University of Birmingham

# Professor Evelyn Ellis

Emeritus Professor of Law

**Birmingham Law School (/schools/law/index.aspx)**

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## About

Evelyn Ellis began work at the University of Birmingham in 1972. She was Professor of Public Law between 1996 and 2008 and is now an Emeritus Professor at Birmingham Law School. Her main research interests lie in the field of anti-discrimination law, in particular the EU aspects. She has written a number of books which include: *Sex Discrimination Law* (Gower, 1988), *European Community Sex Equality Law* (Oxford University Press, second ed. 1998), *Public Law of the European Community: Text, Materials and Commentary* (with T Tridimas, Sweet & Maxwell, 1995), and *EU Anti-Discrimination Law* (OUP, 2005) She edited and contributed to *The Principle of Proportionality in the Laws of Europe* (Hart, 1999) and also edited and contributed to *Equality into Reality: Action for Diversity and Non-Discrimination in Iceland* (University of Iceland, 2012), She is currently preparing a second edition (for publication in 2012) of *EU Anti-Discrimination Law*, in collaboration with Professor Philippa Watson. She continues to be a regular visitor to the School.

## Qualifications

- MA (University of Cambridge)
- LLM (University of Birmingham)
- PhD (University of Birmingham)
- Barrister (MT)

## Biography

Evelyn Ellis was Professor of Public Law between 1996 and 2008 and is now an Emeritus Professor at Birmingham Law School. She was Head of School between 2000 and 2003. She is currently an Adjunct Professor at the University of Western Australia, where she teaches comparative Torts Law. She also teaches EU Law at the Jersey Institute of Law.

## Research

- Sex discrimination law
- Anti-discrimination law
- EU constitutional law

Evelyn's many published articles and contributions to collected works have focused on discrimination law, especially that of the EU, and she wrote a paper on this subject for the Cambridge University Independent Review of the Enforcement of UK Anti-Discrimination Legislation (1999). In 2000, she acted as a specialist adviser to sub-committee F of the House of Lords Select Committee on the EU during its enquiry into two proposed directives on discrimination law. She has also written widely on discrimination on religious and political grounds in Northern Ireland and was co-author (with George Applebey) of a Report to the Standing Advisory Commission on Human Rights on the operation of the Fair Employment Agency. This report formed the basis for the Fair Employment (Northern Ireland) Act 1989. She is a regular speaker at conferences on equality law, especially under the auspices of the Academy of European Law, Trier, Germany.

## Publications

**(i) Books and other substantial works**

- *Sex Discrimination Law* (Gower, Aldershot, 1988)
- *European Community Sex Equality Law* (Clarendon Press, Oxford, 1st ed. 1991, 2nd ed. 1998)
- *Public Law of the European Community: Text, Materials and Commentary* with Dr T. Tridimas (Sweet & Maxwell, London, August 1995)
- Chapter entitled "Equal Treatment in Employment in Europe" in *Legal Aspects of Free Trade and Economic Integration: A Comparison Between Canada and Britain in Their North American and European Contexts* eds. Bernier, Lemieux, Brown and McBride (Faculté de Droit de l'Université de Laval and the Faculty of Law University of Birmingham, 1989)
- Chapter 9 entitled "Law and Employment Discrimination: the Working of the Northern Ireland Fair Employment Agency" in *Discrimination and Public Policy in Northern Ireland* with G. Applebey eds. Cormack and Osborne (Clarendon Press, Oxford, 1991)
- Chapter entitled "The Enforcement of EEC Law in the Courts of the Member States: What Does Direct Effect Really Mean?" in *Droit Sans Frontières* eds. Hand and McBride (Holdsworth Club, Birmingham, 1991)
- Chapter entitled "The Harmonization of Rules Regulating Atypical Employment Relationships" in *Harmonization and Legal Transplant* (Hochschule für Wirtschaft und Politik, Hamburg, 1992)
- Chapter 8 on the UK and the European Communities in the 11th edition of Wade and Bradley *Constitutional and Administrative Law* (Longman, London, 1993)

