

Economic Crisis, Austerity and Gender Equality – The UK Case

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Introduction

This article examines how global economic crises impact on gender equality and what role equality legislation has in reducing disproportionate impact. An understanding of these issues can only be reached by analysing the relationship between the political response to crisis and how far it is influenced by legislation at the national level. A detailed analysis of the UK case is used to illustrate this point. The UK case offers a particularly sharp reminder of the relationship between politics and equality law, not least because of the timing of the passage of the Equality Act (EqA) 2010 in April of that year and the change of Government less than a month afterwards. The outgoing Labour administration was responsible for drafting the EqA whilst the incoming Conservative-led coalition Government had opposed much of the Act on its passage through Parliament. All of this happened as the enormity of the global economic crisis was beginning to unfold, forming the backdrop against which both economic policy and the implementation of the EqA has proceeded.

It could be argued that the UK is not a good European example because its position outside the Eurozone has meant that the experience of economic crisis is somewhat different from those Member States that are members of the Eurozone. However the UK response, one that largely rests on massive cuts to public expenditure, is an exemplar of the IMF position on the response to economic crisis followed by the leading EU Member States within the Eurozone. In this respect the UK case still offers a useful indicator of the likely impact on gender equality to other EU Member States embarking upon public spending austerity measures.

The article firstly examines how the UK coalition Government has positioned its response to the economic crisis in a way that has justified its contention that drastic cuts to public spending are austerity measures necessary to secure economic recovery. Secondly, the article reports on evidence that identifies how women, particularly vulnerable and low income women, have been disproportionately affected by the Government's austerity measures. Lastly the article examines provisions in the EqA that could have offered women in the UK protection and why the Government's treatment of the Act means that this protection is substantially weakened.

The UK coalition Government response to the economic crisis

The general election in May 2010 resulted in the formation of a coalition Government after no single party gained sufficient seats to form a majority Government. In the aftermath of the banking crisis, the new Conservative/Liberal Democrat coalition developed a political zeal for economic austerity that has been unrelenting since it took office. Most of the austerity measures have involved cuts to public spending but these have been accompanied by measures to further liberalise labour markets and by changes to the taxation system. The requirement to make these cuts has largely been framed in terms of the profligacy of the previous Labour Government rather than as a result of massive Government spending required to essentially nationalise three of the nation's high street banks following the 2008 economic crisis. This position, whether one supports it or not, means that the response to the crisis is logically viewed as the need to drastically and permanently reduce the public sector

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net cash requirement.¹ The UK Government is not alone in this stance. It is the default position of the IMF for all Nation States facing economic crisis and seeking IMF support.

Although not seeking IMF support, the new coalition Government acted quickly in this direction. Ninety days into the administration of the new Government, the Treasury produced an emergency budget that included average cuts of 25 % to the budgets of Government departments. Cuts of this magnitude could only be met by cuts to public services and the subsequent loss of jobs in the public sector. In November 2011 the newly created Office for Budget Responsibility (OBR) upwardly revised the figure for job losses by 77 % to 710 000 by 2017. In March 2012 it increased this by a further 30 000.²

The Government position is that growth in the private sector will compensate for the loss of public sector jobs. For those who remain employed in the public sector the 2010 emergency budget included a two-year public sector pay freeze for workers earning more than GBP 21 000 (EUR 26 000) with a flat rate pay increase of GBP 250 (EUR 300) for those earning less than GBP 21 000 (EUR 26 000) in each of the two years. There have also been changes to most public sector pension schemes meaning that the majority of public sector workers will have to pay more and work for longer before drawing their pensions. In addition to the direct impact of these measures on public sector employees reductions have been made to benefit payments; in particular, child welfare benefits were frozen, Sure Start maternity grants³ limited to one child, and child tax credits significantly reduced. There are also plans to change the way in which the state pension is calculated and an increase in the age at which it will be paid.

