

GENDER EQUALITY IN THE 21ST CENTURY IN SCOTLAND?

Morag Alexander and Wendy Davies

INTRODUCTION

At the end of January 2001, the Equal Opportunities Commission (EOC) Scotland organised three linked conferences to celebrate 25 years of the existence of the Sex Discrimination Act and of the establishment of the EOC¹

The three events each had a different focus: one was aimed at lawyers and those interested in the law (organised in partnership with the Scottish Discrimination Law Association), one was aimed at grassroots women who are active in their communities, and the third was aimed at senior decision makers in Scotland. Each event provided an opportunity to reflect on the achievements of the last 25 years in relation to gender equality, to assess the current situation and to identify unfinished business. The time is right to celebrate past achievements but there is no room for complacency. The time is also right to think about the strategies that are needed to deliver the vision of equality that must lie at the heart of modern Scotland.

THE BAD OLD DAYS

Before the Sex Discrimination Act and Equal Pay Act came into force in 1975 it was not unlawful to sack a woman who became pregnant or to pay a man and woman who sat alongside one another doing the same job different rates of pay. Women's wages were 40% less than men's. It was lawful to

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¹ *The statutory duties of the EOC are: to eliminate sex and marriage discrimination; to promote equal opportunities between the sexes; to monitor both the Sex Discrimination Act and the Equal Pay Act.*

advertise for one sex or the other – and to reserve higher paid work for men. What we now refer to as the gender segregated labour market was seen by many as a reflection of the natural order of things. To access credit women required a male guarantor, and married women's tax allowances were paid to their husbands. Married women were not required to pay the full amount of National Insurance and, if they opted for the lesser contribution, they were not entitled to full entitlements in old age or in sickness. Boys and girls studied different subjects in school and in further or higher education. They entered the labour market with different qualifications and different expectations and were rewarded differently.

Notions that seem dated now, of a man being able to earn enough to keep his wife and family, were still common. The opposition to the implementation of the Equal Pay Act focused not only on the terrible effect it would have on employers who would struggle to meet their wages bills but also on the potential impact it would have on men's wages and on their bargaining potential.

But the issue was not only one of economics. It was also one of attitude. The basis of the economic and social relationships between men and women was not one of equals. It was based on an unequal power relationship that had repercussions through all of our institutions. The challenge that faced us in the mid 70s was to find ways of transforming our institutions so that women could be better served by them and participate more fully in their processes and, most significantly, to transform the basis of gender relationships.

WHAT HAS CHANGED?

As Morag Alexander, Director of the EOC in Scotland, noted in her introductory address to the Gender Equality in the 21st Century in Scotland? conference, there is still work to be done. There is still a pay gap between men and women's wages of 19% in Scotland. There are still very few women in senior positions in higher education, and in secondary schools, law, or in business. Women are still largely concentrated in low paid, low status jobs.

But there have been some significant changes and the EOC has played a determined part in achieving those changes. There now 120 women MPs in Westminster out of 659. In 1975 the number was only 27. In the Scottish Parliament 37% of MSPs are women. There are now male midwives, and female airline pilots and train drivers. Expectations, too, have changed and a research project carried out by NOP Family on behalf of the EOC showed some interesting findings.

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The research was carried out among three generations of a number of family groups. All generations valued the fact that, in principle, equal pay and jobs were open to both men and women. They felt that equality measures had been effective in equalising opportunities for men and women and that more opportunities were open to women than ever before. There was also the view that attitudes to women had changed for the better and that, within the workplace, women today were perceived as being more equal to men than in previous generations. However, despite these improvements, some are still perceived to be more equal than others in the workplace. Pay levels were perceived to be unequal: it was felt by both men and women that women have to prove that they can do the same job as a man, and women were treated unequally because they have, or might have, children. The research also showed that there was a strong view that while opportunities for women had improved, the impact on men had not all been positive. Although new job opportunities were now open to men (i.e. in traditionally female occupations such as nursing) this was outweighed by the decline of the heavy manufacturing industries and the greatly reduced range of skilled jobs available. The increasing number of women in the workforce and the resultant greater competition for jobs was seen as exacerbating the situation for men. For the future, all generations wished to see equal pay and equal opportunities for men and women but there was a belief that there would need to be changes before that became a reality. Interestingly the changes that were suggested were women in work championing equal rights and more women in prominent places to practice equality. Maybe the statements are an acknowledgement that the push for change towards women's equality in the workplace has been generated and sustained by women, or maybe they reflect a view that equality of opportunity in the workplace is about women, by women and for women. They beg the questions of men's role in bringing about change and of the benefits to men of equality. When gender equality is seen as being at a cost to men we can expect to meet fierce opposition. We need to convince both sexes that change is desirable and beneficial for all.

