Partner Violence and Child Custody Cases

A Cross-National Comparison of Legal Reforms and Issues

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A review of policies and procedures for addressing partner violence in child custody across four countries shows different pathways to the same issues. In the United States, Canada, Australia, and New Zealand, the reform of child custody legislation faces a debate between fathers' rights groups and domestic violence advocates, within an environment promoting mediation and joint custody as the gold standard. There is a clear need for research to better inform these debates, including cross-national research, and for the development of court and community interventions to support children facing separation and divorce in the context of parental violence.

Keywords: *child custody; intimate partner violence*

THE IMPACT OF PARTNER VIOLENCE ON CHILDREN

Partner violence is increasingly being recognized as criminal behavior, and assault of intimate partners has gone from being ignored as a private family matter to an important public issue. This evolution has triggered a variety of innovative interventions: specialized police training, police arrest policies, enhanced prosecution, and judicial education. As part of this progress, the criminal justice system and relevant community services, together with researchers, have begun to focus on the needs of children exposed to partner violence. A burgeoning literature on children exposed to partner violence has consistently identified negative

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effects on a range of child adjustment outcomes for many children (Jaffe, Wolfe, & Wilson, 1990; Kitzmann, Gaylord, Holt, & Kenny, 2003; Wolfe, Crooks, Lee, McIntyre-Smith, & Jaffe, 2003). Some laws and services have begun to address these needs by identifying children as secondary victims of partner violence. For example, in some U.S. jurisdictions, exposing children to partner violence is considered a separate criminal offense, and in other states exposure to partner violence can activate the intervention of the child protection system (Edleson, 1999).

The movement to give partner violence significant weight in the law has now extended to child custody proceedings in family court. In these proceedings, judges in many countries are being mandated to consider partner violence as a significant factor in determining the appropriateness of a violent spouse becoming a custodial parent, or even being awarded unsupervised contact with children following separation. Service providers in the front lines, such as staff at shelters for abused women, have documented how their residents have been revictimized and endangered by child custody and visitation arrangements, when they allow a batterer regular opportunities to renew threats and maintain power and control of former spouses (Leighton, 1989). In their view, child custody proceedings require a shift away from an automatically increased role of fathers, preference for joint custody and shared parenting plans, emphasis on mediation and conflict resolution, and the saliency of the "friendly parent" construct (Jaffe, Lemon, & Poisson, 2003).

In particular, the friendly parent construct has been widely adopted by judges, family law lawyers, mediators, and evaluators to reward the parent who is most likely to promote contact and a positive relationship with the other parent. In partner violence cases, a victim who attempts to limit contact with an abuser may be deemed hostile and unfriendly and be punished for her or his protestations and hypervigilance. Thus, there is a tension between two recent and important developments in the area of child custody; on one hand, we have come to recognize the important role that fathers play in raising children as a cooperative parent with mothers after separation, however on the other hand, some fathers may not qualify for this role on the grounds of being a perpetrator of partner violence and all that that implies about their parenting (Bancroft & Silverman, 2002). Although the issue of

partner violence with respect to child custody may be portrayed as a gender war, there is a genuine concern about the safety of children and abused parents following separation. Because women are far more likely to be killed, injured, or living in fear following separation from an abusive partner, the focus in the field has been on abused women and their children (Johnson & Bunge, 2001). Based on our clinical and research experience with divorcing families engaged in the justice system, partner violence tends to be overlooked or minimized in an effort to settle matters as if there were two cooperative parents.

Traditionally, partner violence has been seen as a separate issue that is not relevant to the determination of child custody after parental separation. This view has begun to shift as lawyers and mental health professionals have been confronted with the potential damage abusive spouses create for their children (Bancroft & Silverman, 2002). An abusive spouse is seen to be an inappropriate role model for children and may inflict direct abuse on the child given the overlap of partner violence and child maltreatment (Edleson, 1999). As well, it is recognized that an abused woman may be most at risk of harm during separation, and require safety planning rather than forced contact with the perpetrator (Campbell, Sharps, & Glass, 2001). In fact, many observers in the field indicate that perpetrators of partner violence may utilize child custody and visitation disputes as a means of punishing and maintaining some control over their ex-spouse (Bancroft & Silverman, 2002; Jaffe, Lemon, et al., 2003).

