

PART 05

- Experiences of Justice

'they try to demand that even when they realise there is a problem of violence, they demand that women and mothers immediately overcome their fears, their difficulties in relating to men, and that they immediately overcome them for the sake of the children, because the important thing is that the children are guaranteed a father figure, regardless of whether or not the father is adequate to carry out his role'
(ITIL5)

PART 05 Experiences of Justice

The research context set out in Part 2 of this report for each jurisdiction demonstrates that survivor victims across all jurisdictions experience a number of common concerns during contact with the family justice system. This includes the phenomena of domestic abuse perpetrators using family law proceedings as a tool to continue their abuse and coercion, experiences of secondary traumatisation, the views of children not being heard, visitation and custody being granted to perpetrators despite evidence of a history of domestic and/or sexual abuse and a general minimisation of experiences of domestic abuse due to perceptions of gender discrimination and/or the use of unscientific concepts such as 'parental alienation.' Research³⁵⁵ has also demonstrated that female victim-survivors are often implicitly understood and responded to as "entrepreneurial subjects" who are responsible for failing to make reasonable life choices in order to achieve safety for themselves or their children. Before moving on to outlining the main findings in relation to experiences of justice in the project it is worth setting out what justice means.

Justice is a broad concept which has received much attention, particularly in terms of the development of theoretical models of justice, of which there are many.³⁵⁶ However, whilst there is much theoretical and conceptual work on justice there is very little research on the meanings of justice for victims-survivors of, and practitioners in the field of, gender-based violence.³⁵⁷ What has emerged from this research is that justice is not limited to a formal or even informal criminal/civil outcome. It implies freedom and safety, relates to recovery, becoming politicised and helping others.³⁵⁸ Nonetheless, procedural justice matters, the four key elements of which have been summarised as "whether there are opportunities to participate (voice); whether the authorities are neutral; the degree to which people trust the motives of the authorities; and whether people are treated with dignity and respect during the process."³⁵⁹ These elements will be of particular relevance to the following overview of the experiences of survivors in the research project.

An Expectation of Protection

The main expectation that survivors had of the family justice system and the professionals working in it was that of protection. i.e. that measures would be taken to protect their

children from further abuse. 'We hope that justice will hear us and keep them [children] safe' (FRFG3C) 'What I believed, what I was convinced, was that my daughter would be protected' (SPFG3B) However, the experiences of the majority of survivors in the sample was the opposite; most survivors felt their children were left unprotected with serious consequences in some cases. SPFG1C's child was left in the care of the father, during which the child was burned by accident and required 27 surgeries to deal with the injuries. One of SPFG1B's children is wheelchair bound and in the weeks in which the father is in charge, 'my son in wheelchair has been covered in poo.' 'I thought that Cafcass would be there to support my children, to be a voice for my children. And they weren't' (UKFG1C).

Survivors also expected that the evidence they provided would be objectively assessed and taken into account in terms of the final decision, however, they felt that the evidence was not given the time and attention it deserved. In ITFG3A's case the CTU made mistakes in the report, and even after evidence was presented to them, refused to fix such mistakes. Others felt that the evidence was disregarded because the outcome had been predetermined FRFG1D, FRFG1C, ITFG3C) 'Everything was proven, but nobody cares.' (BFG1A).

Shutting Down Discussions and Negating the Violence

The majority of survivors across all jurisdictions reported that they felt that their experiences of abuse went unheard and were not taken into account even where corroborative evidence existed.³⁶⁰ Moreover, when they tried to raise it, either during the court hearing or with court experts they were expressly shut down. 'And he [the judge] said, I do not want to hear about abuse. I am not interested. Do you understand how many people say that in my courtroom?' (UKFG1A). In ITFG1B's case, the judge said: 'the criminal cases do not concern me.' In France FRFG3A said, 'the psychologist who came to my home scolded me in front of the children, saying that I had no right to provide her with as much

³⁵⁵ Gore, A. (2022). Gender, homicide, and the politics of responsibility: Fatal relationships. Routledge.

³⁵⁶ Such as community justice, economic/financial/distributive justice, effective / affective justice, interactional justice, parallel justice, social justice and therapeutic justice /jurisprudence

³⁵⁷ Research Output, https://research.information.bris.ac.uk/ws/portalfiles/portal/188884551/Outputs_outcomes_and_impact.pdf, p 3

³⁵⁸ Ibid at page 13.

³⁵⁹ Natalie Byrom (2019), Developing the Detail: Evaluating the Impact of Court Reform in England and Wales on Access to Justice, 19.

