 

**Joint DPO submission on Disabled Women for the**

**Human Rights Committee’s review of the United Kingdom**

**June 2015**

**Introduction**

This short submission, jointly prepared by two disabled persons’ organisations (DPOs) - Sisters of Frida and Stay Safe East,[[1]](#footnote-1) relates particularly to women with disabilities in the United Kingdom, with the aim of identifying the restrictions they face in the exercise of their rights including the barriers for women with disabilities to benefit from accessible and inclusive services for women victims of violence, including access to justice.

The UK government is a party to all of the UN human rights instruments. In particular, it ratified the ICCPR in 1976, the CEDAW in 1986, and in 2009, the UK Government ratified the Convention on the Rights of People with Disabilities (CRPD)[[2]](#footnote-2) and the Convention's Optional Protocol in 2010. It is clear that these three treaties intersect and reinforce each other when it comes to the civil and political rights of women with disabilities.

We would like to refer to the list of issues (LOI) and provide further information to help prepare the Committee for its dialogue with the UK government delegation, specifically on:

**Violence against women, including domestic violence (arts. 2, 3, 7 and 26)**

10. Please report on measures taken, and the impact thereof, to address violence, including domestic violence and rape, against women, including black and ethnic minority women, in particular in the United Kingdom and Bermuda, and to ensure that such acts are effectively investigated, perpetrators are prosecuted and appropriately sanctioned, and victims have access to adequate remedies. Please clarify whether there are plans to introduce domestic violence protection notices or other similar measures, with a view to providing timely and adequate protection to victims in Northern Ireland.

In the response given by the UK government,[[3]](#footnote-3) there was no mention of provision of measures addressing combating violence against women for disabled women.

Research commissioned by Women's Aid[[4]](#footnote-4) reveals that women with disabilities are more vulnerable to domestic violence than non-disabled women and will often face additional difficulties in attempting to access support. It included the following findings:

* 50% of disabled women have experienced domestic abuse compared with 25% of non-disabled women.
* Disabled women are twice as likely to be assaulted or raped as non-disabled women.
* Both men and women with a limiting illness or disabilities are more likely to experience intimate partner violence.
* Disabled women are likely to have to endure it for longer because appropriate support is not available.
* A study of women who access mental health services identified between 50% and 60% had experienced domestic violence, and up to 20% were currently being abused

There is a paucity of data on women and girls who have experienced domestic abuse and even less on women with disabilities, apart from statistics from Women’s Aid report and more recently from the ‘Access to Specialised Victim Support Services for Women with Disabilities who have experienced Violence’ a joint European report from Leeds University on the UK. The UK government’s response to the List of Issues does not identify any research or collection of data on this issue.

We would like to highlight some barriers faced by disabled women and of those, disabled women from black and ethnic minorities (BME) as identified in the report concluded by the University of Leeds in June 2014 from that report which pertains to the UK.[[5]](#footnote-5) Through conducting interviews, in particular with many black disabled women and disabled women belonging to an ethnic minority, it explores the intersectional forms of discrimination to which they are subjected based on their gender, disability, race, ethnic background and other layers of their identity.

