

EQUAL RIGHTS FOR WOMEN - LAWS AND THEIR IMPLEMENTATION

1. Introduction

As you know, we have just finished a very hectic general election. The Labour Party is now ready to take the active role of the major party of Parliament - and will create a strong and constructive opposition. One of the most crucial election issues was the question of equalify

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between the sexes. This is all to the good, since it is only when the question of the status of women becomes regarded as an important political issue that we can expect to make progress in this field. The Labour Party will ensure that the equal status issue remains on the political agenda during the 1980s as well. There still remains a good deal to be done.

During the election campaign the non-socialist parties have been very eager to emphasize that they are actively working for full equality. Their political profile in this respect is very similar to what we experience in other political fields, at first the Labour Party submits proposals for reform which the non-socialist parties

oppose. Subsequently, when the Labour Party has taken the burden of clearing the way and the reforms prove to have a viable future, the non-socialist parties support what has been done and maintain that they really have been in agreement all along. We experienced this when the Labour Party first submitted proposals for a special equal status act in 1974, and I am in no doubt that the same will happen in the future.

In a programme of action for equal status submitted by the Government in 1981, it was proposed that women for example within the educational field should be given a certain preferential treatment. There was a great deal of opposition from the non-socialist parties. They are

so absolutely for equal status, but they are not so willing to make use of the necessary instruments to correct the imbalances in today's society. It will be interesting to see how the non-socialist parties in a few years time will assert that they have been supporters of positive discrimination measures all along.

In many ways it is obvious that our domestic debate on equal status issues illuminates a fundamental difference between the politics of the parties on the right and what the social democratic movement stands for. It is social democrats who have the will through long-term reform work to steer the development of society in the direction of levelling out standards of living, power

and opportunities. The central feature of non-socialist politics is, when we remove the frills, that might is right.

When I am now about to say something about Norwegian legislation to secure women's equality of status, I am quite aware that the solutions we have chosen here in Norway are not necessarily suitable in other countries. Efforts to improve the status of women are of a long-term nature and reforms must be based on the social and economic realities existing in each country. If tension between this reality and legislation becomes too high, it is possible in reality to do more harm than good.

The task for socialdemocratic women must be to ceaselessly urge such reforms as are realistic and which in sum bring us nearer to the society we desire: where equality between men and women is also reflected in everyday life in all social contexts.

We are on the wrong track in the debate on equal status in asserting the view that the two sexes are alike. The most important fact to recognize is this:

Human beings are very dissimilar. There are great variations in respect of a large number of qualities and abilities. And such differences also cross the boundaries between the sexes to a great extent. This is

what the champions of womens rights have had to fight to get accepted.

A division into compartments according to female and male qualities has been very misleading. But on the other hand we do not serve any good purpose in denying realities. For a reality is also the fact that in many areas there are more typical male qualities - the same applies to women. On the average men are physically stronger. On the average women are less aggressive.

Because this is so, equality of status does not mean that we must have exactly as many women as men in all occupations and functions. There is no objection to

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there in the end being more male motor mechanics - but there must be a real opportunity for women who would like to go into this occupation. We must avoid unfortunate arguments such as the following: We must have equal opportunities in all fields because we are alike! It would be at least as convincing to say: Because we are dissimilar. This is the exact reason why we want everyone to participate. We will all be the richer when the entire spectrum of human resources is fully utilized.

It is women who in historic times have promoted life and taken care of life. The values for which women have been responsible must have a greater impact on the entire community and must play a larger part also in

mens lives. For equal status endeavours will not be fulfilled before men have also rebelled and seen that they themselves must also broaden their perspective. The equal status struggle is the struggle to ensure that important human values are recognized - and made use of - in all those fields where we can see that they are so obviously needed.

2. Equal status may be promoted in other ways than through the codification of the law

Before I turn specifically towards our legislation on equal status, I should like to emphasize that legislation will only be one among many instruments to promote the rights and status of women in society.

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An efficient health service for mother and child cannot be developed by means of statutory enactments alone, but is nevertheless a basic premise for women's liberation. We are also aware of the fact that in many countries it is unrealistic to say that women shall have the same right to work as men if there is large-scale unemployment. No act of legislation can secure full employment. Legislation will therefore only constitute a part of the overall policy necessary to promote equality.

And even in more limited fields we should bear in mind that there may be alternatives to the legislative approach. In working life it is for example possible to conclude agreements to ensure equality of status in

certain fields. This happened in Norway in 1961 when the principal labour and management organizations concluded a framework agreement for the implementation of the principle of equal pay in ILO-Convention no 100. Instead of instructing enterprises to recruit a certain proportion of women, it is possible to define this as a condition for public financial support. The Government has advocated this in connection with projects receiving support from the Regional Development Fund. In order to recruit more women to male dominated occupations it is possible to give women financial encouragement to follow certain vocational training sectors. And it may be possible to reserve special womens quotas for enrollment in schools leading to occupations where

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women are under-represented. In order to ensure a reasonable womens representation in public committees and councils, it is possible in part to follow the legislative approach and in part to issue administrative instructions. We have done both.