Further measures were announced in the 2011 Budget and the accompanying ‘Plan for Growth’⁴ policy document. The Government’s position is that economic recovery and competitiveness can only be achieved by having a lower tax and regulatory burden on business. The budgetary measures largely focussed on tax reform for businesses whilst the ‘Plan for Growth’, amongst other things, announced changes to the EqA that would scrap provisions for dual discrimination and third party harassment that it claimed would cost businesses over GBP 350 million (EUR 437 million) per year.⁵ Further changes are also planned to the EqA under the Government’s ‘Red Tape Challenge’, the name given to the review of regulation thought to increase burdens on business. In particular the Government has brought forward its plans to review the Public Sector Equality Duty and continue with its programme of retrenchment of the size, role and budget of the Equalities and Human Rights Commission (EHRC).

Since the 2011 budget the pay increases for public sector workers have been limited to 1 %, well below the level of inflation, for another two years. Given the prominence of the public sector for women’s employment in the UK, these measures make it likely that the gender pay gap will begin to open further. In relation to the provision of social benefit payments, there are controversial new plans to overhaul welfare payments in the Welfare Reform Act which, it has been argued, are further cuts to public spending disguised as progressive social policy reforms.

¹ ‘The public sector net cash requirement (PSNCR)... represents the public sector’s need to raise cash through e.g. issuing gilts or running down liquid assets. Before 1998, this cash based-measure had been called the Public Sector Borrowing Requirement (PSBR) but was renamed as the Public Sector Net Cash Requirement (PSNCR) in 1998 to avoid confusion with public sector net borrowing (PSNB).’ Office for National Statistics *Monthly Statistics on Public Sector Finances: a Methodological Guide* August 2012 p. 4. Available at: <http://www.ons.gov.uk/ons/guide-method/method-quality/specific/economy/public-sector-finances/monthly-statistics-on-public-sector-finances--a-methodological-guide.pdf> accessed 6 November 2012.

² Office for Budget Responsibility ‘Economic and Fiscal Outlook’ March 2012 available at: <http://budgetresponsibility.independent.gov.uk/category/publications/>, accessed 6 November 2012.

³ A one-off payment of EUR 624 (GBP 500) for expectant mothers in receipt of specific welfare benefits.

⁴ HM Treasury (2011) ‘Plan for Growth’ available at: http://cdn.hm-treasury.gov.uk/2011budget_growth.pdf, accessed 6 November 2012.

⁵ Ibid. p.7.

Why does this response have a particular impact on women?

The measures above are not an exhaustive list of the economic and social policy response of the coalition Government to the economic crisis. They have been selected as the main examples of the Government's response to the crisis that have a particular gender impact. Individually, they may not seem to have a major impact on the lives of women in the UK but collectively they form a 'pincer movement' that hits at the core of improvements in gender equality developed since the post-war settlement and the modern welfare state in the UK.

A key plank of second wave feminism is the central position of the state both in terms of women's subjugation in the home, the private sphere, and to their access to the public sphere. Much of the fight for improvements in women's lives during this period took place within and around the role of the state and the provision of public services. Women's equality depends on the provision of Government-funded public services that not only provide a major source of work for women but crucially allow them to engage in the public sphere more broadly. State-funded public services are important to changing gender relations because they free women from unpaid care in the family, provide substantial opportunities for paid caring work and provide safer environments for women to work and live in. However, the state as legislator and even as the provider of welfare can reinforce social and institutional structures that discriminate against women, if a commitment to equality is missing, is lost or is conceptualised in superficial ways that do not acknowledge the historical compromise between women's unpaid labour in the home and their often undervalued labour in the public sphere. For these reasons a gender sensitive analysis is critical when changes are planned to public services or welfare provision.

