

**“Life in the Combat Zone:
Exploring Women’s Health in relation to
Child Custody and Access Disputes in northern BC”**

Findings, Analysis and Recommendations

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Disclaimer:

The views and opinions expressed in this paper are not necessarily the views and opinions of the researchers or the University of Northern British Columbia. This paper does not contain legal advice, as the women and researchers are not qualified to offer professional legal advice. The researchers will not take any responsibility for any legal decisions that an individual may make after reading this paper. The research team advises those in need of legal advice to seek appropriate legal counsel and/or legal aid. The Northern Women’s Centre can assist and refer women to helpful legal, social and health services in Prince George and surrounding communities. Please contact the Coordinator at 250.960.5632 or empower@unbc.ca for assistance.

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Findings, Analysis and Recommendations

Purpose and Objectives:

The primary purpose of the research was to qualitatively explore the physical, mental and emotional health and wellbeing of women in relation to the child custody litigation process. The research focused on women’s accounts of how being embroiled in a court-involved child custody battle can have many impacts on their health status. The research team also sought to understand the health of women in northern BC who face legal and social inequities in relation to the systems and processes around child custody and access issues.

Methodology

Participant Recruitment

Two of the participants who agreed to participate had previously taken part in a study looking at gender, child custody and the legal system (“Playing the Game: Women’s Experiences with Child Custody and the Legal System”, 2009). One individual was recruited by word of mouth and had not participated in the previous study.

Although only three women were interviewed, their stories parallel those of many women who have come through the Women’s Centre doors. The women interviewed can be considered as key informants who had a wealth of information to share with the researchers.

It should be noted too that the study incorporated a PAR (Participatory Action Research) methodology; the steering committee included three women who had previously experienced child custody and access issues through the legal aid and court systems. Their perspective was invaluable in conducting this research.

Definition of Health

Health can be defined as a state of complete physical, mental and social well-being (World Health Organization, 1986).

Procedures and Confidentiality

Three women were interviewed at a time and location of each interviewee's preference. Most identifying features and details of the women's lives were altered for confidentiality reasons. Women were provided with consent forms and a thorough explanation of the study and its purpose. It was clearly explained to the participants that they had the option to withdraw from the study at any time. Phone numbers were provided with a list of available counselling services to assist participants in the event that they experienced distress as a result of the interview.

Interviews

Interviews were semi-structured and contained open-ended questions exploring the participant's health in relation to child custody and the legal system. All three interviews were approximately 75-90 minutes in length.

Questions:

I would like to hear your custody story. Can you tell me about your experience in attempting to resolve your custody and access issues through the court and/or legal system?

How many months/years were you in court/were you engaged in legal proceedings?

Can you tell me about some of your better moments with the legal and/or court system?

Can you tell me about some of your worst moments with the legal and/or court system?

It has been said that your health is like a barometer for what is happening in other parts of your life. Did you feel anything going on in your body during these worst moments?

I have a drawing of a human body with several arrows pointing to various parts of the body. Can you look at this diagram and tell me what parts of your body you experienced health changes during your child custody dispute? These can be physical, mental and emotional health issues.

For each area of your body, please describe the health condition, severity, length of time experienced, if it has a/long-standing problem, what it might be connected with (e.g. an underlying condition like depression, abuse, stress, etc.) and anything else you would like to tell me.

Looking at your overall health during this period in your life, can you describe for me the impact the above health issues had on your overall health and quality of life in general?

Can you pin point the link between these custodial challenges and your overall health status? In what ways did the systems and processes around child custody have an impact on your health? PROBES: (examples) experiences with legal aid, financial issues, wait times to see your lawyer, responding to court applications from your ex-spouse, experiences in the court room, etc.

In your opinion, did the processes and systems around child custody exacerbate your health status? PROBE In what ways? Please describe.

Sometimes people have an intuition that another type of person (e.g. male/female, younger/older, educated/not educated, white/not-white) might you have had a different experience with the system? Do you have anything like that which you would like to talk about?

Knowing what you now know and going through what you've been through what advice might you give to someone who is beginning a journey similar to yours?

It is very generous of you to share so much of your time and your story. Is there anything else on these themes and topics that you'd like to share with me?

If there is one thing that you would like social workers/lawyers/health practitioners to know about these situations what would that one thing be?

In addition, a key visual of a female human body was used to evoke memories of what the participant's bodies had experienced at the time of their custodial challenges.

Analysis

The interviews were transcribed and were then reviewed by the research team and by the research participants. Relevant and recurring themes were determined and sections of transcripts were then compiled under the corresponding themes. The group of researchers strongly believe that the best way to present research based on women's experiences, is to allow the women's voices to be heard throughout the report. This was accomplished by incorporating as much of the raw data (quotes) as possible throughout the report.

The Participants and Confidentiality

The participants had anywhere from 1 child to 6 children. The women's ages ranged from early thirties to late forties. They had battled for custody anywhere from 1 to 5 years. All had been to court in an attempt to resolve their child custody issues. For reasons of confidentiality, other details regarding demographical information will not be written in this report. Also, the findings, for the most part, have been aggregated in an effort to maintain confidentiality.