The changes that the survey highlighted in relation to home life showed that although men's expectations of involvement in childcare and family life were greater than in the previous generation women still believed they retained the overall responsibility for running the household. It was acknowledged that men took a greater part than the previous generation in household tasks but only in certain aspects of it. (Cooking and shopping are more popular than ironing or cleaning.) The change in men's activities in the house were seen as being due to both parents working. Interestingly, sons believed that they would play an even more active role in the house in the future but daughters were sceptical about this. Their scepticism may be well founded because the

survey also showed that parents continued to treat their sons and daughters as differently as they did in the past. Boys had greater freedom to go out and stay out later (which the girls resented) and girls were more likely to be asked to do housework than boys. In essence men may 'help' more than previously or may even completely reverse roles but this is explained by their particular economic circumstances. The ideology that maintains gender-segregated roles within the household remains largely intact. We are therefore a long way from the vision of equality.

At the same conference Professor Joan Stringer, EOC Commissioner for Scotland, outlined some of the key areas of unfinished business that need to be addressed before we can begin to approach that vision. The areas were equal pay, gender stereotyping, work-life balance and the need for a new equality law. Some of these themes, notably the work-life balance and the need for a new law, were also picked up by the other two conferences.

EQUAL PAY

Despite 25 years of the Equal Pay Act being in force, unequal pay is the reality for women in Scotland who earn, on average, 19% a week less than men. A research report commissioned by the Cabinet Office in 1999 used a simulation model to estimate the lifetime incomes of women and men, examining the influence of differing educational attainment, the number and timing of children and other life events including early parenthood and divorce. They concluded that on average a woman would earn £250,000 less than a man in her lifetime. Unequal pay during a woman's working life contributes to the poverty that many female pensioners experience. Women's pensions are on average 45% of men's. Closing the pay gap is the EOC's top priority and in 2000 the EOC established an independent taskforce to find ways of eliminating the gender pay gap. The independent task force was made up of employers (large and small), trade unionists, academics and lawyers, and took evidence at hearings throughout Britain. It will report in February 2001. Meanwhile, the EOC's equal pay campaign Valuing Women continues to press for more openness and transparency for both employers and employees when it comes to issues of pay. The campaign also urges all employers to see pay as an equality issue and to ensure that it is included in their equality policies and practices. Trade Unions, too, must put equal pay high on their bargaining agenda.

The barriers to equal pay are both structural and cultural. The EOC has published a code of practice on equal pay which provides practical guidance and outlines a framework for good practice for those with responsibility for

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pay arrangements within an organisation. The EOC also recommends that employers should implement an equal pay policy and, as part of that policy, review and monitor the pay system for sex bias. However, the underpinning issue is the continued sex-segregated nature of the labour market. Unequal pay structures reflect cultural norms about women's work and men's work, and women's work still counts for less. This can be only partly explained by outdated notions of a male breadwinner and of the secondary financial role that is ascribed to women as a consequence. A bigger issue is the attitude to women's worth and the resultant undervaluing of women.

GENDER STEREOTYPING

Gender stereotyping is defined as making assumptions about men and women, their roles, behaviour, ability and needs, based on their gender. It affects all aspects of our lives. It can determine and limit our opportunities in education, employment, leisure activities and social relationships, and in the future it will limit Scotland's capacity for economic growth. This is particularly so in the science-based industries where we must compete successfully. There is a serious under-representation of girls studying computer science and physics at school and this needs to be addressed as a matter of urgency. Addressing issues of gender stereotyping goes beyond opening up opportunities for particular groups in relation to particular activities. It highlights the link between the demands of the economy and the need to ensure opportunities for every individual to fulfil their potential. Gender stereotyping is therefore a key theme for the EOC and over the next three years it aims to:

- ◀ raise awareness of the pervasive nature of sex-stereotyping and the social and economic damage it causes;
- ◀ contribute to increasing the range of options that school age children aspire to and expect to be able to enter;
- ◀ bring about a reduction in occupational segregation in targeted sectors.

