findings

Social Policy Research 100
June 1996

Domestic violence and child contact arrangements

In recent years there has been a growing awareness of the consequences which domestic violence has upon the health and well-being of women and children. In the different contexts of England and Denmark, Marianne Hester and Lorraine Radford looked at the safety of child contact arrangements following divorce and separation where there had been a history of domestic violence to the mothers. In an in-depth study of 79 mothers and 99 professionals working with contact cases, they found:

- **Professionals in Denmark were more likely to work directly with children themselves and to look carefully at possible signs of abuse. Professionals in England were much less likely to consider the effects which domestic violence can have upon children.**

- **Many professionals in England interpreted the Children Act 1989 in a way which allowed contact with fathers to take precedence over child welfare.**

- **Fathers commonly used contact with the children as a route to further abuse the mother. Domestic violence injunctions and policing practice in both countries gave women only limited protection from further abuse.**

- **Only 7 of the 53 mothers interviewed in England and only 2 of the 26 mothers interviewed in Denmark were able - eventually- to arrange contact between fathers and the children which did not threaten their own safety and/or their children's well being.**

- **Most mothers initially wanted children to see their fathers for a variety of reasons; however, contact arrangements broke down because of violence. There was no evidence to support claims made by many of the professionals interviewed that contact arrangements broke down mostly because mothers were 'hostile' to the idea of contact between fathers and children.**

- **Professionals' concerns to bring about agreed or mediated settlements in England left many mothers feeling they had been pushed into making unsafe agreements about child contact arrangements. In Denmark professionals were more likely to view parents' lack of agreement as an indicator of future problems with contact.**

- **The researchers conclude that contact should not be presumed to be in the best interests of the child if there has been domestic violence to the mother. More attention should be given to ensuring the safety of the mothers and to assessing the needs and wishes of the individual child.**

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Background

Public and government concern about domestic violence has been growing. Research and policy changes in recent years have focused mostly on emergency intervention, the criminal law and the police response. Less attention has been given to women's experiences after separation and the impact of continued violence and harassment on children.

Looking at the experiences of 79 mothers and 99 professionals, this study examined the arrangements made for children's contact with fathers after separation or divorce where there had been domestic violence in England and Denmark. (For shorthand, these groups are referred to here as 'English' and 'Danish'; this does not necessarily reflect individual ethnic background.)

Deciding on contact

Family law in both England and Denmark favours shared parental responsibility/authority and continued contact between the children and both parents following relationship breakdown. In both countries there have been efforts to discourage lengthy legal disputes over arrangements for children, and to encourage mediation and informally negotiated agreements.

Many of the mediators, court welfare officers and solicitors interviewed in England interpreted the Children Act 1989 in ways which allowed contact with fathers to take precedence over child welfare. Although the Children Act urges consideration of the children's views and welfare, professionals have only limited time to do this. Courts and associated professionals might also argue that children's wishes may not always match their 'needs'. This led to some children in the sample having contact with violent and abusive fathers against their wishes, with poor provisions being made to ensure their safety. Mothers who wished to resist such contact found it difficult without direct intervention by social workers to speak on behalf of a child and to verify clear evidence of extensive harm resulting from contact.

In Denmark there is a similar assumption that children will continue to have contact with a non-resident parent. However, professionals there were more likely to work directly with children themselves, and so were able to look more closely at the value of contact for the individual child. 'No contact' orders and restrictions on contact where there had been domestic violence to the mother were therefore more common.

