

PART 04

-Understandings of Domestic Abuse

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Domestic abuse is neither a uniform phenomenon nor a static condition, but varies in form, frequency and severity,²⁹⁶ and can manifest as physical, psychological, emotional, economic and coercive and controlling abuse.²⁹⁷ Coercive control has been recognised as particularly useful to recognise the impact of domestic abuse as it combines four broad strategies, which may be used individually or at the same time: physical violence, intimidation, isolation and control, that in combination form 'a sustained pattern of behaviours'.²⁹⁸ It is important to recognise that these tactics are, however, developed for the particular survivor; coercive control is not a one-size-fits-all model for understanding domestic abuse. This has, in turn, made the concept of coercive control difficult to translate into legal and policy responses which has led to an over reliance on expert testimony from psychologists and psychiatrists often employing a trauma based perspective.²⁹⁹ This risks coercive control being heard in the legal process in reductionist and deterministic ways to flatten and (re)define their nuanced anticipatory responses to violence³⁰⁰ as simply trauma. What is needed instead, it is argued, is a recognition that survivors are responding to and resisting violence, not trauma.³⁰¹

Domestic abuse can start, continue and increase in severity on and after separation. Coercive and controlling behaviour by the perpetrator during the relationship is the main predictive factor for post-separation domestic abuse.³⁰² In addition, the dynamics of domestic abuse change over the course of a relationship and separation may lead to new ways to perpetuate abuse. More recently, the phenomena of perpetrators engaging in 'legal systems abuse'³⁰³ to 'hunt, battle, and play' with their victims through law has also been

raised in the literature³⁰⁵ and particularly within the context of child custody proceedings, where gendered assumptions around mothering, fathering, and domestic abuse provide fertile ground for abusive and controlling behaviours to flourish.³⁰⁶ Tactics include deliberately prolonging the court process in order to intimidate and wear down the victim-survivor into agreeing to orders which are not necessarily in their best interests or that of their children.³⁰⁷ Domestic abuse has been characterised in three main ways: coercive controlling violence, violent resistance, and situational couple violence.³⁰⁸ The differences among the types, it has been argued, are defined by the interpersonal dynamics that produce the violence rather than the nature of the violence. Coercive controlling violence and violent resistance are produced and shaped by the dynamics of power and control, whereas situational couple violence is rooted in the dynamics of conflict management.³⁰⁹

As a result, the context of abuse cannot be determined by looking at violent incidents in isolation. Rather, the context of abuse can only be determined by a careful analysis of the nature of the relationship in which the violence is enacted and/or embedded.³¹⁰ Consequently, it is not enough for legal actors to simply identify domestic abuse. They must delve deeper to understand the specific nature and context of domestic abuse that is occurring in each individual case and the variations in the ways in which domestic abuse is enacted and experienced at multiple points in time within individual families and by the children whose interests the court is charged to protect.³¹¹ In short, they must determine who is doing what to whom and to what effect.³¹² Otherwise, they run the risk of misjudging the reality of what is going on and a failure to protect victim-survivors.

²⁹⁶ Loretta Frederick, Questions About Family Court Domestic Violence Screening and Assessment, 46 Fam. Ct. Rev. 523 (2008) Joan Kelly & Michael P. Johnson, Differentiation Among Types of Intimate Partner Violence: Research Update and Implications for Interventions, 46 FAM. CT. REV. 476 (2008).tta Frederick, Questions About Family Court Domestic Violence)

²⁹⁷ Stark, E. (2007). Coercive control: How men entrap women in personal life. Oxford University Press. Stark, E. (2013). Coercive control. In N. Lombard & L. McMillan (Eds.), Violence against women: Current theory and practice in domestic abuse, sexual violence and exploitation (pp. 17–33). Jessica Kingsley.

²⁹⁸ Coy, M., Perks, K., Scott, E. and Tweedale, R. (2012) Picking up the pieces: domestic violence and child contact. London: Rights of Women.

²⁹⁹ Sheehy, E. (2018). Expert evidence on coercive control in support of self-defence: The trial of Teresa Craig. *Criminology & Criminal Justice*, 18(1), 100–114. <https://doi.org/10.1177/1748895817733524>

³⁰⁰ Johnstone, L., Boyle, M., with Cromby, J., Dillon, J., Harper, D., Kinderman, P., Longden, E., Pilgrim, D., & Read, J. (2018). The power threat meaning framework: Towards the identification of patterns in emotional distress, unusual experiences and troubled or troubling behavior, as an alternative to functional psychiatric diagnosis. *British Psychological Society*.

³⁰¹ DeKeseredy, W. S., Dragiewicz, M., & Schwartz,

M. (2017). *Abusive endings: Separation and divorce violence against women*. Oakland, CA: University of California Press. Douglas, H. (2021). *Women, intimate partner violence, and the law*. Oxford University Press

³⁰² For a comprehensive overview of the research on this see pages 16-21 of the MOJ Literature Review, n255.

³⁰³ Martha R. Mahoney, Legal Images of Battered Women: Redefining the Issue of Separation, 90 MICH. L. REV. 1, 65 (1991).

³⁰⁴ Tolmie, J., Smith, R., & Wilson, D. (2024). Understanding Intimate Partner Violence: Why Coercive Control Requires a Social and Systemic Entrapment Framework. *Violence Against Women*, 30(1), 54-74.

³⁰⁵ Reeves, E., Fitz-Gibbon, K., Meyer, S., & Walklate, S. (2023). Incredible Women: Legal Systems Abuse, Coercive Control, and the Credibility of Victim-Survivors. *Violence Against Women*, 0(0).

³⁰⁶ Elizabeth V., Gavey N., Tolmie J. (2012). "... He's just swapped his fists for the system." The governance of gender through custody law. *Gender & Society*, 26(2), 239–260.

³⁰⁷ Laing L. (2017). Secondary victimization: Domestic violence survivors navigating the family law system. *Violence Against Women*, 23(11), 1314–1335

³⁰⁸ Joan Kelly & Michael P. Johnson, Differentiation Among Types of Intimate Partner Violence: Research Update and Implications for Interventions, 46 FAM. CT. REV. 476 (2008)t2308)

³⁰⁹ Ibid.

³¹⁰ Maryse Rinfret-Raynor et al., *Violences Envers les Femmes: Réalités Complexes et Nouveaux Enjeux dans un Monde en Transformation* (Presses Universitaires de l'Université du Québec 2014).

³¹¹ Nancy Ver Steegh et al., Look Before You Leap: Court System Triage of Family Law Cases Involving Intimate Partner Violence, 95 MARQ. L. REV. 955, 969 (2012).