Ideally, one would hope that the 21st Century state apparatus in one of the most developed economies in the world would reflect on the impact of its policies on a group that makes up half of its citizens i.e. women. Indeed, in the UK, there exists a statutory requirement for it to do so, in the form of the Gender Equality Duty introduced prior to the EqA and the Public Sector Equality Duty which replaced it. Despite this, the most thorough gender analyses of the budget proposal have come from external bodies. The Women's Budget Group (WBG), an independent organisation of feminist academics and activists, have provided the most consistent and detailed gender analysis of the effects of the Government's austerity measures.⁶ Their findings are that much of the economic and social policy put in place to deal with the crisis is having a disproportionate impact on women and in particular the poorest women in the UK. Following their gender impact analysis of the 2010 emergency budget they concluded:

We have examined these and other budget measures and our verdict is that while the budget has a few individual measures that help to offset gender inequality, such as the exemption of low income workers from the public sector pay freeze, the budget taken as a whole is unfair in its impact on women as compared to men. The budget, together with likely changes in the welfare system, seems more supportive of an out-dated 'male breadwinner, dependent female carer' model of relations between women and men, than an egalitarian 'dual earner, dual carer' model. It runs the risk of fostering, in the long run, a fall in women's participation in the labour market, and the loss of the talents of many women to the economy. If the amount women get from earnings falls, this will trigger increases in the cost of tax relief and/or means-tested tax credits and benefits, increasing the budget deficit. Low income mothers, who are the managers and shock-absorbers of poverty, will be among the main losers. Women from black and minority ethnic groups will be particularly hard hit, as 40 per cent of them live in poor households. Despite a valuable increase in child tax credits for families on low incomes, the fall in the real value of child benefit, abolition of the health in pregnancy grant, and restriction of Sure Start maternity grant to the first child, the cuts in housing benefit, the fall in the real value of

⁶ Full details can be found at: <http://www.wbg.org.uk/>, accessed 12 November 2012.

benefits due the change in the basis on which they are uprated, and the forthcoming cuts in public services will hit these women hard for the foreseeable future. All this will also be harmful to their children.

They have made similar criticisms of the 2011 budget and the raft of measures to reduce public spending that have been introduced outside the annual budget announcements. Following their analysis of the 2011 autumn statement by HM Treasury, the WBG found that women's unemployment in the UK was at its highest level for 23 years, standing at 7.5 %. They argue that jobs being created in the private sector are likely to be taken by men whilst the jobs lost in the public sector are likely to be women's. This is supported by research conducted by the GMB union, which has identified that in 20 local authorities 100 % of the jobs lost since 2010 belonged to women.⁷ Many of these are likely to be as a result of redundancies following budget cuts passed down to local government. However, the WBG also note that the pay freeze in the public sector coupled with the rising costs of childcare in the UK, already the most expensive in the world, will mean that work will simply not pay for many low income mothers with young children, some of whom will be forced to leave paid work. They also note that women pensioners often provide unpaid childcare to their working daughters. Therefore any increases in pension ages are also likely to have knock-on effects as grandmothers will be less available to provide childcare.

Cuts to public services also have a disproportionate effect on women as users of public services wherever they work and sometimes particularly if they don't work. Worryingly, the evidence is that the UK is becoming less safe for women. Towers and Walby (2012)⁸ and the False Economy Project⁹ have collected data on which public services are being affected by cuts to public spending. They estimate that 31 % of the funding to services dealing with domestic violence and sexual abuse has been lost between 2010 and 2012. This has inevitably meant that there are fewer refuge places available and there has been a loss of expert help available to women suffering the effects of gender related violence. Women's Aid, one of the largest UK agencies providing refuge for women in abusive relationships, have warned that planned changes in the Welfare Reform Act will have serious implications for their ability to provide support.¹⁰

The cumulative effect of the austerity programme and its disproportionate impact on women means that the UK has seen a deterioration in women's equality that the Fawcett Society, an organisation which has campaigned for women's rights since 1866 and the women's suffrage movement, claims is turning back the clock for women in the UK.¹¹ In a comprehensive overview of the impact of the UK Government's austerity measures on women, the Society argues that the gaps created in public service provision are reverting to being met by women's unpaid labour in the home at the same time as their financial independence is being reduced by pension and welfare reforms.