Findings

The primary goal of the study centred on qualitatively examining women's lived experiences and the gendered health impacts relating to child custody disputes through the family court system. The main themes that appeared through analysis of the findings revealed the damaging impacts of the legal system and court process on women's health and wellbeing. Some of the contributing factors that became evident included: the lack of legal aid; lengthy wait times; the adversarial nature of the legal system/court process; lack of enforcement of non-payment of child support and other court orders; spousal abuse issues being ignored; gender bias in the court room; and systemic dysfunction in general.

The women reported multiple health problems that occurred at the time of their custody disputes. These problems were associated with not only their physical health, but also their mental and emotional health. The women also referred to their spiritual health being impacted. It became evident that financial issues also had a huge bearing on the women's health status.

Impacts on Physical Health

During the interviews, the women were asked to look at a diagram with several arrows pointing to various parts of the human body. They were asked by the interviewer to indicate what health changes had occurred at the time of their child custody disputes.

In terms of physical health, the three women spoke of many health problems that they had experienced during the litigation process involving their children's custody. The researchers created general headings mainly from what the participants had revealed about their physical health problems during their interviews.

The three women discussed the following physical health problems they had experienced at the time of their custodial challenges:

“Bad periods”

“I had really bad periods, they were horrible....Cramps, I was bleeding long, stress-related periods.”

“...with my periods, they were normal, then they all of a sudden became very shortened, like I went on them constantly... 14, 15, 16 days on my period.”

“...I had previously been diagnosed with something, they didn’t know what, so they called it ‘dysfunctional uterine bleeding’. Bled like a stuffed pig, right. Since closure of this, it has really mellowed out quite a bit....I mean it was just unreal how hardcore I was menstruating.”

“Hormonal Problems”

“...there must have been serious enough internal stuff going on with me to completely whack out my hormones.”

“I told him (doctor) because I knew my hormones were getting bad. I was growing hair on my face...”

“Gastric Pain. Digestive Problems”

“I do recall that...I was either bugged up or I had serious diarrhea and I mean serious diarrhea and gastric pain and that just all the acids and everything working in your stomach because you are just a damn mess.”

“I had, you know....God this is embarrassing...I would not go, you know... I would not go to the bathroom.” (i.e. constipation)

Headaches & Migraines

“ ...and the migraines...it was just a never ending cycle, from migraine...you don’t eat, and then you throw up...it was just a cycle. And you get better in 4 or 5 days and it starts again. It’s a continuous thing, all the time...”

“Migraines ---- headaches and migraines.”

“Gaining Weight. Losing Weight”

“I gained a lot of weight. I gained like 30 pounds. 30 to 35 pounds I gained during that year.”

“During one point, I went and lost probably 40 pounds.”

“...and of course, on top of this, (I) gained weight...because I really didn't have time to take care of myself...”

“Physical Exhaustion”

“...physical exhaustion that affects the whole, entire body.”

“Erratic Heart Rhythms”

“I was getting erratic heart rhythms.”

“Back problems. Inability to Move”

“Back aches, back problems. Like unable to stand up and walk. Not just the sore back. ...the inability to move basically.”

“Muscle Tension”

“...tense shoulders that never seemed to unloosen...tension through all my muscles.”

Impacts on Mental and Emotional Health

In relation to their mental and emotional health, the women spoke of many impacts during their custody disputes including the following (again, headings created mostly from women's responses):

“Psycho-emotional trauma”

“So, number 1 is that when you go through so much psycho-emotional stress and trauma, it's an internal thing. I don't have scars. I can't show you a nice, big psycho-emotional scar, but that kind of stress will manifest itself in a lot of different ways.”

“It’s just you are a nervous wreck. I had a very unproductive year because you’re not, you’re not mentally well. You’re not mentally healthy and you kind of walk around like a zombie.....I just about had a nervous breakdown....”

“ ...it was just the whole thing (the court case) ...you come out of that, you are just so beaten up.”

“Anxiety”

“...and the anxiety, in the middle of the night, I wake up and my heart would be racing ...

“I felt this grinding anxiety.”

“Insomnia” or “Too much sleep”

“...it was one or the other, insomnia or too much sleep. I just wanted to sleep 15 hours.”

“I don’t sleep. I sleep 2 or 3 hours because of my heart...I would wake up, you know, afraid of what’s going to happen.....”

“Depression.”

“I became very depressed.”

“Decreased confidence”

“Your self-confidence goes out the window.”

“Panic Attack”

“I had a panic attack. I thought it was a heart attack at the time.“

Onset of Health Problems

All three women perceived that their health problems had occurred at, or worsened during, the onset of their custodial challenges and prior to that, their health status had been favourable. As one woman stated, "...when things kicked up and the court process got really intense that is when they came up. They subsided once the court ended." If they had experienced health problems prior to their custody battles, they were not chronic or disabling. It is important to note too that the health problems for all three women have improved greatly but have not completely disappeared since the (apparent) resolution of their custody issues.

One woman discussed her migraine history,

"...I was genetically predisposed to them (migraines), but they intensified during that time and they never leave you after that. They stay with me today."

Another woman discussed her inability to get an upper hand on her unhealthy eating habits:

"...It's kind of still there. I used to be able to be fairly regimented and I've lost that control. I gotta get it back. I gotta find it and get it back."

