

Transcript

Gender Justice Now – Women’s Legal Education and Action Fund (LEAF) Symposium Panel: Intersectionality and Gender Justice

>>Kat: Welcome back. And welcome to everyone joining us on zoom. I am the Project Director for the Feminist Strategic Litigation Project at the Women's Litigation and Action Fund or LEAF. I am delighted to welcome you to this fantastic panel on intersectionality and gender justice. Before I turn it over to Rosel Kim, who will be our moderator for today's panel, three quick housekeeping items.

First, captioning for this event is available in English and French. English captions should be visible on the video feed on your youtube screen. For French captions please use the link we will share in the youtube chat now. You should have received this link in the reminder email sent out from Eventbrite. Second, the panel will be recorded and we will share the link with you after the event. We will also be making a recording with French interpretation available at that time. Finally, we've shared a link to our speaker bios in the youtube chat. You'll also find links there to a report written by two of our panelist which provide a fantastic overview of intersectionality in law and legal contexts. I highly recommend checking it out. And the executive summary of that report is also available in French.

I will now turn things over to Rosel Kim, one of LEAF's great staff lawyers, who will be our moderator for this panel. Thank you Rosel.

>>Rosel: Thank you Kat for that introduction. Good afternoon everyone. As Kat mentioned, my name is Rosel Kim and I'm one of the staff lawyers at LEAF. Bonjour tout le monde, je m'appelle Rosel Kim et je suis avocate conseille à l'interne au FAEJ. C'est un plaisir de vous souhaiter la bienvenue à cette première table ronde sur l'intersectionnalité et justice de genre.

Welcome to the first panel discussion of the symposium where we will be discussing intersectionality and gender justice. Cette séance sera presenter en anglais.

I'm speaking to you today from what is now known as Toronto. The land I'm on is traditional territory of many nations, including the Wendat, the Haudenosaunee, the Anishnaabeg, and the Mississaugas of the Credit. I also wanted to share these words from Selena Mills and Sarah Rock.

The GTA itself is itself ensconced in a myriad of complications to do with the Upper Canada Treaties, specifically the lands protected by the Dish with one Spoon Wampum Internation peace agreement. While this agreement may be widely referenced in Tkaronto academic and land acknowledgments, there is little to no mention of how it's been broken like so many other treaties.

I want to acknowledge Indigenous territories and histories of where I'm speaking from, including the history of colonial violence that continues in Turtle Island, because without

doing so we can't achieve true gender justice.

I want to remember Joyce Echaquan who held our system to account by revealing yet another example of structural racism. I mention this because I would like to us to reflect on how we should understand this colonial legacy of violations and violence when we talk about intersectionality today. Is it enough to understand coloniality as another intersection or a need to understand coloniality as a bigger structural force that is a force of intersections of oppression? I'll be asking our panelists to reflect on this point later on.

So why intersectionality and why now? You may have been seeing references to the concept recently and a lot of references for sure. While I think everybody at the session is familiar with intersectionality, I do want to start by reading a little bit from the report on intersectionality that Kat referenced by two of our panelists, Jena McGill and Grace Ajele. So I'm quoting now: "The term intersectionality got widespread attention through the work of Kimberlé Crenshaw, an African-American law professor at Columbia University and University of California Los Angeles." I'm skipping a bit ahead in the brief. In two scholarly papers written in 1989 and 1991, Crenshaw Crenshaw critiqued the frameworks of American anti-discrimination law, second wave feminism, and the civil rights movement, demonstrating how each of these models for remedying oppression fails Black women. The experiences of Black women are thus untellable in the frameworks of anti-discrimination law, feminism, and the civil rights movement. Crenshaw used the framework of intersectionality to explain the kinds of unique, composite discrimination experienced by Black women at the intersection of race and sex. Since then, intersectionality has become a popular and frequently referenced concept in many areas including feminist, queer, critical race and legal theories, social movements and cultural discourse too.

Despite this prevalence a question remains: how do we make our outcomes intersectional? For example the existing antidiscrimination law in Canada relies on the single access ground analysis to determine the existence of discrimination.

The popularity of intersectionality in our culture brings up the question of whether the term can maintain its political significance. In 2015 journalist LaToya Peterson worried that the label of intersectional feminism was being donned more as a mask of belonging rather than a rally to action. So Peterson's article prompted me to examine how my own relationship is to the term intersectionality. And I appreciated the reminder that I shouldn't be looking at intersectionality as an identity to wear and maybe shield myself from self-reflection because I know how to use the term and I understand it. Instead intersectionality should serve as a reminder for to consider the multiplicity of our truths that demand care and attention to advance substantive gender equality.

On that note the purpose of this panel is to explore the history, the significance and the reimaginative potential of intersectionality in our work as gender justice advocates so we can gain an understanding and appreciation of intersectionality as a tool for action. We're going to do this through a guided discussion today with our panelists who I'll introduce shortly. I'll be asking direct questions to each panelist and engage in more

open discussion at the end about what we hope for the future. We're also leaving time for questions from you. So if you are joining from zoom, please use the Q and A chat box. If you are joining us from youtube, please use the comment feature on youtube to send us your questions.

I want to note as a ground rule please ensure your questions are free of language that targets or attacks someone because of who they are. We want to ensure the questions and comments remain free of sexist, racist, ableist, homophobic, transphobic and other oppressive language.

It's my pleasure to introduce the panelists for this session: Grace Ajele, Sarah Jama, and Jena McGill. Full bios are available for each speaker in the agenda for the symposium and in the link provided on YouTube, but I'll give a quick introduction for each speaker.

Grace is a domestic violence family lawyer at Calgary Legal Guidance, a nonprofit law firm which aims to guide vulnerable Albertans through legal system. Sarah is a community organizer based in Hamilton, Ontario and co-founder of the Disability Justice Network of Ontario, which is an organization committed to building the political and community power of people with disabilities. Jena is an associate professor of law at the University of Ottawa. Her teaching and research focus on topics including Canadian constitutional law, feminist legal theory, gender, sexuality and the law and access to justice. Welcome everybody.