1. Women interviewed for this study experienced different types of violence.
Psychological violence, control and isolation, were common experiences. Sometimes this was connected to their impairment, other times it was not. In the majority of cases the perpetrators were intimate partners, and the abuse took place in their private homes.
2. Women had different levels of knowledge about their rights. Lack of access was compounded by the way the law segments rights into those related to gender, disability, race, sexuality etc., making it difficult to tell which rights applied to their situation.
3. Competition for resources and funding impacted on the ability and willingness of support services to assist disabled women? Service providers anticipated increased demand for resources that accompanied support of disabled women and this acted as a deterrent for some at least. Lack of funding to pay for specific adaptations to premises was also highlighted in the interviews and it was felt that if these were made available, it would need to be ring fenced for the purpose.
4. Some women were reluctant to access social services for a range of reasons, such as the fear that children might be removed on the basis of assumed incapacity.
Issues mentioned included disabling attitudinal barriers from support services, including social services, women’s support services and the court and barriers to women’s safety. Despite experiencing on-going violence from partners, some women could not access formal or informal support, with safeguarding services reported by some as especially problematic.
5. Obstacles arose from perpetrators, family members, people considered to be ‘carers’ or other individuals as well as those associated with accessing formal or informal support.
For some women, family members perpetrated violence such as in the case of BME Deaf women. Other barriers imposed by BME families included restrictions on the choice of partners and forced marriage, which further led to abuse by women’s husbands and in-laws. For some, it was not considered culturally appropriate to ask for external support and challenge the familial arrangement.  The ‘keep it in the family’ philosophy was reported as typical in the Asian community.  Another barrier faced was the inability to communicate with members due to lack of knowledge of use of sign language by family members.
6. Disabled women had concerns about being left without support, if they decided to leave the perpetrator. However, this idea was reinforced by others who disregarded the possibility that a ‘carer’ might be the perpetrator of sexual violence.  This indicated a disregard for disabled women’s sexuality, suggesting that the man was more of a carer than a partner, and conversely a disregard for violence on the basis that the man was somebody who ‘cared’. Therefore, getting others to recognise the problem of abuse and violence was very problematic for some. Even if it was recognised, getting action presented further problems.
7. However, even in specialist services for Deaf women/women with hearing impairments and minority ethnic women, problems arose with regard to confidentiality. There are only a small pool of sign language and language interpreters in the UK, which may create additional barriers to maintaining privacy and confidentiality. This may especially be problematic for services offered in small communities, and can prevent disabled women from disclosing their stories or actively seeking support.
8. Women interviewed had little knowledge about the law and how it was implemented in practice. Often they were not clear about their formal rights under criminal law, or had partial knowledge of the criminal prosecution process. Beyond this many expressed a lack of confidence in dealing with the criminal justice process or were sceptical about the degree to which it could help. Many felt they were disadvantaged compared with non-disabled women. While improvements in recent years were reported, disabled women stated that the police could be judgemental towards disabled women, operate on the basis of mistaken assumptions about women’s mental abilities and situations and be unwilling to press charges unless the woman did so herself. They were reported to disbelieve disabled women or to be judgmental of the coping mechanisms they employed to deal with experiences of sexual abuse. Further, women felt the police hindered their access to justice. Issues of accessibility of the police services to the disabled population and especially the deaf and hearing impaired were also commented on.

Given the findings of this report and the reality of the barriers for women with disabilities in facing violence, we would like to express our concern and request as priority the amendment to the Serious Crime Act 2015 (see Annex I).

There would be serious impact on disabled women as it allows a defence for “carers” accused of the new crime of coercive control to argue that they are acting in their disabled partner’s “best interest” and reduces the maximum sentence for the crime from 14 to 5 years. We believe this is open to challenge under ICCPR, CEDAW and the CRPD.

On the one hand we are happy that women will have the added protection from the new legislation, that part of the Serious Crime Act 2015 will make it illegal for someone to exercise psychological, emotional or financial control over their partner. The law has been welcomed by women’s groups, who have long called for coercive control, which they say is often a prelude to violence, to be recognised as a crime. However, in a context where violence against disabled women is barely addressed within the Criminal Justice system, we believe this amendment Serious Crime Act 2015 Section 76 would put the onus on the victim to prove that the abuser was not acting in her best interest. There are complex issues here related to the disproportionate power relationship and cultural and social stereotypes which impact on what is considered to be in one’s “best interest” and which continue to result in more weight given to the views of partners/carers over those of the individual concerned (all the more so when it concerns a disabled woman).[[6]](#footnote-6) We see this as an attack on disabled women’s human rights as it does not respect their legal capacity and decision-making on an equal basis with others in violation of Article 16, ICCPR, Article 15, CEDAW and Article 12, CRPD.

We would also like to point out that no disabled persons’ organisation (DPO) was consulted concerning the drafting of this amendment despite the huge impact of this amendment to disabled women. Only the Women’s Aid’s views were sought - which is a national charity. We have huge respect for the work they, do but they do not and cannot represent the voices of disabled people /women.

Finally, we would like to point out that there is a grave failure to protect disabled women from rape and sexual abuse to the extent that it has been described as the decriminalisation of rape and abuse of disabled women in the judicial system. This has huge consequences for disabled women and violates their right to non-discrimination, effective protection from violence, right to dignity and bodily integrity and access to justice.

Research shows that 18% of women who report rape have a mental health issue. People with mental health issues were 40% less likely to have their case referred to the police for prosecution than people without these difficulties. People with learning difficulties were 67% less likely to have their case referred for prosecution.[[7]](#footnote-7)

This means that disabled women are less likely to seek help or redress because acts perpetrated against them are **not** effectively investigated, perpetrators are **not** prosecuted and appropriately sanctioned, and disabled victims have much less access to adequate remedies.

