

“If I Killed You, I’d Get the Kids”: Women’s Survival and Protection Work with Child Custody and Access in the Context of Woman Abuse

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Public interest in child custody and access has intensified under the guise of gender neutrality and without adequate attention to gender based violence. A study of formal systems’ responses to abuse by intimate partners identified child custody and access as a central issue. Interviews with women revealed that upon leaving abusive partners, women’s work involved the contradictory requirements of preserving the children’s relationships with, yet protecting them from, their fathers. Interviews with service providers and document analysis illustrated how certain practices, policies and ideologies create and sustain these requirements. Findings illustrate that gender analysis and accounting for violence in custody and access practice are necessary to the safety of women and children.

KEY WORDS: child custody; woman abuse; violence against women; participatory action research.

INTRODUCTION

Child custody and access was the central concern for women with children who participated in Project Violence Free (PVF), a three-year study of formal systems’ (criminal justice, social assistance, and health care) responses to abuse by intimate partners. Although we proposed to study women’s experience with these specific “systems,” the women saw their experiences as similar across services, and talked about “the system” as a monolithic entity. The overarching theme identified through analysis of interview and documentary evidence from the women was that women struggle continuously to limit the violence in their lives and to “make the

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system work.” We identified four critical sites in which women did most of this work. For all the women, economic survival was a central part of their struggle. For most women, seeking protection, particularly, but not exclusively, from the justice system, was part of their experience. For women new to Canada, working with issues of immigration overshadowed their other efforts. For the women with children, issues of child custody and access dominated and shaped their experiences. This article focuses on child custody and access as one of the sites of women’s work in dealing with intimate partner violence. It is based on interview data from the women who were mothers and focus group data from service providers who work with such women as background. The interviews revealed a pervasive tension between obligations to maintain contact between children and their fathers, and obligations to protect children from harm. The purpose of this article is to describe how women work to negotiate formal systems in relation to child custody and access in the context of woman abuse, and how aspects of such systems are problematic. Our argument is that child custody and access processes provide opportunities for abusive partners to exert power and control over their partners and children, and that these opportunities are often supported by policies and practices of service providers.

PROJECT VIOLENCE FREE IN CONTEXT

The research study was a Participatory Action Research (PAR) project conducted collaboratively by academic and community researchers and a social action group, Women In Action (WIA), comprised of women who have experienced abuse.² The study was conducted in two adjacent suburban communities in Western Canada. The data were collected between 2000 and 2002. During this time, the Canadian federal government was seeking to revise legislation governing post-divorce child support and divorce (see Boyd 2003). The study’s impetus came from a Violence Against Women Community Co-ordinating Committee comprised of representatives from a wide range of services including transition houses, the police, child welfare services, social services, counseling services, and public health. The committee determined that women were “falling between the cracks” and wanted research into the reasons and dynamics. Women who initially were approached to advise on the research decided to take a more active role and partnered with the principal researcher (the first author of this article) to obtain funding and carry out the research, forming WIA in the process. Over the three years of data collection, the research team interviewed forty-six women who experienced partner abuse and thirty-eight service providers. Documentary data from the women

²The researchers defined woman abuse as a pattern of physical, sexual and/or emotional violence by an intimate partner in the context of coercive control (Tjaden and Thoennes 2000). This analysis is based on data from women who experienced such abuse, although the women’s group attracted participants who had a broader range of experience (including, for example, stalking by a stranger).

and service providers were collected. This article draws on this large database, but is a focused analysis of data from a smaller number of women with children who participated during the first two years, using data from service providers regarding custody and access processes as background data.

LITERATURE

Violence by intimate partners profoundly shapes the experience of motherhood, and motherhood changes women's lives such that their experiences of violence by intimate partners are altered (Hardesty 2002; Irwin, Thorne and Varcoe 2002). The gendered social assignment to women of responsibility for family, relationships, and children profoundly shapes women's lives and their options in terms of living with violence (Featherstone 1999; Mahoney 1994). Beginning before pregnancy with reproductive decision-making (Campbell et al. 1995; Goodwin et al. 2000), continuing into pregnancy (Johnson 1996; Torres et al. 2000), and extending throughout the life of the child, women who are abused must remain connected to abusive partners, and mothering is an area in which abusive partners can exert power and control (Hardesty 2002; J. McFarlane et al. 1999).

Women who are abused actively make decisions about their lives, and consideration for their children figures prominently in those decisions. Researchers (e.g., Henderson 1990; Hilton 1992; Humphreys 1995a, 1995b; Irwin et al. 2002) have documented that women's concerns about their children influence their decisions, and have illustrated that women both stay in and leave abusive relationships partly because of what they believe is best for their children.