And I'd like to now move into the panel discussion. And I'm going to start by unpacking the definition of intersectionality a bit further. So my first question is to Jena. Here we have some discussions of intersectionality from the brief.

So Jena, you and Grace say in the brief, focusing on identities is only part of the work intersectionality requires. More difficult are questions of structural inequality and the dynamics that create and maintain systems of identity-based oppression. Can you explain how this idea of structural intersectionality differs from the more conventional understanding of intersectionality.

>> Jena: Thanks Rosel. Thanks for all the organizers of this important three days of discussions and learning.

So structural intersectionality is really about shifting the focus of intersectional work from identities toward the systems of power that make identities the vectors for privilege and marginalization. The term structural intersectionality was coined by Professors Kimberlé Williams Crenshaw, Sumi Cho, and Leslie McCall. It emerged as a reaction to the proliferation of a somewhat thinner notion of intersectionality in a lot of popular discourse and in some scholarly applications. This thinner notion of intersectionality focuses sort of exclusively on identities and on the fact that identities overlap and intersect. This thinner version of intersectionality sees change in terms of expanding identity categories to include sort of an infinite number of differently situated persons or

subjects. What is often missing from this thinner notion of intersectionality is attention to connecting experiences of identity-based marginalization to broader systems of power and privilege.

Structure intersectionality is intended to shift arguments away from focusing only or primarily on identities and towards more systemic questions about power. So in this model, in the model of structural intersectionality, change is really concerned with the transformation of systems of intersectional disadvantage.

So structural intersectionality tells us it's not just about recognizing intersectional dynamics, the goal is really the transformation of those dynamics for the greater good of people who sit at the intersection of more than one social identity.

I'll just end by saying this idea of structural intersectionality is not new *per se*. It's very much part of the originating, the foundational work of intersectionality. All of that work says we have to connect individual experiences of discrimination with broader systemic questions about power and privilege. But, as Rosel mentioned, as intersectionality has proliferated and percolated into different kinds of discourse and popular media, in some iterations it's become a much narrower focus on just the identity question. Structural intersectionality brings us back to the foundational idea of connecting individual experience with broader systems of power.

>> Rosel: Thank you so much. I want to delve into this question of structure a bit more with Sarah. This question is for Sarah. Your work on disability justice focuses on the need to question capitalist assumptions about humanity such as prioritizing productivity or our ability to consume as a marker of inclusion. Can you discuss why it's important to recognize this bias when we talk about intersectionality?

>> Sarah: I think Kim did a great job in explaining the ways in which we have seen a liberalization of the term intersectionality to mean just your identity. When we talk about people with disabilities, we have seen many structures that will continue to talk about disabled people as having an identity but not the ways in which people with disabilities have been structurally disabled and not allowed to exist simply because they can't produce.

An example would be the creation of medical assistance in dying and the elimination of the foreseeable death portion of MAiD allowing multiple people to apply for medically assisted suicide while also in tandem allowing people to be in legislated poverty who are disabled.

I'm think ago about the Ontario Disabilities Support Program and how it has been structured to give people less than a living wage. People are being told in one vein they don't have the right to exist and live equally to everybody else. Especially during the pandemic when everybody was making a minimum of \$2,000 a month and on this other vein, we have this liberal idea that people should be allowed to die in dignity while not being able to live with dignity as well. When we talk about intersectionality it's important

not to just talk about people as having identities that intersect causing issues. It's not the disabilities that is causing issues hardship. It's this idea that over and over again that historically, whether you talk about institutionalization or present day when you talk about all the deaths in long term care home which are disabled people going through Covid and being locked away, when you look at structures that currently exist, over and over again they intersect to say people with disabilities are not equal to everybody else.

What Kimberlé Crenshaw was trying to say when she was writing about intersectionality was not that we should look internally at our own intersecting identities in terms of how we operate in society, but the ways in which capitalism and our society has been built to put some people's values over other.

>> Rosel: Now I want to look at how we practice intersectionality within and as individual actors. So this question is for Grace. Grace, in the context of doing legal advocacy on behalf of communities that are marginalized, why is it important to reflect on our positionality as legal advocates?

>> Grace: I think positionality, reflecting on our positionality, is a key part of actually understanding the systems that we're trying to challenge. When we talk about structural intersectionality and having a focus on these systems of power and the way they make certain identities vulnerable, I think positionality is an important part of that because it's about looking at our power and privilege that we may have as a result of our place in society and the ways that power and privilege manifests in our behavior and our worldview and the ways that we benefit from current systems and the ways we perpetuate those systems. If we're not understanding that, then we're not really understanding the systemic nature of injustice.

It's like the system is sick and I think if we understand that the system is sick, we need to understand how we have been infected in some ways and how we sort of carry that sickness with us. I think if we're not understanding our role in a system, then we're really not understanding a system.

On the first -- in the first place, I think it's a really important part of understanding the system we're trying to challenge. In a practical sense, I think it also helps us to be aware of sort of the power dynamic between us and clients. And it helps us understand what we represent to a client, the ways they might not trust us or feel comfortable around us because of the role of power that we may represent. And it also helps us take a step back and check ourselves, check our biases, our tendencies, things that we do as a result of our privilege and power. We can kind of filter I think our clients' stories and experiences through our own world view. I think when we're aware of our positionality, we're taking a minute to stop and think and be reminded that it's the client's world view and perspective that should be centered, not ours.

>> Rosel: I've heard the system is not natural, it is not static and it continues to change in ways that may be harmful to us. And we have to be cognizant of that. Intersectionality is not just asking us to look at what is already there but also to look at

the system as a whole and continue to reflect on ourselves.