CHILD CUSTODY DEBATE IN OTHER COUNTRIES

DEBATE CRITERIA

The growing debate about partner violence and child custody decisions is not apparent in all countries. In our view, there are a number of prerequisite conditions that need to be in place before this debate can develop. This list is based on our analysis of the components of this larger debate. These include

- an institutionalized custody and access system,
- ready access to the justice system,

- recognition that partner violence is a public and criminal matter,
- recognition that exposure to partner violence is harmful for children,
- existence of a service sector that is actively collaborating with the justice system and advocating for victims of abuse and their children, and
- these first five conditions need to have been established long enough to permit some research and analysis.

We examine custody laws and issues in four countries where these conditions have been met (the United States, Canada, Australia, and New Zealand) to identify common themes and directions. We have reviewed the legislative reforms and legal procedures in these four developed, English-speaking countries to illustrate the prevailing views regarding partner violence and child custody. We surveyed the social science and legal literature, consulted expert colleagues in these countries, reviewed government and nonprofit organizations' policy briefs, and searched recent newspaper archives. Although there may be other non-English-speaking countries embarking on similar work, in our experience at international conferences, few delegates from other countries have raised issues or documented findings about child custody and partner violence. Our findings, therefore, might be useful to other countries beginning to consider the relevance of partner violence in child custody cases and the debate it raises.

UNITED STATES OF AMERICA

For the past decade, the family courts in the United States have found themselves in a heated debate about the role and recognition of partner violence in determining child custody. On one hand, domestic violence advocates have pointed out the failure of family courts to recognize the plight of abused women. On the other hand, fathers' rights groups have bemoaned their perception of gender bias in favor of mothers receiving custody. The latter group often portrays false allegations as the major consideration in the field of partner violence, despite findings that these accusations are relatively rare, compared to the underreporting of partner violence in general and the rates of false denial by perpetrators (Bala, 1999, 2000).

Partner violence has been recognized as a significant factor in custody policy and legal reform by several well-respected institutions in the United States. For example, the U.S. Congress has spoken on this topic in an advisory capacity, stating,

> It is the sense of Congress that, for purposes of determining child custody, credible evidence of physical abuse of a spouse should create a statutory presumption that it is detrimental to the child to be placed in the custody of the abusive spouse. (Congressional Representative Constance Morella, cited in Jaffe, Lemon, et al., 2003, p. 63)

In a similar vein, the National Council of Juvenile and Family Court Judges created a task force comprising partner violence experts, judges, prosecutors, defense attorneys, and legislators, which worked for 3 years to prepare a Model Code on Domestic and Family Violence. According to this Model Code,

> In every proceeding where there is at issue a dispute as to the custody of a child, a determination by the court that domestic or family violence has occurred raises a rebuttable presumption that it is detrimental to the child and not in the best interest of the child to be placed in sole custody, joint legal custody, or joint physical custody with the perpetrator of family violence. (National Council of Juvenile and Family Court Judges, 1994, p. 33)

The above statements have been supported independently by other organizations who have undertaken study committees, such as the American Bar Association (1994) and the American Psychological Association (1996). They emphasize the effects of partner abuse on children, as well as the very significant overlap between partner abuse and physical or emotional abuse of children.

States across the United States have implemented these recommendations in one of two ways. Almost one half of the states have created a rebuttable presumption in legislation that provides that an abusive spouse is presumed to be inappropriate for sole or joint custody of children. The remaining states have explicitly named partner violence as a factor that judges have to consider in determining child custody and visitation arrangements. Appeal courts throughout the United States have reinforced this trend by

making clear statements about the potential harm that may arise when children are placed in the custody of perpetrators of partner violence. One of the cases that has received considerable publicity involved O. J. Simpson, who was awarded custody instead of the maternal grandparents during a custody trial, only to have the California Court of Appeal send the case back for a new trial. His history of perpetrating partner violence, and the findings of the civil court in regard to the murder of his ex-wife, were not considered at the trial in this matter.

In spite of these promising legislative reforms, progress has been slow in this area for a number of reasons. First and foremost, these reforms fly in the face of competing changes that support active (and where possible, equal) involvement of both parents following separation and recognize the changing roles of men and women. Major innovations in family court promote parent education programs, mediation, and other alternate dispute resolution strategies to avoid the emotional and financial consequences of litigation and produce more cooperative parenting plans (Jaffe, Lemon, et al., 2003). These reforms have evolved to the point that many states now consider the word *custody* as passé and detrimental to children of divorce by creating a win-lose situation.

