-19 pandemic has been no exception.¹³ Soaring unemployment rates and income losses have caused an increase of food-insecure families in the UK, from 11.5 per cent to 20.6 per cent.¹⁴ Furthermore, families already struggling to put food on the table have been placed under greater strains. The scarcity mentality induced by the pandemic has encouraged panic buying and stockpiling of essential foods – consumption strategies that many low-income families cannot afford.¹⁵ Meanwhile, the closure of schools nationwide

¹¹ L. Britain, '#FreeSchoolMeals Bag for 10 Days' *Twitter*, 11 January 2021, at <<https://twitter.com/RoadsideMum/status/1348646428084760576>>; J. Monroe, 'Food Parcels Thread' *Twitter*, 12 January 2021, at <<https://twitter.com/BootstrapCook/status/1348917929132367872>>; L. Thomas, 'Lisa Thomas' Food Parcel' *News Shopper*, 13 January 2021, at <<https://www.newsshopper.co.uk/news/19005804.se-london-mums-share-anger-free-school-meals-food-parcels/>>; D. Mundell, 'The Threat of Hunger and Malnutrition as a Result of COVID-19 Is Greater than the Virus Itself' *Telegraph*, 16 October 2020, at <<https://www.telegraph.co.uk/global-health/climate-and-people/threat-hunger-malnutrition-result-covid-19-greater-virus/>>.

¹² C. J. Robinson, *Black Marxism: The Making of the Black Radical Tradition* (1983); J. Melamed, 'Racial Capitalism' (2015) 1 *Critical Ethnic Studies* 76, at 77; A. Freeman, 'Fast Food: Oppression through Poor Nutrition' (2007) 95 *California Law Rev.* 2221.

¹³ C. Connors et al., *The Lived Experience of Food Insecurity under COVID-19* (2020), at <https://www.food.gov.uk/sites/default/files/media/document/fsa-food-insecurity-2020_-report-v5.pdf>.

¹⁴ Food Foundation, op. cit., n. 2.

¹⁵ M. Power et al., 'How COVID-19 Has Exposed Inequalities in the UK Food System: The Case of UK Food and Poverty' (2020) 2 *Emerald Open Research* 1, at 4, at <<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7219559/pdf/emeraldopenres-2-14610.pdf>>.

prevented the free school meals programme, the state's main strategy for targeting child hunger, from operating as usual, creating a 'perfect storm' for child food poverty.¹⁶

2.1 | Free school meals

All four nations in the UK offer free school meals (FSM) to 'the most disadvantaged pupils',¹⁷ designed to level socioeconomic inequalities within the classroom. However, the eligibility criteria vary.¹⁸ FSM are offered to all state school students in Reception to Year 2 in England,¹⁹ in P1 to P5 in Scotland,²⁰ and, from 2022, all primary school pupils in Wales,²¹ beyond which eligibility is contingent upon parental receipt of either Universal Credit or one of a number of legacy benefits, including Income Support and Child Tax Credit.

Notably, in 2019, 18 per cent of BAME students were eligible for FSM compared to 14.5 per cent of white British students.²² Thus, children from these racial groups are, first, more likely to come from low-income households that are reliant upon state support and, second, have a greater dependence upon the state for the fulfilment of their right to food. This exemplifies that race and socioeconomic status must not be viewed discretely, as their intersection is a key determinant of children's access to food.²³ Food poverty is therefore undeniably a structural rather than an individual issue, as children from minority backgrounds plainly face greater barriers accessing food.²⁴ Additionally, in both state primary and secondary schools, children of African and Caribbean descent are almost twice as likely to be eligible for FSM compared to white British children.²⁵ While eligibility is not means tested in all cases, the data parallels the disproportionate number

¹⁶ M. Savage, 'Britain Is Facing "Perfect Storm of Awfulness" Warns Welfare Expert' *Guardian*, 1 November 2020, at <<https://www.theguardian.com/world/2020/nov/01/louise-casey-britain-is-facing-perfect-storm-of-awfulness-warns-welfare-expert>>. See also Human Rights Watch (HRW), 'UK: Children in England Going Hungry with Schools Shut' *Human Rights Watch*, 27 May 2020, at <<https://www.hrw.org/news/2020/05/27/uk-children-england-going-hungry-schools-shut>>.

¹⁷ Department for Education (DfE), *Free School Meals: Guidance for Local Authorities, Maintained Schools, Academies and Free Schools* (2018) 3, at <https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/700139/Free_school_meals_guidance_Apr18.pdf>.

¹⁸ Department for Environment, Food and Rural Affairs, *UK Food Security Report 2021* (2021) 232, at <https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1041623/United_Kingdom_Food_Security_Report_2021_16dec2021b.pdf>.

¹⁹ *Gov.uk*, 'Apply for Free School Meals' *Gov.uk*, at <<https://www.gov.uk/apply-free-school-meals>>.

²⁰ *Mygov.scot*, 'School Meals' *Mygov.scot*, at <<https://www.mygov.scot/school-meals>>.

²¹ Welsh Government, *Free School Meals in Wales: Information for Parents and Guardians* (2019), at <<https://gov.wales/sites/default/files/publications/2019-04/free-school-meals-in-wales-information-for-parents-and-guardians.pdf>>; J. Miles, 'Written Statement: Extending Free School Meal Entitlement to All Primary School Children' *Welsh Government*, 17 December 2021, at <<https://gov.wales/written-statement-extending-free-school-meal-entitlement-all-primary-school-children>>.

²² DfE, 'Latest Percentage of Pupils Eligible for Free School Meals by Ethnicity' *What Do They Know?*, at <<https://www.whatdotheyknow.com/request/632469/response/1502571/attach/html/3/2020%200000408%20tables.xlsx.html>>; V. Ford, 'Free School Meals: Ethnic Groups' *They Work for You*, 1 July 2020, at <<https://www.theyworkforyou.com/wrans/?id=2020-06-23.63320.h>>.

²³ De Beco, op. cit., n. 9, p. 636.

²⁴ J. Ziegler et al., *The Fight for the Right to Learn: Lessons Learned* (2011) 332.

²⁵ DfE, op. cit., n. 22.

of food bank users from Black ethnic backgrounds to be discussed shortly. Consequently, it is suspected that Black children in the UK were already at a heightened risk of food insecurity prior to the pandemic, attesting to the aggravated impact of concurrent racial and socioeconomic divisions. The identities of children eligible for FSM is also extremely significant in the examination of the food parcels provided by the state as a substitute for the scheme during the third national lockdown in early 2021. When approaching this study, it must be kept in mind that the principle of non-discrimination applies to all rights within both the ICESCR²⁶ and the UNCRC.²⁷ Thus, the UK is required to ensure that children do not experience any barriers to the enjoyment of the right to food on the basis of race, class, or other status.

Even in its pre-pandemic form, the FSM programme was already plagued by numerous flaws. The Universal Credit system restricts means-tested FSM to children from households with an annual income of less than £7,400 for England and Wales,²⁸ or £7,500 in Scotland²⁹ – two extremely low limits, which ignore families that have a marginally higher income but are still unable to put food on the table. While Northern Ireland has a significantly more generous income cap of £14,000, this is offset by the lack of universal FSM for young children in contrast to the other three nations.³⁰ Overall, 1.3 million children received FSM in 2019, with an additional one million children living in food insecurity excluded from the scheme.³¹ The use of welfare receipt, which has been whittled down over time, as the barometer of need therefore reduces the programme's efficacy as a tool for realizing all children's right to food, as the UN Committee on the Rights of the Child has highlighted in a critical report.³²

Eligible pupils have also experienced problems with FSM, particularly in schools where the stipend awarded to purchase the meal is not enough to cover the cost of a hot drink and dinner, prompting recipients to purchase unhealthy snacks instead.³³ The stigma attached to FSM exacerbated by separate queuing systems in school dining halls has also prompted eligible students to forgo their meal.³⁴ Recalling the profile of pupils eligible for FSM examined previously, children from BAME, low-income backgrounds are more likely to suffer from these deficiencies, with the two intersecting sources of oppression compounding food insecurity.³⁵

²⁶ ICESCR, op. cit., n. 7, Art. 2(1).

²⁷ UNCRC, op. cit., n. 8, Art. 2(2).

²⁸ Gov.uk, op. cit., n. 19; Welsh Government, op. cit., n. 21.

²⁹ Mygov.scot, op. cit., n. 20.

³⁰ Education Authority (Northern Ireland), 'Free School Meals/Uniform Grant Eligibility' Education Authority, at <<https://www.eani.org.uk/financial-help/free-school-meals-uniform-grants/free-school-meals-uniform-grant-eligibility>>.

³¹ I. P. Sinha et al., 'Child Poverty, Food Insecurity, and Respiratory Health during the COVID Pandemic' (2020) 8 *The Lancet Respiratory Medicine* 762, at <<https://www.thelancet.com/journals/lanres/article/PIIS2213-2600%2820%2930280-0/fulltext>>.

³² UN Committee on the Rights of the Child, *Concluding Observations on the Fifth Periodic Report of the United Kingdom of Great Britain and Northern Ireland* (2016) UN Doc CRC/C/GBR/CO/5 16, at <<https://digitallibrary.un.org/record/835015?ln=en>>.

³³ R. Farthing, *Going Hungry? Young People's Experiences of Free School Meals* (2012) 20–21, at <<https://cpag.org.uk/sites/default/files/Going%20Hungry%20young%20peoples%20experiences%20of%20Free%20School%20Meals.pdf>>.

³⁴ R. O'Connell et al., *Living Hand to Mouth: Children and Food in Low-Income Families* (2019) 13.

³⁵ De Beco, op. cit., n. 9, p. 636.

2.2 | FSM during COVID-19

Protracted school closures in the UK as a result of the pandemic prevented FSM from being distributed in their usual fashion, forcing the state to explore alternatives.³⁶ In March 2020, the Department for Education (DfE) established a national voucher scheme, whereby families were awarded £15 worth of vouchers per eligible child in replacement of a week's FSM.³⁷ Over 90 per cent of state schools registered for the DfE's self-proclaimed 'secure, viable and cost-effective solution'.³⁸ Nevertheless, schools and parents experienced severe complications registering for and utilizing the vouchers respectively, with supermarket staff encountering difficulties processing the non-monetary payments and participating supermarkets out of reach for families living in the most deprived areas.³⁹ Thus, the government gave insufficient consideration to the barriers faced by those most in need when formulating this strategy.

