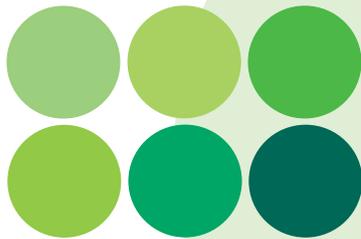


GENDER EQUALITY AND SCOTLAND'S CONSTITUTIONAL FUTURES



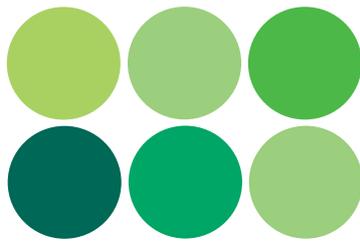


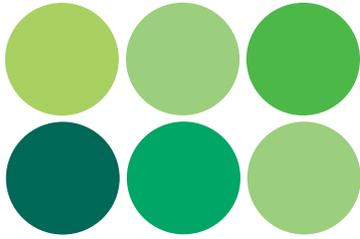
Engender is Scotland's gender equality organisation.

For more than 20 years we have worked across Scotland on feminist policy, advocacy, and activism. We make women's inequality visible, and bring women together to make change happen.

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1. INTRODUCTION

The prospect of independence has generated a great deal of debate around alternative visions of society across civic Scotland. Engender takes no position on the outcome of the referendum, and it is clear that particular constitutional arrangements do not dictate or guarantee social policy direction. However, the discussions about the Scotland that we might shape, regardless of the decision made on 18 September 2014, present an opportunity to rearticulate our vision for gender equality and consider what constitutional arrangements might best facilitate the changes we would like to see.

Engender has a vision for a Scotland in which women and men have equal opportunities in life, equal access to resources and power, and are equally safe and secure from harm. We wish to live and work in a country in which women and men are represented as equals in the media and in public life and have an equal voice in shaping and making political decisions – where gendered discrimination has been consigned to history.

Engender is a feminist membership organisation that works to make visible the impacts of sexism on women, men and society, and on our cultural, political and economic development. Our policy analysis is informed through work in partnership with marginalised communities of women which have included disabled women, transgender women, carers, refugee and asylum-seeking women, and women affected by welfare reform. We also draw on the work carried out across the women's sector, amongst organisations and initiatives as diverse as Close the Gap, the Scottish Women's Budget Group, Rape Crisis Scotland, Zero Tolerance, Scottish Women's Aid and the Women's Support Project.

Over the past year and a half we have been bringing women together under the banner of "Feminists talk Scotland's futures." Our members have discussed issues including women and the economy, abortion rights and reproductive health, migration, and sustainability and land reform. Some of those discussions are reflected in these pages.



Women's inequality in Scotland

- **Care gap:** 62% of unpaid carers are women.¹ Twice as many female carers as male carers receive benefits,² at a rate of £1.70 per hour
- **Freedom gap:** Every 13 minutes a woman in Scotland experiences violence³
- **Income gap:** Twice as many women as men rely on benefits and tax credits. Women are 95% of lone parents who receive income support⁴
- **Pay gap:** Women earn 13% less than men as full time workers and 34% less than men part-time.⁵ Female-dominated occupational and industrial sectors are low-paid and undervalued
- **Power gap:** Only 15% of senior police and 25% of Senators of the College of Justice in Scotland, 10% of UK national newspaper editors and 8% of Directors of FTSE 250 firms are women
- **Representation gap:** Only 36% of MSPs, 17% of MEPs, 24% of councillors, 3% of council leaders, and 26% of trade union leaders are women.⁶

The indicators in the box above describe a Scotland in which significant gender inequality persists, to the detriment of women's security, wellbeing, and autonomy. They reflect a wide range of policy areas that are of relevance to the constitutional futures discussion, and this report will consider many of these in some detail.

¹ Scottish Government (2010) *Caring in Scotland: Analysis of Existing Data Sources on Unpaid Carers in Scotland* (Draws on 2001 Census data and the Scottish Household Survey 2007/08)

² Department for Work and Pensions (2013) *DWP longitudinal study compared with 5% sample data*

³ Scottish Government (2013) *Domestic abuse recorded by the police in Scotland, 2012-13*

⁴ Engender (2012) *Multiple Jeopardy: The impacts of the UK Government's proposed welfare reform on women in Scotland*

⁵ Office for National Statistics (2013) *Annual Survey of Hours and Earnings, 2013 Provisional Results*

⁶ Equalities and Human Rights Commission (2011) *Sex and Power 2011 Scotland*; Centre for Women and Democracy (forthcoming) *Sex and Power 2014*. (Figure of 36% MSPs includes the Presiding Officer)



This report aims to:

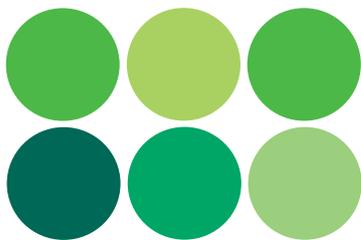
- **Inform** decision-makers, civil servants, third sector stakeholders and interested individuals about critical inequalities that persist between women and men;
- **Analyse** where power and responsibility exists for addressing inequalities under Scotland's current constitutional arrangements; and
- **Discuss** implications for gender issues under different constitutional arrangements.

It is important to state from the outset that age, class, disability, ethnicity, location, religion, sexual orientation and many other factors significantly affect women's experiences of gender inequality. Vital intersectional issues are mentioned throughout the report, although comprehensive analysis of the multiple discrimination faced by women in Scotland is not possible here.

The following policy chapters of this report present key issues that have a significant bearing on women's inequality and gender relations, clustered under *politics and power*, *economy*, and *society and culture*. In turn, each cluster considers issues that are relevant to the independence debate. These are:

- Access to power and political participation, equal representation and the gender 'architecture' in place within political institutions;
- The care economy, including childcare and unpaid care, economic development, employment and social security;
- Poverty, gender stereotyping, the media, and violence against women.

Each section sets out the current policy context in Scotland, and explains how power and responsibility is currently divided between Westminster and Holyrood. The final chapter of this report turns to the gender implications of constitutional change. It describes the high degree of interdependence between policy setting at Holyrood and Westminster, points to new institutions and systems that would facilitate equality in an independent Scotland, and discusses the profile of gender in the independence debate.



2. POLITICS AND POWER

Power is exercised in a variety of spaces across Scotland, from the Scottish Parliament to council chambers, local committees and interest groups. Political participation and equal representation remain at the heart of feminist agendas, because they are critical for the development of gender-sensitive laws, institutions, policies, and programmes. Having women around the table changes the subjects that are discussed and the outcomes of those discussions.

This chapter looks at political institutions, political representation, women in public life, and the gender ‘architecture’ of Scotland and the UK. The evidence is clear that all of these things are critical to ensuring that anti-discrimination laws, national strategies for women’s equality and gender equality bodies provide an effective challenge to inequality and discrimination.⁷

The purple boxes set out how power and responsibility for key gender equality issues are divided between the UK Government and the Scottish Government.

2.1 POLITICAL INSTITUTIONS

The structures of parliament and other political bodies set the parameters for different groups’ participation in setting public policy. As with any workplace, gendered barriers prevent women from accessing employment in politics, and women typically perceive political culture in Scotland and the UK as ‘macho’ and alienating.⁸ Traditional systems and practices at Westminster, ranging from the House of Lords and the electoral process, to inflexible working hours that include sitting times until 10.30pm, mean that women are less likely to enter into professional politics.⁹

In a bid to address this, prior to devolution, the women’s movement helped to secure more inclusive structures within the new Scottish Parliament. There is a mandatory equal opportunities committee, parliament is convened around

⁷ Council of Europe (2000) *Handbook on national machinery to promote gender equality and action plans*

⁸ Discussion events held by Engender; Engender’s membership; Hansard Society (2010) *Has devolution delivered for women?*

⁹ The House of Lords is bias against women’s membership: none of the 26 bishops are women, and only two of the 92 hereditary peers. Almost all women members of the House of Lords are life peers.



'family-friendly' working hours, and contains a crèche for staff and visitors. The parliament's 'founding principles' of equal opportunities, access and participation, sharing the power and accountability, also align with women's equality in a broad sense.

Scotland's voting system, proportional representation, does not guarantee higher numbers of women in politics, but it does facilitate more diverse representation.¹⁰ In contrast to the closed list party selection of first past the post, it gives the voter agency in choosing candidates from within a specific political party and there is clear potential for feminist advocates to campaign for women's political participation within this context.

The establishment of a new parliament did allow for effective use of gender balancing measures at the party level, and the 50:50 campaign and, subsequently, women's organisations urged their use. These steps have contributed to the positive gendered impacts outlined throughout this paper, not least as a result of greatly increased access and the openness of successive administrations to working collaboratively with an active women's sector in Scotland. The equality achievements of the first few Parliaments have prepared the ground for potential further improvements in women's political participation.

Political representation

Gender parity across our political institutions, is, however, far from becoming reality. Political power is still concentrated amongst a small number of people in the UK and the political class remains overwhelmingly male, white, and privately educated.

Evidence from around the world shows that diverse political representation better meets the needs of the societies they serve. There is a correlation between greater parliamentary gender balance and the political profile of women's rights issues and social policy generally.¹¹ Other protected groups are also under-represented within the UK political sphere and the same imperatives around democracy and

¹⁰ The Fawcett Society (2012) *The impact of electoral systems on women's political representation*

¹¹ International Institute for Democracy and Electoral Assistance (2005) *Women in Parliament: Beyond Numbers*; UN Division for the Advancement of Women (2005) *Equal participation of women and men in decision-making processes, with particular emphasis on political participation and leadership*; OSCE Office for Democratic Institutions and Human Rights (2011) *Gender equality in elected office: A six-step action plan*



inclusion apply. Indeed, improving gender balance tends to lead to improving the representation of other under-represented groups.¹² Strategies to encourage black and minority ethnic (BME), disabled, lesbian, bisexual and transgender, minority faith, and refugee women into political office would benefit their respective communities and wider society. In addition to enriching parliamentary perspectives, representative parliaments would also challenge normative gender roles and perceptions of public authority. Where women are seen to succeed, more women participate.

It is a matter of concern, therefore, that the UK currently sits at 58th in the world on women's parliamentary representation.¹³ A mere 22% of Westminster MPs are women and women hold only 4 of 22 seats in the Cabinet.

At Holyrood, the female representation rate of 36% is more encouraging. However, in its fourth parliamentary session, the Scottish Parliament has dropped from a high of 4th place internationally down to 13th.

In terms of constitutional change, the issue of political representation is framed by the success of the women's movement prior to devolution. Women's sustained engagement across civil society and in diverse political arenas culminated in the 50:50 campaign for equal representation, which ultimately achieved a 37% return on seats for women in the inaugural elections. Scottish Labour's 'twinning' policy was particularly successful and shows that, when implemented with care by a political party, gender-balancing measures do work. However, for lasting, meaningful change, such procedures would need to be adopted by every political party and it has proved difficult to consolidate this early progress. Women are comprehensively under-represented across local government and party activity at the grassroots in Scotland – male-dominated political cultures prevail. The 2012 council elections returned fewer than 25% of seats to women, intensifying long held concerns about the supply of candidates for selection in Scottish elections.

