

## **DEVELOPMENTS IN GENDER EQUALITY POLICIES IN SCOTLAND SINCE DEVOLUTION**

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### **INTRODUCTION**

Since the advent of devolution in 1999, the principle of equal opportunities has become institutionalised in government in Scotland through a number of mechanisms. Equal opportunities is one of the four fundamental principles to which the Scottish Parliament is committed, along with power-sharing, access and participation, and accountability. The Scotland Act empowers the Parliament to encourage equal opportunities and to impose duties on public authorities to ensure that functions are carried out with due regard to equal opportunity requirements. The parliament has a standing Equal Opportunities Committee, and the Scottish Executive has an Equality Unit. Furthermore, within the Parliament women's representation is at the comparatively high level of 39.5% of all MSPs, though as yet there are no ethnic minority MSPs, and only two explicitly gay MSPs. Also, since 1999 the profile of equality issues has been heightened in a number of ways through the efforts of the Scottish Executive and Parliament to adhere to its founding principles, and through the measures adopted by the Scottish Executive to further equality goals. However, it remains the case that the policy framework for the promotion of equal opportunities is a complex one, in which both UK and

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devolved governments interact, and in which therefore the scope for action of the Scottish Parliament and Executive are limited in various ways. In addition, the attempt to address a wide range of equalities issues simultaneously means that inevitably progress is uneven. Given the scope and complexity of policies on equality issues, this article focuses particularly on gender equality as an illustrative case of how equality policy making in the Scottish Executive has developed since 1999.

There is little doubt that equality issues have had a higher profile in Scottish politics since 1999. The following actions, for example, have been taken: the adoption of an Equality Strategy by the Scottish Executive; the repeal of section 2A of the Local Government Scotland Act, which prohibited the promotion of homosexuality as a 'pretended family relationship'; the provision of equal opportunity clauses in a number of parliamentary bills e.g. housing, education; the development of a national strategy on domestic abuse; and the launch of Scottish Executive campaigns against racism and sectarianism. In the controversy over the treatment of asylum seekers and their children being held at the detention centre at Dungavel, the Scottish Executive has attempted to distance itself from the stance of the UK Home Office, and has also tried to present Scotland as a country welcoming to immigrants through its Fresh Talent initiative. The Scottish Parliament has also adopted civil partnerships for same sex couples, though did this through the use of a Sewel motion (a device allowing the UK parliament to legislate for Scotland within the sphere of devolved matters), thereby avoiding the process of public debate in Scotland which would have accompanied the passage of a bill through the Scottish parliament. At the same time there have been other policy initiatives, which have not been 'equality' initiatives as such, but which are likely to particularly benefit women, such as the improvement in childcare provision, or the introduction of free personal care for older people.

### **EQUALITY POLICY MACHINERY AND THE EQUALITY STRATEGY**

The creation of equality policy machinery in the form of an Equality Unit follows a model often used elsewhere, in that it consists of a relatively small central unit, with a co-ordinating role across government, though in many other countries such policy machinery may have a role in relation only to gender equality (see, for example, Stetson and Mazur 1995; Rai 2003). Even

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in the UK context, there is an asymmetry in policy machinery and legislation on equality issues, despite extensive similarities. Thus the devolved administrations have generic equality policy units, whereas Whitehall has a Women and Equality Unit, devoted primarily to gender, but also responsible for sexual orientation issues, and for co-ordination across equalities, while at the same time responsibilities for equality in relation to race, religion, disability and age are dispersed across other Whitehall departments. Furthermore, the legislative framework differs somewhat. The power to enact anti-discrimination legislation is reserved to Westminster, though Northern Ireland can enact its own equality laws. In practice these often follow Westminster models, though Northern Ireland has had legislation in place since 1976 (Fair Employment Act), outlawing discrimination on the grounds of religion. In addition, the Northern Ireland Act of 1998 contains within it a particularly comprehensive version of a duty on public bodies to promote equal opportunities, through its section 75, which imposes the promotion of equal opportunities on nine grounds (gender, race, disability, sexual orientation, religion, political belief, age, marital status, persons with dependants and persons without) as a duty on public bodies, and also imposes on such bodies an obligation to consult affected groups. In Wales, the National Assembly for Wales has an absolute duty to promote equality of opportunity in all aspects of its policy making and implementation. While equal opportunities clauses have been attached to some Acts passed by the Scottish Parliament, in general the approach to promoting equality in Scotland has been more voluntaristic.

