

On Creating Intersectional Gender Architecture

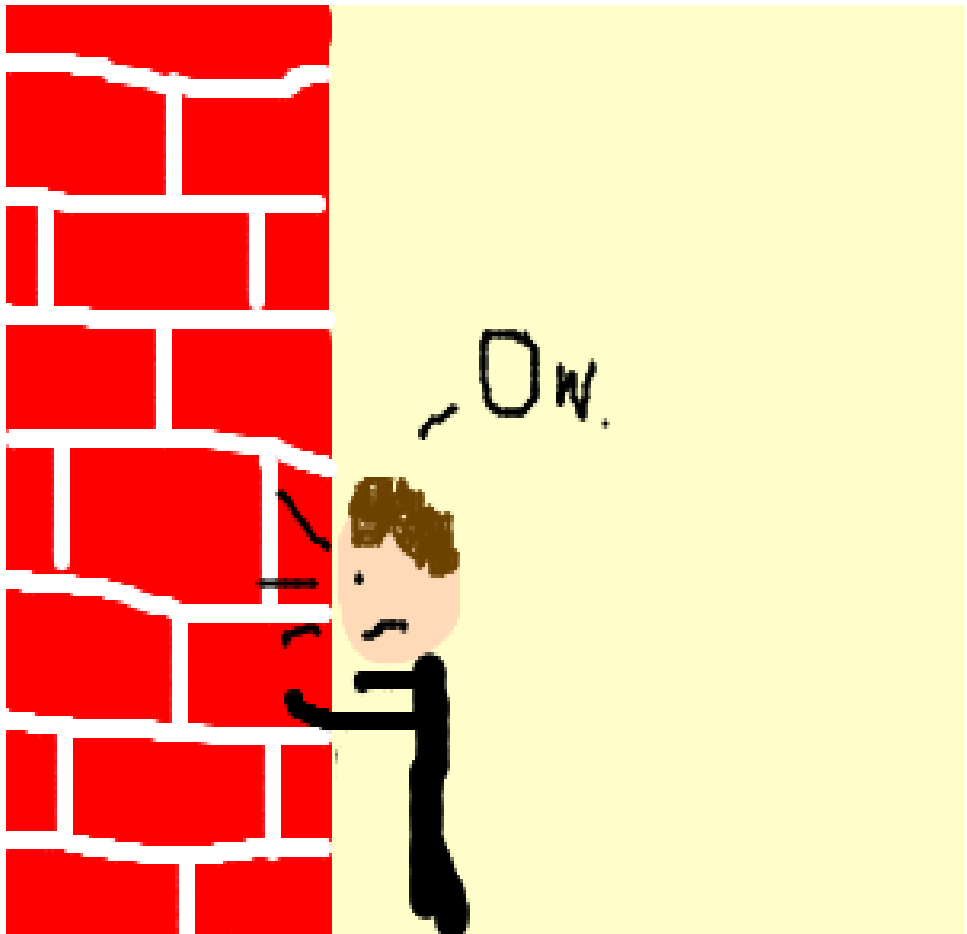
for: Members of the First Minister's National Advisory Council
on Women and Girls (NACWG), Scotland

by: Dr Shreya Atrey, Associate Professor in International
Human Rights Law, University of Oxford

25 August 2020

What you are going to hear today

1. On Creating Intersectional Gender Architecture in law.
2. What is intersectional discrimination about?
 - 2.1 What *is* intersectionality about?
 - 2.2 What is it *not* about?



OXFORD

Shreya Atrey

Intersectional Discrimination

*Shreya Atrey, Intersectional
Discrimination (Oxford University
Press 2019)*

*Shreya Atrey and Peter Dunne,
Intersectionality and Human Rights
Law (Hart 2020)*



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SHREYA ATREY
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Intersectionality and Human Rights Law



Harnessing intersectionality in law, at courts

Overview

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Author Information



Intersectional Discrimination

Shreya Atrey

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3: The Concept: Understanding the Category of Intersectional Discrimination

4: The Practice: Establishing an Intersectional Claim

Conclusion

Harnessing intersectionality in legislation: triple tracking

Triple tracking intersectionality or intersectional discrimination in legislation

1. All general legislation
2. General equality and human rights legislation, i.e. Equality Act 2010 and Human Rights Act 1998
3. Specific equality and human rights legislation on modern slavery, domestic abuse etc.

1. Coronavirus (Scotland) Act 2020

- The Act includes under section 6 the obligation on Ministers to have regard ‘to opportunities to advance equality and non-discrimination’, but:
 - it neither lists protected characteristics,
 - nor does it mention how protected characteristics can combine to exacerbate discrimination.

2. Equality Act 2010

- *Section 1 Public sector duty regarding socio-economic inequalities*

‘(1) An authority to which this section applies must, when making decisions of a strategic nature about how to exercise its functions, have due regard to the desirability of exercising them in a way that is designed to reduce the inequalities of outcome which result from socio-economic disadvantage.’

[brought into force by Equality Act 2010 (Commencement No. 13) (Scotland) Order 2017]

- *Section 14 Combined discrimination: dual characteristics*

‘(1) A person (A) discriminates against another (B) if, because of a combination of two relevant protected characteristics, A treats B less favourably than A treats or would treat a person who does not share either of those characteristics.’