Parliamentary quotas, implemented at party level, and a range of mechanisms within selection and electoral processes are employed worldwide to increase the

¹² The Electoral Commission (2004) *Gender and political participation*

¹³ Inter-Parliamentary Union (accessed 19/2/14) <http://www.ipu.org/wmn-e/classif.htm>



female representation rate. In the highest-achieving 20 countries, nine use legally enforceable quota systems, six use voluntary quotas and other forms of positive action are in use.¹⁴ The UK has an extended ‘Temporary Special Measure’ in place, which allows parties to adopt women-only shortlists for candidates. However, this is non-binding and the United Nations’ women’s rights committee, CEDAW (Convention on the Elimination of Discrimination against Women), has called on the UK to consider more prescriptive measures.¹⁵

Power and responsibility

Use of parliamentary quotas and temporary special measures in the Scottish Parliament is currently reserved to Westminster under the provision on political parties in the Scotland Act 1998.

Equality law is also reserved to Westminster. Some temporary special measures, including all-women shortlists, require amendments to the Equality Act 2010, which prohibits discrimination on the grounds of sex.

So-called “positive discrimination” requires a specific exemption from the provisions of the Act.

Power and responsibility rest with: Westminster

2.2 PUBLIC LIFE

The persistent dichotomy between public and private spheres of life in Scotland underpins women’s inequality. International evidence suggests that lack of gendered power balance in the wider public domain ultimately has a major impact on equality of outcomes across government.¹⁶ Despite progress in some quarters, ongoing gendered division of labour and the sustained over-representation of men in public life is a barrier to greater gender equality.

¹⁴ Centre for Women and Democracy (forthcoming) *Sex and Power 2014*. The only two countries not to have used quotas or positive action have very small legislatures (Andorra and the Seychelles).

¹⁵ UN CEDAW Committee (2013) *Concluding observations on the seventh periodic report of the United Kingdom*

¹⁶ World Bank (2012) *World Development Report 2012 Background Paper: Gender quotas and female leadership*



Women have unequal access across public, private sector and cultural institutions, as well as politically. For women from minority groups, accessing public life is even more challenging.

In 2011, women held the following proportion of senior public positions in Scotland:

- 32% of all public appointments
- 31% of head teachers in secondary schools, despite over-representation at other occupational levels in the sector as a whole
- 15% of senior police officers.¹⁷

In terms of media and culture:

- 78% of UK newspaper articles were written by men over the course of a month in 2013
- 84% of reporters / guests on BBC Radio 4's Today show were men over the course of a month in 2013¹⁸
- Between 1999 and 2007, 12-15% of screenwriters and fewer than 10% of directors in the UK film industry were women.¹⁹

In order to participate fully in society and to exercise equal citizenship, women must be able to contribute across the spectrum of civic life, whether as members of political parties and trade unions, in the arts, in sport and, critically, in positions of power, as well as within community structures and activism. If they do not, women's diverse perspectives and experiences will continue to be marginalised, to the detriment of women and society more broadly.

¹⁶ World Bank (2012) *World Development Report 2012 Background Paper: Gender quotas and female leadership*

¹⁷ EHRC (2011) *Sex and Power 2011 Scotland*

¹⁸ The Guardian (2011) (accessed 19/2/14) <http://www.theguardian.com/lifeandstyle/2011/dec/04/why-british-public-life-dominated-men>

¹⁹ British Film Institute (2013) *Female screenwriters and directors of UK films 2010-12*



Power and responsibility

Equality legislation is reserved to Westminster. The Equality Act 2010 provides protection from direct and indirect discrimination, including in employment, and in the provision of goods, facilities, and services.

The public sector equality duty (PSED) places a mandatory duty on public authorities across Great Britain to act to reduce gender discrimination and to promote gender equality. The enabling legislation for this is the UK Equality Act 2010, but Scotland is responsible for the specific regulations that apply to Scottish public bodies.

The Scottish Parliament is responsible for appointing a Commissioner for Public Appointments in Scotland, to ensure that public appointments procedures are fair. The office of the commissioner has a programme of activity intended to ensure that appointees are drawn from a diverse range of backgrounds.

Power and responsibility rest with: mostly Westminster

2.3 GENDER ARCHITECTURE

The gender political ‘architecture’ of a country includes the governance structures put in place to tackle gender inequality and discrimination.

A wide variety of models that combine different approaches and tools are in operation globally, including:

- Distinct ministries or Ministers for women or gender, such as the Ministry of Women’s Affairs, New Zealand, or the Ministry of Gender Equality and Family, South Korea
- Independent oversight mechanisms, such as National Human Rights Institutions (NHRIs), ombudsman and commissioners. Some countries have established a specialised NHRI to address discrimination, equality and/or women’s rights, for example, Croatia, the Netherlands and Sweden



- Advisory and non-departmental public bodies (NDPBs), such as the Equality Commission in Northern Ireland
- Parliamentary committees dedicated to gender, such as the Committee on Gender Equality in Bosnia Herzegovina
- Embedded units or ‘focal points’ across government departments, such as in Norway and Spain
- Institutionalised gender budgeting, such as in Andalucía and Iceland.

Statutory protections include anti-discrimination laws and requirements to promote gender equality positively, to widely varying degrees. Gender issues are sometimes folded into human rights and broader equalities ‘machinery’ and legislation.

Viewed next to the highest-achieving international comparators, the UK’s gender architecture appears insufficient to deliver robust outcomes. Recent changes have raised concerns about the UK’s direction of travel on gender issues:

- The Women’s National Commission, a long-standing advisory NDPB, was disbanded in 2010 and no alternative cross-departmental mechanism to ensure women’s voices are heard has been introduced. Pan-UK engagement work is now entirely carried out by the women’s sector and civil society, including the UK Joint Committee on Women, of which Engender is the member for Scotland, the thematic End Violence Against Women coalition, and the trade union Council of the Isles
- The Women and Equality Unit has been replaced by the Government Equalities Office (GEO), and effectively downgraded from an independent department to a unit within the Department for Media, Culture and Sport, with reduced capacity and authority. Its funding has been cut from £76 million in 2010-11 to £47.1 million in 2014-15²⁰
- The Equalities and Human Rights Commission (EHRC), the UK’s statutory equalities regulator with a mandate on gender issues, has seen dramatic funding cuts and a reduction of its powers, leading to significant capacity issues and lessened recourse for women faced with discrimination.

²⁰ GEO (2010) *Government Equalities Review Spending Review Settlement*



- The Gender Equality Duty, which obligated all public bodies to comply with a range of gender-specific requirements, was consolidated under the Public Sector Equality Duty (PSED). Ministerial priority setting on gender has been lost and analysis suggests that public bodies are setting fewer gender-specific outcomes now that the PSED is in place²¹
- Anti-discrimination laws have been weakened or placed under ‘wholesale review’. This includes equal pay legislation,²² employment law²³ and the public sector equality duty (PSED)²⁴
- The Gender Directors’ network, which brings together those civil servants with lead responsibility for gender equality in the UK Government and the devolved administrations, has met less and less frequently over recent years.

National legislation

The Human Rights Act 1998 and the Equality Act 2010 are the statutory cornerstones of the UK’s gender architecture. Provisions incorporate overarching protection of women’s rights, and legislate against discrimination on the grounds of sex, among a long list of protected characteristics. However, the Conservative Party has signalled that it will repeal the Human Rights Act if it is elected to form the next government, and the current UK coalition Government’s framing of the provisions of the Equality Act as ‘red tape’ is cause for concern.

The public sector equality duty (PSED) is a pillar of the Equality Act 2010 that obliges proactive due regard for equalities issues across all public authority activities. It was designed to bring together three predecessor duties on gender, race, and disability, and to add a requirement to act to reduce discrimination and promote equality with regard to age, sexual orientation, religion and belief, gender reassignment, pregnancy and maternity, and marriage and civil partnerships. The ambition of all the public duties on equality, current and historical, has been to shift the onus for action to tackle discrimination from the individual to public bodies. In practice, the diluted focus on gender under the PSED amounts to regression, and has resulted in a selective approach to equalities across Scottish

²¹ EHRC (2013) *Measuring Up? Monitoring Public Authorities performance against the Scottish Specific Equality Duties*

²² Fawcett Society (2013) *Red Tape, Red Line: five reasons why government should not “drop its duty” to tackle women’s inequality*

²³ HM Courts and Tribunals Service (2013) *Employment tribunal fees for individuals*

²⁴ GEO (2013) *Review of the Public Sector Equality Duty*



public bodies. Superficial adoption of the language of intersectionality and cross-cutting equalities strands by public authorities has masked weak implementation and compliance failures across the board.²⁵

The PSED is interpreted and implemented differentially across the devolved administrations of the UK. Whilst the current UK Coalition Government has adopted the most minimalist approach (for England), Scotland has introduced a set of regulations that are notably less demanding than those implemented in Wales. (Northern Ireland is not covered by the Equality Act 2010.)

However, the equalities sector in Scotland successfully lobbied for the Scottish-specific regulations to require public bodies to publish equality impact assessments, as well as information on occupational segregation, the gender pay gap and other measures that relate to gender equality. English public bodies are not obliged to fulfil any of these requirements.

Targeted legislation is another key dimension of the gender architecture. Since devolution, the Scottish Parliament has at times developed legislation in parallel with equivalent Bills at UK level, as with equal marriage and female genital mutilation (FGM);²⁶ adopted legislation developed at Westminster, as with forced marriage;²⁷ or spearheaded progressive divergence, as with domestic abuse.²⁸ However, several key areas reserved to Westminster are crucial to overarching gender issues, including employment law, equal opportunities law, social security and immigration and asylum law. This constrains the capacity of the Scottish Government to take action on gender equality issues.

Gender budgeting

Gender budgeting analysis (GBA) is an approach that systematically takes account of how public spending decisions impact on women and men. Frequently, the resource allocation process leads to unintended and unfair consequences, which a more integrated consideration of gender perspectives could avoid. GBA exposes

²⁵ Close the Gap has produced guidance for public sector employers, *Close the Gap (2012) Public Sector Equality Duty: Guidance for publishing information on gender and employment, equal pay, and occupational segregation*

²⁶ Marriage and Civil Partnership (Scotland) Act 2014; Marriage (Same Sex Couples) Act 2013; Female Genital Mutilation Act (Scotland) 2005; Female Genital Mutilation Act 2003

²⁷ In January 2014, the Scottish Parliament voted to adopt a measure to criminalise forced marriage within Westminster's Anti-social Behaviour Bill

²⁸ Domestic Abuse Act (Scotland) 2011



the gender bias within resource allocation processes that are assumed to be gender neutral, and aims to strengthen gender equality of outcomes across all public expenditure and government departments. To achieve this, GBA must be integrated throughout financial planning, with parallel accountability mechanisms and strong monitoring and evaluation.

Scotland has made considerable progress towards gender responsive budgeting since devolution. The Equality and Budget Advisory Group reports to the Cabinet Secretary for Finance and produces guidance tools for financial decision makers. Since 2009, the Scottish Government has also published an Equality Budget Statement alongside its annual draft budget. This is a unique development within the UK, and demonstrates the possibility for effective policy divergence in Scotland.

