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The voice of the client

Noeline Blackwell



THE BAR of
NORTHERN
IRELAND

Training of Lawyers on the Law regarding Violence Against Women

***THE VOICE OF THE CLIENT
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At: Law Society, Blackhall Place, Dublin

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The client who is a victim of gender based violence has a limited voice

- Impediments:
 - Impact of Gender based violence on the person;
 - Legal status of the victim/ client
 - Societal attitudes and prejudices

Impact of Violence on the person which limits their voice – relationships

Relationships disrupted – women surveyed:

- 75% of victims know the perpetrator – often a close relative or intimate partner (2002):
- 10% experienced Rape over their lifetime (2002);
- 1 in 3 experienced sexual assault (2002)
- 18% experienced sexual violence by non-partner since age 15 (2014)
- 14% experienced sexual violence by a partner since age 15 (2014)
- 9% of Irish girls had childhood experience of sexual violence by adult perpetrator(s) before age 15 (2014)

Impact of Violence on the person which limits their voice – health #1

Women who have suffered gender based violence suffer health effects:

- Physical, sexual and reproductive, mental & behavioural health.
- Health consequences immediate and acute and/or long lasting and chronic.
- Negative health consequences may persist long after the violence has stopped.
- Exposure to more than one type of violence (e.g. physical and sexual) and/or multiple incidents of violence over time tends to lead to more severe health consequences.

Impact of Violence on the person which limits their voice – health #2

- Women who suffer physical or sexual violence are more likely to have:
 - Problems with walking
 - Difficulties with daily activities
 - Recent pain
 - Problems with memory
 - Recent dizziness
- Women who experienced non-partner sexual violence are 2.3 times more likely to have alcohol use disorders and 2.6 more likely to have depression or anxiety, compared to women who have not experienced such violence

Impact of Violence on the person which limits their voice – health #3

- Rape & domestic violence estimated to account for 5% of the healthy life years of life lost to women age 15 to 44 in developing countries: comparable to other risk factors and diseases such as tuberculosis, HIV, cardiovascular diseases or cancer
- Health consequences similar across low-, middle- and high-income countries but effects may vary with context e.g. poverty, natural disasters, access to health & legal services

Legal environment hearing the voice of the client: Private family law

- In private family law proceedings:
 - voice of the client is often mediated through lawyers
 - Although lack of adequate access to legal aid
 - Search underway for alternative forms of dispute resolution including mediation & collaborative models to achieve a greater voice for the client, and a more just and practical outcome

Legal environment – criminal law where the client is the victim of crime

- Client is
 - the mechanism by which the State proposes to hold an accused to account
 - Client a witness whose evidence must be tested
 - Normally the key witness in what is mostly a hidden form of violence
 - Essential through investigation and prosecution of crime

What lawyers need to remember in hearing the voice of the victim in criminal processes

- Harm previously done to the witness and result health consequences;
- Risk of continuing harm;
- Risk of intimidation from the person accused and from the client's broader society;
- Client trying to heal from trauma, required to continuously recollect the injury;
- Self-blame;
- Societal stigmatisation and often disapproval of the reporting.

EU Victims Directive & Criminal Justice (Victims of Crime) Act 2017 – an advance

- Right to be treated as a victim from time of complaint
- Right to information
- Right to understand and be understood
- Rights when making a complaint
- Right to interpretation and translation
- Rights in the event of a decision not to prosecute
- Right to be heard
- Right to be accompanied
- Right to assessment and special measures

Particular vulnerability of witnesses who are victims of violence against women

- Victims of GBV are particularly vulnerable as witnesses in court:
 - Credibility such a central factor – and consequences of not being believed
 - Lack of legal representation (with an exception) for a witness where the issue is a conflict of evidence;
 - Exception for limited representation where the witness' sexual experience is being called into account;
 - Provisions which would protect vulnerable witnesses not yet enacted
 - Part 6 Criminal Law (Sexual Offences) Act 2017
 - Sec 19(2)(c) Criminal Justice (Victims of Crime) Act 2017

Where understanding breaks down in the legal system

- Women who are wronged –v- provocative women: women's demeanour.
- Entitlement of the perpetrator – the power imbalance.
- How various forms of violence against women are interconnected.

Victim Impact Statements – what value the voice of the victim/ client?

- 1993 – first legislative provision for Victim Impact Reports and Victim Impact statements.
- Given after conviction and before sentence.
- Weight of the statement/ report unknown for sentencing purposes.
- Number of crimes for which statement can be made is now extended, but always available for victims of rape, sexual abuse and assault.

The voice of the client – training of lawyers on violence against women

Thank you for your time!

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