



Northern Ireland  
Assembly

Committee for Justice

# OFFICIAL REPORT (Hansard)

Coercive Control and Domestic Violence:  
Professor Evan Stark

30 June 2016

# NORTHERN IRELAND ASSEMBLY

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**Members present for all or part of the proceedings:**

Mr Paul Frew (Chairperson)  
Mrs Pam Cameron (Deputy Chairperson)  
Mr Alex Attwood  
Mr Doug Beattie  
Mr Roy Beggs  
Ms Michaela Boyle  
Mr Sammy Douglas  
Mr Declan Kearney  
Mr Trevor Lunn

**Witnesses:**

Professor Evan Stark                      Rutgers University

**The Chairperson (Mr Frew):** I welcome Professor Stark to the meeting. You are very welcome here, Professor. I advise you that this session is being recorded by Hansard, and a transcript will be published on the Committee web page in due course. Without further ado, I hand over to you, Professor, to make an opening statement, and then we will have questions.

**Professor Evan Stark (Rutgers University):** Thank you, and thank you for allowing me to hear the Justice Minister's testimony. I brought PowerPoint slides, just for my support and as a crutch because my memory is not as good as it once was. I know that some papers that I have done have been distributed, so I will take that — I assume that most of you have not had a chance to read them — as a written testimony, more or less, so that it is on the record. I will certainly be more than willing to submit any additional testimony that you find might useful.

What I think will be most helpful, particularly in light of Mr Frew's comments and questions, is if I provide some background on the new offence in England and Wales and what we expect to be the new offence in the next couple of months in Scotland. The ones in England and Wales are obviously similar. Wales has complemented the new offence, as you may or may not know, with the Wales Bill, which has a prevention agenda, and we can certainly talk about that if you want.

A question was raised during the discussion with the Justice Minister about police training and guidelines for police training. I certainly welcome questions, if there is time, about the implications of the new offence for police training. The College of Policing in London has issued guidance on the implementation of the new offence of domestic violence and coercive control. I think that that is superb for both the police and the Crown Prosecution Service. I do not know whether there are comparable guidelines for the judiciary as yet, but certainly that guidance is quite good. I think I have

links to those guidance papers in the documents that I submitted. If anyone is interested in following that through, I certainly recommend that they do so.

We can also talk, if you are interested, about the implications of the new offence for the current arrangement in Northern Ireland, particularly the organisation of the multi-agency risk assessment conference (MARAC), the new justice centre, the consolidated court in Derry or any of the other reforms that have been implemented.

Given the time, what I will do in my comments is give you a little background on why we are introducing the new offence — what led us to it — and say something about the elements of coercive control, which we now believe comprises anywhere from 60% to, probably more realistically, 80% of all the cases of partner abuse that the police are involved with and that we see in the refuges or the courts. The background should be understood in that way. Unless you really want to ask about it, I will not discuss the specific political dynamics that led the Home Secretary to hold the initial consultation and then to the new definition in England, which the Solicitor General, Mr Buckland, brought into Parliament as a new offence. Those were complicated negotiations and dynamics, as you can imagine, but I will be happy to discuss them if you are interested.

The first thing that I want to put on the table as background is that our general assessment — and, I think, the agreement throughout Europe and, in fact, most of the world — is that an approach to partner abuse based on the equation of that abuse with individual acts of violence is completely inadequate. That does not reflect the experience of the people suffering the abuse and of the perpetrators. Neither did it lead, in the form of intervention, to any kind of cost-effective strategy — that is, a strategy that produced either the justice outcomes that we intend our police and justice system to produce and have a right to expect from them, or the outcomes in reduced levels of violence and abuse in our community.

I should say that every country, including Northern Ireland in its Executive definition, has now expanded its definition of partner abuse from domestic violence to include this broad pattern, which I call and England calls "coercive control". Scotland is going to call it "coercion and control". Various names are used. The Council of Europe does not refer to it specifically as "coercion and control" but uses a definition virtually identical to that used by Northern Ireland in its Executive strategy and Scotland in its strategy. This definition, broadly construed, includes, in addition to physical violence, sexual violence, sexual coercion, patterns of isolation and intimidation and, most problematically from an evidentiary standpoint, patterns of control, namely patterns in which there is exploitation, deprivation or regulation of people's behaviour — what the Council of Europe referred to in the Istanbul Convention of 2011 as "arbitrary deprivation of liberty".

We will talk about some of the issues involved with that and, if you want, the four cases that have been brought, one in a Magistrates' Court and three in the High Court, in England and have resulted in progressively harsher sentences, although still not, in my view, where they belong. Nonetheless, the first was 18 days suspended, the second was six months, the third was two and a half years and, last week, an offender was sentenced to three and a half years for domestic violence and coercive control. Those of you who are familiar at all with the issue will recognise that that is extraordinarily different from the vast majority of dispositions of these cases, which result in either no conviction at all or, even if there is a conviction, no punishment — certainly no jail time. I can talk about the data if you wish, but essentially the condition in England was that around 3.8% of reported cases of domestic abuse resulted in a conviction, and the typical punishment in those cases was a fine. We found the same rate of attrition — 97% — in reported cases of partner rape. That is to say, for every 100 reported partner rapes in England, roughly three resulted in conviction, and almost always for the lower offence of domestic violence.

