



Knowledge Exchange Seminar Series (KESS)

...is a forum that encourages debate on a wide range of research findings, with the overall aim of promoting evidence-based policy and law-making within Northern Ireland



Advancing Gender Equality in Northern Ireland: Addressing Domestic Violence and Human Rights Protections for Women

Two objectives in responding to the DHSS/DOJ strategy on Domestic and Sexual Violence

1. To address the specificity of the Northern Ireland context in seeking transformative legal and social change to prevent and remedy gender-based violence.
2. To place any transformative approach to gender-based violence within a rights' based framework, and embed the strategy in the domestic, regional and international human rights obligations of the United Kingdom and Northern Ireland.

Strategies need to be 'context specific'

Domestic and sexual violence is a global phenomenon but it takes on specific modalities in each cultural and geo-political setting

Northern Ireland has a specific context



Impact of political conflict



“Bringing it Out in the Open” (1993) Injuries

HEAD BUTTED

BROKEN NOSE

SPLIT HEAD

BROKEN RIBS

BROKEN JAW

PROLAPSED WOMB

PERMANENT EYE
DAMAGE

FRACTURED SKULL

RUPTURED EARDRUM

PUNCHED IN HEAD

CRACKED RIBS

RAPE

CHOKED

KNOCKED
UNCONSCIOUS

ATTEMPTED RAPE

BROKEN TEETH

STITCHES IN
MOUTH

MISCARRIAGE (2)

DISLOCATED NOSE

BROKEN FINGER

PREMATURE BIRTH

HEAD INJURY

BLACK EYE

BUSTED MOUTH

BRUISING

BAD BEATING



But it was just a domestic.....



- Policing – ‘terrorism’ seen as a ‘hard’ issue compared to the ‘soft’ issue of DV
- Barriers to reporting the violence
- ‘No Go’ areas
- Availability of legal/illegal weapons
- Unwillingness to engage with women’s organizations mobilizing on DV
- Lack of confidence in state institutions to challenge perpetrators

Approach to domestic violence was rooted in:

- A failure to capture the severity of the crimes or to adequately punish them
- Insensitivity to the victims' needs
- Crimes against women were largely left unpunished
- Policy based on 'Non-Interference'

Prevalent and serious: Northern Ireland data (2013)

- 27,000 incidents of DV annually (PSNI)
- 14 incidents of DV per 1000 pop.
- One incident every 23 minutes
- 44,664 Helpline calls answered (Women's Aid)
- 5,224 high risk victims identified since 2010 (MARAC)
- 236 sexual offences recorded in intimate partner relationships (PSNI)
- One in five murders are of intimate partners (NICS)
- 700 families have to be re-housed each year (NIHE)



Shifting domestic violence from violence from

- Customary (culture) to criminal (courts)
- Private (home) to the public (state)
- Personal (individual) to the political (collective)



AFFECTIONATE HUSBAND: "Come, Polly—if I am a little irritable, it's over in a minute."



Making Private Harms A Public Concern

- Greater value is attributed to the public/male sphere than the private/female one
- Needed to change the thinking from ‘an English man’s home is his castle’ to the ‘state’s responsibility’ to protect its citizens (both in public and in private)
- Using international human rights standards to raise awareness

