



# **Best Dissertation 2016**

## **ATTACKING THROUGH 'AUSTERITY': HOW AND WHY THE UK GOVERNMENT VIOLATED ECONOMIC AND SOCIAL RIGHTS**

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**Abstract**

In 2016, the United Nations (UN) expressed “serious concern” over the United Kingdom’s (UK) economic and social rights (ESRs) defenses, viewing its austerity measures as regressive and contrary to international law. In light of this, and given the importance of ESRs to civil and political rights, this thesis analyses the government’s ‘Austerity’ agenda from a human rights perspective. It demonstrates that the government has violated both its legal and moral obligations to work toward the realisation of ESRs - specifically, to social security and to an adequate standard of living – through policy. It is argued that the government has violated ESRs directly, as part of a political agenda of class war (as a transfer of wealth to its own class), and of social control, through separation.

## Chapter 1: Introduction

### 1.1 Contemporary crisis in the UK

The UK has enshrined its position as one of the most unequal nations of the Western world, with income gaps between those at the top and those at the bottom widening each year.<sup>1</sup> A loss of social security support has explained the major English riots in 2011<sup>2</sup> and the rapid acceleration of hate crime against ethnic minorities and immigrant families which spiked by 42% in 2016 from the previous year in England and Wales.<sup>3</sup> While this social disunity is troubling, it is not the worst of 'Austerity'. Recent reductions in social provisions are believed to have caused the biggest rise in England's death rate since the Second World War.<sup>4</sup>

In its first review of the UK since 2009, the UN Committee on Economic, Social and Cultural Rights (CESCR) expressed "serious concern" regarding the impact of regressive austerity policies on the enjoyment of ESRs, ruling that such measures have violated human rights.<sup>5</sup> Concern for various changes in the entitlements to, and/or cuts in, social benefits, and

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<sup>1</sup> J. Martinho, "The impact of austerity – and the alternatives", *Oxfam Blogs*. 1 September 2013. Available online: [www.oxfam.org.uk/blogs/2013/09/the-impact-of-austerity](http://www.oxfam.org.uk/blogs/2013/09/the-impact-of-austerity) [10 June 2016]; Eurofound, *Recent Developments in the Distribution of Wages in EUROPE*, (Luxembourg; Publications Office of the European Union, 2015).

<sup>2</sup> S. Rogers, "England Riots: Was Poverty a Factor? Reading the Riots: Investigating England's Summer of Disorder". *The Guardian*, Online. Available online: <http://www.theguardian.com/news/datablog/2011/aug/16/riots-poverty-map-suspects> [5 August 2016].

<sup>3</sup> C. Mortimer, "Hate crimes surge by 42% in England and Wales since Brexit result", *The Independent*, Online. 8 July 2016. Available online: <http://www.independent.co.uk/news/uk/crime/brexit-hate-crime-racism-stats-spike-police-england-wales-eu-referendum-a7126706.html> [3 August 2016].

<sup>4</sup> Data released by the Office for National Statistics exhibited 52,400 more deaths in the UK in the year to June 2015 compared with to June 2014. See <https://www.ons.gov.uk/>.

<sup>5</sup> UNCESCR, UN Committee on Economic, Social and Cultural Rights: *Concluding observations on the sixth periodic report of the United Kingdom of Great Britain and Northern Ireland*. 14 July 2016. E/C.12.GBR/CO/6. Available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/152/41/PDF/G1615241.pdf?OpenElement> [30 July 2016].

particularly the use of sanctions, featured throughout the Committee's review; in relation to the right to social security in itself, but also explicitly to the to the government's failure to provide available and affordable housing, and to rising homelessness.<sup>6</sup> The enquiry of this thesis is twofold: how did it come to this, and why?

## 1.2 Methodology and thesis structure

This thesis will analyse 'Austerity' in UK context using a human rights approach. The human rights framework provides standards by which laws and policies can be judged and as an ethical discourse has the capacity to mobilize individuals to hold governments to account.<sup>7</sup>

Human rights do not equate entirely to the legal entitlements individuals possess or actually enjoy, contrary to the definition of Sunstein that human rights comprise "legally enforceable instruments for the protection of their claimants".<sup>8</sup> This assessment prescribes to the perspective that legal rights have clear mechanisms of enforcement, and that human rights require the law for their realisation.<sup>9</sup> Rights only have meaning if it is possible to enforce them, adjudication appears to have been the chosen mechanism for their enforcement<sup>10</sup>, and entirely 'moral' or 'natural' rights consequently remain a "ghostly analogue".<sup>11</sup>

This thesis engages with literature from the fields of human rights, law, social policy, sociology and politics, in the forms of academic literature, UK government and NGO reports,

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<sup>6</sup> Ibid.

<sup>7</sup> D. Elson, "The reduction of the UK budget deficit: a human rights perspective", *International Review of Applied Economics*, 26, 2 (2012) 178.

<sup>8</sup> C. Sunstein, "Rights and their critics", *Notre Dame Law Review*, 70, 4 (1995) 739.

<sup>9</sup> G. DiGiacomo, "Introduction" in *Human Rights: Current Issues and Controversies* (Canada/NY: University of Toronto Press, 2016) 3.

<sup>10</sup> A. Neier, "Social and Economic Rights: A Critique", *Human Rights Brief*, 13, 2 (2006).

<sup>11</sup> R. Geuss, *History and Illusion in Politics*, (Cambridge: Cambridge University Press, 2001) 139.

media articles, parliamentary enquiries, and legal provisions. Chapter 2 begins with an introduction of the concept of ESRs within the wider human rights framework, and the provisions afforded to them in international and European law. Chapter 3 introduces the concept of 'Austerity' and outlines its common implications for State provisions and ESRs. Chapter 4 analyses the UK government's legal ESRs obligations and the direct impact of changes in welfare provisions, under 'Austerity', on ESRs enjoyment. Chapter 5 then explores reasons why the government has directly violated ESRs, discussing the assertions that such violations are part of a broader political projects of the ruling class (as government).

It is argued that the UN was right to express "serious concern" regarding the UK's protection of ESRs. As will be shown, through significant reductions in welfare provisions under 'Austerity', and the introduction of benefit sanctions in particular, the government has directly violated the rights to social security and an adequate standard of living, demonstrated by rising food bank use and homelessness. Moreover, it is argued that 'Austerity', as a political choice that mitigates against the government's protection of ESRs, has been adopted by the UK government as a tool of class war and as a method for the generation of social division, to enhance State control.

## **Chapter 2: The Importance of ESRs**

In order to assess the UN's claim that the UK government violated human rights through 'Austerity', it is first necessary to outline the human rights framework and ESRs within this.

### **2.1 ESRs in the human rights framework**

Given the importance of the legal formulation of human rights to their enforcement and implementation, this assessment does not seek to explore the philosophical grounds of rights in notions of 'morality' and 'nature'. This is not to suggest that human rights are not of moral origin, however: they are certainly driven by the ethical standards agreed upon by the international community and possess a strong moral dimension, as demonstrated by their universalization through International Human Rights law. As Hannah Ardent notes, human rights are not given facts, but rather, they are human constructs subject to an ongoing process of composition.<sup>12</sup>

Indeed, governments play a principal role in the construction and implementation (or deconstruction and violation) of human rights. Although international human rights [law] has successfully "redefine[d] what is exclusively within the domestic jurisdiction of individual States"<sup>13</sup> - encouraging a transition from a "Hobbesian" State-centered conception of sovereignty to a "Kantian" one of universal citizenship and solidarity<sup>14</sup> - human rights can still be conceived of as "giving persons a moral [and legal] claim to protective action by their

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<sup>12</sup> H. Arendt, *The Origins of Totalitarianism* (Berlin: Schocken Books, 1951).

<sup>13</sup> K. Sikkink "Human Rights, Principled Issue-Networks, and Sovereignty in Latin America", *International Organization*, 47, 3 (1993) 413.

<sup>14</sup> S. Schneider and M. Spindler, *Theories of International Relations*, (London and NY: Routledge, 2014) 275.

government".<sup>15</sup> The role of governments in human rights protection is reinforced by the fact that there exists no human right to charity or compassion.<sup>16</sup>

ESRs may be defined as the subgroup of human rights concerned with the material bases of human well-being.<sup>17</sup> Their primary purpose is to help individuals maintain or secure an acceptable standard of living and quality of life<sup>18</sup>, particularly those vulnerable to "the vagaries of a market-based economy".<sup>19</sup> Such rights seek to do so by guaranteeing access to material goods and services such as housing, health care, education, food and water. As moral entitlements individuals have by virtue of their humanity, ESRs, as with all human rights, are under no circumstances contingent upon individual attributes or behavior.<sup>20</sup>

When ESRs are understood as provisions for the material bases of human well-being, it follows that ESRs protect the most vulnerable groups in society, and that when such rights are undermined, vulnerable and disadvantaged groups will be most impacted. As noted by the ESCR Committee in 2012, the denial or infringement of ESRs, while being contrary to the Covenant, also have "significant negative impacts, in particular, on disadvantaged and marginalized individuals and groups, such as the poor, women, children, persons with disabilities, older persons, people with HIV/AIDS, indigenous peoples, ethnic minorities, migrants and refugees".<sup>21</sup>

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<sup>15</sup> T. Pogge, *Freedom from Poverty as a Human Right*, (Oxford: Oxford University Press, 2007) 23.