The word *custody* has been replaced with *parenting plans* and *parenting responsibilities*, which are viewed by the court as producing a win-win situation. Although these reforms help the majority of separating parents, partner violence allegations necessitate a paradigm shift in managing child custody disputes. These allegations require a thoughtful and thorough analysis by courts and court-related services in cases where these allegations are substantiated. They also warrant a differential set of interventions to combat the momentum of the "shared parenting-plan" culture. Within this culture, partner violence may not be reported or disclosed for fear that the abused parent may be seen as uncooperative or attempting to alienate the children against the other parent. In our research with 62 abused women who had navigated the legal system, the women reported facing great skepticism about the validity of their claims of partner violence and felt that their allegations were often perceived as strategic maneuvers to gain sole custody (Jaffe, Crooks, & Poisson, 2003). Furthermore, even when substantiated, the history of partner violence may not

be reflected in the intervention of court-related clinical services, such as mediation and custody evaluations (Logan, Walker, Jordan, Horvath, & Leukefeld, 2002).

Aside from competing philosophies and interests in family law, the implementation of partner violence reforms faces a host of practical barriers. To properly implement new legislation, there is a parallel demand for training, resource development, and effective collaboration among justice and community partners. As we have argued elsewhere, the gap between the spirit of the legislation and the practice in the field appears immense (Jaffe, Crooks, & Wolfe, 2003). In the first author's involvement in judicial education seminars across the United States on this topic, the major concern raised by judges is lack of resources to implement a community plan for identified partner violence cases. Having affordable and accessible supervised visitation centers, programs for batterers and victims, services for children exposed to partner violence, and qualified child custody evaluators are a wish rather than a reality for many judges. This problem is especially apparent in rural areas of the United States and for low-income families, where access to resources may be next to impossible and growing worse with cutbacks in many state budgets. As is discussed in the following section, the difficulties apparent in the United States are echoed in other countries struggling with legislative responses and to the same issues and effective implementation strategies.

CANADA

Canadian divorce laws are also the subject of heated public debate, particularly between fathers' rights groups and domestic violence advocates. The 1998 release of a Parliamentary report, titled *For the Sake of the Children: Report of the Special Joint Committee on Child Custody and Access* (Ministry of Justice, 1999), intensified the disagreement between these interest groups. The Canadian government, in the spirit of compromise, has tried to find strategies to satisfy all parties. These attempts to find middle ground in a polarized discussion have been largely unsuccessful. On one hand, proposed changes to the Divorce Act (currently under consideration) recommend doing away with the word *custody* in favor of *parental responsibility*. On the other hand, if the proposed reforms are endorsed, partner violence would now be recog-

nized as a factor that judges need to consider in determining child custody. Fathers' rights groups are troubled by the latter amendment on account of their position that the courts tend to favor mothers and blindly accept false allegations of abuse. At the time of this writing, this debate maintains a prominent place in Canadian media, with women's groups expressing concern that the safety of abused women and children will be compromised (e.g., Landsberg, 2003).

Canadian statutes first acknowledged partner violence in divorces in 1968, when physical and mental cruelty became grounds for dissolution of the marriage. Currently, Canadian laws, federal and provincial, require custody and access (visitation) disputes to be decided based on the child's best interest. Each judge can exercise a great deal of discretion based on the facts of the case. Parents are presumed equally entitled to custody of their children, another hurdle for victims of partner violence if they fear the consequences of contact between the child and the abusive parent. Case law suggests that joint custody should not be imposed on "high conflict" couples (for a review of case law, see Jaffe, Lemon, et al., 2003). Joint custody assumes that separating parents have enough mutual trust, respect, and conflict resolution skills to handle ongoing joint decision making on behalf of the children. In contrast, high-conflict couples would often create never-ending conflicts for their children, even about relatively minor issues, such as diet and clothing (Johnston, 1994).

Two Canadian studies have pointed to the prevalence of partner violence in child custody hearings, as well as the inadequacies of the current family court system to properly address these dilemmas (Jaffe, Crooks, & Poisson, 2003; Sinclair, 2000). These inadequacies include a lack of awareness among lawyers, mediators, and custody evaluators about the nature and impact of partner violence, as well as a shortage of essential services for these matters, such as supervised visitation centers. There continue to be many misconceptions, which appear to inhibit progress in the field, such as the extent to which women use false allegations as a strategy to gain advantage in the legal system. In some cases, evidence of partner violence is minimized or overlooked by professionals in an attempt to resolve a custody matter in a "friendly" way.

