



GENDER STUDIES IN WALES

Equality and Public Policy

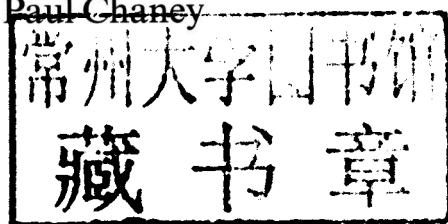
*Exploring the Impact of
Devolution in the UK*

Paul Chaney

EQUALITY AND PUBLIC POLICY

EXPLORING THE IMPACT OF DEVOLUTION
IN THE UK

Paul Chaney



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EQUALITY AND PUBLIC POLICY

Gender Studies in Wales
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The aim of this series is to fill a current gap in knowledge. As a number of historians, sociologists and literary critics have for some time been pointing out, there is a dearth of published research on the characteristics and effects of gender difference in Wales, both as it affected lives in the past and as it continues to shape present-day experience. Socially constructed concepts of masculine and feminine difference influence every aspect of individuals' lives; experiences in employment, in education, in culture and politics, as well as in personal relationships, are all shaped by them. Ethnic identities are also gendered; a country's history affects its concepts of gender difference so that what is seen as appropriately 'masculine' or 'feminine' varies within different cultures. What is needed in the Welsh context is more detailed research on the ways in which gender difference has operated and continues to operate within Welsh societies. Accordingly, this interdisciplinary and bilingual series of volumes on Gender Studies in Wales, authored by academics who are leaders in their particular fields of study, is designed to explore the diverse aspects of male and female identities in Wales, past and present. The series is bilingual, in the sense that some of its intended volumes will be in Welsh and some in English.

Er cof am K. B. Sherwood

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³ 'The Equality Policies of the Government of the National Assembly for Wales and their Implementation: July 1999 to January 2002'. A study commissioned by the Equal Opportunities Commission, Disability Rights Commission, Commission for Racial Equality and Institute of Welsh Affairs. Principal applicant and award holder.

the Welsh Assembly Government⁴ and the UK government Department for Local Government and Communities,⁵ the Equality and Human Rights Commission, the Wales Office, Scotland Office, Scottish Executive/Government, the Department for Constitutional Affairs and the Northern Ireland Office.⁶

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⁴ 'Action against Discrimination in Pay Systems: A Preliminary Evaluation of the Welsh Assembly Government's Close the Pay Gap Campaign in Wales', commissioned by the Welsh Assembly Government, the Equal Opportunities Commission Wales and the Wales TUC. Principal applicant and award holder.

⁵ 'Advice and Guidance to Public Service Providers: Promoting Multi-Strand Equality in the Welsh legislative Context and Beyond, Welsh Assembly Government/UK Government Department for Communities and Local Government (2007)'. Principal applicant and award holder.

⁶ The Northern Ireland Section 75 Equality Duty: An International Perspective analysis commissioned by the Northern Ireland Office for the Section 75 Equality Duty Operational Review. Co-investigator with Professor Teresa Rees.

Contents

Acknowledgements	vii
Tables	x
Figures	xi
1 Introduction: Equalities and Public Policy	1
2 Theoretical Perspectives on Promoting Equality	19
3 Exploring Inequality and Discrimination in Wales, Scotland and Northern Ireland	35
4 Promoting Equality: A Governance Perspective	64
5 The Equalities 'Infrastructure' in the Devolved State	87
6 Legislating for Equality in a Quasi-Federal UK	111
7 Analysing the Devolved Governments' Public Policy Approaches to the Promotion of Equality	147
8 Lobbying and Electoral Competition on Equality Matters in the Devolved Polity	212
9 Conclusion: Equalities and Public Policy	260
Notes	275
Bibliography	289
Index	347

Tables

3.1	Gender and educational attainment: school pupils' qualifications	39
3.2	Gender segregation in first degree subject: Welsh higher education institutions	42
3.3	Gender segregation and subject choice: Welsh further education institutions	42
3.4	Gender and occupational distribution in Wales	45
3.5	The proportion of women in key posts in Wales	46
3.6	Horizontal gender segregation in the labour market	47
3.7	Changes in sectoral distribution of females in full-time employment in Wales 1981–2008	48
3.8	Social attitudes survey results Wales	54
5.1	Individual discrimination cases referred to ACAS in Wales from employment tribunals	92
8.1	Details of equalities-related voluntary organisations from the All Wales Database of Voluntary Organisations	219
8.2	The incidence of key terms in the Equality Committee transcripts during the Second Assembly 2003–7 (percentages)	237
8.3	Gender equality: content analysis of party manifestos in the devolved elections 2003 and 2007	252

