WRDA Response to Belfast City Council's consultation on draft city centre Bye-laws 'for the good governance of Belfast city centre and for the prevention and suppression of nuisances in Belfast city centre'

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1. Introduction:

The Women's Resource and Development Agency (WRDA) is a membership organisation that supports women's groups and networks across Northern Ireland. Our members are a key part of WRDA, they keep us relevant and ensure we are working on the issues which really matter to grass roots women. We keep our members up to date with the latest developments in the wider women's sector and provide them with opportunities to publicise their own work. We also act as an information hub for the women's sector, while also striving to raise the profile of women's issues in the wider media.

WRDA carries out regular policy work and lobbies decision makers on behalf of women. We work to enhance how the women's sector and women on the ground are communicating with all levels of government, ensuring women have their rightful say in the policies affecting them, including the development of a Bill of Rights for Northern Ireland. As part of our vision to make women a visible force for change in Northern Ireland, we are actively lobbying and campaigning on issues that affect women.

We work with politicians, policy makers and influencers to advocate for law and policy that promotes women's rights and equality and for services that meet women's needs. We take a participative, grassroots approach to this work. All women have the right to be involved in decision-making and we aim to amplify the voices of the women who engage with the women's sector. We also work on a range of initiatives relating to health, including breast, cervical and bowel screening awareness and the Maternal Advocacy and Support project.

WRDA also provides the secretariat for the Northern Ireland Women's Policy Group which is a platform for women working in policy and advocacy roles in different organisations to share their work and speak with a collective voice on key issues. WRDA were involved in the development of the WPG COVID-19 Feminist Recovery Plan, which was launched in July 2020 and relaunched in July 2021, which provided a comprehensive overview of the impact of the pandemic on women in Northern Ireland and their civil, political, economic and social human rights.

1.1 Endorsements

WRDA would like to endorse the response submitted to this consultation by the Committee on the Administration of Justice (CAJ).

2. Response to the Consultation - practical concerns

WRDA has serious concerns about the outworkings of the proposed by-laws, should they be enacted as drafted. We understand and share the concerns of Belfast City Council with regards to the kinds of nuisances they are attempting to address with the by-laws, but believe that the application will disproportionately harm other city-centre activity and most particularly impact on social justice movements seeking to organise static rallies, most particularly where the rally is organised relatively spontaneously in response to an unexpected incident, atrocity or crisis.

In particular, there are concerns around the need to apply for a permit. As well as incurring a cost which may place an undue burden on people seeking to express horror or solidarity after an atrocity, for example, such a proposal inevitably requires time to process, meaning that a speedy response to a crisis may become functionally impossible. Considering the public outcry about the excessive use of fines following Black Lives Matter protests in Belfast and Derry/Londonderry in June 2020, there is good reason for Belfast City Council to avoid a situation where an outcry against injustice is met with a fine. Worse, if the proposed by-laws are enacted they may be met also with a criminal record.

In addition, there are deep concerns within the women's movement about the criteria by which such a permit application would be assessed. It is not clear from the consultation if all permits applied for would eventually be granted - rendering the by-laws largely ineffective in terms of reducing (as opposed to delaying) nuisance or excess noise - or whether some would be allowed and some rejected.

In the latter case, we have concerns that some groups would be disproportionately impacted; in the past, events such as Reclaim the Night - an annual march against gender-based violence that marks the beginning of the internationally recognised 16 Days of Activism Against Gender Based Violence - were labelled "controversial" by Belfast City Council in 2018, despite the same event having taken place without any issue for a number of years before that, and having a history stretching back to the 1980s. Ultimately permission to gather on BCC property before marching took several months to be granted in that instance. In practice, organisers were not allowed to advertise the event until a few days before it was due to take place in late November, although permission had been requested many months before that, and well within the 20 day notification period requested. This in turn had an impact on attendance and reduced the effectiveness of the flagship event for a campaign against VAWG. Throughout the process, Council remained in limited contact with organisers and there was no real transparency about the reasons for the labelling of the event as controversial. At no stage were organisers invited to speak with the Council, elaborate on the nature of the event, or answer any concerns. The organisers had to reach out to elected Councillors in order to have any insight into the process

at all, which ultimately contributed to the granting of permission. Any less experienced group would have struggled even more than we did as experienced campaigners.

Strike For Choice, a one-off event in solidarity with the movement to Repeal the 8th Amendment in the Republic of Ireland, saw Council staff warned that dissident republicans were assembling on the cobbles outside the building, and raising safety concerns[1]. While a number of these organisations later met with the Council to discuss these serious concerns, there was no concrete resolution and underlying issue remains; it does not seem at all clear how these events are assessed and whether those responsible will be supplied with fair or balanced information about the events taking place. As one Councillor told the Belfast Telegraph at the time of the controversy around Strike for Choice "I am shocked that Belfast City Council got this so wrong. It shows a serious lack of awareness and understanding of current issues and non-violent protest movements. I was particularly galled to receive the memo by email on International Women's Day."[2] This reflects the fact that events can move faster and groups can be formed faster than the Council may be aware of, and while it behoves the Council to seek to keep abreast of such issues, the reality is that this does not always happen.

Therefore we have deep concerns about what may result from these by-laws in practice and meanwhile harmful images continue to be shown to the public and hate expression continues - the issue is not the showing of images nor the existence of people speaking into microphones or loudhailers, it is the content of what they are saying and showing. We are sympathetic to the fact that the Council cannot legislate on hate crime or expression, and the fact that these by-laws were drafted at a time when the Assembly was down and could not legislate, either, but this remains at the core of the issue for the women's movement as a whole.