Can the Equality Act 2010 protect women?

The growing research evidence of the disproportionate impact of austerity measures on women is particularly disappointing following the recent advances that have been made in gender equality legislation in the UK. In 2007 the introduction of the Gender Equality Duty was hailed by the Equality Opportunities Commission as the biggest advance in women's

⁷ http://www.gmb.org.uk/newsroom/other_news/women_hit_by_job_cuts.aspx, accessed 6 November 2012.

⁸ J. Towers & S. Walby. 'Measuring the impact of cuts in public expenditure on the provision of services to prevent violence against women and girls' Report for the Northern Rock Foundation and Trust for London 2012 available at: <http://www.nr-foundation.org.uk/resources/publications/domestic-abuse-research-reports/>, accessed 6 November 2012.

⁹ <http://falseeconomy.org.uk/>, accessed 6 November 2012.

¹⁰ <http://www.womensaid.org.uk/domestic-violence-articles.asp?itemid=2864&itemTitle=Urgent+call+to+action+-+due+to+proposed+changes+to+housing+benefit+and+universal+credit§ion=00010001002200210002§ionTitle=Articles%3A+refuges>, accessed 6 November 2012.

¹¹ Fawcett Society *The Impact of Austerity on Women* 2012 available at: <http://fawcettsociety.org.uk/index.asp?PageID=1208>, accessed 6 November 2012.

equality since the 1970s.¹² The Gender Equality Duty placed a statutory duty on all public authorities, when carrying out their functions, to have due regard to the need to eliminate unlawful discrimination and harassment and to promote equality of opportunity between women and men. The Duty applied to policy-making, service provision, employment matters, and in relation to enforcement or any statutory discretion and decision-making. It also applied to a public authority in relation to services and functions which were contracted out and to private and voluntary bodies which carried out public functions, but only in respect of those functions.

The Gender Equality Duty was the third of three public sector equality duties enacted in the UK between 2001 and 2007, the other two covering race and disability. These three duties have been merged and extended to cover age, sexual orientation, religion and belief and pregnancy/maternity and now form section 149 of the EqA. The equality duties and the single equality duty that replaces them are proactive measures requiring institutional change rather than providing individual restitution.¹³ Because they cover both the service provision and employment role of public authorities, they cover women and men both as public employees and as public service users. The EqA was itself intended to be a consolidation and rationalisation of the UK equality legislation, which also contained a number of innovations.¹⁴ Some of these innovations, for example provision to introduce protection from combined discrimination (s.14) and the requirement to publish gender pay gap information (s.78) were intended to broaden and strengthen the gender equality legislation. Unfortunately both of these innovations, along with others in the EqA, required secondary legislation that the coalition Government has decided not to proceed with.

Prior to its incorporation into a generic public sector equality duty in the EqA, the Gender Equality Duty gave us a tantalising glimpse of how equality legislation could provide a powerful restraint on disproportionate gender impact of Government austerity measures. Six weeks after the coalition Government announced its 2010 emergency budget the Fawcett Society launched a legal challenge using the gender equality duty.¹⁵ Its claim was that the Government had failed to conduct a gender equality impact assessment on the measures contained in the emergency budget and had failed to demonstrate ‘due regard’ required by the legislation. It therefore sought a judicial review. The Fawcett Society was eventually given a permission hearing in December 2010 but was unsuccessful in taking its claim to full judicial review. The decision not to allow the case to proceed was particularly frustrating because, although the judge agreed that the Government’s budgetary powers were subject to the gender equality duty and that it had failed to demonstrate due regard to gender impact in some of its decisions, the emergency budget was implemented unchanged.¹⁶ The Government did appear to heed the serious nature of the Fawcett challenge and conducted a limited gender equality impact assessment of the comprehensive spending review that followed the emergency budget. However, the Women’s Budget Group research indicates that the Government’s diligence in conducting gender equality impact assessments on austerity measures since then is questionable.¹⁷

¹² EOC *Gender Equality Duty Code of Practice for England and Wales* Equal Opportunities Commission: Manchester 2006.

