Evaluating Using Radical Equal Opportunities (EO) Policies
Addressing the 'Empty Shells' of EO Policies in the UK

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Abstract: Hoque and Noon claim that many workplace equal opportunities policies in the UK are merely 'empty shells'. This article will discuss this claim and consider the extent to which radical equal opportunities policies may address these shortcomings. Based on the analysis, it is concluded that contemporary society is still far from the goal of fully addressing inequality, and the EO policies still face the problem of the 'empty shell'.

1. Introduction
Equality, which means treating people equally, promoting 'fairness', and removing barriers to equal treatment [22], is of great concern in today's workplace. Many organisations have therefore issued formal equal opportunities (EO) policies, which generally cover ways of achieving equality and guidelines for dealing with workplace discrimination. However, Hoque and Noon [12] claim that many EO policies are 'empty shells' since they have no substance or value to victims of discrimination. Jewson and Mason [14] report that the liberal and radical approaches are the two main approaches that can deal with equality issues. The liberal approach is dominant in the UK, underpinning much of the legislation and government social policy [5][26]. The radical perspective is primarily concerned with the fairness of the distribution of outcomes, which is based on 'difference' rather than a 'sameness' approach [16]. But whether a radical approach should be used has been controversial. This paper will focus on the claim of the 'empty shell' problem and further analyse whether the radical EO policies can address the 'empty shell' problem.

This paper is structured as follows. Firstly, discussing the main issues that lead to the formation of 'empty shells' of EO policies, including the 'smokescreen' of procedural fairness, designed to avoid liability, the selective effects, and the lack of clear procedures. Secondly, discussing the extent to which the renewal of EO policies in the UK has alleviated the 'empty shell' problem. In addition, the analysis shows that radical EO policies have largely remedied the 'empty shell' problem. However, from a critical aspect, the implementation of radical EO policies results in additional adverse effects and new problems. Therefore, the feasibility of implementing radical EO policies to solve the 'empty shell' problem is relatively low.

2. The Formation of 'empty shells' in the UK's EO Policies
As mentioned above, the four main reasons with EO policies that lead to 'empty shells' includes the 'smokescreen' of procedural fairness, designed to avoid liability, selective effects, and the lack of clear procedures. According to Hoque and Noon [12], an analysis of data from the 1998 Workplace Employee Relations Survey [1] demonstrates that the 'empty shell' problem exists in many organisations.

Many companies sign up for EO policies that are not designed to address workplace discrimination but only to achieve their intended benefits. As a result, the company might not achieve substantive equal opportunities practices, thus leading to an 'empty shell' problem. Generally, companies always create a 'smokescreen' of procedural fairness to enhance the company's image and gain a commercial advantage [15][7]. The message that equality is 'good for business' has permeated the UK workplace. Signing up for EO policies can demonstrate that a company thinks highly of equality issues, showing that the organisation is a responsible employer [11]. This positive corporate image can make the company more competitive in the labour market and improve employee relations. At the same time, the company can also reap business benefits, for example, by developing a wider talent pool or expanding its client or customer base [12].

Indeed, EO policies not only benefit companies but also serve as "insurance" against potential future problems [5]. For instance, written policies can better defend the company in court and reduce the risk of complaints from disgruntled job applicants or existing employees in the event of internal employee disputes or external pressures such as trade unions or the media [12]. Therefore, "adopting a policy does not necessarily indicate an intention to change the status quo" [7]. Companies pursue
their interests and do not care enough about workplace discrimination to donate the expense and effort into following such a policy.

Another issue of concern is that the 'empty shell' problem also includes workplaces that have equal opportunity practices but adopt a selective approach, benefiting only a small number of people. For example, a 1998 workplace employee relationship survey found that in workplaces that provided or helped pay for childcare, 34% of managers received these two benefits, which is twice the proportion of non-managers who received 17% [12]. It is shown that access to these services appears to depend on one's position in the company, with non-managerial employees having less access than managers or senior executives [20], for those junior employees who do not benefit from it, the EO policies remain 'empty shells'.

Another problem is that only a few clear procedures are based on EO policies. In most cases, the line managers pay only 'lip service' to the policies handed down by their superiors. For example, some line managers are willing to arrange parental leave for their employees, but others are not. The employee's line manager can decide whether these practices are implemented [19]. This suggests that line managers do not see equal opportunities as a priority, and they can subvert existing procedures or choose not to implement them, which results in 'empty shells' of EO policies. Furthermore, a case study of 17 companies with family-friendly policies found that employees were unaware of the family-friendly practices they adopted due to their not being informed [4]. Therefore, employees are disenfranchised when companies do not effectively communicate their policies to employees. The above reasons have led to the emergence of 'empty shell' policies that are only prescribed rather than enforced.