So just a reminder including myself that we are being interpreted so to speak more slowly and clearly which I'm going to try to do. I'm going to talk about how intersectionality has been applied or has not been applied with our respective fields of work. So this question is for Sarah. Could you discuss what intersectional organizing looks like and when have been some successful examples of intersectional organizing?

>> Sarah: I think for me the best kind of organizing is organizing that centers the most marginalized. That is one of the principles that Sins Invalid came up with when they were creating the framework of disability justice as a whole. It's this idea we're not speaking for people but working with the communities that you claim to represent. Often times when we talk about organizing, it can be pretty performative. It can be people posting online with theory, but it's not about going out and talking with people and supporting your communities. An example of proper I think community organizing is mutual aid which has existed for generations, run by Indigenous, Black, queer communities. It's this idea that we don't need the state in order to survive, that we can provide care for each other and I think good organizing centers those principles.

>> Rosel: So to broaden the scope to law then, Jena, can you discuss how intersectionality reveals the shortcomings of the law's approach to discrimination law.

>> Jena: Thanks. As you mentioned in your intro, intersectionality's critique of antidiscrimination law is based on or flows from the shortcomings of what is often called the single axis model of assessing and redressing discrimination.

The single axis model treats each identity-based ground of discrimination, so sex or race or disability, as exclusive from the rest.

And indeed in Canada, we see that courts have overwhelmingly adjudicated discrimination claims under our Charter of Rights and Freedoms as well as under the federal, provincial, territorial human rights acts with reference to just one of the numerous prohibited grounds of discrimination. So intersectionality calls out a number of problems with this single axis approach. And I'll maybe just point three of the key critiques that intersectionality brings.

First, intersectionality makes clear that single axis frameworks don't reflect people's lived experiences. They make the stories of those with intersectional identities, Black women, Indigenous lesbians, older women, impossible to tell in antidiscrimination law because the stories have to be distilled to only reflect a single ground.

Second, intersectionality reveals single axis approaches tend to essentialize the experiences of everyone within a given category. For example, single axis approaches will often assume that any claimant alleging discrimination based on say disability will have a similar experience or the contours of the claim must look similar. This flows from the fact that single axis analyses don't deal with how a claimant's race or a claimant's

gender identity impacts their experiences and changes their experience of disability discrimination.

Finally, they tend to rely on pretty simplistic limited understandings of identity. So single axis frameworks tend to assume that identity categories reflect objective facts about our innate characteristics. Things that you can objectively see, that's the content of an identity category. And one thing intersectionality brings is a much more complex view of identity. Intersectionality views identity categories not as describing group characteristics but as a result of and as a way of maintaining interlocking systems of power that structure relationships of inequality. Single axis frameworks don't get at that depth we're talking about what identity means.

So ultimately intersectionality reveals that the single axis model for assessing discrimination distorts the true nature of intersectional claims. As a result we know that courts may fail to see intersectional discrimination where it does exist. And as a result they are going to be unlikely to be able to offer meaningful remedies that truly redress the roots of intersectionality discrimination because they can't see the full picture of claimant's experience.

>> Rosel: Thank you very much. If we have time I think it would be great to talk about the recent supreme court decision in Fraser in relation to what we're talking about. I want to turn to Grace before that and ask if you can discuss ways in which intersectionality has been used in other areas of the law outside of antidiscrimination law and what is the court's record there?

>>Grace: So in the brief we wrote, we focused on criminal, family, and immigration and refugee law. In the criminal context, we see advocates making arguments that those with intersecting identities are the one who is are often most heavily criminalized. So for example at the intersection of class, race and gender, sex workers have been heavily criminalized. And advocates are focusing on the legislation itself and how legislation is implemented and how that criminalizes certain people. There is some recognition on the court's approach that a more holistic approach to sentencing is necessary, particularly when it comes to Indigenous offenders with Gladue analysis. And where there is that recognition we haven't seen this translate into a robust sort of intersectional framework, more just the recognition that certain populations are overrepresented in the criminal legal system.

In family law, advocates have really been raising the question of how legislation can better contemplate people who are not middle class, white, heterosexual man. And so they have done this by addressing how at the intersection of gender and class women are often at an economic disadvantage when leaving a heterosexual relationship because they carry the burden of domestic labor. Really just pointing out a need for a more intersectional approach when creating legislation, contemplating these groups of people.

Perhaps refugee law is the best area where intersectionality is reflected. When

refugees make a claim, they have to do so on the basis of a fear of being persecuted on different grounds. So race, religion, nationality, etc. And the Federal Court is now stating that when officers are assessing this fear of persecution, whether someone has this fear of persecution, they shouldn't look at the categories separately. They shouldn't look at race on its own or nationality on its own. Someone experiences oppression on several grounds and that need to be looked at holistically and they are explicitly stating that an intersectional approach should be used. Intersectionality is having some influence in different areas but we've yet to see courts adopt an intersectionality framework to adjudicating cases overall.

>> Rosel: Thank you for those insights. I guess I had a quick follow-up question about do you have a theory about why intersectionality has been better embraced in refugee law as opposed to other areas?

>> Grace: I haven't thought about it terribly in depth. I think off the top of my head where there is a real focus on sort of protecting an individual or really looking at an individual's experience to understand what is going on, I think that it's more clear how important intersectionality is because we are whole human beings. I think where the focus in some of these other areas of law like criminal law and family law, can be more on justice and put away bad people and that hinders I think an ability to really look at people's experience holistically, maybe the focus is more so on preserving some kind of the idea of safety or different things like that or the family or whatever.

>> Rosel: Thanks for that additional insight. Now that we've been talking about how intersectionality has been applied, how we've understood it, I want to move to a discussion about the future and what we should do with this knowledge that we have. My next question is for Sarah. So you write in your essay in the collection *Until we are Free* that we need to shift our approach to one of action. And you call us to dismantle oppressive systems. That stood out to me because I think often we understand intersectionality as a way of seeing. And I see descriptions of intersectionality like being a prism. Not necessarily always as a way of doing. How do we ensure the we are act and mobilizing in intersectional ways. You gave an example of mutual aid as a good way of intersectional organizing during this time. And I'm wondering if you have any other tips or thoughts.

