

## Engender Parliamentary Briefing: International Women's Day 2022 - #BreakTheBias

8 March 2022

### BACKGROUND

Engender is Scotland's feminist policy and advocacy organisation. We work to realise a Scotland where women and men have equal access to power, resources, rights and safety. We work across Scottish, UK and International policymaking to ensure that systematic inequality between women and men is made visible and addressed.

This year's theme - #BreakTheBias – aims to highlight conscious and unconscious discrimination against women in all walks of life. 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.

Breaking the structural bias that leaves women poorer, further from power and opportunities and more vulnerable to violence, abuse and harm demands urgent attention and action.

### 1. Challenging gender-blind laws that fail to guarantee justice

Scotland's strategy on eliminating violence against women, Equally Safe, has clearly recognised the gendered nature of all forms of violence against women. The strategy entrenches a bold, feminist analysis that must now be matched by boldness of action to realise its ambitions and the social change needed to eradicate gender-based violence.

Violence in private settings is largely covered by reasonably gendered laws in Scotland, including the world-leading Domestic Abuse (Scotland) Act 2018, although implementation is far from perfect. The criminal justice system remains deeply flawed, often described by victim survivors as inflicting harm as, or even more, traumatic than the offence itself. Even prior to Covid-19 related disruption, victim-survivors in Scotland faced procedural delays of up to two years, but the Scottish Courts and Tribunal Services shows that the backlog of cases is now 43,016 scheduled trials.<sup>1</sup>

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<sup>1</sup> Scottish Courts and Tribunals Service Quarterly Statistics (2022) Quarterly Criminal Court Statistics – Report 15 – Quarter 3 2021/22. Available at <https://www.scotcourts.gov.uk/docs/default-source/aboutscs/reports->

Despite progress in legislative protection against domestic abuse and sexual crime, women 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. While there are large data gaps on prevalence, surveys suggest that it is extremely high. For example, in 2016 ActionAid reported 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.<sup>2</sup>

This International Women's Day, the Independent Working Group on Misogyny and Criminal Justice<sup>3</sup> will launch its report into tackling misogyny in Scottish justice. This report presents us all with 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. We need an approach that is fit-for-purpose, recognises the scale and harm such harassment causes without undermining existing work to prevent and respond to violence against women as a gendered harm. We welcome the report's launch and urge Parliament to respond to its recommendations swiftly.

## **2. Ending policy-making that fails to consider women's needs**

Women in Scotland continue to face significant barriers to equality and the realisation of their fundamental human rights. The Gender Equality Index sets a baseline score for women's equality at 73 out of 100 (100 being 'full equality'), which masks the deeper inequality experienced by different groups of women. Disabled women, women from Black and minority ethnic (BME) communities, LGBTI women, younger and older women, migrant, refugee, asylum-seeking and stateless women, low-income women, women with minority faiths, unpaid carers, care experienced girls and women, and women in rural areas all experience gender inequality in particular ways that are not fundamentally taken into consideration by policymakers in Scotland and the UK.

Gendered policymaking disrupts these pervasive inequalities and identifies positive opportunities to advance equality. Gender mainstreaming is a strategic approach to tackling systemic gender inequality which stems from the understanding that gender inequality is socially constructed, and that the sexism inherent to our institutional structures and decision-making must be actively targeted. Through the Equality Act 2010 gender – and equality – mainstreaming is put on a statutory footing through the public sector equality duty (PSED).

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and-data/criminal-court-statistics/2021-2022/scts-quarterly-criminal-court-statistics---bulletin-q3-2021-22.pdf?sfvrsn=8a39ce60\_2

<sup>2</sup> 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>.

<sup>3</sup> Engender is represented in the membership of this group however the views and commentary in this briefing are our own.

However, progress to date has been extremely limited. The Scottish Government is currently consulting on reforms to Scottish Specific Duties designed to advance compliance with PSED. The present regulations have not resulted in significant progress but we are concerned that the Scottish Government's current proposals will still not go far enough to realise the potential of gender mainstreaming. We urge them to go further and create more accountability and structure for public bodies to integrate gender competence.