In large part, these gains have been due to the efforts of the Scottish Women's Budget Group (SWBG), which illustrates the potential for collaborative work between civil society and government in the Scottish context. However, whilst this approach is more accessible and progressive than budgetary processes at the UK Treasury, to have real impact these structures must be strategically linked to the Government Economic Strategy (GES) and the National Performance Framework (NPF). SWBG and others continue to press for more rigorous analysis within the Equality Budget Statement²⁹ and achievements to date can be seen as stepping stones towards a more systematic GBA approach. Meanwhile, at UK level, civil society and regulatory actors have challenged the legality of successive Budgets on grounds of discrimination against women. Notably, the Fawcett Society sought judicial review of the 'Emergency Budget' 2010³⁰ and the EHRC's equalities audit of the Spending Review 2010 showed the UK Government to be in breach of the Equality Act 2006.³¹

Indicators

Equality, inclusion and social justice are undermined by definitions of 'progress' that are built into our political institutions. 'Success' is pegged to measurement

²⁹ SWBG (2013) *Submission to the Finance Committee on the Draft Budget 2014-15*

³⁰ An overview of process and outcomes from The Fawcett Society website (accessed 19/2/2014) <http://www.fawcettsociety.org.uk/fawcetts-bid-for-a-judicial-review-of-the-2010-budget/>

³¹ EHRC (2010) *Making fair financial decisions: An assessment of HM Treasury's 2010 Spending Review conducted under Section 31 of the 2006 Equality Act*



systems that do not adequately reflect social policy concerns and are often inherently gender-biased, although they are assumed to be gender-neutral. A key facet of this is an over-reliance on GDP as an indicator of wellbeing. GDP considers only the contribution of work that is described as economically 'productive', but often such work does not contribute to, or actively detracts from, human wellbeing and social progress. GDP measures do not reflect the economic contributions of unpaid work, which is deemed economically 'unproductive', or the negative impacts of public investment on communities and society. For instance, environmental disaster and warfare are cast as economically productive because they generate market transactions, but unpaid caring for older and disabled people or raising the future workforce is not.

Similarly, the Government Economic Strategy (GES) and National Performance Framework (NPF) in Scotland value 'growth', wealth creation, paid work, profit, ownership and other macroeconomic norms over other conceptions or measurement of 'success'. The NPF monitors all government activity, but economic priorities predominate and National Indicators do not adequately capture gender equality concerns. Models based on alternative wellbeing indicators exist,³² but do not feature in the policymaking institutions or mainstream thinking of Scottish and UK politics. Much broader debate on the value base of our economic strategy and the imbalance between economic and social priorities is urgently needed in order to move towards economic responsibility, sustainability and inclusion, and gender equality.

Gender mainstreaming

Gender inequality is perpetuated because it is made invisible in all walks of life. Gender mainstreaming is a globally accepted standard,³³ designed to embed gender analysis in all policy and legislative development from the outset, with the explicit aim of reducing inequality. Mainstreaming approaches are employed to eradicate institutional sexism by making gender visible, highlighting blind spots, and elevating gender concerns within the policy hierarchy. This also entails a shift to proactive and integrated gender analysis, as opposed to the treatment

³² Bhutan Gross National Happiness (GNH) Index; Oxfam Humankind Index; Health Scotland's Health Promoting Health model.

³³ Gender mainstreaming was established as a global strategy for the promotion of gender equality in the Beijing Declaration and Platform for Action, at the Fourth World Conference on Women, 1995



of gender as a marginal or minority issue. Mainstreaming sits in opposition to tokenistic approaches, including post hoc impact assessments that have no resonance in strategies, policy documents or analyses.

Effective mainstreaming requires a targeted approach that applies to all government departments, parliamentary committees and public bodies, encompassing training, gender mainstreaming posts across the civil service, mechanisms to monitor and evaluate progress, and standardised data collection. It requires adequate resources to provide for intersectional approaches and women's multiple identities.

The Scottish Parliament has an Equal Opportunities Committee and various formalised gender advisory groups, but these mechanisms are not well integrated across the full breadth of Scottish governance. As a result, lack of gendered policy coherence across government departments is marked, and strategies that aim to address particular aspects of women's disadvantage are not systemically linked to other gender issues. Gender advocates have been able to use a greater degree of accessibility than is available to colleagues at UK level to encourage development of a stronger approach in Scotland. However, gender mainstreaming has not yet been fully implemented by the Scottish Government, despite the best efforts of the Scottish Government Equality Unit.

Power and responsibility

The UK Government is clearly responsible for establishing its own mechanisms for engaging with women across the UK. It has, to date, not replaced the Women's National Commission.

The UK Government is also responsible for equalities law, and specifically the Equality Act 2006, which established the Equality and Human Rights Commission. Amendments to the Equality Act have changed the function and purpose of the Commission. The parent department of the Commission is the UK Department of Culture, Media, and Sport (DCMS).



The public sector equality duty (PSED) places a mandatory duty on public authorities across Great Britain to act to reduce gender discrimination and to promote gender equality. The enabling legislation for this is the UK Equality Act 2010, but Scotland is responsible for the specific regulations that apply to Scottish public bodies, including the Scottish Government itself. Although the Equality and Human Rights Commission in Scotland is the equalities regulator, and is responsible for all human rights issues that relate to reserved matters, it is not accountable to the Scottish Government or Parliament.

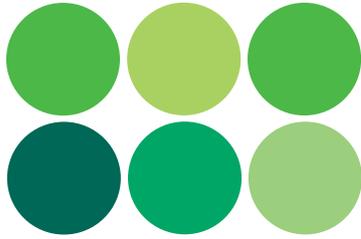
The Scottish Human Rights Commission is accountable to the Scottish Parliament, and is responsible for all human rights issues that relate to devolved matters. This includes women's rights. Like the EHRC, it is a national human rights institution (NHRI) and has been designated 'A' status by the UN, meaning that it meets the strictest criteria of independence and autonomy.

The UK Government is responsible for deciding whether it will take a gender budgeting approach to the UK Budget, including elements which impact directly on Scottish people such as welfare spending.

The Scottish Government is responsible for deciding whether it will take a gender budgeting approach to the Scottish Budget.

The Scottish Parliament can establish additional committees or cross-party groups, for example a Human Rights Committee.

Power and responsibility rest with: Westminster



3. ECONOMY

Transformational change to our economic systems, models and institutions is needed if we are to achieve gender equality. As mentioned in the previous chapter, current economic value systems disadvantage women and undervalue the paid and unpaid work that they perform.

Women still have less access to resources and financial independence than men, earn less and are more dependent on social security. The gender pay gap in Scotland persists at 17% despite more than 39 years of statutory obligation to provide equal pay under the Equal Pay Act 1970. This single indicator reflects multiple barriers to economic equality for women, such as lack of affordable childcare, the glass ceiling, occupational segregation and women's unpaid contributions to the economy.

Women also experience the impacts of economic crisis and cuts to public spending disproportionately. Policy responses that precipitate austerity are failing women, and disabled women, lone mothers, carers, older women and refugee women in particular.

This chapter looks at the care economy, economic development, employment and social security in Scotland. The purple boxes set out how power and responsibility for key gender equality issues are divided between Westminster and the Scottish Government.

3.1 CARE ECONOMY

The economic dimensions of care are central to persistent gender inequality. Women's care and reproductive work props up the so-called 'real' economy yet it is persistently undervalued, and is not well captured by mainstream economic models. For example, parental childcare is not counted towards GDP and is categorised by mainstream economics as 'leisure'. Paid childcare contributes to GDP and is categorised as 'work', although it is systematically undervalued by the market, as reflected in the low wages that the profession commands. The fact that much of women's work is uncounted has far-reaching implications for policy formulation, and therefore on women's lives.



Care and reproductive economies incorporate caring professions, unpaid domestic work, and caring for relatives or friends with particular needs in the home or community. This unpaid care includes childcare, care for disabled people, elderly care and care for people with long-term conditions. These dimensions of care are still primarily undertaken by women, particularly over the long-term.³⁴ In economic terms, spending on caring professions is framed as current consumption, as opposed to capital investment, whilst unpaid and informal care is simply not included.

Economic development focus in Scotland tends towards sectors such as finance, transport, engineering and energy, where outputs are more easily 'measured' than those of the care economy. As these sectors also have male-dominated workforces, such emphasis entrenches existing gendered hierarchies in the labour market and perpetuates the gender pay gap. However, care work is indispensable to a functioning workforce and economy, and is essential to those sectors that are the focus of programmes of economic development activity.

Childcare

Lack of accessible, affordable and quality childcare emerges consistently as the most immediate barrier to women's participation in the formal labour market. Nordic models show that universal access to childcare has a positive impact on gender equality and reconciles issues of family and work significantly, by linking women and children with benefits to the economy.³⁵ At European level, there has been a shift to childcare policies that are fused with social inclusion, child development and children's human rights. In Scotland and the UK the understanding that investment in childcare benefits the whole of society is yet to be widely shared. The acceptance that schooling should be funded from the age of five, or that we have to choose between university education and childcare, is simply normative. Feminist economic modelling has long presented childcare as a necessary 'infrastructure' that enables and constitutes economic activity in the same way as roads and public transport. Equally, professional childcare is a

³⁴ Scottish Executive (2006) *Care 21: The future of unpaid care in Scotland*; Scottish Government (2010) *Caring in Scotland: Analysis of existing data sources on unpaid carers in Scotland* (SG social research series); Engender (2011) *Preparing to care: woman to woman* (this research found that gendered dimensions of caring for relatives is partly perpetuated by casual assumptions made by public sector health workers, including GPs)

³⁵ Centre for Research on Families and Relationships (2013) *Early Childhood Education and Care Provision: International review of policy, delivery and funding* (SG social research series)



proven economic stimulus to job creation, community regeneration, and increased opportunities for under-employed women.³⁶ Consequently, the public purse also benefits from investment in childcare through an increased tax base and relieved pressure on social security. Investment in childcare clearly reaches far beyond the current year of spending and should be funded from capital budgets accordingly.

Scotland has some of the highest childcare costs in the UK. At present only 21% of local authorities can provide enough childcare for working parents, and only 10% report adequate capacity where parents work non-traditional hours.³⁷ The 2014 Children and Young People (Scotland) Bill allows for increased provision from 475 hours to 600 hours per year for three and four year olds, extending to two year olds in low-income families. However this boils down to an additional (inflexible) three hours per week, which does not meet parental needs, in particular those of lone mothers. Older women – grandmothers plugging gaps in provision – are disadvantaged in terms of lost earning potential and increased risk of pension poverty. Migrant and refugee women are particularly disadvantaged as they often lack support and family networks.

Nonetheless, feminist discourse and framing of ‘childcare as infrastructure’ has begun to affect the thinking of senior politicians in Scotland and to seep into policy documents. The childcare proposals outlined in *Scotland’s Future*, the Scottish Government white paper on independence, envisage a universal childcare system at the heart of a ‘social investment’ approach to social policy.³⁸ However, even at its most ambitious, *Scotland’s Future* sets out an allowance of childcare equivalent to the primary school day. Parents working full-time who have primary school-age children rely on wraparound care, such as breakfast clubs, after school clubs, and childminders, to enable them to do so. Wraparound childcare for nursery age children would be a requirement to support more than the existing 1.5 breadwinner model of family working patterns.