>> Sarah: For sure.

I think one of the ways that we can actually organize and work toward creating a world where we don't need intersectionality as a concept to even exist would be to when you are engaging in systems that are harmful to people with multiple intersecting identities, being able to name that and see the history and trajectory of that. So the carceral system and the ways it uses the same language of coloniality and oppression and racism to perpetuate the slave trade it was same language that has been used and continues to be used to say people with disabilities don't deserve to live equally. It's the same idea because of the way that we are, we are inherently different. It's a concept that is not real.

And the ways in which there is a school to prison pipeline for Black youth there, is a similar pipeline for disabled people in this country too.

So to be able to take this idea of intersectionality and use it as a lens to look at and critique systems is where we need to go to be able to dismantle and recreate systems that are not harmful, and overall poke holes in capitalism and this idea we need to have states or need to have these conversations and policy. But then in practice we're still upholding systems that are overly carceral. Allowing people to be in prison. That is the framework of law as a whole.

The law exists to up hold the system that is causing harm to people. Lawyers exist to do that. And so I think being able to examine that and our role in that is a step toward doing the work to rebuild systems and not just up holding it, and not just write the policy. But figuring out how do that on the ground. It's hard question to ask but I think it's a legitimate one.

Other things to do, making sure we're not focused just in our ivory towers of writing policy and what we think makes sense for us in our circles. What are the ways as lawyers we make ourselves uncomfortable every day because of our positions of power? How do you meet communities you have never talked to? For me, it's super easy for me to get up and speak, because I don't require ASL, I don't require assistive devices to be able to communicate on panels. How are you making sure you hear from people that don't have the same ways of communicating that I do? These are questions we should ask ourselves. What are the ways you'll be uncomfortable? That you'll access information every day that makes you uncomfortable, not just step in the right direction?

>> Rosel: That's a great reminder that we should be feeling uncomfortable every day because that is really the way to expose our positions of power. The tension between being legal advocates, upholding the system of power and using that to advance equality is already a theme that we started talking about at the beginning of this session. So I guess now I want to ask the legal advocates on the panel so I'll start with grace, how do we shift our understanding of intersectionality as a tool for action as opposed to perception?

>> Grace: It's such an important question because with any theory or insight we gain, we should always be asking ourselves what do I do with this? How does this change the way I operate? We talk briefly in our report about allyship in advocacy and I think a really important piece of that which I touched on briefly before is centering the client's voice, centering the client's experience. I think a big part of the culture of law is paternalism. And sort of getting into a situation with our ideas about evidence and relevance and what is important, what is not. And I think really understanding that the client is the expert in their own experience and that they are the ones who are going to be able to highlight the nuance of their reality. If we really want to be intersectional in our practice, we have to let those with an intersectional experience lead the way in that. And so I think that that is really important is sort of really letting the client frame their

own experience and letting them be the expert in that.

I also think education is really important. Once we sort of grasp intersectionality as a lens, we have a responsibility to deepen our understanding on the ground of that and really educate ourselves on the experience of others. Not rely on clients or personal interactions to get us up to speed on what it's like to live in a different identity. I think that education is really important and I think with that education we need to be constantly asking what am I doing with the insight I'm gaining.

>> Rosel: A lot of important insights, about questioning the idea of inclusion and what it really means to center someone's voice. I want to now touch upon one of the critiques of intersectionality that I think is worth discussing and I referenced earlier. I think I saw the slide with Sarah Hunt's quote we shared earlier. Jena and Grace you cite Sarah Hunt in your brief who states it's not enough to just include colonialism as another axis of oppression because colonialism conditions the whole matrix of intersecting systems of power in colonized spaces. What are the responsibilities of settlers when we incorporate intersectionality into our work? Maybe I'll ask Jena to go first.

>> Jena: So we rely on Sarah Hunt's work -- a lot of her work is looking at connections and disconnections that flow between intersectionality and Indigenous knowledges and worldviews. I think one of the things that flows from her work broadly and from this quote for me is that her work reminds us that intersectionality is a culturally specific concept. And it's based on a Western world view that is founded on these colonial categories, sex, gender, race, class. While intersectionality might be useful in terms of making sense of overlap in intersections between those categories, we can't take for granted or people interested in employing intersectionality shouldn't take for granted the global applicability or global relevance of those categories. Another part of Hunt's work is revealing for some Indigenous communities this idea of people and identities being interconnected. The connections between people in the natural world. Like they don't need intersectionality. They don't need a fancy word for that idea.

It's already an inherent part of their social and cultural norms. So the idea of intersectionality doesn't resonate in any new or particularly productive way for some -- in some Indigenous worldviews. What I'm thinking particularly about -- I come at some of this work through lens of scholarship and activism at the intersection of sexuality and gender and so I think about how the concept of two spirit is often translated into LGBTQ Indigenous person. When really Indigenous people tell us two spirit is culturally and experientially totally distinct from the rigid categories of sexual orientation and gender identity that characterize Western worldviews. So I think in terms of using intersectionality, it shouldn't be assumed this is going to be something that has resonance across a diversity of cultures, across a diversity of geographies or communities. It is a very specific concept. It came out of the critical race movement in America at a certain time period. And it takes with it that history.

So at the beginning you talked about the political currency that intersectionality has right

now approximate a lot of different domains. And I think maybe one of the things that calls into question how much that currency will continue is this idea of well how broadly applicable is it right? And I think Hunt's work demonstrates we have to be really cognizant of the fact it does have particular cultural content that won't necessarily resonate across contexts. I'll leave it there.