The first thing I really want to put on the table is that the way in which we were responding was not working. Virtually no one was going to jail; police were using enormous resources; Britain was spending more money on domestic violence intervention than on defence; and there was absolutely no evidence — not a shred — that we were having a significant impact on reducing the number of victims in our community. I do not mean to say that we have not made enormous progress in the 40 or 50 years that I have been involved in the issue. We have, absolutely. You know all the gains that we have made: specialised police units; focused courts; and the enormous amounts of help that Women's Aid has provided. We have undoubtedly saved thousands of lives and certainly, in the short run, protected probably several million women and children in the 30 or 40 years that the reforms have been in play.

Nonetheless, the fact remains that we have not had a major impact, according to the British crime survey and other researches in the United Kingdom, on the basic problem. We can talk about differences in reporting between Northern Ireland and other countries in the United Kingdom, but the reality is that, throughout the United Kingdom, reporting rates were very low. That was in part because, as Mr Frew observed, there was no domestic violence offence, and, even though there was arrest in cases that had the components of violence in a partner relationship, victims themselves and the community as a whole did not perceive this as a serious offence. I was heartened to hear the observation that police in Northern Ireland actually see an increase in reporting as a welcome sign of trust in the police, particularly in the light of the peace process and what went on before.

Another indication that current approaches were not working — a very important source, by the way, of support in Scotland and in England — was the fact that police found themselves returning again and again to the same homes, arresting the same offenders and exhausting enormous police resources without producing the justice outcomes that we would expect and hope would be produced. Offenders who committed 50 offences were no more likely — enormous research supports this conclusion — to be punished on the fiftieth offence than on the first. They were no more likely to be punished if they committed 50 offences than they were if they committed one. Somewhere around 60% of the police caseload was taken up with these repeat offenders. We do not have the exact data for Northern Ireland, but I have no reason to believe that it is any different.

The other thing that I think you should be aware of is that the definition — the equation of abuse with a set of crimes that related to isolated acts of assault or harassment — meant that each act was considered separately. It may seem commonsensical that the more serious the violence — the more likely there is to be an injury or the more serious the injury — the more serious the domestic violence case. We know that this is not right. We understand now, after years of research, that the risk in domestic violence cases, the aggregate harm in them and the classic pattern that these cases follow are actually defined, even when we limit ourselves to physical abuse, to the frequency and duration of the physical violence, rather than to the severity and injurious potential of that violence. In fact, somewhere between 95% and 98% of all the physical abuse that police respond to, that the courts see or that we see in refuge is trivial from a medical or criminal justice system point of view. What I mean by "trivial" is not that we would want it done to ourselves, but I mean that it involves pushes, shoves, slaps, chokes, kicks and punches. It is not something that will impress a police officer or an emergency medical doctor. In fact, that is what the evidence shows. It shows that, when police respond, in 95% to 97% of the cases there is effectively — even when there is an arrest, which has become commonplace over the last decade — no effective consequence for the perpetrator.

The first thing we have done is that we have recognised the frequency and duration of the violence. These patterns last for an average of 5.5 to 7.2 years. Many of the women who present to us — around 40% — report physical abuse two or three times a week over the period. We are talking about people who have experienced, at an individual level, even though they may be minor, hundreds and sometimes thousands of separate assault events. The significance of those events is not a function of the injurious outcome but the cumulative effect of a pattern of largely routine, low-level abuse over a significant period. As I indicated — this is one big point that I want you to take away, because it is one of the most important to understanding the rationale for a new offence — in the past we responded to each of these as a separate crime and considered them through the prism of assault or harassment. Then, because 97% of those criminal acts were relatively trivial, essentially there was no effective intervention at all. What a new offence has done and what Anne Marie Hicks, the national procurator fiscal for domestic abuse in Scotland, did, even without a redefined offence, was to see that historical abuse — the repetitive nature of the violence — in itself as a course of conduct meriting a vigorous community response. That is the first foundation of the coercive control offence: the recognition that violence is typically frequent, that its significance lies in its duration and the cumulative harm of living with it and that, therefore, an incident-specific approach does not adequately deal with the abuse. Nor does it deal with the severity of the entrapment that is occasioned by subjection to that pattern of abuse.

The second element that was critical to us was the realisation that the sexual offences so commonly committed in this context were not being acknowledged at all by our law, by any of the risk instruments or in the definitions of partner abuse being put into practice. We are talking about over a third of women in our caseloads, and when I say "our caseloads" I mean the cases seen by the police and in the courts. You just assume that this is people reaching out for help to these services. We also have data from general population studies to support this. Around 34% of these women have been raped in the context of ongoing abuse. According to the official statistics for England, Scotland and Wales — though not, interestingly, for Northern Ireland — partner rape is far and away the most common form of rape reported to the police. It is more common, in fact, than acquaintance rape. In Northern

Ireland, apparently, around 12% or 13% of rapes reported to police are by partners, but in England, Scotland, Wales and the United States it is three to four times that. We know that rapes by partners are dramatically underreported — much more so than stranger rapes or any other rapes. You may not know the comparative figures: the likelihood that a woman will be sexually assaulted by her partner is between five, 10 and 15 times the probability that she will be assaulted by a stranger. Yet those sexual assaults, which are typically repeated, were not included in our understanding of the offence — quite the contrary.