Worse still, the state's reluctance to provide continued support to children living in food poverty during the pandemic illustrates a clear lack of compassion. The government initially declined to extend the voucher scheme for 'future holiday periods', remarking that the distribution of vouchers during the Easter vacation was exceptional due to the 'unprecedented levels of disruption and uncertainty'.⁴⁰ The state ignored the 'holiday hunger' that children from low-income households routinely experience outside of term time due to the absence of FSM, which would plainly be exacerbated by the economic insecurity brought about by COVID-19.⁴¹ Though the government eventually capitulated to pressure from civil society and public figures such as Marcus Rashford, announcing that FSM vouchers would be provided over the summer holidays through the COVID Summer Food Fund, the reluctance to extend the scheme to cover the October half term was indicative of the state's continued apathy towards child hunger.⁴² Moreover, the government's decision to offer vouchers during the Christmas holidays was heavily influenced by a petition set up by Rashford,⁴³ demonstrating that the state has deployed 'populist plasters' instead of proactively targeting the systemic causes of child food insecurity.⁴⁴ In its delayed response to increasing child food poverty during the COVID-19 pandemic, the government ignored the vulnerability of

³⁶ R. Loopstra, *Vulnerability to Food Insecurity since the COVID-19 Lockdown* (2020) 13, at <https://foodfoundation.org.uk/wp-content/uploads/2020/04/Report_COVID19FoodInsecurity-final.pdf>.

³⁷ M. McAlister, 'Free School Meals' *The Education Hub*, 31 March 2020, at <<https://dfemedia.blog.gov.uk/2020/03/31/free-school-meals/>>.

³⁸ G. Davies, *Investigation into the Free School Meals Voucher Scheme* (2020) 5, at <<https://www.nao.org.uk/wp-content/uploads/2020/12/Investigation-into-the-free-school-meals-voucher-scheme.pdf>>.

³⁹ Id., p. 7; J. Burns, 'Coronavirus: "Humiliation" as School Meal Vouchers Fail at Till' *BBC News*, 7 May 2020, at <<https://www.bbc.co.uk/news/education-52551464>>.

⁴⁰ E. Haves, 'Free School Meals in the Holidays: A Permanent Change?' *House of Lords Library*, 4 September 2020, at <<https://lordslibrary.parliament.uk/free-school-meals-in-the-holidays-a-permanent-change/>>.

⁴¹ BBC, *Marcus Rashford: Feeding Britain's Children* (2020) 45:58, at <<https://www.bbc.co.uk/programmes/m000qq41>>.

⁴² Id., 2:20, 45:15; DfE, 'COVID Summer Food Fund' *Gov.uk*, 13 July 2020, at <<https://www.gov.uk/guidance/covid-summer-food-fund>>.

⁴³ H. Siddique, 'Marcus Rashford Forces Boris Johnson into Second U-Turn on Child Food Poverty' *Guardian*, 8 November 2020, at <<https://www.theguardian.com/education/2020/nov/08/marcus-rashford-forces-boris-johnson-into-second-u-turn-on-child-food-poverty>>.

⁴⁴ M. Barker and J. Russell, 'Feeding the Food Insecure in Britain: Learning from the 2020 COVID-19 Crisis' (2020) 12 *Food Security* 865, at 868.

children reliant upon FSM – many of whom are marginalized due to both their race and household income.

The most prominent indication of the government's failure to redress the prevalence of child food poverty during the COVID-19 pandemic were the food parcels awarded in place of FSM in early 2021. Departing from its previous strategy, the DfE issued guidance to schools in January that 'strongly encouraged ... a food parcel first approach', as provided by school catering companies such as the Compass Group.⁴⁵ The contents of the food parcels were to help parents to 'prepare healthy lunches ... across the week' without utilizing any 'additional ingredients'.⁴⁶ This programme was an ideal opportunity for the government to signify its commitment to combatting child food insecurity. Unfortunately, the extremely poor quality of the food parcels instead exposed the state's failure to protect the right to food of the most vulnerable children – a breach of duty that, it will be demonstrated, predates the COVID-19 pandemic. Images of the meagre lunch parcels taken by outraged parents quickly circulated on social media platforms and in traditional news outlets, with the state rightfully receiving a barrage of criticism for its maladministration.⁴⁷ A sample of these images are now analysed to assess the government's actions against its international obligations to fulfil children's right to food.

3 | FACES OF HUNGER: COVID-19 AS A CASE STUDY

3.1 | Visual study

Figures 1–5 depict food parcels containing a week's worth of lunches for a child eligible for FSM, supplied by the government via third-party caterers for £15 each, while Figure 6 shows two weeks' worth of lunches.⁴⁸

The parent in receipt of the items shown in Figure 1 would face difficulty producing five substantial lunches using these ingredients alone, despite the state's assurance that no extra supplies would be needed.⁴⁹

The food parcels shown in Figures 2, 3, and 4 contain a greater number of starchy foods than the one shown in Figure 1, but a noticeable lack of fresh produce. While carbohydrates are an essential aspect of a balanced diet, so too are fruits and vegetables, protein, and dairy.⁵⁰ Though the parcels contain some sources of protein needed for growth and repair, such as cheese and

⁴⁵ DfE, *FAQ – for Schools during the National Lockdown* (2021) 5, at <<https://cyps.northyorks.gov.uk/sites/default/files/Emergencies,%20health%20and%20safety/Phase%203/FAQ%20for%20Schools%20-%2011.01.21.pdf>>.

⁴⁶ DfE, 'Providing School Meals during the Coronavirus (COVID-19) Outbreak' *Gov.uk*, 5 October 2021, at <<https://www.gov.uk/government/publications/covid-19-free-school-meals-guidance/covid-19-free-school-meals-guidance-for-schools>>.

⁴⁷ Monroe, op. cit., n. 11; *BBC News*, 'Free School Meals: Mother's "Sadness" at "Mean" Food Parcel' *BBC News*, 13 January 2021, at <<https://www.bbc.co.uk/news/uk-55641740>>; *Observer*, 'The Observer View on the Food Parcels Scandal' *Observer*, 17 January 2021, at <<https://www.theguardian.com/commentisfree/2021/jan/17/the-observer-view-on-the-food-parcels-scandal>>.

⁴⁸ DfE, 'Guidance on Free School Meals Expectations while Remote Learning' *The Education Blog*, 15 January 2021, at <<https://dfemedia.blog.gov.uk/2021/01/15/guidance-on-free-school-meals-expectations-while-remote-learning/>>.

⁴⁹ *Id.*

⁵⁰ S. Lim, 'Eating a Balanced Diet: A Healthy Life through a Balanced Diet in the Age of Longevity' (2018) 27 *J. of Obesity & Metabolic Syndrome* 39.

FIGURE 1 Image of a food parcel containing five days' worth of lunches for a five-year-old child in Blackheath, London.

Source: J. Monroe, 'Food Parcels Thread' *Twitter*, 12 January 2021, at <https://twitter.com/BootstrapCook/status/1348917929132367872>



FIGURE 2 Image of a food parcel containing five days' worth of lunches for a child, age unknown.

Source: J. Monroe, 'Food Parcels Thread' *Twitter*, 12 January 2021, at <https://twitter.com/BootstrapCook/status/1348917929132367872>



FIGURE 3 Image of a food parcel awarded to a family in the Midlands containing five days' worth of lunches for a child, age unknown.

Source: J. Monroe, 'Food Parcels Thread' *Twitter*, 12 January 2021, at <https://twitter.com/BootstrapCook/status/1348917929132367872>





FIGURE 4 Image of a food parcel containing five days' worth of lunches for a child, age unknown.

Source: J. Monroe, 'Food Parcels Thread' *Twitter*, 12 January 2021, at
<<https://twitter.com/BootstrapCook/status/1348917929132367872>>



FIGURE 5 Image of a food parcel received by Lisa Thomas from Sidcup, Bexley containing five days' worth of lunches for her ten-year-old daughter.

Source: L. Thomas, 'Lisa Thomas' Food Parcel' *News Shopper*, 13 January 2021, at
<<https://www.newsshopper.co.uk/news/19005804.se-london-mums-share-free-school-meals-food-parcels/>>



FIGURE 6 Image of a food parcel received by Louisa Britain containing ten days' worth of lunches for her child, age unknown.

Source: L. Britain, '#FreeSchoolMeals Bag for 10 Days' *Twitter*, 11 January 2021, at <https://twitter.com/RoadsideMum/status/1348646428084760576>

yoghurts, the token fruits and vegetables seen in each parcel are alarming. As such, it is unlikely that the children in receipt of these parcels would meet the five-a-day target. This is incredibly concerning given that children from low-income families already frequently lack fruits and vegetables in their diets due to their higher cost compared to processed foods such as biscuits and crisps.⁵¹

Figures 5 and 6 underline the contrast between the government's promise of 'good-quality lunch parcels' and the disturbingly small provisions supplied.⁵² The entire contents of the food parcel shown in Figure 6 have been estimated to cost approximately £5.22 – almost six times less than the government's budget for a fortnight's worth of lunches.⁵³ This raises the question as to how the £15 designated to each weekly food parcel was being spent, signifying that optimal use of the state's funds were not made to ensure that children from low-income backgrounds had access to nutritious lunches. Moreover, the response from the supplier, Compass, portrayed the parcel as an isolated 'instance', ignoring the numerous photographs documenting similarly deficient lunch parcels, such as the one shown in Figure 5, prepared by its subsidiary Chartwells and other caterers.⁵⁴

⁵¹ O'Connell et al., op. cit., n. 34, pp. 10, 56.

⁵² DfE, op. cit., n. 48.

⁵³ Id.; Britain, op. cit., n. 11.

⁵⁴ *BBC News*, 'Compass Apologises for School Meal Parcels that "Fell Short"' *BBC News*, 4 February 2021, at <https://www.bbc.co.uk/news/business-55931994>.

3.2 | Discussion

The low nutritional content of all of these parcels signifies the systemic failure of the government's strategy, which is reaffirmed by a viral Twitter thread produced by activist Jack Monroe collating further harrowing images in addition to Figures 1–4.⁵⁵ This 'poverty picnic' gallery confirms that the state's food parcel programme was an unsatisfactory replacement for FSM, failing to provide children from the most marginalized families with adequate lunches.⁵⁶ Evidently, the government had not scrutinized the contents of the parcels provided by the third-party suppliers, disregarding the particular vulnerabilities of children from deprived backgrounds that prevent them from accessing regular nutritious meals. These unacceptable food parcels forced parents to make trade-offs between necessities, such as utilizing rent money to purchase additional ingredients to provide their children with more filling lunches, which highlights the severe economic vulnerability of such families.⁵⁷

The government's response to the rise in the number of children living in food poverty due to the COVID-19 pandemic is a flagrant violation of children's right to food. As a state party to the ICESCR and the UNCRC, the UK is required to both uphold the general right to food and adopt measures to ensure that children do not go hungry, in light of their increased vulnerability and dependency upon others for access to food.⁵⁸ The maintenance of a balanced diet is indisputably most fundamental during childhood, as unhealthy eating habits can severely impede children's growth and capabilities.⁵⁹ Studies have repeatedly found a strong positive correlation between malnutrition during childhood and poor cognitive development that can prevent children from reaching their maximum potential later in life.⁶⁰ Yet, the carbohydrate-heavy parcels supplied by the state demonstrably failed to meet the specific nutritional needs of children, which is a key component of the right to food under international law.⁶¹

The right to adequate food has been defined extensively within the UN, imposing clear obligations on the state against which the food parcels can be assessed. General Comment No. 12 of the Committee on Economic, Social and Cultural Rights (CESCR) stipulates that food must be accessible, through individuals either producing their own sustenance or purchasing it at affordable prices. Additionally, food must be available and acceptable for the consumer, adhering to cultural and dietary requirements.⁶² Children's food is therefore not of a sufficient quality if it does not

⁵⁵ Monroe, op. cit., n. 11.