<sup>16</sup> J. Donnelly, *Universal Human Rights in Theory and Practice*, (Ithaca and London: Cornell University Press, 2003).

<sup>17</sup> M. Tushnet, "Civil Rights and Social Rights: The Future of Reconstruction Amendments", *Loyola of Los Angeles Law Review*, 6-1 (1992) 1207.

<sup>18</sup> DiGiacomo, "Introduction", 3.

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

<sup>20</sup> L. Minkler, "Introduction: Why Economic and Social Human Rights?" in *The State of Economic and Social Human Rights: A Global Overview*, (Cambridge: Cambridge University Press, 2013) 3.

<sup>21</sup> OHCHR, *Report of the United Nations High Commissioner for Human Rights on austerity measures and economic and social rights*. 2012. Available online: [www2.ohchr.org/english/bodies/cescr/docs/LetterCESCRtoSP16.05.12.pdf](http://www2.ohchr.org/english/bodies/cescr/docs/LetterCESCRtoSP16.05.12.pdf) [3 August 2016], 21.

Despite the paradigm created between civil and political, socio-economic/cultural, and collective, participatory and solidarity rights<sup>22</sup>, something reflected by the creation of separate Covenants on civil and political rights (ICCPR) and on economic, social and cultural rights (ICESCR), the various “generations” of rights are connected with one another, as indivisible, interdependent and interrelated.<sup>23</sup> Espiell rightly acknowledges the momentous significance of ESRs to those civil and political: “Only the full recognition of these rights can guarantee the real existence of any one of them, since without the effective enjoyment of economic [and] social...rights, civil and political rights are reduced to merely formal categories”.<sup>24</sup> Therefore, failure to respect the right of sustenance, for example, would render civil and political rights worthless - its enjoyment is essential to the enjoyment of all other human rights.<sup>25</sup> As Fredman has argued: “instead of drawing distinctions between civil and political and ESRs, it is preferable to focus on the positive duties that arise from all rights”<sup>26</sup>, something which the Universal Declaration of Human Rights (UDHR) acknowledges in the absence of subsections to separate rights.

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<sup>22</sup> K. Vasak, “A 30-Year Struggle: The Sustained Efforts to Give Force of Law to the Universal Declaration of Human Rights”, *The UNESCO Courier*, 29 (1977); C. Brolmann, R. Lefeber and M. Zieck, *Peoples and Minorities in International Law*, (New York: Springer, 1993) 119, 50, 122.

<sup>23</sup> N. Lusiani, and I. Saiz, *Safeguarding Human Rights in Times of Economic Crisis*. 2013. Strasbourg: Commissioner for Human Rights, Council of Europe. Available online: [http://www.enetenglish.gr/resources/article-files/prems162913\\_gbr\\_1700\\_safeguardinghumanrights\\_web.pdf](http://www.enetenglish.gr/resources/article-files/prems162913_gbr_1700_safeguardinghumanrights_web.pdf) [20 August 2016]; UN General Assembly, *Vienna Declaration and Programme of Action*, 12 July 1993, A/CONF.157/23. Available online: <http://www.refworld.org/docid/3ae6b39ec.html> [17 August 2016].

<sup>24</sup> H. G. Espiell, *Los derechos económicos, sociales y culturales en el sistema interamericano*. (San Jose: Libro Libre, 1986) 16-7.

<sup>25</sup> H. Shue, *Basic Rights: Subsistence, Affluence, an U.S. Foreign Policy*, (Princeton NJ: Princeton University Press, 1996).

<sup>26</sup> S. Fredman, *S. Human Rights Transformed: Positive Rights and Positive Duties*, (Oxford: Oxford University Press, 2008) 204.

Adopted by the UN General Assembly in 1948, the UDHR enshrines these human rights, as universal moral entitlements.<sup>27</sup> Articles 22-26 of the UDHR provide economic and social entitlements, with Article 22 espousing that all individuals, as members of society, possess the “right to social security”, and entitlement to realization of “the economic [and] social rights indispensable for his dignity and the free development of his personality”.<sup>28</sup> Such notions are reinforced by Article 25, which enshrines a right to a “standard of living adequate for the health and well-being of [the citizen] and of his family”, which includes: “food, clothing, housing...necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control...”.<sup>29</sup>

Sociologist T. H. Marshall made a distinguished connection between the State and social rights, going so far as to claim that the establishment of ESRs was completed in Britain with the formation of the ‘modern’ welfare State, shortly after the Second World War.<sup>30</sup> Marshall argued that the State “guarantees a minimum supply of certain goods and services...or a minimum money income”<sup>31</sup>, and that the overall responsibility for the welfare of the citizens lies with the State alone.<sup>32</sup> His perspective stressed the minimalist provision: that the State must take responsibility for those “unable to provide for their own welfare”.<sup>33</sup> Indeed governments, as the principal guarantors of rights, are afforded an obligation by ESRs to

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<sup>27</sup> Minkler, “Introduction: Why Economic and Social Rights?”, 3.

<sup>28</sup> UN General Assembly, *Universal Declaration of Human Rights*, 10 December 1948, 217 A (III). Available online: <http://www.refworld.org/docid/3ae6b3712c.html> [17 August 2016] at 22.

<sup>29</sup> Ibid.

<sup>30</sup> H. Dean, *Social Rights and Human Welfare*, (New York: Routledge, 2015) 4.

<sup>31</sup> T. Marshall, *Sociology at the Crossroads*, (London: Heinemann, 1963) 105.

<sup>32</sup> T. Marshall, *Social Policy* (London: Hutchinson, 1970).

<sup>33</sup> M. Daly, *Welfare* (Cambridge: Polity, 2011) 22.

provide adequate public services such as social benefits, housing and employment.<sup>34</sup> In this sense, taxation policy is inherently human rights policy<sup>35</sup>, for it plays a central role in determining how much of a society's resources will come under government control, and how the social product will be shared out among different individuals as private property and publicly provided benefits.<sup>36</sup> Importantly, it also determines *how much* resource is available for rights realisation, and which groups in society the means for this will come from.

The obligation afforded to the State by ESRs is also frequently emphasized in relation to economic globalization and the neo-liberal economic agenda. For instance, Donnelly asserts that: "...social policies are essential for ensuring that minorities, which are deprived or disadvantaged by the market, receive a minimum level of respect in the economic sphere...Markets seek efficiency and not... human rights for all".<sup>37</sup> Similarly, Eide notes: "Government action must...compensate for the imbalances created by markets".<sup>38</sup>

Furthermore, while it may appear that scope is provide for human rights to be socially and variably specified<sup>39</sup> - Article 22 of the UDHR claims that individuals have the right to realisation of their ESRs "only in accordance with the *organization and resources of each*

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<sup>34</sup> D. Kelly "A Life of One's Own: Individual Rights and the Welfare State", (Washington: Cato Institute, 2007 ed.) 285-6.

<sup>35</sup> P. Alston "Extreme inequality as the antithesis of human rights", *Open Democracy*, Online. 27 October 2015. Available online: <https://www.opendemocracy.net/openglobalrights/philip-alston/extreme-inequality-as-antithesis-of-human-rights> [20 July 2016]. para. 9.

<sup>36</sup> L. Murphy and T. Nagel, *The Myth of Ownership: Taxes and Justice*, (Oxford: Oxford University Press, 2002) 76, 188.

<sup>37</sup> J. Donnelly, *International Human Rights* (Colorado: Westview Press, 1998), 160.

<sup>38</sup> A. Eide, "Economic, Social and Cultural Rights as Human Rights" in C. Krause, A. Eied and A. Rosas, *Economic, Social and Cultural Rights*. (Dordrecht/London: Martinus Nijhoff Publishers, 1995) 40.

<sup>39</sup> P. Jones, *Rights*, (London: Palgrave Macmillan, 1994) 160-3, 192-4.

State”<sup>40</sup> - as moral entitlements, ESRs are not contingent upon external circumstances such as political systems, or national wealth.<sup>41</sup>

## 2.2 Legal provisions for ESRs

ESRs find legal expression in a number of international constitutions and regional documents, having been placed alongside a wide variety of rights in the Universal Declaration of Human Rights<sup>42</sup>, including the right to work<sup>43</sup>, and to education.<sup>44</sup>

The primary source of ESRs in international human rights law is the International Covenant on Economic, Social and Cultural Rights (ICESCR), adopted by the UN General Assembly in 1966, and entering into force in 1976.<sup>45</sup> The very preamble of the ICESCR concedes that: ‘The ideal of free human beings enjoying *freedom from fear and want* can only be achieved if conditions are created whereby everyone may enjoy his economic [and] social rights, as well as his civil and political’.<sup>46</sup> Crucially, States must “take steps” to the maximum of their available resources to progressively realize all ESRs.<sup>47</sup> In addition to the ICESCR, ESRs feature in most other major international treaties, including the Convention on the Elimination of All Forms of Racial Discrimination<sup>48</sup> and the Convention on the Elimination

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<sup>40</sup> UN General Assembly, UDHR.

