

An uncertain mix: equality and Scottish devolution



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1. Introduction

In 2009 Scotland celebrates ten years of devolution. Equality is a founding principle of the Scottish Parliament(1) and successive Scottish governments have set out their vision for a fair and inclusive Scotland.(2)

The Equality and Human Rights Commission works to make Britain a fairer, more equal place, with fewer of us likely to face discrimination and more of us able to realise our potential. Ten years on we ask: has devolution helped achieve a fairer Scotland and what are the opportunities for strengthening progress towards equality in the future?

In addressing these questions we aim to ensure equality features in the debate on the future of Scottish devolution.(3) We also aim to inform the debate by improving understanding of the place of equal opportunities in the current devolution settlement, and exploring the implications for equality of any future constitutional change.

The arguments in this paper build on evidence from two research reports. First, we commissioned a short review of the Scottish Parliament's equal opportunity powers to understand how these powers have been used, and to draw preliminary conclusions about their impact.(4) Then we commissioned a legal analysis of the place of equal opportunities in the current devolution settlement, which also explores the options for adjusting or amending the devolution settlement to better protect and promote equal opportunities.(5)

The evidence from our research suggests that the Scottish Parliament's impact in tackling inequality, while positive, has been limited. The devolution settlement is complex and, as a mix of reserved and devolved responsibilities, equal opportunities is one of the most problematic grey areas. As a result, uncertainty is seen by some important players as hampering progress and there is confusion on key issues such as:

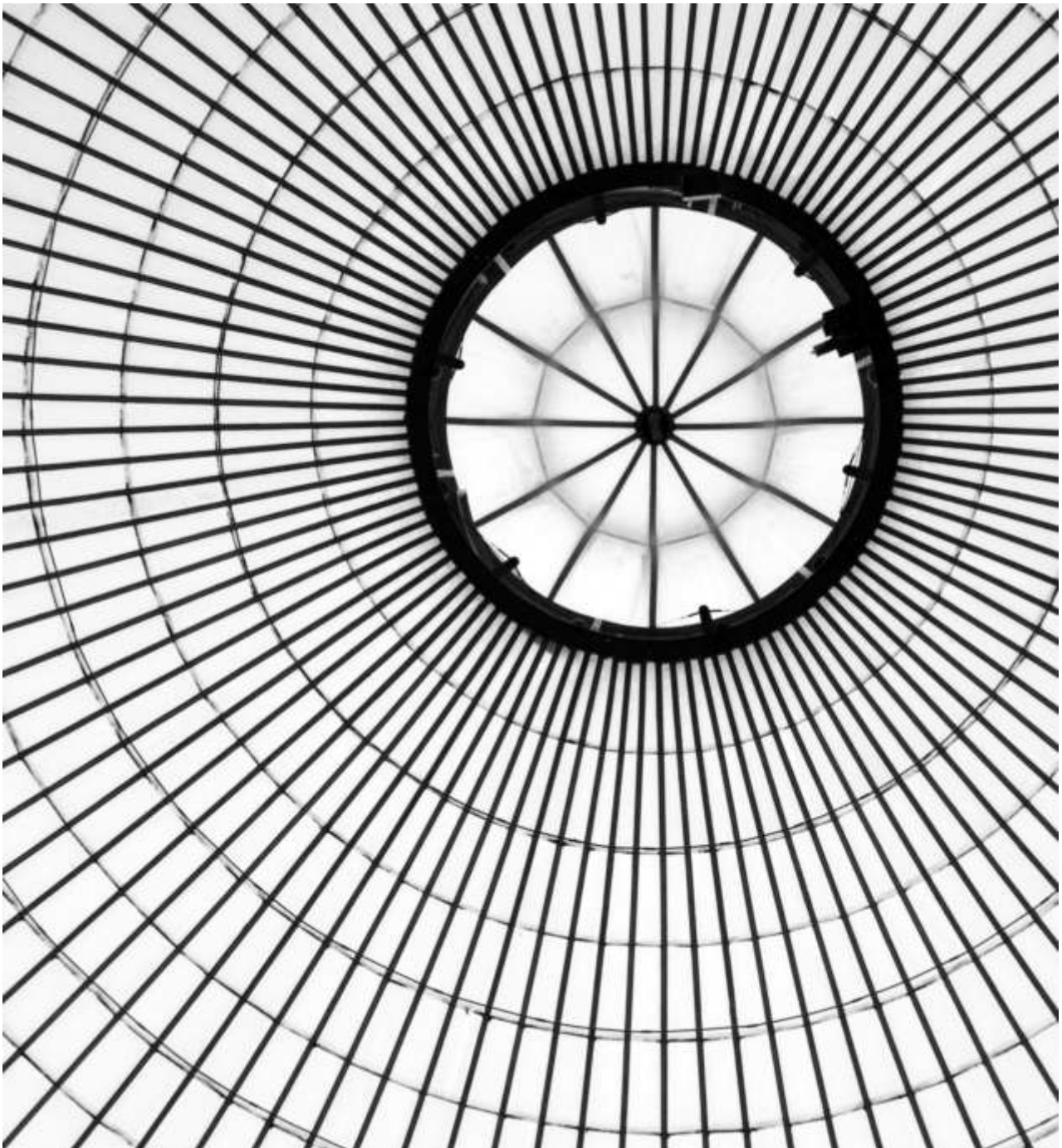


- what equality law permits
- what equality law requires
- who is accountable for delivering change, and
- what the mechanisms are for checking that commitments are delivered.

This paper begins with a summary of the Scottish Parliament's equal opportunity powers, before drawing preliminary conclusions about their impact.

It then explores current debates about whether the Scottish Parliament should have greater powers in this area. Finally, it examines the implications for equality in the following three situations:

- no change to the current devolution settlement
- further devolution of powers to the Scottish Parliament
- Scottish independence (within the EU).



2. The Scottish Parliament's equal opportunity powers

2.1 The devolved system

The Scotland Act 1998 established the Scottish Parliament and the Scottish Executive (comprising the Scottish ministers collectively and now known as the Scottish Government). The Act sets out the powers of the Scottish Parliament and the functions of the Scottish ministers, and therefore the Scottish Government as a whole.

The current devolution settlement gives the Scottish Parliament the power to legislate in all matters (devolved matters), except those that have been expressly reserved to the UK Parliament (reserved matters). However, there is often no clear-cut distinction between reserved and devolved matters. For example, under the current devolution settlement, the Scottish Parliament and ministers are responsible for certain aspects of transport policy such as road safety, while other aspects such as rail transport are reserved to the UK Parliament and ministers. As a result, uncertainty often exists in practice as to where the border lies between reserved and devolved responsibilities. This is particularly true of equal opportunities in the UK.

2.2 Equal opportunities

The Scotland Act defines equal opportunities in broad terms:

“Equal opportunities” means the prevention, elimination or regulation of discrimination between persons on grounds of sex or marital status, on racial grounds, or 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 Scotland Act says equal opportunities is a reserved matter. Therefore, only the UK Parliament can prevent, eliminate or regulate discrimination on any of the grounds above. Only it has the power to make new anti-discrimination law or amend existing law in relation to any of these equality grounds.

However, the Act goes on to make exceptions which allow the Scottish Parliament to exercise some limited power in a narrowly defined way. The Scottish Parliament has the power to encourage equal opportunities and to encourage compliance with equality law. In addition, it has the power to impose duties on Scottish public bodies or cross-border bodies with responsibility for devolved matters, and can require them to make arrangements to ensure they operate with due regard to the need to meet equality law.

Normally the Scotland Act defines the scope of reserved powers as precisely as possible, leaving anything that falls outside as areas of devolved power. Equal opportunities is unusual in that what is devolved is set out in detail.

2.3 The power to encourage

The Scottish Parliament can encourage equal opportunities and compliance with equality law, except by means of prohibition or regulation. In other words, it has the power to encourage good behaviour but no power to prohibit or regulate discriminatory behaviour. This power to encourage has a wide scope, reflecting the broad definition of equal opportunities in the Scotland Act. It goes beyond UK equality law – which covers equality in relation to age, disability,

gender, race, religion or belief, sexual orientation and transgender status – and includes language, social origin, and personal attributes in its scope. This allows the Scottish Parliament to encourage equal opportunities across a wider range of different equality grounds than currently covered by UK law.

