

Response to call for submissions: COVID-19 and the increase of domestic violence against women

Key messages:

- Child contact/custody is often used by perpetrators of domestic violence as a way to continue abuse of both women and their children.
- COVID-19 is adding to perpetrators' opportunities to abuse in this context.
- Emergency measures as a result of COVID-19, in relation to child contact/ custody, are not always ensuring that a child's best interests, their right to participate and their right to health are prioritised (UNCRC Articles 3, 6, 12 and 24).
- Child contact/custody must therefore be included in our overall response to the increase in domestic violence under COVID-19, with a focus on children's and women's human rights.

Improving Justice in Child Contact (IJCC) is a European funded project aiming to improve children's participation in decision-making, for families affected by domestic violence.¹ We work across five countries with varied histories, geographies and legal frameworks: Bulgaria, Cyprus, Portugal, Romania, and Scotland. We understand that children experience domestic violence with their mothers and that abuse continues post-separation, with perpetrators often using child custody/contact as a specific mechanism of abuse.² The overall aim of our project is that children and women are safer.

We were delighted to see the joint statement of May 2019 in which the Special Rapporteur, alongside other United Nations and regional independent mechanisms on violence against women and women's rights, highlighted the dangers for women and children where domestic violence is not appropriately considered in court decisions around child custody.³ We welcome the opportunity to respond to question 11 of the Special Rapporteur's call in order to draw attention to ways in which COVID-19 may increase the harms for women and children in relation to child contact/custody.

¹ More information is available at www.ed.ac.uk/education/ijcc

² For example: Katz, E. (2016). Beyond the Physical Incident Model: How Children Living with Domestic Violence are Harmed by and Resist Regimes of Coercive Control. *Child Abuse Review* 25(1), 46–59. Holt, S. (2017). Domestic Violence and the Paradox of Post-Separation Mothering. *British Journal of Social Work* 47 (7), 2049–2067; Mackay, K. (2018). The approach in Scotland to child contact disputes involving allegations of domestic abuse. *Journal of Social Welfare and Family Law* 40(4), 477-495. Morrison, F, Tisdall, E.K.M., and Callaghan, J., (2020), Manipulation and Domestic Abuse in Contested Contact – Threats to Children's Participation Rights. *Family Court Review*, 58 (2), 403-416.

³ <https://rm.coe.int/final-statement-vaw-and-custody/168094d880>



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Children experience domestic violence with their mothers.⁴ COVID-19 is putting particular pressures on families who are in lockdown with the perpetrator of abuse. Yello!, a group of young people with experience of domestic violence who advise the IJCC project, have created a short animation to assure children in this situation that they are not alone, called *If home is not safe* (<https://www.youtube.com/watch?v=xlwR71OhbV4>).

Abuse continues post separation, with child custody/contact providing opportunities for abuse of both mothers and children.⁵ COVID-19 increases these opportunities. Partners are reporting the following particular examples.

- COVID-19 may be exploited by perpetrators in their abuse.
 - One tactic of perpetrators is to threaten to, or in actuality to, refuse to return children after contact visits⁶; perpetrators are now deploying lockdown or quarantine requirements in their threats or refusals.
 - Perpetrators are also using threats relating to the virus itself in their abuse, e.g. telling the women/child(ren) that he has the virus and will give it to them.
 - Should women resist such tactics and threats, they risk being penalised by the justice system for not facilitating contact.
- COVID-19 enhances perpetrators' opportunities for abuse, for example around contact/custody handovers, which often provide perpetrators of domestic violence with a time and a space to abuse mothers.⁷
 - Women often develop strategies to attempt to make handovers for custody/contact visits safer, such as engaging extended family members to undertake the handovers and varying public transport routes to handovers. These strategies are restricted by COVID-19: for example extended family

⁴ For example Callaghan, J., Alexander J., Sixsmith, J and Fellin, L. (2018). Beyond "Witnessing": Children's Experiences of Coercive Control in Domestic Violence and Abuse. *Journal of Interpersonal Violence*, 33(10), 1551–1581