³¹² Loretta Frederick, Questions About Family Court Domestic Violence Screening and Assessment, 46 FAM. CT. REV. 523 (2008)

Training on Domestic Abuse

The vast majority of judges and court appointed experts that were interviewed had received training on domestic abuse in their workplace, whereas for most lawyers it depended upon whether they specialised in this area or worked in an organization that specialised in working with survivors of domestic violence. Some judges, most lawyers and some

court appointed experts who participated in this research sought training voluntarily, in some cases it was the only training they had, while in some other cases it was on top of the institutional training previously received. However, given that most the stakeholders participating in this study were usually connected to institutions that worked with survivors or had an interest in this research topic, this latter group may not be representative of the wider population of stakeholders.

Most stakeholders have received some form of training on Domestic Abuse

Who Received Workplace Training on Domestic Abuse:

	Judges	Lawyers	Court Applied Experts
Bosnia & Herzegovina	9	8	5
England & Wales	8	2	9
France	0	1	0
Italy	6	3	1
Spain	5	3	4

Additional Training Taken Voluntarily:

	Judges	Lawyers	Court Applied Experts
Bosnia & Herzegovina	4	1	3
England & Wales	2	5	1
France	1	6	3
Italy	4	2	1
Spain	3	8	5

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The Content of the Training

In Spain, UK and Bosnia & Herzegovina the training received was felt to be focused on procedure and had had no great impact on their practice, for BIO6: 'My training was to take the entire law and regulation, my colleague, and then learn through the job and work process. I can't remember everything, but I attended two seminars related to domestic violence cases. But it could be more spectacular if I could learn something useful at work. So, in that regard, very little and weak training' (BIO6). UKIO9 talked about how Cafcass was focused on the implementation of guidelines rather than seminars or practical training on why the guidance had been issued and the underpinning values. As a result, some Cafcass officers considered this as training and some others did not.

In Bosnia & Herzegovina the local collaboration network of each court had a direct impact on judicial training. Some judges in Bosnia & Herzegovina and in England & Wales³¹³ commented on how they had received training on the dynamics of domestic abuse through collaboration with NGOs, and other agencies and organization who worked specifically with survivors of domestic violence. More detail was not generally provided in the interviews, however, a few interviewees used concepts that clearly demonstrated knowledge of the literature on domestic abuse such as 'cycle of violence' (FRIO4), abusers being 'charming' (UKIJ3, UKIO2) or the unknown number of cases that never reach the justice system when it comes to domestic violence (BIJ2, BIJ9, BIL11, BIL7).

The Lack of Compulsory Training

The lack of compulsory training on domestic abuse was brought up by and reflected upon by professional stakeholders, particularly in Spain³¹⁴ and France³¹⁵ '...the training isn't there. But training is all about listening, it's about humility and looking for evidence.... I did my training on my own... In reality, it's on the job. And my real training was Emma, one of my clients. I drew an experience from them... And then, one day, I had a kind of revelation and I'm not saying that I understood everything, but it made me understand a number of things, namely ambivalence' (FRIL2). Moreover, when training is not mandatory, those who most need it are the least likely to attend: 'The training offered by the Council of the Judiciary, which is continuous training, is not compulsory for judges of violence, So of course, this is a problem, because in the end the judges in these courses on violence are always the same people, the same colleagues, you know those of us who are more aware, more aware' (SPIJ5).

A large range of professional stakeholders in Italy felt that there was not enough specialist training on domestic abuse.³¹⁶ The lack of specialisation in gender-based violence for court appointed experts was also an issue 'courses or examinations where gender-based violence is discussed do not exist in training courses, except in the last years in the university training. Within the centres we follow many trainees coming from the university, many trainees who have graduated in psychology and who have never heard about gender violence. Therefore, it is missing in the professional training' (ITIO3).

In Spain, the training of psychosocial teams varied according to geographical location and did not appear to have any national oversight. Some psychologists reported having had frequent training and updating seminars, but most of the sample did not.³¹⁷ In England & Wales, Cafcass England and

³¹⁵ BIJ2, BIJ3, BIJ4, BIJ5, BIJ8, UKIJ3, UKIJ4, UKIJ5, FRIJ1, FRIL1, FRIL4, FRIL6, FRIL8, FRIO1, FRIO2, FRIO4.

³¹⁶ (ITIJ2, ITIJ3, ITIJ4, ITIJ7, ITIL10, ITIL3, ITIL4, ITIL5, ITIL7, ITIO2, ITIO3).

³¹⁷ SPIO1, SPIO2, SPIO3, SPIO4, SPIO5, SPIO6, SPIO7.

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Cafcass Wales made specific provision for training of Cafcass officers and published information about their policies and guidelines on domestic abuse.

Stakeholders who had received training were conscious of the need for this to be updated; some judges in Bosnia & Herzegovina and in England & Wales³¹⁸ commented that training on domestic abuse was not updated enough and that it happened 'a long time ago' (UKIJ4). There was also a general perception across the jurisdictions that the training received by lawyers, judges and psychosocial services was insufficient and not enough was known about the dynamics of domestic violence regardless of how much training they had themselves received.³¹⁹ This was a particular concern in Italy,³²⁰ 'Unfortunately there are a lot of lawyers who carry out their work across many sectors i.e. they are not specialised and on the family they are terrible, really there is no empathy, there is no sensitivity, there is no ability to understand the right of the child, they do not understand when they have to stop..' (ITIJ4). This criticism was also directed towards the judiciary: 'The Superior Council of the Magistracy boasts of the fact that it is organising an event close to 25 November... Magistrates in Italy who deal with organised crime or the Mafia are prepared, they know the phenomenon and they know the Mafia phenomenon and all the dynamics that exist. Why not also know the phenomenon of violence? Because it is not a question of regulations. They are there. The problem is their application because if you don't know the phenomenon, if you don't know the dynamics of violence then those rules can hardly be applied correctly and to protect women and children' (ITIL3).

