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# The role of dignity in rights-based food policy in the UK

Clare James\*

## 1. Introduction

The UK remains in a crisis in relation to the right to food. During the COVID-19 pandemic issues relating to the right to food became front page news. Foodbank usage increased and the food insecurity of some children during school holidays captured the nation's conscience.<sup>1</sup> Food insecurity and foodbank usage have continued to rise post-pandemic during the cost-of-living crisis.<sup>2</sup> At the same time, the UK faces rising levels of obesity.<sup>3</sup> The reasons for food insecurity and obesity are both complex and interlinked. It is widely accepted that low incomes combined with increasing costs have contributed to the rising levels of food insecurity in the UK.<sup>4</sup> The changes

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- 1 During the pandemic, in April 2020 the Trussell Trust reported an 89% increase in demand. See: The Trussell Trust, 'Summary Findings on the Impact of the Covid-19 Crisis on Food Banks' (June 2020) <[www.trusselltrust.org/wp-content/uploads/sites/2/2020/06/APRIL-Data-briefing\\_external.pdf](http://www.trusselltrust.org/wp-content/uploads/sites/2/2020/06/APRIL-Data-briefing_external.pdf)> accessed 18 March 2024; Marcus Rashford campaigned to ensure free school meal provision was maintained during school holidays, see, for example: Haroon Siddique, 'Marcus Rashford Forces Boris Johnson into Second U-turn on Child Food Poverty' *The Guardian* (8 November 2020) <[www.theguardian.com/education/2020/nov/08/marcus-rashford-forces-boris-johnson-into-second-u-turn-on-child-food-poverty](http://www.theguardian.com/education/2020/nov/08/marcus-rashford-forces-boris-johnson-into-second-u-turn-on-child-food-poverty)> accessed 16 April 2024.
- 2 The Trussell Trust, 'Emergency Food Parcel Distribution in the UK 1 April 2023–31 March 2024' <<https://cms.trussell.org.uk/sites/default/files/wp-assets/EYS-UK-Factsheet-2023-24.pdf>> accessed 29 January 2025> accessed 30 January 2025.
- 3 Department of Health and Social Care, 'Obesity profile' <<https://fingertips.phe.org.uk/profile/national-child-measurement-programme/data#page/6/gid/1938133368/pat/15/par/E92000001/ati/6/are/E12000004/iid/93088/age/168/sex/4/cat/-1/ctp/-1/yr/1/cid/4/tbm/1/page-options/car-do-0>> accessed 30 January 2025.
- 4 Isabel Rice and Kath Dalmeny, 'Lessons from Two Decades of Campaigning on Food Poverty' *Trust for London* (20January 2025) <<https://trustforlondon.org.uk/news/london-food-poverty/>> accessed 30 January 2025.

to the welfare benefit system in the UK, with the introduction of Universal Credit, the two-child limit and the benefit cap have all contributed to increased demand for food banks.<sup>5</sup> As people's incomes fall and costs go up, food is often the first necessity they forgo to pay for fixed costs such as rent and energy bills.<sup>6</sup>

At the same time poverty contributes to malnutrition and obesity. The poorest fifth of families would have to spend 47% of their disposable income to purchase a diet that meets government guidance in terms of nutritional content.<sup>7</sup> Healthier foods are around twice as expensive per calorie when compared to less healthy foods, and a third of supermarket promotions on food and drink are on less healthy food.<sup>8</sup> Hunger, food insecurity and obesity are all issues that relate to the UK's obligations in relation to the right to food. The UN Special Rapporteur for the right to food offered to visit the UK in 2024, but his visit was delayed by the previous government.<sup>9</sup>

Since then, the UK has had a general election. In its election campaign the Labour Party indicated they would 'end mass dependence on emergency food parcels'.<sup>10</sup> Since election the new Labour Government's Department for the Environment Food and Rural Affairs has announced it will develop a food strategy in 2025.<sup>11</sup> This is a welcome step, but this article argues that to meet the government's obligations in relation to the right to food, any policies that are developed to address the joint obesity and food insecurity crises need to take account of human dignity. This means being aware of the ways policies can stigmatise people and the messages they can send about the equal moral worth of people. To do this, the article utilises the underexplored potential of the right to food to guide UK food policy.

This article proceeds as follows. The first section discusses the UK's obligations for the right to food. It then considers if the UK is meeting these obligations in relation to levels of hunger and obesity. The discussion then moves to consider critiques in relation to dignity's role in international human rights law, arguing that concerns about a single unified definition of dignity and questions about its role in judicial adjudication do not prevent common themes about the nature of dignity being identified. These common

5 The Trussell Trust, 'Almost Half of People Receiving Universal Credit Ran Out of Food within the Last Month' (3 September 2024) <[www.trussell.org.uk/publications/press-release/almost-half-of-people-receiving-universal-credit-ran-out-of-food-within-the-last-month](https://www.trussell.org.uk/publications/press-release/almost-half-of-people-receiving-universal-credit-ran-out-of-food-within-the-last-month)> accessed 30 January 2025.

6 Katie Pettifer and Michelle Patel, 'FSA 22-06-09 Household Food Insecurity Main Report' FSA (15 June 2022) <[www.food.gov.uk/print/pdf/node/9711](https://www.food.gov.uk/print/pdf/node/9711)> accessed 18 July 2022.

7 Rice and Dalmeny (n 4).

8 The Food Foundation, 'The Broken Plate 2025 – At a Glance' (29 January 2025) <[https://foodfoundation.org.uk/sites/default/files/2025-01/TFF\\_BP\\_At%20a%20Glance\\_FINAL.pdf](https://foodfoundation.org.uk/sites/default/files/2025-01/TFF_BP_At%20a%20Glance_FINAL.pdf)> accessed 30 January 2025.

9 Holy Bancroft, 'Rishi Sunak Must Allow Visit from UN Food Inspector Due to Increasing Levels of UK Poverty, 85 Charities Write' *Independent* (9 May 2024) <[www.independent.co.uk/news/uk/home-news/food-poverty-sunak-un-children-b2542136.html](https://www.independent.co.uk/news/uk/home-news/food-poverty-sunak-un-children-b2542136.html)> accessed 29 January 2025.

10 Michael Buchanan, 'How Does Labour Want to Tackle Poverty' *BBC News* (28 June 2024) <[www.bbc.co.uk/news/articles/ce9319prplxo](https://www.bbc.co.uk/news/articles/ce9319prplxo)> accessed 30 January 2025.

11 British Nutrition Foundation, 'New National Food Strategy' (11 December 2024) <[www.nutrition.org.uk/news/new-national-food-strategy/](https://www.nutrition.org.uk/news/new-national-food-strategy/)> accessed 30 January 2025.

themes can then be used to guide policy to address obligations for the right to food. This section also addresses the role of stigma and egalitarianism in relation to the utilisation of dignity as a guide to food policy. The final substantive section discusses how obligations for the right to food can be informed by dignity in relation to food banks, free school meals and obesity policy.

## 2. The realisation of obligations for the right to food in the UK

### A. The nature of obligations for the realisation of the right to food

The right to food appears in several international human rights treaties. The Convention on the Rights of the Child includes 'the provision of adequate nutritious food' as part of Article 24, the right of a child to the highest attainable standard of health.<sup>12</sup> Article 28 of the Convention on the Rights of Persons with Disabilities recognises the right to adequate food as part of an adequate standard of living.<sup>13</sup> The preamble of the Convention on the Elimination of All Forms of Discrimination Against Women acknowledges that in situations of poverty women often have the least access to food.<sup>14</sup> The UK has ratified all of these treaties that protect aspects of the right to food for certain categories of people.<sup>15</sup> In addition, the UK has ratified the International Covenant on Economic, Social and Cultural Rights (ICESCR).<sup>16</sup>

Article 11(1) of the ICESCR recognises the right of everyone to an adequate standard of living, which includes adequate food.<sup>17</sup> Article 11(2) then states:

The States Parties to the present Covenant, recognizing the fundamental right of everyone to be free from hunger, shall take, individually and through international co-operation, the measures, including specific programmes, which are needed:

- (a) To improve methods of production, conservation and distribution of food by making full use of technical and scientific knowledge, by disseminating knowledge of the principles of nutrition and by developing or reforming agrarian systems in such a way as to achieve the most efficient development and utilization of natural resources;
- (b) Taking into account the problems of both food-importing and food-exporting countries, to ensure an equitable distribution of world food supplies in relation to need.<sup>18</sup>

<sup>12</sup> Convention on the Rights of the Child, (adopted 20 November 1989) United Nations, Treaty Series, Vol. 1577, p. 3.