<sup>41</sup> Minkler, ‘Introduction: Why Economic and Social Rights?’, 3.

<sup>42</sup> UN General Assembly, UDHR.

<sup>43</sup> *Ibid* Art. 23.1.

<sup>44</sup> *Ibid* Art. 26.1.

<sup>45</sup> UN General Assembly, *International Covenant on Economic, Social and Cultural Rights* (ICESCR), 16 December 1966, United Nations, Treaty Series, vol. 993, 3. Available at: <http://www.refworld.org/docid/3ae6b36c0.html> [17 August 2016]. Adopted by Resolution 2200a (XXI) of 16 December 1966.

<sup>46</sup> The preamble to the ICCPR refers to the ideal of human beings free from want and fear and the need for the enjoyment of economic and social rights for its realization.

<sup>47</sup> UN General Assembly, ICESCR, Art. 2(1).

<sup>48</sup> UN General Assembly, *International Convention on the Elimination of All Forms of Racial Discrimination*, 21 December 1965, United Nations, Treaty Series, vol. 660, 195. Available at: <http://www.refworld.org/docid/3ae6b3940.html> [10 August 2016]. Art. 5.

of All Forms of Discrimination Against Women.<sup>49</sup> By signing and/or ratifying such covenants, countries and their governments are legally required to align their policies and laws with the moral rights provided.<sup>50</sup>

ESRs find some, albeit comparatively vague, protection under European law.

The boldest feature of EU law pertaining to ESRs is the European Social Charter (ESC), revised in 1996, which explicitly secures the right to social security (Art. 12), the right to social and medical assistance (Art. 13), and the right to social welfare services (Art. 14). The ESC does not establish specific legal obligations; neither does it oblige States to accept all ESC provisions (providing States with discretion). Nevertheless, it does establish principles for rights protection that contracting parties consent to, as policy aims.<sup>51</sup>

The following section briefly outlines legal provisions on the rights to social security and to an adequate standard of living. These rights have been selected as provisions for the most basic of entitlements necessary for human life.

### ***2.2.1 The right to social security***

The right to social security is guaranteed explicitly under Article 9 of the ICESCR, and implicitly by Article 10.<sup>52</sup> As affirmed by General Comment 19, the social security system of governments should provide adequate access to benefits, support for families and children,

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<sup>49</sup> UN General Assembly, *Convention on the Elimination of All Forms of discrimination Against Women*, 18 December 1979, A/RES34180. Available at:

<http://www.refworld.org/docid/3b00f2244.html> [12 June 2016]. Art. 11.

<sup>50</sup> Minkler, "Introduction: Why Economic and Social Human Rights?" 3.

<sup>51</sup> *Ibid*, 234.

<sup>52</sup> UN General Assembly, ICESCR, Art. 9: "the right of everyone to social security, including social insurance"; Art. 10: "working mothers should be accorded paid leave or leave with adequate social security benefits".

and protection for maternity and disability.<sup>53</sup> Being of a redistributive character, the right plays an “important role in poverty reduction an alleviation, preventing social exclusion an promoting social inclusion”.<sup>54</sup> Moreover, it is afforded particular consideration in this analysis due to its incorporation of a right to “access and maintain benefits”.<sup>55</sup>

### ***2.2.2 The right to an adequate standard of living***

The right to an adequate standard of living is protected by Article 11 of the ICESCR<sup>56</sup>, and by Article 27 of the Convention on the Rights of the Child.<sup>57</sup> It recognises a right to a “continuous improvement of living conditions.” Rights to food and housing are its main components<sup>58</sup>, supplemented by other basic necessities such as necessary social services. The interdependence of rights earlier noted means that evictions, unemployment or cuts in social spending are likely to impact negatively upon this right; in this sense, social security and an adequate standard of living are closely connected.

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<sup>53</sup> UN Committee on Economic, Social and Cultural Rights (CESCR), *General Comment No. 19: The right to social security (Art. 9 of the Covenant)*, 4 February 2008, E/C.12/GC/19. Available at: <http://www.refworld.org/docid/47b17b5b39c.html> [17 August 2016], para. 3.

<sup>54</sup> *Ibid*, para.3.

<sup>55</sup> *Ibid*, para. 2.

<sup>56</sup> UN General Assembly, ICESCR, Art. 11.

<sup>57</sup> UN General Assembly, *Convention on the Rights of the Child*, 20 November 1989, United Nations, Treaty Series, vol. 1577, 3. Available at: <http://www.refworld.org/docid/3ae6b38f0.html> [15 August 2016].

<sup>58</sup> J. Das, *Human Rights Law and Practice*, (New Delhi: PHI Learning Pvt. Ltd, 2016) 91.

## Chapter 3: The Problem of 'Austerity'

Chapter 2 defined ESRs and demonstrated their importance within the human rights framework. Chapter 3 seeks to define 'Austerity' and outline the challenge it poses to the 'progressive realisation' of ESRs, drawing upon its real-world consequences for rights in Greece and Spain.

### 3.1 Defining 'Austerity'

According to some commentators 'Austerity' is predominantly, and sometimes exclusively, an economic procedure; the "common sense" on how to pay for the significant increase in national debt brought about by the financial crisis.<sup>59</sup> It may entail cuts to social allowances, structural adjustments, or cuts to public spending, in sectors such as health. For instance, the *Financial Times Lexicon* has defined 'Austerity' as "official actions taken by the government, during a period of adverse economic conditions, to reduce its budget deficit using a combination of spending cuts or tax rises".<sup>60</sup> One analyst has commented that in the UK 'Austerity' has comprised of solely economic measures of the former; "deficit-cutting, slashed spending and the mysterious evaporation of benefits".<sup>61</sup> Economic perspectives have presented 'Austerity' not as a choice, but as a necessity.<sup>62</sup> However, to view 'Austerity' as a

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<sup>59</sup> J. Clarke and J. Newman, "The Alchemy of Austerity", *Critical Social Policy*, 32, 3 (2012) 300.

<sup>60</sup> Financial Times, Available online: <http://lexicon.ft.com/Term?term=austerity-measures>. [24 July 2016].

<sup>61</sup> S. Elmhirst, S. "Word Games: austerity", *New Statesman*, Online. 24 September 2010. Online: Available <http://newStatesman.com/ideas/2010/09/austerity-word-red-conference> [1 August 2016].

<sup>62</sup> P. Krugman, "The Excel Depression", *New York Times*, Online. 18 April 2013. Available online: <http://www.nytimes.com/2013/04/19/opinion/krugman-the-excel-depression.html> [1 August 2016]; T. Misir, *The struggle against neoliberal austerity and the survival of the European project. EU Centre Working Paper No. 4*, November 2011, 8. Available online: <http://aei.pitt.edu/33649/2/WP04.TheStruggleAgainstNeoliberalAusterityandtheSurvivaloftheEuropeanProject.pdf> [20 July 2016].

mere spending restraint necessary for deficit reduction is to entirely overlook that 'Austerity' is ideological in nature, and constitutes a *political choice*.<sup>63</sup>

That 'Austerity' is a deliberate ideological choice - not a practical, evidence-based requirement - is clear when the capacity of 'Austerity' to generate economic recovery is considered. In 2016, economists from the International Monetary Fund wholly rejected the notion that 'Austerity' could be good for growth, finding that in practice, "episodes of fiscal consolidation have been followed, on average, by drops rather than by expansions in output".<sup>64</sup> They concluded that the increase in inequality engendered by 'Austerity' might itself undercut economic recovery: "There is now strong evidence that inequality can *significantly lower* both the level and the durability of growth".<sup>65</sup> Evidence of the economic impracticality of 'Austerity' gives great substance to the notion that the approach is used by governments, likely aware that it will not lead to economic growth or recovery, as justification for the enforcement of some other agenda.<sup>66</sup>

### 3.2 Implications of 'Austerity' for the State and ESRs

In 2012, the UN's CESCR produced an open letter to all States party to the ICESCR, which while acknowledging that many governments faced pressure to create and implement painful

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<sup>63</sup> R. Bramall, *The Cultural Politics of Austerity: Past and Present in Austere Times*, (NY and Basingstoke: Palgrave Macmillan, 2013) 3; K. Mendoza, *Austerity: The Demolition of the Welfare State and the Rise of the Zombie Economy*, (Oxford: New Internationalist, 2015) 78-81.