I indicated that the attrition rate for partner rape in England was about 97%. Why is that? Well, the reason appears to be threefold. First, many of the women withdraw their complaint. Secondly, many of the women have reported multiple sexual assaults, and therefore their credibility as a witness is less. Thirdly, many of the women present with secondary psychosocial or behavioural problems, such as alcohol or drug abuse, depression, suicidality or what have you that, again, lower their credibility as witnesses and make it more likely that police will not pursue the allegation and prosecutors will not press charges. I hope that you are thinking a little ahead of me and recognise that, if an assailant is still in the community, let alone still in the house, it is very likely that the victim of that rape will withdraw her charges, given the risk. Secondly, I hope that you will anticipate that, if someone is sexually assaulted multiple times, the case is made more severe if that occurs in the context of an ongoing abusive relationship. It means that she is still at risk of even more assaults, and yet that is another factor that is, essentially, discounted in the old domestic violence understanding of abuse in relationship to assault. Finally, we have data from my research at Yale and from research by others that shows that the vast majority of the secondary behavioural and psychosocial problems that undermine a woman's credibility as a witness in these sexual assault cases are a consequence, not the cause, of the abuse. In other words, it has developed as a way to manage and in response to the ongoing abuse.

The second problem that we were having, in addition to the failure to address the frequent ongoing pattern of physical violence, was that no one was addressing the pattern of sexual assault. It turned out that the sexual assault was occurring on a continuum of sexual coercion that extended to reproductive coercion, forced pregnancies, forced abortions, all kinds of control, the sabotage of birth control and myriad other forms of sexual coercion, extending to what I call rape as routine, where a woman complies because there is such a threat levelled at her that, if she does not comply, the consequences are worse. That is not technically sexual assault, but nonetheless it is part of the pattern of coercion.

In terms of the police response to violence and rape, we found that, as police responded again and again to those families, seeing the same men and women week after week, sometimes over months and sometimes over several years, and as the families became well known to them, they often began to withdraw from the family. They began to find ways of dealing with their frustration about this revolving door by either blaming victims for what was going on or simply increasingly responding in a perfunctory way precisely as the cases got more serious. I do not want to single out the police; all of us did that in the system. The refuge system and the social work system did it. As they saw the same victims repeatedly and the same perpetrators, about whom nothing was done, remained at large, the entire focus of the system had to be on sustaining women's safety, but that focus was itself a function of the fact that these chronic offenders were still at large. I do not know whether that makes sense, but we can talk about it in more detail.

The third element of coercive control that we uncovered that was not identified with the offence and was not seen officially was the pattern of intimidation. Northern Ireland has clearly identified certain types of intimidation as a cause of great concern, but the forms of intimidation used in 60% to 80% of the cases that we see start with literal threats — threats to kill, threats to animals, threats to children, threats against neighbours, co-workers and what have you — and run the gamut from those threats to threats so subtle that they appear to outsiders as almost loving. I will give you an example. One of my clients is a pitcher in a factory baseball league. Her boyfriend comes to the games. They have a rule that she will not make him jealous. When he sees her striking out five or six batters in a row, he begins to feel, "Nobody loves me. Why are they paying attention to her?". He comes out on to the field and offers her her sweatshirt and says, "Darling, you're cold. Here's your sweatshirt". That appears loving to her teammates; their partners are off drinking, out with other women, carousing or whatever they are doing. However, she understands that, if she does not cover up her arms that night, there will be real consequences. That is his message. When we talk about intimidation tactics, we are talking about tactics that run the gamut and are present in multiple forms in all those relationships. Virtually all the compliance that we see in abusive homes is driven by the "or else" proviso: comply or else, do this or else. Intimidation probably rests most heavily on a pattern of criminal behaviour that is still not officially recognised in Northern Ireland but was imperfectly

recognised in the rest of the United Kingdom as stalking. What we know now is that the vast majority of stalking behaviour is by partners. In 57% of these cases of stalking, the stalking begins while a couple is still together. This form of stalking was not even covered by England's stalking law, and the lack of coverage was the official rationale that Robert Buckland, the Solicitor General, used when he introduced the new offence because that was the gap in the old law. We now know too that stalking has the most dramatic effects on a victim's psychology and future well-being, even more so than physical violence, because of the unknown threat and the possibility that it may happen at any time. It is one of the highest risk factors for eventual homicide and serious injury. Again, that was not included in the partner abuse offence, and, even when it was, it was not recognised as something that occurred mainly while the couple was still together.

I do not know how many of you listen to 'The Archers'. There is another dimension that 'The Archers' has put on it. I do not know how it will end, so I cannot give you any clues, but 'The Archers' has publicised another element of coercive control, namely gaslight games and the psychological abuse that is so characteristic of this pattern of relationships. These gaslight games — making somebody feel like they are crazy by turning off the stove after she thought she had turned it on or moving a car or knowing where she is at all times and then showing up unexpectedly and she does not have any idea whether you can read her mind or why — and even the insults that go along with them are not in themselves coercive control. What makes them so devastating in these relationships is the "or else" proviso; it is that they occur in a context where she cannot respond without risking physical and other forms of harm to herself and others in her network. The psychological abuse and all the other forms of degradation that accompany it are devastating in part because the usual response, which is simply to walk away, get a divorce or laugh at the insult, is not available because of the threats.