3. Response to the consultation - human rights concerns

The proposals also risk violating human rights standards, particularly human rights protected under the European Convention on Human Rights (ECHR) relating to

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[1] The Irish News, 2017 Belfast City Council apologises for calling pro-choice group dissident republicans. https://www.irishnews.com/news/2017/03/10/news/belfast-city-council-apologises-for-calling-pro-choice-group-dissident-republicans-959817/

[2] Belfast Telegraph, 2017, Shock as Belfast City Council brands pro-choice rally organisers a dissident republican group https://www.belfasttelegraph.co.uk/news/northern-ireland/shock-as-belfast-city-council-brands-pro-choice-rally-organisers-a-dissident-republican-group/35513378.html

freedom of assembly (Article 11) and expression (Article 10) and we are particularly concerned with the possibility of breaches of Article 11[3].

We share CAJ's concern that, while the intention of the by-laws may not be to focus on protests, there will be a significant impact on the ability to organise protests because of the way that the by-laws focus on amplification equipment. CAJ says "In conflict with the ECHR, the bye-laws essentially constitute a de facto authorisation process for any static protest in the designated zone in which a loudhailer or similar equipment is used."[4] In practice, loudhailers and/or a portable microphone and speaker arrangement is the standard equipment used for protests, particularly those organised at short notice.

This gets to the heart of what Belfast City Council is actually trying to address with the proposed by-laws; it does not seem to be intended to restrict the use of a loudhailer for the purposes of addressing a vigil for a murdered woman or for a busker singing a song, it seems to be intended to address homophobic and transphobic speech, the use of graphic images allegedly showing aborted foetuses, and similar distressing imagery. In other words, the intent seems to be really about the content of what is being expressed and the nature of the images shown. This is not how the actual issue will be approached in practice however, and it is not within the remit of the Council to get to the substance of what is said or displayed. As such the Council's own consultation frames it very widely: "The council has encountered issues in recent years relating to loud busking, religious preaching and various other activities involving the use of amplification devices and/or the display of graphic imagery in the city centre."[5] Similarly the Equality Impact Assessment says that "The bye-laws are not intended to prevent street preaching or the promotion of any public interest causes. Rather, they are intended to reduce the overall ambient noise and unacceptable nuisance which is caused by the cumulative impact of these various activities in the City Centre."[6]

We know that this approach is the only one available to Belfast City Council because of the nature of their remit as a Council rather than a legislative body, and we recognise that they are trying to deal with a real issue in whatever way is available to them. However, in practice, the issues will remain and the human rights of other legitimate groups and individuals may be unduly impacted in the process.

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[3] European Court of Human Rights, Guide to Article 11, https://www.echr.coe.int/documents/d/echr/Guide_Art_11_ENG

[4] CAJ, 2024, Response to Belfast City Council consultation on city centre by-laws https://caj.org.uk/wp-content/uploads/2024/02/CAJ-response-to-Belfast-City-Council-byelaws-on-permits-Feb-24-1.pdf

[5] Belfast City Council consultation, 2024, https://yoursay.belfastcity.gov.uk/consultation-on-city-centre-byelaws

[6] Belfast City Council equality screening document, 2024, https://www.belfastcity.gov.uk/Documents/City-Centre-Bye-Laws-Equality-Screening

4. Response to the consultation - alternative approaches for the next stage

WRDA are not free speech absolutists; we recognise and indeed welcome the need to curtail speech on certain issues and to protect targets of hate speech in particular. The nature of the proposed by-laws is that this will not be achieved, as a permit is accessible regardless of content of speech or images and so the kind of harmful speech we want to see addressed will continue across our city, albeit with a time limit. At the same time, the by-laws will have the effect of stifling the organisation of spontaneous gatherings or protests in particular, and erect unnecessary barriers with stiff punishments, including a fine and a criminal record, attached.

We recognise the problems that Belfast City Council is seeking to address with these by laws and we share the view of many that some speech and some images are actively harmful to residents of and visitors to Belfast, and must be addressed.

One approach would be to work to gather evidence on the scale and nature of the problem, something we understand has been widely reported via social media and which a number of Councillors have already engaged in. There already are restrictions on some speech and on the display of some kinds of imagery, and the Council could liaise with the PSNI, using the evidence gathered, to explore ways to address these incidents more satisfactorily than currently takes place.

In addition we understand that the Department of Justice intends to bring primary legislation in the current mandate around hate crime. This legislation is likely to be enhanced by the provision of any evidence gathered by the Council, and to enable the PSNI to use new powers against those engaging in hate expression.

If the by-laws are enacted as proposed, we urge the Council to consider the methods by which permits are granted, and how permits could be granted with a swift turnaround (for example, within 24 hours) in the case of rallies or meetings in response to an emergent situation. Failure to do so would amount to a failure to meet certain ECHR human rights standards and is likely to be subject to legal challenge.

Finally, we again urge the council to ensure that they are informed and abreast of social movements happening within the city, that they communicate with those groups seeking to use Council property to understand their aims and objectives and to ensure that they are assembling peacefully and for a legitimate aim. At present, too many social justice groups struggle to access public space in Belfast, not only could these by-laws worsen the situation, this can be an opportunity for Belfast City Council to improve public relations and to do better in future.

ENDS

For any questions or queries relating to this submission, please contact:

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