

**LADY CHIEF JUSTICE OF NORTHERN IRELAND**

**DOMESTIC ABUSE AND CIVIL PROCEEDINGS ACT (NORTHERN IRELAND)**

**2021: ONE YEAR ON, REVIEW AND RENEW CONFERENCE**

**23<sup>RD</sup> FEBRUARY 2023**

**INTRODUCTORY REMARKS**

Good morning.

Thank you, Moira, for the very warm welcome.

I am delighted to be asked to speak this morning on this important topic. As Moira has said, the benefit of an event like this is that it brings together knowledge and expertise from different perspectives to discuss domestic abuse.

Like Moira and Grainne, my practice started in family law. So, to tell you a little about that, I was called to the Bar in 1994. Very early on, I became aware of the prevalence of domestic violence in our society and the impact it has on all those affected by it - the individuals directly affected, the children who live in homes that are affected, the police who investigate as well as the prosecutors and the lawyers.

Also, from a very early point in my practice, I became aware of the strength of the voluntary sector in Northern Ireland through liaison with Women's Aid, who often helped very vulnerable and frightened clients in court, as well as Victim Support and other voluntary agencies.

Now, as a judge, I still come across domestic violence unfortunately in different domains, not just in the family law arena but also in the criminal law. Unfortunately, our statistics remain worrying in this area.

What we have now is the benefit of being able to talk about domestic violence in a meaningful way and think about how we can deal with it. There are several elements to that.

Education of our young people is one. That is because we have to go back to grass roots and look at why domestic violence is culturally embedded in our society and

what we can do to change that. I am firmly of the view that you start with schools at a very early stage on this.

Another very important aspect is educating those who commit domestic violence offences. We do not want a revolving door of recurring offending. I know that thought has been given to this issue by Probation and other services in the provision of perpetrator programmes.

The third area is support. I was delighted to attend the Foyle Family Justice Centre launch last year, a project which taps into what we really need, firstly, a one-stop shop for people who need accommodation, legal support, and professional support.

We also need an understanding of the societal impact of being part of the problem of domestic violence which is not just a legal issue.

Where we are now is a much better place. The police have a Tackling Violence Against Women and Girls strategy and Probation is also working in this area. The law is alive to the problem of domestic violence and the voluntary sector is obviously alive to it as well. In terms of practice, we are now thinking about trauma-informed practice. The various departments are looking at that, which is positive as this is a different, dynamic way of considering issues.

We know that the legislation that we are going to discuss today came into operation a year ago. In Northern Ireland, we now have a specific offence of domestic abuse. Also, where domestic abuse is present, it is to be taken into account as an aggravating factor when sentencing for other offences. As the legislation is relatively recent, it is not possible to analyse the impact of these changes in a comprehensive way but I can say that there are cases in the criminal justice system concerning the new domestic abuse offences and there are also cases in the system where domestic abuse is considered to be an aggravator.

As these cases work through the system, the judiciary aim to make sure that, hand-in-hand with ensuring that each and every defendant achieves a fair trial, each and every complainant has support through the justice system and access to appropriate support measures. There are a couple of initiatives that are new in this area, such as

the use of remote evidence centres to help complainants give evidence and the use of sexual offences legal advisors. These matters are now being developed through our legal system.

In the family law sphere, another change brought by the Act which is very important is that a court considering making a residence or contact order in family law in favour of any person must have regard to any conviction for a domestic abuse offence involving the child. While that probably is self-evident and something that we would have been alive to, placing that requirement in a piece of legislation is a powerful message.

Additionally, in family proceedings, the court rules have been amended to ensure that special measures of screening and live links are available with a statutory imprimatur where there is domestic abuse, or the risk of domestic abuse, of a party or a witness. It is my hope that the specific availability of these measures makes those affected by domestic abuse more likely to engage with the family justice system where it is in their interests to do so.

The first session this morning is about who we are protecting in the context of domestic abuse and why. Looking at the 'why', a quick review of the Northern Ireland case law from the past few years gives a worrying snapshot of how domestic abuse is an issue that can permeate across many aspects of people's lives.

In 2022, domestic abuse was a factor in many decisions given by the High Court and the Court of Appeal in the areas of criminal law and family law. The issue spans proceedings regarding a person's wish to change their name, immigration law and freeing for adoption as well as where contact, parental responsibility and non-molestation orders were sought and, also, obviously in the criminal sphere.

