

**Amnesty International response to OHCHR questionnaire on intersectional forms of discrimination**

**December 2016**

Amnesty International is pleased to respond to questions one and seven of OHCHR’s questionnaire, circulated in line with Human Rights Council resolution 32/L.25, addressing the effect of multiple and intersecting forms of discrimination in the context of racism, racial discrimination, xenophobia and other related forms of intolerance on the full enjoyment of all human rights by women and girls.

*Question 1: Is there any data or research on the prevalence of violence or discrimination against women and girls belonging to national, religious, ethnic or linguistic minorities, women or girl migrant or asylum seekers; women and girl survivors of trafficking or sexual and gender based violence; indigenous women and girls, women and girls of African descent or belonging to other groups facing racism, racial discrimination, xenophobic and related intolerance?*

Amnesty International has undertaken a range of research into the situation of women facing multiple and intersectional forms of discrimination, including some key areas listed below.

*Discrimination and violence against women and girls belonging to national, religious, ethnic or linguistic minorities*

In a report on discrimination against Muslims in Europe, Amnesty International has underscored how laws restricting the wearing of certain clothing and religious symbols have a disproportionate impact on Muslim women.[[1]](#footnote-1) Laws that restrict clothing that covers the face, while neutral in wording, have a particular impact on Muslim women who wear full face veils, and restrict their freedom of expression and religion, and their rights to education and to work. They do not appear to have a legitimate aim, or be necessary and proportionate. Amnesty International is further concerned that the debates on full-face veils, often very well covered by mainstream media, have contributed to the rising hostility against women wearing this form of dress. This hostile climate combined with general bans could result in the isolation of women who may be fined by law enforcement officers and/or become the target of verbal attacks from private actors merely because they wish to go to a shop or walk in the street with their faces covered.

*Discrimination and violence against women or girl migrant or asylum seekers*

In a report on Syrian refugees in Lebanon, Amnesty International has highlighted how the Lebanese government’s refusal to renew residency permits for refugees and a shortage of international funding has left refugee women in a precarious position, and has put them [at risk of exploitation](https://www.amnesty.org/en/latest/campaigns/2016/02/why-refugee-women-Syria-Lebanon-face-sexual-harassment-exploitation/) by people in positions of power including landlords, employers and the police.[[2]](#footnote-2) Without proper legal status refugees face arbitrary arrest, detention and even deportation leaving many refugee women afraid to report gender based violence to police. This creates barriers in access to justice for refugee women and also offers relative impunity to perpetrators of violence against refugees.

*Discrimination and violence against indigenous women and girls*

Amnesty International has highlighted how, in its current iteration, Canada’s regime for transmission of indigenous status under federal law (the Indian Act) perpetuates gender discrimination by arbitrarily denying status to certain descendants of women who themselves were previously refused status under the Act solely on the basis of gender.[[3]](#footnote-3)

Amnesty International has also highlighted that indigenous women and girls in Canada face a significantly heightened risk of violence compared to other women and girls in the country.[[4]](#footnote-4) Discrimination and marginalization experienced by Indigenous women and girls pushes many into unsafe working environments. Some men deliberately target Indigenous women, whether driven by racist and misogynist attitudes toward Indigenous women or simply calculating that social attitudes toward Indigenous women mean they are more likely to get away with crimes against Indigenous women. Discrimination against Indigenous women has also denied them access to services and support necessary to escape violence. Amnesty International’s research concluded that police and government have long been aware of these patterns of violence but all too often have failed to take adequate or appropriate action.

Amnesty International’s work in relation to the impact of large scale energy development in northeast British Columbia has highlighted the unintended negative social and economic consequences of intensive economic development that disproportionately affects the indigenous communities living there, particularly women and girls, which the authorities have failed to address.[[5]](#footnote-5) In addition to unchecked racist and misogynistic language leaving Indigenous women and girls again the targets of distinct patterns of violence, high wages for resource sector workers, and the large numbers of workers attracted to the region, have driven up local prices for essentials such as food and housing. The consequence is that those without access to resource sector wages—particularly Indigenous women and girls—are forced into economically precarious conditions where they experience food and housing insecurity.

