

WOMEN'S AID

Women's Aid Submission to the CEDAW Committee in relation to the Republic of Ireland

January 2017

Introduction

Women's Aid is a leading national organisation that has been working in Ireland to stop domestic violence against women and children since 1974. In this time, the organisation has built up a huge body of experience and expertise on the issue, enabling us to best support women and share this knowledge with other agencies responding to women experiencing domestic violence.

Violence against women, of which domestic violence is a very common form, is a violation of women's human rights and a barrier to reaching gender equality.

Women's Aid welcomes the opportunity to provide the following information and comments to the 66th CEDAW Committee regarding the Republic of Ireland. While Women's Aid recognises that CEDAW encompasses many issues, this submission will focus on the response of the Government to domestic violence.

Women's Aid agrees for this submission to be posted on the CEDAW website.

Background about Women's Aid

In addition to providing direct services to women experiencing domestic violence Women's Aid is a campaigning and lobbying organisation, and provides training to statutory and voluntary groups on the issue of violence against women in intimate relationships. Our work includes:

National Freephone Helpline

Our National Freephone Helpline (1800 341 900) operates 24/7, every day of the year and provides support and information to callers experiencing abuse from intimate partners and their family, friends and professionals. It is the only free, national, domestic violence Helpline with specialised trained staff and volunteers, accredited by The Helplines Partnership and with a Telephone Interpretation Service facility covering 170 languages for callers and professionals needing interpreting services.

One to One Support Visits and Court Accompaniment

We provide face to face support visits and Court Accompaniment in the greater Dublin area. Court Accompaniment is a specific service providing support to the particular needs of women seeking legal redress in the Courts regarding violence by a current or former husband or partner.

Dolphin House Family Law Support and Referral Service

Women's Aid also operates the Dolphin House Family Law Support and Referral Service, in partnership with the Dublin 12 Domestic Violence Service and Inchicore Outreach Centre. This is a free and confidential drop in service for women who are experiencing abuse in a relationship, located in the Dublin District Family Law Court.



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Training and Development

Women's Aid is a centre of excellence in training to statutory, voluntary and community organisations as they develop and maintain organizational responses to women and their children experiencing domestic violence. Training participants include health and social care professionals, staff from community groups throughout Ireland and Women's Aid National Freephone Helpline volunteers.

Policy and Communications Work

The sum of the above contacts with women experiencing domestic violence and their supporters enable us to have a good picture of the issues that need addressing to improve systemic responses and we use that information in our policy and communication work. We provide relevant information and recommendations to government and other relevant agencies on the nature and prevalence of domestic violence, the barriers faced by women experiencing domestic violence and the gaps in existing legislation/systems.

The following comments are informed by the experiences of women accessing our services and by the policy and research work of the organisation.

Statistics on Domestic Violence in Ireland

Domestic violence remains a serious issue in Ireland, as evidenced by the following select statistics:

FRA report¹

The FRA study found that in Ireland since age 15

- 14% of women have experienced physical violence by a partner (EU 20%)
- 6% of women have experienced sexual violence by a partner (EU 7%)
- 31% of women have experienced psychological violence by a partner (EU 43%)

Women's Aid statistics²

- In 2015 there were 12,041 contacts made with the Women's Aid National Freephone Helpline and Dublin based One to One Services.
- In 2015, the national domestic abuse service noted 16,375 disclosures of domestic abuse against women and 5,966 disclosures of child abuse (22,341 in total)

Femicide

Women's Aid also keeps a femicide media watch, monitoring female homicide figures in Ireland.

- Since the beginning of 1996, 209 women have died violently in the Republic of Ireland. Where the cases have been resolved, 89 women (54%) were murdered by a current or former male intimate partner. 54 women (33%) were killed by a male relative or acquaintance and 21 women were murdered by a stranger³

1 European Union Agency for Fundamental Rights, Violence Against Women: an EU-wide survey Main results, 2014 and online data explorer <http://fra.europa.eu/DVS/DVT/vaw.php>

2 Women's Aid Impact Report 2015

3 Women's Aid (2016) Behind closed doors



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Main issues

Women's Aid acknowledges positive initiatives and steps taken by the government to improve its response to violence against women. In particular we would like to commend the amendment of the Domestic Violence Act in 2011 which partly extended eligibility for Safety orders, the establishment of the Dolphin House Support and Referral Service and the COSC funding of national and local awareness campaigns.