<sup>13</sup> Convention on the Rights of Persons with Disabilities (adopted 13 December 2006) A/RES/61/106.

<sup>14</sup> Convention on the Elimination of All Forms of Discrimination Against Women, (adopted 18 December 1979) United Nations, Treaty Series, Vol. 1249, p. 13.

<sup>15</sup> See, United Nations Human Rights Treaty Bodies, 'UN Treaty Body Database' <[https://tbinternet.ohchr.org/\\_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=185](https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=185)> accessed 28 January 2025.

<sup>16</sup> *Ibid.*

<sup>17</sup> International Covenant on Economic, Social and Cultural Rights (adopted 16 December 1966, entered into force 3 January 1976) 993 UNTS 3 art 11 (ICESCR).

<sup>18</sup> *Ibid.*

This is the most expansive statement of the right to food in a treaty in international human rights law. It indicates the right to food is not just about preventing hunger but also encompasses the way food is produced, nutrition, trade and international cooperation.

The rights contained within the ICESCR are to be progressively realised.<sup>19</sup> However, the Committee on Economic Social and Cultural Rights (CESCR) has affirmed that states have a 'core obligation to take the necessary action to mitigate and alleviate hunger'.<sup>20</sup> The CESCR goes on to clarify that states are 'obliged to ensure for everyone under their jurisdiction access to the minimum essential food which is sufficient, nutritionally adequate and safe, to ensure their freedom from hunger'.<sup>21</sup> This fundamental right to be free from hunger, as stated in Article 11(2) ICESCR is also confirmed in an earlier General Comment of the CESCR. General Comment 3 states that a country in which a significant number of individuals were deprived of food would likely be in violation of their obligations under the ICESCR.<sup>22</sup> Taken together, this approach of the CESCR and the wording of Article 11(2) ICESCR indicate that high levels of hunger are a violation of the right to food except in very exceptional circumstances.

Yet, as already stated, the right to food is not just about ensuring that no one in a state's jurisdiction is unable to access sufficient food and so going hungry. The CESCR has also indicated there is a core content of the right to adequate food, which is:

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

The accessibility of such food in ways that are sustainable and that do not interfere with the enjoyment of other human rights.<sup>23</sup>

This core is to be progressively realised,<sup>24</sup> and the CESCR acknowledges that some obligations for state parties are of a 'more immediate nature, while other measures are more of a long-term character'.<sup>25</sup> Expanding on aspects of this core relevant to nutrition, one of the focuses of this article, the CESCR has defined 'dietary needs' as a diet containing a mix of nutrients that provide for both physical and mental needs of the person in relation to their activities throughout their lives.<sup>26</sup> Availability indicates that people should be able to feed themselves either through accessing food or producing it themselves.<sup>27</sup> Accessing food refers to both the economic ability and the physical ability to obtain sufficient food.<sup>28</sup>

<sup>19</sup> Article 2 ICESCR (n 17).

<sup>20</sup> UN Committee on Economic, Social and Cultural Rights, *General Comment No. 12: The Right to Adequate Food (Art. 11 of the Covenant)*, (12 May 1999) UN DOC E/C.12/1995/5 (GC 12) [6].

<sup>21</sup> *Ibid* [14].

<sup>22</sup> UN Committee on Economic, Social and Cultural Rights, *General Comment No. 3: The Nature of State Parties' Obligations (Article 2 para 1)*, (14 December 1990), E/1991/23 (GC 3) [10].

<sup>23</sup> GC 12 (n 20) [8].

<sup>24</sup> GC 12 (n 20) [14].

<sup>25</sup> GC 12 (n 20) [16].

<sup>26</sup> GC 12 (n 20) [9].

<sup>27</sup> GC 12 (n 20) [12].

<sup>28</sup> GC 12 (n 20) [13].

This suggests that if the UK has high numbers of people who are hungry, food insecure and suffering from dietary related illnesses it is violating its obligations in relation to the right to food. However, before moving on to consider the status of the realisation of the right to food in the UK, it is first necessary to discuss the relationship between the right to food and food security. Food security is a term that in general relates to the accessibility and availability of food. It has become an area of extensive multidisciplinary research,<sup>29</sup> and a contested term and field.<sup>30</sup> There are many definitions and methodologies for its measurement.<sup>31</sup> For the purposes of the discussions in the following sections, where food security will be referred to as a measure of levels of chronic and acute hunger in the UK, it is sufficient to turn to the 2009 UN Food and Agricultural Organization definition of food security. This is widely accepted and states that 'food security exists when all people, at all times, have physical, social and economic access to sufficient, safe and nutritious food to meet their dietary and food preferences for an active and healthy life'.<sup>32</sup>

This definition has clear overlapping elements with the core of the right to adequate food quoted above. In addition, in many assessments of the food security of households or individuals, which is the level of focus of this article, some if not all these elements will be considered. However, it is the argument of this article that food security research alone cannot sufficiently guide food policy in the UK. Food security is ultimately a technical policy goal.<sup>33</sup> It is often based on economic considerations and, as a policy, it can be easily changed unlike a legal right.<sup>34</sup> Mechlem has suggested that the right to food adds ideas of dignity to discussions about food security.<sup>35</sup> It is the value of dignity as a consideration in crafting food policy that is the focus in this article. Considering dignity as part of a rights-based approach enriches more technical policies in relation to food security. This section will now consider the status of the realisation of the right to food in the UK in relation to hunger, food insecurity and obesity.

## B. Hunger in the UK

Concern about levels of hunger and food insecurity in the UK is not new. In 2010, the Marmot Review reported five per cent of people on low incomes would skip

<sup>29</sup> Tim Benton, 'The Many Faces of Food Security' (2016) 92 *International Affairs* 1505, 1508.

<sup>30</sup> *Ibid.*, 1507.

<sup>31</sup> Kerstin Mechlem, 'Food Security and the Right to Food in the Discourse of the United Nations' (2004) 10 *European Law Journal* 631, 633; Environment, Food and Rural Affairs Committee, 'Securing food supplies up to 2050: the challenges faced by the UK' – EFRA report HC 213-I Incorporating HC 266, Session 2008–09 Published on 21 July 2009 – fourth report of session 2008–9 House of Commons [6].

<sup>32</sup> Food and Agricultural Organization, '2009 Declaration of the World Summit on Food Security' (16–18 November 2009) Un Doc WSFS 2009/2.

<sup>33</sup> Hope Johnson, *International Agricultural Law and Policy* (Edward Elgar 2018) 46.

<sup>34</sup> Mechlem (n 31) 643.

<sup>35</sup> *Ibid.*

meals for a day.<sup>36</sup> Prior to the COVID-19 pandemic, Alston's report on poverty in the UK estimated there were 2000 foodbanks in the UK, and a four-fold increase in their usage between 2012 and 2018.<sup>37</sup> The need for foodbanks continued to rise during the COVID-19 pandemic and the subsequent cost-of-living crisis.<sup>38</sup> In May 2024, the Trussell Trust reported figures for the previous year (1st April 2023 to 31st March 2024). The charity distributed 3.12 million emergency food parcels, the highest number ever distributed, and an increase of 4% from the previous 12-month period.<sup>39</sup> This figure also represented a doubling of the number of parcels delivered over the last five years.<sup>40</sup>

The Food Foundation regularly reports food insecurity figures based on surveys conducted through YouGov. In June 2024, they reported that 13.6% of households in the UK experienced food insecurity.<sup>41</sup> This has fallen from a high of 18.4% in September 2022.<sup>42</sup> These figures suggest falling food insecurity rather than the increasing food insecurity suggested by increased use of Trussell Trust foodbanks. The surveys conducted by the Food Foundation are of around 6000 people which is a small sample size when compared to the number of people that receive food parcels from the Trussell Trust.<sup>43</sup> In addition, it is also likely that the Trussell Trust's figures do not represent the full picture of hunger and food insecurity in the UK. The Trussell Trust is the biggest foodbank charity in the UK, but it only provides around half of the charitable foodbank provision.

Foodbank usage figures are also unlikely to be an accurate reflection of chronic hunger. Food bank usage figures often capture only those who suddenly become food insecure due to a change in financial circumstances.<sup>44</sup> For example, only 8% of households in York between 2018 and 2019 reported using food banks, even though 24% of households had experienced food insecurity.<sup>45</sup> Although the UK Government

36 Michael Marmot, Peter Goldblatt and Jessica Allen and others, 'Fair Society, Healthy Lives: The Marmot Review (2010)' 81 <[www.instituteofhealthequity.org/resources-reports/fair-society-healthy-lives-the-marmot-review](http://www.instituteofhealthequity.org/resources-reports/fair-society-healthy-lives-the-marmot-review)> accessed 29 January 2025.