A particularly concerning issue that was brought up by professional stakeholders in Italy was the lack of training and therefore preparedness for the Cartabia reforms. The vast majority stated that they had received very little or no training on the new procedures and had no idea when the reforms were going to be implemented or indeed how. There were particular worries around how the required specialisation of CTU's would be enabled given the existing problems relating to a lack of specialism: 'in my opinion, at the moment, looking in our small territory, I do not know who could really do the CTU in these cases and who really has specific training. In my opinion only a few will have it. Then no specialisation training courses have been organised perhaps

in the meantime, or at least I haven't heard of any' (ITL10) and quality: 'CTU are not many, and those who do exist are often very young, perhaps those who are just starting out, or those who, precisely because they are not good, don't have a private clientele, and so they throw themselves into the public sector' (ITIJ4). It was widely acknowledged that the scale of the reform would require a significant commitment of resources which did not appear to be there: 'it is a reform that the legislator has done somewhat at zero cost, especially in terms of structural and economic resources. Therefore, it is clear that, especially from the point of view of the structure of this family court, if the human resources, judges, administrative staff, social services, also in the function of prevention of the problems of minors, are not adjusted, the problem will remain, a shadow to be managed' (ITIJ6). The vast majority of these reforms were meant to have been implemented during the time period that the research was undertaken. There was a considerable amount of scepticism therefore that the reforms would indeed be implemented effectively and on time.³²¹

There was a widespread awareness of the lack of specialised training for professional stakeholders amongst survivors, who, felt that they, had had to suffer the consequences: 'If they know about domestic violence, they don't use anyway, even those who say, they're specialist, they're crap, as well... when you see the lawyer, they say, yes you can do this, and that, big tiger. And as soon as you in front of the judge, meow, their voice changes' (UKFG1B). For others it meant having to frequently change lawyers until they found someone who did have specialist knowledge of domestic abuse; SPFG1A had five different lawyers, whereas SPG2A had '8 lawyers. In eight years, because each process takes a different lawyer, and they take so long to give you the lawyer that nobody knows.' It was rare for survivors to find a lawyer that they felt positive about, and when that did happen it was not because of their expertise on domestic abuse, but rather that they had put in the effort (UKFG3A) or had correctly managed their expectations. 'To be fair, she was very good. She did represent me. She did manage my expectations, in terms of, when I asked her, which way do you think is going to go? And she said, I really don't know. Like when, when we came to the fact-finding, she was open, don't bother with the coercive or financial. pick out the worst violent ones. You'd be more stronger on those ones.' (UKFG2B)

³¹⁸ BIJ10, BIJ2, BIJ5, UKIJ4, UKIJ5.

³¹⁹ BIL1, BIO1, UKFG2A, UKFG2C, UKIJ5, UKIJ7, UKIL1, FRIJ1, FRIL2, FRIL3, FRIL4, FRIL7, FRIO2, ITIJ2, ITIJ3, ITIJ4, ITIJ7, ITIL10, ITIL3, ITIL4, ITIL5, ITIL7, ITIO2, ITIO3, SPFG1A, SPFG2D, SPIJ3, SPIJ5, SPIL3, SPIL7, SPIL9, SPIO2, SPIO7.

³²⁰ ITIJ1, ITIJ2, ITIJ3, ITIJ4, ITIJ5, ITIJ6, ITIJ7, ITIJ8, ITIL3.

³²¹ ITIJ2, ITIJ6, ITIJ7, ITIJ8, ITIL1, ITIL10, ITIL2, ITIL3, ITIL4, ITIL5, ITIL6, ITIL7, ITIL9, ITIO2, ITIO3.

Understandings of Domestic Abuse Amongst Professionals

Most professionals across the three groups interviewed, recognised the impact of domestic abuse and the trauma and damage it can cause to victim-survivors. There was also recognition that domestic abuse can manifest in different ways. In terms of characteristics, perpetrators were often described as men, although there was some recognition, particularly from lawyers that women could be violent against men (BIL10, BIL7, FRIL1).

In terms of the prevalence of domestic abuse in family law cases most professionals referred to domestic abuse as a frequent factor in their cases,³²² with a perception that it was on the increase in Italy (ITIJ5, ITIJ6 and ITIL8).

Perceptions on Causation

Stakeholders across all the professional groups and jurisdiction linked domestic abuse to drugs and alcohol or to mental health issues. Other explanations offered included environmental factors such as education, violence and childhood traumas and parental relationships. Cultural explanations were particularly prominent in Italy and Spain with external cultures being blamed (as in the case of ITIJ4 and ITIJ6 who commented on domestic abuse prevalence in non-Italian cultures), as well as national ethno-religious cultural norms. ITIL7, for example, focused on the catholic culture in the country whereas others referred to a combination of patriarchy and machismo that they felt was present in their society: In Spain, a number of participants³²³ saw it as a social issue, SPIO2 described it as 'based on a socio-cultural model based on patriarchal and macho culture'. On a similar line, BIJ3 and BIL2 thought that domestic abuse is the result of toxic masculinity.

Violence minimized as a 'conflict'

A number of stakeholders reported evidence of the minimisation of domestic abuse as simply 'relationship conflict' or 'bad behaviour' or a bad reaction to separation,³²⁴ a couple's crisis: 'We lost the criminal trial, he was acquitted the judge was able to tell me "it's ok, these are things can happen in a couple in crisis", and he was acquitted' (ITFG1A) or a bad reaction to the breakup: 'yes, yes, the situation in which both partners have mishandled the break-up. This is very frequent, more frequent, at least in our city, than cases of gender violence, that you are mistreated because of the macho idea of being a woman, but rather because of the bad management of the break-up, of not knowing how to deal with it' (SPIO1).

Moreover some stakeholders saw these 'conflicts' as the responsibility of both parties, for example: 'Some mothers, I believe, know darn well that, the children will not be harmed in any way, because when I look at domestic abuse, I do not see a devil and an angel. Often the dynamics within the relationship are where things build up and build up and build up, and it takes two to argue, doesn't it?' (UKIL7).

SPI16 in Spain shared their view on domestic violence cases: '...it is very rare that someone is completely right and the other is wrong...] what I can say is that in 20 years of this I have never seen anyone who is absolutely right and the other who is wrong, never. And if you ask me and in criminal matters, it doesn't happen either. No, he hit me on the head, I was in a dark alley, but what were you doing in a dark alley. Well, I was going to buy something, that's what I was going to buy, well, I was going to buy a joint, you know what I mean? In other words, all the cases that I have had to deal with in my life and that I have seen from the outside and in all the cases that I have seen, all of them, each party had their share of involvement.'

³²² UKIJ5, UKIJ8, UKIL4, UKIL8, UKIO4 BIJ10, BIJ8, BIO1, BIO6, BIO7, ITIL9 and ITIO1..

³²³ SPIJ5, SPIL10, SPIL11, SPIL7, SPIL8 and SPIO7.

³²⁴ BIL7, UKIL7, FRIL8 SPIL6, SPIL8, SPIO1, SPIO5.