- Introduction to Division V "European Developments" in *Butterworths Product Liability and Safety Encyclopaedia* ed. Prof. C. J. Miller (Butterworths, London, 1996, 1998, 2001 and 2007)
- Chapter 2 entitled "Gender Discrimination Law in the European Community" in *Discrimination Law - Concepts, Limitations and Justifications* eds. Dine and Watt (Addison Wesley Longman, London, 1996), pp.14-36. (Note: this is a revised version of an article published in the European Law Review in 1995 (referred to *infra*) and republished with the permission of Sweet and Maxwell)
- Three contributions (on equal pay, equal treatment and social security) to *Butterworths Expert Guide to the European Union* (Butterworths, London, 1996)
- Chapter 1 entitled "Equal Pay for Work of Equal Value: the UK's Law Viewed in the Light of European Community Law" in *Sex Equality Law in the European Union* eds. Hervey and O'Keeffe (Chancery, 1996), pp.7-20
- *Improving Equality Laws: The Options* with Hepple, Lester, Rose and Singh (Justice, 1997). (Also published in the EOR, as referred to *infra*)
- Chapter entitled "The Principle of Equality of Opportunity Irrespective of Sex: Some Reflections on the Present and Future Development of European Community Law" in *The Principle of Equal Treatment in EC Law* eds. Dashwood and O'Leary (Sweet & Maxwell, 1997), pp.172-188.
- Chapter entitled "The Status of European Community Law in the United Kingdom" in *Festschrift for Prof. G J Hand* eds. McAuley, O'Keefe and Lonbay (Round Hall Press, Dublin, 1996). (Also published in the Irish Jurist, as referred to *infra*)
- "Foreword" and chapter entitled "The Concept of Proportionality in European Community Sex Discrimination Law" in *The Principle of Proportionality in the Laws of Europe* ed. Ellis, (Oxford, Hart Publishing, 1999), pp.ix-x and 165-181.
- "In Praise of Political Correctness" in *Normativa Perspektiv; Festskrift Till Anna Christensen: Särtryck* Juristförlaget I Lund, Lund 2000, pp.81-94.
- "The importance of a structural analysis in the field of anti-discrimination law, Comments on Anna Christensen's article" in *Legal Perspectives on Equal Treatment* ed. Numhauser-Henning, (Kluwer Law International, 2001), pp.61-63.
- "The Principle of Non-Discrimination in the Post-Nice Era" In *Accountability and Legitimacy in the European Union* eds. Arnull and Wincott (OUP, 2002), pp.292 – 305.
- "Sources of Law and the Hierarchy of Norms" in *English Public Law* (ed. David Feldman, Oxford: Oxford University Press, 2004), pp.44-97, and second edition 2009, pp.38-87.
- "The Legislative Supremacy of Parliament and its Limits" in *English Public Law* (ed. David Feldman, Oxford: Oxford University Press, 2004), pp.142-173, and second edition 2009, pp.127-155.
- EU Anti-Discrimination Law (OUP, 2005).
- Two invited contributions to the *New Oxford Companion to Law* (eds. Cane and Conaghan: Oxford University Press, 2008), pp.10-11 and 402-404.
- *Equality into Reality: Action for Diversity and Non-Discrimination in Iceland* (University of Iceland, 2011), ed Ellis and also author of Chapter 1.

**(ii) Contributions to journals**

- "How far in the direction of community does the Married Women's Property Act 1964 lead?" 1973 Family Law 116
- "The right of occupation of the matrimonial home and its enforcement by the courts" (1975) 4 Anglo-American Law Review 59
- "The advancement of an intended wife" (1975) 119 Solicitors Journal 108
- "The discretion to adjust property rights after divorce" (1976) 39 Modern Law Review 97
- Note on maintenance proceedings before magistrates' courts (1976) 92 Law Quarterly Review 487
- "Contractual and equitable licences" (1979) 95 Law Quarterly Review 11
- "The choice of children's surnames" (1980) 9 Anglo-American Law Review 92
- "Parliamentary supremacy and European law" (1980) 96 Law Quarterly Review 511
- "Deportation of a Community national after imprisonment" (1981) 97 Law Quarterly Review 533
- "Sex discrimination in pension schemes: has Community law changed the rules?" 1982 Industrial Law Journal 16 (with P J Morrell)
- "Parliamentary supremacy after a decade of EEC membership" (1982) 7 Holdsworth 105
- "Maternity rights: an appraisal of the British legislation" (1983) 12 Anglo-American Law Review 67
- "Re-organisation of the family jurisdiction of the High Court and county courts: proposals of the Lord Chancellor's Department" (1983) 2 Civil Justice Quarterly 108
- "Amending the Race Relations Act - Proposals of the CRE" (1983) 2 Civil Justice Quarterly 313 (with G. Applebey)
- "Reinstatement after confinement: an obstacle race for mothers" (1984) 47 Modern Law Review 107
- "Formal investigations: the CRE and EOC as law enforcement agencies" 1984 Public Law 236 (with G. Applebey)
- "Blackening the Prestige pot? Formal investigations and the CRE" (1984) 100 Law Quarterly Review 349 (with G. Applebey)
- "Commissions Undone" New Statesman 6 July 1984, p.8 (with G. Applebey)
- "The draft directive on parental leave and leave for family reasons" (1985) 10 Holdsworth 58
- "Parents and employment: an opportunity for progress" 1986 Industrial Law Journal 97
- "Can public safety provide an excuse for sex discrimination?" (1986) 102 Law Quarterly Review 496
- "Equality of opportunity in employment in Northern Ireland: the Government's proposals" 1987 Public Law 40
- "EEC law and the interpretation of statutes" (1988) 104 Law Quarterly Review 379
- "A welcome victory for equality" (1988) 51 Modern Law Review 781
- "Peace plan in the battle of the sexes" The Times 21 February 1989
- "Sex discrimination and grammar school selection" (1989) 52 Modern Law Review 710
- "The Fair Employment (Northern Ireland) legislation of 1989" 1990 Public Law 161
- "Justifiability and statutory immunity for indirect discrimination: Hampson v. DES" 1990 Public Law 461
- "Discrimination on the ground of pregnancy in EEC law" 1991 Public Law 159
- "Sex discrimination and opted-out schools: LEAs between the devil and the deep blue sea" 1992 Local Authority Law 5/92, p.7
- "Victimisation of applicants in equal pay and sex discrimination cases" (1992) 142 New Law Journal 1406
- "The victimisation of anti-discrimination complainants: Is it contempt of court?" (with Prof. C. J. Miller) 1993 Public Law 80
- "The pregnancy directive" (1993) 22 Industrial Law Journal 63

- "Recent case law of the Court of Justice on the Equal Treatment of Women and Men" (1994) 31 Common Market Law Review 43
- "Equal value: the European Court gets to the heart of the matter" (1994) 31 Common Market Law Review 387
- "The definition of discrimination in European Community sex equality law" (1994) 19 European Law Review 563
- "The Sex Discrimination Law of the European Union" (1994) The Law Librarian Vol.25 No.4, p.186
- "The Status of European Community Law in the United Kingdom" (1996) XXXI Irish Jurist 35
- "Improving Equality Law: The Options" (with Hepple, Lester, Rose and Singh) (1997) 72 EOR 28
- "The Development of Sex Discrimination Law: From Aspiration to Reality" (1997) 18 (Vol.2) Holdsworth Law Review 139-166.
- Case-note on Case C-84/94 *UK v. Council* (1997) 34 CMLRev.1049
- "Recent Developments in European Community sex equality law" (1998) 35 CMLRev. 379-408
- Case-note on *Brown v. Rentokil* for (1999) 36 CMLRev. p.625
- "The supremacy of Community pensions equality law: a two-edged sword?" (2000) ELRev. 564 - 568.
- "The Recent Jurisprudence of the Court of Justice in the Field of Sex Equality" (2000) 37 CMLRev. 1403-1426.
- "Social Security and Child Support Commissioner's Starred Decision No:65/00, Commissioner David Williams, August 23, 2000, CJSA/1920/1999" (2001) 8 JSSL 129 - 135.
- Joined Cases C-122 & 125/99P, *D and Sweden v. Council*, Judgment of the European Court of Justice of 31 May, Full Court, nyr. *A marriage may be made in heaven, but a registered partnership definitely can't be*…(2002) 39 CMLRev. 151 - 157.
- "Social Advantages: A New Lease of Life?" (2003) 40 Part 3 CMLRev. 639 - 659.
- "The Gender Recognition Bill" [2004] Public Law 467 - 472.
- (With Dr Brenda McGivern) "The Wrongfulness or Rightfulness of Actions for Wrongful Life" (2007) 3 Tort Law Review 135.
- "The Anti-Discrimination Directives: the Court begins work" [2009] European Current Law xi-xiv (invited Focus article).
- "The Impact of the Lisbon Treaty on Gender Equality" [2010] No.1 European Gender Equality Law Review 7-14.

**(iv) Conference papers**

- "Current issues in sex discrimination law", Industrial Law Society conference, May 1989
- "Recent Developments in discrimination law", University of Bath conference on discrimination law, December 1989
- "The changing meanings of direct and indirect discrimination", University of Birmingham Institute of Local Government Studies conference, June 1990
- "The harmonisation of rules regulating atypical employment relationships", Hamburg/Laval/Birmingham colloquium on harmonisation of laws, May 1991
- "Recent developments in EEC equality law", University of Birmingham Institute of Local Government Studies conference, December 1991
- "Recent developments in sex discrimination law", conference organised by Edge & Ellison Calow Easton Solicitors, July 1991
- "The concepts of direct and indirect discrimination", IBC Legal Studies and Services Ltd in association with Cloisters, 1 Pump Court, conference on discrimination law, February 1993
- "Maternity rights - with an eye on Europe", conference organised by Pinsent & Co (Solicitors) for local employment law group, May 1993
- "The definition of discrimination in EC law", University of Essex Law Department, May 1993
- "Equal pay - the structure of the law", IBC Legal Studies and Services Ltd in association with Cloisters, 1 Pump Court, conference on equal pay law, April 1994
- "The sex discrimination law of the European Union", Annual Conference of the British and Irish Association of Law Librarians, September 1994
- "Gender Discrimination", Symposium on "Justifying Discrimination", University of Essex, October 1994
- "Sex discrimination in employment: Recent developments both domestic and European", conference organised by Professional Solutions and Services Ltd in association with Five Fountain Court, Birmingham, October 1994
- "Equal Pay for Work of Equal Value: the UK's Law Viewed in the Light of European Community Law" for Conference on Sex Equality in European Community Law, Academy of European Law Trier and Centre for the Law of the European Union UCL, March 1995; also delivered at University of Bristol Women's Academic Group, June 1995
- "Remedies for Discrimination" for 3rd Annual Conference "Discrimination Law Forum", IBC Legal Studies and Services Ltd in association with Cloisters, 1 Pump Court, March 1995
- "Assessing the Effectiveness of the Fair Employment Commission Under the 1989 Legislation" for Employment Equality Review Research Conference, Standing Advisory Commission on Human Rights, Belfast, May 1995
- "The Principle of Equality of Opportunity Irrespective of Sex: Some Reflections on the Present State of European Community Law and its Future Development" for Cambridge Centre for European Legal Studies Conference entitled "The Principle of Equal Treatment in EC Law", Cambridge, May 1996
- "The Equal Treatment Directive" for conference entitled "Equal Treatment Issues in European Law: From Theory to Practice", Swedish Equal Opportunities Ombudsman and University of Lund, Lund, Sweden, September 1996
- "The Scope of Positive Action in EC Employment Law" for Second Essex Symposium on Discrimination Law, University of Essex, April 1997
- "The Scope of Positive Action in EC Employment Law" for staff seminar at the University of Leicester, May 1997
- "Social Policy in the EU"; seminar for the College of Europe, Bruges, 8 July 1999.
- "The Future Scope of EU Anti-discrimination Law" for the Annual Meeting of the Industrial Law Society, St Catharine's College, Oxford, September 2000.
- "The Principle of Non-Discrimination After Nice" for the conference on Legitimacy and Accountability in the EU After Nice, IEL, University of Birmingham, July 2001.
- "Recent Developments in Discrimination Law" for the Conference of Chairpersons, Employment Tribunals (Birmingham Region), Birmingham, 12 December 2001.
- Two seminars at the University of Mauritius on the implementation of the constitutional guarantee of non-discrimination, 23 March 2002.
- Paper on the influence of EU law on English Private Law, for the conference to mark the retirement of Professor John Miller, on 11th July 2003.
- "The European Directives in connection with Discrimination Law" for the Conference of Chairpersons, Employment Tribunals (Birmingham Region), Birmingham, 19 November 2003.
- "The Old Discriminations: What is the Impact of the New Discriminations on Sex Discrimination?" for a conference entitled "Discrimination Law: A Brave New World?" organised by St Philip's Chambers Employment and Discrimination Group, at the International Convention Centre, Birmingham, 5th February 2004.
- Staff seminar at the University of Western Australia in March 2004 entitled "The Development of UK Anti-Discrimination Law and the Influence of EU Law on this Process". Staff seminars at the same venue in March 2006 (on the influence of the Human Rights Act 1998 on the law of tort) and in April 2007 (on wrongful life actions).