### 3. Protecting women's human rights

Having campaigned for women's human rights since our inception over a quarter of a century ago, Engender warmly welcomes the Scottish Government's intention to incorporate the Convention on Elimination of All Forms of Discrimination Against Women (CEDAW)<sup>4</sup> in a new Scottish Human Rights Bill within this parliament. CEDAW reflects the need for gender equality to underpin human rights so that they can be enjoyed, in full and without discrimination, by all women and girls.<sup>5</sup> It provides an international common legal framework which 'legitimises women's claims for rights and equality' through articles spanning public and political life, marriage and family life, education, employment, and health.

We see four immediate cross-cutting benefits of domestic incorporation of CEDAW:

- The significantly improved visibility of CEDAW and the rights it protects;
- Enhanced accountability for women's rights including the possibility that any woman can access a remedy for a breach of her rights in her local court;
- Rights could be better delivered without litigation because of requirements for public sector bodies to better embed substantive equality and the detailed jurisprudence spanning the full treaty articles into policy and practice;
- As the overarching aim of incorporation would be to avoid litigation, effective incorporation would require the legislature's enhanced vigilance regarding compliance.

Scotland's new Human Rights Law must not only be ambitious; it must reach those who have the most to gain from greater justiciability and accountability. Failure to effectively address the specific needs of women would be to risk re-entrenching inequality between women and men in relation to social and economic rights.

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<sup>4</sup> In addition to ICESCR, the Convention on the Elimination of All Forms of Racial Discrimination (UNCERD), the Convention on the Rights of Persons with Disabilities (UNCRPD) and other rights for LGBT people and older people.

<sup>5</sup> Anuradha Rao and the International Women's Rights Action Watch (2008) 'Domestic Application of the Convention on the Elimination of All Forms of Discrimination against Women: Potential and Actuality', p. 13.

#### 4. Creating opportunities for women and girls

Division of labour and assets between women and men remains profoundly gendered. Women's access to paid work, leisure time and power remains heavily constrained by traditional social roles as carers and mothers, even as they have increasingly entered and remained in the labour market.<sup>6</sup> This has been exacerbated by the response to Covid-19, which has seen a significant displacement of care and childcare from services to households and largely to women.<sup>7</sup>

The structural gender inequalities regarding care mean that women earn less and are more reliant on dysfunctional social security programmes than men. Rates of Universal Credit applications doubled over the course of 2020<sup>8</sup> and as a result, significantly more women are affected by the single household payment of Universal Credit and other aspects of the 'welfare system' such as the two-child limit, the benefit cap and the five-week wait. The single household payment undermines gender equality by reflecting an antiquated notion of a single (male) breadwinner who controls household expenditure as the default and more easily enables perpetrators of domestic abuse to control and withhold resources.

Women's labour market participation remains characterised by occupational segregation that sees women overrepresented in certain undervalued and low-paid sectors.<sup>9</sup> Women account for 60% of workers earning less than the Living Wage, and Scotland's gender pay gap persists at 10%, even higher for further marginalised women.<sup>10</sup> Women are less likely to have access to savings to rely on if hours are reduced or they are made redundant. All of this is disproportionately experienced by women who face multiple structural inequalities, including Black and minoritised women, disabled women, trans women, and younger and older women. Labour market inequality has deepened over the course of the pandemic as women – especially Black and minoritised women and younger women – are more likely to be employed in a sector that was shut down or affected by social distancing restrictions, such as tourism, retail, services and hospitality.<sup>11</sup> Since the start of the crisis 18% of women have been forced to reduce their hours, compared to 10% of

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<sup>6</sup> Engender (2020) Gender & Unpaid Work: The Impact of COVID-19 on Women's Caring Roles. Available at: [https://www.engender.org.uk/content/publications/1594974358\\_Gender--unpaid-work---the-impact-of-Covid19-on-womens-caring-roles.pdf](https://www.engender.org.uk/content/publications/1594974358_Gender--unpaid-work---the-impact-of-Covid19-on-womens-caring-roles.pdf)

<sup>7</sup> Folbre, Nancy (2020) "The Care Theory of Value." Care Talk. Available at: <https://blogs.umass.edu/folbre/2020/04/08/thecare-theory-of-value/>.

<sup>8</sup> UK Government (2021) Universal Credit statistics, 29 April 2013 to 8 July 2021. Available at: <https://www.gov.uk/government/statistics/universal-credit-statistics-29-april-2013-to-8-july-2021/universalcredit-statistics-29-april-2013-to-8-july-2021>.

<sup>9</sup> Close the Gap (2020) Disproportionate disruption: The impact of COVID-19 on women's labour market equality.