2.4 The power to impose duties

This power allows the Scottish Parliament to impose legally binding duties on public bodies to give due regard to the importance of complying with equality law. Since 2000, the Parliament has used this power 14 times to impose duties on a range of public bodies responsible for improving public services in areas such as schools, housing, social care, health and transport. **(6)**



3. The impact of devolved equal opportunity powers

3.1 Uncertainty about what equality law permits

The power to encourage allows the Scottish Parliament and the Scottish Government to promote equality in ways they consider appropriate to the needs of Scotland. It has been used to establish the Scottish Parliament's Equal Opportunities Committee and the Scottish Government's Equality Unit, both of which undertake a range of equality initiatives including inquiries, research and campaigns.

However, the power to encourage is ambiguous. In particular, there is uncertainty over when the Scottish Parliament might be regulating rather than simply encouraging. For some, regulating means imposing legally binding obligations upon individuals or companies to refrain from discriminatory behaviour. But for others, it can also mean:

- any state intervention, even light-touch encouragement and inducement of good behaviour, and
- imposing obligations to adhere to equal opportunities as part of an overarching set of regulatory standards.

Our research suggests this uncertainty about what the power permits is limiting progress towards equality.

For example, Scottish ministers created the National Care Standards to help

ensure children, young people and adults receive the right quality of care. But they do not include any equality standards. It seems as if ministers decided that they could not include equality as part of this regulatory framework because that would be regulating and therefore a matter for the UK Parliament.⁽⁷⁾ As regulatory bodies, the Scottish Government and other devolved public bodies may therefore be reluctant to introduce equality requirements into standard-setting frameworks for fear this breaches the Scotland Act.

While it seems clear the Scottish Parliament has no power to regulate discriminatory behaviour, it is important to note that nothing seems to prevent it from tackling the consequences of discrimination or inequality by indirect routes. Substantial progress towards equality can be made in this way. For example, the Scottish Parliament has used its devolved criminal justice powers to introduce criminal offences dealing with preventing breastfeeding in public places and race and religious hatred. Similarly, it has used its devolved local government powers to fine car owners who park in bays reserved for disabled people, and can use its devolved housing powers to improve the accessibility of housing across Scotland.

However, while important progress has been made by such indirect routes, this does not in itself illustrate the success of the Scottish Parliament's equal opportunity powers.

3.2 Uncertainty about what equality law requires

Our research highlights there is uncertainty about what the duties imposed by the Scottish Parliament require public bodies to do. In 12 interviews with key stakeholders, many respondents stressed the need for guidance on:

- what they are required to do to meet devolved equal opportunity duties (particularly in regard to setting targets, providing evidence and monitoring), and
- how these duties interact with public sector equality duties imposed by the UK Parliament. **(8)**

In addition, a minority of respondents suggested that the UK duties overshadow the devolved duties because they are outcome focused and provide a more detailed set of reporting requirements. For example, in the health field there is a view that while the initial driver of NHS change was devolved equal opportunity duties, equality is now driven by the UK public sector equality duties.

‘As a public authority, we are uncertain about what the Scotland Act duties require us to do and how this relates to Westminster legislation. Compliance with the public sector duties has become our focus.’ **(9)**

There is also a perception that devolved equal opportunity duties require anti-discrimination measures only, whereas UK equality duties require public bodies to go beyond anti-discrimination and

promote equality of opportunity. In relation to education, for example, there is a view that the UK duties offer greater potential for tackling inequality by recognising and addressing issues such as poor attainment for boys and subject choice for girls, while the devolved duties are limited to anti-discrimination measures.

It is important to stress that devolved equal opportunity duties are not in fact limited to anti-discrimination measures. Nevertheless, this perception once again illustrates the uncertainty limiting the impact of devolved equal opportunity duties.

The majority of respondents also identified limited accountability and scrutiny as important factors affecting the impact of the devolved duties. For example, the Scottish Parliament has used its equal opportunity powers to require:

- local education authorities to report annually how they will encourage equal opportunities, and
- the Commissioner for Public Appointments and Scottish ministers to encourage equal opportunities in the public appointments system.

However, our research highlights:

- it is unclear who is monitoring the extent to which these duties are being met, and
- Scottish Parliamentary Committees could play a greater role in scrutinising progress in these areas.

‘Having a duty imposed under the Scotland Act powers is important, but we need enforcement and accountability, and a sense of what represents progress in this area.’(10)

Evidence from Scottish Parliament documents further illustrates the uncertainty surrounding the border between reserved and devolved equal opportunity powers, and hence ambiguity about the scrutiny role of the Scottish Parliament in this area.