⁵⁶ BBC News, 'Free School Meals "Replaced with Poverty Picnic", Says Jack Monroe' *BBC News*, 12 January 2021, at <<https://www.bbc.co.uk/news/av/uk-55633063>>.

⁵⁷ Connors et al., op. cit. n. 13, p. 27; M. Blackall, "What Am I Supposed to Make with This!" Parents on Schools' Meagre Food Parcels' *Guardian*, 12 January 2021, at <<https://www.theguardian.com/education/2021/jan/12/what-am-i-supposed-to-make-with-this-uk-parents-on-schools-meagre-food-parcels>>.

⁵⁸ UN Office of the High Commissioner for Human Rights (OHCHR), *Fact Sheet No. 34: The Right to Adequate Food* (2010) 16, at <<https://www.ohchr.org/Documents/Publications/FactSheet34en.pdf>>; C. Apodaca, *Child Hunger and Human Rights: International Governance* (2010) 1; K. Sandberg, 'The Convention on the Rights of the Child and the Vulnerability of Children' (2015) 84 *Nordic J. of International Law* 221, at 222.

⁵⁹ UN OHCHR, id., p. 3; P. Engle, 'Poverty and Developmental Potential' in *Childhood Poverty: Multidisciplinary Approaches*, eds J. Boyden and M. Bourdillon (2012) 130.

⁶⁰ M. C. Latham and F. Cobos, 'The Effects of Malnutrition on Intellectual Development and Learning' (1971) 61 *Am. J. of Public Health* 1307, at 1323; F. Bellisle, 'Effects of Diet on Behaviour and Cognition in Children' (2004) 92 *Brit. J. of Nutrition* 227, at 230.

⁶¹ UN OHCHR, op. cit., n. 58, p. 3.

⁶² CESCR, *General Comment No. 12: The Right to Adequate Food (Art. 11)* (1999) UN Doc E/C.12/1999/5 3, at <<https://www.refworld.org/pdfid/4538838c11.pdf>>.

contain the nutrients needed for their development.⁶³ This comprehensive delineation illustrates that the right to food is not as 'indeterminate' as one may expect.⁶⁴ The normative content of the right has also been expanded through the mandate of the Special Rapporteur on the Right to Food, with former mandate holder Olivier De Schutter highlighting its centrality to sustainable consumption and production as well as the fight against poverty and inequality.⁶⁵ Thus, the right is not merely concerned with eating, but the creation and maintenance of effective food systems that uphold the rights of all, as '[n]o right has meaning or value once starvation strikes'.⁶⁶

The state's obligations under the ICESCR have been demarcated into the three duties to 'respect', 'protect', and 'fulfil' the right – the final element undoubtedly the most significant for this study.⁶⁷ The obligation to fulfil ordinarily requires the state to 'facilitate' access to food; however, where individuals or communities are unable to enjoy the right due to external factors, states must 'provide that right directly'.⁶⁸ Though the latter typically comes up against the greatest political opposition as it requires the state's active involvement, it is of the upmost importance as it is owed to the most vulnerable individuals who cannot afford to feed themselves.⁶⁹ Similarly, while the UNCRC stipulates that parents and carers bear the primary responsibility to meet children's needs,⁷⁰ where necessary, states must 'provide material assistance and support programmes, particularly with regard to nutrition'.⁷¹ Thus, while the right to food does not, in most circumstances, equate to a right to be fed, a more proactive role is expected of the state in circumstances where families cannot provide sufficient food for their children, which manifestly should have been demonstrated by the UK government during the third national lockdown.⁷²

Of principal concern in the context of this study is the effect that the state's inadequate provisions have upon race- and income-based inequalities. As many pupils who are eligible for FSM come from BAME, low-income backgrounds, the failure to provide a sufficient substitute during school closures breaches the principle of non-discrimination enshrined in both the ICESCR⁷³ and the UNCRC.⁷⁴ The food parcels are not the only action taken by the government that shows disregard of this obligation; its initial refusal to extend FSM vouchers over the summer holidays in 2020 was branded potentially 'institutionally racist' by Member of Parliament (MP) Claudia

⁶³ UN OHCHR, op. cit., n. 58, p. 3.

⁶⁴ A. Nolan et al., *The Justiciability of Social and Economic Rights: An Updated Appraisal* (2007) Centre for Human Rights and Global Justice Working Paper No. 15, 7, at <<https://socialrightscura.ca/documents/publications/justiciability-social-econ-rights-updated-appraisal.pdf>>.

⁶⁵ O. De Schutter, *Final Report: The Transformative Potential of the Right to Food* (2014) UN Doc A/HRC/25/57, at <https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/25/57>.

⁶⁶ P. Alston, 'International Law and the Human Right to Food' in *The Right to Food*, eds P. Alston and K. Tomasevski (1984) 9, at 19.

⁶⁷ UN Commission on Human Rights (UNCHR), *Report on the Right to Adequate Food as a Human Right* (1987) UN Doc E/CN.4/Sub.2/1987/23 14, at <<https://digitallibrary.un.org/record/139080?ln=en>>; CESCR, op. cit., n. 62, p. 4.

⁶⁸ Id.

⁶⁹ Apodaca, op. cit., n. 58, p. 85.

⁷⁰ UNCRC, op. cit., n. 8, Art. 27(2).

⁷¹ Id., Art. 27(3).

⁷² O. Hospes, 'Overcoming Barriers to the Implementation of the Right to Food' (2008) 3 *European Food and Reed Law Rev.* 246, at 248.

⁷³ ICESCR, op. cit., n. 7, Art. 2(2).

⁷⁴ UNCRC, op. cit., n. 8, Art. 2(1).

Webbe, exemplifying that the food parcels are only the most recent in a series of state actions that undermine a central tenet of human rights law.⁷⁵

After Prime Minister Boris Johnson conceded that the food parcels were ‘disgraceful’,⁷⁶ Education Secretary Gavin Williamson announced the return of the voucher scheme for children eligible for FSM.⁷⁷ This U-turn, while evidently undertaken by the government to salvage its reputation, is illustrative of how the right to food can be leveraged by civil society to challenge policies that threaten children’s food security.⁷⁸ This is further exemplified by the Right to Food campaign launched in 2020 by Ian Byrne MP and Fans Supporting Foodbanks, which calls for domestic protection of the right.⁷⁹ The launch of several Right to Food municipalities in the UK, beginning with Liverpool in January 2021, also attests to the growing support for the right in the non-academic sphere.⁸⁰ Yet, in 2022, the state’s neglect of children’s right to food could not be more visible; the number of UK households with children experiencing food insecurity has exceeded the levels reached during the first two years of the pandemic, corresponding with the country’s highest rate of inflation in 40 years.⁸¹

4 | CAUSES AND IMPLICATIONS OF FOOD INEQUALITIES

The inadequate food parcels analysed above provide an entry point for a broader discussion of child food poverty within the UK and the perpetuation of race- and income-based inequalities.

4.1 | The status of children’s right to food in the UK

Disappointingly, despite ratifying the ICESCR and the UNCRC, the UK government has fought against “‘right to food’ politics”, instead insisting that market forces alone can ensure access to adequate food.⁸² The government has proclaimed that the rights guaranteed by the ICESCR are merely declaratory principles, frustrating the treaty’s telos.⁸³ As such, neither a general nor a

⁷⁵ E. Brazell, ‘Cutting School Meals “Could Have Been Institutionally Racist”, Says Labour MP’ *Metro*, 17 June 2020, at <<https://metro.co.uk/2020/06/17/cutting-school-meals-have-institutionally-racist-says-labour-mp-12863659/>>.

⁷⁶ B. Johnson, ‘Disgraceful Food Parcels’ *Twitter*, 13 January 2021, at <<https://twitter.com/BorisJohnson/status/1349341935199285248>>.

⁷⁷ DfE, ‘National Free School Meals Voucher Scheme Opens to Orders’ *Gov.uk*, 18 January 2021, at <<https://www.gov.uk/government/news/national-free-school-meals-voucher-scheme-opens-to-orders>>.

⁷⁸ Monroe, op. cit., n. 11; M. Rashford, ‘Meeting with Chartwells’ *Twitter*, 12 January 2021, at <<https://twitter.com/MarcusRashford/status/1348950027541032960>>; Barker and Russell, op. cit., n. 44.

⁷⁹ I. Byrne, ‘#RightToFoodCampaign’ *Ian Byrne*, at <<https://www.ianbyrne.org/righttofood>>.

⁸⁰ Id.; Unite the Union, ‘Right to Food Campaign’ *Unite the Union*, at <<https://www.uniteunion.org/campaigns/right-to-food-campaign/>>.

⁸¹ Food Foundation, op. cit., n. 2; C. Payne, ‘Consumer Price Inflation, UK: April 2022’ ONS, 18 May 2022, at <<https://www.ons.gov.uk/economy/inflationandpriceindices/bulletins/consumerpriceinflation/april2022>>.

⁸² T. Lang, *Feeding Britain: Our Food Problems and How to Fix Them* (2020) 134.

⁸³ CESCR, *Concluding Observations of the Committee on Economic, Social and Cultural Rights: United Kingdom of Great Britain and Northern Ireland, the Crown Dependencies and the Overseas Dependent Territories* (2009) UN Doc E/C.12/GBR/CO/5 3, at <<https://www.ohchr.org/en/documents/concluding-observations/ec12gbrco5-concluding-observations>>.

child-specific right to food exists in the UK, despite the CESCR repeatedly urging the state to ‘domesticate’ the right (enshrine it in UK law).⁸⁴

Significantly, a rights-based approach to combatting food poverty is currently being tabled in Scotland, which provides a glimmer of hope. The Proposed Right to Food (Scotland) Bill aims to incorporate the right to food as contained within the ICESCR into Scottish law, departing from the UK government’s ‘Leave it to Tesco et al.’ strategy.⁸⁵ The proposed Bill would ensure symmetry between international and national law by affirming the Scottish government’s responsibility to ensure that food is available, accessible, and acceptable within Scotland.⁸⁶ While the Bill is certainly a promising development that could ensure more meaningful protection of the right to food in the devolved nation, greater engagement with the right is needed throughout the UK – particularly in light of the increased threats to household food security due to the rising cost of living to be discussed subsequently.

