



Brief to the Standing Committee on the Status of Women

Submitted by Alliance of Canadian Research Centres on Gender-Based Violence

Dominique Bernier Bernier.dominique@ugam.ca

Cathy Holtmann cathy.holtmann@unb.ca

Margaret Jackson margarej@sfu.ca

Peter Jaffe pjaffe@uwo.ca

Genevieve Lessard Genevieve.lessard@ulaval.ca

Kendra Nixon Kendra.nixon@umanitoba.ca

Karla O'Regan oregan@stu.ca

Katreena Scott kscot47@uwo.ca

Attention: Alexie Labelle, Clerk of the Standing Committee on the Status of Women

Email: fewo@parl.gc.ca

This brief seeks to raise awareness of the challenges women who have experienced intimate partner violence (IPV) also referred to as domestic or family violence (FV) face when engaged with the family court system through the voices of survivors.

With the support of the Alliance of Canadian Research Centres on Gender-Based Violence (www.alliancevaw.ca), this brief focuses on findings from a study conducted through the Canadian Domestic Homicide Prevention Initiative with Vulnerable Populations (CDHPVP, www.cdhpi.ca) and the Supporting the Health of Survivors of Family Violence in Family Law Proceedings project (FVFL-VFDF, www.fvfl-vfdf.ca). The study explored how women assessed their risk of violence during the relationship and managed their safety while discussing the ongoing coercive control and abuse that was experienced after the relationship ended particularly through the family court system. Interviews were conducted with 23 women who reported encounters with the family law judicial system from across Canada, with a focus on women who identified as Indigenous, immigrant or refugee; living in rural, remote or northern areas of Canada, or had or were children exposed to the domestic violence in the relationship. The women who participated in this research had lived in abusive relationships between 2006 and 2016 but were now safe at the time of the interviews (between 2019 and 2020). Below, we provide a summary of the findings.

Family Court as a Tool for Coercive Control

“I think that abusers are multidimensional. They start to know that if this one avenue gets shut off like I can’t hurt her mentally, I can’t hurt her physically anymore, I can’t hurt her sexually... Now he’s using family court as the means to abuse and he tries to demean me, talk me down.”

Women described a range of controlling behaviours by their abusers in family court. Their experiences illustrate how control tactics can persist throughout the legal processes tasked with administering justice—and even in the courthouse itself. One survivor described how her abuser tried to manipulate her emotionally in order to gain the upper hand in their case. He would “mouth across the court room ‘oh I love you, I’m sorry.’ But he doesn’t mean any of it, he’s just trying to bribe me into dropping the claim.”

Emotional manipulation may be exercised not only through appeals to a survivor’s sympathy but also through various acts of covert and overt intimidation. One survivor described how her ex-partner would “be hanging around in [the] atrium area of the courthouse.” As a result, she required a police officer to escort her simply to use the washroom and enter/exit the building safely. Another woman felt uncomfortable in court because she felt her abuser was “verbally aggressive and... physically unstable and making movements toward me in and outside of the courtroom and it was really stressful.”

IPV survivors are also fighting in family court to protect their children from unsupervised time with an abusive parent, however, their vulnerability is compounded by the need to represent themselves as a “cooperative” “friendly parent”. Citing parental alienation is a tactic utilized by some abusers to maintain control over their former intimate partners. When survivors bring their concerns about family violence before the courts, it is often *them*, and not the abuser, whose parenting is viewed with increased suspicion. Several survivors shared their frustrations at being caught between the court’s expectation that they encourage a positive relationship between the child and the father, and their child’s own feelings (or fears) about him. The women often faced accusations of “parental alienation” when the father’s own actions cause the child to not want to see him. Although “Parental Alienation

Syndrome” has been discredited by child psychologists and family violence researchers, fathers often succeed in persuading the courts that it was the mother’s manipulations, and not his own history of violence, that caused the children to not want to spend time together.

Engagement with the legal professionals and the court system

IPV survivors have reflected upon ways that their safety (and, by extension, the best interests of the child) were hampered in court by social inequalities and a lack of trauma-informed supports. They also described ways that legal professionals provided vital support throughout their encounters with the family court system. However, women also reported that legal professionals and the police they interacted with did not understand the nature of physical and psychological harms they had experienced, or the safety risks they continued to face, as well as those of their children.