37 Philip Alston, 'Visit to the United Kingdom of Great Britain and Northern Ireland: Report of the Special Rapporteur on Extreme Poverty and Human Rights' (23 April 2019) A/HRC/41/39/Add.1, para. 23 (citing S Duffy and C Gillberg, 'Extreme Poverty in a Time of Austerity' *Centre for Welfare Reform* (Sheffield, 2018)).

38 The Trussell Trust, *Hunger in the UK* (2023) <[www.trussell.org.uk/publications/hunger-in-the-uk](http://www.trussell.org.uk/publications/hunger-in-the-uk)> accessed 28 January 2025.

39 The Trussell Trust (n 2).

40 *Ibid.*

41 The Food Foundation, 'Food Insecurity Tracking' <<https://foodfoundation.org.uk/initiatives/food-insecurity-tracking#tabs/Round-15>> accessed 29 January 2025.

42 *Ibid.*

43 *Ibid.*

44 Madeline Power and others, 'How Covid-19 has Exposed Inequalities in the UK Food System: The Case of the UK Food and Poverty' (2020) 2 *Emerald Open Research* <[www.researchgate.net/publication/341367293\\_How\\_COVID-19\\_has\\_exposed\\_inequalities\\_in\\_the\\_UK\\_food\\_system\\_The\\_case\\_of\\_UK\\_food\\_and\\_poverty](http://www.researchgate.net/publication/341367293_How_COVID-19_has_exposed_inequalities_in_the_UK_food_system_The_case_of_UK_food_and_poverty)> accessed 5 March 2024.

45 Madeline Power, 'Seeking Justice: How to Understand and End Food Poverty in York' *York Food Justice Alliance* (York 2019) <[https://eprints.whiterose.ac.uk/151502/1/Seeking\\_Justice\\_How\\_to\\_understand\\_and\\_end\\_food\\_poverty\\_in\\_York.pdf](https://eprints.whiterose.ac.uk/151502/1/Seeking_Justice_How_to_understand_and_end_food_poverty_in_York.pdf)> accessed 22 September 2022.

is now required to report on food security every four years,<sup>46</sup> the focus of the first report was the national availability of food and so it did not provide a truly reflective picture of individual or household food security in the UK.<sup>47</sup> Regardless, even if the lower figure from the Food Foundation of 13.6% of households experiencing food insecurity is accurate, this still indicates high levels of food insecurity. Based on the comments of the CESCR and Article 11 of the ICESCR the UK is not meeting its obligations in relation to the fundamental right to be free from hunger.

### C. Nutrition and nutritional diseases in the UK

When she was Special Rapporteur for the Right to Food, Elver emphasised the importance of nutrition and that it was a component of the right to food that required special consideration.<sup>48</sup> She also described the complex problems of malnutrition, obesity and micronutrient deficiency that can occur at the same time within communities and within individuals.<sup>49</sup> De Schutter also discussed obesity and the risks associated with increased processed foods in people's diets.<sup>50</sup> These comments by Special Rapporteurs and the content of the core of the right to adequate food defined by the CESCR indicate that obligations for the right to food include facilitating people's access to diets that limit the risk of nutritional diseases. This includes obesity as well as malnutrition and nutrient deficiencies. These obligations are to be progressively realised, but this still means states should be taking steps to realise them, especially if nutritional diseases are a particular concern in that state.

In the UK, in 2020 it was reported that around 65% of the UK population is overweight or obese.<sup>51</sup> Government figures updated in May 2024 indicate this figure is still at 64%.<sup>52</sup> This is despite the Government launching a new obesity strategy to urge the country to 'lose weight to beat coronavirus (COVID-19) and protect the NHS'.<sup>53</sup> The strategy included banning online and television adverts on food containing high levels

<sup>46</sup> Agriculture Act 2020, s 19.

<sup>47</sup> For a discussion of the nature of food security reporting under the Agriculture Act 2020 see: Michael Cardwell and Clare James, 'The Right to Food: A UK Perspective' in Louisa Ashley and Nicolette Butler (eds), *The Incoherence of Human Rights in International Law* (Routledge 2025).

<sup>48</sup> UNGA 'Note by the Secretary General: Interim Report of the Special Rapporteur on the Right to Food, Hilal Elver' (2016) UN Doc A/71/282 [1].

<sup>49</sup> *Ibid.*

<sup>50</sup> UNHRC 'Report of the Special Rapporteur on the Right to Food, Olivier De Schutter' (4 February 2009) UN Doc A/HRC/10/5/Add.2 [32]; UNHRC 'Report by the Special Rapporteur on the Right to Food, Olivier De Schutter' (2011) UN Doc A/HRC/19/59 [12].

<sup>51</sup> Monique Tan, Feng J He and Graham A MacGregor, 'Obesity and COVID-19: The Role of the Food Industry' [2020] *British Medical Journal* 369.

<sup>52</sup> Department of Health and Social Care (n 3).

<sup>53</sup> GOV.UK, 'New Obesity Strategy Unveiled as Country Urged to Lose Weight to Beat Coronavirus (COVID-19) and Protect the NHS' <[www.gov.uk/government/news/new-obesity-strategy-unveiled-as-country-urged-to-lose-weight-to-beat-coronavirus-covid-19-and-protect-the-nhs](https://www.gov.uk/government/news/new-obesity-strategy-unveiled-as-country-urged-to-lose-weight-to-beat-coronavirus-covid-19-and-protect-the-nhs)> accessed 13 August 2020.

of fat, sugar and salt (HFSS) before 9pm and ending ‘buy-one-get-one-free’ offers on such foods.<sup>54</sup> However, implementation of this policy has been delayed. Only the part of the legislation limiting HFSS food placement in shops came into force in October 2022.<sup>55</sup> The commencement of the legislation limiting volume price promotions (buy-one-get-one-free) on HFSS foods have been delayed twice and will not come into force until 1 October 2025.<sup>56</sup>

It is estimated that obesity cost the National Health Service (NHS) £6.3 billion in 2014–2015, and this is predicted to rise to £9.7 billion in 2050.<sup>57</sup> This is only the cost to the NHS. It is also suggested that in 2017 obesity cost £27 billion to wider society, and this is also predicted to rise to nearly £50 billion in 2050.<sup>58</sup> At the same time, in addition to high levels of obesity, the UK is also seeing increases in nutrient deficiency related diseases.<sup>59</sup> Both the high levels of obesity and also the rising levels of nutritional deficiencies suggest that the UK is also failing to meet its right to food obligations related to people accessing a nutritious diet. Before considering the possible policy approaches to address these potential violations of the right to food, the next section will now turn to consider the role of dignity in human rights law.

### 3. Dignity and human rights

‘Recognition of the inherent dignity’ of ‘all members of the human family’ appears in the first sentence of the Universal Declaration of Human Rights, the preamble of the International Covenant on Civil and Political Rights and the preamble of the ICESCR.<sup>60</sup> Reference to dignity is found in many international and regional human rights treaties and documents. Yet dignity’s role in international human rights law and its definition are contested.<sup>61</sup>

<sup>54</sup> *Ibid.*

<sup>55</sup> The Food (Promotion and Placement) (England) Regulations 2021, SI 2021/1368.

<sup>56</sup> GOV.UK, ‘PM Backs Public’s Right to Choose with Delay to BOGOF Restrictions’ (17 June 2023) <[www.gov.uk/government/news/pm-backs-publics-right-to-choose-with-delay-to-bogof-restrictions](https://www.gov.uk/government/news/pm-backs-publics-right-to-choose-with-delay-to-bogof-restrictions)> accessed 25 January 2025.

<sup>57</sup> Bukky Balogun and others, ‘Obesity’ (House of Commons Library Number 9049), 12 July 2021 [2.3].

<sup>58</sup> Tim Lang, *Feeding Britain. Our Food Problems and How to Fix Them* (Pelican Books 2020) 281.

<sup>59</sup> Alex Matthews-King, ‘Huge Increase in “Victorian Diseases” Including Rickets, Scurvy and Scarlet Fever, NHS Data Reveals’ *Independent* (25 February 2019) <[www.independent.co.uk/news/health/victorian-disease-gout-rickets-vitamin-d-mumps-scurvy-measles-malnutrition-nhs-hospital-admitted-a8795686.html](https://www.independent.co.uk/news/health/victorian-disease-gout-rickets-vitamin-d-mumps-scurvy-measles-malnutrition-nhs-hospital-admitted-a8795686.html)> accessed 19 July 2022.