In recent years, the Scottish Parliament has passed three Legislative Consent Motions (LCMs) consenting to legislative reforms proposed by the UK Parliament in the equal opportunities field. Two of these LCMs are vague on the scope of devolved equal opportunity powers. However, they appear to suggest that the scope is quite wide, enabling devolved authorities to introduce duties equivalent to the positive equality duties imposed by Westminster. The third LCM by contrast is more cautious and precise. It appears to suggest that the scope of devolved equal opportunity powers is limited.(11)

Therefore, the evidence from interviews and from parliamentary documents serves to highlight the inherent, or at least perceived, uncertainty surrounding the scope of devolved equal opportunity powers.



4. Should the Scottish Parliament have greater equal opportunity powers?

4.1 Background

In 1997, politicians proposed that equal opportunities should be fully devolved to the Scottish Parliament.⁽¹²⁾ The Scottish National Party, Plaid Cymru and Liberal Democrats supported the proposal. They argued that devolving equal opportunities would allow the Scottish Parliament to introduce its own equality laws dealing with particularly Scottish issues such as sectarianism. In addition, Roseanna Cunningham MP and others argued that it would potentially enable the Scottish Parliament to introduce law that went beyond existing UK equality law.

However, the proposal was overwhelmingly defeated by the votes of Conservative and Labour politicians. In the course of the debate, the UK Government argued that devolving equal opportunities ‘would undermine the level playing field for business and individuals in employment and other matters in the UK, and clearly the Government cannot accept that.’⁽¹³⁾ In other words, equal opportunities must remain a reserved matter to ensure a common regime for people and businesses across the UK, and in particular to ensure that people enjoy the same protection under anti-discrimination law.

4.2 Current debate

There is strong interest in reopening the question of whether the Scottish Parliament should make its own decisions on equality. The current debate focuses on reclassifying equal opportunities as a devolved matter, in whole or in part, and with or without employment law.

In *Choosing Scotland’s Future: A National Conversation*, the Scottish Government argues that independence or further devolution would allow the Scottish Parliament to pursue policies and laws it considers to be in Scotland’s best interests. It could also improve the government’s effectiveness and accountability by clarifying responsibilities in grey areas such as equal opportunities, which currently involve both devolved and reserved responsibilities. As argued in 1997, the Scottish Government suggests that if Scotland had full responsibility for equal opportunities law and its enforcement, it could deal appropriately with issues which particularly affect Scotland.⁽¹⁴⁾

A broad range of organisations have made similar arguments in giving evidence to the Calman Commission on Scottish Devolution.⁽¹⁵⁾

The charity Ecas argues devolved Scottish law ‘does not always dovetail well’ with the

reserved aspects of the Disability Discrimination Act 1995.**(16)** Ecas gives the example of receiving conflicting advice from Scottish transport agencies and reserved bodies on the stance of regulators in Scotland on how to reconcile conflicting demands for wheelchair spaces and bicycle racks on trains. Ecas also argues since areas that generate significant issues for people with disabilities such as education, health, social care, sport and leisure are devolved, there is an ‘artificial split’ between these devolved matters and the reserved matter of equal opportunities. This split is a barrier to coherent and effective policy.

The Scottish Council for Voluntary Organisations suggests Scotland’s particular demographics, wide spread of rural space and issues with sectarianism could justify the devolution of equal opportunities.**(17)** The Educational Institute of Scotland, City of Edinburgh Council, UNISON and others make similar arguments.**(18)** The Law Society of Scotland argues discrimination law should be devolved because it is closely linked to devolved matters such as incapacity, mental health and vulnerability.**(19)** Stonewall Scotland points out equal opportunities is reserved but family law is devolved, again creating uncertainty and an artificial split.**(20)**

Another argument for devolving responsibility for equal opportunities is that the Scotland Act is now outdated in this area. When the Scotland Act was passed in 1998, UK equality law primarily focused on the ‘prevention, elimination and regulation of discrimination’, or equal treatment for all groups. However, the landscape has changed dramatically since

then with the introduction of more progressive, positive equality duties throughout Britain.

These positive equality duties are about ensuring people have real opportunities to achieve their potential, as well as freedom from barriers such as discrimination. They place obligations on public services actively to promote equality of opportunity and to eliminate discrimination in relation to disability, gender and race. As a result, the focus has shifted from people having to pursue their discrimination claims through tribunals and courts, to public services actively seeking to prevent discrimination in the first place and promoting equality for disadvantaged groups. In addition, the Equality Bill 2009 contains provisions for a wide-ranging equality duty to be imposed on all public authorities, as well as for a duty to promote socio-economic equality to be imposed on certain public authorities in England and Wales in respect of their ‘strategic’ functions.

