



PUBLIC POLICY, EQUALITY AND DIVERSITY IN THE CONTEXT OF DEVOLUTION

ESRC funded seminar series

Seminar 1: Universal Principles of Equality: Implications for Different Groups

Jointly sponsored by the ESRC and the Northern Ireland Equality Commission

Abstracts & Papers

This seminar will explore some of the theoretical, political and practical implications of mainstreaming equality in public policy.

Opening Comments

Linda McKie, Glasgow Caledonian University & Sheila Riddell, University of Edinburgh

In November 2003, in response to European Employment Directives, the UK Government announced its intention to establish a single equalities body, incorporating a human rights commission. The new equalities body (if established) will replace the three existing equality commissions (Disability Rights Commission, Commission for Racial Equality, Equal Opportunities Commission) and will deal with six equality strands: gender, race, disability, sexual orientation, age and religion. Despite the fact that mainstreaming has become the established orthodoxy within UK and European approaches to equality, the concept is not well understood and is contested. In addition, research has tended to focus on only one dimension rather than exploring social experiences through the broad lens of equalities. Mainstreaming equality is based on the following key assumptions:

- I. All public policy should consider its implications for equalities throughout the processes of development and implication
- II. Equality policies, commissions and legislative frameworks should not deal with a single equality group. Rather, a generic approach to equality should be adopted.

This seminar series will consider a number of issues connected with mainstreaming equality, including the challenges of ensuring that all new and existing policies address the needs of various and diverse groups simultaneously. The nature and possibility of clashes between the political interests of different groups will be considered.

Within this context, the key aims of the seminar series are the following:

- To understand the nature and implementation of mainstreaming equalities policies at the levels of central and devolved governments in the UK and in the wider European and North American contexts.
- To consider the ways in which national policies on mainstreaming equalities are understood and enacted at local level.
- To understand the implications of mainstreaming policies for the construction of individual identity and for different political groups and social movements.
- To discuss the implications of the forthcoming White Paper, which will set out the Government's plans for a single equalities body incorporating a human rights commission,



and the policy and legislative impact of these changes, particularly on the existing equality commissions and the body of equality legislation.

- To consider the implications of mainstreaming policy for theories of equality and inequality, particularly with regard to the conceptualisation of disadvantage or oppression experienced by different groups and the change strategies which arise from these conceptualisations.
 - To investigate the way in which mainstreaming is being implemented in different social policy arena and the implications for particular groups.
 - To explore the legislative challenges of a generic approach to equality.
 - To engage with the concerns of academics, practitioners, policy-makers and equality activists with regard to mainstreaming.
 - To build research infrastructure in the field of equalities throughout the UK to ensure that the research community is aware of the new questions posed by devolution and mainstreaming.



Equality Policies: the importance of equality of condition

Kathleen Lynch, Equality Studies Centre, UCD

ESRC and NI Equality Commission Seminar on Equality, Belfast Feb. 18th 2005

Liberal egalitarian principles underpin most equal opportunities policies and have a strong influence on equality is popularly understood in the policy arena. Liberal equal opportunities principles are based on the assumption that major inequalities are inevitable, and that our task is to distribute inequalities more fairly. The idea of equality of condition sets out a much more ambitious aim: to eliminate major inequalities altogether, or at least massively to reduce the current scale of inequality. The key to this much more ambitious agenda is to recognise that inequality is rooted in changing and changeable social structures, and particularly in structures of domination and oppression. These structures create, and continually reproduce, the inequalities which liberal egalitarians see as inevitable. But since social structures have changed in the past, it is at least conceivable that they could be deliberately changed in the future. Exactly how to name and analyse these structures and their interaction is a matter of continuing debate, but one way or another they clearly include capitalism (a predominantly market-based economy in which the means of production are privately owned and controlled), patriarchy (systems of gender relationships which privilege men over women), racism (social systems which divide people into 'races' and privilege some 'races' over others) and other systems of oppression.¹

This emphasis on social structures in explaining inequality affects the way equality of condition should be understood. In contrast to the tendency of liberal egalitarians to focus on the rights and advantages of individuals, equality of condition also pays attention to the rights and advantages of groups. In contrast to liberal egalitarians' tendency to concentrate on how things are distributed, equality of condition pays more attention to how people are related, particularly through power relations. In contrast to the tendency of liberal egalitarians to treat individuals as responsible for their successes and failures, equality of condition emphasises the influence of social conditions on people's choices and actions. These contrasts should not be overstated, but they do affect how equality of condition is defined. They also have profound implications for public policy-making as they focus our attention on structural changes that need to take place over time and not just on anti-discrimination policies, important though the latter may be.

For further discussion of these issues, see chapter 2 in, J.Baker, K.Lynch, S. Cantillon and J.Walsh (2004) *Equality: From Theory to Action*. London: Palgrave: Macmillan.