Carers

There are an estimated 650,000 unpaid carers in Scotland, of whom around 62% are women.³⁹ When combined with other dimensions of women’s economic

³⁶ Women in Scotland’s Economy Research Centre (2013) *The economic case for investing in high-quality childcare and early years education*

³⁷ Daycare Trust and Children in Scotland (2012) *The Scottish Childcare Lottery*

³⁸ Scottish Government (2013) *Scotland’s Future: Your Guide to an Independent Scotland* (Chapter 5)

³⁹ ONS (2001) *Census 2001*



inequality, the earning potential of carers is often undermined; female carers are twice as likely to be in receipt of Carers' Allowance as men.⁴⁰ Women who experience multiple disadvantage in the labour market due to race, class or age are at increased risk of under-employment or unemployment as a result of caring responsibilities.

Scotland's strategy, *Caring Together*, highlights the need to mainstream equalities issues in a targeted effort to support 'hard to reach' groups and acknowledges the gendered profile of carers.⁴¹ It also focuses on highly gendered issues including time spent caring, equal access to services and resources, tackling poverty and financial exclusion and the skills and employability needs of carers. However, gender dimensions of these key issues are not raised, nor is gender mentioned in the implementation plan or latest annual progress report. The strategy therefore does not challenge the gender inequality at the heart of Scotland's care economy. Yet care is framed, in passing, as a gender issue in other Scottish Government policy documents, such as the Skills Strategy. This exemplifies the piecemeal results of attempts to mainstream gender to date.

Power and responsibility

Under current constitutional arrangements, the Scottish Government has control over social services, including childcare.

Social security, including the formulation of welfare benefits such as Employment and Support Allowance and Carers' Allowance, is reserved to Westminster.

The levers of power and responsibility related to childcare have been contested during the period before the referendum. The Scottish Government argues that delivering its ambition for childcare requires a holistic approach that is not possible under the current devolution settlement.

Power and responsibility rest with: Westminster and Scottish Government

⁴⁰ DWP (2013) *Works & Pensions Longitudinal Study* (13.9% of female carers, 6.6% of male carers.)

⁴¹ Scottish Government (2010) *Caring Together: Carers strategy for Scotland 2010-15*



3.2 ECONOMIC DEVELOPMENT

Economic development offers huge potential for tackling the gendered occupational segregation that characterises the Scottish labour market. This would narrow the gender pay gap and remove a drag on growth. However, strategic approaches to develop growth sectors, skills, economic recovery, job creation and other elements of UK and Scottish Government economic policy do not substantively engage with gendered approaches, nor recognise the economic benefits of equality.⁴² Whilst macroeconomic and fiscal policy is reserved to Westminster, economic development is devolved to Scotland.

The Scottish Government Economic Strategy (GES) focuses on investment and development support for predominantly male-dominated sectors. Neither current nor envisaged benefits of investment in skills and jobs are shared equally by women and men.⁴³ The current focus of the Scottish Government on youth employment is welcome and necessary, as a result of the profound impact of austerity policies on young people's labour market participation. However, to deliver on the stated strategic priority of 'equity' and to avoid reinforcing gender segregation in the labour market, this approach must also target marginalised groups of young people and include robust equality impact assessments. The Commission for Developing Scotland's Young Workforce, chaired by Sir Ian Wood, has not taken a gendered approach.⁴⁴ It is, at the time of writing, consulting with equalities organisations, including Engender, as a second stage of activity after publishing its recommendations.

Key economic sectors

The Scottish Government has identified specific economic sectors as 'key growth sectors' in its Economic Strategy. These key sectors are envisaged as areas likely to grow and be strategically relevant to Scotland's economy, and the efforts of Scotland's economic development agencies, Skills Development Scotland and other agencies and departments, are targeted at them. The sectors are: food and drink, tourism, bioscience, energy (with a specific focus on renewables) and the creative sector. Universities have also been identified as an important sector.

⁴² Scottish Government (2011) *The Government Economic Strategy*; Scottish Government (2013) *Europe 2020: Scottish National Reform Programme 2013*; Scottish Government (2010) *Skills for Scotland: Accelerating the recovery and increasing sustainable economic growth*

⁴³ EHRC (2013) *Modern Apprenticeships: Equality and economy - spreading the benefits*

⁴⁴ Commission for Developing Scotland's Young Workforce (2013) *Interim Report*



These sectors all experience significant and persistent gendered occupational segregation. Food and drink and tourism are sectors in which a predominantly female workforce works in low-paid and precarious employment. Bioscience and the energy sector are male-dominated, despite the fact that bioscience degrees are predominantly taken by women. Contrary to this current reality, it is vital that key economic and occupational sectors identified for investment and development in the Scottish Government's plans for sustainable growth include integrated strategies on gender that acknowledge and mitigate some of the gendered effects. On the whole, the industry demands statements that set out critical skills and infrastructure requirements for key sectors' growth in Scotland do not take gender or other equality issues into account. Where limited references to gender are made, these are not linked to robust programmes of action and do not recognise the economic and business benefits of gender equality.

For example, long-term commitments to renewable energy in Scotland provide an opportunity to avoid replicating patterns of gendered segregation in the oil and gas sector. Ambitious projections for job creation and public investment in renewables also provide an opportunity for the development of skills programmes. Women's organisations are working within the sector. The Women in Renewable Energy Scotland (WiRES) network, for instance, which is based within Close the Gap, is a positive supply-side intervention that builds women's capacity to progress within the sector. The Scottish Resource Centre for Women in Science, Engineering and Technology (SET) is working with renewables employers to encourage gender-sensitive employment practice. Mainstreaming of both these approaches should be considered.

Occupational segregation

Occupational segregation is a key cause underpinning the gender pay gap and is deeply entrenched in Scottish economic structures. Women are significantly over-represented across low-paid sectors including care, retail, administration and the lower ranks of the public sector. Meanwhile, the glass ceiling that sees men over-represented in management positions (even in female-dominated professions like teaching) is clear evidence of ongoing failure to address gender inequality in the workplace. The Modern Apprenticeship programme (MAs) is one area of significant public investment that clearly results in gender segregation in the workplace. Uptake and retention rates across MAs starkly demonstrate the deep-rooted gender segregation that drives occupational segregation in Scotland, both



horizontally (across sectors) and vertically (in terms of seniority). In 2013, in the two largest programmes, Construction and Engineering, respectively 1.3% and 2.7% of apprentices ‘in training’ were female, whilst 1.3% of Childcare starts were male.⁴⁵ Meanwhile, public spending per male apprentice was 53% higher than for female counterparts.⁴⁶

Research shows that implementation of current economic development programmes risks reinforcing occupational segregation in Scotland, in contrast to stated intentions in the Government Economic Strategy and elaborated commitments in social policy documents.⁴⁷ Given that women in Scotland account for 98% of classroom assistants but under 3% of chartered civil engineers, and that there is a range of actors for whom education, skills, stereotyping, careers advice, and skills utilisation are in scope, it is clear that decisive, cross-government action is essential. This would include a strategic approach to tackle gender segregation more broadly, encompassing education, skills and employability. The Scottish Executive convened a cross-directorate working group on occupational segregation (OSWG) that reported in 2008.⁴⁸ Subsequently, occupational segregation was identified as one of two Ministerial priorities mandated by the gender equality duty. However, this focus was not retained following implementation of the Equality Act and the public sector equality duty, which did not require specific gender priorities to be identified. The findings and recommendations of the OSWG, which was reconvened following the Women’s Employment Summit in 2012, are still highly relevant. But beyond these signals of intent, decisive action has not yet transpired.

Private sector boards

More young women access university than young men and achieve better degree results. Yet within a few years of entering the labour market, women fall behind male peers in terms of career progression and pay.⁴⁹ Private sector governance is significantly male-dominated, with only 17% of FTSE 100 directorships held by women.⁵⁰ Increasing the number of women in senior management and leadership

⁴⁵ Skills Development Scotland (2013)

⁴⁶ EHRC (2013) *Modern Apprenticeships Performance Reports Modern Apprenticeships: Equality and economy - spreading the benefits*

⁴⁷ *ibid*

⁴⁸ Employment Research Institute (2008) *Tackling occupational segregation in Scotland: A report of activities from the Scottish Government cross-directorate occupational segregation working group*

⁴⁹ Department for Work and Pensions (2012) *Social Justice: Transforming lives*

⁵⁰ Department for Business Innovation and Skills (2013) *Women on boards*



positions across corporate and professional sectors is desirable because an increase of women in the boardroom or executive suite has a long-term effect on the aspirations and likelihood of promotion for women at more junior levels within a company.

Most women, like most men, will never sit on a private sector board. Many women, though, work for private sector companies at more junior levels than their male colleagues. Quotas for private sector boards is an issue that has been explored at some length by the UK Government, particularly in the context of proposed European regulation. The UK Government has elected to maintain its voluntary approach, inviting companies to set themselves targets for female representation.

Power and responsibility

Education, training, economic development and employability are principally the responsibility of the Scottish Government and its agencies, with the exception of funding arrangements for some pan-UK employability programmes linked to social security.

Companies law, which would be the mechanism for setting gender quotas for private sector boards, is reserved to Westminster. The same is true for sex discrimination law, which may also need to be amended to allow for gender quotas of any kind. It is possible that some public sector quotas could be introduced under the existing competence of the Scottish Government to regulate with regard to the public sector equality duty, but this is not clear.

The Modern Apprenticeship programme in Scotland is entirely within the control of the Scottish Government and Skills Development Scotland.

The Scottish Government is responsible for funding equalities initiatives in Scotland, including core funding for Close the Gap and the Scottish Resource Centre for Women in Science, Engineering, and Technology.

Power and responsibility rest with: Scottish Government



3.3 EMPLOYMENT

Women's employment is a vital element of gender equality agendas. Quality, secure and flexible employment opportunities that are compatible with caring roles are lacking. Inequality of access to the labour market because of gendered barriers such as a lack of affordable, quality childcare and inflexible working patterns are well documented. Less well rehearsed are issues surrounding women's under-employment and unequal access to secure and well-paid jobs, which play a central role in sustaining the gender pay gap.⁵¹ Unemployment and underemployment are particular problems for disabled women and women from some BME communities, whilst lone mothers face significant and specific challenges accessing paid work.⁵²

Both incumbent governments recognise that the female workforce is a valuable resource that should be harnessed to foster growth, and this is a key plank of the Europe 2020 strategy for the European Union. In Scotland, the Women's Employment Summit showed an increased political will to address underlying issues and secured commitment to develop a cross-cutting action plan from the Finance Secretary. However, these conversations remain marginal to mainstream economic policymaking. Modest gains towards progressive workplace practices are undermined by a focus on headline figures and policy approaches that see 'employment' as an end in itself.

Employability

Employability is an elastic concept which is used in policy contexts, economic development and service delivery in a number of ways. An employable individual can be defined as having "the capability of getting and keeping satisfactory work", and employability as any programme or measure that facilitates this capability. Employability services range from large-scale programmes that are carried out at local level to thematic initiatives that may be funded as time-limited projects. Clearly this concept and process has strongly gendered dimensions, not least for women returning to work after extended leave to care for children.