Within government in Scotland work on equality issues began with a focus on women's issues in the run-up to devolution from 1998, but by the time the Equality Unit was launched in 1999 it had been given the remit to work on gender, race, disability and sexual orientation, with the understanding that it would also have responsibility for religion and age, as new legislation on these matters came into being, in compliance with the Treaty of Amsterdam (1997). The central plank of the Scottish Executive's approach to policy making on equality issues has been the adoption of a strategy of mainstreaming equality, defined as meaning:

Mainstreaming equality is the systematic integration of an equality perspective into the everyday work of government, involving policy makers across all government departments, as well as equality specialists and external partners.

(Scottish Executive 2000a)

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The objectives of the equality strategy, launched in November 2000, were expressed at a very general level: making better policy and producing better services; promoting equal opportunities and tackling discrimination; being a good employer. Specific objectives related to these were focussed largely on getting procedures into place, such as training programmes, producing guidance, the development of methods for equality impact assessment, and the use of comparative research on mainstreaming to guide developments. It was also seen as crucial to a mainstreaming strategy to develop mechanisms for consultation with a range of equality groups.

#### **IMPLEMENTATION OF THE EQUALITY STRATEGY**

Reports produced on the equality strategy in 2001 and 2003 (there has not been another one since then) indicate that efforts had indeed been put into supporting consultation with different groups; and that initiatives (often small scale) had been undertaken in a range of areas, such as: race equality issues in policing and criminal justice; disability and gender issues in transport; disability and race equality issues in housing; disability and race equality issues in translation and interpretation (Scottish Executive 2001; 2003). Furthermore, there had been improvements in the provision of data and research on the extent and nature of inequalities experienced by different groups. The general impression given, however, is of a reactive approach across the range of equality groups and issues, rather than a strategic approach where key goals have been elaborated or pursued. Indeed, drivers for action have often come from sources other than the Equality Strategy or Unit themselves, and include legislation such as the repeal of Section 2A, the need for government and public bodies in Scotland to comply with the Race Relations Amendment Act 2000, or initiatives such as the European Year of Disabled People. In addition some women Ministers have been high profile champions of particular equality issues, such as the repeal of Section 2A, and the strategy to tackle domestic abuse, or have introduced gender perspectives into policy areas such as transport, health and social justice (see Mackay 2002).

A commitment to publish action plans on gender, race and disability, made in the original Equality Strategy document, has not been systematically followed through, and the agendas for action that have been developed on race and gender, for example, are ambiguous in their status. The recommendations both of the Race Equality Advisory Forum, and of the Strategic Group on

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Women, represent only advice to the Executive, which it can respond to as it likes. Both groups were sponsored and supported by the Executive, and as such should be understood as signs of willingness to move the policy agenda forward, through the engagement of activists from the respective equality communities. Yet mechanisms for applying such recommendations to policy areas, for evaluating progress and reporting back, do not appear to be effectively in place. In the absence of clear strategic plans with policy objectives (mainstreaming is not in itself a policy objective), it is not surprising that different equality constituencies have sometimes felt that their interests have not been given sufficient attention. This has certainly been the case with gender equality, where leading women's organisations have been critical of slow progress and lack of focus on gender equality issues, perhaps all the more frustrating since gender equality had started off with a higher profile in the pro-devolution period, with the creation of the Women in Scotland Consultative Forum. This is not to say that there have been no areas of policy development where women are likely to be major beneficiaries, as noted above. However, such changes have not necessarily been driven by a gender equality agenda.

### **THE NATIONAL STRATEGY ON DOMESTIC ABUSE**

The policy area of concern to women in which there has been the most significant development is the strategy on domestic abuse. There may be an argument to be had about whether this is driven by a concern for gender equality or for human rights, but it does undoubtedly reflect a feminist agenda. Significantly, this is not an area of policy development that was driven by a mainstreaming equality approach, but rather was reliant on other factors for its success. The strategy was launched in 2000, and consisted of a commitment to action across a range of policy areas and services, including; improvements in recording the incidence of domestic violence; preventative measures, such as education and awareness raising campaigns, and guidance on service provision; protection of victims of violence, including changes to legislation, work with perpetrators, and protection of children's interests; and improvements in provision of services, including police, victim support, health and housing services (Scottish Executive 2000b). It is carried out through a multi-agency approach, and has evaluation measures built in for subsequent reporting. That such a strategic approach to domestic violence could be elaborated so soon after the creation of the Scottish Parliament, and could be accompanied by significant resources, is due to a number of factors,

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which include the committed action of Women's Aid groups since the early 1970s, the support of local government for campaigns such as Zero Tolerance, the experience of practitioners working with women suffering domestic violence across a range of services, and the articulation of a clear analysis of the causes of domestic violence through feminist research and scholarship. This combination of factors possibly puts work on domestic violence in a unique position, in that other areas of policy of key importance to gender equality have not benefited from the same kind of sustained input in terms of lobbying, experience of service delivery, and research and analysis. However, there are arguably lessons to be learned about effective and strategic work in developing policy from this example.