<sup>10</sup> Close the Gap (2021) Gender Pay Gap Statistics. Available at: <https://www.closesthegap.org.uk/content/resources/Working-Paper-22---Gender-Pay-Gap-Statistics-2021.pdf>

<sup>11</sup> Close the Gap (2020) Disproportionate Disruption: The impact of Covid-19 on women's labour market equality.

men, and one in four women are considering downshifting their career or leaving the workforce entirely.<sup>12</sup>

It is therefore extremely concerning that the Covid-19 Inquiry offers no consideration of gendered impacts, mainstreaming or women's human rights<sup>13</sup> and that key recovery frameworks such as the National Strategy for Economic Transformation<sup>14</sup> and the Covid-19 Recovery Strategy<sup>15</sup> render women and gender inequality nearly invisible. There is an urgent need to ensure women's income security and labour market access to avoid a widely predicted rollback in equality, for example by delivering separate payments of Universal Credit and investing in care and childcare as key growth sectors.

## 5. Reducing healthcare bias that leaves women sicker and in pain

The Women's Health Plan launched in summer 2021 is a welcome first step to improving outcomes for women's health and wellbeing in Scotland. The Scottish Government describe the publication as "first stage of a long-term commitment to reducing health inequalities for women". However, understanding the baseline status of women's health in Scotland is undermined by a lack of evidence and attention, including limited gender-sensitive sex disaggregated data.<sup>16</sup> The UK has been reported to have the largest gap in positive health outcomes between women and men in the G20 and the 12<sup>th</sup> largest globally.<sup>17</sup>

For example, evidence shows that women are twice as likely to be affected by "depressive disorders" and men by "behavioural disorders" and substance abuse.<sup>18</sup> More women report that they suffer from anxiety, and depression in women is highly increased amongst those with caring responsibilities.<sup>19</sup> 70% of people affected by chronic pain are women but women suffering chronic pain are less likely to be prescribed painkillers and

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<sup>12</sup> Lean In and McKinsey & Company (2021) Women in the Workplace. Available at: <https://womenintheworkplace.com/>

<sup>13</sup> Engender (2022) 'Engender joins other organisations dismayed at exclusion of equality and rights in Scottish Government's Covid-19 inquiry, Available at: <https://www.engender.org.uk/news/blog/engender-joins-other-organisations-dismayed-at-exclusion-of-equality-and-rights-in-scottish/>

<sup>14</sup> Scottish Government (2022) Scotland's National Strategy for Economic Transformation. Available at: <https://www.gov.scot/publications/scotlands-national-strategy-economic-transformation/documents/>

<sup>15</sup> Scottish Government (2021) Covid Recovery Strategy: for a fairer future. Available at: <https://www.gov.scot/publications/covid-recovery-strategy-fairer-future/>

<sup>16</sup> Gender-sensitive data are statistics and other information that adequately reflect gendered differences and inequalities in the situation of women and men in all areas of life. Sex-disaggregated data are data that is broken down by sex, so that it is possible to compare and contrast differences between men and women. See more at: Engender (2021) Engender response to "Sex and Gender in Data: Collection and Publication"; guidance from the Chief Statistician to Scottish Public Bodies. Available at: [engender.org.uk/content/publications/Engender-response-to-Chief-Statistician-working-group-consultation-on-sex-and-gender-and-data-FINAL.pdf](https://www.engender.org.uk/content/publications/Engender-response-to-Chief-Statistician-working-group-consultation-on-sex-and-gender-and-data-FINAL.pdf)

<sup>17</sup> House of Lords (2021) Women's Health Outcomes: Is there a gender gap? Available at: [lordslibrary.parliament.uk/womens-health-outcomes-is-there-a-gender-gap](https://lordslibrary.parliament.uk/womens-health-outcomes-is-there-a-gender-gap)

<sup>18</sup> WHO (2001) The World Health Report 2001. Available at: [who.int/whr/2001/en/whr01\\_en.pdf](https://www.who.int/whr/2001/en/whr01_en.pdf)