Finally, there is a major new component embedded in the new offence, about which we were doing virtually nothing. In these relationships, in about 25% of cases, we see all the effects of entrapment and battering without any physical abuse. Even where there is no physical abuse, the major dynamic in these abusive relationships is a pattern of control that is effectively characterised by exploitation, such as taking her money or treating her like a servant. When I say "like a servant", I do not mean having her do the dishes and clean the house; I mean fostering an indentured servitude situation that you would expect to find in a prisoner of war camp rather than in a family living next door. We are talking about forced servitude. If you read the cases that have been taken to court so far, you will see evidence presented for the first time in a UK court of this kind of indentured servitude in the context of a family relationship.

In addition to exploitation, control includes patterns of deprivation. Fifty-five per cent of the men whom we arrest tell us that they have taken their partner's money, they have limited her movement or they are not letting her drive her car. Something like 60% of the women we see in refuges in the UK tell us that they experience these deprivations of basic movement or access to things that they need for themselves and their children for survival, and that they experience it often or all the time. That is the second dimension. It is incredibly important when we are trying to train judges to understand "why women stay in these abusive relationships". The first thing we say is, "Put your cell phone, your wallet and your car keys on the table and maybe even put your shoes on the table. Now let's talk about your options". It is amazing how judges will identify when they can walk, literally, in the shoes of the people who are coming before them in that situation.

It is the third element of control that has really caught the attention of the media and which you see on 'The Archers' and in a number of the cases that we have taken to trial. That is the element of literal regulation — setting rules, formal and informal, about how women enact their everyday roles as wives and mothers: how they cook, how they dress, how they care for their children and how they clean. Again, any of these things may seem completely trivial until you put them together and couple them with levels of intimidation that can be hostage-like and you see it as a pattern. Again, I encourage you to read the case histories that are being brought to trial now in England. As you may remember, one of the guys put his wife on a treadmill. He put up a picture of the woman he wanted her to be and had her run on the treadmill for hours a day and would punish her and beat her if she did not lose weight and be on that treadmill. Why is that coming to court all of a sudden? It is coming to court because people are beginning to acknowledge that it is part of the abusive pattern.

That is coercive control in a nutshell, and I describe it in some of the articles in more detail. We have data to support all of those claims. We are not talking about extreme cases, but we are saying that the majority of the cases that we see present some combination of those devastating behaviours.

The other piece of the new offence, in addition to the behaviours that it criminalises, is its recognition in law, as all of Europe has now recognised. Spain has recognised this in law, and France has

recognised and criminalised psychological abuse. The Istanbul convention describes it as "arbitrary deprivation of liberty". We are recognising now that the major harms in these cases are not physical harms and are not even psychological trauma. The major harms in these cases are harms to basic rights and liberties that are so fundamental that people cannot — women cannot, and nobody could — practice citizenship without them. They include freedom of speech, freedom of movement, freedom to own your own money, freedom to take the job of your choice and freedom to go to school. All of those basic freedoms are being infringed. It also includes dignity and freedom of autonomy. All of those freedoms are being abridged regularly. These are harms to rights and liberties.

We are also coming to recognise that this is embedded in British law or English law. It is embedded in the Scottish offence that is about to be issued. It is embedded in the Istanbul convention and in the UN doctrines involving human rights. The most basic fundamental thing that is recognised is that this is a form of discrimination that violates human rights and is not a crime against women or even a gender crime; it is a political crime because it is a crime against the attributes that people need to effectively perform their role as citizens in our society. If this were happening to any other population in our society on the level that it is or happening in a foreign country to our citizens, we would respond as one. When the homicide of a woman occurred, we would not depend on the head of Women's Aid to do the interview; we would have the First Minister do the interview or have somebody come out from the Executive to express their shock.

This is a huge transformation, thinking about crime that has been treated heretofore as a second-class misdemeanour, basically equivalent to a serious or not-so-serious traffic offence. Now, we are reframing that as a crime against basic rights and liberties in which people's resources are being taken away from them. We are thinking about this at the same level as we think about other capture crime. We say that people in their home who are in relationships have in their personal life the same rights to liberty, free expression and free movement as anyone else. The effects of this on our economy are absolutely devastating. Ultimately, coercive control is not about what men do to women; it is really about what they keep women from doing for themselves by restricting their expression, by framing their behaviours and by redirecting all of their energies and their resources from the community and their children to themselves as individuals. This is why we have begun to frame it as a serious criminal offence, taking it from the Magistrates' Court to the High Court, redefining this chronic behaviour. We redesigned our policing of domestic violence so that it is not an end-of-shift response but a major crime investigation, and we have really changed the culture of response, which 'The Archers' has obviously contributed to in a major way, so that this phenomenon is taken a lot more seriously.

I know this is for most of you way out of the ken of what you have understood to be domestic violence, where you go to the store and see the woman with the black eye. The violence definition is maybe not appropriate here, but I like to say that the violence definition of abuse is like President Clinton's definition of sex. I will not go into more detail on that, but I think that you get my point. It is really a male definition: "Did you abuse her? No, I didn't hit her". It has never been women's definition. We are getting surveys from countries such as Turkey and Egypt, as well as from the UK, in which women report that someone takes their money and does not let them leave the house, times their phone calls or monitors their movements when they leave the house and come back. That is abuse, and that is what we say.