We are however concerned that many issues which were outlined in previous shadows reports are still outstanding in the following areas: the legal response to domestic violence, funding and resources, protection for children living with DV, data collection and training. In addition, in the last few years women experiencing domestic violence have been greatly affected by the housing crisis.

The Legal Response to Domestic Violence

The following issues are concerning in relation to the legal response to DV:

1) Eligibility for Safety Orders

While eligibility for Safety orders was extended in 2011, dating relationships (with no current or previous cohabitation) were **not** included.

The General Scheme of a Reformed and Consolidated Domestic Violence Bill was published in 2015. It is extremely disappointing that the Bill does not envisage extending eligibility for Safety Orders to dating relationships, and thus leaves many women without protection.

- In 2015, there were just over 17,000 visits to www.2in2u.ie, the Women's Aid dating abuse website
- 38 women who availed of Women's Aid one to one services in 2015 were in a dating relationship, i.e. they never cohabited with the abuser. Currently these women are **not** eligible for protection under the Domestic Violence Act 1996 (unless they have a child in common with the abuser) nor this will change with the new Bill.

Protection from domestic violence should not be contingent on cohabitation, therefore Safety Orders should be available to all parties who are or have been in an intimate relationship. This is supported by the United Nations Handbook for Legislation on Violence against Women as well as by the Istanbul Convention, which Ireland is preparing to sign.

See Appendix 1 case study in this regard.

2) Emergency Barring Orders

Another significant gap in the proposed legislation is the lack of Emergency Barring Orders, i.e. orders available, in an emergency situation, **when the courts are not sitting** (for example over the week-end), so that victims of domestic violence do not find themselves in an emergency without protection for extended periods of time.

3) Need for updated and comprehensive stalking legislation

Women experiencing domestic violence are often controlled, followed, harassed and stalked by their abusers both during the relationship and after separation. Women's Aid has noted an increase in the use of electronic technologies to monitor, control and harass women both directly and indirectly.



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The EU FRA survey found that in Ireland 5% of women have experienced cyber-stalking since age 15, and 2% in the 12 months before the survey, with young women being particularly vulnerable⁴.

Direct forms of harassment include threatening communications by SMS, calls, emails or posts or tracking the woman through spyware.

Indirect forms include communication to third parties about the woman, for example posting intimate/private images and videos or spreading lies about her on the Internet and social media, or advertising the woman on escort sites without her consent.

Current legislation⁵ does not explicitly refer to these new technologies, nor does it include indirect forms of harassment. As it stands, harassment, particularly cyber harassment, has been difficult to prove in court, with very few prosecutions taken. The Domestic Violence Bill does not address this issue: The Law Reform Commission has recently published a report on cyber-bullying, which agrees on the need for comprehensive legislation on stalking (on and off line) without delays⁶.

4) Prosecution of domestic violence offences

While the limited available research⁷ and our own experience point to low rates of prosecution and even lower rates of sanctions for domestic violence crime, the lack of robust and systematic data impedes real knowledge of rates and trends.

COSC has run and/or funded worthwhile campaigns encouraging women to disclose/report domestic violence, however until recently there have been little other measures taken to address low prosecution and conviction and high withdrawals in relation to DV offences.

The recent Garda Inspectorate report⁸ outlines a number of issues on recording and investigating domestic violence related crime. While we are aware that the Garda are taking measures to address these issues, and other victim friendly measures are being proposed due to the transposition of the EU Victims Directive into Irish law, there have been no other comprehensive and coordinated actions to address low prosecution of domestic violence crime in the reporting period, such as the setting up of specialised courts or prosecution specialists.

Recommendations:

Improve legislation to provide better protection to victims by:

- a) Further amending the Domestic Violence Act to extend eligibility for Safety Orders to all parties who are or have been in an intimate relationship, regardless of cohabitation and providing for Emergency Barring Orders
- b) Introducing Stalking legislation to cover traditional and online/ digital stalking including both direct and indirect forms
- c) Explore the feasibility of specialist domestic violence courts

4 European Union Agency for Fundamental Rights, Violence Against Women: an EU-wide survey online data explorer <http://fra.europa.eu/DVS/DVT/vaw.php>

5 The offence of harassment in Section 10 of the Non-Fatal Offences Against the Person Act 1997

6 Law Reform Commission, Issues Paper on Cyber -crime affecting personal safety, privacy and reputation available at http://www.lawreform.ie/_fileupload/Issues%20Papers/ip6Cybercrime.pdf including cyber-bullying (LRC IP 6-2014)