WORK-LIFE BALANCE

Two key elements of the UK and Scottish governments' social policy are dependent on having robust work-life strategies in place – stronger families as the means of ensuring social cohesion, and paid work as a route out of social exclusion. Given that Scotland has a culture of working long hours, and that on average British fathers work longer hours than any others in Europe, and

given the fact that women still carry the bulk of the responsibility for childcare and care of elderly or dependant relatives and that there are increasing numbers of women in the workforce, it is no wonder that issues of work-life balance are finally being recognised. The balance in terms of social policy is between making the culture of the workplace attractive for those with caring responsibilities (and indeed for those who wish to have a life that is not defined only by work) and making sure that policies contribute to the sustainability of the family. This is significant not simply because of the issue of social cohesion within communities, but also because our population structure is such that without the unpaid contribution of carers we will be facing a major crisis in caring for an aging population. In Scotland we have the lowest birth rate in Britain. More women than ever before, particularly professional women, are choosing to remain childless. There are an estimated 500,000 carers in Scotland caring for someone who is sick, elderly or disabled. The number of people aged 65 or over receiving home help per 1,000 population was 106 in 1996. This represents an increase of 18% over the previous 10 years. However, the same year saw a decrease in the number of beds available and in the number of occupants in homes for older people. Our demographic structure suggests that the situation will worsen. It is within this context that we have seen in the last few years a number of major changes in relation to 'family friendly' employment rights – specifically the Maternity and Parental Leave Regulations and Part-time Workers Regulations. The rights to parental leave (for men and women) are very welcome but as the leave is unpaid it is unlikely to have an impact on low-income families. It has to be remembered that the 'rights' are as much about the requirements of the economy and society as a whole as they are about individual worker's rights. They do not represent 'concessions' for women.

At the conference organised jointly with Scottish Discrimination Law Association, Nicola Dandridge pulled out the common themes in the new 'family friendly' rights:

- ◀ They represent a move away from outdated assumptions that equality legislation should consist of protection for women from the work place consequences of having a baby. Instead they move towards making rights available to both men and women. Time off in emergencies, parental leave and the Part-Time Regulations apply to men and women equally. (Obviously the maternity provision only applies to women.)
- ◀ The new rights largely assume employment status. The exception is the Part Time Regulations which now apply to workers as well as employees.

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- ◀ The Parental Leave Regulations include a broader definition of family than previous legislation - e.g. they apply not only to women who have had babies but to those who have 'parental responsibilities' for a child including adopted children.

There are still several areas where the law is unclear and no doubt legal cases will follow. It will also be interesting to see how interpretations of the Human Rights Act will impact on these new 'family friendly' rights. For example, Article 8 gives the right to respect for private and family life. As there is no provision in the Part Time Workers Regulation to allow for access to part-time work, it may be that Article 8 will be used to allow men and women a positive right to choose whether to work part-time to enable them to achieve a greater balance between work and family life.

The Department of Trade and Industry's Green Paper, **Work and Parents: competitiveness and choice** seeks views on extending unpaid maternity leave for a year, and splitting unpaid entitlement between the mother and the father. It also suggests that the flat rate of maternity pay be extended throughout the additional maternity leave period, maybe up to 26 weeks. Flexible working is covered and it suggested that mothers might have a right to work reduced hours during any outstanding maternity leave entitlement, with fathers having an equivalent right. The possibility of introducing paid parental leave is also covered as is paid paternity leave at the same rate as standard maternity pay. The Green Paper records that currently one third of employers are unaware of the new regulations and do not understand maternity rights. The new regulations were intended to simplify matters but the rate of change and the patchwork of provision militates against this.

THE LEGAL BATTLES

The present equality legislation is confusing, cumbersome and outdated. Major changes lie ahead in the field of equality law for several reasons including the recent decision of the Employment Appeal Tribunal (Lord Johnson presiding) that discrimination on the basis of sexual orientation was a breach of the Sex Discrimination Act, the requirements of the European Equal Treatment Directive that member states have legislation in place in relation to sexual orientation by 2003 (and on the basis of age by 2006), and rights granted by the Human Rights Act – in particular the right to privacy and family life and the right to marry.

