



Women Standing Together Against Abuse

Introduction

SiSi is a new and innovative collective of women survivors of intimate partner abuse. Our mission is support women survivors out of isolation to be recognised as experts by experience. We take collective action to inform and influence the policy, legal, social and cultural reform required to eliminate intimate abuse in Ireland. SiSi registered with the CRO in February 2020 and formed as a collective in August 2018. Our creation was borne from injustice and common purpose. To place survivor voice and lived experiences at the heart of everything we do. We welcome the opportunity to inform and influence state services created to protect and serve vulnerable families. Our members are the bread and butter of the family courts and we have had our human rights ignored, trampled on and in some cases removed by some questionable practice, procedure and judicial decisions. We are not here today to evidence with reference to individual cases but wish to use our combined experiences to make some clear and certain recommendations based on our combined years living within the constraint of the Irish Family Law System.

* Abuse is predominantly perpetrated by men against women. This is a fact. Womens experiences of abuse come in many forms and it is our experience that abuse never happens as a stand alone incident but rather various types of abuse are used interchangeably by perpetrators of violence against women and may all be found within the context of coercive control unless escalating to sexual violence, attempted murder or femicide and familicide. It is the experience of our members that Coercive Control escalates after separation and the majority of cases appearing before our family law courts are cases where Coercive Control is present. In this context, when Coercive Control is considered, the impact of Coercive Control on women is that she fears being killed and if the reverse is claimed, he fears being humiliated. There is a gendered nature to the impact of various domestic violence offences which must be reflected in reforms to legislation if Ireland is to fully implement the Istanbul Convention and our combined criminal and civil family systems are to provide the protections required of them by international treaty.

SiSi's Expertise

Our members have lived every step of the Irish Family Court System from the inside. We have insights on anomalies of the systems and observations of the workability of even our new Domestic Violence Legislation incorporating Coercive Control. Our lived experience combined with our members various skills and qualifications place our experiences at the cold face of the Irish Legal system in context and our families are living with the consequences of judicial decisions for the rest of their lives. All our members are victims of abuse. Most have continued to be abused by their perpetrators manipulation of the Family Courts and many have had their lives, livelihoods and human rights demolished by the consequences of involvement in family law proceedings.

We deliver the Freedom Programme to women seeking to learn about abuse, where abuse originates and how to become free of it for good. We hold group meetings with women who are living in safety to share our experiences and to take part in research and training. We have built meaningful relationships with frontline domestic violence services and want to contribute in any way to processes that will eliminate violence against women.

SiSi is a member of the National Women's Council and now sits on the Irish Observatory on Violence Against Women and has built alliances with many stakeholders. SiSi has been supported by fostering relationships with Safelreland, Women's Aid, Sexual Violence Centres, various academics, researchers, legal and policing professionals. Our organisation stems from a community development ethos and is unique in Ireland but has partially modelled itself on successful international models of survivor participation platforms.

Phase One Consultation Questions

- The use of modern technology is welcomed by SiSi and if the system were to be available then access to it must be available to any women seeking court protection in the first instance and subsequently if suitable. While Safe Ireland is leading the way to facilitate safe access for victims of abuse to access justice, not all victims seek access to the courts through solicitors or domestic violence services and the complexity of arrangements erode the critical time lapse that for a victim of abuse could resign her to his control and dominate for another decade. Facilitating such a service and making it available to those who need it most in a timely way requires the courts services to take expert advice from outside of the legal profession where only a comma city wide response will ensure that every victim of violence who comes to the attention of key professionals is assisted to obtain access to remote hearings at a time when swift action is a matter of life or certain slow death.

Alternatively our police force could come to hold powers through legislation to make interim barring orders on the doorstep, either removing the perpetrator on the doorstep or returning the victim to a home made safe by the issuing of a protective order for such time as it takes to recover from the immediate trauma of an assault or rape and make appropriate statements and further court applications. These could be facilitated by remote access in a safe space with the accompaniment which the state is obliged to provide to victims of violence.

Remote hearings would also suit children in giving evidence to court if this is something the child wishes to do and it is safe for them to do so.

The same level of service and support must be available to all victims of violence. It is simply not good enough to say that if a women lived in a different county she would be spared being in the same room or lobby for an entire day with her perpetrator; A woman in one jurisdiction faces endless applications being made against her while a modern system prioritising remote access means a perpetrator tires of not being able to access her and moves on to the next victim. Domestic Violence is a crime. The whole country is working on zoom and with moderate investment the courts could provide a system of protection that would have the effect of reducing court hours for victims of abuse immediately. Removing access to a victim has far reaching consequences and life enhancing outcomes for victims.