Some recent decisions of the Court of Appeal in the criminal sphere provide sharp focus to the question of who we are seeking to protect. Last month, in a case of *R v Hutchison*, the Court of Appeal refused leave to appeal a tariff of twenty-one years that had been imposed in a femicide case involving significant domestic violence. When giving our judgment, we took the view that this was an appropriate

case in which to provide guidelines for sentencing for murder associated with domestic violence. We noted in that case the victim's vulnerability, the evidence of gratuitous violence, the extensive and multiple injuries inflicted on the victim before her death and the escalation of violence due to a previous history against the victim and other partners.

Going back slightly further in time, another case that we dealt with in the Court of Appeal shortly after the Act came into operation was *R v Christopher Hughes*. In that case the court took the opportunity to provide guidance in relation to sentencing in cases involving multiple incidents of domestic violence in cases that would usually be dealt with at the lower courts. This was a case where there were multiple incidents against a complainant over a year.

We noted that, to ensure an appropriate sentence may be imposed, prosecutors must actively consider proceeding on indictment in cases concerning sustained domestic abuse. As to the broader panorama, we said this:

“It will be apparent from what we have said that in future perpetrators of sustained domestic violence such as this can expect to obtain higher sentences for this type of offending. Such sentences are a reflection of the growing appreciation of the seriousness of this type of offending, the frequency of it within our society, the repetitive nature of it and the effects on victims. Higher sentencing reflects society's need to deter this type of behaviour and mark an abhorrence of it. There is also a need for the education of society in general, to understand that this behaviour is not normal, it should not be tolerated, and if it does occur it will result in significant sentences.”

This is one end of the spectrum because sentencing has a number of purposes, one of which is to punish and deter.

I want to turn to another aspect of sentencing which is rehabilitation or trying to solve the problem. I, and my judicial colleagues, are supportive of and encourage problem-solving approaches to address some of the domestic abuse related issues that we see before us regularly.

I come to this issue with some knowledge, having observed the substance misuse court operating in Belfast. As I have said on previous occasions, societal and cultural changes are required to tackle the root causes of aggressive behaviours at an early stage through prevention, education, and relationship awareness. Work to bring about societal change requires proper resourcing.

I am acutely aware that these are financially challenging times. However there has been a difficulty with provision of necessary resources. This impacts on initiatives that are currently paused or unable to go ahead, such as the proposal for a family drugs and alcohol court in Newry and the proposal for a new domestic violence court in Belfast. The aim of the domestic violence court proposal is to help address unacceptably high attrition rates by providing focus to prosecution evidence gathering and by putting in place necessary supports for complainants. It is something that, I hope, will be taken up in the future as it would bring together all of the relevant agencies in a more effective way to deal with these types of cases.

I am very much looking forward to hearing this afternoon about developments in, and reflections about, our own jurisdiction in terms of problem-solving and rehabilitative methods.

I am also very much looking forward to hearing comparative analysis from other jurisdictions. In that respect, I want to particularly extend my own personal welcome to those who have travelled from outside Northern Ireland to be with us at this conference, some of whom I met last night. Welcome to you all, to those who have travelled from America, those from Scotland, from Ireland and elsewhere. You really are very welcome to this conference.

The benefit of hearing from other experiences is that we will learn from you today and your input will be invaluable in informing our own thinking. That is important

because it leads to us really drilling down into how we can develop the best outcomes within our respective budgets. I hope also that our guests benefit from hearing our experiences and reflections in this jurisdiction.

In conclusion I want to briefly, touch on two other areas.

The topic of judicial training in domestic abuse is important to me. Each case that we deal with as judges provides us with the opportunity for reflection and learning, as do events such as these. We have formal structured judicial training through the Judicial Studies Board. I keep under regular review the topic of training judges in all aspects of domestic abuse. I am committed to ensuring periodic training and updated guidance is delivered in this important area.

I also want to mention the importance of the welfare of all those involved with combating domestic abuse - the people who are affected, the children and the professionals who are involved in this work. It seems to me apt to say that this is a difficult field for all concerned and, we as professionals, must be alert to the need to build and maintain our resilience. Events such as this provide an opportunity to step outside the usual daily routine of our working lives, to talk to others, to listen and to obtain perspective. I urge you all to take the opportunity today to listen carefully to our speakers and to have conversations at the edges of this event. I think that is of benefit to enable us to remain equipped to give our best in this important area of law.

On that note, I wish the conference every success. I am supportive of the work done by all of you. I look forward to discussion and ideas as to how we can improve and develop in this area. I also pay tribute to a fellow family lawyer, Grainne Murphy, for having the drive and energy to set up this conference and I look forward to being with you throughout the day.

Thank you.