

# Joint Response to First Minister's National Advisory Council on Women and Girls

Survey on creating an Intersectional Gender Architecture.

August 2020



## Introduction

This response has been written in partnership with Amina – Muslims Women's Resource Centre, Equality Network/Scottish Trans Alliance, Sacro, Scottish Women's Rights Centre, Young Women's Movement and Zero Tolerance. As organisations dedicated to equality and human rights, we welcome the NACWG's focus on improving the systems and structures tackling gender inequality and discrimination in Scotland. We recognise that gender inequality is the cause of violence against women and girls (VAWG); primary prevention tackles this root cause by seeking to eradicate it at all levels of society. We also recognise the need for an intersectional approach to tackling gender inequality; the former Special Rapporteur on Violence Against Women has noted that a 'lack of attention to intersectionality not only inhibits policymakers from assessing inequalities between women and men, but also inhibits their ability to assess how differently positioned women experience discrimination and violence.'<sup>1</sup> Gender inequality cannot be separated from other forms of inequality and should work through partnerships and coalitions to build coordinated challenges to gender inequality and other forms of discrimination including racism, ableism, ageism, classism, homophobia, and transphobia.

In recognition of the importance of partnership working, we provide a joint response highlighting shared concerns and recommendations identified across our organisations; in parts we highlight key areas of concern specific to our respective remits. We have focused on questions in the survey that are of most relevance to our work.

## **What could be done to improve the Gender Architecture in Scotland - the system and structures - to make it more effective, and why: for example, could something be added or maybe parts of the system behave differently?**

While there have been welcome steps in Scotland to tackle gender inequality and discrimination (such as Equally Safe), we share concerns about the absence of an intersectional approach within Scotland's Gender Architecture. Across our respective organisations we experience a lack of recognition within the current equality system of the diverse needs and experiences within specific minoritised groups of women, which are too often reduced to homogeneous entities. A better awareness and analysis of diversity within minoritised groups, as well as the intersections between protected characteristics, needs to be incorporated into all relevant systems and structures in order to achieve transformational change.

We go into further detail about this issue in our discussion around specific areas of Scotland's Gender Architecture below.

We also believe that transparency and accessibility in improving Scotland's Gender Architecture needs to be strengthened. For instance, the term 'Gender Architecture' itself is a relatively unknown and inaccessible term. It is well-established that inequality, discrimination, and violence against women are barriers to women's full participation in public and political life;<sup>2</sup> therefore, processes of engagement must make particular effort to be inclusive and accessible to enable the meaningful engagement of minoritised and underrepresented groups. This should involve more consistent

use of 'plain English' materials and simpler consultation processes. An example, given by Amina, of non-inclusive consultation was recent legislation on forced marriage. Despite widespread criticism around the legislation, the responses were not sufficiently addressed and meant that the people who would be particularly affected by it, such as Black and Minority Ethnic (BME) women, were not fully listened to.

There also needs to be greater accountability on private sector organisations to adhere to gender equality/VAWG policies (such as Equally Safe) in addition to the public sector, given that some services are outsourced to the private sector.

Part of greater transparency involves a robust feedback loop at all levels of policy development; for instance, we recommend that in addition to its Accountability Days, the NACWG publishes the results of each of its Circles and/or consultation processes and that the Scottish Government should be required to publicly respond to these. Consultations from the NACWG should be advertised as open calls for evidence rather than closed calls to members.

### **Ministerial and government responsibility**

A key means of strengthening accountability of government would be through incorporating CEDAW into Scots law, thereby placing a stronger legal obligation on the Scottish Government to comply with its provisions. The Scottish Government should prioritise its incorporation - as Zero Tolerance has raised with the co-chairs of the National Taskforce on Human Rights Leadership.

The scaling up of the Equalities Unit to a standalone Equality, Inclusion and Human Rights Directorate is to be welcomed and will play an essential role in advancing gender equality and tackling VAWG in Scotland. However, we agree with the NACWG recommendation to increase the resources available to assist with mainstreaming for all equalities across the whole of government in order for the Directorate to effectively carry out its remit. We also see the value of reinstating a Minister for Women to strengthen prioritisation of gender equality across Government.

In relation to other accountability structures, the Young Women Lead programme coordinated by the Young Women's Movement has demonstrated the value of having a dedicated parliamentary committee; the Scottish Government should consider implementing this on a permanent basis.

### **Legislation**

We share concerns across our organisations about the Equality Act 2010 and the Public Sector Equality Duty in relation to tackling gender equality, neither of which are currently fit for purpose in effectively tackling the inequalities experienced in women's lives.

The Equality Act 2010 creates an equalities framework that is inherently geared towards viewing discrimination through a lens of single axis of marginalisation rather than accounting for women impacted by multiple protected characteristics. This has had a negative knock-on effect on how public bodies, employers etc. think about the impact of their policies or practices and conceive of discrimination. To use an example given by the Equality Network/Scottish Trans Alliance, certain policies may impact a lesbian woman in different ways to a bisexual woman or a trans woman; this must be part of intersectional considerations, as opposed to LBT women being seen as a homogeneous group.