Women with children must take into account the impact of the abuse on their children. When women are abused, children are affected whether or not the children are being physically or sexually abused (Bennett 1991; Ericken and Henderson 1992; Henderson 1990, 1993; Henning et al. 1997; Hughes 1988; Jaffe, et al. 1986; Jaffe, Wolfe and Wilson 1990; Jouriles, Barling and O'Leary 1987; Kolbo 1996; Peled, Jaffe and Edleson 1995). Children who witness violence are traumatized by it, and the line between witnessing violence and child abuse is unclear. In fact, studies of children are limited by the difficulty in distinguishing between the impact of witnessing abuse and being abused (Edleson 1999). Research indicates that children are abused in up to 70 percent of families in which woman abuse occurs (Bowker, Arbitell and McFerron 1988; Edleson 1999; Stark and Flitcraft 1991).

Even when women leave abusive partners, the impact of violence persists or, in some cases, escalates for them (e.g., Campbell et al. 1998; Canadian Centre for Justice Statistics 1993; Fleury, Sullivan and Bybee 2000; J. M. McFarlane et al. 1999; Tjaden and Thoennes 1998) and their children (Hardesty 2002; Kurz 1995; Shalansky, Ericksen and Henderson 1999). Because abuse persists or escalates

beyond separation, and because women are often vulnerable in relation to their children, custody and access becomes a focal point for abuse post-separation. However, legal and social practices related to child custody and access have not been developed specific to abuse, resulting in ambiguity and contradiction regarding what ought to be done, and creating problematic circumstances for women who are abused.

Research is ambiguous regarding the impact of separation and divorce on children and what ought to be done, particularly with respect to children whose mothers have been abused. Despite the fact that early studies regarding divorce (e.g., Amato and Keith 1991a; Wallerstein and Blakeslee 1989) questioned the benefit of contact with both parents by children when there is violence, this research has often been interpreted as suggesting that such contact is important for the healthy development of children in *all* families. Wallerstein and Blakeslee observed that following family break-up the majority of children from families in which there was violence suffered related long-term effects. Amato offered reservations regarding maximizing parental contact in all cases, stating that “when conflict between parents is marked, frequent contact with the non-custodial parent may do more harm than good” (1994, p. 150). Despite these cautions, the primary message that appears to have influenced public discourse and policy is that parents’ access to children supersedes concern for the safety of children and their mothers. As a result, ideas such as “shared parenting,” “co-parenting,” and “joint custody” have been applied widely without due regard for the consequences of gender based violence.

A growing body of international literature illustrates the complexities and shifting legal and social contexts of custody and shared parenting in the case of abusive relationships (e.g., Amato 1994; Amato and Keith 1991b; Chesler 1991; Dunne, Hudgins and Babcock 2000; Hester and Radford 1996; Kaganas and Sclater 2000; Lye and Wechsler 2000; Newmark, Harrell and Salem 1995; Rhoades, Graycar and Harrison 2000; Smart and Neale 1997). Boyd (2003) documents how the new ideology of fatherhood that began to emerge in the 1970s emphasized the importance of fathers to children and fostered a gender-neutral approach. These ideas paradoxically had a gendered impact on women as they obscured women’s caregiving work and gender based violence. In North America by the late 1990s, child custody and access had become a prominent issue for women abused by their partners (see Neilson 2001) and a focus of much criticism by all parties. Some groups used the discourse of “men’s rights” and “fathers’ rights” (Coltrane and Hickman 1992), the notion that parents are interchangeable with one another, and ideas about equality to suggest that fathers and mothers ought to have “equal rights” without concern for different and “gendered” responsibilities (Boyd 1990; Graycar 1989). In the U.S., and increasingly in Canada, other features that continue to shape abused women’s experiences with custody and access include the focus on children’s welfare as distinct from the welfare of their mothers and families (Edleson 1998; Swift 1995, 1998), increased public scrutiny

and criticism of child protection services (Saunders 1994; Swift 1998), increased public scrutiny of mothering (Chesler 1991; Fay 1999; Swift 1998), and a resultant increased state use of child apprehension and surveillance of mothering (e.g., Humphreys 1997). While researchers have identified many problems associated with child custody and access, the implications have not had an appreciable effect on policy and practice. Furthermore, these complexities occur within the context of problematic social responses to woman abuse in general, the consequences of which are rarely taken into account in policy and practice decisions.

Civil policies and procedures related to post-separation custody and access of children have been criticized in Canada for failing to protect women who have been abused and their children (e.g., Boyd 1996; Goundry 1998; Laing 1999; Taylor, Barnsley and Goldsmith 1996; Taylor, Taylor and Boyd 1998). Concerns include the questionable assumptions that a woman must facilitate a father's access to the children regardless of danger to herself or the children, and that maximum contact with both parents is essential and beneficial. Criticisms also focus on the failure to consider woman abuse as indicative of risk of violence for children and of unfit fathering (e.g., Boyd 2003), and the lack of protective measures for women and children during access.