¹ These oppressive systems include structures that systematically exclude people with dis/abilities from participating fully in their societies, structures that socially construct a division between 'heterosexual' and 'homosexual' persons and privilege the former over the latter, and systems which privilege dominant over subordinate ethnic groups. No attempt is made here at a complete list of oppressive relationships and no inferences should be drawn as to their relative importance. The key point is that equality of condition depends on a more radical analysis of the causes of inequality than liberal egalitarianism.



Mainstreaming equality theories: towards a generic model of discrimination (Abstract)

Sally Witcher, University of Edinburgh

Without a sound theoretical underpinning, it is all too easy to misunderstand both apparent differences and similarities in the inequalities affecting different groups. What is needed is a theoretical framework - a generic model applicable to all the groups - which can enhance understanding, provide a basis for analysis and a steer for action. In the context of the new Commission for Equality and Human Rights, this becomes even more critical. This paper, therefore, considers the case for a generic approach and explores the meaning of discrimination and oppression. It then examines theoretical approaches to discrimination, oppression and inequality emanating from the group-based literatures to see whether or not these are mutually compatible and, if so, what collectively they tell us about the nature of barriers and how to remove them. As there is insufficient space here to conduct anything like a comprehensive exercise, the paper focuses just on the literatures relating to 'race', disability, sexual orientation ('queer' theory) and gender, and pulls out broad themes rather than engaging in in-depth analysis. There follows a generic typology of discrimination and barriers, potentially applicable to all groups, rather than being group-specific. Finally, the practical implications of this for approaches to mainstreaming equality into organisations, their processes and services are discussed.



Ensuring equality of religion and belief in Northern Ireland: new challenges (Paper)

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What is a person from Aberdeen doing talking about equality in Northern Ireland? Well, living in Northern Ireland *doesn't* qualify you to understand the place, although I did live here for twenty-three years until last July. It is a genuine pleasure to be back so soon.

I think it first necessary to distinguish some terms. In particular we need to contrast religion as a sociological category and religion as a form of personal practice and belief. As a sociological category religion functions in Northern Ireland as the social marker to draw boundaries around the groups between whom there is or has been conflict. Religion is not the *substance* of this conflict; no one seriously argues that the conflict has been about religion. But religion is its *form*, the way in which it is experienced. The contestation has been about the legitimacy of the state and access to its scarce resources, but this took on a religious form because 'Catholic' and 'Protestant' were the terms used to understand and describe the nature of the groups. Religion as a sociological category therefore stood in for and represented the major patterns of inequality and differentiation in Northern Ireland; at least it did so until the relatively recent discovery of gender and 'race'. The awareness that sectarianism isn't the only fault line in Northern Irish society doesn't however, penetrate far enough.

The way that religious equality has been understood in the past is in terms of equality of opportunity between Catholics and Protestants as sociological categories, between groups marked and defined by religious labels, especially around employment. Religious equality in this meaning is already a key dimension of the post-Agreement equality agenda. I'm not going to be talking about religious equality in this sense. I want to question what we mean by religious equality and address some of the issues that would arise in Northern Ireland were the law to make concessions to religious belief and practice. This is partly what the offence of religious hatred is attempting to do in England and Wales, although the issues before me today are much broader than the matter of religious hatred.

What are the challenges of religious equality in this sense and who are they challenges for? Three challenges come to mind: the post-Agreement equality agenda; devolution; and the emerging post-Christian society in Northern Ireland. And they are challenges for everyone, but in particular policy makers, locally elected politicians, and Northern Ireland's Christians. These challenges are all inter-related and compound each other, but for argument's sake I'll disaggregate them here; and as we shall see, these challenges are less commonplace than they seem when applied to religious practice and belief.

It is prosaic but worth saying nonetheless that we are all here today as evidence that the Belfast Agreement has broadened Northern Ireland's understanding of equality; and the equality agenda has proceeded apace despite the political difficulties around the Agreement. I mean three things by this. The political and public profile of equality has been boosted by the Agreement; the monitoring regime has intensified; and equality's reach has spread to now cover a wider range of issues and groups. 'Catholic' and 'Protestant' as sociological categories no longer define the only groups and relations that an equality agenda needs to address.

If equality of religious practices and beliefs were to be made part of this agenda, it would



mean upholding the right to all religious practices and expressions of belief and none *within* the constraints of the law. It would *not* mean the right to have one's religious beliefs upheld in law or for alternative systems of religious law, such as Sharia Law, to over ride civil law. However, even the weaker formulation is not as unproblematic as it sounds. Four difficulties arise. First, when the law imposes direct prohibitions on particular religious practices (say polygamy or Levirate marriage); when lawfully implemented legislation indirectly imposes constraints on religious practices and beliefs (such as Sunday trading on Sabbath observance or health regulations on religious food rituals); when religious beliefs and practices morally sanction and oppose behaviour that is lawful (say, homosexuality); and when specific forms of religious practice or belief develop cultural hegemony that restricts the religious practices or expressions of belief of others and of those with none (say, on a women's right to abortion).