<sup>64</sup> L. Ball, D. Furceri and P. Loungani, "The Distributional Effects of Fiscal Austerity, *UN-DESA Working Paper 129*, June 2013 (New York: United Nations). Available online: [http://www.un.org/esa/desa/papers/2013/wp129\\_2013.pdf](http://www.un.org/esa/desa/papers/2013/wp129_2013.pdf) [10 June 2016].

<sup>65</sup> J. Ostry, P. Loungani and D. Furceri, "Neoliberalism: Oversold?", *Finance and Development*, 53, 2 (2016).

<sup>66</sup> W. Mitchell, "Beyond austerity", *The Nation*, Online. 4 April 2011. Available online: <http://www.thenation.com/article/159288/beyond-austerity#> [12 August 2016]; D. Edmiston, "The age of austerity: contesting the ethical basis and financial sustainability of welfare reform in Europe", *Journal of Contemporary European Studies*, 22, 2 (2014) 122.

austerity programmes, asserted that such strategies should not lead to the denial, or infringement, of the ESRs that governments are obligated to safeguard.<sup>67</sup> As noted, States have a key moral and legal obligation to “take steps” toward the realization of human rights through policy, regardless of circumstance. Problematically for ESRs however, the post-2007 financial crisis growth in sovereign debt levels and fiscal debts has coincided not only with an emergent focus of public policy debates on how the provisions of the State can be constrained and regressed upon<sup>68</sup>, but the implementation of such constraints in practice.

Indebtedness in itself poses wide risks for the enjoyment of ESRs around the world<sup>69</sup>, particularly given extremely deep levels of financial integration, as exhibited by the international contagion of fiscal disruption in Greece, Spain, Portugal and Ireland.<sup>70</sup>

However, its impact on ESRs can be mitigated by the policy measures governments adopt; to cut expenditure or raise revenue, and to what degree. The balance struck between the cutting of expenditure and raising of taxation has varied significantly across Europe in response to the crisis, as the OECD Financial Consolidation Survey 2010 highlights.<sup>71</sup>

It has become increasingly difficult for the neo-liberal economic model of the market over state provisions of assistance, to be reconciled with the ability to plan and implement ESRs, as demonstrated by the reports of Special Rapporteurs of the United Nations on the impact of

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<sup>67</sup>Letter from the CESCR to State Parties, 16 May 2012. Available Online: <http://www2.ohchr.org/english/bodies/cescr/docs/LetterCESCRtoSP16.05.12.pdf> [3 August 2016].

<sup>68</sup>M. Dowell-Jones, “The Economics of the Austerity Crisis: Unpicking Some Human Rights Arguments”, *Human Rights Law Review*, 15, 2 (2015) 193-4.

<sup>69</sup>Ibid, 196.

<sup>70</sup>P. Manasse and L. Zavallon, “Contagion in Europe: Evidence from Sovereign Debt Crisis”, *Voxeu* 25 June 2012. Available online: <http://voxeu.org/article/contagion-europe-evidence-sovereign-debt-crisis> [12 July 2016]; E. Kalotychou, E. Remolona and E. Wu, “What Makes Systemic Risk Systemic? Contagion and Spillovers in the International Sovereign Debt Market”, HKIMR Working Paper No.07/2014. 8 April 2014. Available online: <http://ssrn.com/abstract=2423184> [16 July 2016].

<sup>71</sup>OECD, “Fiscal Consolidation: targets, plans and measures”, *OECD Journal on Budgeting, Vol 11/2*, 2011. Available online: <http://dx.doi.org/10.1787/16812336> [10 June 2016].

extreme poverty on human rights and the rights to life and health.<sup>72</sup> But despite this, a neo-liberal economic model of market over rights has in some instances been the sole response of governments to the economic and fiscal crisis. Through the policy of 'Austerity' – an ideological project to reduce the cost of the State through cuts to its size and welfare provisions<sup>73</sup>, and by extension, a neo-liberal agenda - governments across Europe have introduced programmes that mark a shift from universal to selective assistance, and that place little emphasis on human rights as the basis of the claim to assistance.<sup>74</sup> 'Cost saving' has become a core objective.<sup>75</sup>

As Saiz has noted, “despite the obvious human rights dimensions of the crisis, human rights have barely figured in the diagnosis or prescriptions proposed by the international community”.<sup>76</sup> The financial assistance conditions imposed by the European Union on Greece are but one example; in order to obtain credits to avoid financial collapse and retain its status as a Eurozone country, Greece was required to enforce substantial cuts to social spending and labour market reform, as part of a comprehensive austerity programme<sup>77</sup>, amounting to what has been described as “a welfare State retrenchment unprecedented in the post-war period”.<sup>78</sup> Such measures have not only greatly constrained the degree to which the ESRs of ordinary persons have been protected, but also violated such rights.

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<sup>72</sup> D. Vazquez and D. Delaplace, “Public Policies from a Human Rights Perspective: A Developing Field”, *Sur International Journal on Human Rights*, 8, 4 (2011) 11.

<sup>73</sup> K. Fransworth and Z. Irving, *Social Policy in Challenging Times*, (Bristol: Policy Press, 2012) 135.

<sup>74</sup> Dowell-Jones, *The Economics of the Austerity Crisis*, 8.

<sup>75</sup> R. Henry-Cox, “The Consequences of Welfare Reform: How Conceptions of Social Rights Are Changing”, *Journal of Social Policy* 27, 1 (1998) 6.

<sup>76</sup> I. Saiz, “Rights in Recession? Challenges for Economic and Social Rights Enforcement in Times of Crisis”, *Journal of Human Rights Practice*, 1, 2 (2009) 277-293, 280.

<sup>77</sup> G. Giacca and T. Karimova, “Implications for Arms Acquisitions of Economic, Social and Cultural Rights”, in S. Casey-Malsen, *Weapons under International Human Rights Law* (Cambridge: Cambridge University Press, 2014) Ch. 16; M. Salomon, *Of Austerity, Human Rights and International Law*, LSE Law, Society and Economy Working Papers 2/2015, 5-7.

<sup>78</sup> A. Koukiadak and L. Krestos, “Opening Pandora’s Box: The Sovereign Debt Crisis and Labour Market Regulation in Greece”, *Industrial Law Journal*, 41, 3 (2012) 276-77.

With poverty and inequality having increased significantly by 2012 in Greece - 58% of the unemployed lived incomes below the 2009 poverty line<sup>79</sup> - and only 1 in 5 unemployed persons receiving unemployment benefits by 2013<sup>80</sup>, the finding of the European Committee of Social Rights that Greece had violated the right to social security through austerity measures in 2012<sup>81</sup>, was wholly unsurprising. Despite the clear inefficiency and negative impact of cuts to welfare provisions on ESRs, the burden remains on the most vulnerable; Greece has recorded the highest poverty rate in the EU since 2008, and by 2015, had a general unemployment rate of 26% and 55%, among young people.<sup>82</sup>

The 'Austerity' agenda has also taken priority over ESRs and the well-being and protection of people in Spain; the adopted measures, which have focused almost solely on the objective of deficit reduction, have largely been at the expense of any degree of social unity or equality.<sup>83</sup> Drastic cuts in social spending since 2010; to allowances for persons with disabilities for instance, in public health, and through an ongoing privatization of public services, led the CESCR to express its concern over reductions in levels of protection afforded to the rights to housing, and work among others; giving weight to the inadequacy of

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<sup>79</sup> A. Leahy, S. Healy and M. Murphy *The European Crisis and its Human Cost*, Crisis Monitoring Report 2014, Available online at: [http://www.caritas.eu/sites/default/files/caritascrisisreport\\_2014\\_en.pdf](http://www.caritas.eu/sites/default/files/caritascrisisreport_2014_en.pdf) [12 August 2016] 32.

<sup>80</sup> M. Matsaganis, *The Greek Crisis: Social Impact and Policy Responses*, Friedrich Ebest Stiftung Working Paper, November 2013. Available at: <http://library.fes.de/pdf-files/id/10314.pdf> [30 July 2016], *supra* n. 19, 34.

<sup>81</sup> *Federation of Employed Pensioners in Greece (IKA-ET-AM) v Greece*, European Committee of Social Rights, Decision on the Merits, Complaint No. 76/2012, paras. 81 and 83.

<sup>82</sup> AEDH, *The economic and social situation in Greece: mirror of the European future?* 12 October 2015. Available online: <http://www.aedh.eu/The-economic-and-social-situation.html> [24 July 2016].

<sup>83</sup> Baylos and Trillo, "Social Dimensions of the EU and the Situation of Labour Law in the Member States", 26<sup>th</sup> January 2013. *Medel Seminar Paper, Journal of Public Policy Programmes and Policy Evaluation*, 9.

austerity measures to adequately mitigate against the negative impacts of the economic and financial crisis.<sup>84</sup>

The active role of the State as the guarantor of rights, through the provision of adequate public services such as social benefits, housing and employment, with the aim of reducing inequalities<sup>85</sup>, has therefore significantly been reduced in Europe as a consequence of 'Austerity', and ESRs have certainly suffered.