Severity of Health Problems

The women were adept at pinpointing exactly how their health had worsened at the time of their custodial challenges. They described with great accuracy, providing numerical values relating to the severity of their health problems, before, during and after their custody disputes. One woman for instance revealed that,

"....before this thing (custody battle) happened, ya know, I would have a bottle of pills (T3s), they would last me a year or two...and now when this thing (custody battle) started to happen, I found that my prescription had to be filled one after the other and (I was) taking these every day...and I just had to be on constant medication ...the extent of the migraine lasted... I used to have them...1 day to 2 days, now they started lasting up to ...they became severe and prolonged for 7 days now...and I would be taking 2 pills 3 times a day. ...and I was taking Imitrex (sumatriptan)."

Another spoke of her normal period being, "5 days - 2 heavy, 3 light to where it was like many days of heavy."

One participant discussed her weight gain, "I was down to 138. I am now at like 170."

Financial Impacts - Court costs

One woman had Legal Aid, another's current partner had spent upwards of \$30,000 in legal fees and the other had Legal Aid and had also paid approximately \$70,000 to date towards her custody battle.

One woman did the math, "It was about \$17 or \$18,000 for the interim hearing. And now with the court that is another 10, another 14. Oh yeah, it is close to 30 grand."

Another woman described the financial impacts as still lingering,

"I am still paying off my credit card debt and student loan debt from going to trial 5 times....they wrecked my credit rating. I don't know if I can be able to go buy a house now..." The same participant had also paid her legal bills with her parent's inheritance, "My parents left me some inheritance and I used all of it too."

Impacts on Spiritual Health/Quality of Life

The women also touched on their spiritual health during the interviews. One participant described her situation at the time,

"It wasn't depression, it was hopelessness I guess..... It was deep and breaking to the human spirit... It is one of the worst things that you can go through. This person who you once loved and were in a relationship with becomes the enemy... All I can say is my body was wracked with disappointment."

Another commented in hindsight that the challenges associated with her child's custody battle was "a blur of stress" and it had "sucked the joy out of my life." She continued,

"This has definitely shortened my life. That's, that's all I gotta say. ...You know with the worry and the concern. I feel more frail. I feel more wrinkled. I feel more haggard. I am exhausted. I am absolutely exhausted. Like literally I could not handle another legal proceeding, be it civil, anything, because I've got nothing in me."

The other participant described her worries that surfaced at the time of her custody dispute,

"...if I wasn't sick, I was worrying about (daughter), if I wasn't worried about (daughter) I was waiting to be served with court papers. Your quality of life is so much affected....that's what I was living, that was my life, all that I did. Your overall quality of life, your health is affected. Just getting up in the morning, how you feel, how you take care of yourself - it is all affected."

Abuse, Power and Control:

All three participants who shared their stories with us had experienced physical, verbal and/or emotional abuse before, during and/or after their custody battle. This is a disturbing finding in that abuse had not been a criterion for eligibility to participate in this study. Much of the abuse took the form of control and fear tactics. For instance, one woman described her relationship with her ex-partner,

“So once he broke the no contact order. He threatened to kill me. Said I would be dead within a week. So from there, I had him charged with uttering threats and breaking a no contact order. I called the cops...”

Another participant also described the abuse and threats dealt by her ex-partner. She discussed the fear she had for her ex- and that she,

“...would do whatever it took to make him happy” with reference to his custody demands. Her ex- was also engaging in ‘parental alienation’ by calling his new partner the child’s real mom:

“For most of the time there was a lot of psychological things. ...Victoria (ex’s new partner) was going to be the new mother in his great picture, right. So my daughter came home one day and said, Victoria is my new mom. She’s my real mom, you’re just (Josephine).”

It is evident from the quotes above that woman abuse doesn’t necessarily end once a relationship is over; it can be carried on through child custody disputes in the judiciary system. Verbal threats, parental alienation, and unreasonable custody demands are common forms of abuse in parental conflicts involving child custody and access issues.

Belief that Justice would Prevail

All three women discussed their naïveté about their custody situations prior to their court battles. At first, they firmly believed that the court system would reveal the truth about their abusive, former partners and have the best interests of their children at heart,

“I went into this thing very naive believing that, oh, of course ...the most important thing is the best interest of the child. I never realized that it’s about who has more money, who has more brawns and more powerful voice and a bigger pocket. I didn’t think it was about that, I honestly thought that...hey, I even believed that his lawyers will do what’s in the best interest for the child. That’s what I went in thinking and I was naive, I was certain...and young and yeah stupid and healthy.”

Women’s Health linked to Systems

The women were quite eloquent in describing their health and wellbeing in relation to the systems and processes surrounding child custody litigation. One of the women's stories will be used as a case study to illustrate several examples when her health was impacted at various stages in the legal process involving her daughter's custody case. Other examples from all three women's case histories will be elaborated upon in the section that follows.

Yolanda's story:

Yolanda spoke about being served with court papers 15 times by her ex-to the point that,

"...every time when the door bell rang I jumped that I'm being served with papers. I was served so many times that most of the time I was scared to answer the door ...Once, for example, he took me to court because he wanted me to stop calling our daughter "lulu (nickname)"

Unfortunately, her situation worsened as a result of her eventually being ineligible for legal aid,

"...around the second or third trial that's when I was cut off legal aid. That's when there was no more legal aid, so that any paper that he was serving me, they would serve to me directly because I didn't have any lawyer."

Yolanda endured 5 trials in a 5 year period,

"...it became one trial after the other."