³⁶⁰ BFG1E, BFG1A, UKFG1A, UKFG1E, UKFG2C, UKFG2A, UKFG3B, UKFG4D, FRFG1F, FRFG1D, FRFG3D, ITFG2D. ITFG3B, SPFG1B, SPFG1F, SPFG3G, SPFG3D, SPFG3E SPFG1E, SPFG2E, SPFG3B.

information and documents as I did, and that it was her job to form an opinion without them. Besides, she hadn't even seen them anyway. [...] it was still surprising to be rejected and be told off.' In Italy ITFG2D described her experience with the CTU as 'I couldn't talk and I couldn't say what was going on at home, what the problems were, which wasn't a simple misunderstanding between mum and dad, that is, it wasn't a simple disagreement about things that were important, but there was something else. I was hushed every time I was trying to explain what the real problems were.'

Others recollected experiences that demonstrated a lack of respect for their safety and dignity: 'every time I have gone to hearings I have been forced to sit and wait in the courtroom next to my abuser. I have never been allowed to be accompanied, I have not been allowed to speak in the courtroom, which has always surprised me very much, because I have always addressed the court with all the respect and I have asked your Honour, please, can I speak? And they have shut me up in a bad way. No, no, no, no, you shut up, I don't want to hear anything..' she [the judge] spoke about me at all times with the opposing lawyer as if in the third person, in other words, as if I wasn't there, as if I were there, in an empty chair' (SPFG2C). This was also common in England & Wales: where UKFG3B, related how the Cafcass officer in her case 'gave me no eye contact, nothing, even when I'm trying to show her my scars, she, like, didn't care.'

A number of survivors across the jurisdictions were put under pressure to negate their experiences of violence in order to progress the case, in UKFG4A's case the judge asked her to back down on her case, adding: 'we can't progress with contact until you back down. Um, actually, you know what, I've just come up with an idea, what we'll do is we'll adjourn the non-molestation, so we can proceed with doing a section 7.' In the case of FRFG3C reported that the expert tried to provide an alternative explanation to her report of sexual assault on her children: 'They said to me, "Maybe your daughters, excuse me, maybe your daughters watched a porn film at their dad's place". In Italy, ITFG3B shared how her CTU, tried to convince her she was mistaken about what had happened to her: 'I told the episode in which he at night wanted at all costs have sexual intercourse with me (but I did not) and he punched me on the head, all night like that... and the CTU told me "Ah, punches? That was not punching with meanness, it was to wake you up". I was shocked "Punching the head was not done with meanness? Definitely not with love!" [The CTU replied] "well, of course not even with love but they weren't punches"...from here the CTU went on like that.' In Spain, SPFG3A and SPFG3H were told they were

projecting their own personal experience of abuse on their children, thereby invalidating what the children reported themselves.

Survivors across all jurisdictions also reported that they did not feel that they were believed, even where corroborative evidence existed such as a medical report relating to injuries (SPFG2C). This was particularly the case with court appointed experts (UKFG4C UKFG2B FRFG1C, ITFG3A, ITFG3B). These points were underlined by a number of professional stakeholders, who reflected on how this was not the starting point of the proceedings; UKIJ5 acknowledged that survivors probably experience most of the process as 'unfair' as they are being 'challenged' for what 'they know happened to them'. While in France FRIL9 referred to the problem between survivors' expectations and what the justice system can give them: 'women who are victims, no matter how many times you tell them that it's a losing proposition, they still want you to get it. And that can be very complicated for them.' UKIL2 also referred to survivors not being believed: 'You don't necessarily come away with the sense of having been believed. Because most disputes about children are after the relationship has ended. And so, it's the argument, well, even if, even if what you're saying is right, it doesn't mean he shouldn't see his children'. In France, FRIO1 commented 'In a more general way, I have the impression that the victims' word is not very well heard, I talk about a lot of situations where the victims do not go to the justice system because they are not welcomed, are not heard, are not correctly taken care of'. SPIJ5 reflected the greater harm that these experiences could do to in terms of the confidence in the system itself 'I always say that a victim of gender-based violence. I don't know if she remembers the sentence or the order that the judge gave her, but I assure you that what she doesn't forget, and I have had the chance to deal with associations of resilient women, with many women's associations, is how they were treated by the judicial system and they don't forget that.'

The Use of Additional Expert Evidence

Overall, across all jurisdictions, stakeholders reported that expert evidence was viewed as neutral and essential; expert recommendations were usually followed by judges. In Bosnia & Herzegovina, for example, the reports of the centre of social work were presented as having a high impact.³⁶¹ Survivors in Bosnia & Herzegovina reported that when the additional expert report supported them, their chances improved, whereas, if they were not believed in these reports their credibility was questioned to the point of being called 'crazy' and 'hysterical' (BFG2B, SPFG3H). In England and Wales, Cafcass reports have a huge impact, with most judges and some lawyers believing that Cafcass officers fulfil an essential role,³⁶² although concerns were raised around raised concerns around reliability and a lack of 'quality.' (UKIL5, UKIJ7 and UKIL9) The majority of the survivors, however, reported bad experiences with Cafcass compounded by the weight that the reports hold. There was only one survivor who said that the recommendations of the Cafcass report were not followed by the judge, with the result in her favour (UKFG1D).