<sup>60</sup> Universal Declaration of Human Rights (adopted 10 December 1948) UNGA Res 217 A(III) (UDHR); International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976), Art 25 999 UNTS 171; ICESCR (n 17).

<sup>61</sup> See, for example, discussions in: Oscar Schacter, ‘Human Dignity as a Normative Concept’ [1983] *The American Journal of International Law* 848; Sandra Liebenberg, ‘The Value of Human Dignity in Interpreting Socio-Economic Rights’ (2005) 21 *South African Journal on Human Rights*; David Feldman, ‘Human Dignity as a Legal Value: Part 1’ [1999] Public Law 682; Justin Bates, ‘Human Dignity – An

Its utility in human rights law is also questioned.<sup>62</sup> The following discussion acknowledges some of the concerns about the role of dignity in judicial interpretation and the lack of a universally agreed and precise definition of dignity. However, it will demonstrate that if it is accepted that dignity does have a role in the foundation and interpretation of human rights, a consensus can be found around some of the features and components of human dignity. These can then have a role in defining obligations for human rights, and the way states should meet these obligations.

### A. The contested role of dignity in human rights law

Le Moli has identified three uses of human dignity in international human rights instruments: a foundational element, a legal normative role in the protection of human dignity of all, and finally, an 'obligation creating principle'.<sup>63</sup> Bagaric and Allan have argued that, due to its vacuous nature, dignity cannot perform these tasks.<sup>64</sup> The use of dignity as a fundamental founding principle in human rights documents and treaties is not a straightforward argument against Bagaric and Allan's critique. Treaties and their preambles represent a political compromise, often following years of debate and discussion.<sup>65</sup> Dignity is not defined in the documents that state it is a foundational principle and its content is left to 'intuitive understanding'.<sup>66</sup> This creates the possibility that dignity will have different meanings in different cultures, places and times.<sup>67</sup> Although many and varied definitions could undermine the utility of dignity, there does seem to be common understandings of human dignity across religions and cultures, based on the equal moral worth of all individuals.<sup>68</sup>

The lack of an agreed single definition concerning dignity does not exclude its use as a foundational principle.<sup>69</sup> This article is not arguing that human dignity is the only foundational principle that can justify human rights. Pluralistic approaches to justifying rights provide a grounding for a right to the largest possible audience and ensures maximum agreement and compliance.<sup>70</sup> Some other foundational principles associated

Empty Phrase in Search of Meaning' (2005) 10 *Judicial Review* 165; Mirko Bagaric and James Allen, 'The Vacuous Concept of Dignity' (2006) 5 *Journal of Human Rights* 257.

62 See, for example: Paolo G Carozza, 'Human Dignity' in Dinah Shelton (ed), *The Oxford Handbook of International Human Rights Law* (OUP 2015) 345.

63 Ginevra Le Moli, *Human Dignity in International Law* (CUP 2021) 219.

64 Bagaric and Allen (n 61) 260.

65 Jeremy Waldron, 'Is Dignity the Foundation of Human Rights?' in Rowan Cruft, S Matthew Liao and Massimo Renzo (eds), *Philosophical Foundations of Human Rights* (OUP 2015) 118.

66 Schachter (n 61) 849.

67 Carozza (n 62) 348–9; McCrudden, 'Human Dignity and Judicial Interpretation of Human Rights' (2008) 19 *European Journal of International Law* 655.

68 Jack Donnelly, *Universal Human Rights in Theory and Practice* (3rd edn, Cornell University Press 2013) 59.

69 Waldron (n 65) 121.

70 Allen Buchanan, *The Heart of Human Rights* (OUP 2013) 51; James Nickel, 'Poverty and Rights' (2005) 220 *The Philosophical Quarterly* 385, 391.

with human rights, such as autonomy, equality and liberty, can be associated with or overlap with concepts of dignity.<sup>71</sup> Such pluralism in the justification of rights also acknowledges that dignity is more relevant to some rights than others and the role that dignity plays in relation to rights may vary.<sup>72</sup> However, the repeated reference to human dignity in human rights documents and the consensus amongst cultures and religions that it plays a role in human rights ultimately indicates we should ‘pay attention to *questions* about dignity in trying to address questions about rights’.<sup>73</sup> This article argues this includes questions about policy implemented to facilitate the realisation of rights.

A related critique of dignity is its use in judicial interpretation and judgments. Despite the use of the concept by constitutional courts,<sup>74</sup> the European Court of Human Rights, and the American Court of Human Rights,<sup>75</sup> its role is still questioned. These critiques relate to the vagueness and indeterminacy of its nature.<sup>76</sup> Again the lack of definition, it is argued, makes the concept ‘effectively meaningless’<sup>77</sup> and too multifaceted to serve as a guiding principle.<sup>78</sup> As discussed by Liebenberg, this last critique has been made in relation to equality jurisprudence.<sup>79</sup> A second concern in this context, which has relevance for socio-economic rights, is that focusing on dignity results in an overly individualistic approach, rather than acknowledging societal and group based issues such as socio-economic disadvantage.<sup>80</sup>

These critiques are not without merit and do raise the concern that dignity offers judges significant latitude and a diverse range of possible interpretations. For example, the majority in the Canadian Supreme Court, in the case of *Gosselin*, found that a conditional incentive-based welfare scheme for people under the age of 30 did not violate the dignity or worth of individuals. They argued that a reasonable person would be able to see that the motives of the Government were positive and aimed to promote long term employability.<sup>81</sup> Yet the dissenting opinion of L’Heureux Dubé

<sup>71</sup> Waldron (n 65) 120.

<sup>72</sup> *Ibid*, 119–20.

<sup>73</sup> *Ibid*, 122.

<sup>74</sup> See, for example, the South African case *S v Mamabolo* 2001 (3) SA 409 (CC) and the Canadian case *Gosselin v Québec (Attorney General)* 2002 SCC 84.

<sup>75</sup> See, for example, *Stanev v Bulgaria* App No 36760/06 [GC] (17 January 2012); *R.R and others v Hungary* App No 36037/17 (2 March 2021); *Bouyid v Belgium* Application No 23380/09 Grand Chamber, Merits and Just Satisfaction, 28 September 2015; *Cabrera García and Montiel Flores v Mexico* (26 November 2010) [199].

<sup>76</sup> McCrudden (n 67) Bates (n 61).

<sup>77</sup> Bates (n 61) 166.

<sup>78</sup> Susie Cowen, ‘Can Dignity Guide South Africa’s Equality Jurisprudence?’ (2001) 17 *South African Journal of Human Rights* 34.

<sup>79</sup> Liebenberg (n 61) 5.

<sup>80</sup> Cathi Albertyn and Beth Goldblatt, ‘Facing the Challenge of Transformations: Difficulties in the Development of an Indigenous Jurisprudence of Equality’ (1998) 14 *South African Journal of Human Rights* 248.

<sup>81</sup> *Gosselin* (n 74).

J. found the scheme did violate the dignity of young people and that the scheme risked excluding claimants from 'full participation in Canadian society'.<sup>82</sup>

Equally, dignity can be used both to promote and restrict autonomy and liberty.<sup>83</sup> It can be used to support opposing arguments in debates on topics such as access to abortion and euthanasia.<sup>84</sup> This article is not suggesting the use of dignity as a tool for judicial interpretation for the right to food. It is arguing that dignity should be a central consideration when creating policy to facilitate the realisation of the right to food. The justiciability of socio-economic rights is itself not without controversy and debate,<sup>85</sup> and the role dignity plays in the courts approach to such rights may add a further layer of complexity. However, as acknowledged above, dignity is more relevant to certain rights than others, and this would also apply to their judicial interpretation. Article 3 of the European Convention on Human Rights (ECHR), including the prevention of degrading treatment, protects from violation of human dignity.<sup>86</sup> The nature of human dignity and what constitutes a violation of dignity is central to the jurisprudence of Article 3 ECHR.<sup>87</sup> In the fourth section of this article, it will be argued that hunger especially has a strong relationship to notions of human dignity. This relationship has also been established by the European Court of Human Rights,<sup>88</sup> suggesting dignity may have a role in the judicial interpretation of violations of the right to food.