Since the inception of the Sex Discrimination Act there have been many legal milestones on the road to equality. Muriel Robison, the EOC Scotland's

Principal Legal Officer, noted that one of the principal vehicles for change has been the European sex equality laws. There have also been some major decisions from our own courts, including the Court of Session establishing that sexual harassment amounted to direct discrimination, and tribunals interpreting indirect discrimination to allow women to return to work on a part-time basis. The tenacity of some individuals, often supported by the EOC, has also led to significant changes. Equality in retirement ages, the rights of pregnant workers, the rights of part time workers, the rights of transsexuals to non-discrimination are all areas where the UK legislation has been found to be in breach of European law and where changes have been implemented as a result. The European Commission is currently considering a framework directive covering discrimination in employment which will cover sexual orientation, as well as a directive to amend the Equal Treatment directive which will specifically cover sexual harassment.

At the legal conference organised in partnership with the Scottish Discrimination Law Association, Lord Johnston expressed the opinion that, although there were some strong views that discrimination, with regard to gender in employment issues, could never be justified, this was not what the law said. He felt that the courts, including Tribunals, should give employers more flexibility to justify their alleged discrimination in the light of their requirements. He expressed the opinion that 'some aspects of the law in this respect have almost gone berserk and some degree of common sense requires to enter the scene'. He added that this was particularly the case in relation to race and that there was 'a tendency in certain parts of the country for any person of an ethnic minority who does not achieve what he had hoped to achieve in a particular workplace, to immediately cry discrimination and make a claim'. His remarks were not backed by any evidence and they are certainly not consistent with the findings of the Commission for Racial Equality across the UK and in Scotland. The Evidence from the CRE suggests that there is massive under-reporting of both racial discrimination and harassment. Recent research from the CRE Scotland showed that white applicants are three times more likely than equally qualified Asian applicants to get an interview for a job in Scotland and five times more likely than an African-Caribbean applicant. 49% of ethnic minority workers believe they were discriminated against the last time they applied for a job. However, the issue that Lord Johnston raises is not simply about statistics and proving cases. He was, in effect, expressing a view that is shared by many – the view that 'this has all gone too far'. The evidence does not suggest that we have gone too far. The evidence suggests that we have only just started. We can only assume that even coming close to challenging the underpinning ideology that maintains sexual and racial inequality will bring a backlash. Lord

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Johnston's remarks are a timely reminder that any smugness about our achievements will be short-lived unless we can consolidate our gains. We come back to the debate that was current when the equality legislation was introduced - 'will the legislation change attitudes or will attitudes determine the way in which the legislation is interpreted?' It would appear that there is still work to be done in relation to the latter.

SEXUAL ORIENTATION AND THE LAW

At the same conference, Aiden O'Neill QC presented a paper on the current state of the UK legislation with regard to sexual orientation. The recent ruling by an Employment Appeal Tribunal that sexual orientation is covered by the Sex Discrimination Act overturns all previous British decisions. The basis of the decision is that the Sex Discrimination Act has to be reinterpreted in the light of the requirements of the European Convention. The decision is being appealed and the outcome will be known in the next few months. The implications of this are far reaching as it may herald a new era of rights for gay men and lesbians.

Once the issue of the unlawfulness of discrimination in the workplace on the basis of sexual orientation has been settled it is likely that the next issue will be the formal legal recognition of gay partnerships. The Scottish Courts hold a position of constitutional superiority over the Scottish Executive and the Scottish Parliament. If the Parliament acted in a such a way as to breach the rights of the European Convention and discriminated against its gay citizens - for example by refusing to recognise same sex partnerships - then a positive declaratory order could be sought from the courts requiring Scottish Ministers to introduce legislation which would be compliant with the rights of the Convention. Although discrimination legislation is a matter reserved to Westminster, the regulation of marriage and family life is a devolved area of competence.

The next few years will see major challenges to our domestic legislation in the area of gay rights and it may be that the Sex Discrimination Act will be further amended in order to clarify the position or that new legislation will be introduced. In any event, a new European directive has been passed by member states regarding equal opportunities in the employment field which will require member states to introduce legislation in relation to sexual orientation discrimination by 2003. Whether or not this will be part of a larger package of legislation around gay rights in general remains to be seen. As part of the bigger picture it is another example of the potential for the equality legislation and related activity (such as the creation of Commissions)

to become an even more fragmented and confusing field. The search for clarity becomes harder the more places you have to look.