>> Sarah: I would add intersectionality has been coopted by non-people of colour, non-Black people, it's being used as a way I find often white, liberal activists to position themselves in spaces where work is happening but not to center the voices of the most marginalized. It's being, in today's day and age utilized as a way to move forward personal experiences of oppression rather than allow room for community and community critique of systems that have caused that identity to exist in the first place. I think -- to your point in the beginning the panel exploring whether the term has relevancy today. I think it does. I think it's been main streamed and coopted which is the whole reason the concept of womanism was created in the first place. At that time the concept of feminism didn't fit marginalized people. I see this happening over and over again. I don't know if it's a question of adding in boxes. Adding colonialism as a point of identity. We need to stop seeing it as a way to just put this boxes. We need to see it as a way to critique structures that currently exist. We keep trying to add layers it to, it's going continue -- people who need to know colonialism is a factor, they know colonialism is a factor when talking about identity. People who don't know that need these definitions. If that makes any sense.

>> Rosel: Definitely it does. I think one of the questions that also came up was to how do we make these concepts accessible which maybe we can discuss later on as well. I'll ask grace if she has anything to add before we move on.

>> Grace: I think on that note of considering coloniality as another point on the axis versus realizing how it informs everything is important when it comes to the legal system. It's super important to remember the foundations of the systems that we use and how they were built and the impact of that is still very real. And so sometimes it's easy to talk about these systems as neutral systems that impact our lives. But they are not neutral. They were created in particular ways and they target certain identities. As a result of that we have a responsibility when we are incorporating intersectionality into our practice to really question all aspects of the ways that we practice and of the tools that we use. I think as a lawyer, it can be from the way a courtroom is set up, to the way this legislation is created and implemented. But I think we have to be willing to hear critiques that go to the very core of our systems. Like we have to loosen our grip a little bit on the way things are done and just assuming that is neutral and good and it works for everyone, I think we need to be willing to look at the foundations of some of these systems. Not just the symptomatic practices.

>> Rosel: I wanted to go back to something Sarah said before we move on. Talking about cooptation and the mainstreaming of certain terms, is there a way to guard against that? Is there something we should do to keep the political nature of a term?

>> Sarah: Can you repeat the question?

>> Rosel: You were mentioning the coopting and mainstreaming of the term intersectionality which has happened to other political concepts as well. Are there things we should do to keep the political significant of intersectionality?

>> Sarah: I don't put so much weight behind terminology. I guess it's useful in legal context. The dangers I see in some of the ways we focus on identity is people use the term identity politics. And it gets lobbied against Black, racialized, people of color who are doing work for systems saying they are just an identity politician. But really the people that we're usually pushing against, the white cis men who don't want to allow system to change are identity politicians because they too have intersecting identities on the axes but they are on an axis of power.

So I don't really abide by just focusing on terms because I think they are fluid and as long as we're doing the work to challenge the systems that have pushed for the creation of the terms to begin with I'm not too fixated on needing to define things or put them into boxes. It often does more harm than good.

Usual the terminology being used in the grassroots is not in line with terminology in the academic spheres. Now the term disability justice is beginning to become mainstream but it's not been yet coopted by academia. But it's on the way there. That term is different than the terminology being used in academic spaces around access and inclusion and the meaning of disability justice which is similar. It's not focused on the individual but on structural change. Those two terms, access and inclusion, vs. disability justice, are different. And so each time we see a movement of terms into the mainstream, it changes the meaning of it, the weight of it and the impact. I think academics should be the ones to inquire in terms of how can we stop allowing these terms to become mainstream. When we're using it in our writing, are we using it in our practices. For me on the outside, I'm not fixated on terminology.

>> Rosel: Thank you. There have been a lot of questions coming in as well. I'm glad we'll have time to ask some of them and explore them together. But before that, I'm wondering if each of you can share some tips, calls for action that you want to leave the group with to make intersectional advocacy and organizing possible.

>> Grace: This is something we addressed a little bit in the brief as well. Something that resonates with me is this idea of being persistent in our listening, our learning, our unlearning, our willingness to accept criticism and our willingness to continue showing up after accepting criticism. I think it is inevitable that we're going to get some things wrong. I think it's also very easy to get overwhelmed because there is so much to be done and I believe that what we're trying to address is at such a deep foundational level that it's almost a matter of how do we start over. How do we really get to the root of these issues? So I think it's really easy to get overwhelmed. But I think when we recognize that it's not about us and our egos and what we can accomplish, but it's about advancing equality, I think that should change our perspective a bit. I think there is

power in showing up as we are, acknowledging our shortcomings, and educating ourselves, taking in feedback and continuing to show up and challenge systems and challenge ourselves and really listen to those whose experience is intersectional. Those are the people that should be leading the way in this movement.

>> Jena: I think Sarah's last intervention was important and this question of what we call it matters less than what is actually happening. So to the extent the term intersectionality, one of the big critiques is that it's just academic jargon, doesn't have any real connection to what's going on in people's lives. Whether we label a certain movement, certain type of work as intersectional or not, is secondary to the question of the nature of the work going on there, the goals, the nature of the relationships between who is at the center of the movement, whose voices are being heard who is doing what kinds of advocacy in what spheres and what benchmarks. All of these things matter more.

If intersectionality is not a useful framework, I don't think there is any imperative to use that term if it doesn't resonate. I think it's important to remember although Professor Crenshaw credited as the founder of intersectionality, one of the things we track a little bit in our brief that we prepare asked that actually although that is an originating moment for the term, intersectional work was happening long, long before the 80's and 90's.

And not just in, we see intersectionality by Indigenous women, by Latinx women, by Black women across a spectrum of persons and locations. They were not using the term but you can see the work is clearly intersectional. I guess I would echo and thank Sarah for that point.

