

## **Justice Committee**

### **Criminal Justice (Scotland) Bill**

#### **Written submission from the Highland Violence Against Women**

Please find the response by the Highland Violence Against Women Partnership, part of the Community Planning structure in Highland, outlined below. Statutory members in the partnership addressing Violence Against Women in Highland are NHS Highland, The Highland Council, the Crown Office and Procurator Fiscal Service and the Police. These members work in collaboration with a number of voluntary organisations on this issue, including Caithness & Sutherland Women's Aid, Lochaber Women's Aid, Inverness Women's Aid, Ross-shire Women's Aid, Victim Support, Witness Service and Children 1st.

#### **Our Focus**

The aspiration of the Highland Violence Against Women Partnership is to end Violence Against Women. We recognise that to end all forms of gender based violence we need to improve current approaches to tackling perpetrators, ensuring the safety of victims and their children, and to work with the public on changing attitudes and increasing understanding of the causes and consequences of Violence Against Women. We also believe that it is important to consider the human rights of victims of crime – all women and men have a right to be protected from rape and when individuals have been affected, they have a right of access to justice.

We respond to the consultation on the Criminal Justice (Scotland) Bill from this view point. In particular, we are responding to the proposal to abolish the need for corroboration and the suggested increase of a jury majority from 8 to 10 people.

#### **Abolition of Corroboration**

We welcome the proposal included within the Bill for the abolition of corroboration. We believe that this particular aspect of law disproportionately impacts on female victims as much of the violence they experience occurs in private spaces and is perpetrated by men known to them. We believe that the abolition of corroboration has the potential to increase conviction rates and, therefore, increase public safety; increase confidence in the criminal justice system for rape and domestic abuse victims; and will have the potential to deter future perpetrators. We recognise that a change in the way that these cases are dealt with in itself will not end Violence Against Women in Scotland, but it will send a clear public message that these issues are being taken seriously and that they are crimes.

We are, however, concerned that the abolition of corroboration will not be retrospective. Current media coverage of several, high profile, men who sexually abused children has, anecdotally, across the country, seen an increase in disclosures from adult survivors of child sexual abuse in a variety of settings, including to the police. It is widely recognised that many people affected by sexual violence in childhood or as an adult do not report to the police immediately after the event. This is for a variety of reasons including, fear they won't be believed, embarrassment, feeling like it was their fault, worried about what the perpetrator might do, and/or feeling like it would be a waste of time as conviction rates are low. It must be recognised that people will continue to come forward about past experiences of sexual abuse and that these individuals should be afforded the same access to

justice. By ensuring that the abolition of corroboration applies retrospectively, we believe that the Bill can go some way to providing this.

### **Increase in Jury Majority**

We agree with the concerns raised in the Rape Crisis Scotland Briefing on the Criminal Justice (Scotland) Bill, July 2013, in relation to the increase in the jury majority required for verdicts from 8 to 10 people (from a total of 15). We believe that this is extremely problematic for cases involving sexual violence due to the existing evidence in relation to attitudes about rape. These rape myths are prevalent in every day society and usually involve blaming the victim for what happened and negating the behaviour of the perpetrator. As research suggests such significant proportions of the population believe these myths we are concerned about the proposed increase required for a jury majority and would urge the Scottish Government to retain the simple majority of 8 for a verdict to be reached.

We believe that to increase the majority required has the potential to lead to an increase in the 'not proven' as well as the 'not guilty' verdict. We understand the 'not proven' verdict to be potentially as devastating as a 'not guilty' verdict for those who have experienced sexual violence and are already concerned that rape cases receive the highest acquittal rates for both 'not guilty' and 'not proven' verdicts<sup>i</sup>. We are also concerned that the potential result of a 'not proven' verdict, as well as 'not guilty' verdicts is an increased risk of further repeat perpetration of sexual violence by the perpetrator as not only has justice not been served, but the person has received a powerful message that they can 'get away with it'. We would suggest that cases of 'not proven' will increase with a requirement for an increased majority.

The 'not proven' verdict for cases involving sexual violence is also significantly higher than for cases in general. Of all crimes proceeded against in 2011-12, less than one percent (0.8%) were 'not proven'. For rape and attempted rape, during this time period, 17% were 'not proven' and for sexual assault this rose to 69% of all cases.<sup>ii</sup> We are concerned that the proposal for an increase in the numbers of jurors required for a verdict will result in increased rates of 'not proven' for crimes of sexual violence, which is already disproportionate when compared with other criminal offences.

Further more, whilst we appreciate that there will always be cases that are very difficult for juries to make decisions about, for a whole range of factors, we believe that a 'not proven' verdict leaves victims of sexual violence in a state of limbo. We would not accept the argument that it would be preferable for victims to receive that verdict compared with one of 'not guilty' as they remain in a situation where no sentence as been received and closure has not been granted. We would urge the Scottish Government to consider reviewing 'not proven' as an option for verdicts.

Highland Violence Against Women  
28 August 2013

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<sup>i</sup> Criminal Proceedings in Scotland 2011-12, Scottish Government, November 2012

<sup>ii</sup> Criminal Proceedings in Scotland 2011-12, Scottish Government, November 2012