⁵¹ The Fawcett Society (2013) *The changing labour market: Delivering for women, delivering for growth*

⁵² APPG on Race and Community (2012) *Ethnic minority female unemployment: Black, Pakistani and Bangladeshi heritage women*; Inclusion Scotland (2013) *Women in work briefing*



Scotland's employability strategy recognises that gender is a key factor in shaping the barriers to employment. It also commits to an action plan on women's employment, which could be a useful cross-departmental initiative if given sufficient political support.⁵³ To date, however, strands of this work have been pursued independently and an amalgamated policy tool has not been delivered. Without an embedded approach, sensitive to the specific barriers that prevent or constrain women's labour market participation, employability initiatives will follow skills programmes in entrenching occupational segregation and gender inequality. Such initiatives also need to meet the needs of different minority groups of women.

Flexible working

Traditional male, full-time working patterns contribute to women's disadvantaged position within the labour market. Progressive working practices, including flexible working, are vital to ensure that women with caring responsibilities can access paid work in line with their skills and contribute efficiently to a sustainable economy. They also encourage and facilitate men's sharing of parenting and other care responsibilities. The OECD calculates the UK gender gap in unpaid work at around two hours per day.⁵⁴

Lack of flexible practices, particularly in the private sector, is one of the major factors that limit career prospects for mothers of young children and cluster women into the insecure, low-paid and part-time employment that underpins the gender pay gap. In Scotland, 43% of employed women work part-time, compared to 13% of men, and women account for 75% of all part-time workers. Per hour, women working part-time earn 33.7% less than full-time male counterparts, a high proportion of whom are lone mothers with particular unmet needs.⁵⁵

There are welcome plans to extend the 'right to request' flexible working within the UK Government's Children and Families Bill. The introduction of flexible parental leave shared by women and men is also welcome and it is to be hoped that other incentives will be developed to challenge the pervasive culture of a gendered division of labour. However, existing statutory procedural issues are set

⁵³ Scottish Government (2012) *Working for Growth: A refresh of the employability framework for Scotland*

⁵⁴ Miranda, V. (2011), "Cooking, Caring and Volunteering: Unpaid Work Around the World", *OECD Social, Employment and Migration Working Papers, No. 116*

⁵⁵ Close the Gap (accessed 19/2/14) <http://www.closesthegap.org.uk/content/gap-statistics/>



to be effectively downgraded to a 'code of conduct' for employers. Incongruent policies such as the Employee Shareholder Scheme, whereby employees can waive employment rights, may lead to discriminatory behaviour by employers.⁵⁶

Tribunals

The right to challenge the actions of employers within an independent adjudication system is a key workplace right with clear gendered implications. Unfair dismissal or discrimination against pregnant women and women in certain age brackets, for instance, have been significant and well-documented barriers to gender-equal employment practices.⁵⁷

However, the UK Government will introduce fees up to £1,200 for individuals to access employment tribunals, and discrimination and equal pay cases are likely to have the highest level of upfront costs. Funding has also been drastically reduced for the EHRC, a key source of information and support to employees facing unlawful discrimination.

Trades union representation

Trades unions have been at the forefront of work to secure women's equality in the labour market. Most unions train specialist equality representatives to engage authoritatively with employers on equalities policy and practice. Unions also work to raise awareness among women of their employment rights, and encourage gender-sensitive employment policy formulation. The Scottish Trades Union Congress (STUC) is an authoritative voice on gender inequality in the labour market, and the Women's Employment Summit that took place in September 2012 was a joint initiative between Scottish Government and the STUC.

The trade union movement has long campaigned for equality representatives to be placed on the same statutory footing, and therefore afforded facilities on the same basis as health and safety representatives and workplace representatives (shop stewards).

The regulation of trades unions is reserved to Westminster, and the current UK coalition Government has sought to reduce union facilities' time, rather than to

⁵⁶ The Fawcett Society (2013) *The changing labour market: Delivering for women, delivering for growth*

⁵⁷ Project 28-40 (accessed 19/2/14) <http://opportunitynow.bitc.org.uk/leadingchange/project28-40>; Alliance against pregnancy discrimination in the workplace (accessed 19/2/14) <http://www.maternityaction.org.uk/wp-content/uploads/2013/09/allianceagainstpregnancydiscrimination.pdf>



enhance it, along with introducing mechanisms that, for example, make it more difficult for unions to ballot their members for industrial action.

The Welsh Assembly Government has used its powers to regulate the public sector in Wales to provide statutory footing for equalities representatives in public bodies. The Scottish Government has not taken such an approach.

Power and responsibility

The UK Government is responsible for all employment law, laws regulating trades unions, and anti-discrimination law. It is also responsible for determining whether fees should be paid to access tribunals, and the level at which those fees should be set.

The UK Government is also responsible for pan-UK employability programmes and social security (including welfare benefits).

Scottish Government is responsible for the specific Scottish regulations of the public sector equality duty (PSED), which place responsibility on public bodies as employers to publish their gender pay gap, occupational segregation information, equal pay statement and equality outcomes. Employers must also equality impact assess all significant employment policies.

Power and responsibility rest with: Westminster

3.4 SOCIAL SECURITY

Social security and gender are interlinked. Women are more reliant on the welfare system, with benefits comprising 20% of the average woman's income, compared to 10% for men in the UK.⁵⁸ Caring roles and gender segregation mean that women are more reliant on key public services and routinely bear the brunt of public spending cuts. Since 2010, 74% of the £14.9 billion worth of cuts to benefits, tax credits, pay and pensions has been taken from women's incomes.⁵⁹

⁵⁸ The Fawcett Society (2006) *Who benefits? A gender analysis of the UK benefits and tax credit system*

⁵⁹ House of Commons Library (2012) *How have Coalition budgets affected women?*



This profile is the result of the entrenched structures that limit women's access to resources, decision-making and physical safety. The UK's social security system is a facet of this, as demonstrated by the highly gendered impact of the current UK government's 'welfare reform' programme. Women and their children are penalised by this raft of policies and many face increased risk of poverty, abuse, violence and physical and mental health issues. Disabled, BME, refugee and older women, lone mothers and carers are at risk of multiple discrimination and are particularly vulnerable to harm.⁶⁰

The Scottish Parliament Welfare Reform Committee was established in 2012 and the Scottish Government has implemented various initiatives to mitigate the impacts of 'welfare reform'. These include the Welfare Funds (Scotland) Bill, the Council Tax Reduction Scheme (in partnership with COSLA) and resourcing for advice and information services. However, neither gender mainstreaming nor robust gendered budget analysis has been applied to these efforts, despite the Scottish Government's own analysis of the disadvantage and harm experienced by women as a result of welfare reform.⁶¹

Another major issue is the framing of benefits as a drain on the public purse, resulting in stigma and social exclusion for those who receive them. This framing is highly gendered, with lone mothers a particular focus for public critique. In economic terms, notions of social security as unjustified perks are partly caused and compounded by fiscal treatment of social services. Social security is not conceptualised as productive within the existing economic paradigm, but as current consumption. This ignores what is known about women's patterns of consumption, and the way that money put in women's purses circulates around local economies. Women, because of gender dynamics in the household, are more likely to spend money on necessities: food, clothing for children, and household goods. This spend benefits the local economy, and creates more local jobs than equivalent levels of spending by men.

The social security system is failing women and reinforcing their economic inequality. Reform is urgently needed, to reverse the Welfare Reform Act 2012 and establish an equitable system that is designed to deliver gender equality of access

⁶⁰ Engender, Close the Gap, Scottish Women's Aid, Scottish Refugee Council (2014) *Gender and social security: A joint position paper*

⁶¹ Scottish Government (2013) *The gender impact of welfare reform*

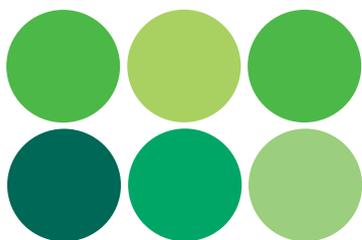


to economic resources. Otherwise, women will remain excluded from full citizenship.

Power and responsibility

UK Government has responsibility for the social security and related benefit systems.

Power and responsibility rest with: Westminster



4. SOCIETY AND CULTURE

Gender inequality is caused, perpetuated and masked by cultural norms. Gender stereotyping and segregation shape girls' and women's lives from early years and are key factors in determining life chances. Scotland's culture tolerates the widespread abuse of women and the normalised objectification of women in the media and popular culture. Women's economic inequality is both stigmatised and socially accepted as a fact of life.

Unexamined social attitudes and assumptions underpin the modern face of gender inequality. Gender roles and relations are not the natural order, but social constructs that have evolved over time to deny women rights, citizenship and power. However, gender inequality is so ingrained in the cultural psyche and social institutions in the UK that it is rendered invisible.

This chapter looks at gender stereotyping, women's experience of the media, poverty as a social issue, and violence against women and girls.

4.1 GENDER STEREOTYPING

Cultural norms, social attitudes and expectations of women, men, girls and boys play a significant role in defining what young women and men believe is possible and the life choices they make. Gender stereotyping is prevalent from early years, with learned behaviours and expectations inscribed in girls and boys in the home, community and wider society. Gendered toys, for instance, not only instil messages about conventional gender roles, but can contribute to development from an early age and precipitate educational gender divides in later life.

There are significant patterns of gendered segregation across subject choices at all levels of education in Scotland. Girls are massively under-represented in science, technology, engineering and maths (STEM), and subsequently in well-paid STEM occupations. Meanwhile, assumptions about women's reproductive choices still limit their access to the workplace and career progression within it.



Certain groups of women in particular are subject to additional stereotyping.

- The narrative around single parenting in much of the mainstream media demonises lone mothers as ‘scroungers’, while valorising single fathers. Meanwhile, men are often not accommodated in spaces dedicated to mothering.
- Many disabled women report infantilising treatment based on their gender in the workplace, within the healthcare system and in society.⁶² This is rooted in assumptions about capacity, fertility and parenting, which has led to systematic disregard of disabled women’s sexual and reproductive rights.
- Refugee, asylum-seeking and migrant women are harmed by damaging stereotypes and assumptions about their reasons for seeking protection or work, their skills and backgrounds.
- Women from BME and minority faith communities face patronising assumptions about cultural practices, including customary dress.
- Lesbian, bisexual and transgender women face stereotyping around relationships, family and reproductive choices.
- Older women are assumed to be on hand to cover childcare gaps made necessary by government policy on employment and social security.

This list is merely indicative, however, recurrent themes and implications emerge. Failure to acknowledge and explicitly reject these assumptions will result in policymaking that further excludes and makes vulnerable marginalised communities of women.

Gender stereotyping and segregation are clearly cross-cutting issues with deep historical roots, which cannot be addressed through straightforward policy solutions. Previous Scottish administrations have attempted to integrate initiatives to tackle gender stereotyping across frameworks such as the Early Years Taskforce, the Curriculum for Excellence and partnerships with gender projects such as Close the Gap and the Scottish Resource Centre for Women in Science, Engineering and Technology.⁶³

⁶² Engender discussion events for disabled women, run in partnership with Inclusion Scotland and Scottish Disability Equality Forum, 2013

⁶³ Employment Research Institute (2008) *Tackling occupational segregation in Scotland: A report of activities from the Scottish Government cross-directorate occupational segregation working group*



However, it is difficult to see how any approach short of gender mainstreaming with a strong intersectional focus will adequately address these issues, which require a sea change in public attitudes. There is a need for a holistic action plan incorporating awareness-raising and public engagement, education, training of early years professionals, public sector and healthcare workers, guidelines for employers, and innovative incentives to encourage good practice in targeted enclaves of the private sector.