Similarly, in 2009 the Equality and Human Rights Commission launched an equality measurement framework which is changing how we view equality.**(21)** It measures three distinct aspects of equality:

- outcomes – equality in the central and valuable things in life that people actually achieve
- autonomy – equality in the degree of independence people have to make decisions affecting their lives
- process – inequality in treatment through discrimination or lack of dignity or respect.

An uncertain mix: equality and Scottish devolution

The framework will allow us to measure society's progress towards equality, and is intended to help public services agree priorities, set targets and measure their own progress on equality.

Seen in this light, the Scotland Act's focus on discrimination now seems overly narrow, and may unduly restrict the ability of the Scottish Parliament and ministers to achieve a fairer Scotland.

Finally, in its evidence to the Calman Commission, the Scottish Trades Union Congress suggests the Equality and Human Rights Commission could be given 'stronger and more autonomous enforcement powers' in Scotland.⁽²²⁾ This raises a number of questions including:

- Is it possible to separate out enforcement powers from the rest of equal opportunities law? If so, could enforcement of equal opportunities be devolved to Scotland?
- Could other aspects of the Equality and Human Rights Commission's work be devolved to Scotland, such as influencing devolved policies on education, communities and housing?
- Is it possible to devolve some or all of equal opportunities, if employment law remains a reserved matter?

As we have seen, one of the main arguments against devolving equal opportunities is that we need a UK-wide level playing field in an area of law, such as equal opportunities, which touches on fundamental rights. In addition, equal opportunities law is closely linked to some elements of employment law, which is

a reserved matter (for example, the system of employment tribunals deal with discrimination claims arising at work). It is sometimes argued therefore that employment rights and equal opportunities should be treated in a similar way, and that both should be reserved to ensure a level playing field across the UK.

It can also be argued that the growth of discrimination law since 1998 already provides ways to deal with Scottish-specific issues. For example, the prohibition of religious discrimination set out in the Employment Equality (Religion or Belief) Regulations 2003 and the Equality Act 2006 protects against religion-based sectarianism: the Scottish Parliament could therefore use its powers to encourage compliance with these laws.

An argument could also be made that as European Union (EU) law is so important in the equal opportunities context, and since UK ministers are primarily responsible for negotiating and implementing EU directives, it makes sense to treat equal opportunities as a reserved matter. However, it is important to note Scottish ministers implement EU legal obligations in other contexts. So the argument about the link between equal opportunities and EU law is probably not sufficient in itself to justify why equal opportunities should be reserved.

As the current debate illustrates, there are no easy answers in deciding whether the Scottish Parliament should have greater equality powers. There are difficult choices in law and policy at issue.



5. Three potential options

Given the current debate about the future constitutional status of Scotland, our research considers the implications for equality in the following three situations:

- no change to the current devolution settlement
- further devolution of powers to the Scottish Parliament
- Scottish independence (within the EU).

5.1 Option 1: no change to the current devolution settlement

The current devolution settlement explicitly recognises that the powers given to the Scottish Parliament and Scottish Government in 1999 are flexible. Important formal mechanisms are in place to allow small changes to the current settlement without having to change the fundamentals. Informal mechanisms, such as agreed guidelines on working relationships (concordats), also guide day-to-day interaction between the UK and Scottish departments and can resolve problems.

Even if there is no change to the current settlement and equal opportunities remains a reserved matter, these mechanisms could help to address some of the uncertainty that is currently seen by many as limiting progress towards equality. For example, if both parliaments agreed, UK ministers could give Scottish ministers the power to:

- include equality standards in regulatory frameworks, such as the National Care Standards, and

- impose positive equality duties on Scottish public bodies.

Such direct transfer of powers by the UK Parliament would remove the current ambiguity, and give greater clarity and certainty about what Scottish public bodies, including Scottish ministers and the Scottish Parliament, can do in the equality field.

The Equality Bill 2009 is a good opportunity for such a transfer. This could transfer specific functions to the Scottish ministers (subject to the consent of the Scottish Parliament), such as the power to decide the specific equality duties that will apply to Scottish public bodies. This would in turn give the Scottish Parliament the ability to scrutinise and ultimately control the content of these duties. The Equality Bill could also give Scottish ministers the ability to amend or adjust the proposed new structure of discrimination law in defined ways. For example, Scottish ministers could be given the power to amend the new general equality duty so as to require devolved authorities to take steps to eliminate sectarianism.