The relevance of time

There was evidence of a good understanding from stakeholders about the need to consider the relationship as a whole, rather than episodes of violence when determining if domestic abuse has taken place. (UKIJ5, UKIL1 and UKIO5). UKIL1 pointed out how it is essential to focus on showing the pattern of violence in court instead of focusing on episodic events, as these will not be considered relevant and an act of violence: 'sometimes you get potential lists of allegations from, from victims, from your client, that say, he banged on my door. Well, if that is a pattern of behaviour that's coercive controlling behaviour, yes, that, that may well be relevant to determine. If it's just, you know, three years ago, he banged on my door. Well, we're not, the court's not going to hear that.' There was also recognition that survivor-victims often endure domestic abuse for long periods of time before coming forward. SPIJ5 added that 'according to data from the Observatory of Gender and Domestic Violence, it takes an average of 9 years to report'.

However, there was marked evidence of a failure to understand that separation of the couple does not automatically remove the risk of domestic abuse. This was particularly evident in England & Wales where there was repeated reference to the notion of domestic abuse as 'historical', if it occurred prior to the separation and therefore irrelevant in terms of whether the court should take it into account when making its decision. For UKIJ1, longer relationships were more credible, 'you haven't actually got a long relationship with domestic violence in it.' For UKI2 there is not much point in talking about events that happened years ago: 'you know, say the relationship, started in 2012 and then to 2022, and then, you make the obvious point, well, you say these things happened, started in 2012, and you had your first child in 2014, your second in 2017, and third in 2019. So, I'm afraid I do then wonder, to what extent, those earlier matters are relevant.'

Types of Violence

Stakeholders across all jurisdictions talked mainly about physical and psychological violence; other forms of violence were rarely mentioned. There was also agreement, even amongst those who were aware of other types of abuse, that cases involving physical violence received priority as it was

easier and faster to prove, while any other abuse would require more evidence (SPIL5 and SPIL9). In England & Wales the differences in the type of abuse could make a difference according to which type of judge and court the case was in front of: This perception was also shared by many survivors: 'They don't see coercive control. They do not see it. It's like invisible to them' (UKFG1A); 'Cafcass does not see financial abuse.' (UKFG4C). In France, lawyers demonstrated a wider awareness about the various forms of abuse, providing different examples of what this could imply, such as pulling hair, hitting and punching, or hematomas and injuries, strangulation or aggression in general. Psychological violence was also mentioned, such as receiving abusive texts, financial abuse and humiliation, 'you are nothing, you are not good at anything' (FRIL3) Sexual violence and marital rape were also mentioned.

An awareness of how victims of domestic violence are trapped in abusive relationships

There was a good level of awareness across the stakeholder groups about the factors that can trap victim-survivors in the relationship. A common element mentioned by lawyers in all jurisdictions except England & Wales, is that survivors of domestic violence feel shame and guilt for the abuse they have lived, which makes it harder for them to report it and exit.³²⁵ Other stakeholders, particularly in Bosnia & Herzegovina, emphasised how common it is for survivors to go back to their abusers whilst emphasising that this was part of the dynamics of abuse. In Bosnia & Herzegovina and in Spain, stakeholders highlighted how it is common for survivors to withdraw their reports once in court.³²⁶ The consequence of this is that the cases cannot move forward, are dropped or filed and lead nowhere.

³²⁵ BIL5, BIO8, FRIL1, FRIL4, ITIL8, SPIJ1, SPIL10, SPIL11, SPIL2, SPIL4 and SPIL5.

³²⁶ BIJ2, BIJ3, BIJ4, BIL7, BIL8, BIO5, SPIJ2, SPIJ5, SPIL10

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In France the most common factor mentioned was control (FRIJ1, FRIL2, FRIL4, FRIL6, FRIO1), manipulation (FRIL2, FRIL7, FRIO4), conflicts of loyalty (FRIL2, FRIO2) and jealousy (FRIL10). Other elements discussed were religion (FRIL3), the 'cycle of violence' (FRIO4), the lack of support networks (FRIL3 and FRIL6) (ITIJ4), and the economic situation of the victim (FRIL3, FRIL4 and FRIL6). In Spain, SPIJ2 and SPIL10 identified an emotional dependency between victims and abusers, which would lead survivors to reject protection orders (SPIJ2).

Violence harms children

Stakeholders in all groups expressed the view that domestic abuse creates trauma for children, even if the violence was not specifically directed at them. Some stakeholders talked about the specific consequences of witnessing abuse in terms of altering children's development (UKIJ6, UKIO1, UKIO7) or potentially becoming violent in the future towards others³²⁷ and themselves.³²⁸ SPIO6 said 'they can present many problems, from anxiety problems, depression problems, problems of school failure, problems of violent and aggressive behaviour, in other words, it is documented and sometimes there is a pathological link with the father.' Spain was the country that provided the most detail in terms of the consequences for children.

As a result, some stakeholders held the view that maintaining contact between children and a violent parent is dangerous and damaging. FRIJ1 provided an example of a father with whom it was impossible to work, and thus they had to suspend all contact: 'So I pointed out to him that the alternating residence, on the day of my decision, if I follow your demands, ceases and from one day to the next, you will never see your children again. That's what you want. He said yes [...] with a father like that, you can't work. He always kept on fucking up and tried to harm the mother.' A large portion of stakeholders in England & Wales and in Spain, agreed that if there is a risk of violence to the child, there should be no contact at all.³²⁹

Beliefs Around the Instrumentalization of Domestic Abuse

A common view expressed by professionals and mainly lawyers was the view that women report domestic abuse as a strategy to win the case in court or to obtain benefits such as legal aid³³⁰. Moreover, some stakeholders expressed the view that if a report of violence is viewed as strategic it was more likely to be perceived as fake (BIO9, FRIL3, FRIL7, FRIL8, SPIJ2, SPIL7). ITIL2 highlighted that where a criminal case against a perpetrator was unsuccessful or had been dismissed, the disclosure of domestic abuse is automatically understood as false, and thus an instrumentalization of it.

There was also evidence of a general mistrust towards disclosures of domestic abuse amongst some stakeholders in Spain (SPIO4, SPIO5): 'I've come across allegations of possible sexual abuse of a girl who had been in a meeting point for two years. But where are you going to rape her? Here in front of me. And the father was under search to be captured. Imagine that. Things happen' (SPIO5). SPIL6 simply believed that if indeed a case was filed, it was automatically a false accusation. Consequently, there was an overemphasis amongst some stakeholders of the likelihood that survivors were simply making false allegations, despite the fact that such allegations are rare³³¹. UKIJ1, together with UKIJ2, UKIL1 and UKIL7 highlighted the need to be wary of false allegations. SPIL8 held the view that there should be a general presumption of mistrust towards survivors' reports of violence because false allegations were underreported: 'The data on false reports are minimal, but it is also true that the data on false reports are those that end up in a house in which a situation of false reporting is reported and the person who filed the false report is convicted.'

