

Engender Parliamentary Briefing: International Day for the Elimination of Violence against Women

November 2021

BACKGROUND

Engender is Scotland's feminist policy and advocacy organisation. Our aspiration is for a Scotland where women and men have equal access to rights, resources, decision-making and safety. Men's violence against women is a cause and a consequence of women's inequality, as recognised by Scotland's Equally Safe strategy.¹ This affirms the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), which defines violence against women as 'gender-based violence against women', stressing that the social causes of violence against women and girls are rooted in male entitlement, privilege and the exercise of male control and unequal power relations, which gives license to acts of violence against women.²

Engender welcomes this debate to mark the International Day for the Elimination of Violence against Women and the start of 16 Days of Activism. This is the 30th year of the international campaign recognising the global epidemic of violence against women, with 1 in 3 women worldwide subjected to physical or sexual violence by an intimate partner, non-partner or both, and the full continuum of violence perpetrated against women, including sexual harassment, violence in digital contexts, harmful practices, and sexual exploitation.

SPECIFIC CONSIDERATIONS

1. Women's equality and violence against women

Preventing and eradicating violence requires serious action to secure women's social, economic and cultural equality and the rights of women and girls. UN Women has estimated that the impact of Covid-19 for women's equality could mean the loss of 25 years' worth of progress, and Scotland is not immune. Measures to respond to the pandemic have disproportionately affected women's access to paid work - especially younger women and women of colour - and the volume of care that women provide. Risk factors for women experiencing men's violence including poverty, housing insecurity and unemployment have

¹ Scottish Government and COSLA (2018) Equally Safe. Available at: <https://www.gov.scot/policies/violence-against-women-and-girls/equally-safe-strategy/>.

² UN General Assembly (1993) UN Declaration on the Elimination of Violence against Women. Available at: <https://www.ohchr.org/en/professionalinterest/pages/violenceagainstwomen.aspx>.

all been exacerbated. Referral rates across different support and advocacy organisations have fluctuated significantly, with increasing demand for support as lockdown ended.³

Equally Safe has clearly recognised the gendered nature of all forms of violence against women. It provides a framework for planning and delivering services, as well as allowing for the development of services that are tailored to suit the differing needs of women and men affected by violence and abuse. Equally Safe entrenches a bold, feminist analysis which must now be matched by boldness of action to realise its ambitions and the social change that women and girls need.

2. Violence against women is endemic and permeates public and private space

Women in Scotland are not yet adequately protected from misogynistic behaviours. Sexualised and misogynistic harassment happens to the majority of women; costs time, money and energy to avoid; makes women and girls fearful and affects their use of public space and leisure time and constrains women and girls' behaviour and opportunities. It causes a direct harm to victims and communicates harm or risk to other women and girls who witness or hear it. While there are large data gaps on prevalence, available studies confirm the anecdotal picture:

- The 2014 Fundamental Rights Agency survey on violence against women identified that 64% of women in the UK have avoided places or situations for fear of being physically or sexually assaulted in the 12 months prior.⁴
- ActionAid reported in 2016 that more than half (53%) of women in Great Britain had experienced some form of harassment within the last month, and that almost half (43%) had done so at the age of 18 or younger.⁵
- A 2021 study from Girlguiding UK found that 83% of 17- and 18-year-olds and 59% of girls aged 13 to 16 have suffered some form of harassment. Just over a quarter (27%) of all girls and young women have experienced unwanted attention or stalking.⁶
- More than half of women have experienced some form of sexual harassment in the workplace, with one quarter experiencing unwanted touching, and one fifth of women experiencing unwanted sexual advances.⁷

³ Scottish Government (2020) Coronavirus (COVID-19): domestic abuse and other forms of violence against women and girls during Phases 1, 2 and 3 of Scotland's route map (22 May to 11 August 2020). Available at: gov.scot/binaries/content/documents/govscot/publications/research-and-analysis/2020/09/coronavirus-covid-19-domestic-abuse-forms-violence-against-women-girls-during-phases-1-2-3-scotlands-route-map-22-11-august-2020.