We recognise there are some restrictions around the Scottish Government's ability to tackle the problem outlined above due to equalities being a reserved issue. However, commencing the dual discrimination provisions in the Equality Act 2010 would be a useful first step in mitigating it. We also believe the Scottish Government should make further efforts to negotiate further devolution of equalities with the UK Government.

In relation to the Public Sector Equality Duty, analysis by equalities organisations in Scotland has concluded that it is not operating as intended and has even contributed to the diminution of focus in the identity-based inequality experienced by particular groups.<sup>3</sup> The review and update of the Public Sector Equality Duty should be prioritised by the Scottish Government.

Key gaps in equality-based legislation concerning specific minoritised groups were highlighted by partners when developing this response:

- Many of our organisations raised the specific challenges facing migrant women and the insufficient accommodation made for them within equality-focused legislation, resulting in a severe lack of support for this group. More needs to be done to engage with migrant women in policy and service development in Scotland, particularly those with No Recourse to Public Funds and/or ‘pre-settled’ status.
- Bisexual women’s needs are rarely considered separately and independently despite evidence that they experience higher rates of sexual violence and a higher prevalence of mental ill health compared to both straight and lesbian women.
- More action needs to be taken to protect women who sell sex, taking into account the diverse needs and experiences within this group through focusing on safe working conditions as well as support for those who are being exploited but fear coming forward to seek help.

## **Oversight bodies**

The Equality and Human Rights Commission and the Scottish Human Rights Commission are valuable oversight bodies in terms of independently assessing progress in advancing gender equality in Scotland. However, they require sufficient resource, capacity, and jurisdiction to hold those bodies responsible for implementation accountable.

## **Gender mainstreaming**

We agree with the existing recommendation of the NACWG that more needs to be done to ensure gender mainstreaming across Scottish Government. There is generally an insufficient understanding of mainstreaming across the public sector. Better understanding is required, focusing on systemic and structural change rather than short-term, one-off training which is shown to have limited impact at best and be a ‘tick-box’ exercise at worst.

The tools and processes currently used as part of equalities analysis are often not used effectively. For example, Equality and Impact Assessments (EQIAs) tend to address each protected characteristic under the Equality Act 2010 separately. This can obscure some of the particular impacts certain policies may have on women who are marginalised in multiple, interlocking ways. EQIAs should “read across” protected characteristics and consider how their intersections may mean specific impacts on a particular group. The Scottish Government should show leadership on conducting EQIAs in this way.

Additionally, EQIAs are too often conducted at the end stage of a policy, once decisions have already been made, rather than from the outset of its development. It is vital that equalities analysis is integrated at all levels of policy development, in close collaboration with organisations representing minoritised groups.

An essential part of gender mainstreaming is effective data collection to monitor progress. There is a need for more disaggregated data focused on intersectionality considerations to ensure that women marginalised in multiple ways are integrated into policies designed to improve gender equality and those framed around other protected characteristics.

Good intersectional analysis recognises diverse experiences and forms of knowledge and their equal importance, as well as how power influences which forms of knowledge are considered as legitimate.

**What do you think needs to be implemented to deliver an intersectional approach that would be relevant to your life/work?**

Interventions that do not take an intersectional approach are likely to perpetuate and exacerbate inequality, in that they will only be of benefit to women who already have some access to power or opportunity. There is a need for stronger, more consistent engagement with underrepresented groups of women, through organisations that work with and support them, to ensure these groups' access to opportunities. We believe that decision-making needs to reach women at the grass-roots level, with widespread awareness-raising activities as to the importance of inclusion and incentives to encourage political and decision-making participation. There needs to be active recruitment of women with intersectional protected characteristics in an advisory capacity during decision-making processes with regards to policy, implementation and service provision.

Amina has found that the Muslim and BME women they work with talk about everyday racism and sexism in a way which shows that such oppression is internalised and therefore 'normal'. This results in women blaming themselves, which may impact on their self-esteem. To build the capacity of women to challenge the layers of '-isms' embedded in the culture, structures, and institutions of society, more women at grassroots level need to be empowered to recognise the ways in which cultural, structural, and institutional barriers affect their lives. This capacity-building should be incorporated into policy engagement processes and undertaken in partnership with organisations representing minoritised groups of women.

An intersectional framework is currently lacking in equalities mainstreaming work; such a framework should be developed to assess policies and initiatives and their potential impacts on marginalised groups. The framework would need to be reflective of the varying and multifaceted needs and experiences of marginalised people. This framework should be developed in consultation with organisations that represent marginalised groups. It could be developed as a public tool that could be utilised by multiple organisations, institutions or public bodies.