In addition, Liebenberg has eloquently argued that dignity does and should play a role in the judicial interpretation of socio-economic rights.<sup>89</sup> Using capability theory, she suggests that dignity requires courts to consider the impact of states' actions and omissions on disadvantaged groups.<sup>90</sup> This argument addresses the critiques of the possible individualistic nature of human dignity leading to a failure to recognise group disadvantage and prevent redistribution of resources. As it appears there are ways that dignity can play a role in the justiciability of socio-economic rights, it must have sufficient determinacy to be an aid to judicial interpretation. As such, it can also aid the development of policy in relation to socio-economic rights. Having addressed concerns about dignity in relation to judicial interpretation and its nature as a foundational principle of human rights, the remainder of the article will now

<sup>82</sup> *Gosselin* (n 74) [131–2].

<sup>83</sup> See, for example, the case of *Manuel Wackenheim v France*, Communication No 854/1999, U.N. Doc. CCPR/C/75/D/854/1999 (2002), in which the UN Human Rights Committee used dignity to justify a French ban on 'dwarf tossing' in relation to maintaining public order rather than using dignity to protect the individual's right to work and the impact this would have on his ability to live a dignified life.

<sup>84</sup> Bagaric and Allen (n 61) 266; Jeff King, *Judging Social Rights* (CUP 2012).

<sup>85</sup> Ayreh Neier, 'Social and Economic Rights: A Critique' (2006) 13 *Human Rights Brief* 1; Conor Gearty and Virginia Mantouvalou, *Debating Social Rights* (Hart 2011).

<sup>86</sup> Ilias Trispiotis and Craig Purshouse, "'Conversion Therapy" as Degrading Treatment' (2022) 42 *Oxford Journal of Legal Studies* 104, 114.

<sup>87</sup> See, for example, the case of *Bouyid v Belgium* (n 75) at [90].

<sup>88</sup> *Dudchenko v Russia* Application No 37717/05, Merits, 7 November 2017; *Stanev v Bulgaria* (n 75); *R.R. and others v Hungary* (n 75).

<sup>89</sup> Liebenberg (n 61) 13–21.

<sup>90</sup> *Ibid.*, 31.

consider dignity as a concept to guide policy in relation to the right to food. To be a useful tool in this concept, the article first returns to definitions of dignity. To be a guide for policy, the components of dignity need to be clarified so they can be considered and utilised during policy development.

## **B. A consensus on dignity**

As discussed above, despite its extensive use in human rights documents and jurisprudence there is no one accepted definition of dignity. Yet it can be seen, when reading discussions of dignity, that certain words and phrases are common. Reference to equal moral worth,<sup>91</sup> respecting the equal moral worth of all individuals,<sup>92</sup> people's attitudes to certain groups,<sup>93</sup> and intrinsic worth,<sup>94</sup> are one group of these words and phrases that have similar and overlapping meanings. Ideas of agency and autonomy are also discussed in relation to dignity.<sup>95</sup> These ideas all contribute to the concept of dignity used in the following section. People have equal moral worth, and the actions of others, especially the state, should acknowledge their equal moral status. In addition, people should have the ability to act with autonomy and make choices in their lives. However, before moving to consider how these ideas can be used to inform food policy, two additional points need to be discussed. The first is that stigma and its relationship to equal moral worth has particular relevance for food policy and the right to food. The second is the question of how the freedom to make one's own choices can be balanced with state obligations in relation to the consequences of choices that are bad. If you make bad decisions and are then unable to feed yourself who is responsible? This question touches on egalitarianism, which will also be discussed below.

### ***i. Stigma***

Stigma and shame are increasingly being recognised as a negative consequence of certain socio-economic statuses.<sup>96</sup> Not only does stigma impact the way people feel

<sup>91</sup> John Tasioulas, 'On the Foundation of Human Rights' in Rowan Cruft, S. Matthew Liao and Massimo Renzo (eds), *Philosophical Foundations of Human Rights* (OUP 2015) 54; Rowan Cruft, S Matthew Liao and Massimo Renzo, 'The Philosophical Foundations of Human Rights. An Overview' in Rowan Cruft, S Matthew Liao and Massimo Renzo (eds), *Philosophical Foundations of Human Rights* (OUP 2015) 5; Carozza (n 62) 346.

<sup>92</sup> McCrudden (n 67) 675.

<sup>93</sup> Feldman (n 61) 686.

<sup>94</sup> McCrudden (n 67) 675.

<sup>95</sup> James Griffin, *On Human Rights* (OUP 2008) 200–1.

<sup>96</sup> Imogen Tyler, *Stigma. The Machinery of Inequality* (Bloomsbury 2020); Jenifer Wogen and Maria Teresa Restrepo, 'Human Rights, Stigma and Substance Use' (2020) 22 *Health and Human Rights* 51; Jonathan Darling and others, 'Tackling Obesity While Preventing Obesity Stigma' [2024] *Arch Dis Child* <<https://doi.org/10.1136/archdischild-2023-325894>>.

about themselves, but stigmatising people can also impact outcomes of policies to address health conditions or poverty. It has also been suggested that shame and stigma are often forgotten in discussions of poverty and its consequences by policy makers.<sup>97</sup> As such the impact of stigma may not be considered, especially in relation to policy that addresses food insecurity in the UK. Stigma historically comes from the idea of a mark that separates people out.<sup>98</sup> Aspects of people's characteristics are considered socially shameful by others. This has the effect of diminishing their self-worth and suggests that they are viewed as of a lesser status.<sup>99</sup> Not only are people being treated as if they are not of equal moral worth, but they will also perceive that they are not of equal moral worth. Such stigmatisation of people is not compatible with human dignity.

Tyler has related stigmatisation due to poverty to power. This is seen through the stigmatisation of those in poverty by the government and media.<sup>100</sup> The use of stigmatising language by both the media and Government during welfare reforms has impacted the mental and physical health of those living in poverty. In addition, stigmatising phrases such as 'benefit scroungers' beat people down and make them feel dehumanised.<sup>101</sup> Such rhetoric may also serve to desensitise people to the suffering and reality of the lives of those living in poverty,<sup>102</sup> adding to the stigma and shame they feel. Stigma is also recognised to negatively impact the effectiveness of policies to address obesity,<sup>103</sup> and substance abuse.<sup>104</sup> Obesity stigma is recognised to not only make interventions to encourage weight loss ineffective, it may also cause people to gain weight.<sup>105</sup> The impact stigmatisation can have on people appears to affect the efficacy of policy interventions. Stigmatisation as a violation of dignity should be a key focus of policy makers both to ensure people are treated with dignity and to ensure efficacy of policy interventions.

## ***ii. Autonomy and egalitarianism***

People do not always make good choices, and people's choices may result in them being unable to support themselves and feed themselves. This then raises the questions as to

<sup>97</sup> Magdalena Sepúlveda Carmona, 'From Stigma to Rights: Uncovering the Hidden Dimension of Poverty' in Martha F Davies, Morten Kjaerum and Amanda Lyons (eds), *Research Handbook on Human Rights and Poverty* (Edward Elgar 2023) 24.

<sup>98</sup> Tyler (n 96) 9.

<sup>99</sup> Sarah Cambell and Imogen Tyler, 'Poverty Stigma: A Glue that Holds Poverty in Place' *Joseph Rowntree Foundation* (8 May 2024) 10 <[www.jrf.org.uk/stigma-power-and-poverty/poverty-stigma-a-glue-that-holds-poverty-in-place](http://www.jrf.org.uk/stigma-power-and-poverty/poverty-stigma-a-glue-that-holds-poverty-in-place)> accessed 30 January 2025.

<sup>100</sup> Tyler (n 96) 16–17.

<sup>101</sup> Campbell and Tyler (n 99) 10.

<sup>102</sup> Tyler (n 96) 197.

<sup>103</sup> Darling and others (n 96).

<sup>104</sup> Wogen and Restrepo (n 96).

<sup>105</sup> Darling and others (n 96); Oli Williams and Ellen Annandale, 'Obesity, Stigma and Reflexive Embodiment: *Feeling the "Weight" of Expectation*' (2020) 24 *Health* 421.

whether these decisions should be respected and if it is fair that people who have made such bad choices are provided with aid by the state. An extensive discussion of egalitarian ethics is outside the scope of this article. However, it is pertinent at this point to recognise that fairness and respect, as features of egalitarianism, can conflict.<sup>106</sup> You feel respected based on how people treat you whereas fairness requires no one be advantaged or disadvantaged.<sup>107</sup> When looking at the case of unconditional welfare benefits, which are often suggested as a solution to hunger and food insecurity, the way these two principles may conflict becomes apparent.<sup>108</sup>

It may be seen as unfair that people who have made choices in their lives considered to be poor and found themselves struggling economically should receive the same support as those that are considered to have been unlucky. However, respect requires that people should not be subjected to invasive or disrespectful questioning or processes to obtain support, regardless of the circumstances that have led them to needing that support.<sup>109</sup> Wolff argues that in these cases, respect should be prioritised, even if some may consider this to result in unfair outcomes.<sup>110</sup> If people do not have means to meet the basic necessities of life and live a dignified life, their needs should be addressed. This means that when considering policies to tackle food insecurity, even if people are seen to have made bad choices, they should not be penalised or treated as if they are of less worth than those who need support due to events perceived as bad luck.

#### 4. Dignity and obligations for the right to food

This article will now address rights-based food policy in the UK. It will begin by clarifying how dignity relates to hunger before explaining how dignity also has a role to play in other aspects of food policy. It will then consider the reasons foodbanks are an affront to human dignity and an ineffective way to ensure people are food secure. It will then move to address free school meals which have a role to play in both addressing hunger and obesity reduction strategies as well as food and nutrition education. The final subsection will consider how dignity can guide policy to address obesity levels in the UK.

It first needs to be acknowledged that as stated in the introduction, hunger in the UK is mostly a consequence of poverty, and ultimately poverty can only be addressed by increasing people's incomes to ensure they can afford and access an adequate standard of living in regards to many necessities and socio-economic rights.<sup>111</sup> It is however beyond the scope of this article to discuss which approaches to poverty more generally

<sup>106</sup> Jonathan Wolff, 'Fairness, Respect, and the Egalitarian Ethos' (1998) 27 *Philosophy and Public Affairs* 97, 106.

<sup>107</sup> *Ibid*, 106–7.

<sup>108</sup> *Ibid*, 107.

<sup>109</sup> *Ibid*, 111.

<sup>110</sup> *Ibid*.

<sup>111</sup> Mark Simpson, Gráinne McKeever and Ciara Fitzpatrick, 'Legal Protection Against Destitution in the UK: The Case for a Right to Subsistence Minimum' (2023) 86 *MLR* 307.

are fiscally possible or efficacious. It should also be noted that hunger in the following discussion is referring to those that cannot access sufficient food. It is not discussion about those that choose to diet or go on hunger strike, as acts of autonomous free choice.

### A. Hunger and dignity

Hunger is described and defined in many ways. Hunger can have negative physiological effects as well as causing pain and other unpleasant emotions.<sup>112</sup> Such pain and negative physical and mental conditions are unlikely to result in a life that is dignified. During drafting of the ICESCR the representative from Chile stated 'Man could not ... have a sense of his own dignity if he was suffering from hunger'.<sup>113</sup> Those that are hungry are also unlikely to be able to fully realise other rights. Working, receiving an education and participating fully in society are all going to be much harder when hungry. Hunger as an affront to human dignity is also recognised in the responses people have to others going hungry. Historical examples of both religious and charitable responses to hunger are numerous.<sup>114</sup>

Vernon has argued that the modern 'humanitarian' approach to hunger only developed when 'novel forms of news reporting connected people emotionally with the suffering of the hungry'.<sup>115</sup> In the nineteenth century, reports in national newspapers in the UK, such as *The Times*, described in graphic details the effects of starvation. This altered the existing narrative of lazy moral defectives who were not worthy of saving to a narrative of innocent humans starving because of consequences beyond their control.<sup>116</sup> Reporting of the Irish Famine had similar effects on the public conscience in relation to people starving.<sup>117</sup> This change in narrative suggests there is a moral reaction to hunger and that we instinctively know allowing people to starve is morally wrong. More recently this has been demonstrated by the public response to the lack of school meal provision during the COVID-19 pandemic. The resulting media coverage and public outcry mobilised a Premier League footballer, the public, and businesses to make sure children did not go hungry.<sup>118</sup>

<sup>112</sup> For example, the United Nations Food and Agricultural Organization defines hunger as: an uncomfortable or painful physical sensation caused by insufficient consumption of dietary energy. FAO, 'Hunger and Food Insecurity' <[www.fao.org/hunger/en/](http://www.fao.org/hunger/en/)> accessed 12 June 2021.

<sup>113</sup> UNGA, '1232nd Meeting, Report of the ECOSOC (A/5503), (15 October 1963) UN Doc A/C.3/SR.1232 [13], as reproduced in Ben Saul, *The International Covenant on Economic, Social and Cultural Rights. Travaux Préparatoires 1948–1966* (Oxford University Press 2016).

<sup>114</sup> See, for example: Pitirim A Sorokin, *Hunger as a Factor in Human Affairs* (University of Florida Presses 1975).

<sup>115</sup> James Vernon, *Hunger a Modern History* (Belknap Press of Harvard University 2007) 17.

<sup>116</sup> *Ibid*, 19.

<sup>117</sup> *Ibid*, 20.

<sup>118</sup> Siddique (n 1); Rajeev Syal, Heather Stewart and Helen Pidd, 'Johnson Makes U-turn on Free School Meals After Rashford Campaign' *The Guardian* (16 June 2020) <[www.theguardian.com/politics/2020/jun/16/boris-johnson-faces-tory-rebellion-over-marcus-rashfords-school-meals-call](https://www.theguardian.com/politics/2020/jun/16/boris-johnson-faces-tory-rebellion-over-marcus-rashfords-school-meals-call)> accessed 26 June

Allowing people to go hungry suggests they are not being treated as morally equal, and that they do not have equal moral worth. This means it is not only hunger that is an affront to human dignity, but dignity is also diminished by allowing people to go hungry. In addition, this article is arguing that the policy that is used to address hunger should not violate human dignity. However, it is acknowledged that in individual or state emergency situations, the means available to address hunger may be limited. In some very extreme circumstances, it may be that food aid can only be provided in ways that do not conform with ideas of human dignity. The provision of such food is acceptable only in an emergency to relieve hunger; it only discharges a state's obligations in relation to the fundamental right to be free from hunger. Given the affront to dignity that is caused by hunger, as well as the risk to life, hunger should be alleviated even if the *only* available means does not do so in a way that respects human dignity. However, in the case of food insecurity and hunger in the UK this is not an acute and sudden emergency, it is a chronic problem and so the steps to address it should be compatible with concepts of human dignity.

### ***i. Foodbanks: an affront to dignity and an ineffective measure to tackle food insecurity***

Food 'represents an expression of who a person is, where they belong and what they are worth'.<sup>119</sup> The impact of not being able to feed yourself on self-worth and feelings of shame is well-documented.<sup>120</sup> Despite the best efforts of those that work and volunteer in foodbanks, the stigma associated with the use of foodbanks is a common feature described by service users. Having to use a foodbank in a developed nation such as the UK, when others have the choice of where they shop and what they buy may contribute to the impression you are not seen as being of equal moral worth. Such feelings will only be exacerbated by media and political commentary that can accuse people that are food insecure of being unable to budget or cook,<sup>121</sup> provide for their 'benefit broods'<sup>122</sup> or, in the case of politician Philip Hammond, following Alston's report on

2020; Abbey Maclure, 'The Leeds Restaurants and Businesses Offering Free Meals for Children During School Half Term' *Yorkshire Evening Post* (23 October 2020) <[www.yorkshireeveningpost.co.uk/news/politics/leeds-restaurants-and-businesses-offering-free-meals-children-during-school-half-term-3013790](http://www.yorkshireeveningpost.co.uk/news/politics/leeds-restaurants-and-businesses-offering-free-meals-children-during-school-half-term-3013790)> accessed 12 June 2021.

<sup>119</sup> Elizabeth Dowler, 'Food Poverty: Insights from the "North"' (2003) 21 *Development Policy Review* 569, 572.

<sup>120</sup> See, for example: Tyler (n 96) 187; Kingsley Purdam, Elizabeth A Garratt and Aneez Esmail, 'Hungry? Food Insecurity, Social Stigma and Embarrassment in the UK' (2016) 50 *Sociology* 1072; Rachel A Liebe and others, "'I'm Doing the Best that I Can': Mothers Lived Experience with Food Insecurity, Coping Strategies, and Mental Health Implications' (2024) 8 *Current Developments in Nutrition* 102136.

<sup>121</sup> Adam Forest, 'Tory MP Refuses to Apologise for the "Common Sense" Claim Food Bank Users Can't Cook Properly' *Independent* (12 May 2022) <[www.independent.co.uk/news/uk/politics/tory-mp-lee-anderson-food-banks-b2077286.html](http://www.independent.co.uk/news/uk/politics/tory-mp-lee-anderson-food-banks-b2077286.html)> accessed 30 January 2025.