Amnesty has undertaken research on discrimination against indigenous youth in the criminal justice system in the northeast state of Queensland, noting that indigenous girls are 33 times as likely to be incarcerated as non-indigenous girls.[[6]](#footnote-6) Many indigenous youth in prison have Fetal Alcohol Spectrum Disorder (FASD), which is not classified as a disability in Australian law, thus meaning it is not taken into account when sentencing, and families with children with FASD may not be getting needed support from the State.[[7]](#footnote-7)

Amnesty International has also raised the issue of forced sterilization of Indigenous women in Peru[[8]](#footnote-8) and Roma women in Slovakia and continuing state impunity on multiple occasions.[[9]](#footnote-9)

*Intersectional discrimination against lesbian women and girls*

In research focused on LGBTI rights in Sub-Saharan Africa, Amnesty International has reported on the intersection between race, gender and sexual orientation that provide a context in which black, lesbian women are targeted for rape, murder and other forms of violence in South Africa.[[10]](#footnote-10) Socio-economic factors also play a key role, with lesbian women in informal settlements more at risk of hate crimes and less able to access police protection and justice. Black women already experience discrimination and violence in South Africa, but black lesbians are especially targeted for violence and discrimination as they can rarely draw on community support in a country where over 80 percent of the population have been found to consistently believe that “sex between two men or two women [is] always wrong.”[[11]](#footnote-11)

*Intersectional discrimination in access to maternal health care*

Amnesty International has also carried out work on access to maternal health care, highlighting the intersectional forms of discrimination faced by women in this context.

Research in South Africa[[12]](#footnote-12) emphasized that barriers to maternal health care were exacerbated for women and girls who experience intersectional inequality and marginalization, particularly linked to race, poverty and gender discrimination. The report notes that black women and girls, according to official statistics, are often most disadvantaged by poor standards of housing and sanitation, access barriers to education and lack of secure employment opportunities, which also contribute to poor health outcomes. High rates of gender based violence are well documented in South Africa..[[13]](#footnote-13)

In Peru, factors that exclude women from marginalized communities from getting the maternal health care they need include the unequal distribution of health facilities, goods and services such as emergency obstetric care. For poor or Indigenous women, these factors are compounded by barriers stemming from the socio-economic, ethnic and gender discrimination, including a lack of health care staff who speak indigenous languages.[[14]](#footnote-14)

In the USA, disparities in access to health care and information due to discrimination and socioeconomic differences result in higher mortality rates among women of colour.[[15]](#footnote-15) Black women are nearly four times more likely to die from pregnancy-related causes than white women. In high-risk pregnancies, the disparities are even greater, with African-American women 5.6 times more likely to die than white women. Discrimination profoundly affects a woman’s chances of being healthy in the first place. Women of color are less likely to go into pregnancy in good health because of a lack of access to primary health care services. They are also less likely to have access to adequate maternal health care services. Native American and Alaska Native women are 3.6 times, African-American women 2.6 times, and Latina women 2.5 times as likely as white women to receive late or no prenatal care. They are also more likely to experience poorer quality of care, discrimination or culturally inappropriate treatment.[[16]](#footnote-16)

*Intersectional discrimination and laws that criminalize women’s sexual and reproductive actions*

Amnesty International’s research on the range of human rights abuses and violations faced by sex workers under criminalized legal frameworks in four countries also highlighted how direct and indirect discrimination against sex workers and/or on the basis of gender, sexual orientation, gender identity, race, caste, ethnicity, indigenous identity, migrant or other status, intersect to deny affected groups resources, opportunities, security and power necessary for the full enjoyment of human rights.[[17]](#footnote-17)

In Norway for example, initiatives to enforce sex work laws, which involved raids on apartments and massage parlours/brothels and resulted in the forced evictions of many sex workers from their places of work and/or homes, principally targeted migrant women; initially women of Thai origin working in the massage parlours of Oslo, and later, Nigerian women working in the streets and in apartments.[[18]](#footnote-18) Ethnically Norwegian sex workers were more likely to own their own homes and therefore were also more empowered to avoid eviction and secure a safe working space, than migrant women- particularly Nigerian migrants. Additionally, Nigerian and other migrant women were frequently profiled and excluded from hotels on the assumption that they were sex workers. While many sex workers Amnesty International spoke to reported having very low levels of trust or faith in the police, Nigerian women in particular frequently spoke of their belief that the police would not take reports of crimes against them seriously because of their status as migrant sex workers.

Amnesty International has also undertaken research on the human rights impact of laws that criminalize drug use and other conduct during pregnancy. These laws, which are discriminatory against all women, also have a disproportionate impact on women who are already marginalized due to multiple, intersecting factors including ethnic or racial discrimination, poverty, and access to health care which is itself associated with poor health status. In turn, laws criminalizing pregnant women’s drug use and other conduct such as Alabama’s “chemical endangerment” law and Tennessee’s “fetal assault” law, target those in the most marginalized positions and at heightened risk of prosecution and punishment.[[19]](#footnote-19)

***Question Seven****: What are the challenges in addressing the needs of women and girls facing racism, racial discrimination, xenophobia and related intolerance, particularly the above mentioned list, in the design, implementation and monitoring of public policies?”*

Institutional discrimination continues to affect women in all spheres -- including in relation to political rights, the family, employment, marriage and property -- and fails to adequately protect women from all forms of gender-based violence. Women living under parallel customary and religious legal systems often face additional levels of institutional discrimination. Furthermore, laws that criminalize women’s sexual and reproductive actions and decisions (i.e. abortion, same-sex intimacy between women, sex work, conduct such as drug use during pregnancy, sex outside of marriage, etc.) generally amount to discrimination against women, effectively removing them from the protection of the law and restricting their access to remedies and support for violence committed against them. These laws often disproportionately impact low-income women and women that face multiple forms of discrimination, including those facing racial discrimination, xenophobia and related intolerances.