Of course, there may be political resistance to any extensive transfer of powers to the Scottish Parliament and ministers. In addition, there are political and legal limits to how far the flexibility of the devolution settlement can be used to overcome the current uncertainty about who is responsible for what in the equality field. A proper solution may require more substantial changes to the current settlement.

However, we should not overlook the informal mechanisms for the smooth working of the devolution settlement. Given the complex mix of reserved and devolved equal opportunity powers, it could be argued that UK and Scottish ministers should work closely together on equality issues. The Scottish Parliament Equal Opportunities Committee may want to examine the interaction between UK and Scottish departments in this area: how much consultation and dialogue takes place when equality issues are at stake?**(23)** Such an inquiry could also explore the limits of the Scottish Parliament's equal opportunity powers, and perhaps probe the question: where is the line between regulating and encouraging equal opportunity?

It may also be worth exploring whether a concordat on equal opportunities could be developed to help provide a clearer framework for greater coordination on equality by the UK and Scottish Governments.**(24)**

5.2 Option 2: further devolution

5.2.1 Complete devolution of equality

As we have seen, there is a significant body of opinion arguing for the removal of equal opportunities from the list of reserved matters altogether. This would allow the Scottish Parliament to pass equality laws which would apply to all devolved matters, in areas such as housing, education, policing, local government, health and social care.

However, equality laws passed by the Scottish Parliament would not apply to social security, immigration, nationality and other reserved areas. This might create some problematic areas of overlap in areas such as transport, where the responsibilities of the UK and Scottish Parliaments overlap. But this is not an insurmountable problem. Whether UK equality law or Scottish equality law applied would depend on the status (devolved or reserved) of the underlying subject matter. Different federal and state anti-discrimination laws coexist together in this way throughout the US, Canada and Australia.

A critical question would be whether employment law and industrial relations remained reserved matters. If employment and industrial relations were removed from the list of reserved matters, then Scottish equality law could apply to the crucial area of employment. This would also allow the Scottish Parliament to look at new ways of enforcing discrimination law, by establishing a distinct system of equality tribunals based on the Irish model, for example.

If, however, employment and industrial relations law remained a reserved matter, then the issue might be more complex. Some may argue: the Scottish Parliament cannot legislate on any matters relating to reserved employment and industrial relations laws, and because equality law creates employment rights, Scottish equality law cannot therefore apply in employment and the workplace. Despite the apparent complexity, it is unlikely that significant difficulties would arise. It would be possible to have separate Scottish equality law on devolved matters such as housing and health, enforced by the Scottish courts and perhaps by a separate Scottish Equality Commission, while employment law remained the responsibility of the UK Parliament and was enforced by UK-wide employment tribunals.

Of course, the question of whether it is appropriate to have different equality law applying in different parts of Britain is politically charged and potentially controversial. Yet there is no fundamental constitutional obstacle to devolving responsibility for equality. Northern Ireland has separate and distinct equality law, which outlaws discrimination on the grounds of political opinion and imposes positive equality duties on private employers. There is no equivalent for this elsewhere in the UK. In addition, EU discrimination law also provides a common floor of protection throughout the UK, alongside the protections of the European Convention on Human Rights.

5.2.2 Partial devolution of equality

Alternatively, it may be possible to separate out some elements of equality law and policy, keeping some as reserved matters and devolving others. For example, the ‘prohibition and elimination’ of discrimination could remain a reserved matter, but regulating how bodies should comply with equality law and respect equal opportunities could be devolved. This would enable the Scottish Parliament to incorporate equal opportunities standards into devolved regulatory frameworks and to introduce positive equality duties upon public and private bodies if it chose to do so. However, uncertainty about whether any form of equality law imposing legally binding obligations can be separated from prohibiting and eliminating discrimination may hamper this option.

Another option may be to make enforcing equality law a devolved matter. The Scottish Parliament could then decide how to enforce equality law in devolved areas. For example, it could establish a Scottish Equality Commission alongside the Scottish Human Rights Commission, if appropriate. It may also look at taking discrimination cases out of employment tribunals and providing a different enforcement system. Once again, however, uncertainty about the extent of reserved employment responsibilities is potentially an obstacle to pursuing this option.