During her interview, she shared one experience she had in family court and how it affected her health and wellbeing at the time,

"And he was represented by four men in suits. It was also mostly, I know him, it was more intimidating than anything, because the judge did ask them why are they there. Like why? Are all of you representing this person for this? It was more intimidating than anything and of course they achieved their goal and I was intimidated. It was just me by myself because I don't have legal aid."

She described coming home that evening and,

"...I went home and throw up that night...I can't believe that I survived that. And you go home and my head is like it (is) ... splitting and I just, I spend half of the night on the bathroom floor and you know I think that morning I got relief at like four in the morning. I remember jumping into the shower, just starting to feel as if everything was coming down and I went back to sleep and of course at eight o'clock you have this

little child jumping on your bed. “Hi mommy are you up, are you up?” And I have to be, I have to get up and go back to it (court).”

During that period in time her ex-partner would phone and leave repeated voice messages including threats that,

“I will destroy you.”

Yolanda eventually moved to Prince George in an attempt to get away from her ex- and his harassing behaviour,

“Eventually I realized that I can’t live like this, it wasn’t healthy for me to be unhealthy around my child. My child needed me to be on top of my game, so I decided that if I moved out of (former city), I’ll move to Prince George and I’ll start off fresh. Maybe if we don’t live in the same city, I would only have to see him sometimes. I was hoping that the distance would create some sort of normalcy and peace, and well, I was wrong. I remember, after I came here, he kept on fighting with more papers....”

Yolanda’s story illustrates the gruelling family court process and its damaging impact on her health. She was repeatedly harassed by her ex-partner through the legal and court systems. As well, she was cut off legal aid half way through her court battle at the same time that her former partner had access to legal counsel, including legal representation in the court room. She suffered with migraines, insomnia, anxiety and exhaustion throughout the child litigation process in family court. Even moving away did not stop the harassment by her ex-partner.

Systems Dysfunction – Contributing factors to Gendered Health Outcomes

The participants at times described dysfunction within, what was seen to be, a “monolithic system” around child custody and access (Varcoe and Irwin, 2004). In other instances, they discussed dysfunction with specific parts of the system e.g. court system, legal aid, child protection, police, etc. It was apparent that there were many negative impacts on women’s health and wellbeing as a direct result of systemic dysfunction within these systems, processes and practices. Some examples of dysfunction within the system include: inequities in accessing legal counsel; a lack of legal representation through the court process; inadequate funding for legal aid; gender bias within the court room; detrimental impact of the adversarial court process; inadequate system’s responses when threats of violence were made against women; and lengthy wait times during the court process.

Inequities in Accessing Legal Counsel

The disparity of income between males and females was also an important variable in the exploration of how gender plays out in the legal and court processes surrounding child custody and access. Women still make 70.5 cents for every dollar a man makes (Statistics Canada, 2006). The power differential created by this disparity of income manifests itself in many ways that are detrimental to women and children in family court. Participants spoke of their ex-husbands being able to afford a lawyer whereas they were either unrepresented or under-represented. One woman was fortunate to have a current partner who was able to pay a lawyer for his services, and two were able to obtain legal aid for a period of time; but for all of them, there were many, many hours of worry and work to prepare for court.

The three women described their perceptions of where the gaps existed in the legal aid system,

“My lawyer was good but with legal aid he was limited in terms of things that he can help me with. He said I will help you but really some of the things you just have to handle them yourself. It was scary. I felt very much alone.”

Another participant described how she,

“put a stop to the court proceedings” as she “was running out of legal aid”. This particular woman choose to “sacrifice guardianship to stop the court process” by giving up sole guardianship for joint guardianship. For her, it had been,

“...an exhausting process that he (ex-) had dragged me through... I didn’t qualify for legal aid anymore and we had been battling this for 5 years.”

Another woman stated,

“At some stage, I’ll tell you, I didn’t have a lawyer and you know because I was between lawyers, I didn’t have money or whatever. The lawyer, you don’t pay her and she doesn’t show up. The lawyer...I remember one, this lawyer she said “if you don’t come tomorrow morning with my five thousand dollars, I’ll just turn around and leave.”

Inadequate funding for Legal Aid:

Even if the women had legal aid, it was often piecemeal and inadequate. Recipients of legal aid are generally provided with a certain number of hours for one aspect of their court case. They then have to reapply for additional hours for the next step. As one woman explained,

“I know he (lawyer) was frustrated because of the cutbacks and the money and how hard it was to get things done further...He (lawyer) said, “I am now not really dealing with legal aid anymore because we spent 20 hours drafting a letter and giving your

guys these services and then they don't pay us. It's not personal. I would do this all the time if I could."

Gender Bias in the Courts

The women discussed the "hero-worshipping" of fathers seeking custody of their children through the courts (and conversely, the intense scrutinization of women's conduct). As one woman explained,

"A woman who wants her kids is expected but a man who wants his kids, like wow! It's amazing the different stereotypes. So a man who wants his kids would get something because our society expects it to be one way. Well if he wants his kids that makes him special."

The underlying belief in the court system, that "men and women are equal" and men's and women's roles are interchangeable is not based on a realistic picture of the division of labour in most North American households. One woman stated this point clearly,

"if it wasn't for the most amazing lawyer I had I would have probably been without my daughter because of the way the courts kinda view this equality thing...What frustrates me is the fact, nowadays what they say. They say we got to look at mothers and fathers on an equal footing. How is that possible? When women culturally, and in this province at least, all the women I know were the primary caregivers of the children, period. It is so absolute!What, why are we sitting here trying to say that men are on an equal footing with women when it comes to their children? It's absolutely, so ridiculously unbalanced."