DEFINITION OF VIOLENCE AGAINST WOMEN

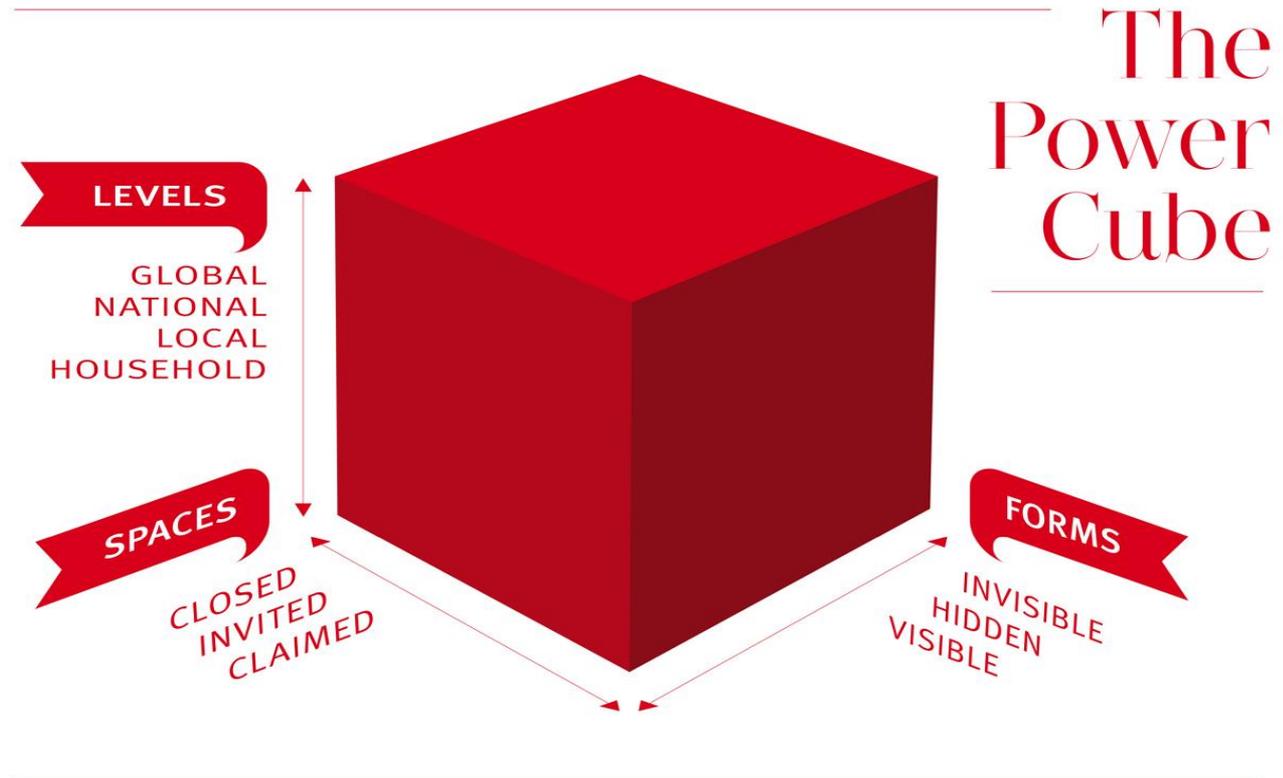
The United Nations Declaration on the Elimination of Violence against Women (DEVAW) definition:

“Any act [of gender-based violence] that results in, or is likely to result in, physical, sexual or mental harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.”



Unequal power in intimate relationships results in intentional coercive control

Enforces
and/or
perpetuates
gender
inequality



But Tackling Violence At Home NI 2005-2010 missed this connection

Domestic Violence is threatening behaviour, violence or abuse (psychological, physical, verbal, sexual, financial or emotional) inflicted on one person by another where they are or have been intimate partners or family members, ***irrespective of gender*** or sexual orientation.



A Uniform Definition is Needed

The NI definition does not distinguish clearly the differences between intimate partners or family members, but focuses on the act and the location.

The US definition of IPV specifically represents violence among intimate partners (Centers for Disease Control and Prevention 2014).

Such global disparities hinder researchers and practitioners in their attempt to understand the nature of IPV.



Absence of Homicide Reviews in Northern Ireland Also Needs To Be Addressed

Men who murder their Intimate Partners

- Most known to justice system
- Some known to medical profession (do not ‘Come out of the Blue’)
- Information sharing is crucial to safety
- But no homicide reviews have been undertaken in Northern Ireland despite proposals in 2004 legislation

Advances in policy and legislation

- Remove danger from victims and their children rather than removing them from danger (protection and occupation orders)
- Leaving a violent relationship is a process, not an event (victim centred approach)
- Victims want and need access to support at different points (continuity and consistency)

Effective Relationships Are Key

VOLUNTARY

Refuges
Safe houses
Emergency
Accommodation
Counselling



Women's Aid
Women's centres
Community centres
Child care
Churches and faith
communities

STATUTORY

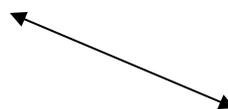
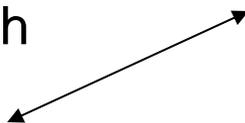
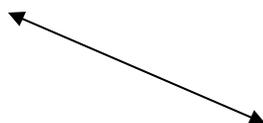
Police
Courts
Health visitors
GPs / A&E
Social Workers