A separate means by which children’s right to food may be recognized in Scotland is the UNCRC (Incorporation) Bill, which, if passed, would implicitly protect the right via the rights to health and development.⁸⁷ However, this project has been paused following the pronouncement of the UK Supreme Court (UKSC) that several of the Bill’s ‘maximalist’⁸⁸ provisions were unlawful, including Section 20(10)(ii), which would have authorized Scottish courts to ‘strike down’ Acts of Parliament to the extent of their incompatibility with the UNCRC.⁸⁹ Yet, the UKSC’s judgment ‘unequivocally confirmed’ that devolved governments are empowered to incorporate human rights treaties provided that they do not exceed their legislative competence; therefore, the Bill should face no barriers once the necessary revisions have been made, strengthening the protection of children’s right to food in Scotland.⁹⁰ Nevertheless, complete incorporation of the UNCRC has yet to occur in England, Wales, and Northern Ireland;⁹¹ thus, even if the Bill receives royal assent, the majority of children in the UK will still not have a right to

⁸⁴ Id.; CESCR, *Concluding Observations on the Sixth Periodic Report of the United Kingdom of Great Britain and Northern Ireland* (2016) UN Doc E/C.12/GBR/CO/6 2, at <<https://digitallibrary.un.org/record/834917?ln=en>>.

⁸⁵ Lang, op. cit., n. 82, p. 74.

⁸⁶ Proposed Right to Food (Scotland) Bill, at <<https://archive2021.parliament.scot/parliamentarybusiness/bills/115201.aspx>>.

⁸⁷ Scottish Parliament Bill 80 UN Convention on the Rights of the Child (Incorporation) (Scotland) Bill (UNCRC (Incorporation) (Scotland) Bill) Session 5 (2020), at <<https://www.parliament.scot/-/media/files/legislation/bills/current-bills/united-nations-convention-on-the-rights-of-the-child-incorporation-scotland-bill/introduced/policy-memorandum-united-nations-convention-on-the-rights-of-the-child-scotland-bill.pdf>>; Scottish Parliament, ‘United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill’ *Scottish Parliament*, at <<https://www.parliament.scot/bills-and-laws/bills/united-nations-convention-on-the-rights-of-the-child-incorporation-scotland-bill>>.

⁸⁸ UNCRC (Incorporation) (Scotland) Bill, id., 2.

⁸⁹ *Reference by the Attorney General and the Advocate General for Scotland: UNCRC (Incorporation) (Scotland) Bill* [2021] UKSC 42 [46], [90].

⁹⁰ K. McCall-Smith, ‘What Remains Following the UNCRC (Incorporation) (Scotland) Bill Reference Judgment?’ *Oxford Human Rights Hub*, 11 October 2021, at <<https://ohrh.law.ox.ac.uk/what-remains-following-the-uncrc-incorporation-scotland-bill-reference-judgment/>>.

⁹¹ Welsh ministers must have due regard to the UNCRC under the Rights of Children and Young Persons (Wales) Measure 2017 (Measure 2). However, the Convention is not recognized as ‘superior’ to domestic legislation; thus, it remains only partially incorporated in Wales. See S. Hoffman, *The Impact of Legal Integration of the UN Convention on the Rights of the Child in Wales* (2019) 49.

food enforceable in domestic courts without similar action being taken by the other national governments.⁹²

4.2 | Austerity measures

The state's resistance to the right to food has permitted the shrinking of the welfare state, which is undoubtedly a leading cause of child food poverty in the UK. Austerity measures were introduced by the Conservative–Liberal Democrat coalition government to rectify the state's colossal budget deficit following the 2007/2008 financial crisis.⁹³ Such measures included the roll-out of Universal Credit, which is gradually replacing six legacy benefits with a single monthly sum.⁹⁴ This has been accompanied by the benefit cap, which currently limits households with children to only £384.62 in benefits per week, or £442.31 if living in London, regardless of the number of children in the household – therefore putting greater strains on larger families.⁹⁵ These policies have caused widespread hardship, with 1.75 million families in the UK experiencing cuts to their benefit entitlement in 2013/2014.⁹⁶ State expenditure for families halved between 2010 and 2018, causing the number of children in poverty to exceed 30 per cent.⁹⁷ The devastating consequences of these measures reveal that the laissez-faire approach of minimal state intervention is antithetical to socioeconomic rights.⁹⁸ Meanwhile, the government has deployed the neoliberal narrative that poverty is self-inflicted, obscuring the catastrophic impact of reduced state expenditure.⁹⁹ Yet, over 50 per cent of children in poverty are from working households,¹⁰⁰ which dispels the 'skivers not strivers' fiction.¹⁰¹

While children's right to food specifically remains the focal point of this research, the gendered effect of the austerity measures is also noteworthy in regard to the greater challenges that mothers

⁹² It is noted that the Well-Being of Future Generations (Wales) Act 2015 requires Welsh public bodies to place sustainability at the centre of their decision making, with the aim, inter alia, of creating a healthier and more equal Wales: see Welsh Government, 'The Well-Being of Future Generations' *Welsh Government*, at <<https://gov.wales/well-being-of-future-generations-wales>>.

⁹³ E. Dowler, 'Food Banks and Food Justice in "Austerity Britain"' in *First World Hunger Revisited: Food Charity or the Right to Food?*, eds G. Riches and T. Silvasti (2014, 2nd edn) 160, at 161.

⁹⁴ HM Treasury, *Spending Review 2010* (2010), at <https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/203826/Spending_review_2010.pdf>; Farthing, op. cit., n. 33, p. 10.

⁹⁵ Gov.uk, 'Benefit Cap' Gov.uk, at <<https://www.gov.uk/benefit-cap/benefit-cap-amounts>>.

⁹⁶ H. Aldridge and T. MacInnes, *Multiple Cuts for the Poorest Families* (2014), at <https://www.npi.org.uk/files/4613/9816/3093/Full_report_-_Multiple_cuts_for_the_poorest_families.pdf>.

⁹⁷ HRW, 'Proportion of UK GDP Spent on Families Has Decreased by Half' *Human Rights Watch*, 2019, at <<https://www.hrw.org/modal/38314#main-content>>; Department for Work and Pensions (DWP), 'Households below Average Income: An Analysis of the Income Distribution FYE 1995 to FYE 2020' Gov.uk, 25 March 2021, at <<https://www.gov.uk/government/statistics/households-below-average-income-for-financial-years-ending-1995-to-2020/households-below-average-income-an-analysis-of-the-income-distribution-fye-1995-to-fye-2020>>.

⁹⁸ B. T. C. Warwick and J. Wills, 'Contesting Austerity: The Potentials and Pitfalls of Socioeconomic Rights Discourse' (2016) 23 *Indiana J. of Global Legal Studies* 629, at 633.

⁹⁹ N. Lieberman, 'The Justiciable Right to Food and Adequate Nutrition in the UK: A Feasible Proposition?' (2020) *Birkbeck Law Rev.* 75, at 77; Dowler, op. cit., n. 93, p. 165.

¹⁰⁰ H. Aldridge et al., 'Monitoring Poverty and Social Exclusion' *Joseph Rowntree Foundation*, 26 November 2012, at <<https://www.jrf.org.uk/report/monitoring-poverty-and-social-exclusion-2012>>.

¹⁰¹ Dowler, op. cit., n. 93, p. 165.

have experienced in providing food for their children as a result.¹⁰² Women continue to bear primary responsibility for the range of tasks involved in feeding children, including planning meals, shopping for food, and cooking.¹⁰³ As such, it is women who are frequently left to contend with cutbacks to state assistance and their impact on household food security.¹⁰⁴

This is most stark in the case of lone mothers who lack the cushion of a partner's income to supplement their own earnings and/or benefits. In 2019, 85 per cent of those affected by the benefit cap specifically were lone mothers.¹⁰⁵ Yet, this policy, established to incentivize unemployed claimants to enter into work, has proved to be ill conceived. In 2019, 69.9 per cent of lone parents, the majority of whom are women, were in employment.¹⁰⁶ However, almost 75 per cent of lone parents were living below the Minimum Income Standard, illustrating the reality of 'in-work poverty'.¹⁰⁷ Frequently trapped in low-paid, part-time roles to fit round their domestic labour, such women have been abandoned by the state and found it impossible to generate enough income to support their families.¹⁰⁸ Thus, the benefit cap has been 'fundamentally more punitive than incentivising'.¹⁰⁹ While the UKSC has recognized that the benefit cap has pushed lone-parent households with young children into poverty, it found this measure to be justified as a matter of public policy, refusing to find a breach of either lone parents' or children's rights.¹¹⁰ This extremely disappointing judgment normalizes the infliction of poverty upon those most reliant upon the state for support, allowing the government's discriminatory policy to remain unchanged.¹¹¹ It further reveals the pitfalls of the lack of recognition of the right to food within national law, leaving applicants no choice but to rely upon the European Convention of Human Rights, which is extremely limited in its capacity to offer meaningful protection to socioeconomic rights and the right to food specifically. The ample evidence of the disproportionate impact of austerity on women flies in the face of the UK's obligations under Article 2(2) of the

¹⁰² E. Dowler and H. Lambie-Mumford, 'How Can Households Eat in Austerity? Challenges for Social Policy in the UK' (2015) 14 *Social Policy and Society* 417; S. Reis, *The Impact of Austerity on Women in the UK* (2018) 1, at <<https://www.ohchr.org/Documents/Issues/Development/IEDebt/WomenAusterity/WBG.pdf>>.

¹⁰³ Office for National Statistics (ONS), 'Women Shoulder the Responsibility of "Unpaid Work"' ONS, 10 November 2016, at <<https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours/articles/womenshouldtheresponsibilityofunpaidwork/2016-11-10>>.

¹⁰⁴ S. Reis, *The Female Face of Poverty: Examining the Cause and Consequences of Economic Deprivation for Women* (2018) 5, at <<https://wbg.org.uk/wp-content/uploads/2018/08/FINAL-Female-Face-of-Poverty.pdf>>.

¹⁰⁵ DWP, 'Benefit Cap: Number of Households Capped to August 2018' Gov.uk, 1 November 2018, at <<https://www.gov.uk/government/statistics/benefit-cap-number-of-households-capped-to-august-2018>>.

¹⁰⁶ Id.; T. Vizard, 'Families and Labour Market, UK: 2019' ONS, 24 October 2019, at <<https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/employmentandemployeetypes/articles/familiesandthelabourmarketengland/2019#employment-activity-of-mothers-and-fathers-in-a-family>>.

¹⁰⁷ J. Wing, 'Three-Quarters of Lone Parent Families, and Rising, Are Living below the Minimum Income Standard' *Loughborough University*, 6 February 2019, at <<https://www.lboro.ac.uk/news-events/news/2019/february/lone-parent-families-living-below-mis/>>.