Figures

1.1	The economic and social cohesion cases for promoting equalities	8
1.2	Contemporary indicators of inequality in Britain/ the UK	12
3.1	Contemporary (in)equalities in Scotland	59
3.2	Contemporary (in)equalities in Northern Ireland	62
4.1	Inclusive governance: features of constitutional law in Wales	73
4.2	Inclusive governance: features of constitutional/ statutory law in Scotland and Northern Ireland	84
5.1	Details of Welsh inspectorates and commissioners' offices and their equality work/remits	95
5.2	Selected equalities law enforcement and dispute resolution procedures of the Equality and Human Rights Commission	101
6.1	European gender equality directives and communications	118
6.2	Principal UK/British equalities statutes	123
6.3	The promotion of equalities in Scottish Acts	132
6.4	The principal characteristics of the Basque law for the equality of women and men	135
6.5	Selected extracts of the equality clauses of the Statute of Autonomy of Catalonia	137
6.6	Examples of equality clauses in secondary legislation passed by the National Assembly for Wales	142

7.1	Examples of the equalities provisions in ‘Foundation Phase: Framework for Children’s Learning for 3 to 7-year-olds in Wales’	152
7.2	Examples of the equalities provisions in the Revised National Curriculum Orders by Subject Area – to be implemented 2008–10	155
7.3	Examples of Welsh government policies to promote children and young people’s participation in public decision-making.	161
7.4	Mainstreaming language equality in public policy? Policy aims and evaluation criteria.	184
7.5	Selected examples of the promotion of equalities in the development of Scottish public policy	198
7.6	An evaluation of the Scottish equalities agenda (Fitzgerald, 2009).	200
7.7	Strategic equality impact assessment of the Northern Ireland Executive’s anti-poverty and social inclusion policy ‘Lifetime Opportunities’	204
7.8	Contrasting policy instruments used to promote equalities in Welsh public policy	210
8.1	Welsh Assembly Government funded equality policy networks/organisations	221
8.2	The proliferation of policy networks around equality and rights for children	223
8.3	The National Partnership Forum for Older People	226
8.4	A nexus for the advancement of equalities? Details of a sample of ministerial meetings with voluntary sector representatives (2003–7)	239
8.5	Examples of equalities organisations’ policy demands in their Assembly election manifestos 2007	254

Introduction: Equalities and Public Policy

- 1.0 *Equalities and Public Policy*
- 1.1 *Contemporary Developments*
 - 1.1.1 *Equalities Law*
 - 1.1.2 *Institutions*
- 1.2 *Why Bother About it?*
 - 1.2.1 *Making the Case for Equalities*
 - 1.2.2 *A 'Minority' Issue?*
- 1.3 *Equalities in a (Quasi-) Federal UK*
- 1.4 *The structure of this volume*

1.0 Equalities and Public Policy

Equality of opportunity is an often misunderstood and contested concept; deeply political in nature it evokes strong reactions from proponents and opponents alike (Temkin, 1993; Freeden, 1994). It is an example of what Newman, (2001: 59) terms 'wicked issues'. These are characterised by: differing interpretations of the social problem to be addressed; the fact that the relationship between different factors is sometimes hard to assess; they span traditional policy frames; and, require collaboration between agencies in both formulating and implementing policy responses. In the face of such challenges, the Equality Act (2006, Section 3) sets out a vision of an equal society as one in which:

- (a) People's ability to achieve their potential is not limited by prejudice or discrimination.
- (b) There is respect for and protection of each individual's human rights.

- (c) There is respect for the dignity and worth of each individual.
- (d) Each individual has an equal opportunity to participate in society.
- (e) There is mutual respect between groups based on understanding and valuing of diversity and on shared respect for equality and human rights.

The different dimensions to the concept of equality (see chapter 2) underpin the growing use of the term 'equalities' (Carabine, 2004; Bowes, 2006; Department for Local Government and Communities, 2007; Håkan, 2008; Carr, 2008).¹ It is the general practice adopted in this volume for it recognises the contrasting needs and experiences of discrimination within and between diverse social groups. The following analysis therefore aims to move away from traditional approaches that have tended to treat 'gender' as a discrete policy issue. Instead, this volume aims to offer an holistic analysis; simultaneously examining gender (in)equality whilst also exploring 'equalities' 'in the round' by mapping policy developments in relation to a range of 'strands' including disability, age, faith, ethnicity, language and sexual orientation.

A vast and burgeoning literature centres on 'public policy' (e.g. Parsons, 1996; Hill, 2004; Dorey, 2005; Sabatier, 2006; Moran, Rein and Goodin, 2008; Hill and Hupe, 2008). It too is the subject of many contrasting definitions. At its simplest 'policy' can be seen as 'a course of action adopted and pursued by a government, party, ruler, states[wo]man etc; any course of action adopted as advantageous or expedient' (Hill, 1997: 6). In reality, it is often highly complex: involving a 'web of decisions'; it is something that continues to evolve after the initial decision-making; it involves implementation, adjustment and feedback; and is dynamic rather than static (Hill, 1997, op. cit.). The prefix 'public' simply refers to the fact that the state and/or state institutions are the 'owners' of a given policy and that, in consequence, it is backed by the resources and legal processes of the state. John (1998: 2) offers a more sophisticated definition that emphasises its political provenance:

Public policy seeks to explain the operation of the political system as a whole . . . The policy-orientated approach looks at public decision-making from the viewpoint of what comes out of the political process

... one of the purposes of the policy-orientated approach is to sharpen up analysis of politics by examining the links between decision-makers as they negotiate and seek influence in the government system.

