

## **OPENING STATEMENT FOR THE JOINT COMMITTEE ON GENDER EQUALITY**

Dublin Rape Crisis Centre (DRCC) is grateful to the Chair and members of the Committee for their invitation to discuss the recommendations of the Citizens' Assembly regarding Domestic, Sexual and Gender-Based Violence (DSGBV) - recommendations 37-41. Although DSGBV was not initially included in the Oireachtas resolution, once it was given due consideration the Assembly through their recommendations conveyed why DSGBV is a gender equality issue.

DRCC aims to prevent the harm and heal the trauma of all forms of sexual violence in Ireland. We provide services including running the National 24-Hour Helpline, one-to-one therapeutic counselling and other supports to victim/survivors; accompaniment to those attending Sexual Assault Treatment Units, Garda stations and court; and education, training and advice to a wide range of people. In addition, we use our expertise and experience to provide reports, analysis and policy proposals to those tasked with action on behalf of victim/survivors of sexual violence. Through our work in the DRCC, we see first-hand the life-long consequences of the trauma and harm caused by sexual violence of all kinds. These serious consequences negatively impact health, families, relationships, social well-being, education and work.

We will never have gender equality while sexual violence continues. In 2020, as in previous years, about 80% of those who contacted the National 24-Hour Helpline run by our centre were women. About 90% of those who availed of our therapeutic services were women. While sexual violence is no respecter of gender and while the power imbalance in relationships can impact on all genders, the impact of sexual violence on women as a gender is disproportionate to their representation in the population. Harmful gender stereotypes and roles imposed on us from birth and ingrained in us throughout our lives mean that we are not always equal in relationships and/or in sexual relations. We must address why a power imbalance between people can result in acts of sexual violence. The importance of all sexual activity being consensual and equal cannot be underestimated for a person. Personal safety and respect, both inside and outside the home, is essential to ensure a person's full and effective participation in all areas of life.

Turning our attention now to the Assembly's specific recommendations.

**Recommendation 37:** DRCC welcomed the recent announcement by Minister McEntee of the establishment of a new statutory agency to oversee the implementation of the government's approach to tackling DSGBV. To achieve this the governing legislation of the new agency must have sufficient reach and power to ensure an integrated cross-departmental response will be adopted.

We are some 12/18 months away from that agency taking charge. In the years it will take the new DSGBV agency to build, an ad-hoc agency should be established to ensure there is no risk to side-lining any of the work in the DSGBV sector.

**Recommendation 38:** It is essential to promote awareness through campaigns and education to ensure that the public are fully informed of the various forms of DSGBV. The Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention)<sup>1</sup> obliges governments to promote and conduct awareness-raising campaigns in conjunction with civil society organisations. Awareness, prevention and education campaigns aimed at eliminating the tolerance of DSGBV in society must be both inclusive and accessible by all. Real Consent<sup>2</sup> commissioned by DRCC is the first national study of its kind to examine attitudes to and understanding of sexual consent in Ireland across all adult age groups. A collaborative campaign now under way in DRCC is grounded in equality, leading to a deeper understanding of consent, the impact of gender inequality on sexual violence and the impact of sexual violence on survivors and their communities.

**Recommendation 39:** The Assembly identified a number of specific areas in which to support justice for victim/survivors: -

(a) **Review and reform the courts system** - The credibility and reputation of the complainant in a sexual offences case is regularly the main focus of the defence of an accused person. Thus, harmful stereotypes about how a person looked or dressed can influence how an investigation and trial proceeds. This in turn means that victim/survivors of sexual violence may be reluctant to access appropriate remedies in our legal and justice system.<sup>3</sup> It is vital that legal professionals including the judiciary working within sexual offence trials receive appropriate training on best practice in the treatment of victim/survivors.

(b) **Develop guidelines and specialist training for judges and lawyers** - Issues surrounding the disclosure of victim/survivors' counselling records is now a feature of many sexual offence trials and only sexual offence trials. In the Criminal Law (Sexual Offences) Act 2017<sup>4</sup>, a regime to regulate disclosure of counselling records was introduced for the first time in Ireland. However, many victim/survivors waive the application of this scheme and permit disclosure of their counselling records without going through this process.<sup>5</sup> And many do to facilitate prosecution. We would be in agreement with the Assembly in relation to excluding counselling records of victim/survivors in court cases.