Mothers' attitude to contact

The English mothers interviewed were expected to play a major part in convincing children of the need to see their fathers. Rather than seeking assurance that the violent partner no longer posed any risk, many of the solicitors, court welfare officers and mediators urged women to 'confront their fears' and co-operate with the contact arrangements. There has been a large body of case law in England on mothers who 'block' or obstruct contact but the research found little evidence to support the conclusion that hostility to contact is common amongst victims/survivors of domestic violence. Apart from the few so in fear of their lives that they tried to disappear, most women initially supported the idea of continued contact for a variety of reasons. These included:

- feeling children needed to know their father;
- children themselves wanting to have contact;
- ensuring fathers took some responsibility for children;
- to help soften any anger the children might feel about their mother leaving their father;
- to maintain cultural or religious links with the father, his family and/or community (particularly where the parents were from different ethnic backgrounds)
- the belief that - despite violence to themselves - the partner was a 'good father'.

Women wanted their children to have safe, 'quality' contact; they became less keen if they felt that fathers failed to provide this. However, many court welfare officers and mediators interviewed were reluctant to accept a mother's perceptions. As a result, the English women found it difficult to convince the courts that there were sound reasons why they no longer supported contact arrangements. If the children themselves were adamantly against contact, women said this was often seen by courts and welfare officers as resulting from pressure from them.

Mothers found it difficult to satisfy the courts that child abuse or neglect had taken place. This was even more difficult after divorce or separation; professionals tended to assume that children showing physical and emotional signs of distress, such as anxiety, bedwetting and vomiting, were suffering from the consequences of divorce or parental separation, rather than from the effects of abusive contact.

Olive's four-year-old son had been sexually abused by his father during a contact visit. This, and the child's fear of his father, had been documented in five separate medical and welfare reports. This evidence was presented to the court, but due to concerns about Olive's presumed hostility, the judge renamed the father's touching the child's genitals as 'inappropriate parenting' rather than abuse and ordered Olive to make arrangements for immediate contact.

Some of the Danish professionals interviewed also saw mothers as being hostile to contact but a pragmatic emphasis upon arranging contact for the child meant that less importance was attached to these concerns. More attention was given to the quality of contact for the child.

Contact as a route to abuse

Fathers in the sample commonly used contact with the children as a route to further abuse. Apart from 3 of the English women and 2 of the Danish women, all the women interviewed had been assaulted by ex-partners when taking or collecting children from contact visits. Women commonly complained that fathers pumped the children for information on the mothers' whereabouts and even involved them in plans to kill the mother.

I had sort of wanted them to have contact with him, but I wanted them to have good access, you know, like quality contact ... but he was taking drugs and he was drunk all the time and he'd say things ... he used to say to the kids, "I'm going to cut your mother's throat' and you know, he was really warped.

Cara

Some women found themselves in the impossible situation of having to disregard an injunction barring the father from visiting the house in order to allow contact to go ahead. Only 7 out of the 53 English women and 2 out of the 26 Danish women were able eventually to set up contact arrangements which they felt were safe for them and/or for their children.

Many women reported great stress and a disillusionment with the legal process from having to apply repeatedly for changes in contact arrangements or for injunctions. Ten out of the 53 English women tried to move away from their home area because they feared for their own lives and/or the safety of children.

In Denmark, better access to material resources and benefits helped women initially to separate from violent men and set up new homes. However, the police were more reluctant to intervene after separation and the Danish women were less able to avoid former partners.

The effects on children

Contact after separation put children who had witnessed violence to their mothers in the difficult position of feeling that they held the burden of responsibility to protect their parents. The mothers said that the children often tried to minimise the harm or keep the peace by holding back information from the father or mother, mediating between the two and covering up or toning down the violence and threats of abuse. The mothers' accounts were backed up by the experience which the children described during interviews:

Sometimes, because my Dad like threatened to kill her, when I'd go over there to see him, he would be like, 'You've got to let me in the refuge' ... I didn't really like seeing him because all he used to go on about was Mum like, what she's been doing and things like that.

'Annie', age 13

English professionals did not often consider the effects which domestic violence can have upon children. Almost all of the children had, according to their mothers, witnessed the father's violence during the relationship and/or after separation. Half of the 53 English women said their children had been physically and/or sexually abused by violent partners but contact went ahead for all but six of the families. Many reported child abuse and neglect by the father during contact visits.