**The Chairperson (Mr Frew):** Professor, can I ask you just to wrap up in a couple of minutes?

**Professor Stark:** I will just finish with a little irony. I was asked on Scottish radio recently what I thought about women's violence against men in Scotland. I said, only somewhat sarcastically, that there is not enough. What I meant by that was not that I endorse women's violence but that, if the things that we see happening to women were happening to any significant population of men, there would be blood in the streets. That is what I mean. The only reason, I believe, why we are not responding more aggressively is that women's suffering is not grieved at the same level as other groups. I say that as a male who has controlling capacity. Nothing I say is meant to suggest that men are more controlling than women; I do not believe that. I do not believe that they are more violent than women. That is no data that supports that, but, when it comes to the pattern of coercive control, there is no question that 95% to 99% of the victims are women, and their vulnerability is derived from their vulnerability as a class because of inequalities.

I am sorry. Thank you for listening.

**The Chairperson (Mr Frew):** Thank you, Professor. Very interesting. I am loath to stop you, but we have to push on. I understand entirely everything you say and the concept of it, but how do you get

that down to encouraging the woman or victim, whoever that may be, to testify? Secondly, how do you get law enforcement agencies to gather evidence other than a testimony?

**Professor Stark:** Let us deal with the second question first. When I said this was not an end-of-shift investigation, what I meant was that gathering evidence in these cases is not a one-off issue. Somebody asked about the police response. Right now, the police in Northern Ireland do three things: they take a picture, they write a narrative and they fill out a tick box for risk assessment called a DASH (Domestic Abuse, Stalking and Harassment). The first thing we say to police with respect to evidence is, "Don't take a picture. Open a window". In other words, yes, you have to take a picture if there are injuries, but police are used to identifying the crime with something they can photograph. By "open a window" we mean the first thing you do is get historical evidence. Much of the evidence you are asking about is already collected by police in the DASH form that they check. The stalking and sexual assaults are all supposed to be recorded, and, if they are not recorded on that DASH, they are recorded when the woman is sent to Women's Aid and fills out another copy of the DASH. Much of that evidence is available.

The other thing we are realising is that a lot of the evidence, some of which is non-traditional, is not simply available from the victim but has to involve the kind of investigation we did when we were going after BBC commentators who sexually abused children. We were interviewing former partners and neighbours. We were conducting a serious crime investigation, and in that investigation, while the victim's testimony is critical, it is not solely critical. You notice that in two of the four cases that went to trial, the man confessed, and he confessed because the weight of the evidence that police were able to collect was virtually overwhelming. That is part of it.

There is no evidence that women have been reluctant to talk about this. Many women have come forward already because, for them, the idea that abuse consisted only or even primarily of violence meant that, unless they were seriously injured, they felt guilty about calling the police. There is a public re-education project involved here, but the major challenge that we face is not the re-education of women in the population about the nature of their abuse; the major education project entails letting women know that this is a form of abuse by announcing the new offence as one that we will take seriously. Read the last sentence of the English prosecutor's statement from 10 June on this crime. He announced to the community the nature of the crime and invited people to come forward with stories of this type of control and abuse.

I do not see that, Mr Frew, as much of a problem. The major problem will be getting professionals to adapt. It is a major change in police culture, and, as you said, many of these systems are risk-averse and change-averse. We are asking them to see a historical, course-of-conduct crime, where previously they just saw an incident; to see significant harm where previously they did not see anything.

**The Chairperson (Mr Frew):** Do you think that there is an issue with how the judicial system looks upon this crime?

**Professor Stark:** Absolutely.

**The Chairperson (Mr Frew):** It is only coming into being a crime now as domestic violence. Some might say that to add a layer of coercive behaviour on top of that would scare the judicial system at this point —

**Professor Stark:** I do not know that it will scare the judicial system, because it seems to be insulated from most threats and from accountability. We thought, when we first introduced the offence, that Crown prosecutors would be the main obstacle to enforcing it. That turned out not to be the case: because it is a high-profile prosecution, they were supportive. Even though some front-line police announced immediately that they would not enforce the new offence, the fact is that they have been amazingly cooperative, because we have raised the status of the offence and, for the first time, as they recognise, they have the tools. I heard from Northern Irish police as well that they do not have the tools. Imagine that you gather information at the scene and know that a victim has been sexually assaulted and stalked but you do not have the tool to respond effectively. How will it feel when you leave that house or even when you make an arrest to know that the guy will be back?

The judiciary is an enormous obstacle. Anyone who takes on this new offence and wants to pursue justice by recognising the harms that women experience must be ready to confront the judiciary and not just about enforcing the crime. We have found champions in sheriffs in Edinburgh and in judges in



parts of England who have heard the new offences and made strong statements, after hearing the offence, about the wrongs that they have listened to. However, the judiciary has been extremely resistant to training and has resisted the involvement of Women's Aid in training, the very people who have enormous expertise based on experience. They say to us, "Look, we know violence when we see it. We do not need training to do better."

