

IN THE LONDON SCHOOL OF ECONOMICS DEPARTMENT OF LAW COURT

B E T W E E N:

SOME MISGUIDED PEOPLE

-v-

AUSTERITY

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DEFENCE STATEMENT

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The Indictment charges Austerity with six offences under five instruments. Austerity denies that she is guilty of these offences.

First, this is a case of mistaken identity. Austerity has not been present in the UK between May 2010 and March 2013 when it is alleged that the offences took place. There has been no reduction in public spending; rather, a modest trimming in its rate of increase compared with the previous plans which were wholly unsustainable in the World's current economic climate. Austerity's name has been used to cover this in order to placate the international bond markets, so allowing the UK to borrow much more cheaply than would otherwise have been possible. The current fiscal programme continues to spend substantially above the government's revenues.

Secondly, and alternatively, if Austerity has been in the UK in very mild form:

- (i) there has been no material retrogression in the enjoyment, or undermining, of the rights set out in the Indictment;
- (ii) Austerity has been working to secure the progressive realisation of the rights set out in the Indictment to the maximum of the available resources;
- (iii) Austerity has not been operating in a manner which is discriminatory;
- (iv) Austerity has not been the direct and operative cause of the effects alleged; and/or
- (v) Austerity has not been in breach of any of the instruments identified in the Indictment.

Austerity is self-discipline, lack of luxury and economising. There is nothing inherently objectionable about austerity. A nation living within its means and seeking a balanced budget should be the norm.

The ICESCR contains no absolute obligations to achieve desired outcomes but rather states that a government must "take steps... to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized". The 'rights' set out are not supposed to be presently achieved, but are to

be goals to be worked towards over an extended period of time. Further, Article 4 of the ICESCR provides that the enjoyment of rights may be limited “for the purpose of promoting the general welfare in a democratic society”.

Austerity has in good faith been attempting to secure the progressive and sustainable realisation of the relevant rights to the maximum of the available resources through a range of different means. The UK has in 2010 to 2013 continued to maintain one of the most generous welfare states in the world, providing free health care, education, job training assistance, welfare, pensions and housing benefits to its citizens.

Austerity is baffled by the Indictment. What is it said that she should have done differently to comply with the obligations? If it is claimed that she should have borrowed and spent more money, then that would be a violation of the ICESCR’s obligation of progressive achievement since it would impose a debt burden which would impoverish future generations. And this would be done without the consent of the generations who would bear the debt. Further, failure to take modest and timely action to rein in the rate of increase of the national debt would lead to a bond market and sterling crisis requiring immediate and savage retrenchments in public spending in order to satisfy international lenders as has been seen for example in Greece and Ireland.

The end goal to be achieved by the conventions and covenants is a sustainable economy where people are able to support themselves through work. Allowing excessive government spending has been shown to damage private sector growth and therefore the size of the economy and the resources available.

To spend money today at or beyond current levels would itself harm the progressive full realisation of rights in the future. Moving progressively towards a balanced budget is a prerequisite for the sustainable full realisation of rights for the future.

Having a balanced budget and a stable society helps to create the conditions allowing other rights fully to be realised. Economic instability has been shown to lead to infringements of the rights of the poor and vulnerable in society. By establishing a more stable economy, we are better able to avoid discrimination against and harm to vulnerable people now and in the future.

Austerity is not discriminatory. The measures taken are proportionate, non-discriminatory and protect minimum standards. The group most affected have been middle income working people. The most vulnerable members of society have been protected within the measures taken, including precisely those groups identified in the Indictment. There is no disproportionate impact on such groups and certainly no discrimination against them.

The general economic effects being felt by citizens are not caused by Austerity but rather by the recession and international factors, restrictions on lending, rising living costs and other matters such as high levels of regulation in the UK.

Nothing has in fact been done to interfere materially with the rights set out in the Indictment. The UK government still provides, substantially unchanged, the

framework to achieve those rights and does not in any instance fall below what is required by those instruments.

Thirdly, if and to the extent necessary, Austerity will rely on the defences of:

(i) consent: Austerity was a fundamental element of the 2010 election manifestos of the two parties which comprise the Coalition Government, as a result of which it has the consent of the majority of the citizens of the UK; and/or

(ii) necessity, duress of circumstances and/or defence of another: as a result of the circumstances in which the UK found itself in May 2010 it was necessary in order to protect the current and future citizens of the UK to take at least the steps that have been taken.

Fourthly, Austerity points out that there is no sentence or remedy which could cure the alleged breaches, other than possibly an order that little green men from Mars should descend to Earth and shower money on the UK.

26 February 2013