



**40<sup>th</sup> Session of the Human Rights Council**  
**Item 8**  
**Statement by Action Canada for Population and Development**  
**18 March 2019**

Thank you, President. Action Canada makes this statement on behalf of the Sexual Rights Initiative.

In the Vienna Declaration and Programme of Action, States agreed to prioritize the realization of all women's human rights. However, without an intersectionality lens, women's human rights will never be fully realized.

The black feminist legal scholar Kimberlé Crenshaw developed intersectionality theory in response to the case of Emma DeGraffenreid, an African-American woman who sued General Motors in 1975. DeGraffenreid claimed that she had faced employment discrimination on the basis of gender and race. The court dismissed the case on the grounds that General Motors employed both African-Americans and women. But, as Crenshaw points out, the company's black employees were all men, and all the female employees were white; neither category represented the case of a woman of colour.

Crenshaw called the judgement an 'intersectional failure', in which DeGraffenreid's holistic experience as a black woman was broken up into individual attributes that were examined in isolation from each other, and then measured against the facts – in this case, the presence of other people who shared particular attributes with her but not her identity. The discrimination occurred not on the basis of particular attributes – as General Motors employed both racialised and gendered people – but on the basis of her 'multiple' or intersectional identity, which was not recognised by the court.

While the language of intersectionality has become increasingly present in the media and on the streets – through the #MeToo and #BlackLivesMatter movements, among others, it has made slower progress in the courts and other quasi-legal spaces. The approach at the Human Rights Council has similarly been to privilege single aspects of identity over intersectionality. Such an approach obscures and devalues the experiences of people whose identities consist of multiple attributes, each of which can lead to discrimination on its own but which together form the whole of a person's experience that is bigger than the sum of the individual parts.

To take an example, if a black lesbian is raped for rejecting a man's advances, the violation is likely to be viewed as a case of homophobic violence caused by the rapist's aversion to the survivor's sexual orientation. If she were to be shown to not be a lesbian, the case would be immediately demoted to the status of an 'ordinary' rape. If a black heterosexual woman is raped because she rejects a man's advances, the case is likely to be considered 'just' patriarchal violence or, more commonly, simply as one man's anti-social behaviour. In rejecting sexual advances from men, both women defy gender norms that require them to be sexually available to men, and both

violations arise from the same set of misogynist and patriarchal ideas about what a woman is and how she should behave in the world. The racial identity of the survivors is occluded in both cases even though every aspect of their lives and experiences as black women is simultaneously racialised and gendered.

Because our identities are a composite of different attributes, not a patchwork, we call for an issues-based approach to discrimination and violence that can recognise the multiple attributes that come together in people's lives and not privilege one over all others. This means recognising, for example, that our experience of race is a gendered one, or that our experience of sexual orientation is a racialised one, and not assuming that sexual orientation is unaffected by race, gender, ability, and so on. This privileging of particular aspects of identities has also meant that inaccessibility of spaces at the Human Rights Council contributes to a rather academic exercise of words without any meaning.

The Human Rights Council is at a fork in the road: will it take into account and therefore address the holistic experiences of black women and others facing intersectional discrimination and violence. Fragmenting our lives and experiences into a single identity pushes us to the back of queue and we refuse to wait anymore.