



Improving Justice in
Child Contact

DOMESTIC ABUSE AND IMPACT ON CHILDREN

December 2020

KEY MESSAGES

- The issue of children living with intimate partner violence should be recognised as a matter for concern in its own right.
- Children must be given the opportunity to express their views and wishes regarding decisions that affect their lives.
- 'Parental alienation' should not be invoked to grant custody to a father accused of domestic violence disregarding the risks for the child.
- The consequences of court-mandated contact with violent men can endanger the lives of women and their children.

IJCC Briefing: Cyprus

Children make up the largest population of victims of domestic violence against women. Children's exposure to intimate partner violence includes being exposed at home, directly or indirectly, to violent or threatening behaviour between caregivers. This includes physical and emotional abuse through behaviours such as humiliation, intimidation and controlling actions. These experiences have a negative impact on children and include an increased risk of psychological, social and behavioral problems. Given the evidence on how intimate partner violence negatively affects child outcomes, it is important that the issue of children living with intimate partner violence be recognised as a matter for concern in its own right.

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Child contact in the context of domestic abuse

Child victimisation in the context of violence against women very often continues and escalates in the context of parental disputes over child contact arrangements. Research has shown that child contact can be an area of ongoing

psychological, emotional and physical abuse of women and children.

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Nevertheless, there are widely accepted perceptions in policy and practice, that children have the right to have a personal relationship and direct contact with both parents. Often, however, in cases of domestic violence against the women, the woman's right to be free from violence and abuse is seen to be in conflict with the child's right to have contact with their father. Thus, while many children may want contact with their father, this needs to take place under conditions that guarantees the safety and wellbeing of both mother and child. Importantly, children must be given the opportunity to express their views and wishes regarding decisions that affect their lives.

The issue of child contact in the context of violence against women has preoccupied experts in the field of violence against women at the international level. On 31st May 2019, a group of independent experts issued a statement¹ stressing that violence against women should be an essential factor in determining child custody, as domestic violence mainly affects women

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https://www.ohchr.org/Documents/Issues/Women/SR/StatementVAW_Custody.pdf



and has a direct impact on children's lives. They also warn that too often sexist stereotypes and discriminatory attitudes lead to mistrust of women, in particular concerning presumed false allegations of child abuse and domestic violence.

The experts further discouraged the abuse of the 'parental alienation' and of similar concepts and terms invoked to deny child custody to the mother and grant it to a father accused of domestic violence in a manner that totally disregards the possible risks for the child.

The consequences of court mandated contact with violent men can endanger the lives of women and their children.

The issue of child contact has been closely linked to the term 'parental alienation' (PA), a topic that is currently being discussed in the House Committee for Human Rights and Gender Equality in Cyprus. While parental alienation has no official or accepted definition, it is generally understood as the unreasonable rejection of a non-custodial parent by a child as a result of the manipulation of the child by the custodial parent. Often, however, parents accused of parental alienation are mothers experiencing domestic abuse. In this context, the consequences

of court mandated contact with violent men can endanger the lives of women and their children.

While there is little credible scientific support for the theory of parental alienation syndrome, the term is used abusively and with relative success by perpetrators of violence to gain credibility in the family law system. Research conducted by Brunel University London² found that mothers had little to no success when claiming PA, despite evidence that the fathers were abusive and controlling, suggesting a one-sided dimension to PA. When fathers alleged mothers were alienating, regardless of abuse claims, they took custody away from her 44% of the time. When the genders were reversed, and fathers started out with the children, mothers took custody from fathers only 28% of the time.

In another study³, George Washington University Law School Meier found that, when mothers claimed any type of abuse, if fathers responded by claiming parental alienation, then the mothers were twice as likely to lose custody as when fathers did not claim alienation. In the study's stark conclusion: 'alienation trumps abuse.' As it turns out, children are rarely given the opportunity to express their opinions in child contact processes and decisions.

It's easier to believe a woman is lying than to believe a man can abuse or kill a woman or child. The court system, though, has been known to downplay even well-documented cases of abuse

² <https://www.brunel.ac.uk/news-and-events/news/articles/Playing-the-Parental-Alienation-card-Abusive-parents-use-the-system-to-gain-access-to-children>

³ <https://www.forbes.com/sites/naomicahn/2020/01/26/why-women-lose-custody/#7122f9a94641>



and to give more weight to parental alienation than to abuse allegations. This has had devastating effects on the lives of children, as their views, wishes and best interests are rarely considered.

Key to improving safety for both women and children experiencing domestic violence is ensuring children are able to fully and effectively participate in decision-making in court. Enhancing children's participation in the context of child contact and domestic violence should be a priority for domestic abuse and child protection services/agencies, as well as within the court system.

Involving children in the justice system: The Power Up/Power Down (PU/PD) model

Within the framework of the [IJCC project, the Mediterranean Institute of Gender Studies \(MIGS\)](#) implemented, on a pilot basis, the [Power Up/Power Down \(PU/PD\) model](#), which works with



If I were a superhero, I would save the world from injustice! – Young expert, Cyprus

children with lived experience of domestic violence to make recommendations to improve the court system in relation to child contact and domestic violence. The project took place in partnership with the Cyprus Commissioner for the Rights of the Child.

Through this process they were able to identify key areas for positive change and they made recommendations for making the system better for children.

The project took place over three online meetings with 13 members of the Young Experts Group in June 2020. The young experts were given an illustrated story about two children who had experienced domestic violence and the family court system. The young people explored the story and then made changes to it to improve the outcomes for the children. Through this process they were able to identify key areas for positive change and they made recommendations for making the system better for children. These recommendations were then used to directly inform national policy and practice in Cyprus.

ABOUT IJCC

Improving Justice in Child Contact (IJCC) aims to improve children and young people's participation in decision-making around child contact for families affected by domestic violence.

- By 'child contact' we mean communication (such as phone calls or spending time) between a child and a parent who are not regularly living together.
- By 'participation' we refer to children's human rights under the United Nations Convention on the Rights of the Child (UNCRC). Children have a range of participation rights, including the right to express their views freely in matters that affect them and for those views to be considered seriously.

Improving Justice in Child Contact is a project across five European countries (Bulgaria, Cyprus, Portugal, Romania and Scotland) running from November 2018 to January 2021. Each country is exploring models for children and young people to participate and working with stakeholders to eliminate the barriers for, and enhance the mechanisms that support, children and young people's participation.

More information is available on our website.

www.ed.ac.uk/education/ijcc

Our Young Advisers

Improving Justice in Child Contact is advised by a group of young experts, called Yello!, who have previous experience of participation work. The young people are aged between 12 and 18 and have experience of domestic violence.



SUPPORT

If you are looking for advice or information about domestic violence, help is available. Women Against Violence Europe have information on specialist services across Europe at www.wave-network.org/find-help

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