Power and responsibility

Equality legislation is reserved to Westminster. The Equality Act 2010 provides protection from direct and indirect discrimination, including in education, and in the provision of goods, facilities, and services.

The public sector equality duty (PSED) places a mandatory duty on public authorities across Great Britain to act to reduce gender discrimination and to promote gender equality. The enabling legislation for this is the UK Equality Act 2010, but Scotland is responsible for the specific regulations that apply to Scottish public bodies.

The Scottish Government is responsible for funding equalities organisations, including those that work around stereotyping and gender inequality in schools and workplaces. It is also responsible for commissioning research on Scottish social attitudes, and in funding and developing public awareness campaigns that challenge harmful attitudes.

Power and responsibility rest with: mostly Scottish Government

4.2 MEDIA

The negative impact of the media on women is profound. Mainstream institutions and outlets were developed and continue to be controlled and managed predominantly by men. For instance, across UK national daily newspapers only 5% of editorial positions and 0% of political editorial positions were held by women in 2013.⁶⁴ This is reflected in widespread stereotyping of women in the

⁶⁴ Centre for Women and Democracy (2013) *Sex and Power 2013: Who runs Britain?*



print and broadcast media, and lack of gender balance on screen. In turn, this serves to reinforce cultures of male dominance in the public domain. The absence of quality reporting on gender issues contributes to low awareness of women's inequality and thus to sustaining it. Meanwhile, the media provides a platform for backlash against the women's movement and the moderate progress made.

The subordinate representation of women in the media and popular culture is acknowledged to be damaging to girls and women. Sexualised imagery of women and girls across media platforms is so commonplace and widely accepted that it generally fails to resonate as an equality issue. This objectification of women's bodies shapes how our culture sees and values women, reinforces sexist attitudes and has negative individual impacts in terms of body image, self-worth and health. These issues have been widely documented and challenged by various organisations and campaigns across Scotland and the UK.⁶⁵

Regulation of the print media is limited to voluntary codes of practice and the influence of related non-statutory industry regulators, such as the Advertising Standards Authority. The BBC, however, is subject to English regulations of the public sector equality duty and has come under increasing scrutiny over the considerable under-representation of women across its programming. As state broadcaster, it should provide an equal voice to all sections of society, ensure gender balance on its platforms, aim to avoid reinforcing gender stereotypes and encourage parity as an employer. This applies equally to BBC Scotland as a subsidiary of the BBC.

Power and responsibility

Broadcasting policy is reserved to the UK Government. This includes responsibility for the legal obligations of the communications regulator, Ofcom.

The Advertising Standards Authority is a self-regulatory organisation, and is funded by levy on the advertising industry. It has no sponsor department, and is not accountable to government or to any parliament.

⁶⁵ Including Zero Tolerance Briefings on Media, and Sexualisation of young people in the media, OBJECT, No More Page Three



Regulation of the press is currently devolved to the Scottish Parliament. The UK Parliament established a Royal Charter on press regulation as a result of the Leveson Inquiry, to supplement or replace the Press Complaints Commission. The Royal Charter will not come into force until after the UK elections in 2015. This has been framed as a UK body, but there is a significant lack of clarity around it.

Equality legislation is reserved to Westminster. The Equality Act 2010 provides protection from direct and indirect discrimination, including in employment, and in the provision of goods, facilities, and services.

The public sector equality duty (PSED) places a mandatory duty on public authorities across Great Britain to act to reduce gender discrimination, and to promote gender equality. The enabling legislation for this is the UK Equality Act 2010, but Scotland is responsible for the specific regulations that apply to Scottish public bodies. BBC Scotland is covered by the English regulations, because its headquarters are in England.

Power and responsibility rest with: mostly Westminster

4.3 POVERTY

Poverty is often understood exclusively as a set of economic issues, revolving around income. Like gender inequality, however, poverty is not inevitable, but a social construct created and sustained by privilege. Yet inequality and the structural causes of poverty are overlooked in policymaking, which turns the focus on those marginalised by the system rather than the system itself. As a result, deprived communities and individuals are implicitly blamed for their poverty and, in turn, are demonised in the public discourse. Poverty is a social and cultural issue as much as an economic problem.

Poverty is also extremely gendered. On average, women have less income, access to resources and financial independence than men.⁶⁶ Women are most profoundly

⁶⁶ Joseph Rowntree Foundation and Women's Budget Group (2008) *Women and poverty: Experiences, empowerment and engagement*



impacted by austerity policies; localised research showed that over six months in 2013 women's disposable income dropped by £190 per month, as opposed to an average of £95 for men.⁶⁷ Many groups of women, including disabled, BME, transgender, refugee and older women are particularly at risk of deprivation, as a result of multiple systemic disadvantages. Stigma around poverty is considerable, and lone mothers in particular are vilified in the press and public imagination. This stems from class and gender prejudices that include cultural assumptions around their reproductive choices, capabilities, ambitions, desires and responsibilities. Vital dimensions of child poverty also hinge on gendered dynamics.⁶⁸

Policy incoherence in Scotland and the UK explains the failure of legislation and policy commitments on gender to deliver real change for women experiencing poverty. By comparison, it is striking that the UK Department for International Development (DfID) places gender equality at the heart of its poverty reduction agenda, in line with conventional international wisdom on the 'feminisation of poverty'. Mainstream analysis and evidence show that women's experience of poverty around the world is underpinned by gendered division of labour, men's dominance of political and public spheres, unequal access to resources, gendered violence and women's lesser capacity to realise their human rights.⁶⁹ These systemic inequalities apply within the UK, as well as in countries of the global south where the UK is implementing gender-responsive training and programmes.

Yet anti-poverty policy in the UK remains stubbornly ungendered. Scotland's anti-poverty strategy is framed in terms of social exclusion and the root causes of deprivation and inequality.⁷⁰ Although gender is identified as a vector of discrimination that increases poverty, gender concerns are effectively ignored thereafter. At UK level, the gender analysis is weaker still, within a current approach that focuses on social mobility and neglects the role of inequality.⁷¹ Gender, disability and race are identified as factors that can exacerbate disadvantage such

⁶⁷ Independent research of 4000 Unite members, 2013 (accessed 19/4/14) <http://www.unitetheunion.org/news/cost-of-living-crisis-tightens-as-disposable-income-drops-by-129-a-month/>

⁶⁸ Women's Budget Group (2005) *Making the links: Women's and Children's Poverty*

⁶⁹ Including International Financial Institutions and conservative donor agencies, such as the World Bank and USAID; Chant, S. (2011) *The international handbook of gender and poverty*

⁷⁰ Scottish Government (2008) *Achieving our potential: A framework to tackle poverty and income inequality in Scotland*

⁷¹ Department for Work and Pensions (2012) *Social justice: Transforming lives*; Cabinet Office (2011) *Opening doors, breaking barriers: a strategy for social mobility*



as [being from] single-headed families, debt and crime, rather than the other way around. This is relevant to Scotland, because the social framing of poverty is critical to the reserved issue of social security.

Power and responsibility

Social security, encompassing benefits and tax credit systems, employment and equal opportunities legislation, and economic policy are reserved to the UK.

Social services, employability, and training, as well as areas linked to social inclusion and drivers of low income, such as community regeneration and health are devolved to Scotland.

Power and responsibility rest with: mostly Westminster

4.4 VIOLENCE AGAINST WOMEN

Violence against women (VAW) is a widespread feature of society and culture in Scotland. Domestic abuse, rape, and commercial sexual exploitation are all forms of gender-based violence that are enabled by men's power over women in our society. At least one in five women in Scotland will experience domestic abuse in her lifetime. One in five young men believe that women provoke violence.⁷² An average of three rapes is reported per day, yet this figure does not reveal the extent of sexual violence in Scotland due to under-reporting.⁷³ High prevalence of violence against women is the clearest manifestation of gender inequality and the underlying forms of sexism outlined in this report.

Violence against women can be best understood as both a cause and consequence of gender inequality. As a society, we don't see VAW as a facet of social systems that perpetuate men's unexamined expectations of entitlement and privilege. Rather, abuse is most often perceived as the isolated bad behaviour of some men, sometimes as a result of bad choices by women who put themselves at risk of harm. However, VAW is the consequence of a system and culture that denies

⁷² Scottish Government (2010) Tackling Violence Against Women: A Review of Key Evidence and National Policies

⁷³ Scottish Government (2013) Domestic abuse recorded by the police in Scotland, 2012-13



women power, opportunity, self-determination and, in extreme cases, life. The causal cycle is sustained by the severe impacts of abuse and violence on women's capacity to participate fully in society, achieve financial autonomy and claim their rights.

Once again, risks are amplified for women who face double or multiple disadvantages in accessing social and economic life. Lack of services and barriers to access for BME, disabled and LBT women is a major problem and much greater understanding of their needs is required. Many refugee and asylum-seeking women seek protection in the UK from forms of violence that include torture and sexual violence, whilst human trafficking for the purpose of sexual exploitation is thought to be increasing in Scotland.⁷⁴ Some of these women have no recourse to public funds, face destitution and are amongst the most vulnerable to harm in our society. Research by the Scottish Refugee Council found that 70% of asylum-seeking women had experienced physical or sexual violence in their lifetimes.⁷⁵

Addressing violence against women and providing related support services for survivors are matters primarily devolved to Scotland, except where these are linked to immigration status. Indeed, a divergent policy direction has been struck since the inception of the Scottish Parliament and developments have been recognised as progressive.⁷⁶ The Scottish Government's definition of violence against women reflects an understanding of coercive control and causal links with gender inequality, and incorporates a broad spectrum of psychological, physical and sexual abuse.⁷⁷ In the context of public spending cuts, unlike south of the border, services have been safeguarded and legal aid has been comparatively protected. A cross-cutting violence against women strategy is currently under consultation. Nonetheless, this progress has been made against a backdrop of increased reporting of domestic abuse.⁷⁸ Whilst these figures mask complex dynamics that are hard to assess, it is clear that a mainstreamed approach to tackling violence against women is required.

⁷⁴ EHRC (2012) *Inquiry into Human Trafficking in Scotland, Follow report* (finds majority of victims are adult women trafficked for commercial sexual exploitation); Human Trafficking (Scotland) Bill (2013) (finds indications of a rise in trafficking to Scotland)

⁷⁵ Scottish Refugee Council (2009) *Asylum-seeking women, violence and health*

⁷⁶ SHRC (2013) Scotland's National Action Plan for Human Rights

⁷⁷ Centre for Research on Families and Relationships (2013) *Domestic abuse and gender inequality: an overview of the current debate*

⁷⁸ Scottish Government (2013) Domestic abuse recorded by the police in Scotland, 2012-13 (Figures from 2003 in the bulletin)



Economic inequality

Just as poverty is a social and cultural issue, violence against women is an economic issue. VAW cannot be understood in isolation from male privilege across political and economic space. On average, women experiencing domestic abuse earn less than those who do not and often have less financial autonomy. Indeed, financial abuse is a prevalent form of coercive domestic abuse. Poor socioeconomic status also means fewer resources for seeking safety, hence the disproportion of low-income women in refuge services. Policy initiatives to tackle violence against women are therefore also bound up with the social security system, which is meant to provide a safety net to citizens but often does not. Research shows that policies flagged as most important by survivors (e.g. subsidised childcare, income support and training) map closely with indicators of women's economic inequality (e.g. the pay gap and occupational segregation).⁷⁹ Gendered economic models such as those discussed in this report therefore hold potential to reduce violence against women, and social protection, economic policy and VAW strategies must be explicitly integrated.