On the other hand, many sheriffs and judges are as frustrated as police at seeing these cases again and again. You may know that the whole movement in Scotland was stimulated when an MSP was arrested for 18 years of domestic violence against three wives and for beating a 16-year-old stepdaughter with a frying pan. Sheriff Mackie in Edinburgh was limited to sentencing him to 364 days by the way the law was written. In fact, he did not even have to leave government unless the penalty was for over a year. To her credit, Sheriff Mackie made a public statement bemoaning the fact that she could not charge for the sexual, coercive and other elements of the offence, let alone group all his offences as a single horrendous course of conduct. Her statement was really a stimulus to the chief of judicial education and others in Edinburgh to move very aggressively on this. In fact, they have taken the lead in Scotland in writing the new offence.

I do think that the judiciary presents a major obstacle that you have to be willing to confront. I will tell you what we do in the States. In the majority of states — not all — we require all judges to have domestic violence training annually. It usually lasts at least a day. We require that all the relevant services, including our shelter and refuge services, be directly involved in that training, and it has been enormously successful. This is not just in the criminal court but in the family court and child welfare proceedings, where coercive control is, in some ways, even more pertinent.

**Mrs Cameron:** Thank you, Professor Stark. I have been looking forward to this presentation, and you are very welcome. I could listen to you all day on what is an awful subject but one that has gripped me for a long time, since I —

**Professor Stark:** The only thing worse than end-of-shift investigation is end-of-day testimony.  
*[Laughter.]*

**Mrs Cameron:** That is true, but thank you very much.

I have been involved with Women's Aid for many years now; since 2006, when I was a councillor in local government. I have recently set up, in the Assembly, an all-party group on domestic violence that I chair, and a local group of Women's Aid is the secretariat to that. This is very useful in going forward with that group. So far, my involvement has been very much around awareness-raising and approaching the subject. I feel vindicated in that now, with the evidence that you have given us. You talk about conducting a serious crime investigation. That is so many miles away from how domestic incidents were treated, especially in the past. I have heard testimony from senior police officers who have said that they were ashamed of how domestic abuse was dealt with, through genuine ignorance of what it is and how it operates. It is good to hear what you say.

I will ask you a couple of questions; I had more, but you have answered most of them. Coercion and control are obviously at the very heart of how abusers operate. They are not an added extra; that is what happens. Professionals, to some degree, do not recognise that and tend to focus, as you said, on the physical and sexual side of the abuse. How do we overcome it?

**Professor Stark:** How do we overcome professionals not recognising it?

**Mrs Cameron:** Yes.

**Professor Stark:** There needs to be an enormous amount of education, just as there was with domestic violence. When we first uncovered the fact, years ago in our research at Yale, that domestic violence was the leading cause of injury for which women sought medical attention, the medical profession absolutely did not believe it. They sent people to Yale from Washington to disprove our research and then they replicated it. And then people were absolutely blown away. The knowledge that is now sifting throughout Europe and really the world from women's stories and narratives is really beginning to change the way professionals understand this experience. That is so particularly when you put it in a rights context and you recognise that these are violations of political rights. This is a political crime. I absolutely cannot underline that enough. It is not a gender crime; it is a political crime. It is a crime against our citizens. That is the underlying piece of it. If you do not take it seriously that way, it seems to me, you cannot address it. I think that professionals feel torn, because

they do not like to get involved in "political" issues and this seems to them to be a loaded issue. There is education that has to be done, no question.

**Mrs Cameron:** As far as England and Wales are concerned, obviously, they now have these laws, and I have every confidence that we will go ahead, as an Assembly, and bring in the same laws here. What is happening in the education and training of those professionals and the judiciary?

**Professor Stark:** What is happening in Wales is very interesting. I mentioned it at the beginning. Wales has complemented the new offence with what is called the "Wales Bill", which is essentially a prevention Bill. That involved appointing somebody to advise the Minister. That person was appointed not at ministerial level but as a government adviser who is responsible for monitoring an overall prevention strategy. All local councils, health authorities and other bodies have to produce a plan within a certain time for, in that case, the prevention of gender violence. They are monitored in doing that as well as given assistance. They have also introduced champions and an education system starting in the second grade with respect to gender violence and gender equality, which were very controversial when they were introduced. You can monitor some of that on YouTube. There are some marvellous examples, but it is at a very early stage. The important thing is that they combined two elements that the Istanbul protocol recommends: implementing that prevention plan and building collaboratively and then having an accountability structure in place. They not only get assistance to develop local plans but are monitored and reviewed so that their plans meet a certain level and standard of competency.

As part of that process, professionals are being educated, but the education takes place in the context of their having to make a plan, exert responsibility, educate themselves about it and so forth. I cannot say how it is working — it is too early — but what I expect to come out of Scotland, in combination with what the Wales Bill establishes in the form of prevention, is, in my mind, the gold standard of responding to partner abuse, anywhere in the world. The offence in the English law, while good in some respects, has a number of serious problems. It is still one of the best things that we have, but it has holes that we need to address. Depending on who becomes PM, I think that that will be addressed in the next round.

**Mrs Cameron:** Thank you for addressing the male/female aspect. As soon as you start to talk about domestic violence, the first question that comes back is this: what about the male victims? From the statistics, we know that the vast majority of perpetrators are male and that a lot of male victims are victims of other males.

**Professor Stark:** That is true. I mean the main —

**Mrs Cameron:** That is uncomfortable and not a very politically correct thing to say, but I think that it has to be said.