³²⁷ UKIJ5, UKIJ6, UKIJ9, ITIJ1, SPIJ5, SPIL5, SPIO2, SPIO6.

³²⁸ SPIL12, SPIL5, SPIO2, SPIO5, SPIO7.

³²⁹ UKIJ8, UKIJ9, UKIL1, UKIL3, UKIO1, UKIO2, UKIO3, UKIO4, UKIO6, UKIO8, UKIO9, SPIJ2, SPIL12, SPIJ5, SPIL5, SPIO2.

³³⁰ BIL7, BIO7, BIO9, UKIJ1, UKIJ8, UKIJ9, UKIL2, UKIL3, UKIL5, FRIJ1, FRIL1, FRIL2, FRIL3, FRIL4, FRIL6, FRIL7, FRIL8, FRIL9, FRIO2, ITIL9, ITIO2, SPIJ2, SPIL10, SPIL2, SPIL7, SPIL8, SPIL9, SPIO4, SPIO5, SPIO7.

³³¹ For example, in the UK, according to the metropolitan police website, in 2021 there were 71,984 recorded cases of domestic abuse with female victims. That same year, the recorded cases flagged as false allegations by females were 15 (<https://www.met.police.uk/foi-ai/metropolitan-police/d/february-2022/false-allegations-in-domestic-violent-cases-from-2018-to-2021/>)

Understandings of Domestic Abuse in the Legal Process

Evidential Concerns

Evidential concerns related to proving domestic abuse were common across all groups of stakeholders and jurisdictions and particularly, where there was no evidence of physical violence. A number of stakeholders brought up how non-physical abuse was dealt with in: 'When you have no other evidence, apart from her statement, it ends with an acquittal. [...] of course the court cannot rely on the statement alone, and if she has medical documents with photos of injuries, if she has a neighbour who saw it, if she has any of her close relatives that she was I saw how she came, what kind of condition she was in, and there we already have a conviction, but only on the basis of her testimony, and when she changes her testimony, very rarely, but very often, it happens that in the end there is an acquittal' (BIJ4). One survivor related her experience: 'I did try to report gender violence, but the police did not take the report..., the policeman who attended me told me that there had to be a corpse or a forensic medical report and that I had gone on my feet to talk about psychological abuse and that it was my word against his and that. And that it was better not to report it' (SPFG3B). It is clear therefore how such attitudes towards non-physical abuse can have a huge impact upon family law proceedings, where evidence of criminal law convictions was often crucial in family law proceedings to corroborate claims of domestic abuse. Consequently, most participants only mentioned physical violence when discussing how domestic abuse could be proven to have taken place; other types of abuse were rarely mentioned at all. In addition, most comments about the type of evidence needed came from judges, lawyers and survivors themselves, however psychologists and social workers had less to say in this regard, these two groups of stakeholders saw their role as building part of the evidential picture.

The way in which the abuse is presented at court also had an impact beyond the evidence presented and the type of abuse in discussion. 'There are cases in which the lawyer when introducing the case simply says "the woman has suffered violence" in very general terms without specifying whether it is economic violence, psychological violence, physical violence, violence carried out in front of the children. It is not only a problem of proof, it is really a problem of how the violence is presented, so in these cases it sometimes happens

that the question is only, let's say, presented to the judge a little bit to impress him, but it is not then enriched by any detail' (ITIJ2).

Moreover, when physical violence is in the picture, psychological violence and its impact is erased. This is particularly worrying, given that coercive control is a predictive factor for post separation abuse, and was picked up by SPIL5: 'If a woman makes a complaint and says that she has been suffering from psychological abuse for 10 years. But she's been punched today. If we don't look into the psychological abuse, there's going to be a Durge, which is a procedure, an urgent procedure, a speedy trial for the, for the punch. And I would say but isn't she telling that he has suffered 10 years of psychological abuse? That needs to be investigated, no, that needs to be delved into. If you don't insist on that, there will probably be a speedy trial for the punch, he'll get a fine or a restraining order and that's it'.

What is clear, is that for most stakeholders, across all jurisdictions, survivors' testimony is insufficient on its own to demonstrate domestic abuse had taken place; corroborative evidence is required. Survivors also referred to their testimony not being enough:

'She told me to withdraw the complaint and not to ask for psychologists or anything like that. Why not? They were useless. And that I couldn't prove that he had hit me. I had no visible blows, with my two children tucked up in my bed' (SPFG2A). In Italy, survivor ITFG1D shared how the presence of an external witness (a security guard in the street) was key and guaranteed the survivor was believed. The need for survivors to demonstrate credibility in court in terms of their behaviour and demeanour was also underlined by a number of stakeholders in terms of its evidential impact³³². In contrast, a large number of survivors stated that in their cases, testimony from the alleged perpetrator often did not require any corroboration at all and any claims were taken at face value.³³³

Criminal convictions for domestic abuse was reported as the best form of corroboration and regarded as key to victims being believed in the family court, which could sway the final decision in their favour.³³⁴ In addition, videos, photographs, messages and witness evidence were all regarded as crucial in terms of proving that the abuse took place.³³⁵ Thus, if survivors can 'show' the abuse they are more likely to be believed.

³³⁰ BIL7, BIO7, BIO9, UKIJ1, UKIJ8, UKIJ9, UKIL2, UKIL3, UKIL5, FRIJ1, FRIL1, FRIL2, FRIL3, FRIL4, FRIL6, FRIL7, FRIL8, FRIL9, FRIO2, ITIL9, ITIO2, SPIJ2, SPIL10, SPIL2, SPIL7, SPIL8, SPIL9, SPIO4, SPIO5, SPIO7.

³³¹ For example, in the UK, according to the metropolitan police website, in 2021 there were 71,984 recorded cases of domestic abuse with

female victims. That same year, the recorded cases flagged as false allegations by females were 15 (<https://www.met.police.uk/foi-ai/metropolitan-police/d/february-2022/false-allegations-in-domestic-violent-cases-from-2018-to-2021/>)

³³² UKIL3, UKIL5, ITIJ1, SPIJ6, SPIL12, SPIL7.

³³³ UKFG1A, UKFG1F, UKFG2A, SPFG1D, SPFG1F, SPFG2E, SPFG2C, SPFG3A, SPFG3G.

³³⁴ BIJ2, BIJ6, BIL1 and BIL6 BFG3C and BFG3G, UKIJ6, UKIJ8, UKIL8 and UKIO1, FRIJ1 and FRIL7 ITFG3B a ITIJ3, ITIJ4 and ITIL7.