¹⁰⁸ C. D'Arcy and A. Hurrell, *Escape Plan: Understanding Who Progresses from Low Pay and Who Gets Stuck* (2014) 7, 9, 28, at <<https://www.resolutionfoundation.org/app/uploads/2014/11/Escape-Plan.pdf>>.

¹⁰⁹ L. Lammasniemi, 'The Benefit Cap and the Infliction of Poverty' (2019) 41 *J. of Social Welfare and Family Law* 368, at 369.

¹¹⁰ *R (on the Application of DA and DS and Others) v. Secretary of State for Work and Pensions* [2019] UKSC 21 [89]. In this case, the UKSC held that neither lone parents' nor children's rights under Article 8 and 14 and Article 1 of Protocol 1 of the European Convention on Human Rights had been breached.

¹¹¹ Lammasniemi, op. cit., n. 109, p. 371.

ICESCR and the Convention on the Elimination of All Forms of Discrimination Against Women.¹¹²

In turn, children's food security has been threatened, exemplified by the rise in demand for charitable provision of food. The Trussell Trust, the UK's largest food bank network, distributed 37.5 times as many food parcels in 2019 compared to 2015, revealing the chronic impact of the austerity measures upon access to food.¹¹³ Yet, ministers have repeatedly denied the association between the retrenchment of the welfare state and the emergence of 'Food Bank Britain',¹¹⁴ instead proclaiming that there is an 'almost infinite demand for a free good'.¹¹⁵ Food bank usage increased following the pandemic's further assailment upon household food security, and the ensuing cost-of-living crisis has kept the number of parcels provided by the Trussell Trust above pre-COVID levels.¹¹⁶ The 3.1 per cent increase in benefits from April 2022 has been of little consolation in light of the 9 per cent rise in the Consumer Prices Index in the 2021/2022 financial year.¹¹⁷ The accelerating cost of energy and, subsequently, food owing to Russia's invasion of Ukraine comes at a time where cuts to supermarket value ranges were already 'pricing out the poor' in the UK in the wake of Brexit.¹¹⁸ Though the belated Cost of Living support measures offer some assistance in this regard, families will benefit the least from the £400 energy bill grant, and thus stronger protection against child food insecurity is needed.¹¹⁹

Though the work of charitable initiatives is admirable, the rising reliance upon food banks is a huge cause for concern as it has 'de-politicized the hunger issue'.¹²⁰ The 'symbiotic relationship' between the retrenchment of the welfare state and growth in food bank dependence is unnerving as it has enabled the government to absolve itself of responsibility for food security in the UK, rendering the notion of a right to food meaningless.¹²¹ Furthermore, as food banks are designed to provide food in an emergency, they are unable to target the systemic governmental failures that have caused food insecurity, nor provide all of the nutrients needed for children's development.¹²² Notably, the UN had already condemned the normalization of non-governmental organizations

¹¹² Reis, op. cit., n. 104.

¹¹³ Trussell Trust, 'End of Year Stats' *Trussell Trust*, April 2022, at <<https://www.trusselltrust.org/news-and-blog/latest-stats/end-year-stats/>>.

¹¹⁴ R. B. Woolford, *Food Bank Britain* (2015).

¹¹⁵ Lord Freud, 746 *HL Debs*, col. 1072 (2 July 2013).

¹¹⁶ Trussell Trust, op. cit., n. 6.

¹¹⁷ Id.; Payne, op. cit., n. 81.

¹¹⁸ J. Monroe, 'We're Pricing the Poor out of Food in the UK – That's Why I'm Launching My Own Price Index' *Observer*, 22 January 2022, at <<https://www.theguardian.com/society/2022/jan/22/were-pricing-the-poor-out-of-food-in-the-uk-thats-why-im-launching-my-own-price-index>>. See also P. Hourston, 'Cost of Living Crisis' *Institute for Government*, 17 August 2022, at <<https://www.instituteforgovernment.org.uk/explainers/cost-living-crisis>>; Trussell Trust, op. cit., n. 6.

¹¹⁹ Food Foundation, 'Our Reaction to the Government's New Cost of Living Measures' *Food Foundation*, 27 May 2022, at <<https://foodfoundation.org.uk/news/our-reaction-governments-new-cost-living-measures>>.

¹²⁰ Dowler, op. cit., n. 93, p. 192.

¹²¹ H. Lambie-Mumford, *Addressing Food Poverty in the UK: Charity, Rights and Welfare* (2015) SPERI Paper No. 18, 17, at <<http://speri.dept.shef.ac.uk/wp-content/uploads/2018/11/SPERI-Paper-18-food-poverty-in-the-UK.pdf>>.

¹²² R. Fallaize et al., 'Nutritional Adequacy and Content of Food Bank Parcels in Oxfordshire, UK: A Comparative Analysis of Independent and Organisational Provision' (2020) 33 *J. of Human Nutrition and Dietetics* 477, at 481.

(NGOs) ‘picking up the slack from ... [welfare] cuts’ prior to the pandemic, further demonstrating that the state was already in breach of its duties.¹²³

Moreover, the highly criticized new benefit system, accurately dubbed ‘Universal Discredit’ by former UN Special Rapporteur on Extreme Poverty and Human Rights Philip Alston, has exacerbated existing racial and socioeconomic divisions.¹²⁴ The welfare cuts have had an acute impact on the poorest 20 per cent of households in the UK, with Black and Asian households’ living standards falling by 11.6 per cent and 11.2 per cent respectively, compared to an 8.9 per cent decrease for white households.¹²⁵ Additionally, while BAME children in the UK were already more likely to live in persistently low-income households compared to white British children, this gap has widened since these reforms were introduced¹²⁶ – as per the Equality and Human Rights Commission’s forecast.¹²⁷ This reveals that race and socioeconomic status intersect to multiply the hardship that is experienced by virtue of one singular identity, for children from BAME, low-income backgrounds have borne the brunt of the state’s neoliberal policies.¹²⁸ As a result, racial inequalities in food security have emerged, with those from Black backgrounds consistently over-represented among food bank referrals, both prior to and at the height of COVID-19; they continue to experience higher levels of food insecurity during the current cost-of-living crisis.¹²⁹ Plainly, the entrenchment of austerity and its inordinate impact upon BAME, low-income households is a non-permissible retrogressive measure contrary to the ICESCR, as Alston and the CESCR have rightfully underlined.¹³⁰

4.3 | Food oppression and racial capitalism

The striking inequalities in children’s access to food is strong evidence of food oppression within the UK, defined by Freeman as ‘structural subordination that builds on and deepens pre-existing disparities along race and class lines’.¹³¹ While the term was devised to capture the Federal

¹²³ UN Human Rights Council, *Visit to the United Kingdom of Great Britain and Northern Ireland: Report of the Special Rapporteur on Extreme Poverty and Human Rights* (2019) UN Doc A/HRC/41/39/Add.1 8, at <<https://www.ohchr.org/en/documents/country-reports/ahrc4139add1-visit-united-kingdom-great-britain-and-northern-ireland>>.

¹²⁴ *Id.*, p. 12.

¹²⁵ H. Mott, *Exploring the Economic Impact of Brexit on Women* (2018), at <<https://wb.org.uk/wp-content/uploads/2018/03/Economic-Impact-of-Brexit-on-women-briefing-FINAL-1.pdf>>.

¹²⁶ M. Khaliq, ‘Child Poverty and Education Outcomes by Ethnicity’ ONS, 25 February 2020, at <<https://www.ons.gov.uk/economy/nationalaccounts/uksectoraccounts/compendium/economicreview/february2020/childpovertyandeducationoutcomesbyethnicity#child-poverty-and-ethnicity>>; Gov.uk, ‘Persistent Low Income’ Gov.uk, 10 October 2022, at <<https://www.ethnicity-facts-figures.service.gov.uk/work-pay-and-benefits/pay-and-income/low-income/latest>>.

¹²⁷ H. Reed and J. Portes, *The Cumulative Impact on Living Standards of Public Spending Changes* (2018), at <<https://www.equalityhumanrights.com/sites/default/files/cumulative-impact-on-living-standards-of-public-spending-changes.pdf>>.

¹²⁸ Crenshaw, *op. cit.*, n. 9.

¹²⁹ F. Sosenko et al., *State of Hunger: A Study of Poverty and Food Insecurity in the UK* (2019), at <<https://www.stateofhunger.org/wp-content/uploads/2019/11/State-of-Hunger-Report-November2019-Digital.pdf>>; Food Foundation, *op. cit.*, n. 2.

¹³⁰ CESCR, *op. cit.*, n. 62, p. 3; CESCR, *op. cit.*, n. 83, p. 4; UN Human Rights Council, *op. cit.*, n. 123, p. 8; CESCR, *Letter Dated 16 May 2012 Addressed by the Chairperson of the Committee on Economic, Social and Cultural Rights* (2012) UN Doc HRC/NONE/2012/76 2, at <<https://www2.ohchr.org/english/bodies/cescr/docs/Lettercescrtosp16.05.12.pdf>>.

¹³¹ Freeman, *op. cit.*, n. 12, p. 2245.

Government's complicity in the domination of the fast-food industry in the United States (US), it is equally applicable to the growth in food poverty among BAME children from low-income families following the UK's programme of austerity.¹³² In both instances, individual choices have been identified as the central cause of differences in health and nutrient consumption, diverting attention away from the state's responsibility.¹³³ Just as those from BAME, low-income households have been blamed for their own health issues in the US, obscuring the government's role in the prevalence of fast-food restaurants in neighbourhoods largely inhabited by African Americans and Latinos, so too has food insecurity in the UK been cast as self-inflicted.¹³⁴ Conservative MPs have repeatedly cited the mismanagement of finances¹³⁵ and an inability to 'cook properly'¹³⁶ as the key causes of the hardships that low-income families experience, refusing to acknowledge the systematic racial inequalities that have been perpetuated by the state's reductions in welfare.

The implications of the UK's non-recognition of the right to food and subsequent conceptualization of food as a commodity also attests to capitalism's predication upon race stratification. As outlined by Robinson, the concept of racial capitalism recognizes that capital 'can only accumulate by producing and moving through relations of severe inequality among human groups', leeching off the 'unequal differentiation of human value'.¹³⁷ The UK's neoliberal agenda has been pursued at the expense of those from BAME and low-income households, as has been demonstrated through the patterns of child food poverty.¹³⁸ Austerity in the UK is both rooted in and sustains racial capitalism; it has built upon centuries of exploitation and further contributed to the normalization of deprivation based on racial identity.¹³⁹ The disproportionate impact of COVID-19 upon BAME individuals in the UK, which is equally as stark in mortality rates as it is in food insecurity, is further testament to the 'mutually constitutive' relationship between the accumulation of capital and the preservation of racial inequalities.¹⁴⁰

The recent application of the concept of racial capitalism to contemporary issues, including environmental justice and the COVID-19 pandemic, is illustrative of its utility as an epistemological tool,¹⁴¹ however, its full potential remains untapped. Racial capitalism, like intersectionality, must be understood not merely as a theory, but as a tool of disruption that challenges structures of

¹³² Id.

¹³³ Id., pp. 2221–2222; Dowler, op. cit., n. 93, p. 165; Lieberman, op. cit., n. 99.

¹³⁴ Id.

¹³⁵ BBC News, 'Michael Gove "Insulted" Food-Bank Users, Says Labour' BBC News, 10 September 2013, at <<https://www.bbc.co.uk/news/uk-politics-24042446>>.

¹³⁶ L. Anderson, 714 *HC Debs*, col. 185 (11 May 2022).

¹³⁷ Robinson, op. cit., n. 12, p. 77.

¹³⁸ T. Vickers, 'Activist Conceptualisation at the Migration–Welfare Nexus: Racial Capitalism, Austerity and the Hostile Environment' (2020) 41 *Critical Social Policy* 426.

¹³⁹ Id.; Robinson, op. cit., n. 12, p. 77; Melamed, op. cit., n. 12.

¹⁴⁰ W. N. Laster Pirtle, 'Racial Capitalism: A Fundamental Cause of Novel Coronavirus (COVID-19) Pandemic Inequities in the United States' (2020) 47 *Health, Education and Behaviour* 504, at 505. See also V. Wilson, 'Inequities Exposed: How COVID-19 Widened Racial Inequities in Education, Health and the Workforce' *Economic Policy Institute*, 22 June 2020, at <<https://www.epi.org/publication/covid-19-inequities-wilson-testimony/>>; House of Commons Women and Equalities Committee, Third Report, *Unequal Impact? Coronavirus and BAME People* (2020) HC (2019–2021) 384, at <<https://committees.parliament.uk/publications/3965/documents/39887/default/>>.

¹⁴¹ Laster Pirtle, id.; L. Pulido, 'Flint, Environmental Racism, and Racial Capitalism' (2016) 27 *Capitalism Nature Socialism* 1; D. Pellow and J. Vazin, 'The Intersection of Race, Immigration Status, and Environmental Justice' (2019) 11 *Sustainability* 1; A. P. Harris, 'Foreword' in *Histories of Racial Capitalism*, eds D. Jenkins and J. LeRoy (2021) xiv.

inequality.¹⁴² It invites us to look beyond the existing systems of oppression and create solutions that dismantle the entire capitalist order, ensuring that change is sustainable.¹⁴³

5 | PROPOSALS

The preceding analysis has emphasized that the government's disregard of children's right to food must be rectified. A series of recommendations to the state are now presented, informed by an intersectional approach to addressing the increased vulnerability of BAME children from low-income backgrounds.

5.1 | Strengthening the welfare state

As the government's neoliberal policies lie at the heart of the food poverty of BAME children from low-income households, both prior to and during the COVID-19 pandemic and the cost-of-living crisis, it is essential that the state commits to strengthening its welfare provision to minimize reliance on the voluntary sector. Furthermore, the continued operation of the highly damaging austerity measures, including the Universal Credit system and benefit cap, has been demonstrated to constitute a violation of international law, which must be rectified.¹⁴⁴

Ultimately, so long as capitalism remains the ruling force, racial justice will remain a fantasy.¹⁴⁵ While the death of capitalism may seem an impossibility, in the context of food security it can begin with the state's recognition of food as an entitlement, rather than simply a commodity. Food must be available to all children, as enshrined within international law. Thus, state support needs to be increased to ensure that all families can afford enough food to meet their children's needs and thereby eradicate race- and income-based barriers to healthy diets.

One possible measure is the introduction of Universal Basic Income (UBI), broadly understood as the provision of a 'fixed, unconditional and individual regular stipend'¹⁴⁶ to all citizens constituting 'just enough money to live on'.¹⁴⁷ Modelling has illustrated the strong potential of this policy as a means of reducing poverty in the UK, which in turn could improve access to food for children currently living in low-income households by increasing household food budgets.¹⁴⁸

¹⁴² Association for Women's Rights in Development, *Intersectionality: A Tool for Gender and Economic Justice* (2004), at <https://www.awid.org/sites/default/files/atoms/files/intersectionality_a_tool_for_gender_and_economic_justice.pdf>; D. Jenkins and J. LeRoy, 'The Old History of Capitalism' in eds Jenkins and LeRoy, id., p. 15.

¹⁴³ Jenkins and LeRoy, id.; Melamed, op. cit., n. 12, p. 80.

¹⁴⁴ CESCR, op. cit. (2012), n. 130.

¹⁴⁵ Jenkins and LeRoy, op. cit., n. 142.

¹⁴⁶ J. De Henau et al., *Modelling Universal Basic Income Using UKMOD* (2021) CeMPA Working Paper Series 03/21 1, at <<https://www.iser.essex.ac.uk/research/publications/working-papers/cempa/cempa3-21.pdf>>.

¹⁴⁷ P. Loft et al., *The Introduction of Universal Basic Income* (2020) Debate Pack No. CDP0096, 2, at <<https://researchbriefings.files.parliament.uk/documents/CDP-2020-0096/CDP-2020-0096.pdf>>.

¹⁴⁸ S. Lansley and H. Reed, *Basic Income for All: From Desirability to Feasibility* (2019), at <https://www.compassonline.org.uk/wp-content/uploads/2019/03/Compass_BasicIncomeForAll_2019.pdf>; De Henau et al., op. cit., n. 146, pp. 17–18; Autonomy, *A Future Fit for Wales: A Basic Income for All* (2021) 5, at <<https://www.futuregenerations.wales/wp-content/uploads/2021/11/Nov-2021-Summary-v2.pdf>>.

While the state has cited the huge funds required for this proposal as a significant barrier to its implementation, independent research estimates the cost of UBI to be £67 billion a year – less than a quarter of the government's approximation.¹⁴⁹ Consequently, the state is encouraged to conduct further investigation into the logistics of this highly appealing programme before dismissing it as unfeasible.

Similarly, the state's concern that UBI would deter individuals from working fails to recognize that only the absolute minimal financial assistance that individuals require to meet their basic needs would be provided.¹⁵⁰ As such, citizens would still be motivated to undertake paid labour to meet their 'higher-order' needs, as per Maslow's 'theory of human motivation',¹⁵¹ which is supported by the success of trials of UBI in India and Namibia.¹⁵² Additionally, the 'fragility' of the UK's labour market, exposed by the COVID-19 pandemic but engendered by the rise of the gig economy and other insecure labour roles, illustrates the need for a strong social security net to be implemented for when individuals cannot work.¹⁵³ Thus, UBI is needed to offer 'stability and predictability', as Sloman succinctly summarizes, which could in turn boost societal happiness and confidence in government.¹⁵⁴

However, while UBI would improve income security, the introduction of a *minimum* level of protection for all households will not necessarily eradicate racial wealth and health *inequalities*, as Bhattacharya recognizes.¹⁵⁵ If UBI is to redress the race- and income-based disparities in children's access to food specifically, a 'UBI plus' model may need to be considered, whereby payments are tiered to target the structural causes of poverty and reflect the specific economic challenges that BAME, low-income families face in feeding their children.¹⁵⁶ Warren's proposal of such a system, while designed with the US in mind, provides an illustration of how such a policy could take shape and be utilized to formulate a programme tailored to the UK context.¹⁵⁷ While Warren's suggestion of an supplementary payment for Black Americans alongside UBI acts as a form of reparations for the exploitation of Black labour and enduring racial hierarchies notwithstanding the abolition of slavery, BAME, low-income families in the UK are also in need of additional support for the

¹⁴⁹ K. Widerquist, 'Basic Income Could Virtually Eliminate Poverty in the United Kingdom at a Cost of £67 Billion per Year' *openDemocracy*, 14 August 2020, at <<https://www.opendemocracy.net/en/beyond-trafficking-and-slavery/basic-income-could-virtually-eliminate-poverty-in-the-united-kingdom-at-a-cost-of-67-billion-per-year/>>; Loft et al., op. cit., n. 147, p. 3; H. Quilter-Pinner and D. Hochlaf, 'Austerity: There Is an Alternative and the UK Can Afford to Deliver It' *IPPR*, 18 April 2019, at <<https://www.ippr.org/blog/austerity-there-is-an-alternative-and-the-uk-can-afford-to-deliver-it>>.

¹⁵⁰ Loft et al., id.; A. Lowrey, *Give People Money: How a Universal Basic Income Would End Poverty* (2018) 4.

¹⁵¹ J. Hugill and M. Franklin, 'The Wisdom of a Universal Basic Income' *Behavioral Scientist*, 19 October 2017, at <<https://behavioralscientist.org/wisdom-universal-basic-income/>>; A. H. Maslow, 'A Theory of Human Motivation' (1943) 50 *Psychological Rev.* 370.

¹⁵² A. Gupta, 'India Flirts with a Universal Basic Income' *Economist*, 2 February 2017, at <<https://www.economist.com/finance-and-economics/2017/02/02/india-flirts-with-a-UBI>>; C. Haarmann and D. Haarmann, *Piloting Basic Income in Namibia: Critical Reflections on the Process and Possible Lessons* (2012), at <<https://www.basicincome.org/bien/pdf/munich2012/haarmann.pdf>>.

¹⁵³ P. Sloman, 'Time for Basic Income?' (2020) 28 *Renewal* 27, at 30.

¹⁵⁴ Id. See also Hugill and Franklin, op. cit., n. 151.

¹⁵⁵ J. Bhattacharya, *Exploring Guaranteed Income through a Racial and Gender Justice Lens* (2019) 9, at <https://rooseveltinstitute.org/wp-content/uploads/2020/07/RI_UBI-Racial-Gender-Justice-brief-201906.pdf>.

¹⁵⁶ D. Warren, 'A Universal Basic Income +' *Economic Security Project*, 10 October 2017, at <<https://medium.com/economicsecproj/a-universal-basic-income-1db1606b3728>>; id., pp. 13–14.

¹⁵⁷ Warren, id.

sacrificial role that they have been forced to assume in the age of austerity.¹⁵⁸ Though this proposal evidently requires further exploration if it is to be adopted in the UK, it nevertheless provides an indication of the measures required to redistribute wealth and ensure that children's right to food is enjoyed equally across the boundaries of race and income.