Detrimental Impact of Adversarial Court Process

It became evident in the interviews that the adversarial nature of the court system had many deleterious impacts on all family members. Ultimately, there is a winning party and a losing party at the conclusion of many court determined child custody decisions.

"...the person you once had a relationship with is now the enemy. Basically, and there is no way around it 'cause the court system is based on there has to be a winner and there has to be a loser. Right?"

Inadequate System's Responses to Gender-based violence

All three women had experienced threats from their former partners; but to actually prove that threats were made often becomes a game of “he said, she said”. Physical violence/abuse is easier to substantiate, however, lawyers were generally reluctant to pursue allegations of emotional and verbal abuse,

“...so I mean it was irrelevant that he threatened my life...because I don’t have broken bones or a black eye you know or even then I guess someone could argue and say that I probably inflicted them on myself. You know, seriously, you can’t prove that sort of thing...”

The Waiting Game

Lengthy wait times at various points in the legal/court systems/processes were cited as being problematic,

“Waiting to hear back from legal aid”

“The court waits were excruciating and stressful ...”

“Waiting in the court house and being subjected to it time and time again”.

One woman explained that sometimes she,

“...would wait the entire day (at the court house) and he (her ex-) wouldn’t show up...there were no consequences for him not showing up for court. He wouldn’t let his lawyer or my lawyer know... there was always the moving target of the next court date.”

Manipulation of the Systems around Child Custody and Access

In addition, it became apparent through the interviews that the systems around child custody and access were in several instances manipulated by their ex-partners against the women and/or their children entirely for their own purposes, e.g. ex’s phoning the child welfare system or police to report false allegations of child neglect; no consequences/enforcement of ex’s non-payment of child support; and; harassing former spouses with multiple court applications.

False Allegations of Child Neglect:

One of the women described how the systems around child custody were exploited to her ex’s advantage. Her ex- phoned the police and child welfare authorities with trumped up claims of child neglect,

“...during the court proceedings there was this time when my ex called the RCMP and social services and fabricated some story about my autistic older daughter, supervising my younger daughter, for you know hours, more like an hour or 45 minutes.”

Non-payment of Child Support – No Consequences

One woman cited an instance when she barely had enough money to put food on the table for her 6 children because her ex- had not paid child support. Her story illustrates the difficulties that parents experience when their ex-partners do not pay child support. She called him and explained her financial situation,

“...we have no food in the house, I had to take the kids allowance to pay rent, and you didn’t give the kids anything for their birthdays. And I let them know that until you pay some child support they weren’t going to get their allowance, their birthday money.” I said, “we don’t even have enough for food. My car is going to be off the road...”, I just went through the list... “and they know it’s because I don’t have the money.” He said, “I don’t have the money to pay you.” I said, “ok. I just want you to know that your kids know that they are going without.” I had money within the week.... He promised more money, but it never did come.”

She went on to discuss another instance when her ex, a non-custodial father who had had little contact with his children, decided to put a motion through the courts for sole custody most likely, his ex-wife speculated because he didn’t want to pay child support;

“I went from being a sole custody and sole guardianship parent to being served documents asking, from my ex, who had no healthy contact with them or no contact even since we separated, for him to have sole custody, sole guardianship and for him to be the primary residence.”

An unfortunate spin off from her ex’s demands resulted in the mother’s legal aid time being used to fight this issue instead of being used to pursue retroactive child support that he hadn’t paid. In addition, her hours were used up when, “he didn’t show up (for court), which was a waste of my court hours ‘cause nobody can proceed.”

In addition, this participant believed that her ex- decided to relinquish his \$80,000 job, so that child support was based on the amount he received through Employment Insurance (EI). He then worked under the table and did not report his new source of income,

“...he claimed he was someone who just wanted money to go back to school, all these things he told the judge so his child support was based on what he would make on EI.

He went and worked under the table. ..Once he went back to work, he was supposed to inform our side. He didn't, but there were no consequences for that when we did go back to court in 2007-06 somewhere around there. Nothing happened."

More recently, this same father "moved out of province" because, as his former wife believes, he wants to hide from his (child) maintenance...This family that we made together, I am solely responsible for."

The FMEP (Family Maintenance Enforcement Program) is a program set up to catch up with "dead beat parents" but, in this mother's opinion, it does not appear to be working,

"Now I am going back to court to try and go through the process with someone who doesn't have a fixed address and.....doesn't give it to me. That nobody, FMP can't locate him. FMP can't use face book accounts. Can't go on that way. He's on there saying he is working in camp. They are not allowed to access that sort of thing."

She concluded that,

"It's all up to him. It's all voluntary, that whole payment thing. He can make as much money as he wants and he and his partner can live pretty much wherever they want, no consequences, ever."

Systemic Harassment

This pilot project has revealed several instances when the court system was used to harass women. One woman spoke about her experience,

"...every time when the door bell rang I jumped that I'm being served with papers. I was served so many times that most of the time I was scared to answer the door."