**Professor Stark:** There is no question that domestic violence by women against men can be a problem. When it comes to the repetitive violence that I have described and the combination of that with sexual abuse and coercive control, the vast majority are males. For example, 53% of the men who are arrested have committed three or more offences. Only about 2% of the women who are arrested have committed three or more offences. That will give you some sense of it. There are very few cases in which you have that.

As you suggested, the main problem of violence against men is other men. I wish that the groups that complain about women's violence against men would take that on, and I would fully support them if they did so. It is very difficult in a training or treatment programme for perpetrators to say that you cannot beat women but that it is OK to beat up your next-door neighbour if he is a male. That suggests a kind of patronising view. We really have to start addressing men's violence against men. To its credit, the Wales prevention strategy does that. That is a very important step forward.

**Ms Boyle:** Thank you for your presentation, Professor Stark.

**Professor Stark:** Retired Professor Stark.

**Ms Boyle:** You are still doing a good job. Like Pam said, I could listen to you all day, and I hope that we can follow this up by getting your email address or some line of communication to you if we have

questions further down the road. Pam, Clare Bailey and I sit not only on this Committee but on the all-party group on domestic violence.

As I said to the Minister, I also share the concern. The new domestic abuse offence and disclosure scheme is about changing the law and offering better protection for women but, rightly, we also need to make sure that robust systems and measures are in place for the likes of the PSNI, the judiciary and the Public Prosecution Service (PPS). To get a prosecution here, there is a test, and there has to be a reasonable prospect of an outcome to take a case forward to the PPS. Sometimes — maybe most of the time — when there is clear evidence of historic, continual and current abuse and it reaches the PPS, the outcome is that it can just throw it out the door. That is the sad reality of our judiciary. I am concerned about making sure that the mechanisms are in place. This is all great stuff, but I would like to see what the outcomes are two, three or four years down the road.

You are right: education is key. It is key for those responsible for applying the law, but education is needed in schools for all genders and races because domestic abuse has no barriers. We need to ensure that the PSNI is trained to enforce the new laws on coercive abuse. I am concerned about whether we will have the resources or budget to do that. I do not want to talk money when we are talking about domestic abuse but, unfortunately, that is the reality that we face in this jurisdiction.

I am also concerned that, whilst we are doing this, there is a bigger piece of work to ensure better protection for people and individuals, for men and women. Historically, we live on this island where we have two separate jurisdictions, and I would like a bigger piece of joined-up work between the law here and in the South of Ireland to ensure that the perpetrators do not get away across the border. I look forward, like the rest of us, to getting the consultation responses and seeing how we as a Committee can take that forward into legislation.

**Professor Stark:** You are absolutely right. Trying to address this issue in the context of austerity and cuts is extremely difficult. The problem in Northern Ireland is a little different from that in England and Wales. Reporting here has been notoriously low, and the reporting of sexual assault is pretty much absent. Reporting of partners is ridiculously low and has not been identified as a specific and serious offence that the police want to deal with. In general, if this offence is enacted, reporting will increase. How dramatically it will increase depends on a lot of special factors here that I do not fully understand. You do not have control over it, but it will increase dramatically in the short run, which will mean increased police resources. I can promise that, if the chronic offenders are taken off the street, within five or 10 years, you will be able to reduce the police caseload, which is now primarily a domestic violence caseload. It is the single biggest demand on the police, and you will reduce the police caseload by 10%, 15% or even 20% within 10 years. In the long run, you can reduce it much more.

Domestic violence is one of the few crimes that you can prevent. How do we know that? In public health, we make a distinction between what we call "prevalence", which is all the cases in a community — think AIDS and chronic disease. Almost all cases of domestic violence are ongoing and long-standing. Only about 5% or 10% are new cases. If you were to intervene early, you could eliminate — no one is going to do that — a huge amount of domestic violence incidents in our community, and, overnight, that would dramatically increase the quality of life in those communities and enhance women's contribution to the economy more generally. We could then manage incidence of the crime. I would definitely put that caution out there.

The Wales Bill is addressing some of the education issues, and I would not exaggerate the need for police education too much. This is a critical piece, and, unfortunately, because of the cuts, a lot of training in England is computer-based and not adequate. We are also developing some innovative training strategies. Durham University has developed a theatrical strategy of training police. We have now trained almost 600 police, and it seems to be going very well. There are innovative ways to do this.

**Ms Boyle:** Did I read somewhere that the new law does not apply to couples who are separated?

**Professor Stark:** No. Given that, in England, there was already a stalking law that covered strangers, this law refers to stalking in the relationship. That has led to one of the gaps in the stalking provision in the new law. We are in the very strange situation that, if John stalks her, whether cyber-stalks her, proxy-stalks her or stalks her on Monday, and they are still together, that is prosecuted under the domestic violence coercive control law. If he then leaves and goes to live with his mother and stalks her from his mother's house, that is covered under a separate stalking offence. It is crazy. We have tried to convince Buckland of this, but the problem is that he introduced the gap in the stalking law as

the rationale for the law in the first place; that is the only thing. The new law applies to couples whether they are separated or together, but the stalking piece of it is limited to couples who are together.

**The Chairperson (Mr Frew):** We should check what stalking laws we have here. I am not sure that we have any. We have harassment laws.