## **Chapter 4: Attacking through 'Austerity': The Direct Violation of ESRs**

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<sup>84</sup> Letter from the CESCR to State Parties, 16 May 2012. Available Online: <http://www2.ohchr.org/english/bodies/cescr/docs/LetterCESCRtoSP16.05.12.pdf> [3 August 2016].

<sup>85</sup> Kelly, "A Life of One's Own", 285-6.

Chapter 3 outlined the problem that 'Austerity' poses in theory and in practice to the fulfillment of ESRs, and the focus it often gives to cost-saving over government obligations to protect ESRs. In light of this, in addition to the importance of ESRs and the UN's concern, Chapter 4 explores the UK's legal ESRs obligations and the impact of policy measures adopted by the government in response to the deficit after 2010.

#### **4.1 The legal ESRs obligations of the UK**

The UK has ratified all UN international human rights treaties to date, including the UDHR, ICESCR, CEDAW, CERD, and the CRC.<sup>86</sup> Importantly, as a signatory of the ICESCR, the UK is obligated to work, through immediate steps, toward the progressive realization of ESRs, via government policy.<sup>87</sup> By extension, it is negated from enacting policies or programmes that would have a regressive impact on such rights, even in times of economic downturn. As noted by the European Committee on Social Rights in 2012, "[all] governments are bound to take all necessary steps to ensure that the rights of the Charter are effectively guaranteed at a period of time when beneficiaries need the protection most".<sup>88</sup>

Despite the recommendation of the Joint Committee on Human Rights that incorporation of the ICESCR into the UK's national law would assist the government in addressing ESRs and aid scrutiny,<sup>89</sup> the ICESCR has not, to date, been incorporated into UK's domestic legal

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<sup>86</sup> Elson, "The reduction of the UK budget deficit", 182; S. Ruxton and R. Karim, *Beyond Civil Rights*, (London: Oxfam, 2001) 3.

<sup>87</sup> Ruxton and Karim, *Beyond*, 3; Eide et al., *Economic, Social and Cultural Rights*, ICESCR Art 2(1).

<sup>88</sup> Letter from the CESCR to State Parties, 16 May 2012.

<sup>89</sup> UK Parliament JCHR, *The Implementation of the International Convention on Economic, Social and Cultural Rights*. The Stationary Office, Joint Committee on Human Rights, London. Available online: <http://www.publications.parliament.uk/pa/jt200304/jtselect/jtrights/183/183.pdf> [15 August 2016].

system. Unfortunately, this is true of only the ECHR - and therefore, only civil and political rights, with the enactment of the Human Rights Act (1998).

There is certainly ample scope within domestic law for the development of ESRs protections.<sup>90</sup> However, case law pertaining to ESRs remains largely underdeveloped. For example, although there is significant evidence that the “benefit cap” scheme of the 2012 Welfare Reform Act indirectly discriminates against women and children<sup>91</sup>, the UK court ruled by a narrow majority that the benefit cap legislation did not unlawfully discriminate against women.<sup>92</sup> Moreover, although in the *Limbuella* case the House of Lords ruled that the government had an obligation to avoid violating Article 3 should individuals face the “imminent prospect of serious suffering caused or materially aggravated by the denial of shelter, food, or the most basic necessities of life”<sup>93</sup>, the ESR the case established is highly restricted to being saved from imminent destitution caused by State action, which is not only not an economic right of relevance to most individuals in most contexts<sup>94</sup>, but offers nothing on government inaction<sup>95</sup>, unlike the obligation for progress prescribed by international law.

## 4.2 UK ‘Austerity’ policy as ‘cuts’ to welfare

As will be shown, in UK context, ‘Austerity’ may be understood in terms similar to those which have applied in the cases of Greece and Spain. The 2010 - 2015 Conservative-Liberal

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<sup>90</sup> C. Gearty, *The Stephen Livingstone Tenth Anniversary Lecture: Human Rights in a Neo-liberal World*. 2014. Available from the author; A. James, *The Forgotten Rights – The Case for the Legal Enforcement of ESRs in UK National Law*, 2007. Available online:

[http://www.ucl.ac.uk/opticon1826/archive/issue2/VfPLAW\\_SE\\_rights.pdf](http://www.ucl.ac.uk/opticon1826/archive/issue2/VfPLAW_SE_rights.pdf) [28 July 2016].

<sup>91</sup> The vast majority of non-working single parent households with children are single-parent households, and around 92% (2011 figure) of single parents are women (Lord Reed at [2]).

<sup>92</sup> *R(JS and others) v Secretary of State for Work and Pensions* [2013] EWHC 3350 (QB).

<sup>93</sup> *Regina v. Secretary of State for the Home Department (Appellant), ex parte Limbuella (FC) (Respondent) (Conjoined Appeals)*, [2005] UKHL 66, United Kingdom: House of Lords (Judicial Committee), 3 November 2005.

<sup>94</sup> C. Warbrick, “Economic and Social Interests and the ECHR” in *Economic, Social and Cultural Rights in Action*, (Oxford: Oxford University Press, 2009) 255-6.

<sup>95</sup> *Ibid.*

Democrat Coalition government set out to reduce the economic deficit as quickly as possible; reduction of “welfare costs and wasteful spending” was an explicit aim from the beginning.<sup>96</sup> This approach has coincided with highly limited effort to generate revenue, by, for instance, reducing tax avoidance, or raising the top rate of taxation and State pension age.<sup>97</sup> The government has taken measures to reduce the top rate of income tax, the main rate of corporation tax, and increased the personal income allowance<sup>98</sup> - demonstrating the great extent of its preference for ‘cuts’ over wealth accumulation via taxation.

In their aim to reduce the economic deficit solely by “a neo-liberal economic agenda, which prioritise[d] cuts in public expenditure”,<sup>99</sup> the government has enacted a wide range of harsh social security reforms, with the sole aim of strategic and systematic reductions in State provisions.<sup>100</sup> In stark contrast to the post-war social contract, which entailed the pooling of risks through social security and active confronting of the economic instability of capitalism<sup>101</sup>, the focus of the UK government since 2010 has been on cutting working-age welfare.<sup>102</sup> This has been supplemented by a cutting and capping of out-of-work benefit rights, in-work tax credits, and Child Benefit.<sup>103</sup> Such policies have been combined with reductions in the *entitlement* of certain groups to benefits, or stricter qualifications for

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<sup>96</sup> HMT, “Spending Review 2010: Government Response to the Sixth Report from the Committee”, 2010. Available online: <http://www.publications.parliament.uk/pa/cm201011/cmselect/cmtreasy/754/75404.htm> [31 July 2016] 5.

<sup>97</sup> Edmiston, “The age of...”, 122.

<sup>98</sup> S. Theodoropoulou, Sotiria and A. Watt, *Withdrawal Symptoms: An Assessment of the Austerity Packages in Europe*, ETUI Working Paper 2011.02. 4 May 2011. Available at <http://ssrn.com/abstract=2221838> [27 July 2016].

<sup>99</sup> D. Edmiston, “The age of austerity: contesting the ethical basis and financial sustainability of welfare reform in Europe”, *Journal of Contemporary European Studies*, 22, 2 (2014) 122.

<sup>100</sup> E. Dowler, “Food Banks and Food Justice in “Austerity Britain”” in Riches, G. and Silvasti, T. (eds) *First World Hunger Revisited: Food Charity or the Right to Food*, (London: Palgrave Macmillan 2014) 161.

<sup>101</sup> R. Titmuss, *Commitment to Welfare*, (London: Unwin, 1968) Ch. 15.

<sup>102</sup> Edmiston, “The age of...”, 123-5.

<sup>103</sup> *Ibid.*

entitlement to benefits. For example, minimum social security assistance has been dependent upon preparation to enter, or the entering into, the paid labour market.<sup>104</sup> As a consequence of such measures, there has been an increase in the work-related conditions attached to receipt of benefits, in addition to an increase in the extent and duration of sanctions applied to those individuals satisfying work-related criteria.<sup>105</sup>

Specifically, the Welfare Reform Act 2012 introduced a tough disciplinary benefit and tax credit claimant regime designed to ensure 'correct' claimant choices in a low-waged flexible labour market<sup>106</sup>, leading to an immediate increase in benefit sanctions.<sup>107</sup> Its provisions include changes in housing benefit, such as an "under-occupancy penalty" (the "Bedroom Tax"), which reduced the amount of fiscal aid paid to benefit claimants of working-age, deemed as having too much living space in rented social housing, from 2013.<sup>108</sup> The Act also allows the new Conservative government to enforce any reductions in benefit credits it deems necessary to deliver on the "welfare cap" limit – the total that government can spend on social security benefits.

The proceeding section assesses the impact of 'Austerity' as 'cuts' to welfare provisions in the UK, upon ESRs, and specifically the rights to social security and to an adequate standard of living. It examines the relationship between austerity measures, to food and housing, as the

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<sup>104</sup> Ibid.