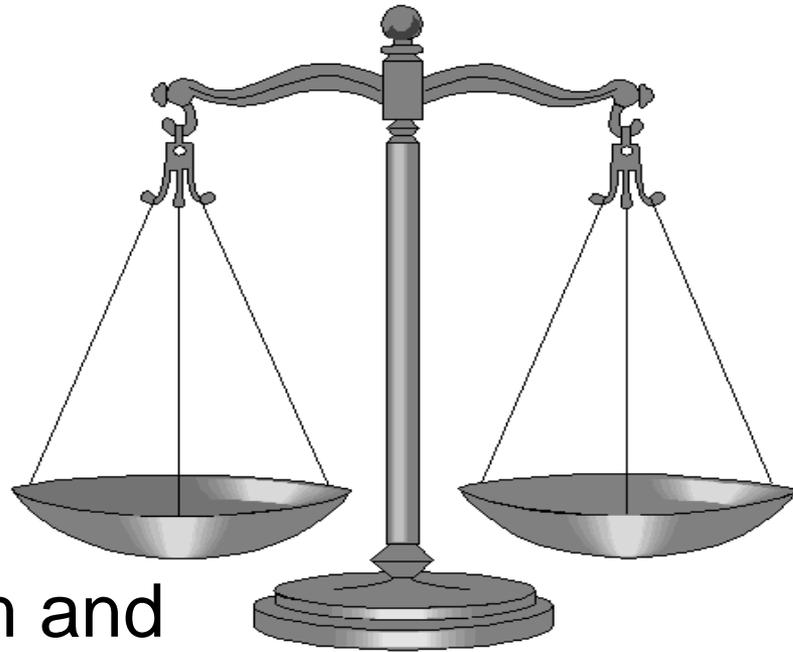
Housing, GPs
Community
Psychiatric
nurses
Social Workers
Probation
Police
Courts

During

After



But Still Too Much Of A Balancing Act.



Custom and Practice

Human Rights

Strategy also needs to reflect systemic issues in Northern Ireland

- Economic/Political systems that sustain inequalities
- The legacy of political conflict
- Women's lack of political participation
- Cultural/religious norms



Absence of reference to human rights

- European Convention on Human Rights,
- International Covenant on Civil and Political Rights
- Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)
- UK to ratify the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention)

Victims are Rights Bearers

Without recognising this, the strategy runs the risk of relegating individuals to the status of pleaders for protection, rather than as independent individuals with rights and status as of right.

State has the responsibility to take Positive Measures and pay Due Diligence



The Human Rights Act 1998

Jurisprudence on DV has included:

- the right to life
- the prohibition of torture, inhuman and degrading treatment,
- the liberty of the person,
- the right to family life
- the right to an effective remedy and
- non-discrimination on a range of enumerated grounds including sex.

Recent European Court cases

Valiulienė v. Lithuania, 26 March 2013

Violation of article 3 (prohibition of inhuman or degrading treatment) and article 8 sustained (right to respect for family life)

- Authorities failed to apply criminal code in manner that protected applicant from DV
- And delays in and discontinuation of criminal investigation against perpetrator

Eremia and Others v. the Republic of Moldova, 28 May 2013

Violations of article 3 (prohibition of inhuman or degrading treatment), article 8 (right to respect for family life), and article 14 sustained (prohibition of discrimination) (read in conjunction with article 3)

- Authorities failed to take effective measures to protect applicant or her daughters from further DV by husband (who was a police officer).
- Authorities' attitude condoned violence and discriminated against applicant based on gender.

Convention on the Elimination of Discrimination Against Women (CEDAW)

- Established in 1994 with the role of identifying measures that governments are taking to eliminate VAW.
- Conducts country visits with annual reports to the UN on how the country is performing.
- Cross examines governments and holds each of them to account at the international level.
- States are required under CEDAW to address domestic violence within a rights-based framework.



CEDAW Optional Protocol

The failure of the state to directly address and/or appropriately regulate domestic violence has been the subject of judicial and quasi-judicial proceedings.

States have been found in violation of the Convention by failing to offer sufficient police, judicial and administrative protection to victims of domestic violence.



CEDAW cases

A women's human rights to life and integrity cannot be superseded by other rights (i.e. property/privacy)

Legislation enacted to protect must be also be enforced and supported by state actors(due diligence)

The Committee found explicitly that domestic violence violates equal rights of women

In proposing and delivering a Strategy on Domestic and Sexual Violence.

It should:

- Reflect the best of international practice;
- Integrate and affirm the international legal framework within which the United Kingdom operates.



UN Security Council Resolutions (1325;1860 etc) on Women, Peace and Security Need To Be Taken Seriously

Concluding Report of the CEDAW Committee on UK (Paragraph 32) remains concerned at the low representation of women in the post-conflict process in Northern Ireland and the failure to **fully** implement Security Council Resolution 1325 (2000).



Post Conflict

New relationships between the state the individual

The new relationship has to
be just, inclusive and fair.

What do constitutions **do to**
women and what do they
do **for women**?

(Fionnuala Ní Aoláin)



Post Conflict

Prevention: Challenge norms leading to controls

Protection: Integrate human rights in new strategy

Promotion: Special measures

Transformation of attitudes, policies and systems



Women's Aid
NORTHERN IRELAND
... UNTIL WOMEN & CHILDREN ARE SAFE.





Northern Ireland
Assembly



Queen's University
Belfast



The Open
University



Ulster
University

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