<sup>122</sup> Tracey Jensen and Imogen Tyler, "'Benefit Broods": The Cultural and Political Crafting of Anti-Welfare Commonsense' (2015) 35 *Critical Social Policy* 470.

poverty in the UK, denying the reality of the situation people are living in.<sup>123</sup> As such the stigma and associated feelings of shame, not feeling of equal moral worth, and the loss of choices around food all indicate foodbanks are not a solution to food insecurity that is compatible with human dignity.

Moreover, stigma can prevent people accessing charitable food provision, when this is the only available option to temporarily relieve their hunger.<sup>124</sup> In addition, the food provided by foodbanks is often limited in range and may not provide a balanced diet.<sup>125</sup> This can impact the physical health of those already living with the impacts of poverty. People may be unable to access foodbanks due to their opening times, which are often limited due to reliance on volunteers to staff them.<sup>126</sup> Access can also be limited by the ability of people to get to foodbanks.<sup>127</sup> All of these limitations are borne out by the low level of uptake of food bank provision by those experiencing chronic hunger.<sup>128</sup>

Despite the critiques of foodbanks as an inappropriate and ineffective solution to food security, governments in developed nations have allowed charitable responses to hunger to become institutionalised. In the UK, the Government guidance for local authority Household Support Funds indicates food banks can form part of the assistance given to help families in poverty.<sup>129</sup> This was a step in institutionalising the state of food insecurity many find themselves in, as well normalising reliance on charitable intervention rather than government solutions.<sup>130</sup> Since this guidance in 2024, the Government has also provided £15 million to help charities redistribute food waste to homeless shelters and other charities that feed people and fight hunger.<sup>131</sup> Although charities involved in this work should be commended for preventing hunger, this step again indicates government support for charitable food aid and another step in institutionalising this as a legitimate response to food insecurity.

<sup>123</sup> Tyler (n 96) 173–4.

<sup>124</sup> Zachary Daly and others, 'Food-Related Worry and Food Bank Use During the COVID-19 Pandemic in Canada: Results from a Nationally Representative Multi-Round Study' (2023) 23 *BMC Public Health* 1723, 10.

<sup>125</sup> *Ibid.*

<sup>126</sup> *Ibid*; Graham Riches, *Food Bank Nations. Poverty, Corporate Charity and the Right to Food* (Routledge 2018) 95.

<sup>127</sup> Daly and others (n 124) 10.

<sup>128</sup> *Ibid*; Power (n 45).

<sup>129</sup> GOV.UK, 'Household Support Fund: Guidance for Local Councils' (13 September 2023) <[www.gov.uk/government/publications/household-support-fund-guidance-for-local-councils/household-support-fund-final-guidance-for-county-councils-and-unitary-authorities-in-england#working-with-other-organisations](https://www.gov.uk/government/publications/household-support-fund-guidance-for-local-councils/household-support-fund-final-guidance-for-county-councils-and-unitary-authorities-in-england#working-with-other-organisations)> accessed 5 March 2024.

<sup>130</sup> Hannah Westwater (*Big Issue*, 12 November 2021) 'Government Accused of "Institutionalising" Food Banks in New Guidance for Councils' <[www.bigissue.com/news/social-justice/government-accused-of-institutionalising-food-banks-in-new-guidance-for-councils/](https://www.bigissue.com/news/social-justice/government-accused-of-institutionalising-food-banks-in-new-guidance-for-councils/)> accessed 5 March 2024.

<sup>131</sup> Department for Environment, Food and Rural Affairs, '£15 Million to Help Charities Get Spare Produce to Those in Need' (GOV.UK 27 December 2024) <[www.gov.uk/government/news/15-million-to-help-charities-get-spare-produce-to-those-in-need](https://www.gov.uk/government/news/15-million-to-help-charities-get-spare-produce-to-those-in-need)> accessed 30 January 2025.

Charitable food aid should only ever be an emergency stop gap.<sup>132</sup> It should never be part of government policy to address food insecurity. Not only, as discussed above, is it ineffective, it is also not sustainable nor guaranteed.<sup>133</sup> During the recent cost-of-living crisis in the UK charities struggled to maintain charitable food packages as donations fell.<sup>134</sup> Charitable assistance is not a right that can be claimed.<sup>135</sup> It leaves those in already precarious situations dependent on the goodwill of others. This in and of itself is unlikely to make people feel they are of equal moral worth. In addition, research suggests that peoples' subjective feelings are also highly relevant to how they react and potentially recover after periods of food insecurity. Households' subjective resilience has been shown to be related to how well they engage with programmes aimed at aiding recovery.<sup>136</sup> Feeling as though you are dependent on charity which is not guaranteed is unlikely to engender feelings of resilience. This in turn limits people's engagement with services that could assist them.

There is evidence from Canada that programmes that provide unconditional benefits in the form of money rather than food aid or vouchers are effective in reducing food insecurity.<sup>137</sup> The Scottish Government has also recognised the importance of cash-first approaches in ending the need for food banks in Scotland.<sup>138</sup> Ultimately, cash first approaches allow people to make choices about their spending, not only in relation to food, but their other expenses. It breaks the dependence on charity and removes the stigma of being dependent on food parcels. As such, cash first approaches are the most appropriate means to address both acute and chronic food insecurity when human dignity is considered.

## **B. Progressive realisation of the right to food and dignity**

The link between hunger and dignity is clear. The link between aspects of the core of the right to adequate food and dignity is not so readily apparent. However, the following discussion demonstrates that dignity has relevance to other components of the right

<sup>132</sup> Riches (n 126) 91.

<sup>133</sup> *Ibid*, 92.

<sup>134</sup> Peter Taylor-Gooby and Tomas Petricek, 'Food Bank Donations Surged During the Pandemic – But Look Closely at the Data and There's Trouble Ahead' *The Conversation* (9 July 2020) <<https://theconversation.com/food-bank-donations-surged-during-the-pandemic-but-look-closely-at-the-data-and-theres-trouble-ahead-142113>> accessed 11 July 2020.

<sup>135</sup> Luke D Graham, *International Human Rights Law and Destitution* (Routledge 2023) 16.

<sup>136</sup> Bene and others, 'Is Resilience a Useful Concept in the Context of Food Security and Nutrition Programmes? Some Conceptual and Practical Considerations' (2016) 8 *Food Security* 123.

<sup>137</sup> Erika M Brown and Valerie Tarasuk, 'Money Speaks: Reductions in Severe Food Insecurity Following the Canada Child Benefit' (2019) 129 *Preventative Medicine* 105876; Rachel Loopstra, Naomi Dachner and Valerie Tarasuk, 'An Exploration of the Unprecedented Decline on the Prevalence of Household Food Insecurity in Newfoundland and Labrador, 2007–2012' (2015) 41 *Canadian Public Policy* 191.

<sup>138</sup> Scottish Government, 'Cash-First – Towards Ending the Need for Food Banks in Scotland' (5 June 2023) <[www.gov.scot/publications/cash-first-towards-ending-need-food-banks-scotland/](http://www.gov.scot/publications/cash-first-towards-ending-need-food-banks-scotland/)> accessed 31 January 2025.

to food and food policy, both in the consequences of not realising the right to food and also in relation to policy that should be adopted in relation to the right to food.

### *i. Free school meals*

Provision of free school meals varies across the UK. In Scotland, all children in classes Primary 1–5 receive free school meals, after which point free school meals are means tested.<sup>139</sup> As of 2024, free school meals for primary aged children in Wales are being rolled out, starting with the youngest years.<sup>140</sup> In England, free school meals are provided for all children in years 1 and 2. Any expansion beyond these years of free school meals is dependent on local authority discretion and funding.<sup>141</sup> After years 1 and 2, parents in all local authorities can apply for free school means, the eligibility for which is means tested.<sup>142</sup> School meals are not only a way to address food insecurity in children, they also make positive contributions to health and nutrition.<sup>143</sup> They also contribute to healthier dietary behaviour during the period when children's food preferences and eating habits are formed.<sup>144</sup>

However, around 10% of children entitled to free school meals do not take them up.<sup>145</sup> As well as the possible bureaucratic and language barriers faced by some parents in applying for means tested free school meals, stigma and embarrassment are identified as reasons parents and children do not take up free school meals.<sup>146</sup> In secondary aged children this can be made worse by the tendency of children to want to leave school to buy food from shops and takeaways at lunch time.<sup>147</sup> The stigma associated with receiving free school meals can be exacerbated by students being bullied for living in poverty.<sup>148</sup> The way free school meals are delivered in some

<sup>139</sup> Scottish Government, 'Free School Meals' (5 June 2021) <[www.gov.scot/news/free-school-meals-1/](http://www.gov.scot/news/free-school-meals-1/)> accessed 30 January 2025.