Nonetheless, there has been some progress in this area with regard to custody decisions in Canada. Judicial education programs have been addressing partner violence since the early 1990s and have included presentations by professionals who work with battered women and their children. These programs seem to be raising judicial awareness of the impact of partner violence on children. Recent Canadian judicial decisions reflect an increasing emphasis on the relevance of partner violence in custody cases (Shaffer & Bala, 2004). Judicial skills need to be enhanced further if the new legislation is adopted, requiring that partner violence be a factor in any "best interests" decision regarding custody or access. Judges will be faced with countless cases of conflicting allegations with little evidence other than parents' accounts of their marital relationship.

AUSTRALIA

Comparable to the United States and Canada, Australia is also struggling to find a common ground to address child custody in the context of contentious public dialogue. Fathers' rights groups have found considerable support among lawyers and politicians, including the current prime minister, John Howard. The prime minister called for a Parliamentary inquiry to consider the adoption of rebuttable joint custody as a major family law reform. This reform, supported by 84 members of Parliament, would presume that the best court decision would be joint custody and equal access to children after separation (Tippet, Munro, & Hudson, 2003). Public coverage of the debate is full of anecdotes where couples happily share parenting time contrasted with case studies of abused women and children failing to find safety from abusers after separation (Jacobsen, Metherell, & Contractor, 2003). If endorsed, this rebuttable presumption would legally entrench joint custody as the de facto arrangement, except in cases where parents could prove that such arrangements would not be in the children's best interests. A rebuttable presumption is hypothetically based on an assumption that a particular outcome is preferred for the vast majority of cases. However, women's advocates in Australia report that as many as 40% of separations involve partner violence as a factor, which in their view undermines the advisability of such legislation (Jacobsen et al., 2003).

Historically, Australia had recognized the importance of partner violence in family law. In 1994, the Australian Law Reform Commission issued a report, *Equality Before the Law: Justice for Women*. The report was based on more than 600 oral and written submissions, including many statements by women about the effects of violence on their lives and the failure of the legal system to respond to this abuse. The Commission and several women's groups called for amendments to the Family Law Act to acknowledge the deleterious effects on children of witnessing spousal abuse and the significant overlap between partner abuse and child abuse. In addition, the Commission recommended that the Equality Act should recognize that violence is an integral part of women's inequality in Australia.

The resulting Family Law Reform Act (1996) replaced the "welfare of the child" standard with the "best interests of the child" standard. The Reform Act contains major internal tensions, reflecting the conflicting goals of the father's rights groups and the feminist groups. On one hand, there is a guiding principle relating to "the child's right to know and be cared for by both parents" and "the child's right of contact, on a regular basis, with both parents." On the other hand, the new Act states that the court must consider the need to protect the child from physical or psychological harm caused, or that may be caused, by being subjected or exposed to abuse (Jaffe, Lemon, et al., 2003). Furthermore, there is an onus on the court to not expose a person to "an unacceptable risk of family violence," and another principle proclaiming "the need to ensure safety from family violence." Attorneys are required by the Act to bring to the attention of the court any existing family violence orders. The failure of the Reform Act to give specific guidance to courts in resolving this fundamental conflict between contact with both parents, on the one hand, and protection in partner violence cases, on the other, is a major problem. The current consideration of rebuttable joint custody would likely compound these difficulties.

Indeed, the current debate in Australia about automatic joint custody is reopening the old wounds over the Family Law Reform Act. It is polarizing parents, and legal and mental health professionals must choose between mothers and fathers, rather than focusing on individual circumstances in families, such as a history of partner violence. Separating parents who are able to reach

an amicable shared parenting plan will continue to do so independent of the court. In the words of the Chief Justice of the Family Court, Alastair Nicholson, "Families with workable shared parenting arrangements tend to arrive at them without resort to the law, and indeed did not know that the law had changed to encourage these arrangements" (Tippet et al., 2003, p. 1). Imposing joint custody on warring parents is contraindicated by research that substantiates the negative effects of parental conflict on children's adjustment following separation (Johnston, 1994).