Currently court applications and jurisdiction are attached to the address of applicant and respondent. SiSi is seeking immediate amendment of this loophole which sees protective orders and criminal matters set aside or struck out on technicalities. Women flee violence, refugee spaces are unavailable. If a woman seeks the courts protection she must be able to access the court she first applied to regardless of her moving or the courts must transfer her file to continue for hearing in another courthouse with the file travelling. If there is a loophole an abuser will find it. Serious time and investment must go in to closing these loopholes to protect victims from being re-traumatised after they have been brave enough to go to court.

Facilities and Supports

- Currently the country is facing unprecedented numbers of domestic violence applications and reporting of domestic violence. Restrictions make court appearances even more stressful for trauma victims. The state has a duty of care to its most vulnerable and it is wrong that a woman might have to ask a stranger to hold her infant while she attends court to seek to protect herself and her other children. Family Courts have a duty and responsibility to be family friendly from the judge presiding to the option of facilities. When victims of violence are at the mercy of courts, they are suffering from lack of sleep, in a state of trauma that makes eating well before arrival difficult, worrying about car parking metres or leaving to collect children a constant distraction from presenting in a fashion the court expects. Women who are abused through the court system are also being financially abused and every hour spent in court is costing a fortune between childminding, snacks or coffee, car parking, travel expenses and loss of earnings never mind the will to live.

Drastic reform is required along with rehousing of courts and expansion of services to include meeting rooms, family supports such as creches and other essential facilities like carparks and cafes. However in the meantime, consent could be agreed prior to court attendance and where consent is not offered then either a half days attendance allocated or where case management is in existence due to volume, then an appointment set with the court on a date that reflects the nature of the application. The current system insists on the same subservience to the family court judge as criminal matters and this is no doubt due to the mixing of hearings. Which court room, what time and where to wait for each of the parties could be allocated via court correspondence and would alleviate some minor anxiety faced by court appearances. Having documentation submitted in advance of hearings would assist courts in deciding which cases are likely to advance and plan accordingly. Again court accompaniment is a human right.

Mediation

To be frank, SiSi is wary and sceptical of any suggestion of mediation in cases of Coercive Control. SiSi is operating from the perspective that families before the courts are for the most part families where coercive control is present. To administer justice through civil law, an inquisitorial approach would be most effective. Taking the time to delve into ascertaining the complexities of cases and making appropriate provision to uphold the most vital of individual human rights requires a team of judicial limbs with stringent supervision and oversight.

It would be helpful if judges came out from behind the bench in family law cases involving children and engaged with parties in a manner that could expedite the acquisition of truth from parties to the extent that workable orders might be made by the court. The courts intrusion into family life, minimising of domestic violence and the life limiting consequences of ineffective remedy in order to prioritise the never level balancing of rights, leaves families unsuitable for mediation at the mercy of the courts for no other reason than they have been abused.

In British Colombia in Canada, the courts carry criminal and civil files in tandem and families in dispute are shown to judges in their entirety. Great success has been achieved in reducing the number of years survivor families have to face court hearings where here unfortunately it may continue until children come of age. While the Canadian model is being offered as the grand solution to all our family law problems here in Ireland, until protection is prioritised above the current contact at all costs model, it does not matter where we look for success. Mediation has been offered in Ireland for long enough to see that there has not been a reduction in family violence, in fact quite the opposite. Frontline services providing crisis support to victims of coercive control and sexual violence believe that mediation is unsuitable for the women they work with every day. It would be great progress for their input to be clearly reflected and for more suitable services to become part of the court structure. Mediation may work for some families but not for most victims of abuse.

Reimagining the Structure

- Criminal matters should be dealt with by criminal courts and where criminal abuse and abuse of the court process themselves become apparent, judicial powers allow for matters to be reassigned. Criminal allegations arising in family court should be dealt with in open court with reporting restrictions on identity of victims. These restrictions may be waived by the victim, otherwise where is the deterrent to simply moving on to another victim.
- Undertakings have no legal standing, mediation agreements can be changed, access to justice is a human right. Large numbers of applicants and respondents to court are unrepresented, invest in representation not mediation. Change the system from adversarial to inquisitorial. Educate and train all court professionals and implement violence abating services like access handlers and independent oversight for court service staff so that the highest professional standards of practice are adhered to.

ADR and Collaborative Law are stepping stones to courts for families where Coercive Control is present. Look to the Casa del Mulher in Brazil for a model of justice that serves victims of domestic violence.

The Family Courts

First applications and protective orders should be prioritised as should access, custody and maintenance applications. However effective case management should be implemented from the outset. Any order from any court should be logged on a system. Some victims have to move. Some perpetrators shop for favour. The current system is wide open to abuse and there is no legal instrument in existence within the Family Courts to call time on abuse of the system.

