

Response to  
Department of Justice  
Consultation on Domestic Abuse  
Offence & Domestic Violence  
Disclosure Scheme

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# 1 INTRODUCTION

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The Women's Resource and Development Agency (WRDA) is a regional organisation operating across Northern Ireland, with a mission to 'advance women's equality and participation in society by working to transform political, economic, social and cultural conditions. The organisation was established in 1983 and continues its focus on working with women and community organisations located in disadvantaged areas. WRDA is a membership organisation with over 190 members comprised of women's groups, organizations and individual members.

We welcome this opportunity to respond to the consultation on Domestic Abuse Offence & Domestic Violence Disclosure Scheme. WRDA fully supports the response made by the Women's Aid Federation Northern Ireland, particularly their evidence base which has been derived from consultation with local Women's Aid groups.

## 2 DOMESTIC VIOLENCE: A GENDERED CRIME

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The United Nations Committee on the Elimination of Discrimination against Women (CEDAW) declared that:

"Under general international law and specific human rights covenants, States may be responsible for private acts if they fail to act with due diligence to prevent violations of rights or to investigate and punish acts of violence, and for compensation."

Moreover, the Committee recommended that:

"States take all legal and other measures that are necessary to provide effective protection of women against gender based violence, including

effective legal measures including penal sanctions, civil remedies and compensatory provisions to protect women against all kinds of violence, including violence and abuse in the family.” (UN Doc. A/47/38)

We agree a new criminal offence which would capture patterns of coercive and controlling behavior in intimate relationships is very much needed, it must however focus on gender and acknowledge that violence against women is discriminatory and a violation of a woman’s human rights.

We were totally dismayed at the use of gender neutral language used in the Stopping Domestic & Sexual Violence and Abuse in Northern Ireland: A Seven Year Strategy, considering domestic violence disproportionately affects women and to obscure this fact is to distort the reality in which women and girls live. Indeed, beliefs and attitudes about gender roles in relationships underpin much of the expectations of perpetrators and are used as excuses for abuse and violence. It is imperative therefore that an appropriate criminal justice system response to coercive behaviour must note the unequal status or relationship of power between women and men.

### **3 CURRENT LAW & CRIMINALISING COERCIVE CONTROL**

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Coercive control has been defined by Evan Stark as a ‘course of conduct in which a pattern of violence, sexual coercion, intimidation, isolation and control are used to dominate and exploit a partner and deprive her of her basic rights and resources.’ (Stark, 2012)

This summary of the pattern of abuse, and non-physical manifestation of abuse which includes the power and control element is still not recognised in criminal justice practice. WRDA believes therefore that the law as it stands

does not currently contain sufficient measures to protect women who experience coercive control as it fails to address the cumulative harm so often experienced by victims of domestic violence.

Repeated exposure to this type of trauma has the potential to be extremely damaging, not just to the woman but to children within the family. Research has shown that invariably domestic violence does not come down to one criminal act. It is often the controlling nature of a relationship that can take place over significant periods of time, months or years. A new offence is an opportunity to address this cumulative harm properly. It is our view that victims of domestic violence deserve laws that are as strong as possible in order to protect them.

Furthermore we would welcome the introduction of more severe penalties related to repeated exposure as have been introduced in the United States and some European States. Article 2 of the EU Victims' Directive addresses the importance of protection from repeat victimisation, bringing "beyond doubt, the issue of the victim's protection against repeat victimisation under the scope of the EU law" (FRA-European Union Agency for Fundamental Rights, 2014).

Moreover, any new offence must incorporate protective, preventative and supportive provisions for a woman and her children alongside any criminal offence. This should include, but is not limited to, legal aid in all judicial procedures, access to victim support services, access to local services that offer assistance to the woman and her children (i.e. Women's Aid services), economic assistance, housing assistance and employment assistance (if needed).

This would ensure a gendered lens is applied to this offence and bring Northern Ireland in line with the progressive gender specific law which

already operates within Spain under the Spanish Organic Act on Integrated Protection Measures against Gender Violence (2004).

However, we also believe there is a need for robust guidance, increased training and appropriate funding to accompany any new law. There are many who work within the statutory services who fail to understand the nuanced behavior that constitutes attempts around coercive behavior and control within relationships. Any new law must also incorporate statutory guidance and a clear plan for implementing this in practice to ensure justice for victims of domestic violence.

We also recommend mandatory training for all public sector workers on not just the new offence but on coercive control and its effects. This will ensure a consistent approach across the country and will ensure a joined-up response to ensure the issues experienced by women are dealt with appropriately.

Moreover, we believe it is imperative that further investment needs to be made in the services that provide support to women and their children who experience domestic and sexual violence.

As noted we fully support the introduction of this new offence, however we would welcome further discussion and further detail on such proposals so we can make a more informed response.

## **4 DISCLOSURE SCHEME PROPOSALS**

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WRDA welcomes the proposals to introduce a domestic violence disclosure scheme similar to Clare's Law. We see it as one of many tools to keep women safe and to empower them to make informed choices.

Unfortunately we are unable to make further comment at this stage until we see further detail on the proposed scheme and how the Department sees this working effectively.

WRDA fully support the comments submitted by the Women's Aid Federation on this topic.

## References

Committee on the Elimination of Discrimination against Women, General Recommendation 19, Violence against Women (11<sup>th</sup> Session, 1992).

Handbook for legislation on violence against women (2010) United Nations, New York: EU DAPHNE Violence against Women: an EU wide survey (2014)

Stark, Evan (2012) Re-presenting Battered Women: Coercive Control and the Defense of Liberty

[http://www.stopvaw.org/uploads/evan\\_stark\\_article\\_final\\_100812.pdf](http://www.stopvaw.org/uploads/evan_stark_article_final_100812.pdf)

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