- *Section 149 Public sector equality duty*

‘(1) A public authority must, in the exercise of its functions, have due regard to the need to—

(a) eliminate discrimination...; (b) advance equality of opportunity...; (c) foster good relations between persons...’

3. Modern Slavery Act 2015

- Mentions the problem no doubt: slavery, exploitation, sexual exploitation, servitude etc.
- But does not acknowledge how they **causally** come about not only by exploitative or insidious systems but how they come about because of certain protected characteristics (sex, race, disability, age etc) to further disadvantage vulnerable groups such as women, and exacerbate conditions of exploitation for women of a certain race, for poor women, for women with disabilities etc.
- In other words, the unequal or discriminatory systems or structures which give rise to modern slavery are left in place.

What is intersectionality about?

NACWG		Intersectionality Theory
<p>‘Intersectionality: <i>a framework for understanding how multiple categories of identity (such as gender, race and class) interact in ways that create complex systems of oppression and power</i>’</p>	<p>What is that framework?</p> <p>How do the categories interact?</p> <p>How do we understand complex systems of oppression and power?</p>	<p>‘Intersectionality illuminates the <i>dynamic of sameness and difference</i> in <i>patterns of group disadvantage</i> based on <i>multiple identities understood as a whole</i>, and in their <i>full and relevant context</i>, with the purpose of redressing and <i>transforming</i> them.’</p>

What is it *not* about

5. It is all about Black women

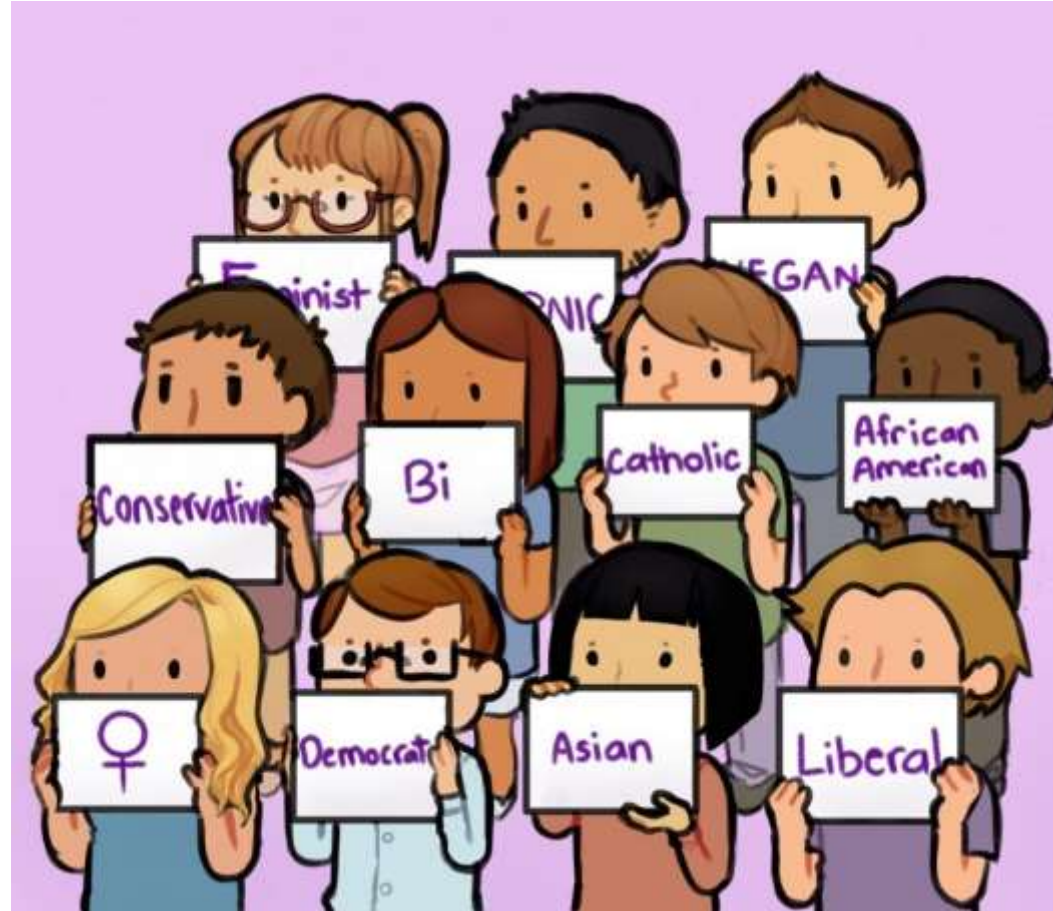


4. It is for everyone

Feminism is for everyone



3. It is simply about identity politics



2. It is *passé*



RIP: "Intersectionality"

1. It is everything



Bethany S. Mandel  @bethanyshondark · 11m

Come on now Neon, I just took my mom off life support at 16, had my father hang himself when I was 19 and grew up in a single wide trailer in Northrup's Trailer Park in upstate New York. Besides that I've been truly [#blessed](#).

7 5 89

Shannon Watts  @shannonwatts [Follow](#)

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Again, your white skin makes you less likely to be at risk as a gun owner - regardless of your hardscrabble background. I guess you don't believe in racism.

6:05 PM - 5 Mar 2018