Access to justice

Other crucial dimensions of systemic violence against women are lack of equal access to justice and discrimination within the criminal justice system, reflected in low conviction rates for rape, domestic abuse, trafficking of women for sexual exploitation and FGM. A greater proportion of women remain in danger as a result and it is our failure, as a society, to hold individuals and social structures to account for violence against women.

Specifically, women's access to justice in Scotland is undermined by certain key issues. Lack of legal aid contributions in relation to civil orders and domestic abuse means that women's socioeconomic status bears on protection of their human rights.⁸⁰ Secondly, Scotland's criminal justice system requires all key evidence in criminal prosecution to be backed by two sources. This 'corroboration' has been identified as underpinning the fact that 75% of rape complaints do not progress to court. The Carloway Review of the criminal justice system

⁷⁹ Postmus, J. et al (2009) *Women's experiences of violence and seeking help*, *Violence Against Women*, 15

⁸⁰ Scottish Women's Aid (2012) Scottish Civil Justice Council and Criminal Legal Assistance Bill, Submission by SWA to the Justice Committee



recommends an improved system based on quality rather than quantity of evidence,⁸¹ a call that was echoed by the UN CEDAW Committee in 2013⁸² and appears likely to be implemented by the Scottish Government.

Closely linked to women's experiences of the justice system is the treatment of asylum-seeking women throughout the UK asylum and immigration process. Legislation, policy and practice systemically discriminate against women, largely due to a culture of disbelief and failure to understand the implications of gender-based violence and trauma. This and other sexist dimensions of the immigration and asylum systems have been comprehensively documented by gender advocates and the refugee sector.⁸³

Power and responsibility

Violence against women policy falls under the current competences of the Scottish Government. The criminal justice system has long been independent, and Scotland has an independent police force, courts service, and Crown Office and Procurator Fiscal service (approximately analogous to England and Wales' Crown Prosecution Service).

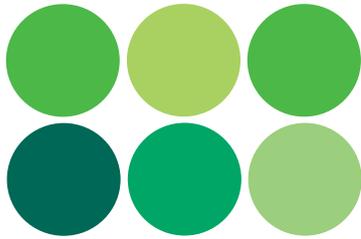
Immigration, including asylum, is reserved to the UK.

Power and responsibility rest with: Scottish Government

⁸¹ Carloway, C. (2011) The Carloway Review: Report and recommendations

⁸² UN CEDAW Committee (2013) Concluding observations on the seventh periodic report of the United Kingdom

⁸³ Asylum Aid (2011) Unsustainable: the quality of initial decision-making in women's asylum claims



5. CONSTITUTIONAL ARRANGEMENTS

The UK's constitutional arrangements have a complicated and nuanced impact on gender equality in Scotland. The degree of interdependence between economic, political and social gender inequalities, and their structural nature, means that no related policy set in Scotland is wholly unaffected by those set by the UK Government. Previous chapters have set out the policy context of a range of gendered inequalities and identified whether power and responsibility for remedying these currently sits with Westminster or in Scotland. This chapter recaps the division of reserved and devolved matters, and looks holistically at the implications for gender equality concerns under the status quo and in the case of independence.

What about 'devo max'?

Polling data suggests that the majority of Scots, if given a choice between the status quo, independence, and increased devolution (whereby the Scottish Government would assume responsibility for additional, as yet unenumerated, policy areas) would choose more devolution. This option has been abbreviated by commentators to as 'devo max'.

'Devo max' will not be an option on the referendum paper, which will instead ask voters whether Scotland should be an independent country or not.

The terms of the Edinburgh Agreement, which is the bilateral agreement between Scotland and the UK that governs the referendum and its aftermath, does not place any requirement on the UK to consider broadening the devolution settlement.



5.1 STATUS QUO

Under the existing settlement, the Scottish Government has power to do considerably more to progress gender equality agendas. Primarily, it could mainstream gender across all departments, policy setting and strategy, and implement strengthened gender-responsive budgeting practices. It could also strengthen the gender dimensions of the Public Sector Equality Duty and enforce greater compliance of its core obligations.

It could incorporate CEDAW, the UN Bill of Women's Rights, into Scots law, and develop and extend legal responses to violence against women.

It could renew its ministerial focus on gender equality, within the context of the public sector equality duty, and tackle the drivers of the gender pay gap and gender stereotyping. It could set a precedent by placing women's disadvantage at the heart of its response to the UK government's 'welfare reform' programme.

Devolved matters

Engender would like to see a transformational change in the way that policy is made, to incorporate a gendered analysis, and ensure that policy development promotes gender equality and mitigates inequalities. This aligns with existing responsibilities that the Scottish Government has under the Public Sector Equality Duty, but the ambition of this piece of regulation has not been realised.

Engender does not wish to see gender equality policy pursued in departmental silos, but there is currently no mechanism, such as a Scottish gender equality strategy or logic model, to militate against this approach.

The following table sets out indicative actions for greater gender equality that could be progressed by the Scottish Government under the status quo, and how these map onto devolved policy areas. It is illustrative rather than comprehensive.



Devolved policy areas	Interventions
Economic development	<p>Increase support for women's enterprise.</p> <p>Ensure gendered approach to development within key sectors, including in skills and investment.</p> <p>Ensure economic development agencies and Skills Development Scotland fulfil their public sector equality duty (PSED) obligations and mainstream gender.</p>
Education and training	<p>Mainstream gender in Curriculum for Excellence, and build girls' capacity and resilience to study non-traditional subjects at school and university; and enable girls and boys to critically assess and understand the objectification of girls in media.</p> <p>Tackle occupational segregation in the Modern Apprenticeship programme, and increase young men's and young women's participation in non-traditional frameworks.</p>
Employability	<p>Deliver gender-sensitive employability services that challenge gendered occupational segregation, incorporate adequate childcare provision, and build women's resilience to discrimination and inequality in the labour market.</p>
Law and order	<p>Introduce legal remedy for coercive control.</p> <p>Remove the need for corroboration in trials on sexual violence.</p> <p>Introduce independent legal representation for complainers of rape and sexual assault.</p>
Local government	<p>Work closely with local authorities and Community Planning Partnerships to develop community-based solutions to gender inequality issues.</p>
Social services (including childcare)	<p>Build on statutory provision with increased funding over time.</p> <p>Support development of quality childcare through sectoral investment, including paying the living wage to childcare workers.</p> <p>Account for childcare provision in capital budgets.</p>



Overlapping areas

As a whole, the current constitutional settlement is far from clear-cut in terms of power and responsibility for gender issues. As noted in this paper, this is because overarching policy coherence is at the crux of gender equality debates.

In terms of the statute, many of the matters reserved to Westminster, listed under Schedule 5 of the Scotland Act 1998, are also qualified by exceptions.⁸⁴ For instance, council tax and non-domestic rates are exempt under ‘fiscal, economic and monetary policy’, but local authority expenditure is manifestly bound up with broader tax-raising, government borrowing and public expenditure policies. The Scotland Act 2012 devolves some additional tax-raising and administration powers to Scotland. These grey areas apply to numerous highly gendered policy areas. This list reiterates the key divisions of overlapping powers. It is illustrative rather than comprehensive.

Issues	Devolved areas	Reserved areas
Childcare	Early years education, social services	Social security, economic matters
Economic models	Economic development	Fiscal policy, financial markets and services
Employability/ employment	Skills, health, regeneration, education	Benefits, some training, employment rights
Gender segregation	Education and training	Employment law, broadcasting, equal opportunities
Media	Education, arts	Broadcasting
Political participation/ public life	Appointments process, Scottish specific duties (PSED)	Parliamentary quotas, regulation of political parties
Poverty	Housing, health and social services	Immigration, social security, economic matters
Violence against women	Housing, law and order, social services	Equal opportunities legislation, social security, immigration and asylum

⁸⁴ Available at <http://www.legislation.gov.uk/ukpga/1998/46/schedule/5> (accessed 19/2/14)



When and where policy-setting in Scotland and the UK is broadly in tune, these grey areas can enhance progress through mutually constructive developments. In other cases, mixed competences are clearly limiting for women's rights agendas. This partly hinges on the tension between progressive public spending investments and lack of full control over the public purse. The current Scottish Government's proposal for universal provision of childcare in an independent Scotland has become a high-profile example of this argument – the Scottish Government has the legal competence to provide childcare under the status quo, but not the powers over the macroeconomic strategy, tax-collection and holistic spending decisions that would, arguably, enable it.

Governments and political parties on both sides of the border at times appear to have exploited grey areas within the constitutional settlement, with the consequence that decisive action on gender issues has not been taken. UK Government policy has been invoked as an explanation for gender inequalities by all flavours of Scottish Government, despite willingness and ability to be flexible about the terms of the devolution settlement in other contexts. On other occasions this flexibility has been used to protect progressive social policy strategies in Scotland when these have been at odds with the direction of travel at Westminster. Welfare reform mitigation, the safeguarding of violence against women services and funding for legal aid programmes are notable examples from a gender perspective.

Reserved matters

Westminster controls a considerable number of policy areas that are critical to gender issues and women's rights. Relevant frameworks, legislation and policy would need to be developed or adapted, and monitored closely by a diversity of stakeholders in the case of an independent Scotland. These include:

Constitution

Broadcasting:

- including communications regulation

Employment and industrial relations:

- including employment rights, trade union rights and responsibilities, the national minimum wage, and job search and support



Equal opportunities:

- including the Equal Pay Act 1970, the Equalities Act 2010

Financial and economic matters:

- including key tax-raising powers and overall control of spending decisions

Immigration and nationality:

- including as border control and freedom of movement

Trade and industry

Social security:

- including benefits, child support and pensions

5.2 INDEPENDENCE

The policy implications of Scottish independence on gender issues are demonstrably very broad.

Engender does not argue that an independent Scotland would be more likely to engage with women's equality because Scotland is a more progressive nation. There is no reason to believe that an independent Scotland would not have governments that have a negative impact on women's rights, as well as a positive impact.

Engender does see potential in the possibility for structural change that accompanies wider reallocation of power and responsibility. This would also be the case in the event of other significant change, such as that introduced by further devolution ('devo max').

Constitutional Bill of Rights

Most national governments are accountable to written constitutions that articulate the fundamental principles and aspirations of a given society and guarantee human rights. Increasingly over recent decades, such documents have also enshrined detailed obligations of the state in relation to its citizens, which would see these rights realised. Recent constitutional processes across the world have led to progressive provisions on gender,⁸⁵ providing advocates with powerful tools with which to hold governments to account on women's rights.

⁸⁵ Notable examples include Bolivia 2009, the process in Iceland, South Africa 1996, Tunisia, 2014



The UK is notable for its lack of a written constitution. Under the status quo, human rights in Scotland are protected by international treaties, and national legislation. In terms of gender, however, the UK is not currently fulfilling its obligations as a state party to the UN convention on women's rights (Convention on the Elimination of all forms of Discrimination Against Women). In 2013, the CEDAW committee made urgent recommendations to the UK Government on a wide range of issues, to forestall further harm to women. Many of these are echoed in this paper. The Committee's report also points to areas where the Scottish Government is failing to deliver on women's rights that are within its competence, and recommends a course of action.⁸⁶ These actions are also covered in this paper.