Researchers and women's advocates contend that not only does the civil justice system fail women, it is used as a tool of harassment by ex-partners (Goundry 1998; Reid 1998). Studies have demonstrated that such harassment is particularly prevalent in relation to disputes regarding custody and access of children (Chesler 1991; Kurz 1995; Taylor et al. 1996; Taylor et al. 1998). Goundry explains that the civil justice system is experienced by women as complicit with tactics used by ex-partners, such as repeated court applications, custody blackmail wherein fathers extract compliance with certain demands in return for custody concessions, failure to pay support, assaults during access exchanges, criminal harassment, child abuse during visitation, and threats of child abduction. Scholars have also expressed concern that the widespread implementation of co-parenting plans poses serious danger for women who have been abused and their children (Chesler 1991; Drakich 1988; Peled 2000; Taylor et al. 1998). Those who work with women and children are familiar with these concerns, and particular aspects of the civil justice system have been studied. However, systematic study of experiences with such systems from the perspective of abused women is absent. This paper adds the perspective of women, illustrates how policies, practices, and ideologies create and preserve these problems, and suggests why and how services intended to serve women and children are so often harmful in their implementation.

METHOD

The collaborative research team utilized participatory action research as a "means of putting research capabilities in the hands of deprived and disenfranchised

people so that they can transform their lives for themselves” (Park 1993, p. 1). Within the participatory framework, we used institutional ethnography to study formal systems from the standpoint of women who have experienced abuse. Institutional ethnography is a research methodology developed by sociologist Dorothy Smith (Smith 1987, 1990, 1999) that permits the study of the social organization of knowledge and experience. Key elements of this approach include standpoint theory, a concern with what Smith calls the relations of ruling, and an uncovering of the taken for granted in the everyday world. Beginning at particular disjunctures, that is, contradictory experiences and struggle, Smith uses the standpoint of women as a methodological tool. Standpoint theory is more than a mere point of view; rather, standpoint theory locates the interests of the research and grounds the inquiry in actual embodied practices (Campbell 1998; Campbell, Copeland and Tate 1998; Rankin 1999). Inquiry is undertaken to explore how social practices are organized in the everyday; that is, how relations of ruling are enacted. This research entailed a detailed description of the everyday experiences of women that was used as a foundation for investigating how practices within formal systems are organized.

In accordance with advice that rigor and ethics cannot be separated in qualitative research (Guba and Lincoln 2000; Lather 1993; Lincoln 1995, 1998), we focused upon “voice,” reflexivity, and the development of ethical relationships rather than merely negotiating consent. We ensured that the voices of the women were central, not only by using interview data, but by working from the guidance of the women and involving them in data analysis and writing. Attention to bias through reflexivity (Anderson 1991; Hertz 1996; Heshusius 1994) was used to balance this commitment to the participants’ voices. The principal researcher’s university conferred initial and frequently updated ethical approval. Consent was negotiated on an ongoing basis throughout the project with all participants.

Recruitment and Participants

A core group of women worked with the principal researcher to design the study and obtain funding. These women became the core participants and began by providing individual interviews. Beyond these core participants theoretical sampling (Morse 1986) was employed to insure the participation of women diverse in terms of ethnicity, age, education, and income. The core participants and service providers who served on a steering committee recruited women using word of mouth, flyers, open house events at various agencies, and referrals to target women with particular characteristics and experiences. Once custody and access was identified as a major theme, recruiters sought women with a range of differing experiences such as child apprehension and court ordered psychological assessments to add breadth to the existing data. Twenty-seven women who had children and had experienced abuse participated. These women included

fifteen Canadian-born women: six English-speaking Euro-Canadians, one French-speaking Euro-Canadian, one English-speaking Asian Canadian, and seven First Nations women. Twelve were immigrants: two from the Philippines, one from each of Eastern Europe, Iran, Vietnam, Africa and Hong Kong, and five South Asian women who immigrated to Canada from Pakistan, India, the United Kingdom and Africa. Interpreters participated in the interviews of five of these women. The women's ages range from 21 to 63; the average age was 42, and the children's ages ranged from newborns to adults. Annual income varied from single income welfare to over \$80,000 (CDN); the majority earned under \$15,000, with the average income being \$21,716. All women had left their abusive partners and all but two had custody of their dependent children.

After initial analysis of the women's interviews, focus groups were held with service providers from women-serving organizations, and the justice and child protection systems. As analysis unfolded, it became clear that women's efforts were concentrated on areas of concern about child custody and access that crossed many services, and we organized the focus groups accordingly. Twenty-eight service providers who work with women who experience violence and/or their children participated in focus groups on child custody and access. Steering committee members, the researchers, and the women themselves recruited service providers,³ including police, transition house workers, lawyers, judges, child protection workers, counselors for women and children who witness violence, multilingual advocates, family court counsellors, and visitation supervisors.⁴

Data Collection

The researchers and research assistants conducted⁵ in-depth qualitative individual interviews with the 27 women. Interviews were conducted at a place of the woman's choosing, lasted from one to four hours and focused upon the women's experiences with getting help dealing with abuse by a partner.

The team wrote a preliminary paper about child custody and access based on the initial analysis of the women's interviews (Varcoe, Jaffer and Irwin 2002) and distributed it to service providers prior to the focus groups. They read the paper in advance so that all could begin talking from some common ground. A researcher

³Some service providers requested participation or accompanied others without invitation. Despite widespread support among service providers, some expressed fear that the project would be too critical, and thus perhaps participation was based on a desire to "defend" programs.

⁴Supervised visitation entails the presence of a designated person when a parent visits with a child. Such a service is usually court ordered, but the designated person may be one who provides such a service for pay as a business, or a family member.

⁵The core group of women from WIA initially trained to conduct the interviews with one another, but decided that listening to others' stories was too painful, and that they did not have time to develop sufficient skill. Thus all interviews were conducted by the principal researcher or by one of two research assistants.

and a woman from WIA facilitated each group. Focus groups were heterogeneous (that is, they were comprised of women's advocates and service providers from a wide range of agencies), which meant it often was difficult to insure equitable participation. Those with more position power (e.g., lawyers and judges) tended to be more comfortable speaking than those with less (e.g., advocates and counselors).

Individual and focus group interviews were tape-recorded and transcribed verbatim. Field notes were taken during interviews, and the women provided documentary evidence such as letters from lawyers, court orders, and notes they made during experiences such as court appearances or interviews with social workers or psychologists. Service providers supplied documents such as intake forms, risk assessment tools, policies, and education materials. The researchers also kept field notes throughout data collection, with about twenty hours of observation in child custody and access hearings being most relevant to the current analysis.

Data Analysis

A team comprised of the two academic researchers, the two hired community based research assistants, and six participant-researchers conducted the analysis. Following principles of ethnographic analysis (Hammersley and Atkinson 1995; Spradley 1979), analysis began with each person independently reading each interview in its entirety to get a sense of the whole. The analysis team then worked through the interview together to identify meaning units and assign the units to conceptual categories. The analysis began with broad, simple categories such as "women's work," but quickly gained specificity. For example, women's work was seen to encompass "unlearning expectations" related to being able to work with service providers within organizational limitations. Relationships between conceptual categories were proposed. As more interviews were analyzed, the categories and relationships between categories were refined, changed, and described in a narrative format. Further data were sought to challenge, contradict, confirm, and broaden the developing conceptual frameworks and explanations. As they were collected, focus group interview and documentary data were incorporated into the analysis in a similar manner. Periodically, the analysis team reported to the larger group of women for input.

FINDINGS

Overall we found that women's work with systems dominated their lives once formal systems were involved. Our analysis identified child custody and access as the most critical issue of concern to the women in this study who had children. It was the area in which these women had to do the most work both with ex-partners and with formal systems. From the perspective of the women, all of their children

were negatively affected by being directly abused and/or by witnessing abuse, and/or by systems responses. Each woman's work involved not only attempting to protect herself and limiting or ending her relationship with her partner, but also working to preserve the children's relationships with, yet protect them from, their father.⁶ The need to accomplish this nearly impossible challenge was fostered by social values (such as a value for children having two parents, the importance of family, the expectation that women preserve interpersonal relationships) to which the women largely subscribed, and by requirements set out in policies in accordance with these values. Although these expectations were evident regardless of what services were involved, they were most evident in child protection and justice systems. Systems involvement with issues of child custody and access, though necessary and often helpful, was problematic when those responses re-victimized the woman and supported further abuse by her partner through her children. According to the women, intimate partners who had used the children to effect abuse and control within the relationship similarly used custody and access processes beyond the relationship. Thus, our central finding was that child custody and access processes provide opportunities for abusive partners to exert power and control over their partners and children, and that these opportunities were often supported by policies and practices of service providers. These dynamics, the contradiction between the obligation to facilitate contact between children and fathers on one hand and to protect the children on the other, and the contradictions among various organizations created additional work and expense for both women and service providers, and increased safety risks for the women and their children.

Children As Tools of Abuse

The women with children all reported that their abusive partners used the children as part of the dynamics of abuse during the relationship. Most of the women reported that during the relationship their ex-partners threatened to harm or kill the children, or take the children away from the women. One woman recounted:

My former husband had lain down in bed beside me . . . He just laid down very quietly, and . . . he said, "If I killed you, I would get the kids" . . . That was all he said. And just the way he said it—he was very calm and cool how he said it. So, the next morning, I was so terrified, I went to my family doctor and I said, "I want you to have this on record because, if I'm killed, I don't want him to have the kids because he's not good for them."

The children were used as tools to keep the women compliant with their partners' demands. One woman reported, "All the time he was forcing me to have sex because if I refused, he threatened to kill me in front of the children." The features of these dynamics varied with the circumstances of the particular situations. For

⁶The term "father" is used as only one of 27 abusive parents in this sub sample was female, and all other abusive partners were either fathers or stepfathers to the children.

example, women who were immigrants were infinitely more vulnerable to threats regarding custody of their children when the woman's immigration status was dependent upon her partner. Several abusive partners told such women that they would be deported without their children. Indeed, several of the women shared letters from Citizenship and Immigration Canada that documented their partner's actions to revoke their citizenship status or interrupt their applications.

These tactics usually intensified as the women attempted to leave their partners. When the women left, access to the children by the women's abusive partners was required, despite the danger to themselves or the children. Access was required both by social expectations, to which the women largely subscribed, and by policies and practices. The women in this study all espoused value for the children's relationships with their fathers, further entrenching contradictory obligations. For example, even after years of abuse, one woman still believed that she did the right thing by her efforts to preserve her sons' relationships with their father. She said,

I strongly believe kids do need two parents. I always have...I think that was partly one of the reasons I stayed. I think it is important to have both parents. I think you learn from both parents. I mean, my one son picked up some bad stuff but he also picked up some good stuff, like he doesn't have an identity problem. He just tends to be more aggressive than I would like him to be.

Upon leaving, the women in this study did not immediately seek to limit access of their abusive partners to the children; nor did they immediately seek involvement of formal systems with respect to child custody or access. One woman said,

Initially, we both decided [about custody and access]. We did a separation agreement and at that time I believed that the abuse was just directed at me. And I believed that [our daughter] should see her dad and I wanted [her] to see her dad and I was hoping with me out of the picture, [she] and her dad could have a good, loving, nurturing relationship.

As in this instance, usually it was not until the partner was abusive when picking up the child, or was abusive to the child during access visits that the women sought to limit access and sought assistance from formal systems.

Importantly, access to children by abusive partners and decisions regarding custody of the children often provided opportunities for continued abuse by partners. The women recounted how their abusive ex-partners harassed them by phone regarding access arrangements, and in person during access visits, harassed others they enlisted to assist with access arrangements, and used formal systems processes to harass. One woman arranged a third party exchange because her ex-husband was abusive to her when picking up and dropping off the children.

My lawyer went to court and got me a paper that my husband through [my] friend could come pick up the children and bring them back, like access through a friend. Because my husband didn't like the arrangement, every time that he came to pick up the children or bring them, he would get into an argument with my friend. I spoke to my lawyer... "My friend is getting tired of this situation and she doesn't want to continue." My lawyer said, "I don't know what else we can do. See if you can find another friend who will do this access."

Despite considerable effort, this woman was unable to find another third party, and therefore applied for supervised exchange through a formal program. The first time her ex-husband used the supervised exchange, he did not return the children as required by program policy. Police and child protection personnel returned the children to her. She then applied for, and was required to share the cost of, supervised visitation. This time her ex-partner refused to comply with supervision guidelines that required him to speak English during visits, and thus he discontinued the arrangement. At each step the woman arranged for opportunities for her ex-partner to see the children, but he either misused or did not use the arrangements, creating more work and cost for both her and the service providers. While she was expected to make provisions for access, there were limited options available, no apparent requirements for her ex-partner to follow through with arrangements to see the children, and no apparent consequences for his ongoing actions. This pattern was typical of the experiences of most of the women.

Formal Systems as Opportunities for Continued Abuse

Repeatedly, policies and practice within various services provided opportunities for the women's abusive ex-partners to exert power and control. For example, in addition to inflicting various forms of abuse while dropping off or picking up children, many of the ex-partners repeatedly challenged court orders for custody and access or child support or other economic issues. For example, one woman's civil court file (which we had permission to access) documented 16 applications for variations of court orders in one year. Ex-partners often sought to make arrangements difficult and to block anything that might be financially or socially beneficial for the women. For example, some partners used policies regarding mortgages or workers' compensation to exert financial control or harm. These actions exacerbated other forms of abuse and created barriers to the safety and financial independence of the women and their children. Repeated court applications, for example, required the women to make frequent changes in arrangements and frequent court appearances, answer many letters from lawyers, and incur expenses for transportation, child care (to attend court, and to keep appointments with lawyers if they could afford them), and legal fees (again, if they could afford representation). Service providers in this study generally recognized these problems and were frustrated by structures and policies that supported these dynamics and the lack of corrective mechanisms.

Demands by abusive ex-partners were often unrelated to the partner's interest in parenting the children in question. For example, one woman's ex-partner fought her for custody for several years while at the same time asking her to care for his girlfriend's children, visiting their son only sporadically, refusing to pay child support, and hiding his company earnings in his girlfriend's name. For many

women, dealing with these tactics was financially draining or beyond their means. One woman summed up experiences that were common to many women:

Well, [my ex-husband] keeps throwing in [court order] applications. They keep accepting them, and we have to keep going in. We've probably gone in well over 20 times in two years, if not more. . . . And that's the really weird thing. When do they stop his harassment?

Again, the features of the system based harassment varied with the specific circumstances of the women. Ex-partners of four of the women made accusations of child neglect or abuse that upon investigation were determined to be unfounded and malicious, and the children were either not apprehended by the state or were returned to the mothers. However, for First Nations women, this tactic had more devastating consequences. All seven of the First Nations women had their children apprehended by the state. In each case their partners played an important role, either by making a report to child protection services or by contributing to circumstances that made it difficult for the woman to care adequately for the children. Unfortunately, policies and practices, particularly in child protection and social assistance services, often abetted such actions. First Nations women said service providers often assumed they were drinking or doing drugs. In one case, such assumptions had particularly damaging effects. The woman's partner had beaten her and taken their entire social assistance check. When the police arrived, they called child protection services, and though she did not have a drug problem, her children were apprehended. "I was all bruised up and there was no money for food so they took my kids. They felt I couldn't protect my kids [and] because I had no money for food they assumed I was doing drugs."

The fact that the women had to work extensively and tirelessly with formal systems to obtain even a modest level of support for their safety and economic survival made their efforts to deal with issues of child custody and access more onerous. For example, letters of conditions provided by social workers to the women contained requirements to attend many classes, workshops, and counseling sessions. Advocates in focus groups pointed out that these conditions often were such that they compromised the women's ability to provide care for their children. The women's efforts were hampered by the workings of formal systems and compounded by factors that magnified gender based marginalization, such as racism, language barriers, poverty, and immigration issues.

Women Encountered Similar Problems across "Systems"

All of the women had involvement with formal systems, much of which was in relation to their children. Not surprisingly, the more marginalized a woman was, the more formal systems tended to be involved. Poor women were usually involved with social assistance services as well as child welfare services; First Nations women, who also tended to be poor, were usually involved with multiple services,

and immigrant women additionally were involved with immigration and often with services related to their first languages. For women with children, systems involvement usually included services related to child custody, child access and, for some, child apprehension. Key to understanding these experiences is the fact that the women were afraid of allowing access by, or losing custody of their children to, an *abusive* partner. They were not reluctant to facilitate contact between the children and their fathers; rather, they were reluctant for the children to be with their fathers without some minimum protection, such as the mother's presence might provide. This led some women to delay leaving their partners. Following separation all were gravely concerned about being less able to protect the children, regardless of the extent to which they believed the children were being abused.

In the same way they experienced all services as similarly problematic, the women saw all systems as beneficial when the dynamics of abuse were understood, when their experiences were validated, and when the woman's well-being was considered along with the welfare of the children. For example, one woman's physician supported her wish to preserve her marriage for several years, until it became too dangerous for her and her child. While providing frank assessment of safety concerns, the physician respected her right to choose her own course of action, and when she was ready, the physician facilitated her escape. Each woman had at least one story of a helpful service provider—including police, probation officers, counselors, social workers, and so on—and these positive experiences stood out as exceptional.

In contrast to stories of positive experiences with individual service providers, overall, involvement of formal systems did not typically make women's lives easier, and all of the women in this sample encountered system responses that made matters worse. The women's efforts to be economically independent and to protect themselves and their children were seriously impeded by problems within the system. System responses were unhelpful when dynamics of abuse were not understood and taken into account, when women's experiences and assessments of risk were minimized or ignored, and when threats to the safety and well-being of the women and their children were not recognized. Service providers who were interviewed thought services were problematic largely because the mandates of services were narrow, inflexible, and had no specific commitment to dealing with abuse. For example, one woman's children and ex-partner underwent psychological evaluations (Psychological Evaluation Report 1999, "M. Lui"), but the judge granted joint custody despite the psychologist's concerns about future violence by her ex-partner. In reference to this experience, the woman said,

[The psychologist] said that [my ex-husband] should not have custody of [my son] during school days. What really concerned me in this psychologist's report was that he suspected [my ex-husband] could be very violent to people he knew well. My lawyer and I were concerned because [my son] was the only person [my ex-husband] knew really well. To me it was setting [my son] up to take care of [my ex-husband]. What happened was, I ended up having custody of [my son] weeknights and [my ex-husband] had most weekends.

Similarly, another woman described the contradictory responses she encountered:

There was an abyss into which all this information dropped. And we have gone from “This man is dangerous all across the board. And the mother should have full custody...” to “Because there’s too much conflict, and we’ll give him supervised contact”... We’re now back in court with him seeking unsupervised access, and the judge is trying to bend over backwards to see that it happens.

The women often experienced responses in formal systems as threatening and problematic. Some policies and certain service providers’ attitudes and practices compounded the women’s work, particularly for women marginalized by racialization, poverty, language barriers, or immigration status. The women found that they had to unlearn their expectations of the system and learn how the system worked in order to obtain even minimal support.

Unfortunately, not knowing how systems worked, trusting that the systems would work for them, and valuing relationships, including the children’s relationships with their fathers, often combined to create problems and more work for the woman. For example, one woman’s trust in the system was initially reinforced by her first experience with the police and courts. When assaulted again, she called the police with confidence, expecting that the police would enforce previous court orders. Court documents showed that her ex-partner was ordered to have no contact with her except for child access despite the fact that he lived in her basement and they shared a bathroom. However, this time the police did not believe her story and did not take a statement from her, leaving her bewildered about what she should do.

This is my second time to phone [the] police. And first time that I phoned [the] police, the police arranged everything. So I really don’t know what should I do. And I can’t sleep on that night. What I [was] thinking about, should I send [my ex-husband] out? But I already know that [they] have. . . a shelter, protecting women or something, but. . . my son has to go to school. And I find if I do that, I will be really selfish. My mom [doesn’t] know nothing about [shelters].