Lack of Effective Support Services

One or two comments were made about helpful support services in town e.g. one of the three women discussed a positive experience with the courthouse in Prince George,

"I found that that everybody here really tried to be as helpful as they possibly could. I can't emphasize that enough. How excellent I thought the people who work at the courthouse here were. And legal aid you get upstairs like the family court, the people up there that give you free advice (duty counsel)."

However, there were many negative comments about support services e.g. counselling, health and housing. The women spoke of seeking help through various services but not receiving the assistance they had wanted in working towards a better life as well as

resolution of their child custody and access issues. In one instance, a woman had, in her own words,

“...desperately needed counselling”, but could not access this assistance,

“...and they were like, we can give you two counselling appointments. I went to talk about what it would cost for me to get counselling, to help me go through this. It was like one hundred dollars an hour. It’s ridiculous! I am already paying lawyer money. I can’t afford to pay, three hundred dollars! I could only get two appointments with her benefit plan, and beyond that, counselling was \$100 an hour.”

Another woman described an experience she had in her doctor’s office,

“I saw my doctor. I said I was ready to go home and drink and he wouldn’t give me anything for pain. At that point, I was like wait a second. I am someone who doesn’t drink. I don’t use any kind of pain medication....and my doctor wouldn’t give me medication to help me with my back?

She described her housing situation at the time,

“I was living in ...housing and I sought out counselling but it wasn’t very good.....they take a whole bunch of abused women and their children and stick them in a house and that is all they do. They don’t have counselling referrals. They don’t come and see how you are doing. The only time they come to talk to you is when you’ve messed up, when you have broken one of the rules around their housing. You have a whole bunch of really unhappy, messed up people isolated in a building together is frigging crazy. There was no community building in this place. So here is an organization that is supposed to help women that all it’s doing is isolating them. It felt like institution living there.”

Impacts on Children

Although this pilot study has a primary focus on women, it was clear during the discussions with the three women that there were many health impacts on children. As one woman explains,

“The kids, it’s the kids who get to suffer. I stopped all their sleepovers. He has court access to have sleepovers and I stopped all of them before he left. That was just because at two o’clock in the morning I got a call the RCMP were on their way to his house because he had been drinking. Him and his girlfriend had been fighting, the kids had been left alone, the baby had choked and the kids had called 911 and then him and his girlfriend were freaking out telling the kids they were going to get arrested, the kids were going to get taken away....”

This same participant commented, "Cause kids have longer, longer effects right? It goes underground and pops out all of a sudden, randomly..."

She went on further to say,

"...and women, the caregivers are burnt out from going to court. What is left for the kids?"

Another parent described the impacts on her daughters,

"...and you know running downstairs to hold my older daughter who is crying because she actually misses her little sister, that was really hard, I'm not gonna cry but....(tears flowing)...it affected the whole family."

She went on to say that,

"I have no idea what the toll was on (daughter). I have no idea because again on the outside she looks fine. On the inside maybe not so much....all I know is that she is having problems at school. ...you know she's smart and you know things should be going well and for whatever reason, it 's not and to try to get her back on a good track again it's very hard as a parent."

Diversity Issues

One of the women was a newly arrived immigrant to Canada at the time of her custodial difficulties. She was fearful that her ex- would kidnap her daughter and take her back to their country of origin and she would never see her daughter again.

This same woman survived on monthly disability cheques as well as child support. She was fearful that her ex- would find out about her current health status and that he could potentially use this health information to take her back to court to fight for custody once again,

"...this is my nightmare now, he (could) use my (health problem) as another way of "Oh, you have bad health, therefore you are not able to take care of her...and every time now...although she's ten now, she still gets questions "how are her (mother's health problem)?he keeps on asking her these questions about my health..."

She went on to explain that,

"...with my (health problem), I wish I could live in a more warmer climate...because it is obvious with my severe (health problem), a warmer climate would be better, but I can't even entertain that in my head...because I would have to go back to court..."

Coping Mechanisms

Within their descriptions of their health status, the women also spoke of their coping mechanisms to deal with the trauma of their court battles. Some involved self-medicating in order to cope with the physical and emotional rollercoaster ride they were on during this period in their lives. One woman spoke of,

“... I can definitely recall many evenings of curling up to a nice bottle of Merlot. You can fool yourself into thinking if you drink that bottle of wine you will sleep. And you won't sleep well. You will sleep for 3–4 hours but you know what, you'll sleep....Yeah and was I self-medicating myself with a bit of alcohol? Absolutely! And did I contribute to my zombification? Yeah.”

The same woman above also described her disordered eating, “I gained like 30 pounds. 30–35 pounds I gained during this year because I was reaching for carbohydrates.”

Another woman stated,

“I started smoking cigarettes again ...and I was drinking on the weekends which were out of character for me. Like every weekend.”

The other participant stated that she would not use anything because she realized that if she did, it could be used against her in court,

“...No, because you see, I guess I didn't because I was always on the constant fear of one step, he is going to come after me. So, I did not do anything. To me that was what was most exhausting, to try to be, on one side to be a happy, perfect parent. So I knew that any mistake, he's going to grab that and run with it. “

It doesn't really end

Even though the women at the time of their interviews had seemingly had closure with their custody woes, they still feared that their ex-partners might come back to haunt them with new court applications.

“...you don't really come out okay. There's still something lingering that will last forever I think. The damage is never...I don't think it will go away. You are so beaten up and so lost and lonely and broke and sick: physically, mentally and emotionally. You come out of it a wreck you know and...you just say what happened to my life?”