In terms of external evidence both judges and lawyers in England and Wales highlighted police reports (UKIJ6, UKIJ9, UKIL1, UKIL4, UKIL8), and medical records (UKIJ1, UKIJ4, UKIJ6, UKIL4, UKIL8) as having significant weight. In France medical certificates (FRIL1, FRIL3, FRIL6, FRIL7, FRIL8, FRIL9) and psychological and psychiatric assessments (FRIL1, FRIL3), were identified as important evidence, in addition to the results of social services enquiries (FRIJ1, FRIL4, FRIL6 and FRIL8) FRIJ1 adding that 'is very rare that I don't follow the recommendations of the social investigator or the psychologist.' The general opinion of

French, Italian and Spanish survivors was that experts are biased, and it is a biased system overall, particularly when they were instructed by the opposing party (FRIL1 SPIL5 and SPIL6).

In Italy, most stakeholders considered that the CTU report carried the most weight, with the courts usually following the recommendations. However, the majority had negative opinions about them. Lawyers talked about the general lack of credibility, professionalism and expertise, ITIL2 gave an example of a case that she had been involved in which required a particular expertise in terms of assessing the child's wishes and feelings, only to discover that the CTU that had been appointed was a sports psychologist. A number of judges and lawyers held the view that there were very few CTU's that they felt could do a good job in their area and had the requisite expertise (ITIL2 ITIJ4 ITIJ5, ITIO2).

A large number of professional stakeholders³⁶³ agreed that the psychosocial team recommendations are not binding on the judge: 'it is simply one more piece of evidence,' (SPIJ6) and there was some experience of the court going against the recommendation of the psychosocial team (SPIJ1, SPIJ5 and SPIO1). However, the reality was that psychosocial team reports held a lot of weight in terms of the final decision.³⁶⁴ Similarly, institutional reports, from schools (SPIJ1), meeting points (SPIJ5, SPIL8, SPIO1), medical (SPIL7, SPIO1), and psychologists (SPIL1) are considered as valuable evidence. However, survivors SPFG3G, SPFG3H, SPFG3A, pointed out that psychosocial or medical reports are indeed strong evidence, but only when they are against survivors and support the perpetrator; in their experience it was not so much about

the evidence presented but who presents the evidence.. In domestic violence cases, SPIJ1 said she had more trust in the psychologist's report than that of a social worker.

In terms of additional expert evidence, in England & Wales, where concerns have been raised in the use of unregulated experts, UKIJ2 complained that there is a lack of additional expertise beyond Cafcass and that it is hard to find. According to UKIL5 and UKIO1, the expert's selection is guided by their CV. UKIL5 added that expertise requires more than a degree.

In Italy, external experts were viewed favourably, ITIJ1, ITIJ6, ITIJ8, ITIL1 and ITIL9 having a general good opinion and generally because they felt that CTUs are not credible. Some lawyers had a small group of external experts that they felt they could trust (ITIJ4, ITIJ5 and ITIJ7) and tended only to appoint them: '[I have] my four or five experts whom I consider particularly good and whom I keep for complex situations, so I always appoint them.'

In Spain stakeholders talked less about this, as it was more common for them to simply raise their concerns with the existing court appointed expert report rather than bring in extra expert evidence.³⁶⁵ This tactic had worked for some stakeholders as the recommendation of the psychosocial team was then not followed (SPIJ1, SPIJ5 and SPIO1).

In France there was a general shortage of court appointed experts (FRIL9, FRIO1, FRIO2). The court list system was not a guarantee of quality and expertise, as there are no controls or checks in place: 'Among the experts there are some reports from experts who don't pick up on everything my

³⁶¹ BIJ1, BIJ10, BIJ4, BIJ9, BIL10, BIL11, BIL2, BIL5, BIL6, BIO2.

³⁶² UKIJ1, UKIJ2, UKIJ3, UKIJ4, UKIJ5, UKIJ9, UKIL2, UKIL4, UKIL5.

³⁶³ SPIJ1, SPIJ3, SPIJ6, SPIL7, SPIL9, SPIO1, SPIO3, SPIO4, SPIO6 and SPIO7.

³⁶⁴ SPIJ1, SPIJ2, SPIJ4, SPIJ5, SPIJ6, SPIL1, SPIL10, SPIL12, SPIL2, SPIL3, SPIL5.

³⁶⁵ SPIJ1, SPIJ3, SPIJ6, SPIL7, SPIL9, SPIO1, SPIO3, SPIO4, SPIO6 and SPIO7.

client says. Everything the little girl says and clearly have a bias and generally say: "Yes, the mother had experienced sexual violence herself, she transposes it onto her daughter" and puts aside the father completely.' (FRIL6). To this, we can add FRIL10's comment on how they

only 'see the children for a quarter of an hour', summarising that their work 'it's crap'. Moreover, FRIL3 and FRIL6 felt that court appointed experts do not know enough about domestic violence, especially not physical violence. Concerns were also raised around court

appointed experts pushed survivors towards mediation and other similar procedures, despite the presence of domestic abuse (FRIJ1 and FRIL3).

Stereotyping and Discrimination

A. Stereotyping

There were a number of examples of stereotyping from professional stakeholder across the jurisdictions and groups, the majority of which was based on gender and directed primarily at women. First, in terms of who is more likely to submit false allegations of domestic abuse: 'I would say that they are women. They are much more subtle, much more forged, for example, what happens through practice, especially when a woman decides to leave a marital-extramarital union. If she found a new partner, she will never admit it, she will come with violence by reporting violence' (BIO7).

Second, in terms of the idea that most survivors will reconcile with their ex-partners so it was not worth the efforts to work on these cases.³⁶⁶ In Bosnia & Herzegovina and in Spain there was a widespread belief that abuse complaints would be withdrawn.³⁶⁷ Such attitudes demonstrate a lack of knowledge and understanding around the dynamics of domestic abuse and the barriers which make it difficult for women to exit an abusive relationship.

Third, there was evidence of stereotyping based on class, particularly in England

& Wales, in France and Spain: 'A lot of the people who we see in the Family Court, are people who are, emotionally undeveloped, shall I say. They work on raw emotion, rather than reason. And therefore there is an element of, there's, there's a, there's a kind of, I hate the word class, but there's a category of people, who we see quite often, those who perhaps don't work, people who've opted for a benefit lifestyle, people who are involved in alcohol, drug abuse, which they don't see as abuse, it's just a lifestyle choice. We have a predominance of people from there, and they don't have highly academic backgrounds, they don't have particularly strenuously brain-based employment'(UKIJ7). Or as SPIL9 said: 'it also depends on education, respect. On each family. Which are not always the same'. In France this stereotype was presented in a different way by FRIL7, who highlighted how it might be 'difficult to understand that a woman doctor is a victim of domestic violence.'

B. Gender Discrimination

Survivors and stakeholders in Italy raised their experiences of judgemental attitudes because of how they dressed.

ITFG3B related how she felt she had been judged for how she dressed in comparison with her abuser: 'I was denigrated as a woman and a social worker wrote that in a video call I was posing in a bikini in front of my ex-husband to provoke him. I was veiled accused of being a woman of ill repute. Of not looking like a victim'

This was corroborated by ITIL10 'there is no doubt that if a woman arrives, for example, dressed in a very flamboyant manner, or in any case not sufficiently, let's say, worn out by the situation of violence, she might not be believed, or there might be a prejudice against her'. FRIO4 commented on how women are usually treated as 'hysterical' and 'nitpickers' at court, whereas others talked directly about sexist prejudice against women (FRIL2, FRIL6, FRIL7). ITFG3C felt that women are considered as 'crazy menstruators.'

In Spain the majority of survivors felt punished simply for speaking against men a felt discriminated for being women:³⁶⁸ 'I have felt how the prosecutor (she) spoke to me with anger when they imposed the shared custody. She talked to me with contempt. That's something that is noticeable in the recording and that my procurator and

³⁶⁶ BIJ10, BIJ2, BIJ3, BIJ4, BIJ5, BIL6, BIL8, BIO2, BIO3 and BIO6.

³⁶⁷ BIJ2, BIJ3, BIJ4, BIL7, BIL8, BIO5, SPIJ2, SPIL1, SPIL10, SPIL11, SPIL12.

³⁶⁸ SPFG1E, SPFG1A, SPFG2E, SPFG3B, SPFG3A, SPFG3H, SPFG3D.

PART 05 Experiences of Justice

my lawyer then mentioned. There was animosity against me. There was harshness. The way in which she questioned me with such a serious expression, while she smiled to my ex-husband' (SPFG1B). UKIL3 talked about a female district judge in her area 'who is notorious for being misogynist.'

Differences in treatment between men and women were also evident during the court process. 'When my ex was

having his time in the box, they didn't rush it. They went, everything went so slowly, and they allowed him to express everything. And when it came to me, it was very quick. Like, I wasn't allowed to express myself, I wasn't allowed to go into details' (UKFG3B) 'And so when I started talking, the judge told me no, no, no, madam, it's good with you, please, I need to talk to the gentleman. So, she doesn't give me the opportunity to express myself' (FRFG3D). Survivors

also pointed to differences in how displays of emotion were treated during the court process: SPFG2E pointed out: 'when a father cries, come on, whatever they say goes. It doesn't matter how many times we cry, does it?'

C. Other Types of Discrimination

Some survivors felt that they had been discriminated against during the process because of their skin colour (UKFG2A). It was clear that foreign nationals were at a significant disadvantage because of language difficulties but also because of stereotyping directed towards their nationality and/or religion. FRFG3D and ITFG1A discussed how everything was harder for them as they were not a French or Italian or because they could not take a psychological test in English, their native language, despite the test being originally in English (ITFG3D). Discriminatory attitudes were

also in evidence from professional stakeholders in France, who provided examples of a Moroccan family (FRIL6) when discussing violence, or who stated that French society is not prepared to accept the violence from foreign communities (FRIL4). Other stakeholders demonstrated a level of awareness of discrimination towards migrant communities (ITIJ4), towards women with disabilities and against people with mental health issues (ITIO1 and SPIO4) and particularly those that were Muslim (FRIL10 and FRIL4).

The Construction of Motherhood and Fatherhood

A key aspect of patriarchal thought is the authority of the father as the symbolic origin of male privilege. As such, parenting is conceptualized as a significant dimension of male experience which can be illustrated in the burgeoning fathers' rights movement which valorises the role of the father and 'fathers' rights.' However, these claims stand in direct contrast to the overwhelming and enduring reality that even where children are parented jointly it is women take on the vast majority of parenting tasks³⁶⁹ and are held to a higher standard of responsibility when doing so, often to impossible levels: 'good mothers are nurturing, responsive, sensitively attuned to their children's needs, constantly available, selfless, self-sacrificing and protective'.³⁷⁰ Moreover, feminist theory has long established the links between patriarchal values and violence against which is rooted in hierarchical gendered structures; gendered stereotypes and inequalities. Taken together it is unsurprising that the mother-child relationship is often a key aim for perpetrators who intentionally try to undermine, distort and disrupt it in order to achieve power and control within the family.³⁷¹ When domestic abuse takes place, it is mothers who are often the focus of the State in terms of their ability to protect the children from the father perpetrator and, at the same time, to sustain the father-parent relationship.³⁷² Moreover, mothers experiencing domestic abuse are often negatively judged through normative paradigms of 'good motherhood', even when evidence

shows they are acting to protect their child and enhance their safety in very difficult circumstances.³⁷³ It has been argued therefore that damaging discourses of the 'good mother' as fully responsible for their children animate persistent discourses of mother-blame and should be understood as a gendered driver of domestic and family violence.³⁷⁴

The research revealed a number of examples of such attitudes, survivors across all jurisdictions expressed that there are different expectations on mothers and fathers when it comes to childcare duties. Their overall perception of fatherhood is that fathers can do as they want, as they are free from expectations, judgement, and consequences: 'the father, no matter how little he does, is fantastic. And the mother is so disregarded, because that's what she has to do' (SPFG2D). This was the case where both parents held parental responsibility and therefore equality in terms of making significant decisions relating to the children: 'I said, oh, I've applied for these schools. And then the judge said to me, why didn't you tell him that he had to apply for schools? And I said, because he's their dad (laughs), he should know that they're going to start school, like, and he said, well, you know, don't you think you had a responsibility to let him know?' (UKFG4D). This was also reflected in France: 'when you're in the system, there are a lot of things that are ultra sexist, for example, when the mother has to prove that she's been to all the parent-teacher meetings and when she

needs to buy the cream that she has all the time at the doctor's when she needs it, but not too much. On the other hand, the father, we don't ask him anything' (FRIL6).

Some stakeholders explained that these differences in expectation was a result of the continuation of a patriarchal culture: 'Italy actually being a conservative country and therefore the idea that the stereotype that women are wives and mothers and are the primary subjects of care, that in reality they care for their husbands, children and parents, and that they are the true social shock absorber of Italy unfortunately persists. If you were to read the acts of my counterparts, you would realise that there is a view of women that is extremely traditional. And of course we are still a modern country, but the attempt to take us back to the fireplace, as they say, is always just around the corner' (ITIL7). Patriarchal notions of the importance of the role of the father in the family were evident, despite evidence of the perpetration of domestic abuse: 'She (the judge) told me "your son, because you took away a father from him will become - pardon the very derogatory term that I do not like - she used this term: a faggot and a junkie, because you took a father away from him"' (ITFG1B).

The consequences of these differences in standards were significant for mothers, who felt

³⁶⁹ Organisation for Economic Co-operation and Development (OECD) (2014) OECD Factbook 2014: Economic, Environmental and Social Statistics. Paris: OECD Publishing. Available at: <https://doi.org/10.1787/factbook-2014-en>.

³⁷⁰ Elizabeth V, Gavey N, Tolmie J (2010) Between a rock and a hard place: Resident mothers and the moral dilemmas they face during custody disputes. *Feminist Legal Studies* 18(3): 253–274.

³⁷¹ See literature review, n255, Section 5.2.

³⁷² Marianne Hester, *The Three Planet Model: Towards an Understanding of Contradictions in Approaches to Women and Children's Safety in Contexts of Domestic Violence*, *The British Journal of Social Work*, Volume 41, Issue 5, July 2011, Pages 837–853.

³⁷³ Ateah C, Radtke L, Tutty L, et al. (2019) *Mothering, guiding, and responding to children:*

A comparison of women abused and not abused by intimate partners. *Journal of Interpersonal Violence* 34(15): 3107–3126.

³⁷⁴ Maher, J., Fitz-Gibbon, K., Meyer, S., Roberts, S., & Pfitzner, N. (2021). *Mothering through and in Violence: Discourses of the 'Good Mother'*. *Sociology*, 55(4), 659–676.

PART 05 Experiences of Justice

under huge pressure to comply with the notion of the ideal mother: 'I have done everything not to lose my children. This is a very important thing for the mother: to work, to behave well and do her job ..'(ITFG1D). There was a real fear that if they did not come up to standard that this would be used against them in the proceedings: 'What you can't even imagine is how hard it is for each of us to get up in the morning, to simply get out of bed and go to work because we can't take sick leave, because that is also used against us, because we are not fit to look after our children, our daughters and our sons. We have to make a superhuman effort to get out of bed in order to keep the house clean because they come to search us'(SPFG2E). Others reported being put under pressure to put aside their own experiences of abuse from the perpetrator and to put their children first; a good mother suppresses any sense of trauma 'they try to demand that even when they realise there is a problem of violence, they demand that women and mothers immediately overcome their fears, their difficulties in relating to men, and that they immediately overcome them for the sake of the children, because the important thing is that the children are guaranteed a father figure, regardless of whether or not the father is adequate to carry out his role'(ITIL5). Moreover, such expectations are often imposed upon mothers without any help or institutional support in terms of their own recovery (BFG1).

Survivors also reported that mothers who did not reach these standards are heavily judged and criticised in terms of their ability to parent: 'when she then arrives before the magistrate she is so closed in on herself or so destroyed that the magistrate then begins to doubt whether she is an adequate mother to keep her child'(ITIL1). ITIO2

actively recognised a prejudice against mothers in this regard: 'from the cases I have intercepted is that there is a prejudice against the mother, the parent, but a prejudice from all points of view. The woman who suffers violence and does not report it: There is a risk that she is not a parent capable of protecting.' This often resulted in mothers being threatened with the removal of their children 'It was constantly, I will take your children, you are this kind of mother' (BFG1D).

There was also evidence of mothers being held responsible and accountable for the continuation of the child-father relationship and indeed their parenting: 'Because I was a woman, and it was my duty to make sure he knew how to raise his children, or what they needed at different ages in their life.' (UKFG4D). There was, however, no corresponding expectations in relation to fathers towards the mother-child relationship:

'The fundamental prejudice. The first thing that it is always blamed on the mother is the responsibility that the father performs his parental role correctly.... the woman is always asked what she does to make the relationship between father and child work, also based on the negative prejudice about male parenting which is that a man cannot be capable of being a good father if you don't have someone behind you to enable you to do that. There is never the same enquiry with regard to the father: how does he contribute to the mother's relationship with her children. It is a prejudice that is not always unspoken but which can be read in the remarks made, for example, to mothers compared to those made to fathers. We applaud if a father accompanies his children to school...it is taken for granted that the mother has to take care of the children's

schooling'(ITIO3). These double standards in terms of the evaluation of male and female parenting was acknowledged by a number of stakeholders, particularly in Italy, 'There's no magnifying glass on fathers, in my opinion' (ITIL10).

Secondary Victimization

Secondary victimization 'occurs when a victim of crime feels they have been subjected to inadequate, insensitive or inappropriate treatment, attitudes, behaviour, responses and/or practices by criminal justice and social agencies that compound their original trauma.'³⁷⁵

Such actions are not limited to overt actions that are consciously undertaken. They can also include the routine production of unresponsive practices by legal staff who do not harbour ill will or bias.³⁷⁶ Crucially, secondary victimization, can also concern outcomes, such as the loss of trust in judicial authorities.³⁷⁷ How victims of domestic abuse are treated within family law proceedings can thus have far reaching consequences in terms of confidence in the justice system as a whole, particularly in terms of the likelihood of engaging with it again.

Unfortunately, there were a number of examples, across the jurisdictions of this type of behaviour. A large number of survivors, especially in France, reported that they were pushed towards reconciliation and blamed for the violence.³⁷⁸ ITFG3B was told by the judge that, 'He was justified in his way of being, in his violence, because I was not that welcoming to him, I did not understand him and did not make him feel appreciated' FRFG1F, whose ex-husband committed suicide and killed three policemen in the process was told that 'it was my fault because if he'd had his daughter this would have not happened.' When the ex-partner of UKFG2B became aggressive in court: 'The judge obviously told him off, to calm down, and then looked at me, and said, you've created this circus.'

Survivors across all jurisdictions reported feeling mistreated and bullied by professional stakeholders, particularly, court appointed experts.³⁷⁹ In England & Wales survivors described coercion (UKFG1D, UKFG1F), being victim blamed (UKFG1A, UKFG2A, UKFG3C, UKFG4B), and even threatened by their Cafcass officer (UKFG1D, UKFG1B, UKFG4C) In Italy, ITFG2B reported being threatened by the judge in her case: 'The judge said once in one of the meetings in advance that he would put him in a group home. If I was not cooperating, she would put him in a group home and so on'. Aggression from stakeholders was a particular problem in Spain which included being called a 'parasite' in her hearing by the judge (SPFG2C). There was also evidence of cruelty: 'they always told me that I was no longer a mother, that I should get used to the idea that I was no longer a mother, that I should tell myself that my children never loved me, and they said very, very strong things to me' (SPFG3D). As a result, many survivors felt as if their position as the victim had been reversed, they were treated as the offender instead (SPFG1D and SPFG2E).

Professional stakeholders in Italy recognised that a number of stereotypes guided judges' decisions, in which women are seen as vindictive (ITIJ3) and blamed for a failure to protect in not leaving earlier (ITIL10, ITIO3, ITIJ5, ITIL1, ITIL2, ITIL3). This also included being blamed for their children not wanting to see their father. The general levels of aggression towards survivors in Spain was also acknowledged by stakeholders, who referred to this behaviour as constituting

institutional violence against women and therefore secondary victimisation (SPIJ2, SPIJ5, SPIL5 and SPIL8 SPIJ5).

³⁷⁵ Gekoski A, Adler JR, Gray JM (2013) Interviewing women bereaved by homicide: Reports of secondary victimization by the criminal justice system. *International Review of Victimology* 19(3): 307–329.

³⁷⁶ Martin PY, Powell RM (1994) Accounting for the 'second assault': Legal organizations framing of

rape victims. *Law and Social Inquiry* 19: 853–890.

³⁷⁷ Orth U, Maercker A (2004) Do trials of perpetrators retraumatize crime victims? *Journal of Interpersonal Violence* 19(2): 212–227.

³⁷⁸ BFG1A, BFG1E, BFG3A, BFG3E, UKFG2B, UKFG4D, UKFG4A, UKFG4C, FRFG1F, FRFG1A, FRFG1C, FRFG2B, FRFG2C, FRFG2A, FRFG3C,

FRFG3B.

³⁷⁹ FRFG2A, FRFG2B, FRFG2C, ITFG1B, ITFG2A, ITFG3B, ITFG3C, SPFG1B, SPFG1C, SPFG1E, SPFG2C, SPFG3A, SPFG3E.

The Emotional Cost of Engagement

Survivors across all jurisdictions talked about the trauma left in their lives by this experience, both in terms of the violence of their ex-partners, and the way in which stakeholders treated them during the legal process. They talked about their own personal trauma and how this manifests as a constant fear, both for the wellbeing and future for them and their children. Survivors recounted how they suffered from anxiety and panic attacks; depression (BFG1B, UKFG3B, SPFG2E, SPFG2A, SPFG3H), a lack of trust in the justice system and related institutions and a change in the behaviour of their children. Others related their anger about how they had been treated,³⁸⁰ their sense of isolation (FRFG2A), of feeling punished (FRFG3B, FRFG3A), tortured,³⁸¹ and stressed.³⁸² Others were left exhausted (SPFG2E, SPFG2A), whereas others had developed illnesses,³⁸³ which included losing their hair (SPFG1A) and insomnia (SPFG2A). The majority also discussed how they felt that they had also suffered from a high degree of social stigma.

Survivors also related the impact of the abuse and proceedings on their children. This included children abandoning activities they used to love (such as playing the violin for BFG2A), losing their childhood (SPFG1C, SPFG1A), rejecting their mothers and being aggressive towards them,³⁸⁴ problems in school (BFG1B, BFG2F, BFG3D, UKFG2C, SPFG1B), PTSD, fear and panic attacks (BFG2I, UKFG1E, SPFG2E, SPFG3C), general behavioural issues (UKFG4C) and the inability to express themselves, (FRFG1C). Others related how their children had completely changed (ITFG1A, ITFG1B, ITFG2D), had nightmares (FRFG2C) or felt it was their fault because of what they had said to the CTU (ITFG2A and ITFG1B). The vast majority of the children of survivors were also left with mental health issues such as depression and anxiety.

A loss of faith in Justice

'There is a completely appalling dichotomy between when you discuss with a lawyer, for example a lawyer from the CDFF who will explain to you the law which is extremely well done, on which you can rely. And in fact, justice does not apply the law at all. So here is. I no longer believe in democracy. I have the impression of being in a dictatorship, in a State of non-law in fact' (FRFG2A).