³³⁵ BFG1B and BFG2I UKIO7, FRIJ1, FRIL1 and FRIL6 SPFG2C SPFG3F SPIJ3, SPIL7 and SPIL8 BFG1B.

Understandings of Violence and Abuse in Relation to Children

The Best Interests of the Child Are Always Served By Contact

Overall, there was a general sense across jurisdictions, and particularly amongst lawyers of the presumption that the best interests of the child were served by prioritising contact with the non-resident parent (usually the father) with insufficient attention being paid to whether contact was actually in the best interests of a particular child.³³⁶ This was echoed by a large number of survivors.³³⁷ The factors that were capable of rebutting this presumption, as described by stakeholders, were mainly related to parents engaging in 'bad' behaviour in front of children, such as drinking or consuming drugs.³³⁸

Despite the fact that there was widespread agreement amongst stakeholders that the impact of experiencing domestic abuse on children was traumatic, the focus of the courts was nonetheless on how contact could be maintained, and any risks being managed, rather than whether contact should be allowed at all.³³⁹ This was particularly evident in England & Wales³⁴⁰ UKIL2 summarise the widespread opinion of interviewees: 'what you want is a piece of paper that sets out what the bottom line for child arrangements is.'

As UKIJ2 pointed out: 'the idea therefore that you can't have contact is wrong. It's a question of how can you have contact?'

A good example of the lengths to which some judges are willing to go to allow contact can be found in the information shared by BJ8: 'First of all, it is very important to delineate whether the violence was also against children to determine the method of contact with the children by the abuser [...] So we have a situation where we organize contacts with a parent who abuses children in such a way that they see each other at the center for social work in the waiting rooms at the center for social work. That the contact is maintained with

the presence of a family member and yes, this is exactly what it means, depending on what kind of abuse it is and whether the father can be left, that is, the mother can be left alone with the child or not, that is, we also make some periods, means the sentence can vote on the entire 1 page because of that way of contacting from some kind of adjustment to precise determination, when, how, at what time, with announcement, in what space? If they are small children, if there is any violence, it can be organized somewhere in a playroom in some public space, so that the children are not left alone with that father, and still have contact.'

For UKIJ7, the key point was 'to ensure that they get back in the best possible way, that is safe for them and allows them to flourish, and enjoy what they can have with each parent, it is appropriate'. For most lawyers in Bosnia & Herzegovina (BJ1, BJ8, BIO2 and BIO7), it was essential to protect children's best interest to keep a sense of home, of being together with both parents. This was often framed as a question of parental rights. For BJ10, for example, 'it is a parent's right to have contact', while BIL12 commented 'even though there was violence against women and violence happened in front of children, most often, the centers for social work decide that the visitation must be carried out.'

This approach was also evident in France (FRIJ1, FRIL4, FRIL7, FRIL8) and Spain, where the visitation setting was not appropriate, judges rely on meeting points as a safer way to establish contact (SPIJ1, SPIJ2, SPIJ3, SPIL12 and SPIL7) The point made by many stakeholders was that this demonstrated that the need to avoid breaking the bond between father and child was a strong influence on decision making in Spain.³⁴¹ There was a strong focus on how this 'risk' could be mitigated by different ways of keeping contact, such as safeguarded visits (UKIJ4), meeting points in Spain³⁴² a third

³³⁶ BIL12, FRIL10, ITIJ5, ITIL1, ITIL10 and ITIL5.

³³⁷ BFG2F, BFG2E, BFG2I and BFG3G, UKFG1A, UKFG1E, UKFG2A, UKFG3C, UKFG4B, FRFG3A, SPFG1C, SPFG2D and SPFG2E.

³³⁸ BJ1, BJ3, BJ4, BJ7, BIL11, BIO1, BIO7, UKIL3, SPIJ1, SPIJ3, SPIJ4 and SPIO7.

³³⁹ FRIJ1, FRIL4, FRIL7, FRIL8.

³⁴⁰ UKIJ1, UKIJ2, UKIJ3, UKIJ4, UKIJ6, UKIJ7, UKIJ8, UKIL1, UKIL2, UKIL4, UKIL8, UKIO2 and UKIO3.

³⁴¹ SPIJ1, SPIJ2, SPIJ3, SPIL4, SPIL12, SPIL5, SPIO1, SPIO3, SPIO4.

³⁴² SPIJ1, SPIJ2, SPIJ3, SPIL4, SPIL11, SPIL12, SPIL7, SPIL5, SPIL8, SPIL9.

person mediating the visits (FRIJ1, FRIO1, SPIJ1, SPIJ2), protected meetings (ITIO1), indirect contact through letters or cards (UKIJ6), or with the support of therapy for the father (UKIJ8, SPIJ4). In Italy, there is also an emphasis on fixing the relationship between the child and both parents,³⁴³ where some stakeholders discussed the importance of the abusive parent showed willingness to change (ITIJ3, ITIJ8 and ITIL2).

The Voice of the Child

Across all jurisdictions there was an underlying consensus that children who are too young have a limited understanding of what is happening and should not be involved in the legal process. Consequently, most jurisdictions had decided upon a certain age above which children could and should be heard. In Bosnia & Herzegovina, 10 years of age was an acceptable starting point, though BIJ1, for example, set the age at 16 years old. In England and Wales, in line with the legal position, a specific age was not discussed: UKIJ1: 'the views of a 14-year-old are going to be much more influential in the case than the views of a 4-year-old'. In France, the one judge that was interviewed set the age at eight years old, whereas in Italy the consensus was that they need to be at least over 12 years of age or to prove their discernment. In Spain stakeholders agreed that, in accordance to the law, it was from 12 years but sometimes, if they seem mature enough, they will be heard before then. However, stakeholders went on to describe the reality in practice; some judges do not follow these mandatory rules and do not talk to children, (SPIJ3) whereas others stated that children were indeed heard, but their views were simply dismissed (SPIJ5 and SPIL3). The role of the children's guardian was regarded as being particularly helpful in terms of advocating for children to be heard in England and Wales (UKIJ4, UKIL5, UKIL7, UKIO2) although there was recognition that children's wishes are not always considered and do not necessarily influence the result (UKIL4, UKIL5, UKIO1, UKIO2).

In France, unlike in other jurisdictions there was no guarantee that the children's views would be sought. One lawyer pointed out that children are only heard if they ask themselves to be heard (FRIL9), and FRIL3 discussed how it depended upon the practice of an individual court in terms of whether they seek the views of the children. However, when views are sought, some lawyers thought that they played a key role in the decision being made by the court (FRIJ1 and FRIL10).