7 See for example Safe Ireland, 2014, The Lawlessness of the home and Safe Ireland, 2016, In Search of Justice: Women and the Irish legal system. Both reports available on www.safeireland.ie

8 Garda Inspectorate, 2014, Crime Investigation Report



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Funding and Resources

The recent recession has greatly impacted on services and agencies assisting women and children who experience domestic violence, and this negative impact has not been ameliorated by the beginning of economic recovery. Not only has funding to specialist services been cut, other services and systems that are vital to keep women safe and are necessary to rebuild their lives have also received less funding and therefore had to reduce services:

- Since the start of the recession, funding to Women's Aid has been slashed by 31% while demand on services has increased.

Nonetheless, in 2016 Women's Aid extended the availability of the National Free-phone Helpline to 24 hours (from 12 hours previously), in line with the Istanbul Convention and EU Victims' Directive. The fact that from January to June 2016 the Helpline answered just short of 2000 calls during the "night shift" proves how much this extension is needed.

- Many domestic violence refuges and support services have received substantial funding cuts⁹, leading to reduced hours, programmes and services for vulnerable women and children, while demand has increased.

This has created huge unmet demand. In 2014, domestic violence services were unable to meet 4,831 requests for safe accommodation because their refuge was full¹⁰

Ireland has a total of 21 women's shelters with 141 family places, which represent **only 31%** of the places needed according to the Recommendation of the Council of Europe¹¹.

This does not meet the requirement of the Istanbul Convention that states provide "shelters in sufficient numbers to provide safe accommodation for and to reach out pro-actively to victims"¹².

The calculation above was worked out by WAVE using the standard of **1 family place (enough room for a woman and average number of children) per 10,000 population**, which is the standard used by the Council of Europe and the Istanbul Convention. Moreover, the IC Explanatory Report also states "However, the number of shelter places should depend on the actual need."¹³. The huge number of women and children that could not get access to emergency refuge in the last few years confirms that Ireland does NOT meet this standard.

- Resource constraints and increase in demand have caused long waiting times for Legal Aid and in the District Court (which deals with applications for orders under the Domestic Violence Act as well as Family law matters such as custody and access). Moreover, since September 2013, there has been a 160% increase in the application fee for civil Legal Aid (from €50 to €130). This is money many women experiencing domestic violence simply do not have.

9 Safe Ireland (2014) Safety in a time of crisis: Priorities for protecting women and children impacted by domestic violence, Dublin.

10 Safe Ireland National Domestic Violence Service Statistics Report 2014

11 Women Against Violence Europe (WAVE) Country Report 2014 Vienna

12 Istanbul Convention Article 23

13 Council of Europe, CETS 210, Explanatory Report to the Council of Europe Convention on preventing and combating violence against women and domestic violence page 25, paragraph 135.



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Recommendations:

- a) Provide adequate funding to specialist domestic violence services so they can meet demand and increase refuge provision to meet international standards
- b) Provide funding for the extension of the National Freephone Helpline to a 24/7 service
- c) Increase funding for Legal Aid and for District Courts so as to ameliorate waiting times and exempt domestic violence clients from application fees

Protection for children living with Domestic Violence

This is another area where there has been very little improvement.

Women's Aid has been extremely concerned for a number of years about the way in which the risk a violent man poses to women and children's safety continue to be disregarded in many custody and access proceedings.

It is our experience that the Courts, when dealing with Domestic Violence orders, Custody or Access, are usually not supplied with expert assessment of the safety of children in the relationship and it is common that the abuser has unsupervised access.

Even when supervised access is ordered, there are no suitable access centers with staff trained on the dynamics of domestic violence. We are aware of cases where abused mothers have to supervised access themselves for lack of other options, thus putting themselves at increased risk of continuing abuse.

In 2015 women disclosed to us in 82 contacts that children were being abused during access and on 124 occasions mothers disclosed that they themselves had been directly abused during access visits.

Funding for the successful Barnardos/One Family Pilot Child Contact Centre was terminated in 2013, notwithstanding its evaluation finding that such service was essential.

Recommendations:

Improve protection for children experiencing domestic violence by:

- a) Providing for assessment of children's safety when granting Barring orders
- b) Funding Child Contact Centres to facilitate safe, supervised access visits between children and perpetrators of domestic violence

Persistent Lack of Data

Accurate statistics are essential to plan, deliver and evaluate responses to domestic violence. A number of reports in recent years has highlighted the need for better data collection in relation to domestic violence, in particular in relation to the justice system. The Istanbul Convention will also require data to be available to monitor effectiveness of responses.