A 2014 study[[8]](#footnote-8) found that only around 15% of rapes recorded by police as crimes last year resulted in rape charges being brought against a suspect. The research shows that more than 80% of people reporting rape to the Metropolitan Police are vulnerable to sexual attack (women with psychosocial disabilities and women with learning disabilities) but that these same vulnerabilities mean their cases are less likely to be result in a suspect being charged.

It was documented that if a victim has mental health problems or is in a current relationship with the suspect then the most likely outcome is that the case will be dropped. Two thirds of rape complaints drop out of the criminal justice system before they are sent to prosecutors, and detectives’ decisions on rape cases are rarely subject to outside scrutiny. Unlike the Crown Prosecution Service, the police do not record their reasons for dropping cases consistently and there is no centralised data collection.

**Proposed recommendations:**

* In consultation with disabled women and their representative organisations, amend the Serious Crime Act 2015, section 76, to remove any reference to “best interest” as a defence for the recognition of non-consensual action against the physical and mental integrity of women as a crime.
* Take urgent steps to train police, health workers, court personnel, judges, lawyers and other interlocutors of victims of violence on communicating with persons with disabilities and on their rights including the risks to which they are exposed on account of multiple and intersectional discrimination. Implement a system to monitor police decisions for dropping cases relating to sexual violence.
* Collect adequate data on women and girls which is systematically disaggregated by age, background, disability, geographical location, etc., across all sectors including protection from violence, access to justice, consultation and political participation, etc.
* In both mainstream legislation and disability-specific legislation, address the heightened risk for girls and women with disabilities of becoming victims of violence, abuse and exploitation in the home, institutions, and the community. Adopt urgent measures to ensure the prosecution of perpetrators, and the accessibility of support services and information for victims with disabilities.

Intensify measures to disseminate and cultivate accessible information and education for women and girls to recognise forms of violence and inform themselves of their rights in seeking protection, making complaints and obtaining redress.

**ANNEX I- Serious Crime Act 2015**

**76. Controlling or coercive behaviour in an intimate or family relationship**

(1)A person (A) commits an offence if—

(a)A repeatedly or continuously engages in behaviour towards another person (B) that is controlling or coercive,

(b)at the time of the behaviour, A and B are personally connected,

(c)the behaviour has a serious effect on B, and

(d)A knows or ought to know that the behaviour will have a serious effect on B.

(2)A and B are “personally connected” if—

(a)A is in an intimate personal relationship with B, or

(b)A and B live together and—

(i)they are members of the same family, or

(ii)they have previously been in an intimate personal relationship with each other.

(3)But A does not commit an offence under this section if at the time of the behaviour in question—

(a)A has responsibility for B, for the purposes of Part 1 of the Children and Young Persons Act 1933 (see section 17 of that Act), and

(b)B is under 16.

(4)A’s behaviour has a “serious effect” on B if—

(a)it causes B to fear, on at least two occasions, that violence will be used against B, or

(b)it causes B serious alarm or distress which has a substantial adverse effect on B’s usual day-to-day activities.

(5)For the purposes of subsection (1)(d) A “ought to know” that which a reasonable person in possession of the same information would know.

(6)For the purposes of subsection (2)(b)(i) A and B are members of the same family if—

(a)they are, or have been, married to each other;

(b)they are, or have been, civil partners of each other;

(c) They are relatives;

(d)they have agreed to marry one another (whether or not the agreement has been terminated);

(e)they have entered into a civil partnership agreement (whether or not the agreement has been terminated);

(f)they are both parents of the same child;

(g)they have, or have had, parental responsibility for the same child.

(7)In subsection (6)—

 “civil partnership agreement” has the meaning given by section 73 of the Civil Partnership Act 2004;

 “child” means a person under the age of 18 years;

 “parental responsibility” has the same meaning as in the Children Act 1989;

 “relative” has the meaning given by section 63(1) of the Family Law Act 1996.

**(8)In proceedings for an offence under this section it is a defence for A to show that—**

**(a)in engaging in the behaviour in question, A believed that he or she was acting in B’s best interests, and**

(b)the behaviour was in all the circumstances reasonable.

(9)A is to be taken to have shown the facts mentioned in subsection (8) if—

(a)sufficient evidence of the facts is adduced to raise an issue with respect to them, and

(b)the contrary is not proved beyond reasonable doubt.

(10)The defence in subsection (8) is not available to A in relation to behaviour that causes B to fear that violence will be used against B.