<sup>105</sup> Social Security Advisory Committee, *Occasional Paper 9: Universal Credit and Conditionality*, 23 August 2012. Available online: <https://www.gov.uk/government/publications/ssac-occasional-paper-9-universal-credit-and-conditionality> [10 August 2016].

<sup>106</sup> J. Wiggan, "Telling stories of 21<sup>st</sup> century welfare: The UK Coalition government and the neo-liberal discourse of worklessness and dependency", *Critical Social Policy*, 32, 3 (2012).

<sup>107</sup> Scottish Government, *JSA Sanctions in Scotland: An Analysis of the Sanctions Applied to Claimants of Jobseekers Allowance in Scotland*. 2014. Available online: <http://www.scotland.gov.uk/Topics/People/welfarereform/analysis/Sanctions> [14 August 2016]; Work and Pensions Committee, *The Role of Jobcentre Plus in the Reformed Welfare System*. 2014. Available online: <http://www.publications.parliament.uk/pa/cm201314/cmselect/cmworpen/479/47902.htm> [Accessed 28 July 2016].

<sup>108</sup> National Housing Federation: "Bedroom tax" available at [www.housing.org.uk](http://www.housing.org.uk) [10 July 2016].

basic necessities accounted for by international law, that the government is legally and morally obligated to protect.

## 4.3 Examining the evidence

### 4.3.1 Food banks

The rise in food banks - a form of informal, emergency food aid<sup>109</sup> - and their use in the UK, is the most potent manifestation of the hardship of the government's 'Austerity' schema.

Chris Mould, chief executive of The Trussell Trust, highlights the significance of food banks, as a concrete reflection of the hardship that people living in the UK face as a result of government policy:

"The sheer volume of people who are turning to food banks because they can't afford food is a wake-up call to the nation that we cannot ignore the hunger on our doorstep. Politicians across the political spectrum urgently need to recognise the real extent of UK food poverty and *create fresh policies...*"<sup>110</sup>

Though it is difficult to accurately document the numbers of food aid initiatives due to the fact that food aid tends to be distributed through many different mechanisms, and as there are a wide array of small, non-networked, food-support activities<sup>111</sup>, estimates sufficiently project the explosion in food bank use in the UK, in recent years. The Trussell Trust fed almost 350,000 people from almost 400 food banks in 2012/2013, almost triple the number fed in

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<sup>109</sup> K. Garthwaite, *Hunger Pains: Life Inside Foodbank Britain*, (Bristol/Chicago: Policy Press, 2016) 2.

<sup>110</sup> P. Butler, "Number of people turning to food banks triples in a year", *The Guardian*, Online. 24 April 2013. Available online: [www.theguardian.com/society/2013/apr/24/number-people-food-banks-triples](http://www.theguardian.com/society/2013/apr/24/number-people-food-banks-triples) [12 July 2016].

<sup>111</sup> Dowler, "Food Banks and Food Justice", 171.

2011-2012, from 5 times the number of food banks.<sup>112</sup> Again, the number of individuals fed by The Trussell Trust skyrocketed in 2013/14, to around 900,000, then 1,000,000 by 2015, rising 2% in 2016 to around 1,100,000 individuals.<sup>113</sup> The severity of the problem may in fact be drastically worse than such figures indicate: a recent report by the All-Party Parliamentary Group on Hunger estimated that more than half of the emergency food aid supplied to those in crisis is from independent food banks and organisations not accounted for by Trussell Trust statistics.<sup>114</sup> These facts alone indicate that the government has utterly failed to meet its obligation to ensure the most vulnerable in society are protected, through taking steps to ensure people have an adequate standard of living.

Pointing to a survey undertaken by the Citizens Advice Bureau in Scotland, in which it was found that 64% of sanctioned clients regularly requested food parcels and 63% regularly skipped meals<sup>115</sup>, leading academic expert on UK sanctions, David Webster, claimed that benefit sanctions have led to an amplification of food poverty in the UK.<sup>116</sup> Evidence upholds the view that the government's scheme for welfare reform has been a primary and *direct* cause of the rise in food bank use, and implicitly, such extreme levels of food insecurity. Most notably, a study of food banks between 2010 and 2013 found that each 1% cut in central government spending on welfare benefits in a local authority increased the odds of a food bank opening within two years by 1.6- fold; that each 1% cut in spending on central welfare benefits was associated with a 0.16 percentage point rise in food distribution; and that

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<sup>112</sup> The Trussell Trust, latest statistics: <https://www.trusselltrust.org/news-and-blog/latest-stats/> [15 August 2016].

<sup>113</sup> Ibid.

<sup>114</sup> All-Party Parliamentary Group on Hunger, *Britain's not-so-hidden hunger*, 15 April 2016. Available online: [www.frankfield.com/upload/docs/Britain's%20not-so-hidden%20hunger.pdf](http://www.frankfield.com/upload/docs/Britain's%20not-so-hidden%20hunger.pdf) [21 June 2016] 4.

<sup>115</sup> D. Webster, D. "The role of benefit sanctions and disallowances in creating the need for voluntary food aid". *All-Party Parliamentary Inquiry into Hunger and Food Banks in Britain*, (2014) 36.

<sup>116</sup> Ibid.

each 1% increase in the rate of benefit sanctions was associated with a significant increase of 0.09 percentage points in the prevalence of food parcel distribution.<sup>117</sup>

Even government evidence identifies a strong association between 'Austerity' and rising food bank usage. In 2014, the report of an All-Parliamentary Inquiry into Hunger in the UK was published.<sup>118</sup> This criticised the failure of the measures adopted by the government to provide the safety net that welfare provisions were *designed* to provide, explicitly noting the significance for food insecurity of "unreliable income from wages and benefits".<sup>119</sup> The Trussell Trust also reported that changes to benefit *eligibility* were a major cause of food bank referral (accounting for 13.5% 2015/16).<sup>120</sup> In line with this, a 2014 report conducted by the Trussell Trust, Oxfam and Child Poverty Action, found that those individuals using food banks were more likely to live in rented accommodation, be unemployed, and to have received a "sanction" where their unemployment benefits were cut for at least one month<sup>121</sup>, in acknowledgement that the government's policies impacted most negatively upon the most vulnerable. New food bank data mapping technology also identified this link. A report from the University of Hull and AAM Associates suggested that the highest levels of food bank use has been in areas in which there have been more individuals unable to work, due to long-

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<sup>117</sup> R. Loppstra, A., Reeves et al., "Austerity, sanctions, and the rise of food banks in the UK", *British Medical Journal*, 350, 2 (2015).

<sup>118</sup> All-Party Parliamentary Inquiry into Hunger in the United Kingdom, "Feeding Britain: A strategy for zero hunger in England, Wales, Scotland and Northern Ireland". 2015. Available online: [http://www.frankfield.co.uk/upload/docs/Food%20Poverty%20-%20Feeding%20Britain%20FINAL%20\(2\).pdf](http://www.frankfield.co.uk/upload/docs/Food%20Poverty%20-%20Feeding%20Britain%20FINAL%20(2).pdf) [7 August 2016].

<sup>119</sup> F. Field, "A route map to ending hunger as we know it in this country", 10 December 2015. Available at: <http://www.frankfield.co.uk/latest-news/press-releases/news.aspx?p=1021138> [1 August 2016].

<sup>120</sup> The Trussell Trust, latest statistics: <https://www.trusselltrust.org/news-and-blog/latest-stats/> [15 August 2016].

<sup>121</sup> J. Perry, M. Williams, T. Sefton, and M. Haddad, M, Emergency use only: understanding and reducing the use of food banks in the UK, Available online: [www.cpag.org.uk/sites/default/files/Foodbank%20Report\\_web.pdf](http://www.cpag.org.uk/sites/default/files/Foodbank%20Report_web.pdf) [1 August 2016].

term sickness or disability.<sup>122</sup> In addition, the impact of reduced financial support has been found to have been most severe on children<sup>123</sup>; a shocking 415,866 of the 1,109,309 three-day emergency food supplies provided to people in crisis in 2015 last year went to children.<sup>124</sup>

There is, therefore, significant evidence that the government's policy measures on financial assistance fall drastically short of basic ESRs provisions, particularly for those to social security and an adequate standard of living, and of being "steps" toward them. The drastic rise in the use of food banks in the UK demonstrates the extent of the government's failure to fulfil its rights obligations, as further reflected by homelessness and its direct connection to 'Austerity'.

### ***4.3.2 Homelessness***

In 2011, the media reported a leaked letter from the office of the local government minister to the Prime Minister warning that housing benefit reforms were expected to make 40,000 families homeless.<sup>125</sup> The government has, therefore, long been aware of the risks posed by 'Austerity'. Nevertheless, it has instigated significant reductions in housing benefits - critical to the connection between homelessness and job loss or persistent low income.<sup>126</sup>

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<sup>122</sup> University of Hull and The Trussell Trust, "Mapping Hunger: New Technology to Help Tackle Poverty" 2016. Available online: <https://www.trusselltrust.org/wp-content/uploads/sites/2/2016/04/Mapping-Hunger-Report.pdf> [12 August 2016].