Notwithstanding COSC best efforts to improve data collection, to date detailed data on domestic violence remains extremely difficult to obtain. There is still no data available on the amount and types of domestic violence related offences (which can include for example damage to property, threats, assault, rape, homicide) or on their prosecution other than data on breaches of Domestic Violence Orders, and even these are not gender-disaggregated.



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Making Women and Children Safe

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In order to provide a picture of the extent of domestic violence crimes that occur in Ireland, it is essential that Garda and Courts data identifies all crimes under the Non-Fatal Offences Against the Person Act and other relevant Acts that are carried out in a domestic violence relationship as domestic violence crimes, and that the data collected in these cases include the relationship between perpetrator and victim. It is also essential that data is disaggregated by gender.

Data on sentencing for domestic violence related crime (which includes but is not limited to breaches of domestic violence orders) should also be collected. At the moment it is impossible to get an accurate picture of how domestic violence perpetrators are dealt with by the justice system.

Recommendation

Prioritise work on improving data collection from relevant sources, especially from the justice system so as to meet best practice and provide relevant and comprehensive statistics on domestic violence related crime.

Training

Staff in all agencies that assist women experiencing domestic violence need to be trained to understand the impact of abuse on women and children and the risk of the abuse continuing or escalating.

Dedicated funding must be set aside to provide high quality training to all statutory agencies and community organisations where women may seek assistance.

The Garda Inspectorate recommended improved training for the Garda, in conjunction with DV victims and support services, to raise awareness of the particular needs of DV victims.

Currently the Garda are looking at ways to enhance their training on this issue. However training for judges and other legal personnel is still ad hoc and not systematic.

There is also a need for more systematic training in recognising and responding to domestic violence for health and social work professionals.

Recommendation

Fund or provide high quality training, in conjunction with specialist services, to Garda, Court and legal personnel including judges and child experts, social workers, relevant staff in A&E, maternity hospitals, mental health, and child protection services, Local Authorities staff and community organisations, which are often the first and vital point of contact.

Housing issues

In recent years, the housing and homeless crisis has impacted greatly on women and children escaping domestic violence. As well as the challenges experienced by all people in need of housing assistance, women escaping domestic violence face unique and additional challenges in relation to eligibility for social housing, as some Local Authorities:

- do not consider “homeless” women who have left home because of domestic violence and are staying with friends/relatives, so they are not eligible for priority housing. However staying with friends or family is not an appropriate long term solution



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- require the woman to have lived in the area for a specified time or to have local connections. This is a problem for women wishing to move to an area far away from the abuser for safety
- do not consider a woman entitled to social housing if she jointly owns a property with her abuser, regardless of the fact that this property is not available for her as she would not be safe there.

The result is that many women are forced to stay with or return to the abuser, or having accessed refuges, end up staying there for months, due to lack of exit options. This in turn contributes to unavailability of places in refuges.

Recommendation

Develop and implement housing legislation and policies to provide housing to women and children who have to leave home due to domestic violence and remove barriers to accessing social housing

Trafficking and Prostitution

Women's Aid is a member of the Turn off the red light campaign, a campaign to end prostitution and sex trafficking in Ireland.

Women's Aid believes that prostitution is a form of violence against women, in many ways similar to domestic violence. Both are violation of human rights and a barrier to gender equality.

Moreover, there are overlaps between these forms of violence:

- Like women experiencing domestic violence, women engaged in prostitution experience physical, sexual, psychological and financial abuse. The issue of control is central in both situations.
- Like women experiencing domestic violence, women in prostitution experience a range of extremely harmful effects including psychological harm (such as Post Traumatic Stress Disorder, depression, low self-confidence), as well as physical harm and severe injuries.
- The two issues conflate when the woman's intimate partner is the person coercing her into prostitution. In our direct work we sometimes hear of women experiencing domestic violence who are forced by their abusive partner to work as prostitutes on the streets or are coerced by their partner to have sex with other persons in exchange for money or drugs.
- Conversely, intimate partner abuse by a partner/pimp is often a reality for women engaged in prostitution.
- We also hear at times of women experiencing or escaping domestic violence who are forced into prostitution by the lack of any other income generation opportunity.