- Lecture entitled “The development of sex discrimination law in the UK” at the Universities of Dockyo and Tsukuba, both in Tokyo, and at the University of Doshisha in Kyoto.
- Seminar for JUSTICE/Equality Forum on the Lessons to be Learned in Mainland Great Britain from the Single Equality Bill in Northern Ireland, Clifford Chance, 21 October 2004.
- “Recent Developments in EU Anti-Discrimination Law” staff seminar delivered at the University of Birmingham on 20th October 2004 and at the University of Exeter on 12th November 2004.
- “Proposed and Current Developments in Sex and Race Discrimination Law”. Seminar paper for Croner Law Conference on Anti-Discrimination Law, Strand Palace Hotel London, 7 October 2005.
- “How to make an AHRC Application” staff seminar, delivered jointly with Professor David Papineau of the Philosophy Department of King’s College London on 10 October 2005.
- Staff seminar at Birmingham Law School on wrongful life actions in March 2007.
- Seminar on definitions of key concepts in discrimination law at the Academy of European Law in Trier, Germany, in November 2007 and November 2008.
- “Community anti-discrimination legislation. Possible developments and interpretations” at the Equinet seminar on anti-discrimination law, Brussels, 30 June 2009.
- “The evolution of the principle of equality in Community law” at ERA conference on the 2000 Directives, 5 and 6 October, 2009, Trier, Germany.
- “The concept of equality in EU law” for ERA conference entitled “Current reflections on EU anti-discrimination law”, 13th and 14th September 2010, Trier, Germany.
- “The current state of EU anti-discrimination law” for a conference hosted by the University of Iceland entitled “Equality into Reality: Action for diversity and non-discrimination in Iceland”, 26th and 27th October 2010.
- “EU Equality and Non-Discrimination Law Under the Treaty of Lisbon and the Charter of Fundamental Rights”, 19th and 20th September, 2011, ERA conference “Current Reflections on EU Equality and Non-Discrimination Law”, Trier, Germany.

**(v) Recent book reviews**

- McCrudden *Equality of Treatment between Men and Women in Social Security Law* (1996) 3 JSSL 135 – 6.
- Asscher-Vonk *Equality in Law for Men and Women in the EC: Denmark, Germany and the Netherlands* (1996) 21 ELRev. 337 – 8.
- Luckhaus and Moffat *Serving the Market **and** People’s Needs?*(1997) 4 JSSL 182 – 3.
- Fredman *Women and the Law* (1998) 27 ILJ 271 4.
- Hartley *Constitutional Problems of the European Union* (1999) 19 - 4 Legal Studies 583.
- McCormick *Questioning Sovereignty: Law State and Practical Reason* [2000] Public Law 175 – 6.
- *Convergence and Divergence in European Public Law* eds. Beaumont, Lyons and Walker (2003) 28 ELRev. 294 – 6.
- *Law and New Governance in the EU and the US* eds. De Búrca and Scott [2006] Public Law 877-878.
- *Equality Law in an Enlarged European Union: Understanding the Article 13 Directives* ed. Meenan (2008) 45 CMLRev. p.?

**(vi) Other papers, publications and evidence of peer esteem**

- Report on the scope and coverage of the Fair Employment (Northern Ireland) Act 1976 and on the Fair Employment Agency, commissioned by the Standing Advisory Commission on Human Rights and submitted in September 1986 (with G. Applebey). This report was instrumental in shaping the subsequent Fair Employment (Northern Ireland) Act 1989.
- Written evidence to the House of Lords Select Committee on the European Communities on the draft directive on burden of proof. This evidence was published in Session 1988-9, 17th Report, (HL Paper 76).
- Written evidence to the House of Lords Select Committee on the European Communities, Sub-Committee on the 1996 Inter-Governmental Conference, HL Paper 88, "The Distinction Between Regulations and Directives", pp.301-304.
- “In what respects does UK sex discrimination legislation fall short of the standards demanded by EC law?” Paper for Cambridge University Independent Review of the Enforcement of UK Anti-discrimination Legislation. Published by the Centre for Public Law and the Judge Institute of Management Studies, University of Cambridge, November 1999.
- Oral evidence to Sub-committee F of the House of Lords Select Committee on the European Union on two proposed anti-discrimination directives, 19 January 2000. After giving this evidence, invited to become Expert Adviser to that Sub-committee; post held January – April 2000.
- Written evidence (with Prof. C. McCrudden of Oxford University) to the Swedish Labour Court on the principle of equal value, 3rd April 2001.
- Member of the Editorial Board of *Public Law* since 2002.
- Member of the Arts and Humanities Research Board (now Council) Peer Review Panel on Philosophy, Law and Theology from September 2003 to 2008.

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