Because of the value this woman held for her family, her choices for leaving were limited by the facts that she wanted to support her son and mother, who lived with her and spoke no English, and that she could not get employment due to what she called her “broken English.” Following that incident, formal systems repeatedly let her down, and she spent over a year trying to figure out and negotiate multiple and contradictory services. She wrote, phoned, and met with Crown Counsel, various levels of personnel within the police department, lawyers, social services, and legal aid, trying to preserve the safety of herself, her son, and her mother. As suggested earlier, this example points to the contradictions among services. Several of the women had custody orders from civil courts requiring that they provide access by their ex-partners to the children, and restraining orders from criminal courts prohibiting such contact.

Frequent changes in staff and the availability and cost of programs were most problematic. For example, women whose children were apprehended described

how their social workers were changed frequently and how conditions for return of the children changed with each new social worker. Programs that women found helpful usually had waiting lists. Contradictions within the system combined with poverty to create irresolvable problems. For example, First Nations women discussed how drug testing was problematic. One woman explained, "They don't want me to take a drug test, but they still think I'm using." She said that she was advised by friends to take the drug test anyway just to prove her innocence, but it cost \$57.38. Child protection authorities confirmed that they would not pay for a drug test unless they requested it and that drug tests were required only when drug use was likely, not when someone wanted to prove they were clean.

Language barriers, poverty, and racialization magnified the women's work and the problems encountered within formal systems. For example, one woman's husband asked her to sign custody papers she could not read (she did not read English) on the pretense that they were school forms. Afterward, she was bounced back and forth between agencies in her efforts to regain custody. Her work was complicated by poverty and her need for interpreter support.

I tried to get the custody of my kids back, but then. . . I was turned down for legal aid. I was turned down because I had already signed the consent form letting him have custody of the children. They told me to see a family court counselor, which I did. When I went there, the counselor said to go to legal aid, but I already had been turned down there. I was suicidal many times.

The women gradually unlearned the often naive expectations they held about formal systems, and learned how systems "worked." They learned how to work within the limitations of systems, which included proving themselves, particularly as credible to police, lawyers, and judges, and as good mothers to judges and child protection services.

DISCUSSION

This analysis, grounded in the experiences of women who have survived intimate partner violence, provides a critical understanding of the complex dynamics that operate among woman abuse, custody and access of children, and the involvement of formal systems. This study confirms what other studies (see Hardesty 2002; Kurz 1995) have suggested: services such as justice systems and child protection services can operate as an extension of the use of power and control by abusive partners within the relationship. Formal systems often created more work for women and provided opportunities for the partner to continue to abuse the woman, particularly through her children. This analysis reveals that these opportunities were made possible, at least in part, for three related reasons. First, the dynamics of violence against women and abuse by a partner did not usually inform the ways formal systems operated. Second, systems operated with a "child

centered” ideology that dealt with the well-being of children separately from that of the women. Third, gender biases that disregarded gender based violence were congruent with certain views of mothering and fathering. These three problems interrelated so that the dynamics of violence and the relationship and safety needs of women and children were not taken into account in the provision of services and judgments of parenting. Thus formal systems not only supported, but also reproduced and extended, gender based abuse in the area of child custody and access. Overarching and compounding these issues was the way marginalization, particularly through poverty, language barriers, racialization, and immigration status, magnified women’s experiences.

Failure to take the dynamics of violence into account is a well documented feature of the formal systems that deal with woman abuse. System responses tend to deal with incidents of violence, rather than the patterns of ongoing abuse that characterize women’s lives, and to deal with a narrow aspect of each situation, depending on the mandate of the particular organization (Beeman, Hagemester and Edleson 1999; Dobash and Dobash 1988; Humphreys 1999; Kurz and Stark 1988; Shepard and Raschick 1999). Research consistently shows that child abuse and woman abuse “overlap” (Bowker et al. 1988; Edleson 1999; Stanley and Goddard 1993; Stark and Flitcraft 1991) and that abusive partners use children to harm and control their mothers both within and beyond the relationship (e.g., Cahn 1991; Hilton 1992; Kurz 1995). However, service providers often deal with women without considering how children are involved and overlook how women make decisions based on what they believe best for their children (Kurz 1995).

Many Western countries increasingly have enshrined child centered approaches in law, policy, and practice, with the “best interests of the child” being an ill-defined but powerful and often sole criterion guiding decision-making. Like the women we interviewed, increasingly policy defines child centered as requiring the involvement of fathers. However, as this study illustrates, in the context of woman abuse, such approaches can endanger women and are contradictory to the well-being of children. With the move to child centered custody and access decision-making, the parental relationship, and thus the mother, have become increasingly irrelevant (Cahn 1991). There is little research from the children’s perspective on their needs in the context of woman abuse. However, evidence to date regarding the escalation of violence toward women post-separation (Hardesty 2002; Johnson 1996), coupled with the known dynamics during “hand over” between separated parents (e.g., Kurz 1995), suggests an increased risk to children of witnessing abuse or being abused post-separation. However, child centered policies and practices combined with inattention to the dynamics of abuse make it increasingly difficult for women to protect their children and themselves. Indeed, as is increasingly the practice, some children in this study were removed from their mother’s care because she was unable to protect them from witnessing violence, deflecting concern for the woman and potentially endangering the children further.