¹³ See S. Fredman ‘Making Equality Effective: Proactive Measures and Substantive Equality for Men and Women in the EU’, *EGELR* 2/2010 pp. 7-16, available at http://ec.europa.eu/justice/gender-equality/files/dgjustice_egelr_2010-2_final_commission_24february2011_en.pdf, accessed 6 November 2012.

¹⁴ *Discrimination Law Review A Framework for Fairness: Proposals for a Single Equality Bill for Great Britain* London, Women and Equality Unit 2007. See also C. Barnard, ‘The Equality Act 2010’ *EGELR* 1/2011 pp. 13-22, available at http://ec.europa.eu/justice/gender-equality/files/egelr_2011-1_en.pdf, accessed 6 November 2012.

¹⁵ Section 30 of the Equality Act 2006 provided that one method of enforcement of the Gender Equality Duty was to allow an interested person or group of people who believed that a public authority had not complied with the general duty to apply to the High Court for a judicial review. The Fawcett Society took its legal challenge under section 30 in its role as a voluntary sector feminist organisation

¹⁶ See H. Conley ‘Using Equality to Challenge Austerity: New Actors, Old Problems’ *Work, Employment and Society* 26 (2) (2012) pp. 353-363 for an in-depth critique.

¹⁷ See for example their report on the gender impact of the 2011 budget available at: http://www.wbg.org.uk/RRB_Reports.htm, accessed 6 November 2012.

In April 2011 the Gender Equality Duty was replaced by section 149 of the EqA. However, the legislation contains a general duty, which came into effect in April 2011 and specific duties, which contain the more precise procedural elements that require secondary legislation. The Government postponed enacting the secondary legislation required to bring the specific duties into force for England¹⁸ until April 2012 and their eventual form was much weaker than in the previous separate duties. Notably, the requirement to conduct equality impact assessments is much less evident as is the requirement to consult stakeholders, making further legal challenges to austerity measures even less likely to succeed. Even more worrying is the Government's decision to bring forward to October 2012 its review of the public sector equality duty under the 'Red Tape Challenge'. It is difficult to see how the performance of the legislation can be adequately assessed when the specific duties have been in place for less than a year. The worry is that, having successively weakened the duty and the EHRC as its main enforcement body, the Government will decide that the legislation is no longer fit for purpose.

Conclusions

The UK Government's response to the global economic crisis has been to implement austerity measures that drastically reduce public spending at a number of different levels. This has inevitably led to a loss of public services, public service employment and welfare benefits. In formulating economic and social policy in response to economic crisis there has been a failure to consider the difference between men and women's lives and the disproportionate impact public spending cuts will have as a result of these differences. There is growing evidence, only a small proportion of which is considered in this article, that women, particularly poor and vulnerable women, are bearing the brunt of austerity measures in the UK. In addition to increasing poverty amongst women, and therefore their families, it will weaken their economic independence in the future. At the same time as public services are being cut, the tax burden on business has been lightened.

The equality legislation put in place just before the full effects of the crisis were realised should have offered women protection from disproportionate impact of austerity measures. However, the UK Government has not met its responsibilities under the legislation and has then systematically dismantled many of the legislative protections that might stand between it and the implementation of its plans for austerity. Indeed, had the Gender Equality Duty still been in place, it is difficult to see how 20 local authorities could make only women employees carry the burden of job cuts. This is particularly worrying because the proactive legislation in the UK was stimulated by the realisation that institutional discrimination was endemic at senior levels in public authorities. Dismantling this legislation without a plan for replacement measures might be considered itself an act of institutional discrimination.

¹⁸ The responsibility for drafting specific duties is devolved to the Scottish Parliament and Welsh Assembly. The specific duties for Wales and Scotland differ substantially and are more far-reaching than for England.