Determinants of Health

Besides higher income, higher educational status, stable housing, sufficient food, and strong social supports being key determinants of health as relevant to this pilot project (Public Health Agency of Canada, 2006), it is evident that there are many legal and social inequities in relation to the systems and processes around child custody and access that resulted in negative health outcomes for women. Even if women have stability in terms of the basics of life – i.e. good income, housing and food, these did not buffer the damaging health impacts thrust on the women as they manoeuvred through the legal system in their attempts to resolve their child custody issues. However, if they did not have adequate income, housing or food, their situations were even more precarious. This pilot project attempted to expose the inequities and bias in the legal system that have harmful consequences on women's health and well-being.

Advice

When the participants were asked to provide advice to others who follow in their footsteps, they had several suggestions. One woman said the importance of,

“Keeping the kids needs front and centre”,

And, settling out of court was also highly recommended,

“If there is any way you can avoid court, do it...if you can't avoid that and you have to go through it, fasten your seat belt. It's going to be a long and bumpy road.”

Other advice included,

“Number 1: my biggest advice is before you even think about leaving or moving or separating or whatever, spend the 100 dollars and get legal advice, get good legal advice. Number 2: If you have to go to court and you have to go through the process, get yourself a good lawyer. Spend the money.”

“...reaching out for support because it is going to get ugly. You are going to feel alone the only person in the world who is going through this and you're not. It's a really isolating process. Look for a support group because it's so lonely, so hard and so exhausting and there is a physical, emotional and mental side effects. Even spiritual ones. You feel like God, why the hell am I going through this? It is so deep and breaking to the human spirit. So reach out, reach out because it is one of the worst things you could go through.”

“....my advice is to take care of yourself...your child doesn't gain anything when you are that sick.”

Conclusions and Recommendations – What have we learned through this study?

One of the reasons the researchers applied for the WHRN seed funding was to look at women's health as a way to illuminate the life circumstances that many women find themselves in during court-involved child custody disputes. In many ways, women's health can be seen as a barometer for what is going wrong in other parts of their lives. I think what is clear from this study is a pattern of health problems that presented themselves fairly consistently within this small sample of women. The picture that can be painted includes the following afflictions: menstrual problems, migraines and headaches, sleep problems, disordered eating, digestive/intestinal problems, exhaustion, depression, and other mental health problems.

By shedding light on the health consequences, we might open the eyes of decision makers and service providers who could potentially provide better “on the ground” help and support for women and men facing court challenges in relation to their children's custody. Given the closure of five legal services offices in BC and the Law Line losing funding, parents fighting for custody will need all the help they can get, “...there is not enough money for parents, child care, self care, and support services, how can you be helping women and children when you are taking their supports away? Who is going to pick up the pieces?”

What is a disturbing finding is that it became apparent that child custody and access processes actually provide opportunities for abusive ex-partner's to wield power and control over their former partners and children, and by all accounts, no one was trying to stop them from doing so. In many respects the systems around child custody are actually re-victimizing women and children, the very people these systems are supposed to be helping and protecting.

Recommendations re: Legal Services with reference to the FRA Review

Obviously, the re-instatement of the 5 Legal Services Offices in BC (closed March 31st, 2010) and increased funding to legal aid would go a long way in helping families in our province. Recommendations from the recent Review of the Family Relations Act strongly endorse early resolution and out of court settlement of child custody and access issues (Ministry of Attorney General, Family Relations Act Review, Chapter 5, April, 2007).

The Family Justice Reform Working Group would like to see that parents be required to attend **one mandatory dispute resolution session** before going to court. It is important to keep in mind that special concessions need to be considered for families where violence/abuse is present. Adequate screening methodologies and trained practitioners would need to be developed for these cases.

The Working Group emphasizes keeping children's best interests at the forefront as well as children's meaningful involvement in decisions made about them. Currently, the main way for children to participate in family cases is through reports prepared by **Family Justice Counsellors** or through a full **custody and access report** which is more comprehensive and where interviews with parents, children and other professionals known to the families are compiled. The Working Group also recommends that **parenting coordinators** be established to assist families when they are separating. A parenting coordinator would be appointed by the judge to help parents resolve parenting disputes. They mediate disputes; if mediation is unsuccessful, they can arbitrate (make the decision). **Child-inclusive Mediation** is another way for children to participate. This can mean either having the children involved in the mediation or having the mediator interview the child to bring the child's voice to the mediation table. Apparently, pilots are happening in various Family Justice Centres around BC, including Prince George. (Ministry of Attorney General, Family Relations Act Review, Chapter 5, April, 2007, p. 5)

The Family Justice Reform Working Group also advocates for **family justice hubs** (there is a pilot project in Nanaimo, known as the Family Justice Services Centre, based on this idea). The hub would provide multiple services under one roof – sort of like a “one stop shop” for legal services. In addition, it was recommended that a **family justice portal** on the internet be created. The website would provide as much legal information for parents as possible on one website as opposed to bits and pieces of information on different websites as exists currently. A family justice portal would provide a single point of entry linking and organizing relevant family justice information on the internet (Ministry of Attorney General, Family Relations Act Review, Chapter 5, April, 2007, p. 3 & 4).

Alternative methodologies espoused by the Working Group include **mediation, collaborative law and arbitration**. These alternatives have some promise in terms of settling custody cases outside of the courtroom. But, as noted above, women in violent situations may not be assisted through these reformed processes.