“Women like us are [like] prisoners of war... forced to negotiate their own freedom without power or weapons. Or forced into a situation—we leave abusive men, but we feel legally shackled to them. We can’t get away... And yet we’re getting blamed when we can’t get them to cooperate. And the courts refuse to see it as domestic violence, so it all comes down to blaming the victim. ‘Why can’t you get along with this person?’ ‘I don’t want to hear that they are abusive’... [But] there is damage to my children!”

The relentless, protracted engagement with abusers through settlement meetings, lawyers’ letters, and court dates may lead to secondary victimization that exhausts survivors’ capacities to resist their abuser. Survivors who experience secondary victimization are more likely to lose trust in the system’s ability to make decisions that are in the best interests of the children; less likely to seek legal assistance in future, and less likely return to court for future custody issues.

The combination of financial constraints and time delays (brought on either by vexatious litigation by an abuser or by congestion within the courts) can also lead women to become self-represented litigants. Several women reported that costs incurred for divorce, support, custody, access, and dividing the matrimonial estate amounted to over \$100,000. These costs are prohibitive for survivors who lack the financial security of full employment, who rely on social assistance, who are the primary or sole caregivers for their children, and those who work multiple jobs. The legal system was described as “a confusing system in which you end up feeling like there is no way to get through it without going bankrupt or taking a second job.” One woman reported working “14–16 hours a day” to pay for legal fees, which was used against her in court by the opposing counsel as evidence that she was unaffected by her abuser’s actions.

Survivors’ recommendations

Survivors posed a range of suggestions for developing trauma-informed responses to FV issues in family courts including:

1. Educate judges and lawyers about the impact of trauma in such cases; to developed trauma-informed court systems.
2. Mandate anti-discrimination education for legal professionals that addressed the ways that gendered forms of prejudice (e.g. credibility deficits, distrust of survivors) are exacerbated for survivors of FV who are Indigenous, immigrant, working class, disabled, LGBTQ2S, racialized, and/or do not fit the “ideal victim” archetype.

3. Promote inter-agency collaboration between legal professionals and IPV advocates to raise awareness and share information about risks faced by survivors and their children
4. Integrate criminal cases that involve family violence, with the family law system related to custody, parenting, separation in order that trauma-and violence-informed decisions can be made.

Further exploration of the issues identified in this brief are detailed in [Issue No. 12 - Issue No. 12 - Survivors' Views of Family Courts: Findings from the Canadian Domestic Homicide Prevention Initiative with Vulnerable Populations \(CDHPVP\) - Western University \(fvfl-vfdf.ca\)](#) and

[Numéro 12 - Points de vue des survivantes sur les tribunaux de la famille` : Constatations de l'Initiative canadienne sur la prévention des homicides familiaux au sein des populations vulnérables \(ICPHFPV\) - Numéro 12 - Points de vue des survivantes sur les tribunaux de la famille` : Constatations de l'Initiative canadienne sur la prévention des homicides familiaux au sein des populations vulnérables \(ICPHFPV\) - Western University \(fvfl-vfdf.ca\)](#)

Bibliography

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About the Alliance

The Alliance of Canadian Research Centres on Gender-based Violence consists of five research centres located across Canada that were founded in 1992 through a CURA grant in response to a federal study on the problem of violence against women as a result of the Montreal Massacre. The Alliance represents the partnership among these centres and collaborative research and education initiatives. The five research centres are:

- Centre for Research & Education on Violence against Women & Children, Western University www.learningtoedabuse.ca
- FREDA Centre for Research on Violence against Women & Children, Simon Fraser University www.fredacentre.com
- Muriel McQueen Fergusson Centre for Family Violence Research, University of New Brunswick [Muriel McQueen Fergusson Centre | UNB](#)
- RESOLVE: Research and Education for Solutions to Violence, University of Manitoba, University of Saskatchewan and University of Calgary www.umanitoba.ca/resolve
- RAIV (Applied, Interdisciplinary Research on Intimate, Family, and Structural Violence) [Home | Recherches Appliquées et Interdisciplinaires sur les Violences intimes, familiales et structurelles \(ulaval.ca\)](#)