3. Equality under the law - what does this mean?

When considering equal status in statutory law, it might be useful to distinguish between different types of rules. In the first place there are statutory rules which expressly differentiate between women and men. We have long known that women in many countries did not have the same rights to conclude contracts as men. Or

from our own century - that the right to vote was reserved for men.

I think there is broad agreement that such discriminatory legislation should not exist. Nor should there be any disagreement that the privileges that legislation gives women because of their biological function must be accepted in full.

But at the same time I should like to indicate that we may be guilty of oversimplification by condemning every legal provision differentiating between men and women. The statutory provisions must, as mentioned above, be assessed against the background of the society to which

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they apply. Allow me to take a look back into our history to illustrate this point. Right up to 1854 it was so that women inherited half as much as men. A residue of this state of affairs remains in the expression "brorparten" (brother's share) which even today means the major portion. In 1854 this rule of inheritance had outlived its usefulness. But the historical background for the rule is interesting. In Viking times the interests of the clan had to be protected by force of arms, something women could not do. When contracting marriage she received a dowry and the husband had the duty to act as breadwinner, which together with a half inheritance portion, meant that she was fairly treated financially. If she did not marry, the oldest brother had the duty

both to protect and maintain his sister, whereas full inheritance rights would mean that she received more than her fair share.

All in all it is possible that women in the Viking Age would have been worse off if they had had equality of status rather than the rules applicable at the time.

But this example contains another point, that statutory rules as early as the Viking Age have survived right up to the Industrial Era. When therefore, we examined our legislation on this subject in 1974, we discovered a number of statutory provisions which differentiated between women and men, a differentiation which had no

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objective justification in today's society. These provisions have now been amended.

It is not enough that the legislation should be neutral. We must also beware of sexual discrimination in the interpretation of the law. As a curiosity I would again like to quote an historic example from Norway. According to our Constitution, Norwegian citizens have the right to vote, and the right to hold the highest posts in the State is reserved for Norwegian citizens. As late as 1896, when the question of allowing women to hold the highest posts in the State was brought up in the Storting, the Ministry of Justice supported by the Faculty of Law, expressed the learned opinion that the expression

"Norwegian citizen" could not be interpreted to include women!

Fortunately, since then we have come a long way. But even if, in formal terms, women enjoy equal status with men under Norwegian law, there is still a long way to go before we achieve real equality of status. And we can say that the next step on the way, after our legislation has become neutral as to the sexes, is to issue rules prohibiting discrimination. Following a fierce political struggle, the Labour Party succeeded in getting a special Equal Status Act passed in 1976. This Act prohibits sex discrimination in all spheres of life, and a special administrative agency, the Equal Status

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Commissioner, has been established to contribute to the implementation of the Act. I will return to this Act later on.

The third group of rules are those which do not aim at prohibiting discrimination, but which more or less directly aim at strengthening the position of women in order to promote equality of status or to facilitate greater equality.

As far as social democratic women in Norway are concerned, the right to abortion on demand has been a major issue for a number of years. A first step was to repeal the provision which criminalized women who allowed themselves

to be operated on for abortion. After that the next step was to introduce the right to abortion on demand, a reform which was fought through to a successful conclusion in the 1970s in spite of fierce opposition from the non-socialist parties.

The expansion of kindergartens in pursuance of the Kindergarten Act is another important reform which must be mentioned, because it has provided women with greater opportunities to participate in working life. Extended rules on pregnancy leave, and a certain right to deduct expenses for child care in the income tax returns, are all reforms which have contributed toward equality.

4. The Act relating to Equal Status between the Sexes

As I states by way of introduction, the adoption of a special Equal Status Act was a fiercely controversial issue in the 1970s. It is a matter of surprise that such an obvious reform measure should generate so much heated controversy as it in fact did. However, it is gratifying to note that today the Act enjoys a broad measure of support.

One of the reasons for this political dissension is that the Act, already in Section 1, prescribes that the purpose of the Act is not only to promote equal status between the sexes, but that the Act aims particularly

at improving the position of women. The Norwegian political right considered it shocking that an equal status act, designed to eliminate discrimination, expressly emphasized the interests of one sex. The left fraction asserted that an equal status act should only apply to discrimination of women. Men had no need for protection under the Act and the fact that it was proposed that the Act was to apply to both sexes, might obscure the issue.

The controversy on the issue of the purpose of the Act in section 1 was in reality only a preliminary skirmish to the disagreement connected with the principal provision in the Act in section 3. This provision prohibits

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discrimination on grounds of sex in all areas of community life. The prohibition is directed against both the public authorities and the private sector. Certain exceptions are made in that the Act shall not apply to the internal conditions in religious communities and that it shall not be enforced as far as family life is concerned and purely personal circumstances. However, an important exception from the prohibition against discrimination has been made: Discrimination which is in accord with the proposal of the Act promoting equal status shall be permitted. And it is this rule which has caused so much controversy.

The idea behind the right to effect positive discriminatory treatment is that women and men are in fact not placed on an equal footing today. The sex role patterns, childbirth, family care and the actual division of labour within families result in women not having the same opportunities as men in many sectors. In order to provide women with improved opportunities in order to influence the sex role pattern, in our opinion it is justified to favour women in certain fields of endeavour.

The general clause in section 3 of the Act will be followed up by specific provisions on equal status which defines the meaning of the prohibition against discrimination in various important areas of community

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life. This refers to rules on equal treatment for appointments, promotions and dismissals in working life. There are rules on equality of status in education and the provision that textbooks in schools and other educational institutions shall be based on equal status. As a result of the work on the Equal Status Act, we have succeeded in getting adopted a provision in the Marketing Act which prohibits sex discrimination in advertising.

A vital provision in the Equal Status Act is obviously the provision on equal pay for work of equal value. As in many other countries we have probably gone as far as we can in avoiding direct discrimination in questions

of salary. Nevertheless, women earn less than men. Substantially, this is related to two circumstances. In the first place, many typically female occupations have been among the lowincome groups. Secondly, women by reason of child birth and familycare work often have less seniority than men. In a country where the parties in working life determine salaries and wages it is difficult to solve these problems by means of legislation. The State has, however, exerted pressure on the private sector in order to achieve benefits for the lowincome groups. And, as employer, the State has favoured women in particular, for example in that family care increasingly provides seniority in pay settlements.

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We know that good legislation is not enough in many areas of life. The acts of legislation must also be enforced. Traditionally, this is a job for the individual, who if necessary, may resort to Court actions. But we know that the wheels of Justice turn very slowly. We also know that in many circumstances the individual has to have more than average resources in order to enforce his rights. It was based on these thought that the Equal Status Act established a special Equal Status Commissioner and an Equal Status Appeals Board to ensure that the statutory provisions of the Act are observed. The Commissioner shall on his own initiative or on the basis of approaches from others make every effort to ensure that the Act is observed. Anyone who

has been exposed to discrimination may, without having to pay for it, bring the case before the Commissioner, who will request a correction of the errors which have been made. If a voluntary settlement of the matter fails, the case is referred to the Equal Status Appeals Board which is empowered to adopt binding decisions in the case. Anyone violating such a decision is liable to punishment.

The organization of a Commissioner and an Appeals Board has justified expectations. And the Accounts given in the Press of the cases which arise, help to create a public opinion that gradually influences the attitude of the general public in equal status issues.

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5. Other laws of importance to equal status

The reform work of the 1970's, aimed at strengthening the position of women, is not terminated by adopting the Equal Status Act. A number of other provisions of importance has also been adopted. It is not possible here to discuss them all, but certain main features deserve to be mentioned.

Perhaps the most important issue concerning women's rights is the right to abortion on demand during the first twelve weeks of pregnancy. A woman's right to determine this by herself was adopted for the first time in 1978. If the Labour Party had had the majority

in the Storting, this reform measure would have been adopted earlier. But here as in other cases the non-socialist parties have acted as a brake. Typically, the Conservatives voted against the proposal in 1978. When the Party then discovered that there was a majority in the people for abortion on demand, it chose to take the line that the Conservative Party had no official standpoint on the abortion issue. That in such an important issue it was best to leave it to the conscience of the individual member of the Storting, as it was so piously expressly. But then there is every reason to ask why they were not willing to give women the same right which they solemnly declared that the individual politician ought to have!

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The other major reform measure I should like to mention relates to the adoption of a special Kindergarten Act in 1975. In Norway children commence school at about 7 years of age. In most places throughout the country parents of small children have had to face great problems to get their children into kindergartens. Quite apart from the question of how important it is for children to receive a proper and stimulating education, it is clear that this has been a deterrent for parents of small children in developing their own occupational careers, and this of course affects first and foremost women. According to the Kindergarten Act, the municipalities shall draw up plans for the construction of kindergartens in accordance with central government

guidelines. The State provides a contribution to the municipal kindergartens, which also are financed by the municipalities and parents. From 1979 until today 20.000 new places were built for kindergarten children.