Overall, the four issues of the 'smokescreen' of procedural fairness, designed to avoid liability, selective effects, and a lack of clear procedures, confirm Hoque and Noon's [12] claim that many EO policies are 'empty shells'.

3. The UK's latest equality law - Equality Act 2010

Hoque and Noon [12] developed the 'empty shells' issue almost two decades ago. After 14 years of work by equality experts and human rights organisations, UK equality legislation has been updated to the Equality Act 2010 [8]. This update has two main aspects: i) To harmonise, simplify and modernise equality law; ii) To clarify the definitions of discrimination, harassment and victimisation [10]. However, although this latest equality legislation in the UK addresses the 'lack of clear procedures' of EO policies to a large extent, it does not fully address the 'empty shells' of EO policies.

When the Blair Labour government was elected in 1997, anti-discrimination legislation was widely criticised as outdated, fragmented, and inadequate [10]. However, the Equality Act 2010 now takes a unified and comprehensive approach, specifying nine protected characteristics such as gender and religion [8]. Several types of equality legislation, such as the Sex Discrimination Act 1975 and the Race Relations Act 1976, have been incorporated into a single Equality Act 2010 [23]. Also, the definitions of discrimination, harassment and victimisation have been clarified in the new legislation [12][10], which has led to a more harmonised, simplified and modernised equality law that could be better understood by the public and organisations. As a result, policies can be better implemented by the board and senior management in organisations. Furthermore, all employees can more effectively advocate for themselves in the event of workplace discrimination. For example, the extension of indirect discrimination to all protected characteristics, including disability, is highly commended as it better safeguards the rights of people with disabilities in the workplace [17]. These aspects mentioned above illustrate that the new equality law solves the "lack of clear procedures" problem to a large extent, thus contributing to the improvement of 'empty shells' of EO policies. Additionally, the new legislation extends the positive duty of public authorities to promote equality, and the public sector can fulfil its obligations by bringing judicial review proceedings [10]. Therefore, the increased policy regulation has also radically alleviated the problem of 'empty shells'.

In summary, the Equality Act 2010 alleviated the 'empty shell' problem by addressing the issue of lack of clear procedures as well as strengthening regulation. However, it did not fully address the 'empty shell' problem since the other three issues still exist. Hence, the Radical EO policies against the 'empty shell' problem will be subsequently analysed in the next section.

4. Radical EO Policies for 'empty shell' Problems

Jewson and Mason [14] report that two approaches can deal with equality issues which are the liberal approach and the radical approach. The liberal approach emphasises fair procedures and the strict avoidance of direct and indirect forms of discrimination; it can adopt positive action. The concept assumes that equality of opportunity exists when all people are able to compete freely and equally for social rewards [15]. The liberal EO policies are regarded as the rule when the public competes for social rewards, but does not ensure the outcome. The radical approach is quite different, with the concept that employers should intervene directly in occupational structures and adopt 'special treatment' methods such as positive discrimination to achieve fair treatment and distribution for all employees in the workplace [16]. Thus, the radical viewpoint is mainly focused on the fairness of the distribution of outcomes rather than the fairness of the process.

The existing EO policies in the UK take a liberal approach, which uses positive action; The radical EO policies use positive discrimination. Jewson and Mason [14] suggest positive discrimination may be more effective than positive action. Positive discrimination broadly addresses the 'Smokescreen' of procedural fairness, which is mentioned in the second section. Positive actions include such as childcare facilities and
language training, but these actions are limited to engaging more people in competition and do not include intervention in the decision-making process itself. Thus, competition for a position remains based on the achievements or technical qualifications of the individual [25]. In contrast, positive discrimination entails the deliberate manipulation of employment practices, generally in the form of the imposition of quotas or the introduction of multiple levels of entry requirements [15]. It completely inhibits the ‘smokescreen’ of procedural fairness issues, as organisations no longer have the opportunity to gain by simply issuing EO policies but not making their initiatives. This is because, in the radical approach to prove that they are a responsible employer, the company must demonstrate tangible results, for example, by meeting the quota criteria [18].

The radical approach also addresses the problem of the lack of procedure to a large extent. For the two concepts of EO policies, liberal and radical, implementation requires two different approaches, bureaucratisation and politicisation, respectively. In the liberal view, implementation requires the bureaucratisation of procedures. Nevertheless, critical aspects of working life will never be bureaucratised or governed by formal rules [15]. Even in the most authoritarian or formal institutions, there are always informal norms and codes of conduct. Moreover, even within a limited social activity field, assigning a set of rules to respond explicitly to every contingency or situation is impossible. Thus, there will always be essential areas of social life that escape bureaucratisation control and therefore lack formal procedures to achieve ‘fairness’ [15]. And the radical model sees meritocracy as an ideology and tries to politicise decision-making [9]. So, the limits of scope encountered in the bureaucratisation of procedure can be surpassed by a strategy of politicising all aspects of working life, thus solving the problem of the lack of procedure and alleviating the ‘empty shell’ problem of liberal EO policies.