A phenomenon of the current pandemic reflected in other countries is the abuse of limiting court applications to protective orders. SiSi has seen a large number of perpetrators seeking protective orders against their victims, further traumatising them. Training is essential for the judiciary and court clerks to understand the impact of abusive proceedings on women and their children. Currently the Gardai and DPP are receiving training explaining the weaponising of the courts and how to recognise this. Stephanie Holt has been calling for a stop to be put to proceedings where children have reiterated through numerous reports where they do not want contact with abusive fathers and the courts continue to allow applications to be made.

Where Coercive Control is present, anger does not come into the frame. Violence might be used or other acts of aggression or intimidation but they are calculated and intended. Anger management has a place but not in most domestic violence cases.

Independent Domestic Violence Advocates as expert witnesses are essential in helping the courts to see patterns of abuse appearing before them. The power held by psychologists and psychiatrists within the court structure is terrifying in the context that the vast majority hold no up to date training or accreditation to assess family violence properly. Social workers are already overworked and unable to keep up with Child Care Law cases, they have little to offer families before the courts. Investment in a range of professionals and punitive and therapeutic supports could be dispensed by the courts but outcomes must be followed and success measured in victims protected rather than cases dismissed.

Professionals advertising services that specialise in junk science like parental alienation must not only be prevented from advertising what their findings will be but the courts must no longer be allowed to choose their preferred experts in secret. The witness box is no protection for victims of abuse or their children and it should not longer one protection for professionals who make recommendations without even having the aptitude or qualification to deal with domestic violence cases in the first place. All professionals working in the courts must be privy to redress from unsatisfied customers. Court service user are customers and they have the right to complain about reports or bad service. These matters could be dealt with by a courts service ombudsman or an independent authority. The coding for privacy along with the publication and logging of professional reports would ameliorate the suspicion held by victims of abuse who have had their lives destroyed by the findings of such reports. Transparency, accountability, oversight and supervision must be baselines for professionals working on behalf of the courts services.

SiSi is requesting the implementation of a register of judicial interests, associations private and professional. Which clubs are they members of, does a judge for example use the services of a family member as an expert witness, or is a sibling or a child representing one of the parties in the matter before them. Are they members of any International family court association that would provide training in family law that erodes laws enacted in this country. It is widely accepted that our family court structure is broken. It must be helped from the outside to repair. It will take a consortium of vested interests to create a system that does what it was originally intended for.

Opening the courts to scouting through research, reporting will help for justice to be seen to be done. Every family court should have a witness, independent from the court itself in situ throughout every family court sitting, every day.



Voice of the Child

Most family court cases that drag on have children growing older at the centre of them. Children of any age can be heard by suitable professionals but here is nothing as powerful as a child's own words. Taking the time to heal after abuse and trauma are what families outside of the courts take for granted. There are any number of ways to hear a child's voice, however accepting the Childs wishes or the courts or one parties refusal to accept their wishes has propagated an international industry.

SiSi is worried by the comments of Judge Mary Larkin who claimed a case was one of parental alienation during the first lockdown in Ennis District Court. Just reading the article it was plain to see that no women and child would meet a father in a garage when they in close proximity unless there was a fear of violence or intrusion.

SiSi is also worried by the presence of Karen and Nick Woodall offering training to the legal world and associated professionals in Cork last Spring. Karen and Nick Woodall are famous for their shady financial transactions and their preferred method for solving cases where they find parental alienation, namely forced reunification therapy. Draconian measures which break a child's spirit by removing g them from their protective parent and placing the child with the parent they are rejecting. There is such a thing a justified rejection in cases of domestic abuse. In a recent study Cafcass in the UK have found PA in only 4% of their cases and yet PA has been alleged as a counter claim in 95% of cases of domestic abuse. The whole concept has no merit, no scientific basis and only exists as a legal term to divert from abuse. While SiSi is off the understanding that the Department of Justice has no intention of seeking to make PA a separate criminal offence, within the courts structure it is used on a daily basis to both silence the voice of the child and to justify the removal of custody of children from abused mothers in order to place them with abusers.

SiSi is seeking assurance that the Department of Justice will provide legislative clarity to the courts and stamp out the practice of looking for and finding PA as a means to silencer women and children.

Children are courageous and some want to talk to judges however this must be done in a child friendly way. Children report judges anger at them for not wanting contact with one parent. Judge are not there to investigate abuse in a once off conversation and seek disclosure from children to prove their concerns. They are there to listen to what children have to say. Investigations into children experiences must be conducted by appropriate professionals.

In conclusion SiSi would like to make the point that only by engaging with survivor families who have been through the court process will the complexities of cases be fully understood and truly effective reforms made that will have what we hope is the desired outcome, protection from further abuse for families needing the courts and a reduction in family violence at a societal level.

For further clarification or references for any of the points raised in this submission please contact:

