

## **JUSTICE COMMITTEE**

### **CHILDREN (SCOTLAND) BILL**

#### **ANONYMOUS SUBMISSION 10**

I have read the proposed amendments to the Children's (Scotland) Act. I have first-hand experience of the current failings of the family court system to protect victims of domestic abuse and their children, and hope that some of my observations could help the government to further understand some of the problems in this area.

I have noticed some discrepancy between what the Law states and how the courts operate, with the courts taking a "contact at all costs" approach, despite the Law mentioning the need to protect the child from abuse or harm. This means that abuse is minimised, justified, or excused. I think the more the Law itself can emphasise the need to protect the child, then hopefully this will be carried out in practice.

#### **Domestic abuse (I write from my experience of psychological/coercive/verbal abuse)**

From my experience, the courts need to recognise that domestic abuse is not simply "a breakdown of the relationship", it is not something that can be mediated on or resolved. It is likely that this has never been an equal partnership, and is a pattern of behaviour which can be continued (sometimes via court action) after the relationship has ended. Court orders forcing women and children back into an abusive dynamic which they have escaped from does not seem conducive to anyone's well-being: the woman will remain the victim, the abuser's need to control will simply be fed, and most importantly the courts are putting children at risk of serious harm.

#### **Co-parenting**

In cases where there has been abuse I honestly do not see how safe or effective co-parenting is possible. There can never be any trust or cooperation, and the victim and children will in all likelihood never feel safe. Use of third parties is not a realistic option as they would simply be another means of control and manipulation for the perpetrator. The Law seems to understand that parenting involves two parties cooperating. The court does not seem to understand that cooperation is not practically possible when one party's motive is control and manipulation of the other.

#### **Contact centres**

If contact is not deemed safe because of an abusive parent, it does not suddenly become safe within the setting of a contact centre. Contact centres can act as yet another party for an abusive parent to manipulate, and supervision does not automatically mean that nothing will happen. I have first-hand experience of my child coming to harm within a contact centre, and it is a hugely traumatic experience.

#### **Abuse and control being continued through the court**

In my experience the court's authority can be used to further coercive / psychological abuse and control. Perpetrators of this type of abuse are often successful in convincing others, including court professionals, into colluding with aspects of the abuse. This means that proceedings, which should be child centred, can end up focussing heavily on continued denigration of the mother. In these cases, just knowing the victim is

scared, intimidated and will be forced by authorities into compliance, is enough to feed a continued interest in controlling them. This makes it impossible for victims and children to move on freely or safely with their lives. The court provides a legal arena for behaviours which outside of the courtroom would be considered abusive and illegal.

These court cases are not about resolution, they are about continued control, suppression and punishment. They are not about the child's welfare, they are about using the child or exerting parental rights to control and punish a victim.

In my opinion the family court system needs a better understanding of how it is being misused in this way. It needs to be more aware of how coercive control works and how third parties can be drawn in. The system needs some way of judging if the court's authority is being exploited to bolster a pre-existing abusive pattern of control and punishment.

In cases where other agencies (police, social services, etc.) are already aware of domestic abuse, then the courts should be looking first and foremost at a Pursuer's motive for raising court action.

Ideally, there should be some investigation into "abuse through the courts", which could lead to a check list of common indicators, helping court officials, sheriffs, solicitors and contact centres to recognise potential misuse of their system.

I think the Law needs to recognise how damaging this sort of continuation of abuse is, to victims and their children. In my personal experience it is as traumatic as the domestic abuse I suffered, with the addition of it being enforced by legal authorities, and therefore terrifyingly inescapable.

Importantly, I think the Law needs to recognise that contact with an abusive parent is not always in the best interests of the child, and that taking a "contact at all costs" approach means that essentially the parental rights of an abusive parent are being put before the rights of a child to remain safe.

In cases of psychological and coercive abuse, everyone will advise that the only way to escape the damaging and long-lasting effects of that abuse is to cut all contact with the abuser. The family courts need to recognise victims and children's need to escape and recover.

I hope that my personal observations help to illustrate how abuse and control are being continued through, and enabled by, the courts, even after a relationship has ended. I understand that it is unfortunately a "legal" form of abuse, but it is abuse nonetheless, and the effects of this on victims and children are still hugely damaging.