<sup>140</sup> Welsh Government, Universal Primary Free School Meals (UPFSM) (22 July 2022) <[www.gov.wales/universal-primary-free-school-meals-upfsm](http://www.gov.wales/universal-primary-free-school-meals-upfsm)> accessed 30 January 2025.

<sup>141</sup> Bridgid Francis-Devine, Xameerah Malik and Nerys Roberts, 'Food Poverty: Households, Food Banks and Free School Meals' (House of Commons Library No 9209, 2 September 2024) <<https://researchbriefings.files.parliament.uk/documents/CBP-9209/CBP-9209.pdf>> accessed 30 January 2025, 27.

<sup>142</sup> *Ibid.*

<sup>143</sup> See, for example: Stephanie Hartgen Walker and Clare Lally, 'Child Food Insecurity and Free School Meals' (UK Parliament POSTnote 704, 21 July 2023) 7 <<https://researchbriefings.files.parliament.uk/documents/POST-PN-0704/POST-PN-0704.pdf>> accessed 31 January 2025.

<sup>144</sup> Patricia Jane Lucas and others, 'Preschool and School Meal Policies: An Overview of What We Know about Regulation, Implementation and Impact on Diet in the UK, Sweden and Australia' (2017) 9 *Nutrients* 736.

<sup>145</sup> Sofia Parente, 'Driving Uptake of Free School Meals Through Opt-Out Automatic Enrolment' *Sustain* (12 March 2024) <[www.sustainweb.org/blogs/mar24-fsm-automatic-enrolment/](http://www.sustainweb.org/blogs/mar24-fsm-automatic-enrolment/)> accessed 31 January 2025.

<sup>146</sup> *Ibid.*

<sup>147</sup> *Ibid.*

<sup>148</sup> Tyler (n 96) 167.

schools may create a sense of students in receipt of free school meals being different. Older children may receive vouchers to pay for meals, rather than paying with cash like their friends. They may also have more limited funds reducing their choices when compared to other students.<sup>149</sup> It has also been reported that in some schools, children in receipt of free school meals end up sitting apart from other children.<sup>150</sup>

Policy around free school meals is another area where consideration of stigma and shame as part of human dignity is vital to ensure that policies are effective in reducing hunger and improving health and nutrition. Policies that would combat stigma as a barrier to uptake include rolling out universal school meals, at least for all primary aged children, which has been shown to increase free school meal uptake.<sup>151</sup> Auto enrolment for those that are eligible with parents able to opt-out has been successful in Sheffield in increasing free school meal uptake.<sup>152</sup> In secondary schools, following consultation with students and parents, small changes can be made to make staying in school for lunch more appealing.<sup>153</sup> This means that staying in school is not unusual and so does not label certain students as being different. Other simple steps such as ensuring all students pay for food in the same way to remove obvious differences between students may also help limit the feelings of shame associated with being in receipt of free school meals. Reducing the level of stigma and opportunities to feel different and not of equal moral worth will increase the uptake and so be more likely to achieve the policy aims behind the provision of free school meals.

## ***ii. Obesity policy***

The final area being considered in relation to dignity, the right to food and food policy is obesity. Obesity and other nutritional diseases are directly linked to dignity as a foundational principle for the right to food. If you are unhealthy due to micronutrient deficiencies or suffer from diet related diseases such as type II diabetes or cardiac disease, you may as a result have limited life choices. You may have physical or mental symptoms that make living a dignified life more difficult. In addition, as mentioned above, approaches to obesity that stigmatise are not only ineffective, they may actually exacerbate obesity by causing additional weight gain.

The individualisation of responsibility for increasing levels of obesity may be a result of food company corporate capture of the debate rather than evidence based

<sup>149</sup> Lucy Rock, 'Thousands of Pupils Shamed Out of Free School Meals' *The Guardian* (23 September 2012) <[www.theguardian.com/education/2012/sep/23/free-school-meals-stigma](http://www.theguardian.com/education/2012/sep/23/free-school-meals-stigma)> accessed 31 January 2025.

<sup>150</sup> *Ibid.*

<sup>151</sup> Parente (n 145).

<sup>152</sup> *Ibid.*

<sup>153</sup> Child Action Poverty Group, 'Boosting Free School Meal Uptake' <<https://cpag.org.uk/what-we-do/project-work/cost-school-day/resources/ideas-bank/entitlements/boosting-fsm>> accessed 31 January 2025.

public health policy.<sup>154</sup> As it is unlikely people suddenly and collectively lost their self-control at the point obesity levels began to rise, it is argued that changes in our food environment and activity levels are responsible.<sup>155</sup> Ultra-processed foods that are high in fat, salt, and sugar are common in our environment. Companies have invested in processes that make such food taste nice and have created addictive foods that are highly palatable and easy to sell.<sup>156</sup> In addition, as mentioned above, such foods are cheaper per calorie and often promoted in supermarkets, making them more affordable than healthier alternatives.

At the same time governments, in part encouraged by large food corporations, have promoted the message that maintaining a healthy weight is a simple combination of eating less calories and moving more.<sup>157</sup> However, research indicates that weight and choices around food are the result of a complex interplay between our genetics and our environment.<sup>158</sup> For many such advice is not simple and despite people's best efforts they either will not be able to lose weight or if they do manage, they will likely regain it.<sup>159</sup> This is exacerbated by weight or obesity stigma. It is suggested that obesity policy that considers dignity and stigma needs a nuanced approach that avoids stigmatising those who are obese.<sup>160</sup> In addition to individual approaches to addressing obesity, acknowledgement of and action against our food environment is required. This may include providing consumers with truthful nutritional and health information, limits on food marketing,<sup>161</sup> and regulation of food ingredients.<sup>162</sup>

## 5. Conclusion

Levels of hunger, chronic food insecurity, and dietary related disease are such that the UK is likely violating its obligations in relation to the right to food. As the Government moves to address child poverty and create a new national food plan, this article has argued that food policy in the UK should engage with and be guided by the underutilised normative potential of the right to food. A central component of this normative potential is the role that dignity should play in shaping obligations for the right to food and policy that facilitates their realisation. Hunger is recognised as a violation of human dignity. But it is not just hunger that is a violation of human dignity; it is

<sup>154</sup> Kelly D Brownell and others, 'Personal Responsibility and Obesity: A Constructive Approach to a Controversial Issue' (2010) 29 *Health Affairs* 379.

<sup>155</sup> *Ibid.*, 380.

<sup>156</sup> Michael Moss, *Hooked* (Penguin 2021) 103–4; Michael Pollen, *The Omnivores Dilemma* (Bloomsbury 2011) 85–99.

<sup>157</sup> Brownell and others (n 154), Williams and Annandale (n 105).

<sup>158</sup> Rekha Nath, 'Obesity and Responsibility for Health' in Ben Davis and others (eds), *Responsibility and Health Care* (OUP 2024) 207.

<sup>159</sup> *Ibid.*

<sup>160</sup> Darling and others (n 96).

<sup>161</sup> Brownell and others (n 154), 384.

<sup>162</sup> *Ibid.*, 385.

also allowing people to go hungry that diminishes human dignity. In addition, the way that hunger is addressed can also be a violation of human dignity. As such, it was argued that, outside of true emergency situations, solutions to hunger based on food banks and charitable responses are incompatible with human dignity. They cause stigmatisation and people using such services can feel they are not of equal moral worth. Their choices in relation to food are limited. Not only is this incompatible with a rights-based approach to food policy, it also contributes to the ineffective nature of foodbanks as a way to address food insecurity.

The link between hunger and dignity is clear; hunger is painful and has negative physical, mental and emotional consequences; it can stop the realisation of other rights and full participation in society. However, dignity is also relevant to the core of the right to adequate food. Free school meals can reduce hunger but also ensure better diets and be part of nutrition and food education. Yet, unless policies to increase uptake of free school meals consider the role of stigma as a bar to free school meal uptake, they are unlikely to be effective. Obesity, and other nutritional diseases, can impact the nature of someone's life and potentially cause a life that may not be considered dignified. In addition, policies that aim to tackle obesity can shame and stigmatise people and make them feel not of equal moral worth. Not only are such policies incompatible with a rights-based approach that considers dignity, but they are also ineffective and often counterproductive. These three aspects of the right to food demonstrate that dignity should be a central concern for policy makers in relation to the nutrition and food security crises the UK faces. Policy that ensures the equal moral worth of all, that limits feelings of shame and avoids stigmatisation are necessary to ensure a rights-based approach founded in human dignity that can reduce food insecurity and tackle nutritional diseases.

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