**Professor Stark:** It is my understanding that, right now, Northern Ireland covers stalking under harassment, but that means that it treats it largely as a low-level misdemeanour offence. There can be a misdemeanour stalking offence in other countries, but most countries consider it a class A felony. It is a high crime. In fact, these batterers whom you are looking at fit the profile of some of the most serious criminals in society, in the sense that they are chronic offenders who have committed other offences. We know that, if they are convicted, they are much more likely to be convicted again. Most of the criminal activity of the men whom we arrest is not domestic violence but has occurred outside that context. In Scotland, complementing the multi-agency risk assessment conference (MARAC) process, which, I assume, some of you know about, they have what is called the multi-agency tasking and coordinating (MATAC) group. MATAC is an offender-focused rather than a victim-focused process in which they gather all the information that they can on offenders. They have a central data unit that assists local police departments and Police Scotland to gather the data. It is very effective.

**Mr Douglas:** I read the excellent paper from Women's Aid, which raised the issue of the impact on children. The paper states that that is not taken into consideration when the police investigate domestic abuse. Is that the case? What is the impact on children?

**Professor Stark:** Obviously, that is a huge issue. Until the new offence and our understanding of coercive control — I did the original research on this with my wife many years ago. We were the first to show that domestic violence was the leading context in which child abuse occurred. Forty-five per cent of all cases of child maltreatment that we saw occurred in the context of ongoing battery. The paradox was that our child welfare systems were investing almost no money in domestic violence prevention. Once President Clinton gave us \$1.5 billion, child protection got very interested in this problem, and we were able to talk and converse. That is an important issue.

At the time, our only major concern was children witnessing violence growing up in violent households. What we are now coming to appreciate is that it is not exposure to violence that is the major risk to children but exposure to this lack of democracy and gender rigidity. It is these intimidating patterns of coercive control that harm children. A child who is raised in a home with very rigid gender roles, for example, has more trouble adapting in school to the flexibility that they need in order to get along in school than a child who has been exposed to physical violence. Moreover, in many of these families, the men who are using coercive control on their wife are also isolating, intimidating, physically or sexually abusing, humiliating and controlling their children. We are just beginning to get a handle on how this works in the child system. Unfortunately, in the child welfare system, many women are still being blamed by our social work system for being abused. I was the lead witness in a case against the city of New York in the Federal Court in the United States. It was a three-month trial. The city of New York was removing children from mothers solely because the mothers had been abused — for example, by being choked. They used the term "exposed to domestic violence". Even though the children were not harmed by the violence, they were being removed and the mothers were being charged with neglect. We brought that case to the Federal Court and had a three-month trial with hundreds of witnesses. The Federal Court ruled that it was unconstitutional to take children from mothers solely because they were victims. We became the first country, as far as I know, now constitutionally to say that, when you remove a child because of domestic violence, you have to show that the harms that that child will suffer from removal are greater than the harms the child will suffer if they stay. That is the first time that anyone recognised that removal was not a benign process.

Secondly, the court also ruled that you cannot remove a child solely because of domestic violence. You have to show specific harms. Thirdly, the court ruled that you cannot punish women because they have been abused, even if they have refused services from child welfare because of the domestic violence. In the UK, on the other hand, it is still regular practice to remove children from mothers who have been victims of abuse. That is a terrible practice, and we have a strange system in the courts, which Marianne Hester of Bristol University calls the "three planets". A woman who goes into a criminal court is considered a good witness if she presses her case, but, if she goes next door to the family court and persists in pursuing a domestic violence case, she is considered non-cooperative and is likely to lose custody of her child. In the family court, as I said, she is likely to be completely invisible.

One of the thrusts of the new law and of any reform that we have to engage in is to bring all the courts together. I do not know about the Derry experiment intimately, but it is about getting a single working definition so that the justice concerns in the criminal court are carried over into consideration of custodial assignments and the safety of the child in the family court.

I will end with this observation to answer your question. In Colorado, which is so far the best approach that we have had in the United States, we said three things. First, we are going to include safety along with a child's best interests in the criteria for custody assignment. Secondly — you have to know the family court in order to appreciate some of these things — we are going to hear all the domestic violence evidence before we get to trial. We will not have a situation in which the abuser is interrogating the woman he has abused or raped. Thirdly, we have prohibited the court from punishing women who violate court orders to provide access to their children, for example, if they do so out of the genuine belief that they are protecting their children. That has reduced the complaints about the family court from women who are abused to almost zero. That has been very effective.

The US Congress passed a resolution — I testified to the House Judiciary Committee — that abused women should be given the presumption of custody unless there is evidence provided otherwise — in other words, once abuse is established. Many years ago in the United Kingdom, the Chief Appellate Judge made a statement that we were long past the time when a man who abuses his wife can automatically be assumed to be a good father. That observation is honoured in the breach. There is a huge area opening and a long way to go before we know what we are doing.

**The Chairperson (Mr Frew):** There are no further questions from members. Thank you very much for your presentation, Professor Stark.

**Professor Stark:** I am sorry that I have kept you.

**The Chairperson (Mr Frew):** No, that was another marathon session, and we thank you for it. We look forward to seeing some of your work in future and how we can progress it here.

**Professor Stark:** Good luck with the consultation.

**The Chairperson (Mr Frew):** Thank you very much.