There was also concern that the participation of children should be limited in order to avoid the risk of revictimization³⁴⁴ which is why psychosocial team interviews are recorded and/or they are conducted in a Gesell room. The wishes and needs expressed by children were identified as key in the decision making by judge SPIJ1. In Italy, children being heard was described as their 'rights in the case' ITIJ1). However, concern was expressed across the jurisdictions about the lack of training and competence on the part of the judiciary to take evidence directly from children. As a result, there was an over reliance on using the reports of psychologist, social workers or any other experts that work in support of the courts as the representation of the child's wishes.³⁴⁵

The majority of survivors across all the jurisdictions felt that their children's interests were taken into account because they were too young or that their expressed views were dismissed and their thoughts on the violence and contact were not considered. The exceptions were in cases where the courts respected the children's views that they did not want to continue with visitations with their father,³⁴⁶ or when the children spoke in favour of fathers and against mothers.³⁴⁷

Decision making – the role of risk

The notion of 'risk' was evident across all jurisdictions; the safety of the children meeting with their father was key in the consideration of custody and contact.³⁴⁸ There was evidence of a marked reluctance to consider the relevance of past domestic abuse as indicative of future risk amongst lawyers in England & Wales (UKIO6). There was also some recognition that risk could not be assumed to be absent in cases where contact had been agreed and that such agreements could be due to coercion. As a result, these judges made a point of observing the interactions between the parties before them, before making the order (ITIJ1, ITIJ2). Other professionals were alert to the possibility of manipulation and parental alienation, considering them both to increase the future risk for children (SPIJ1, SPIJ2, SPIL12, SPIL7 and SPIO5). Judges in France, Italy and Spain referred to the level of violence as an indicator of risk (FRIJ1, ITIJ1, ITIJ4, SPIJ2, SPIJ6).

In terms of custody decisions, most professionals felt that it was awarded to the parent viewed as best able to take care of the child (FRIL10 SPIJ3, SPIJ4 and SPIL7), however, this did not

³⁴³ ITIJ8, ITIL2, ITIL3, ITIL6, ITIL7, ITIL9 and ITIO1.

³⁴⁴ SPIJ1, SPIJ3, SPIJ5, SPIL9, SPIO2, SPIO3.

³⁴⁵ BIJ2, BIJ4, BIJ5, BIJ6, BIJ8, BIJ9, BIL10, UKIJ1, UKIJ3, UKIJ7, UKIJ8, UKIL1, UKIL2, UKIL4, UKIL5, UKIO1, UKIO2, UKIO3, UKIO4, UKIO5, UKIO6, UKIO7, UKIO8, UKIO9, FRIJ1, FRIL3, FRIL4, FRIO1, FRIO4, ITIJ2, ITIJ5, ITIJ6, ITIJ8, ITIL1, SPIJ1, SPIJ2,

PSIJ3, SPIJ4, SPIJ6, SPIL8, SPIO1, SPIO6, SPIO2, SPIO3, SPIO4.

³⁴⁶ BFG1I, BFG2I, BFG3I, FRFG2A, ITFG1D, ITFG2D, ITFG2B, SPFG2D.

³⁴⁷ FRFG2C, ITFG1C, ITFG2C, SPFG2B, SPFG2D, SPFG2A, SPFG3D.

³⁴⁸ BIJ1, BIJ9, BIO8, UKIJ4, UKIJ7, UKIJ8, UKIL1,

UKIL3, UKIL8, UKIO1, UKIO2, FRIJ1, FRIL4, FRIL7, FRIL8, FRIL10, FRIL9, FRIO1, FRIO2, ITIJ1, ITIL2, ITIL1, ITIL6, SPIJ1, SPIJ2, SPIJ4 and SPIO1.

PART 04 Understandings of Domestic Abuse

exclude violent parents, ITIJ1 and UKIO1 provided examples of cases where children were left with the father despite the violence, because he was considered better at taking care of them. Staying with an abuser was also considered as evidence of an ability to protect children and was acknowledged as playing against many mothers in this position in court (ITIJ4, ITIJ5, ITIL3).

The Presence of Violence Is Not Determinative of the Final Decision

Stakeholders across all jurisdictions expressed the view that the mere presence of violence was not always determinative of the final decision³⁴⁹ BIL1 provided a good summary of stakeholders' viewpoint on this regard: 'starting violence does not automatically lead to interference with the exercise of parental rights, which would be crazy if that were the case. At the end of the day, at least that's how it should be from my practice. I say it is so. Then, whether the violence was directed exclusively towards the partner or both towards the partner and the child, only towards the child.'

The impact of violence was considered in three main ways. First, if the violence is against the other parent some stakeholders in Bosnia & Herzegovina, and especially in England & Wales and in Italy considered this as a separate issue that was not relevant to the question of contact with the children.³⁵⁰ In the words of BIJ9: 'as long as they are not a danger to the kid, that is ok'. The main issue is the relationship between the parent and child.

ITIL9 commented: 'It very much depends on the sense and form of the violence, because we have to demarcate the situation that there can be violence in the family, but violence between spouses, and that the abuser did not also abuse the children. It doesn't have to be a bad father, that is, a bad mother, so it shouldn't be, and yes, we should really keep insisting that it's only a woman. So we have those situations where the relationship between husband and wife is threatened to such an extent that there is violence, but

between the two of them, and that violence was not suffered by the children in the sense of physical violence, not even verbal, except for the stress they suffer watching their parents how they fight.'

Second, domestic abuse is considered to be in the past and irrelevant to the current proceedings, this was a particularly prevalent view in England & Wales, where multiple references were made to abuse being 'historic'.³⁵¹ As a result the emphasis was placed on parents being responsible and their ability to many to coparent, regardless of the violence and 'conflicts' from the past. Thirdly, the impact and seriousness of the abuse is assessed based solely on the impact it has had on children:³⁵² ITIJ4 commented, when talking about what they consider when making decisions in these cases, that 'It depends on type of violence, impact, if it has stopped and how children feel' (ITIJ4). Similarly, In Spain some judges and lawyers (SPIJ3, SPIJ5, SPIL1, SPIL3, SPIL6) also highlighted the need to assess the seriousness and the impact on children before any decision making. For example: 'I believe that we have to weigh up the interests at stake in each of the cases. For example, a single episode of gender violence linked to domestic violence, in which the parents have hit each other, is not the same as a situation of habitual abuse. A situation in which the father has insulted the mother by text message without the child witnessing it is not the same as situations in which the child constantly witnesses how the father controls the clothes, the mother's clothes' (SPIJ3).

³⁴⁹ BIJ1, BIJ8, BIL1, BIL10, BIL2, BIL3, BIO10, UKIJ4, UKIJ5, UKIJ6, UKIJ8, UKIL2, UKIL3, UKIL4, UKIL5, UKIO1, SPIJ2, SPIJ5, SPIL12, SPIL3 and SPIO4.

³⁵⁰ BIL1, BIJ9, ITIJ1, ITIJ7, ITIL3, ITIL5, ITIL8, ITIL9, UKIJ1, UKIJ7, UKIL3, UKIL4, UKIL7.

³⁵¹ UKIL1, UKIL3, UKIL4, UKIL5, UKIL7, UKIL8, FRIL8, ITIL9.

³⁵² BIJ4, BIJ7, BIJ8, BIL1, UKIJ2, UKIJ4, UKIJ6, UKIJ8, UKIL2, UKIL3, UKIL5, UKIO1, ITIJ1, ITIJ3, ITIJ4, ITIJ5, ITIL9, SPIJ1, SPIJ2, SPIJ4, SPIL12, SPIL7 and SPIO5.

The Experiences of Survivors

In most of the cases in the sample, perpetrators of abuse received visitation rights. In some cases, these visits were supervised (BFG2E, FRFG1D, ITFG1A) and significantly reduced (BFG3F, FRFG3F, FRFG3C, ITFG1C), but still took place. In others, despite being awarded visitation the fathers did not comply (BFG1I, BFG2A, BFG3C, ITFG3A, SPFG2C).

It was also common for children to resist having contact with the fathers and refuse the visitations.³⁵³ Others talked about visitation being dependent upon successful participation in a perpetrator programme and how they felt this minimised their experiences of abuse:

'She put an addendum report in to say, he is a danger to her, he needs supervised contact until he does this perpetrator programme. And that's when we were with the Circuit Judge, and she was really good, in saying to him, well, you're not going, getting unsupervised contact until you do this programme. And therein lies, then it all goes downhill from there, because once he's done the Mickey Mouse DAPP and he's ticked the boxes, it's like, right, okay, and, here's your custody, like they'd stopped listening...'(UKFG3A).

There were many examples across all jurisdictions, excepting Bosnia & Herzegovina, of cases of survivors losing the custody of the children to the perpetrator, with a few also losing all contact with their children for a period of time (ITFG2A, SPFG2E and SPFG2D all lost contact with their children for four years for example). This was most common in Spain, followed by Italy. In these two countries, plus one example in England & Wales, there were also cases of custody being removed and placed in institutional care (UKFG1F, ITFG3B, SPFG3C, SPFG3D). the most common result excepting Bosnia & Herzegovina and Italy was shared custody between the survivor and their abusers.³⁵⁴

³⁵³ BFG1I, BFG2G, BFG2A, BFG3I, UKFG1C, UKFG4D, UKFG4B, FRFG2B, FRFG2C, FRFG3C, FRFG3A, ITFG1A, ITFG2D, ITFG3D, ITFG3A, SPFG1D, SPFG2E, SPFG3C.

³⁵⁴ UKFG1E, UKFG2A, UKFG4C, UKFG4D, UKFG4A, FRFG1C, SPFG1B, SPFG2B, SPFG2E, SPFG2C, SPFG3A, SPFG3B, SPFG3F.

Summary

The vast majority of judges and court appointed experts that were interviewed had received training on domestic abuse in their workplace, whereas for most lawyers it depended upon whether they specialised in this area or worked in an organization that specialised in working with survivors of domestic violence. The content, however, could be procedural in focus and this was generally not thought to be useful. In addition, training was not updated sufficiently, and there was clearly not enough national oversight and organisation; training was often left to local networks or individuals to organise for themselves. Despite this some evidence of an understanding of the dynamics of domestic abuse was in evidence, but that could be due to the sample being largely self-selected in terms of interest in the topic.

The lack of compulsory training is a particular concern for court appointed experts, outside of England and Wales and there was significant concern expressed in Italy around the lack of preparedness in general for the large-scale reforms that were recently introduced.

Most professionals across the three groups interviewed, recognised the impact of domestic abuse and the trauma and damage it can cause to survivors. There was also recognition that domestic abuse can manifest in different ways. However, the findings demonstrate that violence is often minimised as conflict and a shared responsibility of the parties. Although there was evidence of a good understanding about the need to consider the relationship as a whole, rather than episodes of violence when determining if domestic abuse has taken place, there was marked

evidence of a failure to understand that separation of the couple does not automatically remove the risk of domestic abuse, particularly in England & Wales where there was repeated reference to the notion of domestic abuse as 'historical.'

In terms of understandings of domestic abuse, there was a good level of awareness across the stakeholder groups about the factors that can trap victim-survivors in the relationship and that domestic abuse creates trauma for children, even if the violence was not specifically directed at them. However, a common view expressed by professionals and mainly lawyers was the view that women report domestic abuse as a strategy to win the case in court or to obtain benefits such as legal aid. In addition, the findings illustrate a general mistrust towards disclosures of domestic abuse amongst some stakeholders and an overemphasis on 'false allegations' despite their evidenced rarity.

Evidential concerns related to proving domestic abuse were common across all groups of stakeholders and jurisdictions and particularly, where there was no evidence of physical violence. The findings show that survivors' testimony is insufficient on its own and corroborative evidence is required, usually criminal convictions for domestic abuse.

Despite the fact that there was widespread agreement amongst stakeholders that the impact of experiencing domestic abuse on children was traumatic, the focus of the courts was nonetheless on how contact could be maintained, and any risks being managed, rather than whether contact should be allowed at

all. This was particularly the case in England and Wales. Although the notion of 'risk' was evident across all jurisdictions, the presence of violence is not determinative of the final decision. Finally, the impact of violence was considered in three main ways: violence between parents was considered separate to the question of what was best for children, domestic abuse is considered to be in the past and irrelevant to the current proceedings and the impact and seriousness of the abuse is assessed based solely on the impact it has had on children.

Thirdly, the impact and seriousness of the abuse is assessed based solely on the impact it has had on children:³⁰⁸ 'It depends on type of violence, impact, if it has stopped and how children feel' (ITIJ4). Similarly, In Spain some judges and lawyers (SPIJ3, SPIJ5, SPIL1, SPIL3, SPIL6) also highlighted the need to assess the seriousness and the impact on children before any decision making. For example:

'I believe that we have to weigh up the interests at stake in each of the cases. For example, a single episode of gender violence linked to domestic violence, in which the parents have hit each other, is not the same as a situation of habitual abuse. A situation in which the father has insulted the mother by text message without the child witnessing it is not the same as situations in which the child constantly witnesses how the father controls the clothes, the mother's clothes' (SPIJ3).