Women's Aid believes that prostitution is intrinsically exploitative, harmful and violent and that it is best tackled by targeting demand and therefore we endorse Ruhama's submission to this Committee and **we support the call for introducing legislation based on the Nordic model, criminalising the purchase of sex whilst de-criminalising those who sell sexual acts and offering support services to people in prostitution.**



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Appendix 1 Case Study

Orla*, 20 (student, dating relationship)

I've started my third year in university – but right now I don't know how I can get through that as everything in my life feels so out of control.

It all started when I moved to Cork to start college two years ago. I had a few friends going to the same place and it was a really exciting time, my first time living away from home. During the first few weeks there were a lot of events and social evenings to help get you settled in and I met Colm at one of these. He came up to me and started chatting, he seemed really interested in what I had to say and when he spoke about himself it seemed like we had a lot in common. That evening I didn't give him my number or anything as I didn't really want to start anything serious and so just said I would see him around college.

Three days later I bumped into him standing outside my lecture theatre and he suggested a coffee. After that we would meet a fair bit until he asked me out for a proper date. I agreed as I enjoyed his company. We dated for several months but there was a problem in that I just didn't feel that I wanted to get serious whereas Colm really did. He would call or text me several times a day and would often be there waiting for me outside classes to go and have lunch or coffee. He didn't really want to go out with groups and always said that he preferred it when it was "just the two of us".

There were a couple of times when I said I fancied a girls night out and he would get really upset, and ask was there something he had done that meant I didn't want him to come out with my friends? Was I ashamed of him or something? I felt badly on those occasions and so he would end up coming out with us but he would always spend the whole night scowling or watching to see if I spoke to any other guys. He started getting really possessive and the final straw came one night when I was talking to an old school friend, a guy, and he came charging over and accused me of being a complete slut. I was so mortified that I left the bar with him to try to speak to him outside away from the crowd but when we were alone he grabbed me by the hair and started dragging me along the street shouting insulting names at me. He said that I had made a fool of him! My friends came out after me and saw what was happening and got him away from me. I was shaking like a leaf and when I got home just cried and cried.

I saw clearly just how possessive and controlling he was and realised that there was no way I wanted to be in a relationship with this man. I rang him the next day and said it was over and that I didn't want to see him again. He apologised again and again, said he hadn't meant it - that he loved me so much that he got jealous but I just wasn't interested.

I thought that would be it and felt so much lighter and happy having made my decision but this feeling only lasted a day or so because, after my first lecture on the following Monday, Colm was there outside waiting and asking me to go for a coffee. I said no and walked away. This happened again the next day and I told him again to leave me alone. Then the phone calls started: sometimes Colm would be really upset saying he loved me and he was sorry but more and more the messages he left were angry, accusing me of things, threatening. What had been several texts a day became an avalanche and it came to the point that I felt sick every time I heard the buzz of the mobile because I knew it was probably him. Apart from the calls I was becoming alarmed by the fact that Colm always seemed to know where I was going, who I was seeing, what I was doing. I found myself looking over my shoulder all the time and unable to focus on conversations with friends because I was always scanning the room to see if he was there – and sometimes he was. I feared I was being cyber-stalked.



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If I saw him my night was over, I would feel so sick and anxious that I would have to go home but I was also terrified of him following me there. He did know where I lived and on one occasion I came home to find him sitting having a cup of tea with my flat mate because he had told her we were back together and she let him in. My friends then told me that he had started spreading malicious rumours about me in college: that I was a prostitute, which I had a sexually transmitted disease that I was a drug dealer – crazy stuff! At the same time though he kept saying he wanted me back - that we should be together - that life was awful without me – that he would kill himself – I became really frightened of what he was capable of. I started staying away from college as I was too nervous of him being there and too tired of having to defend myself against his lies. My studies obviously started suffering and I was also feeling sick from not sleeping and being always on the alert. My first adventure away from home had turned into a complete nightmare because of Colm.

The situation felt like it was getting totally out of hand so I went to the Gardaí to see about getting a protective order against him as I was in fear of Colm at this point and my whole life was consumed by his presence. I couldn't believe it when they said that I had no right to this protection because we weren't living together. The Gardaí said that there was nothing that they could do "until he does something". What does he have to "do" – hurt me again, kill me? Why is it that he can walk around freely and I feel as though I am in a prison because of his behaviour? It feels like I am under siege and that just doesn't seem right.

**Orla's story is based on real accounts as told to Women's Aid. Specific details and circumstances have been changed in the interests of protecting identity and to preserve the confidential nature of Women's Aid Services.*



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