Laws that exist to protect against discrimination also often fail to recognize and address intersectional discrimination which compounds the experience of discrimination. This means that anti-discrimination laws may fail to provide adequate protection for affected persons - such as where, for example, women in minority groups are discriminated against in terms of employment or education, but don’t experience the discrimination on the grounds on gender or minority status alone - and may contribute to engendering an oversimplified single axis ground analysis of discrimination among policy-makers. In turn, policies addressing racial discrimination, xenophobia and related intolerances that do not recognize intersectional discrimination including on the basis of gender may likewise be insufficient in addressing the full impact of discrimination that some women and girls experience, including in relation to recognizing the unique harms those affected may face, and the particular barriers to accessing remedies and redress.

There is often a lack of data disaggregated on key grounds such as gender, race, indigenous status etc. available to inform the design, implementation and monitoring of public policy and the allocation of resources. Where such data is available, it is often only collected or aggregated in relation to one ground of discrimination alone (e.g. by race and/or gender separately, but not combined) and therefore renders intersectional forms of discrimination invisible. In its research on Indigenous youth incarceration in Western Australia, for example, Amnesty International found available data was often disaggregated on the grounds of gender and indigenous status, but often did not differentiate between indigenous boys and indigenous girls.[[20]](#footnote-20) Likewise, in its research on violence against Indigenous women in Canada, for example, Amnesty International has highlighted that statistics collected on violence against women almost certainly underestimate the extent of violence against Indigenous women and girls. Inconsistent police practices may mean that the Indigenous identity of victims often goes unrecorded, and there are still no national protocols and very little training to ensure police consistently and accurately record the Indigenous identity of victims of violent crime. Among other factors also that contribute to the inadequacy of this data, is significant mistrust between Indigenous communities and the police that also leads to the underreporting of crimes against Indigenous people.[[21]](#footnote-21)

Furthermore, there is often a lack of effort to meaningfully consult and engage with affected women in the design, implementation and monitoring of public policies that affect them, including in relation to combatting racial discrimination, xenophobia and related intolerances. Where efforts are made to engage in consultations with persons affected by intersectional forms of discrimination, it may not be undertaken in a meaningful way to enable them to participate. In the absence of such steps, policy makers may not have an informed view of the experiences of women facing intersectional forms of discrimination, or their priorities. After critiquing the shortcomings of the Canadian authorities efforts to address discrimination against indigenous women in reforms to the Indian Act, Amnesty International has for example highlighted the urgent need for the Canadian authorities to work with First Nations’ women’s organizations to ensure that further promised reforms to the Indian Act eliminate any other sex discrimination in accessing recognition of status under the Act.[[22]](#footnote-22)

In the absence of available evidence and consultation with affected persons, there is a risk that policy makers will rely on stereotyped views in the design, implementation and monitoring of public policy. In its research on discrimination against Muslims in Europe, Amnesty International has highlighted how stereotyped views were put forward to justify measures to prohibit the wearing of full-face veils in Europe – for example that Muslim women who wear certain forms of dress only do so under coercion – which had little basis in available evidence.[[23]](#footnote-23) Public authorities that Amnesty International spoke to were unable to provide data on either the number of women wearing full-face veils in their country, region or city, or to identify to which extent full-face veils were worn as a result of coercion. Amnesty International has called on the authorities to instead develop a comprehensive plan to address the different forms of discrimination that women from religious and ethnic minorities face, such as lower levels of employment and salaries, and poorer standards of education, based consultation with women affected.

Amnesty International has also detailed in its four reports in 2016 how sex workers are rarely meaningfully consulted in the development of law and policies on sex work. Instead, states tend to rely heavily on harmful stereotypes of women involved in sex work. These tropes range from that of the “fallen women/whore” who in failing to control her own sexuality has spoiled her identity and poses a risk to “decent” society, to the characterization of the “prostitute” as a damaged woman who cannot be in control of her own mind in selling sex and is lacking any agency or rational consciousness. Stigmatization of sex work is also frequently informed by and enmeshed with racist and colonialist notions of the racialized, sexualized “Other” and/or heteronormative prejudices. These approaches work to deny all sex workers agency or capacity, render invisible significant populations of transgender and cis gender male sex workers in many countries and justify and promote criminalization approaches which have a profoundly negative impact on sex workers;   denying access to labour based protections and preventing the realisation of their human rights.