As regards lesser reform measures which are nevertheless of great importance, I would mention that women have a statutory right to 18 weeks paid pregnancy leave, and that the father also has a right to 14 days leave without pay. The parents of small children have a right to a leave of absence with pay up to 10 days each when the child is ill. An important future reform measure will be the right for the parents of small children to have reduced working hours. I hope that

this reform will result in more men playing a larger part in the care of small children than is the case today.

One more statutory amendment which may not be of such great practical importance, but which in principle is important, concerns the amendments to the Act relating to Personal Names. Those about to contract marriage may each retain his/her name from before the marriage unless they positively wish to have a joint name, and in this event they may choose the woman's or the man's surname. Naturally, the children acquire the name of the parents if they have a joint name, but if each of the parents has his/her own name, the parents may

choose which surname the child shall have. Failing such choice, the child acquires the mother's name. Going perhaps a bit to extremes some people have felt that this amendment of the Personal Names Act implies that the reform is emphasizing that marriage is a union of two independent and equal human beings.

6. Plan of action for equality of status

Equality of status between the sexes is of course not a matter which can be achieved once and for all through statutory amendments. It is in recognizing this that section 1 of the Equal Status Act prescribes that public authorities shall facilitate equality of status

between the sexes in all sectors of society. This represents a political declaration of no value unless it is followed up in practical politics.

By virtue of section 1 of the Equal Status Act and in part as a followup measure of the work done in connection with the U.N. World Conference on Women in Copenhagen in 1980, the Government submitted to the Storting a plan of action for equal status in the spring of 1981.

The plan of action includes measures in a number of sectors which I hope in the aggregate will bring the work on equal status further forward. Time will not

allow me to enumerate all the proposals involved. However, we can group them into various measures to make the school system more oriented towards equal status, different measures to stimulate women's participation in working life and choice of occupation and a public personnel policy more beneficial to women.

The fiercest political strife has centered on proposals to give women preferential treatment in limited sectors. Even if a majority of teachers in the basic schools are women, 81 percent of school principals are men. It is also desirable that more children are able to see that also women can act as school principals. The local school authorities are therefore urged to appoint more

women. This means that, within certain quotas, they are asked to appoint qualified women as school principals, even if there are male applicants who are even better qualified. In the same way, it is proposed that quotas shall be adopted in the enrollment to certain study lines in schools and in certain university studies where women are specially underrepresented.

From nonsocialist quarters this "radical quota scheme" has been strongly opposed. It is unfair seen in relation to better qualified men. And it is unfortunate that those with the best formal qualifications should not win in the competition.

We in the Labour Party have seen this differently. There is no question of allowing unqualified women to be pushed forward. And the fact that women, in a number of sectors, are not able to compete just as effectively in formal terms with men, is unfortunately due to altogether different circumstances than lack of ability and qualities of leadership!

7. Conclusion

In traditional agricultural societies, women played an important role in the production unit which the family was in those days. The early industrial society depended on one of the parents, in practice women, taking care

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of the children and the home as a fulltime task for life, so that the husband could sell his labour. In the modern industrialized state economic growth and modern home appliances have led to major changes in the course of the 25 years. There is no longer any justification for chaining women or men to the home throughout an entire adult life. These altered basic premises in life are an important explanation behind the ongoing women's liberation process in the western countries today. I am certain that the stage is now set for a development in society where women and men share tasks and privileges on a more equal footing than is the case today. We shall not achieve such a society without continuing the fight for women's liberation.

Permit me in conclusion to say that even if quality of status in legislation is a crucial element in improving the lot of women, the policies pursued in other sectors are even more important for the position of women in society. Women must therefore play our part in influencing the development of society as a whole.

The general economic policy, and not least manpower policy, is of decisive importance for opening up opportunities for women. Without economic growth and a high rate of public expenditure, women will go on being mainly responsible for children and the aged. Unemployment affects women more than men the old saying: "last hired, first fired" continues to hold good. Hard times

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in economic terms may easily adversely affect families with small children, and may therefore have a specially hard impact on women, because the opportunities for selfdevelopment becomes even poorer.

But a good economic policy is not enough. We must provide the terms "growth" and the "organization of the labour market" with a new concept which pays due regard to the needs of women and parents with small children. Conservative politicians put money as the central element in economic policy. We see how this is going in Britain and we are afraid that a similar development will take place in the U.S.A. Socialdemocrats have always placed human needs as the central element in

economic policy. Our task in the future will be to ensure that human needs are understood to mean the needs of both men and women.

I hope that some of our experience in the development of Norwegian legislation may provide impulses for the debate later on today. Even if we do come from different countries, there is this common denominator that the lot of women and men are very different. Through the exchange of experiences and viewpoints, we may inspire each other to further efforts.