⁵ In addition to the references above, see Power Up/Power Down for a story written with young people about their experiences of domestic violence and child contact, and re-written by young people as to how they would like their story to end. <https://womensaid.scot/project/power-up-power-down/>

⁶ For example, Katz, E, Nikupeteri, A. and Laitinin, M. (2020) When Coercive Control Continues to Harm Children: Post-Separation Fathering, Stalking and Domestic Violence. *Child Abuse Review*. EarlyView. doi:10.1002/car.2611

⁷ For example, Morrison, F. (2015). 'All Over Now?' The Ongoing Relational Consequences of Domestic Abuse through Children's Contact Arrangements. *Child Abuse Review*, 24 (4), 274-284.



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- members may be limited in their ability to help and public transport options are reduced or unavailable.
- Women may have used specialist/designated spaces (such as contact centres, government offices or police stations) to improve their and their children's safety during handovers. Such spaces can have a range of safety measures, such as staggered arrival times, separate waiting areas, CCTV, staff present. Access to these spaces and their safety measures is reduced or unavailable due to COVID-19.
 - Emergency measures to allow for variation in contact have not always included basic human rights of children, such as ensuring a child's best interests remains a primary consideration (Article 3 of the UN Convention on the Rights of the Child), due regard to a child's view (Article 12 of the UN Convention on the Rights of the Child) and the child's own health risks (Articles 6 and 24 of the UN Convention on the Rights of the Child).
 - Shifts to virtual contact, where face to face contact is not possible due to COVID-19, should not be assumed to inhibit perpetrators' ability to abuse. For example perpetrators use voice or video calls with a child to access information about a mother and child's location or ask detailed questions about the mother's activities and contacts, thereby attacking the mother-child relationship as well as continuing the surveillance and control of the mother and child.

Partners are also reporting that systems and professionals are not always effectively identifying and responding to such issues in perpetrators' behaviour, for example reporting seeing an increase under COVID-19 in mothers being blamed for taking action to protect children from perpetrators of domestic violence in situations related to child custody/contact.

Perpetrators have these additional opportunities to carry out abuse at a time when partners are reporting that children as well as women have fewer opportunities to access support and advocacy. Particular issues include:

- Children who are not able to access school are less likely to see and be seen by trusted adults who they would normally have access to in this setting. This is a particular concern as there is not always good community awareness of the impact of domestic violence on children, and neighbours may be less likely to call helplines/the police about children. Public messaging on how to access safety, during lockdown, has tended to concentrate on how women can access safe spaces and children and young



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people report that they need information as well, on how to access safe spaces and support.

- There are restrictions on children's access to professionals, such as children's support workers, or to advocacy and legal advice (these are often not easily accessible or universally available outwith COVID-19). Restrictions may be caused by limitations on worker's time due to illness/impacts of COVID-19, difficulties on carrying out particular types of activities under COVID-19 requirements (e.g. group work, doing creative activities virtually), the child not having a safe and/or confidential space to access the support during lockdown. During lockdown, services and support have largely relied on digital means of communication, leading to substantial concerns for those with limited or no digital access.
- Changes to court business may leave children and women uncertain about when or how there will be clear decisions made on their circumstances. There may also be restrictions on whether and how courts enable children's participation rights in contact/custody court processes. COVID-19 is also affecting the availability of family lawyers, further restricting women's and children's access to justice. Family law cases have not always been prioritised in phased re-opening after lockdown, missing that most cases that reach court involve domestic violence and thus resolving them is a priority for children's and women's rights.

We are aware of good practice where organisations are working to provide participation activities, which enable children's rights and their space for action, through virtual methods, with careful consideration of how to ensure effective support for children alongside participation activities.

We urge the Special Rapporteur to include considerations around child contact/custody in our overall response to the increase in domestic violence under COVID-19, with a focus on children's and women's human rights.