5.2 | Domesticating children's right to food

Second, the UK should domesticate children's right to food, as the CESCR and academics have repeatedly recommended.¹⁵⁹ This would combat the 'legal black hole' that Shields notes currently exists regarding the right to food in the UK, ensuring that the government is held accountable for its actions.¹⁶⁰ A domestic right would also signify the state's recognition of food as a necessity, moving closer towards Pol's vision of food as a 'commons' rather than a luxury only reserved for the privileged.¹⁶¹ While there remains a lack of support for this measure within Parliament, the power of civil society's lobbying must not be underestimated, as illustrated through the government's reversal of its policies regarding the extension of FSM vouchers outside of term time during the COVID-19 pandemic.¹⁶² Equally, the increasing number of municipalities embracing the right to food and joining the national campaign to domesticate that right is evidence of its entrance into popular consciousness.¹⁶³ Accordingly, it is the optimum time for this reform while the right-to-food movement still carries momentum.¹⁶⁴ This legislative change, coupled with the proposed increase in public spending, could safeguard children's entitlement to adequate food, bringing the national law in line with the UK's international obligations.

The most desirable outcome would be the introduction of a general right to food in domestic law, allowing all UK citizens to enforce their right in national courts, as has been advocated within the academy and civil society.¹⁶⁵ Enacting legislation that mirrors the language used within the ICESCR would be the key for consistency, similar to the approach adopted in Member of the Scottish Parliament (MSP) Rhoda Grant's Proposed Right to Food (Scotland) Bill.¹⁶⁶ However, the

¹⁵⁸ Id.; Vickers, op. cit., n. 138.

¹⁵⁹ CESCR, op. cit., n. 83; CESCR, op. cit. (2016), n. 84; G. Riches and T. Silvasti, 'Hunger and Food Charity in Rich Societies: What Hope for the Right to Food?' in eds Riches and Silvasti, op. cit., n. 93, p. 202; E. Dickson and I. Richmond-Bishop, *Briefing Paper: Free School Meals and Immigration Policy* (2020), at <https://www.sustainweb.org/publications/free_school_meals_immigration_policy/>; K. Shields, 'Free School Meals and Governmental Responsibility' *UK Human Rights Blog*, 22 October 2020, at <<https://ukhumanrightsblog.com/2020/10/22/free-school-meals-and-governmental-responsibility-dr-kirsteen-shields/>>; Lieberman, op. cit., n. 99, p. 117.

¹⁶⁰ Shields, id. See G. Kent, 'Children's Right to Adequate Nutrition' (1993) 1 *International J. of Children's Rights* 133, at 146.

¹⁶¹ J. L. V. Pol, 'Why Food Should Be a Commons Not a Commodity' *Our World*, 16 October 2013, at <<https://ourworld.unu.edu/en/why-food-should-be-a-commons-not-a-commodity>>.

¹⁶² Riches and Silvasti, op. cit., n. 159; Siddique, op. cit., n. 43.

¹⁶³ Byrne, op. cit., n. 79; Unite the Union, op. cit., n. 80.

¹⁶⁴ R. Sanders, 'COVID-19, Low Incomes and Poverty' *IRISS*, 14 July 2020, at <<https://www.iriss.org.uk/resources/esss-outlines/covid-19-low-incomes-and-poverty>>.

¹⁶⁵ CESCR, op. cit., n. 83; CESCR, op. cit. (2016), n. 84; Lieberman, op. cit., n. 99, p. 119; Byrne, op. cit., n. 79; Unite the Union, op. cit., n. 80; K. Dalmeny, 'Putting Food on the Political Plate: Why We Need Good Food in Law' *Sustain*, 2 December 2021, at <<https://www.sustainweb.org/blogs/dec21-why-we-need-a-food-bill/>>.

¹⁶⁶ E. Smith, *Proposed Right to Food (Scotland) Bill: A Proposal for a Bill to Incorporate the Human Right to Food into Scots Law* (2020) 6–7, 22–24, at <https://archive2021.parliament.scot/S5MembersBills/20200623_Final_Right_to_Food_Bill.pdf>.

creation of a domestic right to food also presents the opportunity to consider how the legislation could be tailored to best fit the UK context, which should not be ruled out. Consultations with professionals and academics within this domain, as well as representatives from public- and third-sector organizations, should therefore be conducted to help to formulate a legal right with maximal impact.¹⁶⁷

Nevertheless, if a universal right to food in the UK remains out of reach for the time being, then at the very least children's right to food specifically must be protected in national law in light of their heightened vulnerability, with a view to eradicating the current race- and income-based inequalities. While racial justice cannot be achieved through the creation of legal rights alone, a rights-based approach is needed to frame the food insecurity overwhelmingly experienced by children from BAME and low-income backgrounds as a violation for which the state is responsible.¹⁶⁸ Legislation domesticating children's right to food could again utilize the language of the ICESCR and the CESCR's general comments, which have substantiated the right; however, it would also need to channel the spirit of the UNCRC, perhaps imposing an explicit obligation upon the state to ensure that children's nutritional needs are met at all times. While this would primarily be the responsibility of parents and carers, as stipulated in the UNCRC, it would fall upon the state to realize the right where they are unable to do so, bringing the national law in line with international standards.

5.3 | Addressing the deficiencies of FSM

Currently, 46 per cent of BAME children live in poverty, yet only 18 per cent are eligible for FSM.¹⁶⁹ The introduction of UBI, alongside additional payments for BAME, low-income families if the 'plus' model is adopted, would ensure that all parents are able to provide their children with an adequate lunch or an allowance to purchase a meal at school, removing the need for FSM.¹⁷⁰ Indeed, Morelli and Seaman's evaluation of the spectrum of policies available pertaining to children's access to food concludes that the current 'wholly inadequate method' would be best replaced by 'universal provision', such as UBI, to ensure that vulnerable children no longer fall through the cracks.¹⁷¹ Furthermore, monetary assistance would circumvent the stigma produced by FSM, thereby improving BAME, low-income children's socialization alongside their access to food.¹⁷²

¹⁶⁷ Id.

¹⁶⁸ N. Ramanujam et al., 'From Justiciability to Justice: Realizing the Human Right to Food' (2015) 11 *McGill J. of Sustainable Development Law* 1, at 38; C. M. Pollard and S. Booth, 'Food Insecurity and Hunger in Rich Countries: It Is Time for Action against Inequality' (2019) 16 *International J. of Environmental Research and Public Health* 1; Jenkins and LeRoy, op. cit., n. 142, p. 13.

¹⁶⁹ DWP, 'Households below Average Income: 1994/95 to 2017/18' *Gov.uk*, 28 March 2019, at <<https://www.gov.uk/government/statistics/households-below-average-income-199495-to-201718>>; Ford, op. cit., n. 22; Child Poverty Action Group, 'Child Poverty Facts and Figures' *Child Poverty Action Group*, 2021, at <<https://cpag.org.uk/child-poverty/child-poverty-facts-and-figures>>.

¹⁷⁰ Loft et al., op. cit., n. 147, p. 2; A. Garnham, 'Is Food the Right Response to Child Hunger?' *Child Poverty Action Group*, 13 January 2020, at <<https://cpag.org.uk/news-blogs/news-listings/food-right-response-child-hunger>>.

¹⁷¹ C. J. Morelli and P. T. Seaman, 'Universal versus Targeted Benefits: The Distributional Effects of Free School Meals' (2005) 23 *Environment and Planning C: Politics and Space* 583, at 596.

¹⁷² Garnham, op. cit., n. 170; Farthing, op. cit., n. 33, p. 29.

Nevertheless, it is recognized that the replacement of FSM with direct monetary assistance is viewed by some as a risky strategy, with opponents arguing that parents may instead use the money for other things.¹⁷³ While there is no guarantee that the funds will be used to ensure that children are eating healthily, the argument that parents with low incomes cannot be ‘trusted’ to spend money wisely is prejudicial and only perpetuates the myth that poverty is self-inflicted.¹⁷⁴ Instead, UBI must be viewed as a way of affording ‘dignity and respect’ to all households by ensuring that everyone has an equal opportunity to exercise free will over their food purchases.¹⁷⁵ Moreover, those who are used to living in food poverty will be accustomed to spending their money frugally, as Kirkup notes.¹⁷⁶ Even so, supermarkets could promote recipe cards demonstrating how healthy meals can be made on a budget, something in which parents from low-income households have already expressed interest.¹⁷⁷ Consequently, diverting the funds currently channelled to FSM towards UBI could be an effective method of targeting the existing racial and socioeconomic inequalities, protecting the right to food for all children.

5.4 | Tackling child hunger during crises

The COVID-19 pandemic has emphasized the need for additional protection to be offered during times of crisis. Accordingly, it is fundamental that the government develops a contingency plan in the event of future emergencies to ensure that all children have sufficient access to food at all times and that any progress in the fight against equality is not surrendered.

Food parcels have proven to be an ineffective strategy to date, prompting parents to express their desire to receive vouchers or monetary payments instead.¹⁷⁸ Even if the government were to provide higher-quality parcels, the erosion of autonomy through this method is condescending, and in any case it may not be the most effective way of meeting individual children’s dietary requirements.¹⁷⁹ Moreover, the limitations of the voucher scheme have been noted, specifically the difficulties that parents experienced trying to utilize the vouchers.¹⁸⁰ Even if this practical challenge was overcome, voucher systems, like food parcels, have been recognized by

¹⁷³ P. Franklin, ‘Free Money or Free School Meals? There’s Another Option’ *Post*, 2 February 2021, at <<https://unherd.com/the-post/free-money-or-free-school-meals-theres-another-option/>>.

¹⁷⁴ J. Kirkup, ‘Just Give Them Cash: A Solution to the Free School Meal Box Row’ *Spectator*, 12 January 2021, at <<https://www.spectator.co.uk/article/just-give-them-cash-a-solution-to-the-free-school-meal-box-row>>; V. Wood, ‘Government Urged to Give Impoverished Parents Cash instead of Vouchers after Uproar over Free School Meals’ *Independent*, 12 January 2021, at <<https://www.independent.co.uk/news/uk/politics/free-school-meals-lockdown-vouchers-b1786331.html>>; Aldridge and MacInnes, op. cit., n. 96.

¹⁷⁵ Wood, id.

¹⁷⁶ Kirkup, op. cit., n. 174.

¹⁷⁷ Feeding Britain, *A Hunger Free UK: Our Vision 2018* (2018), at <https://feedingbritain.org/wp-content/uploads/2019/01/A_Hunger_Free_UK_2018.pdf>; S. Coughlan, ‘Marcus Rashford’s Budget Cookery Serves Up Fish Finger Sandwich’ *BBC News*, 22 April 2021, at <<https://www.bbc.co.uk/news/education-56825700>>; P. Butler, ‘Four Million UK Children Too Poor to Have a Healthy Diet, Study Finds’ *Guardian*, 5 September 2018, at <<https://www.theguardian.com/society/2018/sep/05/four-million-uk-children-too-poor-to-have-a-healthy-diet-study-finds>>.

¹⁷⁸ J. Monroe, ‘The Government Must Listen to the Voices of Food Poverty’ *Observer*, 17 January 2021, at <<https://www.theguardian.com/commentisfree/2021/jan/17/the-government-must-listen-to-the-voices-of-food-poverty>>.