I think that is important that to the extent that it doesn't feel like a useful framework, what matters more is as Grace says staying present in and committed to the work of transformation. Really Crenshaw's work and intersectional work that preceded it, the call is not just for recognizing more identities or acknowledging yes, this person's experience of discrimination is different from this one by virtue of intersectional identity. That is fine but getting through that to the so what question I think is the important moment right. Why is it these two experiences are so different right? Why is it? What are the systems of power? I think one thing that occurred to me is that we didn't do a good job saying what we mean by systems of power. For me I'm thinking capitalism, patriarchy white supremacy, colonialism, the carceral system, the legal system, all the administrative systems that control the little bits of our lives, all those things, the way they intersect mean some people sit in positions of privilege and others do not, being aware that is not an accident. And so I think to the degree we can get past the identitarian moment and into the systems based moment, the intersectional work is happening no matter what you call it.

>> Sarah: I completely agree. It's on to us examine if we believe equality is attainable within the systems we're operating in. What is it we as lawyers are pushing for, do we really believe the systems that we are trying to use to support people individually, the

work that we're doing is enough to sort of address systemic inequality, to address racism, sexism, police brutality, the carceral system address these systems that of power those are the questions we're interested in. We each do have an individual role to play. But that individual role I think need to be positioned with OK, what can I do with the position I'm in to build the work that people are doing. Whether that's providing resources to people directly challenging people with power, people in positions of power that are harming others, or providing support academically to people doing work on the ground.

The question to ask yourself for everybody on the call is what am I doing to sort of create a world where we don't need intersectionality to exist as a term, and how am I building towards that future.

>> Rosel: We've received a lot of questions from everyone. And I know Jena has to sign off a little bit early at 2:30 I'm glad that we'll have time to ask some of those questions to you.

There is a question about terminology. Does structural intersectionality suggest we should resist referring to those impacted by systems of power as vulnerable because vulnerability places too much focus on the individual rather than the broader system?

>> Sarah: There is nothing inherently wrong with vulnerability. Like vulnerability for who, in a packaged sense to the public is harmful. Vulnerability in the sense that it's to build community is quite powerful. When we talk about. This idea of people have marketed and packaged and exported intersectional frameworks and identities to be able to, it's like the Obama effect. The idea that you can be the first something, the first Black person, the first disabled person to speak at a thing so it perpetuates the systems that they are, that's like neoliberalism in itself. I think people have used vulnerability as a tool to move things along. The idea that I have this experience and therefore can speak to this thing. I think that's dangerous and that's a neoliberal way of looking at vulnerability. Vulnerability in terms of there is no way to do grassroots community work without being vulnerable with one another, because organizing requires you to have a certain level of trust that you can't just have with everybody who is not doing that work. I see it as useful and not useful depending on your context.

>> Rosel: Thank you. I think that's a great unpacking of vulnerable as being open and there is on the one hand there is openness and honesty with one another and accountability perhaps, but also this idea of being powerless that I guess is what you are speaking to. The follow-up I would say to that is, should we say marginalized? How do we best capture the system's operation? Like people who are marginalized, who are vulnerable, are these terminologies in themselves problematic?

>> Jena: I agree. I think that what structural intersectionality suggests about the term vulnerable is that a person's vulnerability does not result from their innate characteristics. A person is made vulnerable by virtue of the operation of certain systems in society that dictate hierarchies of privilege and disprivilege. I think what

structural intersectionality brings is a different centering of where that vulnerability flows from or resides. That it's not a matter of a person's individual characteristics. That it's something that is like a force that exists, that happens, outside of the individual. That I think is an important shift when you see where does that vulnerability reside, it's not about the innate vulnerability of the person. That for me is one thing that structural intersectionality brings to that question.

And maybe I'll let someone else chime in on the second part of your question.

>> Rosel: There was a question for Grace about positionality which asked who decides the positionality of an individual in society.

>> Grace: I'm not sure if I entirely understand the question. My attempt to answer the question would be we all have certain identities that carry with them power or that have been marginalized to use the term we were just talking about.

As a Black person, I experience certain marginalization in society. As a woman, I experience certain marginalization in society. From an intersectional perspective, as a Black woman, I experience certain marginalization in society. But I also am a lawyer. I have class privilege. I'm in a heterosexual relationship. There is any number of -- I'm able bodied, I'm cis-gendered. I could go on and I'm not sure if this is a question of someone deciding.

The reality is that there are certain things that carry with them power, to the extent I identify with those identities, I carry this privilege and power I feel like I've been privileged in my life or not, I carry this privilege and power and similar to my identities, parts of my identity that have been marginalized, I think it's similar. I don't know if that answers the question.

>> Rosel: there was another question open to all that says what are some ways to identify and dismantle biases that exist within the actors in the systems. The person gave an example of the Yukon RCMP which only has a single line in the sexual assault response policy that says if you have biases override them and treat people equally.

>> Sarah: I'm kind of over statements that dictate the actions we should take, that we exist in systems, that are never followed. How many police department have put out commitments anti-racism practices and have disavowed sexual harassment, yet there is a federal case against the RCMP around sexual harassment and people continue to be killed by police. It's about not focusing on the statement that your organization or groups or people in position of power or your organization are putting out. And looking at the ways you critically are doing the work to stop harming certain groups, and to take a step back and evaluate why this harm is continuing. Why do police continue to harm disabled people, Black people, racialized people, indigenous people over and over again. A statement and policy is not going to do that work. It's going to be on people outside of those systems to do that work for them. At the end of the day, a lot of systems that exist that are the most harmful have been created to be harmful. Bill C51 says that organizers, climate activists, Indigenous people, are terrorists. There is

legislation that exists that continues to prevent people from changing legislation. We can't just keep referring to it and looking for what to put into it to create that change. It takes taking a step back to see why the systems are the way they are, and looking to see who is doing that work and how to support them from the outside to change the systems. Statements and policy will go far but not far enough. It the difference between reform and revolution. In a literal sense.

>> Jena: I think this is such an interesting example about if you have biases figure it out. The idea so from is a few dimensions, I don't think there is a single target for the work of changing those ingrained stereotypes, those ingrained ways of thinking, the things we take for granted at the locations of privilege that we sit at. So it's not a case of sort of just changing the bad apples, but leaving the system intact and the police is a great example. Because for a long time we heard arguments from the police, that oh this police officer who murdered a civilian is just a bad apple, just a single case. That deflected away from asking much broader questions about how the whole system of policing endorses violence among white men frankly. And so part of the change like this sort of -- I'm looking at the language here, this policy piece suggested that the problem resides in each individual RCMP officer. All y'all got to figure it out and move on.