#### **THE STRATEGIC GROUP ON WOMEN**

Despite policy developments such as increased childcare provision, and the National Strategy on Domestic Abuse, among women's organisations there has been a general perception of a lack of action on gender issues. In response to criticisms of this nature, a Strategic Group on Women was convened by the then Minister for Communities, Margaret Curran, in 2003. The creation of this group was an attempt to move the gender equality agenda forward, and the group was charged with the task of producing an agenda for action for women in Scotland. The group's report unsurprisingly focused on areas that have long been understood as the most important areas for change if gender equality is to be advanced: employment and pay, childcare and other forms of caring, poverty and exclusion, violence, influence and decision-making (Strategic Group on Women 2003). There was an expectation that the recommendations for action and themes emphasised in this report would be taken up by the new consultative body for women's organisations, the Scottish Women's Convention, established at the end of 2003, though policy commissions set up by the Scottish Women's Convention only partially cover the areas addressed in the Strategic Group on Women report. The recently published progress report (Scottish Executive 2006) indicates the range of Scottish Executive supported initiatives and projects likely to benefit women, though it does not provide any assessment of reduction in gender inequalities as such.

## **CONSULTATION WITH WOMEN'S ORGANISATIONS**

A notable feature of the Equality Unit reports is the strong emphasis placed on consultation, which is emphasised not just in relation to women's organisations, but for a range of equality groups. The approach adopted, however, has not been uniform, and not all groups have a formalised mechanism for consultation such as the Scottish Women's Convention. A commitment to consultation with women's organisations has been reiterated regularly by the Scottish Executive, as have the twin aims of inclusiveness and of enabling women's organisations to influence the policy process through their input. As noted, the process of establishing a mechanism for consultation with women was in fact initiated in the pre-devolution period with the creation of the Women in Scotland Consultative Forum (WISCF) in 1998. However, the consultation process has not been consistently supported, with loss of momentum occurring, followed by renewed attempts to establish a viable mechanism. The WISCF was active between 1998 and 2000, though some regional meetings took place after this, and, after something of a hiatus, the Scottish Women's Convention was established in December 2003. The policy commission structure adopted by this organisation is an attempt to give more focus to discussion on policy issues, while the funding structure also provides for independence as compared to WISCF. It is hard to discern the impact of this new structure in influencing policy as yet, though this is partly because it is still a relatively new organisation. Yet the withdrawal of Scottish Executive support from the Civic Forum suggests that bodies of this kind face an uncertain future. Furthermore, insofar as feminist and other women's organisations have influenced policy making in the Scottish Executive or Scottish Parliament to date, they seem to have achieved this more through traditional lobbying than through institutionalised processes of consultation.

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delivers the apparently mutually shared goal of women's and other equality organisations and of government of effective input into the policy process.

At the same time there have been major policy developments of benefit to women, in the form of improved childcare and the domestic abuse strategy (even if these have not emanated from the equality policy machinery itself). The existence of an equality strategy and the development of the 'building blocks' of this strategy, such as improvements in information, statistics and research, training and guidance for civil servants, and public awareness raising campaigns, all represent a shift towards a better understanding of inequalities in Scottish society, and of the impact of discrimination and prejudice. In parallel with such developments there has been a growth in the size of the equality policy community in Scotland, and improved networking across equality constituencies.

In general, it must be acknowledged that the reduction or elimination of inequalities of gender, race, disability, etc, are very hard goals to achieve. International evidence, as well as that relevant to the UK and Scotland specifically, confirms that this is the case, and where inequalities have narrowed, as for example is the case with gender in various spheres (e.g. the gender pay gap, participation in higher education), this process has taken decades and may rely a great deal on generational change. Thus, for a relatively small unit to develop a strategic approach to the reduction of inequality for a range of groups and to implement this throughout the machinery of government is a very tall order indeed. There are particular problems which stand in the way of a strategic approach. The factors which contribute to inequality are complex and inter-related, which implies a policy response that is also complex and inter-related, but properly 'joined up' government remains elusive. With respect to the position of women in particular, there is a continuing ambiguity about whether the emphasis should be on women's needs or on gender equality, and it seems likely that this will continue. Of course the reality is that in most spheres in which there are gender inequalities it is women who are disadvantaged, but there are some spheres in which particular groups of men and boys are disadvantaged and excluded, and their needs merit attention too.