STRATEGIES FROM ELSEWHERE

Ireland

Niall Crawley, Chief Executive of the Equality Authority in Ireland, discussed his country's new equality legislation and infrastructure. Ireland has seen a number of changes in the last 18 months in relation to their national equality legislation and implementation strategy. Legislation from the 1970s on equal pay and workplace discrimination prohibited discrimination on the ground of gender or marital status. At that time an Employment Equality Agency was established to implement the legislation. Subsequently the Agency played a role both in policing the obligations and in seeking to realise the ambitions of equality that underpinned the legislation.

October 1999 saw the enactment of new equality legislation and the establishment of the Equality Authority. The legislation addressed workplace discrimination on nine grounds: gender, marital status, family status, race, disability, age, sexual orientation, religion and membership of the Traveller community. The legislation widened the scope for positive action on gender grounds and, for the first time in Irish legislation, defined sexual harassment. A year later, October 2000, saw the enactment of the Equal Status Act which addresses discrimination, on the same nine grounds, in the provision of goods, facilities, services, accommodation, education and the operations of registered clubs. The Act also addresses positive action and sexual harassment.

The Equality Authority has a remit that combines enforcement and development roles. Its mission is realising positive change on the situation of those experiencing inequality by:

- ◀ promoting and defending the rights established in the inequality legislation and providing leadership in building a wider commitment to addressing equality issues in practice;
- ◀ creating a wider awareness of equality issues;
- ◀ celebrating the diversity in Irish society;
- ◀ mainstreaming equality considerations across all sectors.

The Equality Authority recognises the challenge presented by broadening the equality agenda from two grounds to nine and also of shifting the emphasis

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from the workplace to the provision of goods, services and facilities. The emphasis of the previous legislation means that much of the equality expertise is located within the human resource function of organisations. The challenge now is to develop the expertise within the service delivery/customer service function of organisations and to develop in such a way that equality is mainstreamed into all functions. Although it is too soon to assess the effectiveness of the Irish model, it provides a framework for action that has been designed to take account of the need for joined-up thinking in relation to promoting equal opportunities.

Northern Ireland

Section 75 of the Northern Ireland Act, 1998, established, amongst other things, an Equality Commission for Northern Ireland. The Commission replaces the previous Equal Opportunities Commission for Northern Ireland, the Commission for Racial Equality for Northern Ireland, the Fair Employment Commission (dealing with discrimination on grounds of religion), and the Northern Ireland Council for Disability. The new legislation in Northern Ireland places a new statutory duty on public authorities to carry out their functions relating to Northern Ireland with due regard to the need to promote equality of opportunity between persons of different religious belief, political opinion, racial group, age, marital status, or sexual orientation; between men and women generally; between persons with a disability and persons without; and between persons with dependants and without. It is interesting, as Evelyn Collins, the Chief Executive of the Equality Commission in Northern Ireland noted in her presentation to the Gender Equality in 21st Century in Scotland? conference, that the categories range beyond those which have legislative protection against discrimination.

The new duties on public authorities require them to draw up Equality Schemes setting out how they will comply with the legislation. They are required to consult with those affected by their policy decisions, and to carry out equality impact assessments on their functions and policies, across all of the equality grounds mentioned above. The role of the Equality Commission is to approve the schemes. Evelyn Collins noted that the establishment of a single Equality Commission was not without opposition from some of the existing equalities constituencies who were concerned that some issues might take precedence and that other issues would be marginalised. In response the Commission has made it very clear that:

- ◀ Strategically and operationally there will be equality among the equalities, there will be no 'hierarchy' of rights.
- ◀ Respect for diversity is not just a nice phrase but an achievable goal.

- ◀ Rather than competition between equality issues, there can be mutual reinforcement and greater progress made in working on the issues in an integrated way. This not only applies in advice and information provision for employers and service providers - as we develop the one stop shop approach - but also in respect of the synergy between the various areas.
- ◀ There is great value in the ability to analyse and act upon issues where multiple identity factors are at play.
- ◀ Even where the focus is on one issue, there is greater strength and coherence for this work coming under one corporate agenda.

In Northern Ireland it is a time for change in relation to the promotion of equality and human rights. Not only is there new legislation and the consequent duty on public authorities to promote equality, and a new Commission, but there is also the newly devolved Northern Ireland Assembly. The fact of the changes happening at the same time means that there is a real opportunity for partnership working right from the outset, and an opportunity to establish new ways of working and communicating and of setting standards for the future.