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<sup>1</sup> Istanbul Convention – Article 13 <https://rm.coe.int/168046031c>

<sup>2</sup> <https://www.drcc.ie/news-resources/news/research-shows-most-people-believe-ireland-has-problem-with/>

<sup>3</sup> Law Reform Commission, 'Knowledge or Belief concerning Consent in Rape Law' (2019) pgs. 7-16.

<https://www.lawreform.ie/fileupload/Reports/LRC%20122-2019%20Knowledge%20or%20Belief%20Concerning%20Consent%20in%20Rape%20Law.pdf>

<sup>4</sup> Section 39 of the 2017 Act inserted this new regime into section 19A of the Criminal Evidence Act 1992.

<sup>5</sup> Section 19A (17) of the Criminal Evidence Act 1992 (as amended).

In 2009<sup>6</sup>, research was undertaken on behalf of the DRCC, which was based on an analysis of 40 rape cases tried in the Central Criminal Court between 2003 and 2009. The study showed that judges granted defence application to introduce evidence about the sexual history of rape victims pursuant to Section 3 of the Criminal Law (Rape) Act 1981<sup>7</sup> very frequently, despite the highly prejudicial nature of the reasons being offered by the defence. One commonly used defence argument was that the victim/survivor was promiscuous.

This sort of argument unfortunately strengthens myths about rape and has the potential to undermine the victim/survivor's evidence in court. Such unnecessarily aggressive cross-examination and the inappropriate introduction of evidence of victim/survivor's sexual history, results in an unduly traumatic court experience for victim/survivors. The trial judges who preside over sexual offence trials and the legal professionals who prosecute and defend these cases play a vital role in ensuring fair treatment of victim/survivors while they give their testimony. Thus, it is vital that any judge or legal professional working within these trials have received appropriate training on key concepts such as, but not limited to, consent, rape myths, and unconscious biases.

(c) Introduce tougher sentences - One of the things that victim/survivors want to know when they engage in the criminal justice process is what the outcome is likely to be. They will of course know that the defendant may be acquitted or convicted however, in the absence of sentencing guidelines and a sentencing database, it is hard for them to know the consequences of a conviction. Report 1 of the Sentencing Guidelines and Information Committee of the Judicial Council<sup>8</sup> of Ireland has stated that sentencing data in Ireland still has profound limitations. The sentencing database known as the Irish Sentencing Information System (ISIS) needs to be reinstated and resourced.

(d) Specialised confidential health care and other support services - No one size fits all but our experience as an RCC of over 40 years highlights that decent, proper services must be conceived in a victim/survivor centred way so that:

1. Those delivering the services are trained and understand the emotional, traumatic impact of sexual assault and harassment, preferably in specialist services where they don't have to keep reporting and re-living the sexual assault again and again - particularly true for children and especially vulnerable people;
2. Services are available in a timely way – be that health care or counselling within a short time frame, or getting a case to court within a reasonable timeframe; and
3. Statutory funding to cover the full cost of providing DSGBV services should be allocated on a multi-annual basis to ensure consistency of service for those who need them.

(e) Victims/Survivors Commissioner - DRCC along with member organisation of the Victims' Rights Alliance (VRA)<sup>9</sup> have long been lobbying for the establishment of a Victim/Survivors Commissioner who is dedicated to protecting and upholding victim/survivors' rights.

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<sup>6</sup> Bacik et al (2010) *Separate Legal Representation in Rape Trials* DRCC Conference

<sup>7</sup> <http://www.irishstatutebook.ie/eli/1981/act/10/section/3/enacted/en/html>

<sup>8</sup> <https://judicialcouncil.ie/assets/uploads/1st%20Interim%20Report.pdf>

<sup>9</sup> <https://victimsrightsalliancedotcom.wordpress.com/>

The appointment of a dedicated Commissioner for victim/survivors of crime would ensure their voices and experiences were at the forefront of decision making in addition to proactively shaping a balanced and fair criminal justice system.

Recommendation 40: Within this recommendation we must also consider the need for shelters and accommodation for victim of trafficking for sexual exploitation. Trafficked women recovering from sexual exploitation need safe and appropriate shelter and accommodation that recognises and treats them as victims of the crime of human trafficking and victims of violence against women.

**Conclusion:**

Through their comprehensive recommendations the Assembly have highlighted how much remains to be done, but they also offer a clear pathway for achieving a more equal society including one free from gender-based violence. The words used by the Assembly in their open letter to the Oireachtas are striking and very clear:

*There is no place in our society for gender-based violence. We support the aspiration of the Istanbul Convention to create a Europe free from violence against women and all forms of domestic violence. We want our Government to work actively towards this goal."*