(11)A person guilty of an offence under this section is liable—

(a)on conviction on indictment, to imprisonment for a term not exceeding five years, or a fine, or both;

(b)on summary conviction, to imprisonment for a term not exceeding 12 months, or a fine, or both.

**Explanatory Notes on Serious Crime Act,** [**http://www.legislation.gov.uk/ukpga/2015/9/notes/division/3/5**](http://www.legislation.gov.uk/ukpga/2015/9/notes/division/3/5)**:**

Section 76

Para 312:

Subsections (8) to (10) provide for a limited defence where the accused believes he or she was acting in the best interests of the victim and can show that in the particular circumstances their behaviour was objectively reasonable. The defence would not be available where a victim has been caused to fear violence (as opposed to being seriously alarmed or distressed). **This defence is intended to cover, for example, circumstances where a person was a carer for a mentally ill spouse, and by virtue of his or her medical condition, he or she had to be kept at home or compelled to take medication, for his or her own protection or in his or her own best interests.** In this context, the person’s behaviour might be considered controlling, but would be reasonable under the circumstances.

**ANNEX II- About the authors**

**Sisters of Frida** CIC is an experimental co operative of disabled women. We want a new way of sharing experiences, mutual support and relationships with different networks. We are seeking to build a/or different networks of disabled women.  The barriers and multiple discrimination have not changed, we struggle to have our voices heard as disabled women in our own rights. We would like a sisterhood, a circle of disabled women to discuss, share experiences and explore intersectional possibilities.

**Why Sisters of Frida?** We took a long time deliberating on a name. We are disabled women but that is not our only identity – we are also embracing the whole package of being women and disabled. And we believe strongly in the Social Model of Disability. We want to celebrate the difference of being of different ethnic origins, different cultures and nationalities, of different sexual orientations, of being mums, having partners and being single women. We are creative and our creativeness is born from our identities – of the very pain of being impaired and disabled at times. But we are not victims.

Hence we found a role model in Frida Kahlo. She is not one immediately associated with disability and yet her art was filled with images of the crippled body. She was also an activist and she wanted a life full of love, of relationships. In her art we also glimpse the dark landscape of her mental health in the aftermath of still births and in her stormy relationship with Diego Riveria. We can strive to live our lives as full as she did.

**Sisters of Frida**

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**Stay Safe East** is an organisation run by disabled people for disabled people. We are a user-led organisation. We are one of only a small number of disabled people’s organizations in the UK working on disability hate crime, and one of a handful working with disabled victims of domestic violence.

Stay Safe’s objectives:

* To support disabled and Deaf people who experience or have experienced violence, abuse, hate crime, bullying, anti-social behaviour, sexual or domestic violence
* To ensure that disabled and Deaf people get the justice they deserve
* To provide an independent, accessible, third party reporting site for hate crime and domestic violence
* To inform disabled and Deaf people of their rights to be safe, and to encourage them to report incidents and crimes
* To build the capacity of our partner organisations (police, voluntary sector, housing, local authority, Crown prosecution service) to provide an inclusive, appropriate service and to deliver justice to disabled and Deaf people.
* To act as a model for good practice

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1. See Annex II for more information about the organisations, authors of this submission (p 8). [↑](#footnote-ref-1)
2. http://www.un.org/disabilities/countries.asp?navid=12&pid=166 [↑](#footnote-ref-2)
3. Replies of the UK government to HRCttee list of issues.pdf p.24 [↑](#footnote-ref-3)
4. http://bit.ly/1L5zxdq [↑](#footnote-ref-4)
5. <http://www.sociology.leeds.ac.uk/assets/files/research/cds/vadw/Empirical-Report-UK.pdf> [↑](#footnote-ref-5)
6. See explanatory notes to Section 76, Annex I :

“This defence is intended to cover, for example, circumstances where a person was a carer for a mentally ill spouse, and by virtue of his or her medical condition, he or she had to be kept at home or compelled to take medication, for his or her own protection or in his or her own best interests. In this context, the person’s behaviour might be considered controlling, but would be reasonable under the circumstances.” [↑](#footnote-ref-6)
7. <https://www.thebureauinvestigates.com/2014/02/28/rape-has-been-decriminalised-for-the-most-vulnerable-says-senior-met-adviser/> [↑](#footnote-ref-7)
8. https://www.thebureauinvestigates.com/2014/02/28/revealed-why-the-police-are-failing-most-rape-victims/ [↑](#footnote-ref-8)