1. Amnesty International, “Choice and prejudice: Discrimination against Muslims in Europe”, AI Index: EUR 01/001/2012. [↑](#footnote-ref-1)
2. Amnesty International “‘I Want a Safe Place’: Refugee Women from Syria Uprooted and Unprotected in Lebanon”, AI Index: MDE 18/3210/2016. [↑](#footnote-ref-2)
3. Amnesty International: “Submission to the United Nations Committee on the Elimination of Discrimination Against Women”, AI Index: AMR 20/4771/2016. [↑](#footnote-ref-3)
4. Amnesty International, Canada: “Stolen Sisters: A Human Rights Response to Discrimination and Violence against Indigenous Women in Canada”, AI Index: AMR 20/003/2004. See also Amnesty International: Submission to the United Nations Committee on The Elimination of Discrimination Against Women, AI Index: AMR 20/4771/2016. [↑](#footnote-ref-4)
5. Amnesty International Canada: Out of Sight, Out of Mind: Gender, Indigenous Rights and Energy Development in Northeast British Columbia, Canada, AI Index: AMR 20/4872/2016. [↑](#footnote-ref-5)
6. Amnesty International Australia, “Heads Held High: Keepings Queensland Kids out of Detention and Strong in Culture and Community”, August 2016. [↑](#footnote-ref-6)
7. See ibid page 43. [↑](#footnote-ref-7)
8. Amnesty International, “Peru: Over 2,000 women in Peru denied justice”, Index number: AMR 46/003/2014; Amnesty International, “Peru: Further information: Over 2,000 women in Peru denied justice”, Index number: AMR 46/4623/2016; Amnesty International, “Peru to reopen investigation into forced sterilizations of women”, available at: https://www.amnesty.org/en/latest/news/2011/10/peru-reopen-investigation-forced-sterilizations-women/. [↑](#footnote-ref-8)
9. Amnesty International, “Slovakia: Failed Investigation into allegations of illegal sterilization of Romani Women”, Index number: EUR 72/005/2003; Amnesty International, “Slovakia: Failing to ensure an impartial and thorough investigation into allegations in illegal sterilization of Romani women”, Index number: EUR 72/002/2003. [↑](#footnote-ref-9)
10. Amnesty International, “Making Love a Crime: Criminalization of Same-Sex Conduct in Sub-Saharan Africa” AI Index: AFR 01/001/2013. [↑](#footnote-ref-10)
11. See ibid, page 50. [↑](#footnote-ref-11)
12. Amnesty International, “Struggle for maternal health: Barriers to antenatal care in South Africa” Index: AFR 53/006/2014, October 2014. [↑](#footnote-ref-12)
13. See ibid, page 10. [↑](#footnote-ref-13)
14. Amnesty International, “Peru: Fatal flows – barriers to maternal health in Peru”, Index number: AFR 46/008/2009. [↑](#footnote-ref-14)
15. Amnesty International, “USA: Deadly delivery, the maternal health care crisis in the USA”, Index number: AMR 51/007/2010. [↑](#footnote-ref-15)
16. See ibid, page 20. [↑](#footnote-ref-16)
17. Amnesty International policy on state obligations to respect, protect and fulfil the human rights of sex workers, Index number: POL 30/4062/2016. See also Amnesty International reports “’What I’m doing is not a crime’: The human cost of criminalizing sex work in the City of Buenos Aires, Argentina AI Index: AMR 13/4042/2016; “The human cost of ‘crushing’ the market: Criminalization of sex work in Norway”, Al Index EUR/36/4034/2016; “Harmfully Isolated: Criminalizing sex work in Hong Kong” AI Index ASA 17/4032/2016; “Outlawed and abused: Criminalizing sex work in Papua New Guinea” AI Index ASA 34/4030/2016. [↑](#footnote-ref-17)
18. Amnesty International, “The human cost of ‘crushing’ the market: Criminalization of sex work in Norway”, AI Index EUR/36/4034/2016. [↑](#footnote-ref-18)
19. Amnesty International, “USA: Tennessee “Fetal Assault” Law a Threat to Women’s Health and Human Rights”, AI Index: AMR 51/3623/2016, 11 March 2016. [↑](#footnote-ref-19)
20. Amnesty International Australia, “Heads Held High: Keepings Queensland Kids out of Detention and Strong in Culture and Community”, August 2016. [↑](#footnote-ref-20)
21. Amnesty International: Submission to the United Nations Committee on The Elimination of Discrimination Against Women, AI Index: AMR 20/4771/2016. [↑](#footnote-ref-21)
22. Ibid. [↑](#footnote-ref-22)
23. Amnesty International, “Choice and prejudice: Discrimination against Muslims in Europe”, AI Index: EUR 01/001/2012. [↑](#footnote-ref-23)