Catalonia

The 1978 Catalan Statute of Autonomy provided for equal opportunities for women. An Interdepartmental Commission for promoting women's rights was established by the Catalan government in 1987 and two years later in 1989 the Catalan Women's Institute was established by law. The Institute formally established a Women's Council to support their activities. The Council brings together all the organisations concerned with equal opportunities for women (over 800 in all). The policies developed by the Institute are implemented through the Interdepartmental Commission – operating at a departmental level.

At the Gender Equality in 21st Century in Scotland? conference, a paper presented by Teresa Freixes, Senior Professor of Constitutional Law in Barcelona, noted that in the seventies and eighties women's issues were defined in terms of discrimination, and the strategy focused on ensuring that direct discrimination was dealt with through the legislation. Any programmes which were developed were designed to complement the anti-discriminatory legislation. The lesson they have learnt in Catalonia is that acting on the legislation is not enough. The contradictions and tensions that arise in society because of inequality are present at every level of all activity. Existing strategies have failed to transform the unequal basis of gender relationships

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and have left traditional roles intact. The challenge they now face is how to move the focus from the legal debate to that of developing practical strategies that begin to undermine inequality.

THE SCOTTISH CONTEXT

Although responsibility for the laws relating to equality have been reserved to the UK Parliament, the Scottish Parliament has responsibility for encouraging equal opportunities and for securing observance of the requirements of the law, and for ensuring that Scottish public authorities do not discriminate unlawfully. Schedule 5 of the Scotland Act 1998 defines 'encouraging equality of opportunity' as 'the prevention, elimination or regulation of discrimination between persons on the grounds of sex or marital status, on racial grounds, on grounds of disability, age, sexual orientation, language or social origin, or of other personal attributes including beliefs or opinions such as religious beliefs or political opinions.

Equal opportunities is one of the four key principles of the Scottish Parliament, and it has made a commitment to mainstreaming¹ by requiring that all legislative proposals are accompanied by an equal opportunities statement. The Executive has also made a public commitment to mainstreaming equality in all its operations. The Equality Strategy, which was launched on 6 November 2000, aims to mainstream equality across every function of the whole Executive with a view to extending this approach to the public sector and beyond.

In the closing remarks of the Gender Equality in 21st Century in Scotland? conference, Jackie Baillie MSP, Minister for Social Justice, re-emphasised the commitment to dealing with inequality and injustice and outlined some of the policies that the Executive believe will contribute to women's increased participation in our society. These include:

- ◀ Working to make improvements in education and skill levels, and taking action to help women remain in or return to work after having children.

¹ *Mainstreaming is defined as 'making sure that an equality perspective is part of the everyday work of government, involving policy makers across all government departments, as well as equality specialists and external partners. Mainstreaming in policy development means taking into account the different resources available to women and men and the different realities of their lives.*

- ◀ Working to improve career choices through the Careers Service Action Plan which will help overcome stereotyping and low aspirations.
- ◀ Developing the National Childcare Strategy and participating in campaigns on Work-Life Balance and New Deal for Lone Parents.
- ◀ Tackling domestic abuse through a National Strategy, a help-line and the domestic abuse service development fund.
- ◀ Working to assist women in business.
- ◀ Improving the rights of women in housing.
- ◀ Taking action to tackle poverty.
- ◀ Addressing equal opportunities in the civil service.
- ◀ Working to improve collation and dissemination of gender disaggregated statistics.

The Minister did not underestimate the size of the task ahead in pursuit of equality. She recognised that in relation to many of the issues there was a need for joined-up thinking. For example, tackling the pay gap means there is a need to address the issues of educational attainment, part-time working, access to childcare, job segregation, the value attached to women's skills and experience and access to training. These in turn are underpinned by influences such as gender stereotyping, low expectations and the aspirations and attitudes of employers and of women.

The need for joined-up thinking that the Minister referred to is undoubtedly necessary. The example of the pay gap shows the interconnectedness of a range of issues related to gender. There also are issues that cross over in relation to race, disability, sexual orientation, poverty and a whole range of other sources of disadvantage and discrimination. Without an integrated strategy for pursuing equality, there is a danger of different inequalities competing for priority.