<sup>123</sup> P. De Agostini et al., *Were we really all in it together? The distributional effects of the UK Coalition government's tax-benefit policy changes*, LSE Working Paper 10. November 2014. Available online: <http://sticerd.lse.ac.uk/dps/case/spcc/wp10.pdf> [28 July 2016].

<sup>124</sup> Trussell Trust, latest statistics.

<sup>125</sup> D. Boffey and T. Helm, "Eric Pickles warns David Cameron of the rise in homelessness families risk", *The Guardian*, 2 July 2011. Available online: <http://www.theguardian.com/politics/2011/jul/02/eric-pickles-david-cameron-40000-homeless> [12 August 2016].

<sup>126</sup> S. Fitzpatrick et al., *The homelessness monitor: England 2012*, December 2012. Available online: [www.crisis.org.uk/data/files/publications/HomelessnessMonitor\\_England\\_2012\\_WEB.pdf](http://www.crisis.org.uk/data/files/publications/HomelessnessMonitor_England_2012_WEB.pdf) [26 July 2016].

The number of families living in emergency accommodation has now reached its highest level since the financial crisis, with almost 70,000 families being housed in temporary accommodation, including hotels, between July and September 2015.<sup>127</sup> This trend is mirrored by a steady rise in *homelessness*, to the highest levels in years. Between 2010 and 2013/14, the number of those individuals sleeping rough on London's streets had risen by 64% (to 6,500).<sup>128</sup> Moreover, a report by Crisis and the Joseph Rowntree Foundation in reported year-on-year increases across the three years prior to 2014, in "rough sleeping" and "hidden homelessness".<sup>129</sup> One government report placed the number of rough sleepers on any given night in England in autumn 2015 at 3,596; highlighting a 30% increase since 2014.<sup>130</sup> Worryingly, the reality of suffering is likely drastically worse; as with food banks, official figures do not accurately depict the grand scale of the problem. Potentially homeless households are often excluded from official statistics, as not all homeless individuals will approach local authorities. Around three-quarters of cases are now dealt with this way.<sup>131</sup> The catastrophic rise in homelessness under the 2010 – 2015 government makes clear that the right of people living in the UK to an adequate standard of living has not been afforded the consideration or investment international law requires.

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<sup>127</sup> E. Dugan "Homelessness rises by 40% with soaring numbers of families sent to live in B and Bs", *The Independent*, Online. 24 September 2015. Available online:

<http://www.independent.co.uk/news/uk/home-news/homelessness-rises-by-40-with-soaring-number-of-families-sent-to-live-in-b-and-bs-10515740.html> [10 August 2016].

<sup>128</sup> S. Fitzpatrick et al., *The Homelessness Monitor: England: 2015*, February 2015. Available online: [http://www.crisis.org.uk/data/files/publications/Homelessness\\_Monitor\\_England\\_2015\\_final\\_web.pdf](http://www.crisis.org.uk/data/files/publications/Homelessness_Monitor_England_2015_final_web.pdf) [22 July 2016], x.

<sup>129</sup> Crisis, *Research: Almost one in ten people have been homeless*, 13 December 2013. Available online: [www.crisis.org.uk/pressreleases.php/583/research-almost-one-in-ten-people-have-been-homeless](http://www.crisis.org.uk/pressreleases.php/583/research-almost-one-in-ten-people-have-been-homeless) [20 July 2016].

<sup>130</sup> C. Cooper, "Homelessness: number of rough sleepers in England rises at "unprecedented rate", *The Independent*, Online. 25 February 2016. Available online: <http://www.independent.co.uk/news/uk/home-news/homelessness-number-of-rough-sleepers-in-england-rises-at-unprecedented-rate-a6895826.html> [20 July 2016].

<sup>131</sup> L. Teixeira, L, "Only political will can turn this rising tide of homelessness", *LSE Blogs*, Online. 23 Feb 2015. Available online: <http://blogs.lse.ac.uk/politicsandpolicy/only-political-will-can-turn-this-rising-tide-of-homelessness/> [28 July 2016].

The findings of a recent study into the causal factors of the rise in homelessness asserts that 'Austerity' has led directly to a "new generation of homeless families and individuals".<sup>132</sup> Evidence that austerity measures have been at least in part a direct cause of increased homelessness, has long supported this notion. Several NGOs and public health charities have found that budgetary cuts to funding for homelessness prevention and housing benefits specifically have been major factors in the rise in homelessness due to the cushioning role that they play in times of hardship.<sup>133</sup> Welfare reforms such as the "Bedroom Tax" contributed toward an 18% rise in repossession actions by social landlords in 2013-2014.<sup>134</sup> Housing benefit cuts played a large part in the third of all cases of homelessness in 2014, while making it harder for those who had become homeless to be rehoused.<sup>135</sup> On the overall impact of 2010-2015 welfare reforms, a recent Crisis survey found that 67% of local authorities across England reported that such changes in benefits had increased homelessness in their area, with not one local authority reporting that homelessness had decreased as a result of the government's policies.<sup>136</sup>

Contributing toward escalating figures in homelessness, benefit sanctions, in particular, have been shown to disproportionately affect those who had already found themselves homeless under the 'Austerity' government. One study notes that around a third of homeless people had been sanctioned compared to around 3% of ESA and Jobseeker's Allowance

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<sup>132</sup> R. Loopstra, et al. "The impact of economic downturns and budget cuts on homelessness claim rates across 323 local authorities in England, 2004-2012", *Journal of Public Health*, 8 (2015).

<sup>133</sup> Fitzpatrick et al., *Homelessness Monitor: 2015*; R. Henderson, "Homelessness services on high alert as councils plan spending cuts", *The Guardian*, Online. 4 March 2014. Available online: <https://www.theguardian.com/housing-network/2014/mar/04/homelessness-services-councils-spending-cuts> [20 June 2016].

<sup>134</sup> Fitzpatrick et al., *England 2015*, xv.

<sup>135</sup> Butler, P. "Welfare reforms are main cause of homelessness in England, study says. *The Guardian* [Online]. Available online: <https://www.theguardian.com/society/2015/feb/04/homelessness-study-welfare-reforms-crisis> [2 August 2016].

<sup>136</sup> S. Fitzpatrick et al., *The Homelessness Monitor: England 2016*, January 2016. Available online: [http://www.crisis.org.uk/data/files/publications/Homelessness\\_Monitor\\_England\\_2016\\_FINAL\\_\(V12\).pdf](http://www.crisis.org.uk/data/files/publications/Homelessness_Monitor_England_2016_FINAL_(V12).pdf) [3 August 2016] 43-44.

claimants.<sup>137</sup> A 2015 face-to-face survey of 1013 homelessness service users and 42 homelessness service users who had been sanctioned in 2014 also contended in the affirmative, finding that for 21% of sanctioned survey respondents, being unable to pay housing costs led them to have to leave their accommodation, and that 21% of sanctioned respondents explicitly said that they became homeless *as a result of being sanctioned*.<sup>138</sup>

It is wholly unsurprising that the 2016 Work and Pensions Committee concluded in its most recent report on the local welfare safety net that the government must take immediate action to protect people from the effects of national welfare reforms, such as the benefit cap and the "Bedroom Tax".<sup>139</sup> This analysis of the connection between homelessness and welfare reform under 'Austerity' illustrates that the UK government's failure to meet, and direct attack on the ESRs to social security and an adequate standard of living.

#### 4.4 Summary of findings

The 'Austerity' programme of 'cuts' to the UK's welfare provisions has been so damaging that under it the government has failed to meet its moral and legal obligations to protect the rights of the most vulnerable, as a signatory of international legal rights documents. The escalation in homelessness and food bank use is not only evidence in and of itself of the government's failure to provide people with an adequate standard of living and social security. The role that benefit cuts and sanctions have played in both instances shows that

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<sup>137</sup> Homeless Watch, *A high cost to pay: The impact of benefit sanctions on homeless people*, September 2013. Available online: <http://www.homeless.org.uk/sites/default/files/site-attachments/A%20High%20Cost%20to%20Pay%20Sept%202013.pdf> [1 July 2016], 3.

<sup>138</sup> E. Batty, C. Beatty, K. Reeve R. Casey, M. Foden and L. McCarthy, *Homeless people's experiences of welfare conditionality and benefit sanctions*. December 2015. Available online: [http://www.crisis.org.uk/data/files/publications/sanctions\\_report\\_FINAL.pdf](http://www.crisis.org.uk/data/files/publications/sanctions_report_FINAL.pdf) [12 August 2016]. 42-46.

<sup>139</sup> UK Parliament: Work and Pensions Committee, *The local welfare safety net: Fifth Report of Session 2015-6*. 12 January 2016. Available online: <http://www.parliament.uk/documents/commons-committees/work-and-pensions/373.pdf> [22 July 2016].

there has been a *direct attack* by the government on ESRs in the UK. The findings of Chapter 4 confirm that the government has certainly not “taken steps” to progressively realise ESRs, substantiating the “concern” of the UN.