The referendum context has generated healthy discussion about the potential of a written constitution to protect and realise human rights in an independent Scotland. A collaboratively designed constitution could place gender and other equalities issues at the centre of the Scottish Parliament's mandate to govern and provide important recourse for systemically marginalised groups of women in Scotland. One approach could be to enshrine CEDAW at national level and thus strengthen accountability for its implementation.

Should voters decide against independence, the Scottish Government could explore the possibility of a subnational constitution under the status quo. The Belfast Agreement provides a narrow precedent for such a Bill of Rights, however, this has yet to be implemented sixteen years after the bilateral treaty was signed by the Republic of Ireland and the United Kingdom.

New institutions and legislation

The creation of new institutions and systems provide the opportunity to embed gender equality at a structural level. As with devolution, establishing new public institutions under independence would allow gender advocates and other equalities groups to push for structural progress.

An independent Scottish Parliament would develop and implement a raft of new legislation with significant implications for women. This creative process would have the potential to strengthen the legal basis for women's equality in Scotland. This links to the potential of a written constitution, where rights and duties

⁸⁶ UN CEDAW Committee (2013) Concluding observations on the seventh periodic report of the United Kingdom



articulated could underpin targeted national legislation. In some areas, such as immigration, social security and regulation of financial and growth sectors, there would be potential to introduce entirely new systems.

There are, of course, no guaranteed outcomes under any constitutional arrangement. At a technical level, an equally progressive vision could be implemented under current constitutional arrangements through political and legal reform at Westminster and the introduction of a written constitution for the UK.

Particular opportunities to advance the fulfilment of women's rights and gender equality agendas would include:

Ratification of international human rights instruments

Scotland would take decisions on whether to ratify international human rights instruments, including protocols to which the UK is not a signatory. For instance, there have been signals that an independent Scotland could ratify the Council of Europe's 'Istanbul Convention' on combating violence against women. Scotland could also decide to implement the optional protocol of the International Covenant on Economic, Social, and Cultural rights (ICESCR).

Social security system

In the case of independence, a new social security system would be designed and implemented,⁸⁷ having the scope to redress the gender discrimination at the core of the current system. The policy direction and commitment on mitigation of 'welfare reform' in Scotland signals some cause for optimism, although gender issues have not been made explicit within this.

Immigration and asylum systems

A new immigration and asylum system for Scotland could substantially increase the protection, prospects and wellbeing of migrant, refugee and

⁸⁷ Scottish Government (2013) *The Expert Working Group on Welfare, May 2013 report*



asylum-seeking women in Scotland.⁸⁸ Scotland's approach to refugee integration and support for asylum seekers constitutes an encouraging direction of travel. Indications that an independent Scotland would encourage economic migration could be positive, if adequately gendered.

Gender quotas

Creating new institutions would present an opportunity to embed and deliver gender quotas, building on the learning from the 1999 election. Opportunities for imaginative thinking around flexible working arrangements in new public appointments would be created.

Media and communications framework

A Scottish Broadcasting Corporation, or equivalent public broadcaster, and related oversight bodies could embed structures aimed at eliminating sexist content and improving gender balance, in line with the UN Beijing Platform for Action. A gender equality media watchdog could be introduced.

Gender and the independence debate

Scottish Government: White paper on independence

The Scottish Government blueprint for an independent Scotland, *Scotland's Future*,⁸⁹ is to be welcomed as a stand-alone document for its foregrounding and narrative focus on social justice and its human rights and equality goals. Childcare is a major focus and presented as a cornerstone of a revised social policy. The document envisages a transformed childcare system, which aims to tackle social exclusion, promote child development and feed into tackling gendered barriers to the labour market. There are proposals to develop a universal and accessible system of quality early learning and childcare from the age of one, as well as significant investment in childcare infrastructure, the workforce and support structures. The prominence of childcare as an equalities issue and as an economic issue is extremely valuable. Linked with this, proposals to overhaul

⁸⁸ Scottish Refugee Council (2013) *Improving the lives of refugees in Scotland after the Referendum: An appraisal of the options*

⁸⁹ Scottish Government (2013) *Scotland's Future: Your guide to an independent Scotland*



the social security system, based on a social investment approach across the life course, stand in stark contrast to the current welfare reform agenda at Westminster – an agenda that penalises women, disabled people and lone mothers. Again, regardless of the highly charged context, these signals are significant.

In broad terms, however, the white paper could have gone much further in articulating a vision for a gender equal Scotland. Gender and equality issues are not mainstreamed, and whilst gender equality is central to the proposed international policy approach, this is not applied to overarching domestic frameworks. Childcare is a significant issue, but even free, twenty-four hour childcare, which is not on the table, would not come close to redressing the broad sweep of gender inequality.

The white paper has been criticised for muddying the waters with regard to policy and constitutional issues. Indeed, it is important to underscore the distinctions between current Scottish Government policy commitments and the proposals made throughout the document. There can be no concrete projections under either outcome of the referendum and the Scottish National Party's proposals on childcare are clearly bound up with political thinking. Nonetheless, potential entry points and opportunities to achieve change are articulated in the white paper and there is a danger that political dynamics stifles discussion about potential challenges to gender inequality.

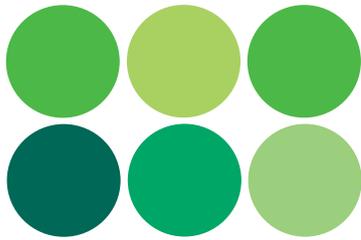
UK Government Scotland Office: Scotland analysis papers

To date, the UK Government has produced ten analysis papers of the Scottish context, which have focused on economic, fiscal, financial, international and legal issues, as well as security and science and research.⁹⁰ None of the papers contains any gender analysis or mentions gender equality, referring mainly to male-dominated economic sectors. Notably, no research or position on social policy issues has yet been released. References to women and gender across all ten papers are outlined in the following table

⁹⁰ Scotland Office, Scotland analysis papers (accessed 19/2/14)
<https://www.gov.uk/government/collections/scotland-analysis>



Analysis paper	Reference to women or gender
Borders and Citizenship	In deciding on issues of entitlement, the governments of an independent Scottish state and the continuing UK are likely to consider Article 9 of CEDAW.
EU and international issues	Over half of beneficiaries from the UK's international aid programme are women. The FCO has a focus on Preventing Sexual Violence in Conflict.
Science and research	None
Security	None
Defence	None, other than to 'servicemen and women'.
Macroeconomic and fiscal performance	None
Business and microeconomic framework	Shows employment rate by gender in Scotland is higher than OECD average.
Financial services and banking	None
Currency and monetary policy	None
Devolution and the implications of Scottish independence	None



6. CONCLUSIONS

Progress measured against gender equality indicators has stalled in recent years. Deep fault lines in our cultural, political and economic institutions have been exposed by the economic climate, and women are paying the price for poor labour market conditions and public spending cuts.

Policies that tinker with an essentially dysfunctional and gender-blind system are limited to achieving only incremental gains. Transformative reform of our political and economic systems, and the cultures which sustain them, is needed to achieve gender equality of outcomes and to tackle endemic gender-based violence, discrimination, and inequality in Scotland. The constitutional arrangements, mechanisms and political environment needed to deliver this are of secondary importance.

The constitutional change debate provides a platform for discussion of social issues and space for women's and equalities organisations to reflect on the possibilities for change that do exist. Regardless of the outcome of the referendum, we will continue to promote national economic and political systems that:

- Count the unpaid work of women in Scotland
- Revalue caring, cleaning, catering, clerical, and retail work, and other undervalued work predominantly done by women
- Do not prioritise GDP growth at the expense of gender equality and women's wellbeing, and
- No longer tolerate gender discrimination and gender-based violence.
- Enable women to contribute equality in politic and public life.

Overall, the direction of travel in Scotland since devolution has been more progressive on gender issues than south of the border, as has the broader social policy environment. In large part, this is due to the efforts of a vibrant civil society and active women's movement,⁹¹ and the comparative accessibility of decision-

⁹¹ Including third sector, academia, trade unions, political party membership, community groups



making structures in the Scotland. This does not, however, mean that greater access to a larger number of policy levers under independence would automatically lead to progressive outcomes.

Furthermore, the policy environment is unpredictable, dictated by public opinion and pressure, and subject to party politics. It is imperative that clear distinctions are made between policy statements, such as those articulated in the Scottish Government white paper *Scotland's Future*,⁹² and the policy levers and competences that enable change. It is not possible to predict the outcome of the next parliamentary elections, at Holyrood in 2016 and at Westminster in 2015. Fundamentally, the referendum is not about policies, but about more localised decision-making. In terms of social justice, gender and equalities imperatives, the key question revolves around the greater potential this holds to deliver for marginalised groups.

There has been significant political attention on women voters in the referendum debate. Engender welcomes the spotlight this casts on women's alienation from the political system and the need to increase efforts across the spectrum to engage with women on key gendered issues. Engender will be working to foster informed debate around the implications for women in the run-up to the vote and thereafter, and to encourage women to cast their vote.

Come what may, the constitutional change debate has recharged Engender's thinking about the ways in which transformed national institutions might effectively tackle the causes of inequality and discrimination, and about how to achieve a truly gender equal Scotland, where women are safe and free to participate equally in society.

⁹² Scottish Government (2013) *Scotland's Future: Your guide to an independent Scotland*

RESOURCES

Governance

Council of Europe Istanbul Convention

http://www.coe.int/t/dghl/standardsetting/convention-violence/about_en.asp

Equality and Human Rights Commission

<http://www.equalityhumanrights.com/scotland/>

Government Equalities Unit (UK)

<https://www.gov.uk/government/organisations/government-equalities-office>

Scottish Government Equalities Unit

<http://www.scotland.gov.uk/Topics/People/Equality>

Scottish Human Rights Commission

<http://www.scottishhumanrights.com/UN>

CEDAW Committee

www.un.org/womenwatch/daw/cedaw/committee.htm

Independence debate

Better Together

bettertogether.net/

Better Together Women

bettertogether.net/blog/entry/better-together-women-launches-on-international-womens-day

Scotland's Referendum 2014

www.scotreferendum.com

Yes Scotland

www.yesscotland.net

Women for independence

www.womenforindependence.org

Women's organisations in Scotland

Amina The Muslim Women's Resource Centre

<http://www.mwrc.org.uk/>

Close the Gap

www.closethegap.org.uk

Engender

www.engender.org.uk

Rape Crisis Scotland

www.rapecrisisscotland.org.uk

Refugee Women's Strategy Group

www.scottishrefugeecouncil.org.uk/rwsg

Saheliya

www.saheliya.co.uk

Scottish Women's Aid

www.scottishwomensaid.org.uk

Scottish Women's Budget Group

www.swbg.org.uk

Scottish Women's Convention

www.scottishwomensconvention.org

Scottish Trades Union Congress

Women's Committee

<http://www.stuc.org.uk/women>

Women's Support Project

www.womenssupportproject.co.uk

Zero Tolerance

www.zerotolerance.org.uk

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Any errors of fact that remain are our own. The views expressed in this report are those of Engender and not of any other organisation.

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