The Scotland Act refers to discrimination between persons on the grounds of sex or marital status, on racial grounds, on grounds of disability, age, sexual orientation, language or social origin, or of other personal attributes including beliefs or opinions such as religious beliefs or political opinions. The current UK legislation offers protection from discrimination on the grounds of sex, marital status, race or disability. The Equal Treatment Directive will broaden the scope of the legislation to include sexual orientation, age and religion. Employment legislation is reserved to Westminster including the Equal Pay

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Act and the Sex Discrimination Act. Aspects of the Sex Discrimination Act cover education and access to goods, facilities and services. Education and access to goods, facilities and services are devolved responsibilities. Pursuing the equality agenda vigorously requires a coherent national strategy that can take account of particular national influences including the political and legal structures and the cultural norms. Piecemeal strategies, complex legislation and amendments and directives and confusing areas of responsibilities are unlikely to bring about radical change.

The EOC has a remit that extends throughout the whole of Britain – and that means that Scotland is only a part of its focus and concerns. Professor Joan Stringer, the EOC Commissioner for Scotland, argued that, for an equality body to be relevant and credible for Scottish people and Scottish issues, it needs to be seen to focus on Scotland. While a lot has been accomplished, the deeper, structural, systemic problems are much more subtle, much more complex and often more culture specific. Professor Stringer said that we need an equality body in Scotland that is strong, well resourced and has freedom to act. Current arrangements do not maximise the potential effectiveness in the delivery of equality.

The sex discrimination legislation too needs to be reviewed. In addition to the issues already raised about the confusing and piecemeal nature of much of the current provision there is also a need to expand the scope of the Sex Discrimination Act. The recent Amendment to the Race Relations Act places a duty on public authorities to promote race equality. In Northern Ireland the duty on public authorities extends to promoting equality on a broad basis that goes beyond the provision of the legislation. It is time for the legislation outlawing sex discrimination to be brought in line with the understanding of what is required to mainstream equality. The principles underpinning the Race Relations (Amendment) Act 2000 need to be applied to a much broader range of equality issues.

Another major development is the discussion which is emerging about the establishment of a Scottish Human Rights Commission. There is a strong argument being put forward that there is a need for a Scottish body to deal with Scottish issues and to be responsible to the Scottish Parliament. A body based outside Scotland would not have the necessary expertise and knowledge to be able to respond effectively to Scottish issues. In addition, the Scottish Executive and Parliament have specific responsibilities in relation to human rights, and the primary purpose of a Scottish Human Rights Commission would be in enabling devolved bodies to discharge these responsibilities. The Commission would need to work closely with the existing three statutory Commissions (the EOC, The Commission for Racial

Equality and the Disability Rights Commission) in order to ensure that human rights and equality issues were not seen as separate issues. It is envisaged that there would be joint working where there was a violation of human rights in addition to discrimination as defined by the equality legislation, and that a main area of its work would be on the equality areas that are not covered by the three existing Commissions. It is acknowledged that the general public may be confused about where to turn in relation to a particular issue.

A recent report from the Runnymede Trust recommended a single equality body for Britain. The time may be right in Scotland to begin the process of exploring the case for and against a holistic equality body for Scotland. It is a time of change in Scotland and it is a time of change in relation to equality legislation and human rights. Twenty-five years after the implementation of the Sex Discrimination Act, and thirty years after the arrival on the statute books of the Equal Pay Act, there is a great deal of unfinished business. The debate needs to happen now. If it does not, we will be overtaken by events

CONCLUSION

There have been many practical and tangible gains in the last 25 years, and they are to be celebrated and not minimised. However, the unfinished business is also significant. We need simpler, more accessible legislation. We need to ensure that equality is mainstreamed throughout all our political and policy processes. We need to ensure that there is an understanding that a more equal society is a more just and democratic society. We need to broaden the debate to include other forms of discrimination and to be aware of both the similarities and differences between different forms of discrimination and the common and the specific strategies that will be required to challenge them. We need to be aware of the potential for a backlash but not allow that to limit our demands. We need to open up the debate about the structure that can best deliver equality in the context of the Scottish political and legal framework. And the biggest challenge of all – we need to develop coherent strategies that will undermine the ideological basis of inequality which serves to maintain the undervaluing of women and which limits women's contribution to the social, economic and political development of Scotland.

March 2001