## **Chapter 5: Explaining the Violation of ESRs**

While Chapter 4 demonstrated that the UN was right to express concern over the human rights record of the UK government in relation to ESRs – the UK has directly violated them in more than one way - Chapter 5 examines *why* the government infringed upon the rights of the most vulnerable. Why has the UK government not taken immediate action to stop, or reduce, the severe impact of its’ austerity measures, particularly given that, as earlier established, ‘Austerity’ is *chosen* and has frequently failed to generate economic recovery.

## 5.1 Class war: the transfer of wealth

In a *New York Times* article in 2006, Warren E. Buffet is reported to have said: "There's class warfare, all right, but it's my class, the rich class, that's making war, and we're winning".<sup>140</sup>

Reverberating this notion, economics professor and former finance minister for Greece, Yanis Varoufakis recently declared that 'Austerity' has been a cover-story for class war.<sup>141</sup>

Perhaps the violation of ESRs by the government be understood as part of a strategic "war against the poor".<sup>142</sup>

There is widespread evidence that 'Austerity' has been a political project for the ascendancy of the ruling class<sup>143</sup> - and thereby that ESRs violations can be explained in terms of class conflict. As Radice notes, there has been a clear "transfer [of] income and wealth from working people to the rich and powerful" through cuts in public spending and tax under 'Austerity'.<sup>144</sup> For instance, while the people's taxes (income tax and VAT) have made up more than 60% of tax income under the 2010-2016 government<sup>145</sup>, corporation tax has been lowered - from 28% in 2010 to 20% by 2015<sup>146</sup>; the lowest rate in history.<sup>147</sup> Moreover, the

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<sup>140</sup> B. Stein, "In Class Warfare, Guess Which Class is Winning", *New York Times*, Online. 26 November 2006. Available online: [www.nytimes.com/2006/11/26/business/yourmoney/26every.html](http://www.nytimes.com/2006/11/26/business/yourmoney/26every.html) [25 June 2016].

<sup>141</sup> J. Stone, "Austerity is being used as a cover-story for class war against the poor", *The Independent*, Online. 25 September 2015. Available online: <http://www.independent.co.uk/news/uk/politics/austerity-is-being-used-as-a-cover-story-for-class-war-against-the-poor-yanis-varoufakis-says-10516247.html> [June 30 2016].

<sup>142</sup> M. Katz, *The Undeserving Poor: From the War on Poverty to the War on Welfare*, (New York: Pantheon, 1989); H. Gans, *The War Against the Poor: The Underclass an Antipoverty Policy*, (New York: Basic Books, 1995).

<sup>143</sup> V. Tsianos, D. Papadopoulos and N. Stephenson, "This Is Class War from Above and They Are Winning It: What is to be Done?", *Rethinking Marxism*, 24, 3 (2012).

<sup>144</sup> Ibid.

<sup>145</sup> Mendoza, *Austerity: The Demolition of the Welfare State*, 80.

<sup>146</sup> HM Treasury, *2010 to 2015 government policy: business tax reform*, 8 May 2015. Available online: <https://www.gov.uk/government/publications/2010-to-2015-government-policy-business-tax-reform/2010-to-2015-government-policy-business-tax-reform#appendix-2-main-corporation-tax-rate> [20 June 2016].

<sup>147</sup> Mendoza, "Austerity", 81-2.

government has systematically cut the top rate of income tax paid by the wealthiest<sup>148</sup>, going so far as to pledge to cut inheritance tax for properties up to 1 million.<sup>149</sup> This strongly indicates that ESRs have not been considered in the creation of policy and that their direct violation may be explained as a component of a broader scheme of the ruling class, for the transfer of wealth from the lower classes to itself.

## **5.2 Divide and control**

The UK's 'Austerity' agenda and violation of ESRs it has entailed may also be viewed as a mechanism through which the UK government has advanced a political project of division, for the purpose of social control. Michael Foucault famously emphasised how discourses of social control often rely on "dividing practices"<sup>150</sup> - reducing solidarity through the creation of division. Indeed, the term "welfare" no longer carries positive connotations of human security, it now commonly being used to convey the 'choice' of an underclass that prefers State dependency to work.<sup>151</sup> Leading members of the UK government have encouraged this, in particular through the notion that there exists a "deserving and undeserving poor".<sup>152</sup> The unsavoury vilification of the poor and unemployed by the Conservative Party Conference in Manchester, 2013, in which the venue was draped with the new slogan: "For hardworking people"<sup>153</sup> is but one example. The narrative also finds reflection in Duncan Smith's

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<sup>148</sup> Ibid.

<sup>149</sup> P. Wintour, "Tories' 1m inheritance tax break aimed at wealthier household", *The Guardian*. 17 March 2015. Available online: <https://www.theguardian.com/money/2015/mar/16/tories-1m-inheritance-tax-giveaway-sensitive-papers-wealthier-households> [Accessed 12 August 2016].

<sup>150</sup> Daly, *Welfare*, 92.

<sup>151</sup> Ibid, 4.

<sup>152</sup> Mendoza, *Austerity: The Demolition of the Welfare State*, 86-88.

<sup>153</sup> N. Simons, "Tory MP admits party conference slogan "excludes people"", *The Huffington Post UK*, Online. 30 September 2013. Available online:

contrasting of the honourable behaviour of those working with those welfare dependent in 2010<sup>154</sup> and ex-Chancellor George Osborne's portrayal of an extremely over-generous benefits system in his 2012 Conservative Party Conference speech.<sup>155</sup>

The government indirectly benefits from the ESRs violations of 'Austerity', for such measures, as shown, impact most negatively upon the most vulnerable in society: often the 'unemployed' (including children). The more extreme the binary, the greater the control of the government over people in the UK. In light of the above findings, it can be asserted that government has worsened class division. 40% of people with working-class occupations believe that most individuals reliant upon welfare benefits should not receive financial assistance from the government.<sup>156</sup> One 2014 study demonstrated that the binary of a 'deserving and undeserving poor' has become embedded in popular consciousness to the extent that the UK can be said to now in a process of 'de-socialisation'.<sup>157</sup> The UK government's violation of ESRs of the most vulnerable – the poorest - can be explained as part of this programme. Simultaneously, the creation of an undeserving 'underclass' gives justification to the implementation of "policies that promote neglect"<sup>158</sup> - such as drastic cuts to social security provisions and lowered taxation of the rich.

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[http://www.huffingtonpost.co.uk/2013/09/29/conservative-party-2013\\_n\\_4014021.html](http://www.huffingtonpost.co.uk/2013/09/29/conservative-party-2013_n_4014021.html) [10 July 2016].

<sup>154</sup> I. Duncan Smith, *Our contract with the country for 21<sup>st</sup> Century Welfare, Speech to the Conservative Party Conference*, 5 October 2010 cited in R. Patrick, "Work as the primary 'duty' of the responsible citizen: a critique of this work-centric approach", *People, Place & Policy Online*, 6, 1 (2012) 9.

<sup>155</sup> Mendoza, *Austerity: The Demolition of the Welfare State*, 86-8.

<sup>156</sup> G. Evans and J. Tilley "The new class war: Excluding the working class in 21<sup>st</sup>-century Britain", *Juncture, IPPR*, 21, 4 (2015) 300.

<sup>157</sup> G. Valentine and C. Harris, "Strivers vs skivers: Class prejudice and the demonization of dependency in everyday life". *Geoforum*, 53, (2014) 84-92.

<sup>158</sup> Gough cited in Daly, *Welfare*, 69.

## **Chapter 6: Conclusions**

This thesis began in recognition of the crisis in the social cohesion of the UK as a result of 'Austerity', and the aligning judgment of the UN that the UK has violated ESRs in "regression". It asked: how did we get here, and why?

Chapter 2 outlined ESRs and legal provisions, with a focus on social security and an adequate standard of living. It highlighted their significance to civil and political rights, and the role of government in their realisation. The UK's violation of ESRs was then demonstrated and explained by Chapters 3, 4, and 5. First, Chapter 3 showed that 'Austerity' is a political, ideological option, that poses a great challenge to the realisation of ESRs through welfare provisions if the raising of revenues is disregarded, as seen in Greece and Spain. Second, Chapter 4 exhibited the government's direct attack on the human rights to social security and an adequate standard of living, via 'Austerity', through studies into food bank use and

homelessness. Chapter 5 showed that the government's violation of ESRs has been a component of the war of the ruling class against the poorer sections of society, and part of a political project of division for control.

It is a total affront, not only human rights, but also social justice, that the worst-off in society have not been better protected by the UK government in times of recession, particularly given that this should be of upmost concern in light of the legal and moral rights responsibilities of the State. Nevertheless, in that the human rights perspective, unlike those fiscal and economic, upholds the view that human beings have a moral right to well-being, it has great potential as a tool for the contestation of policies and perspectives that serve to encourage inequality, discrimination and division, which should be recognised by future governments and any individual that seeks to hold their government to account.

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