¹⁷⁹ Kirkup, op. cit., n. 174.

¹⁸⁰ Barker and Russell, op. cit., n. 44.

campaigners such as Mary-Ann Stephenson as “deeply patronising”.¹⁸¹ Similarly, Alison Garnham, Chief Executive of the Child Poverty Action Group, has criticized vouchers for the shame that they can bring upon parents, which could be incredibly damaging for BAME, low-income families who are already severely marginalized.¹⁸² Consequently, it is recommended that the government departs from its earlier failed strategies of food parcels and vouchers.

Instead, supplementary monetary payments ought to be awarded alongside UBI to the most vulnerable families during times of crisis such as COVID-19, whereby eligibility could correspond with the tiered ‘UBI plus’ system to target the race- and income-based health inequalities among children. Like UBI, additional cash transfers recognize the value of income support for improving the physical, cognitive, and social development of children from economically disadvantaged backgrounds, as has been evidenced through a review of studies undertaken in the European Union (EU) and Organisation for Economic Co-Operation and Development (OECD) Member States.¹⁸³ This policy would also maximize parents’ autonomy by empowering them to choose the food that they purchase for their children.¹⁸⁴ As Power and colleagues note, this would enable families to cater to their children’s individual needs, unlike the broad-brush approach adopted by the government and contracted caterers previously.¹⁸⁵ Similar schemes offering financial aid instead of food parcels or vouchers piloted in Northern Ireland¹⁸⁶ and Scotland¹⁸⁷ in response to the COVID-19 pandemic illustrate the viability of this recommendation, and have been welcomed by civil society, in stark contrast to the backlash against the government’s strategy.¹⁸⁸

While it is acknowledged that providing additional support during emergencies would be a costly exercise, it is warranted by the impact of malnutrition on children’s development outlined previously.¹⁸⁹ With the government recently under scrutiny for its ‘scandalous’ spending

¹⁸¹ Wood, op. cit., n. 174.

¹⁸² A. Garnham, ‘Why Food Is Not the Answer to Hunger in the UK’ *Child Poverty Action Group*, 5 April 2019, at <<https://cpag.org.uk/news-blogs/news-listings/why-food-not-answer-hunger-uk>>. See also O’Connell et al., op. cit., n. 34, p. 24.

¹⁸³ K. Cooper and K. Stewart, ‘Does Household Income Affect Children’s Outcomes? A Systematic Review of the Evidence?’ (2021) 14 *Child Indicators Research* 981.

¹⁸⁴ Wood, op. cit., n. 174.

¹⁸⁵ Power et al., op. cit., n. 15, p. 8.

¹⁸⁶ In Northern Ireland, payments were made to families with children eligible for free school meals in all school holidays from April 2020 to April 2022: see M. Bain, ‘Free School Meals in NI to Be Extended over the Summer’ *Belfast Telegraph*, 20 June 2020, at <<https://www.belfasttelegraph.co.uk/news/health/coronavirus/free-school-meals-in-ni-to-be-extended-over-summer-39300426.html>>; R. Meredith, ‘Free School Meals: Meals to Be Funded during Holidays until 2022’ *BBC News*, 19 November 2020, at <<https://www.bbc.co.uk/news/uk-northern-ireland-55009536>>.

¹⁸⁷ In Scotland, a £30 million coronavirus food fund was initially announced to be used by local authorities to feed those most in need, including children eligible for free school meals. Councils had the option to use the fund in a variety of ways to best meet local needs, including cash transfers: see Scottish Government, ‘Coronavirus Food Fund’ *Scottish Government*, 5 April 2020, at <<https://www.gov.scot/news/coronavirus-food-fund/>>.

¹⁸⁸ Preference for direct monetary payments above all other strategies to combat child food insecurity can be found throughout the literature: see for example A. Bhattacharya and J. Shepherd, *Measuring and Mitigating Child Hunger in the UK* (2020), at <<https://www.smf.co.uk/wp-content/uploads/2020/12/Measuring-mitigating-child-hunger-Dec-20.pdf>>; B. Smith, “‘Is This Idea Better than Giving People Cash?’: Think Tank Proposes New Test for Welfare Policies’ *Civil Service World*, 2 February 2021, at <<https://www.civilserviceworld.com/news/article/free-school-meal-parcels-consider-cash-transfers-instead-think-tank-says>>; A. Bhattacharya, *Give Me Money (That’s What I Want): The Case for Cash Benchmarking* (2021), at <<https://www.smf.co.uk/wp-content/uploads/2021/02/The-case-for-cash-benchmarking-February-2021.pdf>>.

¹⁸⁹ M. Caraher and S. Furey, *The Economics of Emergency Food Aid Provision: A Financial, Social and Cultural Perspective* (2018) vi; Apodaca, op. cit., n. 58, p. 1; Engle, op. cit., n. 59, p. 130.

on an ineffective test-and-trace system and personal protective equipment in response to the pandemic,¹⁹⁰ it is imperative that state expenditure is reassessed – with greater investments made into children's futures.¹⁹¹ Given the great economic benefits of policies designed to support disadvantaged children for both the individual and the state, offering cash payments in addition to UBI during times of crisis is a compelling proposal to improve access to food.¹⁹²

5.5 | Transforming the role of NGOs

As the previous recommendations aim to shift the burden of providing food for impoverished children from civil society to the state, in accordance with international law, this presents the opportunity for NGOs to use their resources more effectively to end food oppression. They should focus on the fundamental task of holding the government to account.¹⁹³ This could be achieved via the parallel reports mechanism, which enables concerns regarding the realization of children's right to food in the UK to be channelled through NGOs and communicated to the CESCR and the UN Committee on the Rights of the Child.¹⁹⁴ As Lambie-Mumford suggests, NGOs should transition towards a 'social and political ... rather than a food-based role'.¹⁹⁵ This shift in focus could increase the pressure on the government to fulfil its obligations, as well as to implement and protect a domestic right to food for children, while retaining the valued expertise that such organizations provide.¹⁹⁶ Though it is conceded that the dependence on food banks and civil-society initiatives cannot be eliminated overnight, these proposals constitute an ongoing project to move away from a state plagued by austerity and towards one in which all children can enjoy the right to food.¹⁹⁷

While reports from charities such as the Food Foundation and Sustain have illuminated the growing problem of child food insecurity in the UK, particularly as a consequence of COVID-19 and the cost-of-living crisis,¹⁹⁸ racial inequalities continue to be overlooked. The Trussell Trust's

¹⁹⁰ G. Iacobucci, 'COVID-19: Government Is Criticised for "Scandalous" £10bn Spent on Test and Trace Programme' (2020) 370 *Brit. Medical J.* 1. See also T. Rees and L. Burden, 'Calls for Inquiry after Treasury Reveals £15bn Cost of PPE' *Telegraph*, 8 July 2020, at <<https://www.telegraph.co.uk/business/2020/07/08/calls-inquiry-treasury-reveals-15bn-cost-ppe/>>.

¹⁹¹ British Medical Association, *Cutting Away at Our Children's Futures: How Austerity Is Affecting the Health of Children, Young People and Families* (2016), at <<https://www.bma.org.uk/media/2060/cutting-away-at-our-childrens-futures-austerity-child-health-guuk-2016.pdf>>.

¹⁹² V. Ming, 'The Long-Term Benefits of Investing in Our Children's Future' *World Economic Forum*, 23 November 2015, at <<https://www.weforum.org/agenda/2015/11/the-long-term-benefits-of-investing-in-our-childrens-future/>>; J. Martella et al., 'Why Does Investing in Young Children Matter?' *Education Development Center*, 23 January 2017, at <<https://www.edc.org/why-does-investing-young-children-matter>>.

¹⁹³ Dowler, op. cit., n. 93, p. 175; Kent, op. cit., n. 160, p. 146.

¹⁹⁴ CESCR, 'Guidelines for Civil Society, NGOs and NHRIs' *UN OHCHR*, at <<https://www.ohchr.org/EN/HRBodies/CESCR/Pages/NGOs.aspx>>; L. Theytaz et al., *The Reporting Cycle of the Committee on the Rights of the Child: A Guide for NGOs and NHRIs* (2014), at <https://www.ohchr.org/Documents/HRBodies/CRC/GuideNgoSubmission_en.pdf>.

¹⁹⁵ Lambie-Mumford, op. cit., n. 121, p. 20.

¹⁹⁶ Id.

¹⁹⁷ Kent, op. cit., n. 160, p. 146.

¹⁹⁸ S. Goudie and Z. McIntyre, *A Year of Children's Food 2020–2021* (2021), at <<https://foodfoundation.org.uk/publication/year-childrens-food-2020-2021>>; N. Musowo et al., *COVID-19 and Children's Food: Parents' Priorities for Building Back Better* (2020), at <https://www.sustainweb.org/publications/covid19_childrens_food/>.

annual reports of the profile of food bank users referenced previously have uncovered the overrepresentation of Black households referred to the network. Such unacceptable statistics exposing the disproportionate impact of austerity upon BAME, low-income families need to be utilized by civil society in its campaign for welfare reform. Awareness that food poverty is largely produced by the intersection of race and income is essential if it is to be eradicated; without such recognition, its structural causes will persist. Thus, NGOs, in their proposed new role as a force for change, must place these concerns at the centre of their advocacy.

6 | CONCLUSION

The food parcels distributed to pupils eligible for FSM during the COVID-19 pandemic, while alarming, represent only the tip of the iceberg of child food poverty in the UK. Behind these images are millions of children who are unable to access adequate food – a disproportionate number of whom are from BAME, low-income backgrounds. Yet, these race- and income-based health disparities predate the pandemic; while COVID-19 has illuminated and exacerbated their severity, they can be traced back to the state's programme of austerity, which continues to ravage the most marginalized communities today, compounded by the cost-of-living crisis. The adoption of an intersectional approach is essential for understanding these inequalities as a form of food oppression, which attests to capitalism's predication upon racial hierarchies. Meanwhile, the government has cast poverty as self-inflicted, absolving itself from responsibility and forcing individuals to turn to the charitable provision of food for their survival. Above all, the government is failing to meet its duty to ensure that children's right to food within the state is realized.

A domestic right to food enshrining the state's duties owed to children is the most desirable legal solution; however, this must be coupled with increased welfare expenditure if BAME children from low-income backgrounds are to have any chance of enjoying their right to food. The introduction of UBI could remove the need for FSM, but a 'plus' model that scales payments may be necessary if race- and income-based health and wealth inequalities are to be effectively eradicated. Additionally, the state must learn from its failings during the COVID-19 pandemic and provide monetary payments to the most disadvantaged families during emergencies to avoid any hard-fought gains from being lost. With the implementation of these changes, NGOs could focus on holding the state accountable, shifting the provision of food from being based on charity to being in accordance with a legal right.

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