As Lehman (1996) argues, pursuing the interests of the child to the exclusion of the interests of the mother may result in decisions that are in the worst interests of the child.

In this study, the social expectations of mothers to protect, nurture, and care for their children often could be seen to operate in service providers' judgments and expectations. In particular, gender bias was evident in responses to allegations of abuse and neglect. Humphreys (1997) suggested that mothers' concerns are dismissed partly by seeing the mother as "collusive" with the abuser, thus casting blame on the mother. Humphreys concluded that mothers bear the brunt of suspicion in allegations of child sexual abuse in the context of divorce, and noted that focusing on the mother and her inadequacies instead of on the offender is a longstanding position adopted in the literature on child sexual abuse. She also notes that the welfare and legal arenas have a history of "disciplining women" and have not placed the same "critical" attention on men.

Countering these dynamics were also stories of "what worked" for women and their children. Not surprisingly, women encountered meaningful support when the dynamics of abuse were considered, when gender and power dynamics were taken into account, and when the well-being of both women and children were considered together and in context. In order to offer such support, service providers often went beyond their mandates and the "rules" of their organizations. Invariably, such support was characterized by collaboration and respect. Gender analysis and accounting for violence in determining child custody and access policy and practice are necessary to improve the safety and well-being of women and children.

CONCLUSIONS AND RECOMMENDATIONS

This study was based on the perspectives of a small group of women who were able to discuss their experiences, had left their abusive partners, and were motivated to participate. It is likely that their views are different in some ways from women who are still in abusive relationships, or are unable to discuss their experiences. Some women may not have participated due to fear of being judged or fear of retaliation, or fear that recounting their experience would be too painful or threatening. Some, including members of Women In Action who initiated this project, did not participate because they had "moved on" and wanted to forget, rather than revisit their experiences. The women were predominantly young to middle-aged urban women, many of whom accessed services. There are too few older women, women who do not access services, lesbians, rural women, and women with disabilities to draw conclusions about their particular experiences. Despite these limitations, some useful conclusions and implications can be drawn.

Women who have children with abusive partners are tied to those partners through the children forever. The known overlap between woman abuse and child abuse, and the likely impact of witnessing violence, means that children are almost

invariably victimized as a consequence of abuse of their mothers. The children provide an opportunity for abuse to continue beyond the end of the relationship, and it can be seen from this study that formal systems may unwittingly reinforce and extend those opportunities. The presence of children in a relationship usually means involvement of civil justice systems. While children have long served as tools of woman abuse, increasingly abusive partners use court proceedings, child apprehension, and child maintenance as such tools. Unfortunately formal services often operate without adequate understanding or consideration of the dynamics of abuse, increasingly using child centered approaches that obscure concern for the woman. These factors, coupled with widespread gender bias, serve to increase the work that women must do to leave abusive partners and remain financially and emotionally independent.

If society wishes to take the safety of women and children seriously, policy-makers and service providers, particularly those in the justice and social welfare systems, must develop new approaches to practice based on a better understanding of woman abuse. Policy and practices must be based on understanding woman abuse as a pattern of behavior that extends beyond intimate relationships and encompasses any involved children. Services should be designed on the assumption that when children are present, woman abuse affects the children, and the children become part of the abuse dynamics. Service providers should understand that women are influenced in their decision-making by what they think is best for their children, but that in attempting to limit the impact of the abuse on the children, women may minimize the extent to which they think the children are affected. Thus service providers should help women more accurately predict risk to themselves and their children, using safety as the top priority.

Given the effort women expend to protect themselves and their children and to work through formal systems, service providers should recognize, acknowledge, and capitalize on women's work and strengths. Programs based on assumptions of women's deficiency are likely to produce services that perpetuate power and control and gender inequity. For example, parenting programs for women who have experienced violence can convey the message that women's parenting is the problem rather than the violence they and their children have endured. Instead, program development should be based on augmenting strength.

Given the potential that any service or policy may be used as a tool of continued abuse, safeguards against such misuse should be built into each service and policy. Service providers should assume that woman abuse affects children, and services for women who are abused should all be linked to services for children, and vice versa. However, such linkages should not attempt to serve children in isolation from, or at the expense of, their mothers.

Academics, policy-makers and service providers must critically analyze what is meant by "child centered" and shift from a rights based understanding to a relational understanding. That is, rather than considering the rights of parents and

children as competing, policies and practices should focus on the relationships between parents and children, taking all interests into account and fostering the safest, healthiest relationships possible. Rather than merely requiring the involvement of fathers, policies should demand safe involvement. In particular, data from children and ways of fostering safe relationships between abusive partners and their children are required.

Finally, academics, policy-makers, and service providers should develop a critical understanding of gender bias inherent in dominant views about mothering and fathering. Awareness of the extent to which mothering and fathering are judged by different standards must form the basis of eradicating systematic bias in policy and practice.

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