NEW ZEALAND

New Zealand has been at the forefront of recognizing partner violence as a critical element of child custody decisions, as a result of a highly publicized tragedy. In 1994, three children were killed in a homicide-suicide by their custodial father, who had abused their mother. Following an ex parte hearing (i.e., the mother had not been notified), the father had been given custody 3 months earlier, in spite of a former protection order and a pending protection order. These deaths spurred a report by the Chief Justice recommending the adoption of a rebuttable presumption against custody or unsupervised visitation to spouse abusers and child abusers. This presumption could be rebutted only by convincing the court that the child would be safe with the violent parent (Busch & Robertson, 2000).

The following year, the Domestic Violence Act 1995 was adopted, along with amendments to the Guardianship Act, the Family Proceedings Act, and the Legal Services Act. These changes incorporated a "power and control analysis" of partner violence, which includes more than acts of physical abuse. For example, the Act includes psychological abuse, defined to include causing or allowing a child to watch physical, sexual, or psychological abuse of a family member. The responsibility rests squarely on the abuser for exposing children to this behavior. The amendments to the Guardianship Act incorporated concerns about violence escalating at the point of separation, particularly during access (visitation) changeovers. In response to these concerns, it recommended that the Family Court should not award custody or unsupervised access to an abusive parent, unless the court is satisfied that the child will be safe with that parent. The

revised Guardianship Act also mandated that the court consider imposing any conditions necessary to ensure the safety of adults and children. These provisions recognize the need for continued or increased protection for the child and the abused parent after separation, and help clarify the meaning of "best interests of the child."

Of the four countries reviewed, New Zealand appears to have the most comprehensive legislation that addresses partner violence in all its forms. However, the day-to-day experience in implementing these changes highlights the need for funding and resources to make the law a reality. A critical element in partner violence and child custody cases is the need for supervised visitation centers, which appear to be in short supply (estimated to be a 30% shortfall) in the country (Walsh, 2002). Commentators have noted that the lack of shelters and affordable housing in New Zealand's largest city have forced victims to remain in violent marital relationships. Poverty and access to services, moreover, prevent abuse victims from even considering entering the justice system, regardless of the severity of their needs and protection offered on paper (Hoby, 2003). The New Zealand Law Commission (2003) published a report titled *Dispute Resolution in the Family Court* that addresses the need for enhanced funding and improved access to services. Critics have suggested that this report will be nothing more than a "doorstop," unless the government makes a financial commitment to ensure adequate resources are in place (MacLennan, 2003). It would appear that timely assessment and intervention strategies in partner violence cases represent significant gaps in the family courts (New Zealand Law Commission, 2003).

DISCUSSION

EMERGING THEMES

Our review of the debate on partner violence and child custody in four countries leads us to conclude that different pathways have led to the same crossroads. Despite unique historical developments on court reform and practice in resolving child custody disputes, each country has witnessed heated debate polarized by gender-based interest groups. Fathers' rights groups feel that

courts have been promother and inadvertently supported false allegations of partner violence. Women's rights groups perceive gender bias by the courts in not recognizing partner violence in the context of historical inequalities. Although we concur with the latter position (see Jaffe, Crooks, & Poisson, 2003), there is a dearth of research to guide these discussions and better inform courts about the appropriate decision for individual cases. In the words of the chairman of the Australian Family Law Council, "The tragedy is that family law reform, which really ought to be built on high quality research, is running on what would seem to be a political agenda from lobby groups" (cited in Mottram, 2003, p. 1).

Politicians have sought popular quick fixes, such as dropping the word *custody* from Canadian policy or promotion of automatic joint custody and equal access in Australia. However, the unintended side effects of these simple solutions have been overlooked. For victims of partner violence and their children, the presumption of frequent contact is not only contraindicated but also potentially lethal. Victim mobility or relocation illustrates the tension between laws that may appear harmless in an abstract sense, but have significant negative implications within the context of partner violence. Some researchers have pointed to the potential harm of a parent moving away from a jurisdiction, because it may limit access for the noncustodial parent (Braver, Ellman, & Fabricius, 2003); however, this view has to be tempered with a reality that some parents may be protecting their children from an abusive or even dangerous parent (Kelly & Lamb, 2003).

Another critical issue is the lack of resources to properly implement legislative reforms. New Zealand has the longest history of legislative changes that promote safety and accountability in child custody cases. However, it appears to still have a shortage of adequate resources to ensure proper access to the court and necessary support services, such as supervised visitation centers. Similarly, as we have documented elsewhere, the United States has recently established major legal reforms across all states, but without adequate training and resources to implement these initiatives (Jaffe, Crooks, & Wolfe, 2003; Jaffe, Lemon, et al., 2003).