Nineteen of the 26 Danish women said that their children had been physically, sexually or psychologically abused by their fathers. Twenty-two of the women initially had 'joint parental authority' with fathers. However, restrictions upon contact between violent men and their children were made more quickly. Professionals were more likely to work directly with children themselves and to look carefully at signs of abuse. At the time of the last interviews only one of the women continued to hold 'joint parental authority' with her ex-partner. Twenty-two women had or were applying for 'sole parental authority', ten had orders specifying that there should be no contact between the father and children.

Hidden violence

Changes in the procedures of family law, particularly trends towards agreement and mediation, have put the emphasis on 'encouraging' parents to agree with minimal delay. Welfare officers and mediators interviewed felt, as a result, that domestic violence had become more difficult to identify. These changes meant they generally had to rely upon the assumption that domestic violence would 'come up' in the course of discussions, if it had a bearing upon the contact arrangements. Very few directly asked women if they had experienced violence and whether they felt it was relevant to the arrangements made for children. Many of the women interviewed found it difficult to bring up their experiences of violence when making contact arrangements because, quite often, their former partner was present.

The emphasis placed upon agreement and the tendency of mediators and welfare officers to focus upon the future rather than the past, further discouraged consideration of domestic violence. Where domestic violence was recognised by professionals, the relationship between spouses/partners was viewed as 'separate' to the relationships of parents with the children.

The Danish approach more often recognised the difficulty of separating the parents' relationship with each other from the child's relationship with the parents. Whilst agreement is still the preferred outcome, there is recognition that this is not always possible or desirable. Danish professionals seemed more likely to see parents' lack of agreement as an indicator of future problems with contact. This meant

that they spent more time looking at what practical steps could be taken and working with parents and children to investigate the main difficulties. They were more likely to look at the nature and quality of contact for the child, placing greater emphasis than professionals in England on 'good parenting'.

Conclusions

The researchers conclude that:

- Mediation is not appropriate in the majority of cases where there has been domestic violence. Forced agreements are likely to break down.
- Professionals need to become aware of domestic violence and its impact on child contact. Methods of screening for domestic violence and addressing the safety issues need to be developed. Particular attention should be given to the views of the child.
- Contact should not be presumed to be in the best interests of the child where there has been domestic violence. The starting point should be the presumption of no contact.
- Where contact can be shown to genuinely benefit the child and pose no risk to the mother, it must be properly supervised, with due consideration given to safety matters.
- Practical resources which might improve the safety of women and children include: contact centres with fully trained staff overseeing contact; help with taking children to and fro; safety provision on official premises; training for key professionals in safety issues and the effects of domestic violence; an expansion of the scope, availability and enforcement of domestic violence injunctions with an emphasis upon safety.

About the study

Qualitative methods of research were used to look at the experiences of 79 separated women (53 England, 26 in Denmark), 2 of their older children and 99 professionals (77 in England, 22 in Denmark) involved in child contact disputes. For periods of up to two years, the researchers monitored how contact was set up, how it changed over time and how it affected the mothers and their children. Denmark was chosen because it has similar rates of divorce and lone parenting to England; mediation was introduced as an integral part fo familiy proceedings in 1985; and there is more extensive support for lone parents and for children. Fieldwork took place between December 1992 and March 1995.

Further information

A more detailed report, Domestic Violence and Child Contact in England and Denmark by Marianne Hester and Lorraine Radford, is published by The Policy Press in association with the Joseph Rowntree Foundation and is available from The Policy Press, University of Bristol, Rodney Lodge, Grange Road, Bristol BS8 4EA, Tel: 0117 973 8797 (Price £11.95, ISBN 1 86134 018 4).

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Published by the
Joseph Rowntree Foundation
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Tel: 01904 629241 Fax: 01904 620072
ISSN 0958-3815

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