In doing that I'm going to guess maybe allows the organization or institution to feel like it doesn't have to do anything at the broader levels of leadership. Of changing the social and cultural norms of the institution which we know have in the policing context forever bred systems of violence, of othering racialized populations and women and all of these people who were disproportionately targeted by the police. We can't assume all of that work happens at the individual level.

It has to be at the institutional level and systemic levels as well. Part of that is a matter of leadership. A policy is a starting point but never sufficient to tell people to figure out and get over their biases. We all carry implicit bias we're totally unconscious of. There has to be something within the organization to control for moments where that unconscious implicit bias risk playing out in ways that are detrimental or deadly to certain people.

>> Rosel: Grace did you have anything to add?

>> Grace: I think they have really touched on important points very well.

I think I'm a big believer in, Audre Lorde says, the master's tools will never dismantle the master's house. Working as a lawyer within the system, I really honestly struggle with that because we can offer suggestions, we can talk about practices and instituting different things. But ultimately I think a lot of the systems that are in place are fundamentally problematic and they are fundamentally discriminatory and I think unless we're willing to look at that, we're really going to be slapping band aids on really deep wounds.

>> Rosel: Speaking of deep wounds caused by systems, here is another question about the system. Here is a question. I would like to hear the panelists thoughts on how the justice system can address the inequities in legal proceedings. There is a history of discrimination and racial profiling in the court system that creates a lot of misconceptions and biases about Black people. Presumably, intersectionality is often considered in criminal cases and child protection hearings where Blackness is often viewed negatively. Grace, you touched on this a little bit when you talked about positionality.

>> Grace: I think these solutions have to go really deep. I think things as simple for example as the way a courtroom is set up. I know this isn't specifically addressing the question in relation to Black people, but I think that that is one thing that really sort of perpetuates the power and balance, the power dynamic. I think that is one very practical thing in legal proceedings that is one way of addressing how legal proceedings play out. There is in the work that I do in domestic violence family law, our program at Calgary legal guide is really trying to focus on autonomy of the individual and empowering them to sort of with knowledge and with advice to be able to represent themselves. We get a lot of push of course from the community to take on files and represent clients. But even in discussions with my team recently, we've discussed that why is there such a focus on sort of legal actors coming in and rescuing clients and being the bridging the gap between them and the legal system.

Why is there not more of a focus on making the legal system a place where people can be heard and people can not feel as if they are drowning or just completely powerless. So I think in terms of practical approaches, I think we as a legal system need to start reevaluating how sort of the gap between us and people who participate in our system, it's not working. I don't think it's functioning healthily any ways. I think we need to look at ways like restructuring the way a courtroom looks and restructuring maybe even the way that the adversarial system functions. These are things we need to be willing to address.

>> Rosel: Continuing with the legal questions until Jena has to go. There was a question that asked to expand and clarify the critique of axis-based antidiscrimination law. So the person asked is your point that axis-based analysis tends to focus only on one axis and should focus on multiple axes, or is the point that an axis based assessment of discrimination will always fail, as in we should rebuild a new systemic assessment of discrimination?

>> Jena: This is a great question.

Thanks to whoever posed it. I'm sorry that I have to sign off early. I have a kid with a runny nose. Although it's not Covid I can't send them to child care.

Any ways, this is great. So I guess intersectionality's critique of axis-based antidiscrimination law is not as simple as saying well can't courts just consider two or three axes. Can't you say gender plus immigration status, put them together and you have intersectional analysis. We have seen some instances in Canadian law where

courts have done this approach, that is sometimes called an additive approach. So it's like gender based discrimination plus discrimination based on immigration status equals some doubly bad kind of discrimination. That certainly is not what intersectionality calls for. Intersectionality calls for a couple of things. Certainly you move away from forcing claimants to only rely on one ground. We all are located at various intersections of privilege in some moments and disprivilege in others. That is universal.

We don't often talk about the intersectional identities of people who we perceive to be sitting at a bunch of locations of privilege. For sure that's across the board.

Intersectionality doesn't just say, it says first and foremost don't force to us look at just one ground because that doesn't reflect truth. Doesn't reflect reality and it morphs the claim in a way that means you don't get the full picture of what the discrimination looked like. But I don't think, it would not be an intersectional analysis to simply add two notions of discrimination together and see what comes out the other side.

Intersectionality's point is that, at the intersection of race and sex I'll use, Crenshaw's original example, that kind of discrimination, the kind of discrimination experienced by black women in her example is different in kind than discrimination experienced by white women and discrimination experienced by black men. You can't just add race based discrimination which takes men as a given and you can't add sex based discrimination which just takes whiteness as a given. Intersectionality says no, the experience of black women is totally unique in kind. Antidiscrimination law can't attend to that uniqueness because it demands we fit our claims, fit our identities, our experiences into these preconceived boxes. So I think people, so intersectionality scholars have posited few different ideas for moving forward. By improving intersectional argues to resonate in this grounds based arena of antidiscrimination law.

For example one argument suggests getting rid of grounds all together. Saying we need a more holistic model of what discrimination looks like.

We should not be forcing claimants to tell their story through identity. We should find other hooks to hang our hats on when we talk about discrimination, and so grounds aren't useful.

Other folks say grounds are really useful and look at the American experience which doesn't rely on grounds in the same way, you see that part of the reason that we have grounds in antidiscrimination law is to guard against claims by relatively more privileged individuals that a law that looks like it discriminates, so for example a law that reserves a certain number of seats in a medical school for Black or racialized applicants. And the white applicant says that is discrimination. We know in the U.S. those claims go forward and succeed. Part of the grounds model says no, we're not going to do that here. Our substantive understanding of equality is going to focus on grounds which are historical markers of marginalization and oppression.