Survivors were very aware of what the law and policy was in their respective jurisdictions and when these procedures were not followed. SPFG3B described how she: 'received orders in which the text of something written by the other party's lawyer was copied and pasted' There were a number of cases where the lack of professionalism reached the point of an official complaint, particularly in England & Wales:³⁸⁵ 'I ended up doing a complaint to Cafcass about her, because she was awful. She tried to get into my therapy, if you like, she wanted to know what we talked about, and she threatened me with taking me back to court, if she couldn't get that information, so she was effectively coercively controlling me, trying to get me, so I was in the same room having mediation with her, Cafcass do not do mediation, I found out, when I did the complaint' (UKFG1D).

The result of these failed expectations was that most participants 'don't expect anything' and thus they are 'not going to report anymore.' (UKFG1B). Or worse, that a greater damage to them and their children was caused by the justice system and the legal procedure they had to go through: 'The whole experience was torture following from the previous mistreatment, and well, I speak a bit for all of us, we felt in our homes, our houses and far from what we thought, that we were going to find a solution and our lives would become easier, we found ourselves surrounded by a whirlwind and we have ended up even more tortured' (SPFG1A). This idea of 'torture' was widely present in the Spanish focus groups, as was the view that they wish they had never reported in the first place and would not recommend other survivors to rely on the justice system at all: 'I have been 11 years in this. If I could go back, I wouldn't report it. Come on, to any woman that comes to me and tells me I have this support, I would say don't report, because now you have one problem, you report it and now you have 50 thousand more' (SPFG1D).

³⁸⁰ BFG3B, UKFG2A, UKFG4A, FRFG1C, FRFG1A, FRFG2C, FRFG3A, ITFG3A, SPFG1B, SPFG1C.

³⁸¹ SPFG1A, SPFG1C, SPFG1D, SPFG2E, SPFG3H, SPFG3B.

³⁸² ITFG2A, ITFG1B, ITFG2C, ITFG2B, ITFG2D, ITFG3B, ITFG3C, ITFG3D.

³⁸³ BFG1A, SPFG1A, SPFG1E, SPFG2A, SPFG3H, SPFG3A.

³⁸⁴ BFG3B, UKFG2A, UKFG4A, FRFG1C, FRFG1A, FRFG2C, FRFG3A, ITFG1A.

³⁸⁵ UKFG1C, UKFG1D, UKFG2C, UKFG3A, UKFG4C, UKFG4A.

Summary

The main expectation that survivors had of the family justice system and the professionals working in it was that of protection. i.e. that measures would be taken to protect their children from further abuse. However, the experiences of the majority of survivors in the sample was the opposite; most survivors felt their children were left unprotected with serious consequences in some cases. The majority of survivors across all jurisdictions also reported that they felt that their experiences of abuse went unheard and were not taken into account even where corroborative evidence existed. Others felt they were expressly shut down or put under pressure to negate their experiences of violence in order to progress the case.

Overall, across all jurisdictions, stakeholders reported that expert evidence was viewed as neutral and essential and that expert recommendations were usually followed by judges. There were, however, significant concerns raised, by both survivors and professional stakeholders, around the quality of court appointed expert reports, citing a lack of specialist knowledge and training.

There were a number of examples of stereotyping from professional stakeholder across the jurisdictions and groups, the majority of which was based on gender and directed primarily at women, whom, it was felt, were more likely to submit false allegations of domestic abuse and withdraw their complaints. There was also evidence of stereotypes around class and other types of discrimination, based on race, migrant status and religion.

Survivors across all jurisdictions expressed that there are different expectations on mothers and fathers when it comes to childcare duties. The consequences of these differences in standards were significant for mothers, who felt under huge pressure to comply with the notion of the ideal mother and to put aside their own experiences of abuse, to put their children first. Moreover, those who did not reach these standards felt heavily judged and criticised in terms of their ability to parent. There was also evidence of mothers being held responsible and accountable for the continuation of the child-father relationship.

Unfortunately, there were a number of examples, across the jurisdictions of this type survivors being exposed to secondary victimisation during the proceedings. A large number of survivors, especially in France, reported that they were pushed towards reconciliation and blamed for the violence. Survivors across all jurisdictions reported feeling mistreated and bullied by professional stakeholders, particularly, court appointed experts.

Unsurprisingly, the emotional costs were high. Survivors across all jurisdictions talked about the trauma left in their lives by this experience, both in terms of the violence of their ex-partners, and the way in which stakeholders treated them during the legal process. Survivors also related the impact of the abuse and proceedings on their children. More crucially, the result of these failed expectations of justice was that most participants felt that their experiences had been worse by engaging with the justice system.

³⁸⁶ SPFG1A, SPFG1C, SPFG1D, SPFG2E, SPFG3H, SPFG3B.