It would also mean that Northern Ireland, so dominated by Catholic-Protestant relations, would not only have to admit to equal status believers from the other Christian denominations but also people of other world religions and none. Again this is not as unproblematic as it sounds given that all world faiths have a self-righteous conviction in their own superiority. The challenge for believers would thus be to recognise that self-righteousness is not just displayed in doing selfishly what we want but forcing others to share it. The challenge for policy makers would be to recognise and protect everyone's right to practice and believe whatever they want, including not believing.

This is not as simple as it sounds, for in a society where equality of treatment across contentious religious divides is legally enshrined and enforced, there will be conflict over what counts as religious. In Northern Ireland, where religion and culture elide, this is no easy thing. Problematic cultural practices – say marching – get defended by representing them as religious practices; and particular religious beliefs which it is otherwise legal to hold – say opposition to Catholic or Islamic doctrine – are used as forms of cultural attack. In this instance, racism, in the form of Islamophobia or anti-Catholicism, would continue to be culturally defended despite the rhetoric of religious tolerance. And one can imagine the wackiest of beliefs and practices being redefined by adherents as constituting a religious belief system in order to benefit from protection under the law and to realise the advantages that accrue from equal treatment and expression. Northern Ireland's Christians would not only have to confront New Age beliefs being accorded the same legal status of Christian doctrine, but also Paganism, say, or devil worship.

An important question thus arises for locally elected politicians and policy makers: what should be the reach of religious views into the public square when there's a diversity of religious beliefs and practices and where religion elides with culture? This brings me neatly to the challenges arising from devolution.

In the US, where ironically church and state are separated, there is an implicit requirement for public figures to articulate their private religious views, resulting in an easy penetration of the public sphere with politicians' private religious beliefs: religious enlightenment is taken to be the right *to* believe and for those beliefs to count in public affairs. In Europe, church and state are closer, with many state religions, and religious enlightenment is taken to be the right *not* to believe or to believe something entirely unorthodox. Religion tends to be restricted to the private sphere: witness the Italian European Commissioner who had to resign because his Catholic views on matters related to his job were thought incompatible with his public duty. Witness also the general embarrassment of ordinary people to declare religious beliefs in public.

In France the reach of religious views in public is restricted - recall the banning of Islamic headdress in public schools - while Britain is more tolerant of public displays of religion. Sociologists of religion have noted however that the British prefer their religion in moderation, disliking expressions of extreme religious commitment. As Steve Bruce once wrote, only religion of the vaguest and most inoffensive kind is supported in the public square in Britain; excessive fervour is frowned upon or regulated. The British state regulates private behaviour



when it has public effects, such as smoking and drinking, although not when its reach into the public sphere is minimal, such as gambling. People in Northern Ireland are used to a more extensive reach of religion into public affairs of the more extreme religious kind and in a relatively unregulated way.

Devolution provides local accountability for an increased range of services and responsibilities and were equality in religious practice and belief to become part of the equality agenda of local policy makers and politicians, they would have to take responsibility for either removing religion from the public sphere or permitting similar access to the public square to all religions and none. When so many politicians and public officials are themselves prelates this would require a remarkable degree of pluralism that, one has to say, their theological preferences have not been noted for in the past. The enormity of this task is reflected by the British government's exemption of Northern Ireland from the proposed religious hatred legislation. This is highly paradoxical. In Great Britain, religion is a private matter and normally enters the public domain only in formulaic ways; to extend it to Northern Ireland would criminalise some of the public figures responsible for devolved government, such is the reach of specific religious views into the public sphere here compared to Britain.

The difficulty for Northern Ireland is that religion has not been privatised. It is for this reason that I describe the last challenge as the emergence of post-Christian society rather than secularisation. As many sociologists of religion point out, levels of religious observance and belief are high in Northern Ireland and even though they are declining, especially amongst the young and in the mainstream denominations, there is very little evidence of a rise in unbelief or drop in the numbers identifying with a church. Secularisation is not what is occurring in Northern Ireland; the changes are better described as the development of a post-Christian society. By this I mean the declining ability of Christian religion to affect and shape ordinary believers' lives, a growing liberalisation in what ordinary Christians believe and in the certainty with which they believe it, and the appearance of other world faiths, still admittedly very much as minority religions, but a presence that nonetheless challenges the Christian hegemony. Religious diversity and pluralism now has to cater for differences in practice and belief between the world religions not just Catholic and Protestant. The problems over planning permission for the mosque in Craigavon reflect that some have not adjusted to this change in Northern Ireland's religious terrain. Christian believers in Northern Ireland are a long way from their co-religionists in Britain in having to adjust to Christianity becoming a minority religion, in the sense of either being the choice of a minority of the population or no longer the most populace faith, but diversity in religious practice and belief has become a reality in Northern Ireland.