<sup>19</sup> The Mental Health Foundation. 'Women and Mental Health.' Available at: [mentalhealth.org.uk/a-to-z/w/women-and-mental-health](https://www.mentalhealth.org.uk/a-to-z/w/women-and-mental-health)

more likely to receive prescriptions for sedatives.<sup>20</sup> For many women pain, especially that associated with gynaecology, is normalised or dismissed in interactions with healthcare professionals.<sup>21</sup> Autoimmune diseases present with a clear gender bias with a greater prevalence amongst women, occurring at a rate of two to one.<sup>22</sup> Conditions including chronic fatigue, ME, Lupus, and chronic Lyme disease are considerably more likely to be diagnosed in women, but the reasons for this remain unclear and the conditions themselves seem poorly understood.<sup>23</sup> Early data surrounding 'Long-Covid' suggests women experience significantly elevated risks.<sup>24</sup>

There is a need to expand the Women's Health Plan and to progress towards the Scottish Government's commitment to establish an Institute for Women's Health, as in the SNP's 2021 Manifesto. This should include a fulsome consideration of the role of power and medical gatekeeping in women's poorer healthcare outcomes.<sup>25</sup>

## 6. Making public spaces work for women and girls as well as they do for men and boys

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 Draft National Planning Framework (NPF4) published in October 2021 runs to 131 pages and there is not one mention of women.<sup>26</sup> 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

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<sup>20</sup> Harvard Health Blog. 'Women and pain: Disparities in experience and treatment'. Available at: [health.harvard.edu/blog/women-and-pain-disparities-in-experience-and-treatment-2017100912562](https://www.health.harvard.edu/blog/women-and-pain-disparities-in-experience-and-treatment-2017100912562)

<sup>21</sup> Patti Digh (2016) No, You Are Not an Hysterical Female, and This Is Not Just Anxiety. HuffPost. Available at: [huffpost.com/entry/no-you-are-not-an-hysterical-female\\_9110982](https://www.huffpost.com/entry/no-you-are-not-an-hysterical-female_9110982)

<sup>22</sup> Angum F, Khan T, Kaler J, Siddiqui L, Hussain A. (2020) The Prevalence of Autoimmune Disorders in Women: A Narrative Review. *Cureus*. Available at: [ncbi.nlm.nih.gov/pmc/articles/PMC7292717/](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7292717/)

<sup>23</sup> Wormser, G. P., & Shapiro, E. D. (2009). Implications of gender in chronic Lyme disease. Available at: [ncbi.nlm.nih.gov/pmc/articles/PMC2913779/](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2913779/)

<sup>24</sup> King's College blog. New research identifies those most at risk from 'long COVID'. Available at: <https://www.kcl.ac.uk/news/study-identifies-those-most-risk-long-COVID>

<sup>25</sup> Research has also found that where many doctors discount or dismiss women's report of their disease or treat them with suspicion, the doctors reported feeling they had to confirm women's stories themselves and that this results in women's knowledge being "filtered through the medical gaze" in a medical system historically developed by men – see Young, Fisher and Kirkman (2018) 'Do mad people get endo or does endo make you mad?' Available at: [journals.sagepub.com/doi/abs/10.1177/0959353518815704](https://journals.sagepub.com/doi/abs/10.1177/0959353518815704)

<sup>26</sup> Scottish Government (2021) Fourth Draft National Planning Framework. Available at : <https://www.transformingplanning.scot/national-planning-framework/draft-npf4/?id=3904#?id=3904>

alongside the National Planning Framework which sets out how the plans for the development of land contribute to improving equality and eliminating discrimination.

We urge Scottish Government to update the final NPF to include meaningful priorities on ensuring women's safety in and access to physical space. We also recommend that priorities such as '20 Minute Neighbourhoods' pay attention to the different gendered experiences, opportunities and barriers to navigating local communities, for example through adopting physical space safety audits as part of the scoping processes.

## **CONCLUSION**

In summary, there remains a wide gulf between aspiration and eradication of bias that inflicts women and girls' experiences of the world. This International Women's Day we urge supporters of women's equality to go beyond rhetoric and deliver on existing commitments that will address systemic bias:

1. Respond swiftly to the recommendations of the Misogyny and Criminal Justice Working Group;
2. Improve the quality of gender mainstreaming through Scottish Statutory Duties that ensure accountability and structure;
3. Ensure that CEDAW and other minority group rights are a central and effective element of Scotland's Human Rights Bill;
4. Deliver separate payments of Universal Credit and invest in care and childcare as key growth sectors;
5. Expand the Women's Health Plan and progress towards the establishment of an Institute for Women's Health;
6. Revise NPF 4 to include action of women's safety in and access to physical space.

## **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.