**What barriers have you come across (if any) in developing intersectional analysis, participation or work practices?**

As we have outlined, the tendency within the public sector to address protected characteristics in isolation from one another has created a system that is not enabling to intersectional ways of working. This is exacerbated by a lack of knowledge and understanding around issues affecting particular groups; for instance, Equality Network/Scottish Trans Alliance and other partners highlighted the persistent lack of knowledge around trans women's lives and needs, which impacts on this group's access to support and services. There is also both a lack of knowledge and resistance to engaging with the lives and needs of non-binary people, despite being people of marginalised genders. Much like trans women, non-binary people can, as a result, lack access to support and services.

There are some groups of women who do not have consistent representation through organisations that represent other aspects of their marginality; for instance, if a grassroots organisation focusing on disability does not have an intersectional approach, the specific experiences of disabled women may be obscured. This means that some groups of women face potential double discrimination in both their distinct community and in the women's community. From the perspective of the women's community aiming to become more intersectional, it can be difficult to establish clear needs and direction from such groups of women when they do not have clear representation in other charities.

There is a clear desire for collaboration between equality-based organisations to enable more exploration and analysis of intersecting equalities issues; however, experience within some of our organisations has found that a lack of funding and resultant capacity issues has been a key barrier to partnership working across equalities organisations to develop intersectional work practices. As a result, despite equalities organisations delivering excellent work that is often complementary, links and intersections of experience are sometimes not fully explored and addressed.

This issue is exacerbated by the tendency to task mainstream, larger organisations with embedding intersectional analysis, when expertise lies with (often much smaller, less well-resourced) organisations representing women who are oppressed on intersecting axes. When these smaller organisations are consulted, it can often be tokenistic and focus on a single issue rather than consistent engagement in developments around gender equality; Amina for instance highlights the issue of organisations representing BME women only being consulted on issues of forced marriage or female genital mutilation (FGM), rather than a wider range of gender equality or VAWG issues. This not only loses valuable insight and expertise (such as consideration of spiritual abuse as a tactic of coercive control, which disproportionately impacts BME women and women from religious backgrounds), it can reinforce harmful stereotypes; for example, that VAWG is worse within BME communities.

At a community and grassroots level, BME women often work within organisations that provide support to other BME women, normally in the capacity of a support worker. These BME women employees often lack opportunities for career progression. Most remain as support workers for the entire duration of their working life, working tirelessly, under very stressful circumstances, for low pay and a lack of recognition of their roles. This means that their expertise and experience is rarely utilised and translated into clear structural and policy change that would directly improve the lives of the women they support. We highlight the need for an increased number of funded policy officer/manager posts within organisations that support the BME community to make use of this expertise and enable change.

Finally and fundamentally, a key barrier is the defensiveness and resistance from people with privilege to recognising intersectional issues.

## **What do you think the NACWG could recommend to the Scottish Government to overcome these barriers?**

### **Funding**

Funding came across as a key recommendation to the Scottish Government across all of our organisations. Suggestions included:

- Go beyond consultation with the usual, larger organisations by increasing funding to smaller, grassroots NGOs that represent minoritised women to enable them to contribute their voices more effectively to policy development in Scotland
- Ensure long-term, sustainable funding across the women's sector more widely
- Increase funding for partnership working which will allow equality organisations to research and highlight the lives of women marginalised in multiple ways
- Provide incentives for NGOs that represent other marginalised groups to increase their work identifying and supporting the needs of women/girls within their specific area

## **Improving intersectional analysis**

As outlined in our response, we believe that the NACWG should recommend the Scottish Government to:

- Develop an intersectional framework as a public tool for identifying the varying and multifaceted needs and experiences of marginalised people in relation to any public policy or project. This framework should be developed in consultation with organisations that represent marginalised groups. It should also be freely available for utilisation by multiple organisations, institutions, or public bodies. The Scottish Government may wish to consider a legislative duty for utilising such a tool within all public offices like the Public Sector Equality Duty, or incorporating such work in an update to the Public Sector Equality Duty
- Lead the way in applying an intersectional analysis in EQIAs, focusing on how protected characteristics intersect with one another to create specific experiences of discrimination/inequality
- Commence the dual discrimination provisions in the Equality Act 2010
- Prioritise the review of the Public Sector Equality Duty
- Improve the use of disaggregated data to focus on intersectionality considerations

## **Addressing barriers to women's participation**

Marginalised women experience more and multiple barriers to participation. There is a need to tackle intersectional gender inequality to increase women's participation, for example, parenthood may be a specific additional barrier to some groups of women, such as some disabled women. Introducing generous paternal leave for partners of expectant mothers (like models within Nordic countries) not only promotes equality and healthier environment for both parents but may have additional benefits to some marginalised women. While this policy would likely benefit many marginalised women, it is important to recognise that some women affected by domestic abuse and honour abuse (largely BME women), find having their partners around after birth more stressful than helpful. Increasing support of post-natal services such as Family Nurses would be considered a necessary change from this group of women. Any future policy change around paternal leave would need to ensure an intersectional approach that supported the most marginalised and vulnerable women.