If this religious diversity affects the equality agenda, and equal treatment and status between them is enacted, there will be challenges for those voters and elected representatives who expect their Christian beliefs not only to shape their own lives, but also to imprint generally on culture and public affairs in Northern Ireland. Northern Ireland is too small to allow religious and faith communities to sustain separation and withdrawal from society, as so often happens in the US, so in a post-Christian society contestation over the public reach of religion would intensify in competition between the world faiths and those with none who object to the penetration of any religion into public affairs.

In a post-Christian society, religious diversity is best managed by the separation of religion from public life; in effect its privatisation. Northern Ireland's problem is that the elision between religion and culture and the continuing high levels of religious observance and identification are unlikely to promote privatisation. Paradoxically, equality of religious practice and belief is easier to enact in settings where religion doesn't matter, or not matter enough to want believers to have their beliefs count in public affairs.

Let me close by posing the obvious question for Northern Ireland. What concessions can the law make to religious belief and practice in a setting of religious diversity and where public officials have in the past elided culture, politics and religion? The answer to that is a test not



only of the commitment here to the equality agenda but also a measure of people's religious tolerance and the ability of its devolved politicians.



Children and the Equalities Agenda (Abstract)

Anne Stafford, University of Edinburgh

This paper considers the way children and the children's rights movement fit with the new equalities agenda. It discusses the extent to which we can equate the rights of children as a discriminated against group with the rights of other discriminated against groups.

Central to the paper is the notion that the work of the equalities commissions and bodies has traditionally tended to be adult focused and adult based; that the challenge for the new equalities bodies will be to ensure children are seen as people with full human rights that are at least as important as those of adults.

The paper examines three points where adults' politics and rights' intersect with children's politics and rights. These are used as case studies to highlight that; children's rights are often subordinated to adults' rights; some progress has been made to shape provision to take account of what children want; challenges remain.

Child care. It is argued that services in this area have developed out of the drive for women's legal and financial independence. Traditionally they have tended to have been shaped by the needs of women as workers, focused more around the needs of the 'carer' than the 'cared-for'. Children's needs have not been considered with equal importance. Progress has been made. There is evidence from some local authorities that children as young as three can be articulate about the kind of day care they want. This has been incorporated into the development of new policy and service provision.

Domestic abuse. Despite large numbers of children living with and affected by domestic abuse, despite there being more children in Refuge than women, these services have been shaped largely by the (very real) needs of women. The needs of children have been subordinate. Progress has been made. Children's interests have been included in shaping Scotland's national strategy to address domestic abuse.

Services in both these areas have developed with children's needs being less important than women's. There has been little space for children to define what they need in relation to these services. No good mechanisms have been developed for asking them what they want. What has been missed is the quality of children's day to day experiences – in institutionalised child care and in Refuge.

A focus where adults' rights and children's rights had been genuinely seen to be equally important could have lead to very different kinds of services. If full account had been taken of how children wanted to spend their day, or the kind of services that would have been useful to them, services may have developed very differently.

Physical punishment of children. This is used to highlight one major, taken for granted way in which the rights of the children are subordinated to the rights of adults. Children are currently the only group remaining in society without the right to physical integrity enshrined in law.

Commissioners for Children VS Equalities Bodies. The paper argues that we are at a major juncture. At the same time as we are setting up single equalities bodies, we are also setting up new offices of Commissioners for Children. As yet, the relationship between these remains unarticulated. While Commissioners for Children will play a vital role in safeguarding the rights of children, it is crucial we do not see children's rights as the exclusive domain of these offices.

Conclusion: The paper concludes by arguing that the challenge for the new equalities bodies is for them to be less adult based, to see children as full citizens, with full rights, whose needs are neither lumped in with or subordinate to the needs of adults. Putting children and their needs and views fully in the picture will be fairer and ensure more rounded policy. The paper argues that there are major challenges for all of us in finding new ways to genuinely extend democracy to children and begin to create a world where children's interests are not subordinate to adults. This surely needs to start with the new equalities bodies. A challenging equalities project indeed!



ⁱ These oppressive systems include structures that systematically exclude people with dis/abilities from participating fully in their societies, structures that socially construct a division between ‘heterosexual’ and ‘homosexual’ persons and privilege the former over the latter, and systems which privilege dominant over subordinate ethnic groups. No attempt is made here at a complete list of oppressive relationships and no inferences should be drawn as to their relative importance. The key point is that equality of condition depends on a more radical analysis of the causes of inequality than liberal egalitarianism.