Other specific areas of equality could also be separated out and devolved, at least in theory. For example, preventing, eliminating and regulating discrimination on the grounds of religion and belief could

become a devolved matter. There is a wide range of potential options for allocating responsibility for equality in a revised devolution settlement. The key question is whether any changes to the current settlement would clarify the current law and strengthen progress towards equality, or simply bring new complexities with little benefit.

5.3 Option 3: Scottish independence (within the EU)

If Scotland became an independent state, the Scottish parliament and Scottish Government would acquire responsibility for all domestic and international policy, and the ability to legislate in any and all areas. However, Scottish policy and laws would still need to comply with the requirements of EU law (assuming an independent Scotland joins the EU), and the provisions of any written national constitution Scotland adopts. A bill of rights similar to those found in most national constitutions, including the US, Ireland and the majority of EU member states, would be likely to guarantee the right to equality. The requirements of the European Convention on Human Rights could also restrict the powers of the independent Parliament, either because the Convention had been incorporated into a written constitution or because the Human Rights Act would continue to apply.

Beyond these constraints, the Scottish Parliament could legislate freely on equality. The experience in Ireland, a state that has left the UK, is to carry over existing British laws into the law of the

new state. So it is likely that existing UK and Scottish equality law would continue to apply in an independent Scotland, unless or until new laws are introduced. Independence would give Scotland a blank sheet to promote and enforce equality. For example, it could strengthen the positive equality duties placed on public bodies and tailor these to Scottish needs, and it could take its own approach to achieving equal pay.

The Scottish Parliament, possibly in discussion with others, would need to decide the future of existing British public bodies such as the Equality and Human Rights Commission. It could establish a distinct Scottish equality body with enforcement and promotion powers. Alternatively, it could arrange as part of an independence agreement for some British bodies to operate in both states to ensure continued effective cooperation.

6. Conclusion

The powers of the Scottish Parliament in the area of equal opportunities are limited. In addition, as a mix of reserved and devolved responsibilities, equal opportunities is one of the most complex grey areas in the current devolution settlement. Possibilities exist of devolving responsibility for equal opportunities, in whole or in part, as part of a wider review of the devolution settlement. The possibility of independence brings its own challenges. However, if we are to strengthen and accelerate progress towards equality, clarifying the place of equal opportunities in the current devolution settlement, at a minimum, is vital.

7. Endnotes

- 1 The founding principles of the Scottish Parliament are openness, accountability, the sharing of power and equal opportunities. See www.scottish.parliament.uk/corporate/index.htm. [Accessed September 2009]
- 2 Scottish Government. (2008). *Achieving our potential*. Edinburgh: Scottish Government

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Commission on Scottish Devolution. 2009. *Serving Scotland better: Scotland and the United Kingdom in the 21st Century*. Edinburgh: Commission on Scottish Devolution
- 4 Fitzgerald, R. 2009. *Equal opportunities and the Scottish Parliament: a progress review*. Manchester: Equality and Human Rights Commission. This small scale study involved desk research and 12 interviews with equality specialists in policy, service provision and academia
- 5 O'Conneide, C. (2009). *The place of equal opportunities in the devolution settlement: a legal analysis*. Manchester: Equality and Human Rights Commission
- 6 For the complete list, see Fitzgerald, R. (2009). *Equal opportunities and the Scottish Parliament: a progress review*. Manchester: Equality and Human Rights Commission
- 7 Fitzgerald, 2009
- 8 Fitzgerald, 2009. Chapter 3
- 9 Fitzgerald, 2009. Chapter 3
- 10 Fitzgerald, 2009. Chapter 3
- 11 In 2005, the Scottish Parliament passed two LCMs relating to bills which subsequently became the Disability Discrimination Act 2005 and the Equality Act 2006. In 2009, the Scottish Parliament published the LCM for the Equality Bill currently being debated in the UK Parliament. For further discussion on these LCMs, see O'Conneide, 2009
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- 22** Submission by the Scottish Trades Union Congress to the Commission on Scottish Devolution. Responses to first general consultation. September 2008. Available from:
www.commissiononscottishdevolution.org.uk/engage/submissions-received.php. [Accessed September 2009]
- 23** The European and External Relations Committee's recent report on the Transposition of EU Directives may provide a useful model
- 24** The Concordat on Co-ordination of European Union Policy may provide a useful model

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