In the case of resource shortage, all individuals are not, of course, affected equally in access to the justice system and the necessary services. For example, Aboriginal communities in Austra-

lia have dramatically higher rates of victimization from partner violence (45 times that of their non-Aboriginal counterparts), and greater difficulty accessing the necessary interventions (Squires, 2003). In a similar vein, the Maori people of New Zealand suffer from a shortage of culturally appropriate services within the family court, especially in partner violence cases (New Zealand Law Commission, 2003). The limited access to services is compounded by potential discrimination based on race and social class in implementing social policy changes. For example, it has been noted that mandatory arrest policies in the United States result in disproportionately higher incarceration of visible minority groups (Sontag, 2002). Each country represents a heterogeneous population, cultures within a culture. Thus, in addition to the obvious cross-national comparisons, there are research challenges associated with these intranational differences (see, for instance, Blackstock, Trocmé, & Bennett, 2004).

Our recommendations for research include more in-depth qualitative and quantitative work that identifies pathways through which families navigate the legal and community services systems after separation. Obviously ethical and logistical considerations prevent true experimental designs; however, naturalistic comparisons across communities with different levels of services, training, and coordination would offer insights about the adequacy of various responses to abuse victims. The other research dilemma stems from the fact that court-involved women and families are a self-selected subgroup. Many abused women navigate separation and custody arrangements independent of legal intervention, and understanding their needs and experiences is a critical piece of the puzzle. This research, therefore, will require creative approaches to engaging participants, as by definition these women have chosen to not engage formal helping systems and may be very reluctant to discuss their experiences with outsiders. In our own research experience, we took a multipronged approach to recruitment (including newspaper ads and flyers in grocery stores and laundromats) and still found fewer participants than originally planned; nonetheless, these women's stories provided valuable insights (Jaffe, Crooks, & Poisson, 2003). Ironically, many of the women who had engaged in the legal system wished they had chosen informal means to resolve custody issues because they felt that their actions had triggered

their partner's interest in the children and resulted in court decisions that revictimized them.

SUMMARY

The role of partner violence in child custody disputes has emerged as a focal point in family law reform among the four countries reviewed. This issue has been informed by the growing literature on the potential harm of exposing children to partner violence. Unfortunately, the divorce literature, which promotes maximum contact with both parents after separation, has developed independent of the literature on children exposed to partner violence (Jaffe, Poisson, & Cunningham, 2001). Each country is clearly struggling with this debate without comprehensive research to better shape discussions and policy development. This cross-national comparison offers a unique opportunity to identify central themes and dynamics associated with this development. Although the laws differ among these countries, the essential questions remain the same: namely, how to ensure safety and accountability for partner violence victims and perpetrators after separation, and how to support and enhance child adjustment for children in these unique circumstances. Although this cross-national comparison is an important perspective, we cannot overlook the regional and cultural differences within countries.

Similar to the current research and thinking about the success of batterers intervention programs being dependent on their proper integration into the justice system (Gondolf, 2002), interventions for abused women and children must be similarly integrated. Resolving child custody disputes for partner violence victims and their children depends on adequate training, resources (including well-trained assessors and sufficient numbers of supervised access centers), and coordination by the family court and associated services. Jurisdictions considering legislative changes would be well advised to create this foundation of services and training to avoid court reform falling on deaf ears.

The guidelines above provide effective strategies and pitfalls to avoid for other countries and cultures navigating this thorny path of child custody and partner violence. The need to evaluate the positive impact and unintended consequences of any particular

approach or intervention within a given cultural context is critical. For example, in jurisdictions with a rebuttable presumption, it is often difficult to raise allegations of violence for fear of being considered an alienating or hostile parent. Such a parent is seen as less than friendly and unable to promote a good relationship with the other parent. In this circumstance, an abused parent may lose custody rather than be offered safety (see Bancroft & Silverman, 2002).

In summary, among all the controversies in the domestic violence field, the child custody issue requires a complex understanding and analysis of victims, perpetrators, and their children, and the collaboration between court and community service partners. Although the focus of the current debates between father's rights groups and domestic violence advocates tends to focus on legislative reform, the law is only one piece of a much larger system. The extent to which this system is integrated and supported will have a direct bearing on the success of the legislation. Countries beginning to navigate these issues will benefit from first developing the requisite court and community training and services, without which subsequent changes in legislation will be less meaningful.

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