Overall, the radical approach could solve the ‘empty shell’ problem to a large extent, and positive discrimination and politicisation are vital to solve the problem. But this is based on an ideal state of affairs. In other words, radical EO policies could theoretically solve the ‘empty shell’ problem, but implementing these policies would lead to the emergence of many other new issues. Thus, the feasibility of implementing radical EO policies to solve the ‘empty shell’ problem is relatively low. This paper will then further analyse the limitations of implementing radical EO policies.

5. Analysis and Limitations of Radical EO Policies

It is noticed that a large number of professionals have criticised the radical EO policies for the following four aspects, including legal issues, unfairness, loss of efficiency, and loss of credibility for the protected groups. Herein, this section will critically discuss these issues and demonstrate why the limitations of implementing radical EO policies outweigh the benefits.

The legal issues are specific to the UK. Positive discrimination is not outlawed in all areas of British social policy but is explicitly illegal regarding race and gender, meaning that radical EO policies are inherently unlawful [8]. Because, in the latest version of the Equality Act 2010, people are not allowed to discriminate based on these protected characteristics. For example, when minimum quotas are set for female executives, employers may choose only women and abandon all men when new jobs are available in order to meet the minimum quotas [3]. However, this action results in direct discrimination against men and thus violates the Equality Act 2010. Therefore, the legal issues surrounding this approach are very complex in the UK. If the government is to implement radical EO policies, then the current equality legislation in the UK needs to be further reformed. Such legal reform is challenging and usually requires a number of layers of approval; otherwise, such a profound change in the law would inevitably cause great public controversy.

In addition, the radical approach is inherently unfair and non-meritocratic. For example, in recruitment and selection, quotas can lead many people to suspect winners are not based on their ability but their gender [6]. Indeed, recruitment and selection in organisations should usually be meritocratic, i.e. based on merit [24]. However, radical practices may force organisations to do the opposite and engage in positive discrimination. Furthermore, unfair and non-meritorious practices can demotivate other employees. From the employee's perspective, their efforts and excellence may be limited by quotas. For example, as mentioned in the previous paragraph, employers may select only women and drop all men when new positions become available in order to meet the minimum quota [2].

Another concern is the potential loss of efficiency by implementing radical EO policies. When an employer goes against meritocratic recruitment and selection in order to achieve radical EO policies, it means that the employer is not getting the best people for the job. Therefore, the company loses the person who can provide the highest efficiency and maximum benefit to the company, thus leading to the problem of efficiency loss. However, the opponents argue that even without radical EO policies, companies may not be able to accurately recruit or select the best person for the job [21], due to the difficulties of avoiding unconscious bias in the recruitment and selection process.

Finally, the implementation of radical EO policies may lead to a loss of credibility for the protected group. For example, in organisations, there is the argument that this person only got the job because she is a woman, while the rest of the board is male. The organisation only tries to increase diversity on the board, not because this woman is the best [2]. This means other employees may not recognise this woman, even though she has high abilities. Other employees may think that the organisation chose her to meet the minimum quota rather than because of her talent. Therefore, implementing radical EO policies may lead to a decrease in the credibility of these minority groups.

In summary, analysing the three issues of unfairness, loss of efficiency and loss of credibility indicates that implementing radical EO policies results in many negative
consequences. Besides, the legal complexities mean that implementing radical EO policies in the UK is also challenging.

6. Conclusion

Based on the analysis, it is concluded that contemporary society is still far from the goal of fully addressing inequality, and the EO policies still face the problem of the 'empty shell'. With the renewal of British policies, the 'empty shell' problem has not been wholly solved but has been alleviated in many ways. Besides, the limitations of implementing radical EO policies outweigh the benefits since implementing these radical EO policies would not only require a lot of time and effort from the UK government but would also lead to the merging of many new problems. This lessens the need for the government to push through these new policies.

In summary, workplace discrimination is a complex social issue with many dimensions, such as legal, political, economic and sociological. Therefore, for future perspectives, the government should support enterprises to enhance employee training and education, raise their awareness and understanding of workplace discrimination, and strengthen their professionalism and moral values. Also, the training and education for managers should be enhanced to improve their management and professional ethics. In addition, companies should establish a complaint mechanism so that employees can freely lodge complaints and report and complain about workplace discrimination. At the same time, the government should also strengthen its supervision of handling corporate complaints to ensure that they are dealt with promptly and fairly. Finally, the phenomena analysed in this article are based on secondary data, which may lead to some limitations in the results, but do not affect the credibility of the conclusions of this article.

References