Others have said it's possible to use grounds and just interpret them far more broadly and far more deeply than we are now. Now when we see courts looking at grounds, it's

often just a tick box. So was this person discriminated against on the basis of sex? They are a woman and looks like women were treated differently, check. No more analysis right. So maybe it's possible to conceive of a ground-based analysis that permits for a much broader assessment of what discrimination based on sexual orientation looks like. Because it doesn't just require know tell my story through sexual orientation, it also includes telling my story through race and gender identity and disability and immigration status. It includes all the factors that condition and set the contours of my particular experience of discrimination based on sexual orientation. That was a long winded answer for which I apologize. Thanks for your question. I hope that clarified what intersectionality is saying about the shortcomings of grounds. The real key forcing claims into one ground, not appropriate.

>> Rosel: I know we have kept you a little bit past your available time. We appreciate this and appreciate that explanation. I have a question for Sarah. This was about the discussion about words and their significance. So the question asked: doesn't this lead to an impasse though? We hear that words matter and words are violence and at the same time we're hearing terminology doesn't matter as much.

>> Sarah: I think it's more about who are we centering when we talk about language in the first place. The reason language is harmful and violent is because the people deciding to use certain language that is violent, like the n word or any other term that denotes violence, are people in positions of power that tend to do that intentionally. I think language is important but this conversation around language tend to happen in the ivory tower of academia first and not really at the grassroots first. The language isn't just developed and created for and by people who use that language right. If that makes sense.

And so yes language is important. Language has power. Vulnerability has power. All these things have power. But it's not meant to be used as a weapon the make people who are not part of these communities feel closer to these communities. They are not tools to move you closer to understanding right? But I think they are often used as that. In ways that are harmful to community. So then you have intersectionality get coopted, you have terms like these are identity politicians. Getting thrown at us, the people doing the work. They use intersectionality as the base to make the argument against identity politics. When really that in itself is something an identity politician would do. Somebody who is trying to understand how to use this language to position themselves to have power over the people critiquing them. Where I get lost on the importance of language is it shouldn't be seen as importance -- more important than the work itself. I don't care what language you are using if you are doing the work, but there is usually that disconnect. For me when I critique language and how it's overused or not used in certain contexts, I'm just saying if you are going to use the word intersectionality to explain who you are and explain your work, make sure you are actually doing the work to understand different intersectional experiences.

So I gave the example earlier of how like often I'll get asked to public speak. My experience as a disabled black woman is not the experience of the most marginalized to

use that term in our communities. I'm not going to go into my intersecting identity points because I don't think it's necessary.

How are you going to do the work to learn about the experiences who are unlike me, who have similar identities? They are all different and they all sit differently in terms of power and privilege. It's less about using terms that make you feel like you are understanding things or making people feel comfortable because you used the term and more about how are you doing the work to understand the impact of that word, the history of the word and what it means. People using words violently are not doing that work. They are doing that on purpose. And so are the people who are coopting things. Be critical when you use terms. Don't just use it because you feel like it's a cool term that is created for you to use.

>> Rosel: It's a good reminder to talk about the gatekeeping functions of language that can be inadvertent. We have a couple of minutes. Maybe the last question I'll ask is I think there is people are interested in accessing more information on this topic. So if you have any suggestions for further reading or courses, I'd love to hear from both of you.

>> Sarah: I would check out, if y'all are interested in disability justice and where that came from, check out the work done by Sins Invalid. The term was created by Sins Invalid. They are a queer, racialized artist collective based out of San Francisco. And they created this terminology themselves. And then it got picked up by mainstream. If you want to see the trajectory of language and importance, check out their videos on youtube.

>> Rosel: thank you.

>> Grace: In the brief we wrote we tried to summarize a lot of important issues. We wanted to make sure we included a ton of resources on each topic that we really lightly talked about. We pointed to more information and resources. If you are able to I would check it out. Not even as much for what we have written but there's great resources in there as well.

>> Rosel: Thank you so much. I think that brings us to the close of this session. This has been really enriching and informative and I learned so much from everybody here. I wanted to thank you Sarah, Grace and Jena for writing and for speaking and for sharing your insights. Also wanted to thank everybody who joined us for this panel despite your busy schedules and asking great questions which made my job easier. Thank you for being so engaged.

I wanted to thank also the Gender Justice organizing team – Kat Owens, Nicole Biros-Bolton, April Leather, the team at NeOlé – and a couple of, in closing I wanted to just say what I've been thinking about as I was listening to everybody is that through intersectionality we can honor our complexity and I wanted to note that often we use intersectionality as an analytical tool to understand oppression and it's important to

maintain the focus on that, but I also learned we can use intersectionality as a tool for potential because it's only when all of our complex realities residing in different intersections are seen and honored we can have gender equality.

For me that is also a reminder to make sure that I'm not always centering myself in these conversations. Thank you everybody for joining and I think that's a wrap. I hope you have a good day and I'll see you at the next sessions.

>> Kat: Thank you Rosel. Thank you so much. And thank you to our panelists for your incredibly important insights. I am truly grateful that we're going to be recording this panel so that I can go back and watch it again and I think learn even more. If you would like to learn more, I'd encourage you also consider watching the panel again. We'll be sharing it on our youtube channel. And I'd also encourage you to take a look at Grace and Jena's paper on intersectionality and law and legal systems. We shared that in the eventbrite email with you. April will also share those links now in the youtube chat. As I think I mentioned at the beginning, the full report is available in English only. But the executive summary is also available in French. And April will share both links. You can visit LEAF's website, www.leaf.ca, to learn more about the work that our organization does and to potentially get involved as well.

Thank you everyone for attending our discussion today. I don't know if I've ever seen a more engaged chat and set of questions. We truly appreciate it. And we hope to see you for our panel tomorrow as well. Thank you.