Overview of Article to Be Presented:  
Balancing Interest and Pursuing Priorities in Providing Legal Services to Survivors of Domestic Violence: Comparing Approaches in the United States and Ireland  

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Intimate partner violence occurs in all countries and across a range of economic and cultural demographics. Rates across different communities and countries differ, however. Drawing from forty-eight population-based surveys around the world, the World Health Organization found rates of physical assault of women by their intimate male partners ranging from ten to nearly seventy percent. Accurately assessing the differences in violence and the legal system’s response, particularly in a comparative context, is very difficult. Even within one country or group, underreporting is a significant problem for researchers. Survey respondents may not recognize incidents as domestic violence (particularly when characterized as a crime) or may be embarrassed or fearful to report. Statistics from professional sources, such as hospital records or crime reports, can only uncover that domestic violence that presents itself to those agencies and then, only if there is a method of recording incidents of domestic violence as such. Many countries do not keep official crime or health statistics in such a way that patterns of intimate partner violence might be revealed. Finally, research methodologies, terminology and measures vary dramatically.

Many countries, including the United States and Ireland, have recognized the importance of accurate and reliable data as part of the overall effort to combat violence against women. But coordinated and consistent record-keeping and reporting has only just begun and significant refinements will be necessary to get an accurate picture. A recent effort at conducting international research on domestic violence, undertaken by the United Nations, may further this effort substantially. On 22 December 2003, the General Assembly of the United Nations

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adopted by consensus a resolution requesting an in-depth study on all forms and manifestations of violence against women. In mid-summer 2005, expert groups met to begin developing methodologies for this study, with a final report promised in September 2005.

Researchers and government sources in both Ireland and the United States have examined rates of domestic violence through surveys, medical care reports, and crime reports. On all three measures, comparing rates of domestic violence in the United States and Ireland, one finds similar levels and patterns of domestic violence. Crime statistics indicate that intimate partner violence made up 22% of violent crime against women in the United States between 1993 and 1998 and 3% of violence against men. Similar proportions can be found in Irish crime statistics. Survey research from both countries indicates that about 20-25% of women in both the United States and Ireland experiencing domestic violence during their lifetime. Indeed, so parallel are the experiences of domestic violence that it is not uncommon to find statistics on domestic violence in the United States cited in discussions of the phenomenon in Ireland.

Legal Responses to Domestic Violence

A/RES/58/185.

5 Bureau of Justice Statistics, Intimate Partner Violence (May 2000). In 1998, 1,320 women were murdered by an intimate (a rate of about 1.2 per thousand persons) and 63,490 were raped or sexually assaulted (55.6 per thousand).

Rates vary, of course, depending on the definitions used and the means of collecting data. Women’s Aid of Ireland has conducted extensive survey research, which found that 20% of Irish Women experienced domestic violence during their lifetime. Women’s Aid, Submission to the CEDAW Committee, IRELAND SHADOW REPORT: Domestic Violence (December 2004) available at http://www.iwraw-ap.org/resources/pdf/Ireland(2).pdf. Similar survey research conducted in the United States commissioned by the Department of Justice and the Center for disease control found that 25.5% of women in the United States report some type of intimate partner physical violence during their lifetime. 1.8% within the past year. Julie E. Samuels and Stephen B. Thacker, Extent, Nature, and Consequences of Intimate Partner Violence (National Institute of Justice and Center for Disease Control Research Report NCUJ 181867, July 2000).

In both countries, the validity of these survey results and the male-dominated nature of domestic violence is the source of considerable controversy.

7 Irish Times, 5/8/2003
The legal response to domestic violence in Ireland follows much of the response in the United States. In most areas, Ireland’s legal reforms have lagged behind the United States and policies have often been developed in Ireland by reference to established trends in United States law.

My paper will compare and contrast the two countries’ legal response to domestic violence in the criminal and civil law arenas. I have found that criminal law responses tend to be less developed in Ireland in the United States, but both countries face similar difficulties in police and judicial training and response. In civil law, both countries have systems of civil protective orders in place, though in most states in the United States, the scope of these orders is significantly broader than that provided by Irish law. This difference is in part due to the prioritization of the married family in the Irish constitution compared to the generally willingness of legislatures and courts in the United States to accept a functional definition of marriage in providing for protection of bodily integrity. Since divorce is still new in Ireland, the intersection of domestic violence and divorce and custody is underdeveloped and, again, Ireland may look to the United States for leadership.

In the category of speculation, my paper suggests that Ireland may begin to shift its focus of attention away from the west in policy making in the family law arena in the future. The impact of international law in general, and European human rights law in particular, has created significant pressures for Ireland to reform and liberalize its constitution and provide more significant protection to unmarried intimates. At the same time, the United States has been unwilling to sign or ratify international human rights treaties, specifically the Convention on the Elimination of All Forms of Discrimination Against Women). With over 165 countries including Ireland having ratified this treaty, the United States may be losing its voice in the international community. Moreover, recent efforts to amend states constitutions to priorities the married family, in an effort to prevent same-sex marriage, may have unintended consequences in the protection of unmarried cohabitants of any gender.