Analysis of public policy can therefore be seen as a way of interrogating organised activity; an approach sometimes referred to as the ‘social construction perspective’:

This sees policy as something that has been constructed and sustained by participants in circumstances where they are likely to have choices about which interpretive map to use, which cues to follow. It draws upon work in a wide range of social sciences ... all of which ask, ‘what makes for collective action?’ ... the concept of policy both explains and validates ... action: it explains what people are doing, and it makes it appropriate for them to do it. (Colebatch, 2002: 20)

In addition to social constructionism, the comparative analysis in this book also draws upon a range of analytical frameworks to explore equality policy developments (see for example, Yanow, 1999; Fischer, 2003a; Weimer and Vining, 2004; Prokhovnik, 2005; Dunn, 2007; Bardach, 2008). These focus on:

- Setting the policy agenda.
- Understanding the nature of the problem(s) to be addressed.
- Policy venues, institutions and governance (inter alia: where policy is formulated and decided upon; as well as the role of networks and institutions).
- Policy content/policy discourse (a post-empiricist, interpretive approach that examines the language of policy documents and how dominant ideas are negotiated and framed).
- Implementation (how policy ideas are operationalised through public administration with reference to instrumental analysis, i.e. how policy outcomes can be monitored, measured and assessed).

Before presenting an overview of the analysis in each chapter, attention is first placed on contemporary legal and institutional developments, and the case for promoting equalities.

1.1 Contemporary Developments

The past decade in the UK has been marked by unprecedented and wide-ranging measures to promote equality. A number of factors have led to this unparalleled focus on equalities. They include:

- Legal directives from the European Commission (e.g. age, sexual orientation and faith directives on discrimination in employment).
- The racist murder of Stephen Lawrence, the official recognition of the concept of institutional racism and the subsequent legal requirement for wholesale change in 'race' equality practices in Britain.
- The signing on 10 April 1998 of the Belfast, or 'Good Friday' Agreement, putting in place measures to end the civil conflict in Northern Ireland.
- Continued pressure on government from new social movements and others concerned with identity politics.
- The rise of Islamophobia and communal tensions along lines of faith.
- Increasing longevity and greater awareness of ageism and disability.
- Debates on community cohesion (particularly in relation to Northern Ireland and in the wake of urban riots in Bradford, Burnley and Oldham in 2001).

1.1.1 Equalities Law

Reference to the substantial number of equalities laws passed over recent years underlines extent of the political (re-)prioritisation of tackling discrimination and promoting equality. Thus, for example, the Race Relations Amendment Act (2000) signalled a general move to 'fourth generation' equality duties, requiring anticipatory and proactive measures to promote equality, in contrast to earlier anti-discrimination statutes that, retrospectively, set out redress for *individual* wrongs (see chapter 6). As noted, in accordance with European Commission Directives, in 2003, the Westminster government passed UK-wide Employment Equality Regulations on Religion or Belief and Sexual Orientation, followed in 2006 by the Employment Equality (Age) Regulations. In addition, the Civil Partnership Act (2004) gave legal recognition to same-sex partnerships for the first time. In 2005, the original Disability Discrimination Act (1995) was extended and

updated, and set out new rights for disabled people. In order to achieve greater consistency in the legal protection afforded to different equality 'strands', the Equality Act (Sexual Orientation) Regulations (2007) made sexual orientation discrimination unlawful in the provision of goods and services. In addition, the Act (2006, s83) introduced a long-promised general 'gender' duty on public authorities in carrying out their functions to promote equality of opportunity between men and women, and to eliminate unlawful discrimination and harassment. Further significant legal changes are underway. The proposed Welsh Language Measure (2010) aims to give equal status to the Welsh language as well as create the office of language commissioner. Moreover, a more integrated legal framework around equalities for Britain is promised under the provisions of the Equality Bill (2009) currently before the UK parliament, and work is continuing on a Single Equality Bill for Northern Ireland.

1.1.2 Institutions

In addition to the foregoing legal developments, a significant number of new institutions have been created over the past decade with the aim of promoting equalities. For example, under the provisions of the Northern Ireland Act (1998), the Equality Commission for Northern Ireland and the Northern Ireland Human Rights Commission were established. In 2001, the Children's Commissioner for Wales was appointed, the first office of its kind in the UK. In order to enforce the law on additional learning needs the Special Educational Needs Tribunal for Wales was established in 2003. Subsequently, the Gaelic Language (Scotland) Act (2005) led to the creation of Bòrd na Gàidhlig (the Gaelic Language Board) in 2006. In relation to Britain as whole, 2007 saw the former Disability Rights Commission, Equal Opportunities Commission and Commission for Racial Equality replaced by the Equality and Human Rights Commission. More recently, in 2008, the Scottish Commission for Human Rights was established. In the same year, a new department was created in UK government, the Equalities Office, with its self-stated mission 'to put equality at the heart of Government'. Also, in 2008, the Older People's Commissioner for Wales was appointed under the terms of the Commissioner for Older People (Wales) Act (2006).² In addition to these developments, the 1998–9 devolution programme saw the creation of legislatures for Wales, Scotland and Northern Ireland. As