Not only are factors causing inequalities complex and inter-related, but the policy responses that might ideally be marshalled to reduce them are the responsibility of different levels of government, from the EU (e.g. equality directives) to the local. At a Scottish level they require the interaction of reserved and devolved powers, a situation that it is hard for activists and

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equality organisations to address. For if access to government in Scotland has improved, and if civil society actors are building the capacity to engage with it more effectively, Westminster is probably as distant as ever. Certainly, devolution is not well understood in Whitehall, and despite all the concordats between UK government departments and devolved administrations there is often a sense that policy making in the different administrations occurs without meaningful consultation or co-operation. Furthermore, there are internal weaknesses in government in dealing with equality issues, whether in terms of the relative marginality of the units charged with responsibility for them, or in terms of the still very limited gender and other equality expertise within the civil service.

### **THE CHANGING POLICY CONTEXT**

As noted above, currently all anti-discrimination legislation remains reserved to Westminster, and legislative and policy changes taking place will affect Scotland, Wales and England equally. The most significant aspects of this legislation are the imposition of duties on public bodies to promote equality of opportunity in relation to disability (to be implemented in 2006) and in relation to gender (to be implemented in 2007). A Commission for Equality and Human Rights is also to be created, and this will combine the current responsibilities of the Equal Opportunities Commission, the Commission for Racial Equality, and the Disability Rights Commission, as well as being responsible for the oversight of legislation outlawing discrimination on the grounds of sexual orientation, religion, and age, and of human rights legislation. Scotland, will, however have its own separate human rights commission. Northern Ireland already has a single equality commission, and a separate human rights commission. Thus there will continue to be an asymmetry in the arrangements for overseeing and implementing the relevant legislation. Also in the pipeline is a review of current equality legislation with the view to rationalising this into a single equality act, a process that is already well underway in Northern Ireland.

It is not clear what, if it had the powers, the Scottish Parliament might choose to enact to further promote equality. Indeed, the more voluntaristic approach to the promotion of equality of opportunity favoured in Scotland is being overtaken by the imposition of the disability and gender duties on public bodies, which complement the already existing duties under the Race Relations Amendment Act 2000. Given that this approach is favoured by the

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equality policy community in Scotland, as elsewhere, there do not seem to have been any complaints about Westminster exercising powers in this area. With the existing distribution of powers on equality legislation, what the Scottish Executive has the most capacity to do is to ensure that the public sector meets its legal obligations at least adequately, or even encourage public sector bodies to go beyond the legal minima, and to be innovative and creative in their approach to equality, both as employers and as service providers. Improvements here will cost money, as for example local authorities are currently finding out with the implementation of the Single Status Agreement on pay grading, which, among other things, will reduce the gender pay gap in local government employment. Any further improvements in childcare services, in other care services, and in support for carers will also cost money. Similarly implementing more gender sensitive policies to tackle poverty and exclusion imply the targeting of new resources at specific groups. Greater gender equality, or greater equality for other disadvantaged groups in Scottish society, can only be achieved through a different distribution of resources, allocated to policy objectives which set specific aims and priorities. Currently, the key challenge is to elaborate a strategic vision for different groups that engages with the key policy issues identified by these groups, to have clear policy goals, and to establish a sustainable framework for continuing dialogue – rather than only reactive, ad-hoc, short-lived arrangements. That outside actors have an important role to play in helping to formulate such goals, in dialogue with politicians and civil servants, is demonstrated by the success of Women's Aid in influencing development of the National Strategy on Domestic Abuse. Ideally, this model should be applied to other areas of policy.

### **CONCLUSION**

In conclusion, it can be argued that there has been a change in the political profile of equality issues in Scotland since devolution, but whether or not this is really a 'tangible' change is another question (see Arshad 2002). It is indeed the case that there is a new language and discourse of equality promulgated by the Scottish Executive and other public bodies, as well as gains both symbolic and practical such as the repeal of Section 2A, which has elicited for the Scottish Parliament praise for its political courage (Keating 2005). Yet this also exposed divisions in Scottish society, exemplified on the one hand by the virulent homophobia of the 'Keep the Clause' campaign, and on the other by the evidence of growing tolerance of homosexuality provided

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by the Scottish Social Attitudes Survey 2000 (Evans 2002). Debates about values, the language used to describe particular groups of people in public discourse, and the visibility of disadvantaged groups in such discourse, are important signifiers of changing attitudes, and represent an integral part of processes of social and political change. With respect to the promotion of equality both symbolic (the creation of new institutional mechanisms) and discursive (the new language of equality) changes have occurred. The key question, however, is whether symbolic and discursive changes are necessarily a prelude to further practical changes, or whether they might end up being a substitute for them. They are necessary but not sufficient conditions for greater equality in Scottish society. Setting the right policy goals, and distributing resources more in favour of disadvantaged groups, will remain a tough challenge for the Scottish Parliament, the Scottish Executive and equality activists. As the case of gender equality illustrates, the translation of a core principle into competent policy making places demands on the new polity that it is struggling to meet.

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