⁴ Fundamental Rights Agency (2014) Survey on violence against women in EU (2012). European Union Agency for Fundamental Rights Available at: <https://fra.europa.eu/en/publications-and-resources/data-and-maps/survey-dataexplorer-violence-against-women-survey>.

⁵ ActionAid UK (2016) Nearly three in four women were harassed in past month. ActionAid UK Available at: <https://www.actionaid.org.uk/latest-news/three-in-four-women-uk-world-harassed-in-last-month>.

⁶ Girlguiding UK (2021) It happens all the time. Available at: https://www.girlguiding.org.uk/globalassets/docs-and-resources/research-and-campaigns/girlguiding-research-briefing_girls-experiences-of-sexual-harassment_june2021.pdf.

⁷ TUC (2016) Still just a bit of banter? Sexual harassment in the workplace in 2016.

- Survey data has shown a stark increase in online abuse of women during the pandemic, with 75% of reports perpetrated by an unknown or anonymous online user.⁸

3. Criminal law is failing to respond effectively to protect women

Women often describe their experiences of the criminal justice system in extremely negative terms. Limitations on jury trials because of the pandemic,⁹ including for rape, sexual assault and domestic abuse cases, have significantly increased the procedural delays to access opportunities for justice, with the Scottish Courts and Tribunal Service now having an estimated backlog of nearly 50,000 trials.¹⁰ Delays exacerbate the stress for victim-survivors, impact on their ability to give evidence,¹¹ and reduce already low levels of confidence in the criminal justice system in circumstances where victim-survivors endure existing and significant barriers to justice and safety.¹²

Violence in private settings is largely covered by gendered laws in Scotland, including the world-leading Domestic Abuse (Scotland) Act 2018, even if implementation is far from perfect. In comparison, the 2020 case of *Ahmed v. HMA* demonstrated the limitations of existing laws governing public behaviours, as the judge stated:

“It does not seem to us that a polite conversational request or compliment can be construed as threatening merely because it is uninvited or unwelcome.”

Clearly the Court did not take a gendered approach to analysing the behaviour, which included unsolicited comments towards young women, approaching them in secluded areas and following one woman through the city before grabbing her. Ahmed filmed many instances of his interactions with women as a self-titled “pick-up artist” and offered tips on how to overcome “last-minute resistance” to sex.

4. The Misogyny and Criminal Justice in Scotland Working Group

The Scottish Government has convened an independent working group to consider the most effective legal and other responses to misogynistic harm.¹³ This is a rare and critical opportunity to craft ambitious and meaningful tools to target serious acts of misogyny and communicate that Scotland takes a gendered and robust approach to violence against women. This includes opportunities to develop a fit-for-purpose approach that recognises

⁸ Glitch and End Violence Against Women (2020) The Ripple Effect Covid-19 and The Epidemic of Online Abuse.

⁹ Scottish Government (2021) Changes to criminal court business. Available at: gov.scot/news/changesto-criminal-court-business/.

¹⁰ Scottish Government (2021) Coronavirus (COVID-19): Justice Analytical Services data report - June 2021. Available at: gov.scot/publications/coronavirus-covid-19-justice-analytical-services-data-report-june2021/documents/.

¹¹ Rape Crisis Scotland (2020) Briefing on Coronavirus (Scotland) Bill Provisions.

¹² M. Burman (2009) ‘Evidencing sexual assault: Women in the witness box’ Journal of Community and Criminal Justice. Available at: rapecrisisScotland.org.uk/publications/Evidencing-Sexual-AssaultBurman.pdf.

¹³ Engender is represented on this group, but the information in this briefing represents only our views and analysis.

the scale and harm such harassment causes without undermining existing work to prevent and respond to violence against women as a gendered harm.

An ineffective criminal justice approach to misogynistic harm however risks communicating to women that only some violence against women is motivated by gendered factors and / or that a small number of designated crimes that are successfully prosecuted accurately represents the scale of the problem of misogyny in Scotland.

5. Safer places

We strongly recognise that a legal response cannot be the only response to tackling misogyny. It is also essential to accelerate actions to realise a more equal Scotland for women and girls, eradicating their poverty, insecurity and outdated gender norms that constrain their opportunities, with an intersectional lens that includes a key focus on groups of women further marginalised and who experience forms of discrimination and oppression because of their overlapping identities. It will require rooting out segregation and gender stereotyping in education. It will mean increased women's participation and representation in politics and public life. It will necessitate the provision of flexible, high quality and affordable childcare to facilitate women's participation in the labour market. It will mean taking steps to narrowing the gender pay gap, and to developing social security policies in Scotland that promote women's safety and financial independence (e.g., automatic individual payments of Universal Credit).

A critical lever in responding to violence against women, both directly and by enhancing women's equality, is the design and use of public space. The needs of women are currently marginalised by planning policy and practice, leading to decisions which create poorly lit spaces, inaccessible streets and public buildings, or which place opportunities for work, childcare, and leisure far from one another.

The recently published Draft National Planning Framework (NPF4) runs to 131 pages and there is not one mention of women.¹⁴ The only awareness of gender as even a marginal concern is offered as “encouraging active lifestyles, through walkable neighbourhoods, as well as ensuring equitable access for everyone (regardless of gender, age, ability and culture)”. While safety is mentioned elsewhere, no link to violence against women nor to lighting, route planning and accessibility nor any other concern relevant to women's safety or equality is considered.

This omission is despite the requirement under the new Planning Act (Scotland) 2019 that Ministers must produce a statement alongside the National Planning Framework which sets out how the plans for the development of land contribute to improving equality and eliminating discrimination. No Equality Impact Assessment has been published alongside the Draft.

¹⁴ Scottish Government (2021) Scotland 2045 - fourth National Planning Framework - draft: consultation. Available at: <https://www.gov.scot/publications/scotland-2045-fourth-national-planning-framework-draft/documents/>.

This total failure to demonstrate any concern for women’s safety nor for women’s equality more generally in the Scottish Government’s long-term, overarching framework for planning and spatial development suggests that public space will remain a space designed for men.¹⁵ Given recent public demands for action to end the pervasive and constant harassment that women experience and men’s violence against women carried out in public spaces, this gap is particularly egregious, ignoring the Scottish Government’s own research and analysis.¹⁶

TAKING ACTION

This year’s UN theme for the 16 Days of Activism “*Orange the world: End violence against women now*” emphasises the urgency of the need to eradicate men’s violence against women. Doing so demands that we think in terms of effective prevention and responses, tackling women’s inequality with men across all areas of life. Recent high-profile tragedies occurring in public spaces are the sharp end of a spectrum of violence perpetrated in public and private settings against women every day. Challenging misogyny requires recognition of its pervasiveness and role in maintaining power imbalances.

FOR FURTHER INFORMATION

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ABOUT US

Engender is Scotland’s feminist policy and advocacy organisation, working to increase women’s social, political and economic equality, enable women’s rights, and make visible the impact of sexism on women and wider society. We work at Scottish, UK and international level to produce research, analysis, and recommendations for intersectional feminist legislation and programmes.

¹⁵ Engender (2020) Engender response to the Scottish Government ‘Call for ideas’ for the National Planning Framework 4. Available at: <https://www.engender.org.uk/content/publications/Engender-Call-for-Ideas-Response-March-2020.pdf>.

¹⁶ Scottish Government (2019) Equality Impact Assessment UPDATED – June 2019. Available at <https://www.gov.scot/binaries/content/documents/govscot/publications/impact-assessment/2019/06/planning-bill---post-stage-2-equality-impact-assessment/documents/planning-bill-post-stage-2-equality-impact-assessment/planning-bill-post-stage-2-equality-impact-assessment/govscot%3Adocument/Planning%2BBill%2B-%2Bpost%2Bstage%2B2%2Bequality%2Bimpact%2Bassessment.pdf>.