I have provided a few definitions of alternative methods for separating families below:

Mediation is the most common alternative to litigation. A mediator is an impartial professional or 3rd party with expertise in helping parties negotiate fair, constructive, and mutually agreeable resolutions to their disputes (Tug of War, Brownstone, 2009, p. 37). A family mediator can help both parties develop a plan to deal with the legal issues around separation e.g. child-related issues, living arrangements, financial and matrimonial property issues (Parenting after Separation, BC Attorney General, 2007 p. 34)

Shuttle Mediation is like mediation but both parties would not be in the same room during negotiations. The mediator talks to one party, then talks to the other party

separately. This could work for individuals who feel threatened by their former partner (Parenting after Separation, BC Attorney General, 2007, p. 34)

Collaborative Law is a model for resolving family law disputes where everyone agrees to work together to collaborate to find a solution that works for both parties without going to court. The process offers legal and other professional support, like counsellors and financial advisors. Everyone (you, your former partner, the lawyers and other professionals involved in the case) makes a formal commitment to work towards a mutually acceptable settlement without using court (Parenting after Separation, BC Attorney General, 2007 p. 34). In other words, everyone agrees to work together and no one can file a court application. If matters do end up in court, all of the professionals including the lawyers have to withdraw from the case and the parties would have to hire different lawyers (Parenting after Separation, BC Attorney General, 2007 p. 35)

Arbitration is another option if parents would like a third party to decide the issues relating to a separation. Both parties submit their evidence and arguments to a third-party decision maker (an arbitrator) whom they (or more accurately, their lawyers have agreed to hire). Because arbitration occurs outside the court system, the parties maintain their privacy, as there is no publicly accessible court file containing personal information. Three reasons why some people find arbitration appealing are: 1) there is one decision maker 2) the decision maker is a family law specialist 3) the timetable is set by the parties and does not depend on court schedules so the process is faster than using court system (Tug of War, Brownstone, 2009, p. 43).

Recommendations to ‘Helpers’ – Doctors, Nurses, Social Workers, etc.

The greatest gift that any helper can give to a person in need is to listen without judgement, provide empathetic support and assist them in figuring out an action plan to help themselves. This sounds so obvious, but it became apparent through the interviews that the participants were not provided with this very basic level of assistance through many of the support services that they had accessed.

Helpers of all types need to be aware that there appears to be a pattern of health problems that individuals are particularly vulnerable to when they are struggling through the child custody litigation process. Menstrual problems, digestive troubles, migraines, sleep problems, depression, disordered eating, psycho-emotional trauma and anxiety appeared to be common health problems for the three women who participated in this pilot research project. Some of these ailments did not disappear after the resolution of their custody issues. For the three women interviewed, their time in court was a traumatic life event and it will take many years to reach a place of healing. Helpers need to be patient – individuals will traverse the ebbs and flows of the healing process potentially for many years even well after the court battle is over.

It was evident to the researchers that the participants used different coping mechanisms, knowingly and unknowingly, to deal with the stress that they encountered during and after their time in court. Some of these coping strategies were beneficial for the women and others were not. It is important for helpers to be well versed in terms of what referral points there are in the community to assist their patients/clients. If a person is coming to you saying that she is going to start drinking to cope with her physical and/or emotional pain (as one of the participants in this study said she was going to do while in her doctor's office) it is time to take action and to help this person deal effectively and constructively with their situation. Listening well, making appropriate referrals and conveying positive coping strategies are keys to working well with parents encountering what are often overwhelming challenges associated with their children's custody issues.

Effective Assistance that the Northern Women's Centre can provide to women; What I have learned through this research project.

The results of this study will help me do a better job of working with women when they are having difficulties with child custody and access issues. I cannot give legal advice; however, I can provide some practical assistance to help them e.g. most importantly, listening well; writing a 1-2 page timeline of events detailing their custody case; accompanying them to the court room, lawyer's office, doctor's office, police station and, taking notes/debriefing after all; having practicum students do research in the court room library to find precedent setting case law; assisting them to self-advocate and generally keeping the doors open to provide support - currently 20 hours a week. The NWC is hoping to establish a Single Parents Resource Group (SPRG) in fall, 2010 to help parents who are experiencing difficulties with child custody and access issues. In addition, a self-advocacy kit is in the works and will be created alongside SPRG.

Future Research

A longitudinal study exploring women's health before, during and after custody battles with many more individuals would provide definitive information to further support the findings from this pilot project. Several questions could be explored in light of the findings from this pilot project: What is the full spectrum of physical, mental and emotional impacts for parents and children when they experience child custody litigation through the legal and court systems? What positive and negative coping mechanisms/strategies do women employ in an attempt to mitigate the health impacts of custody disputes? How can we put into practice what we learn from this exploration of health impacts and positive and negative coping strategies? What legal, social and health programs, services, and supports exist currently to help parents? What changes could be made to provide improved legal, social and health services to parents? What

new programs, services, and supports need to be developed to better serve parents and children enduring custody battles? How can we structure a support group to assist parents? Due to time limitations of many parents fighting for custody, would technologies such as Face book be another means to connect individuals facing child custody issues? & What kind of information would be beneficial in a self-advocacy kit?

References:

Boyd-Noel, S., Transken, S., Strader, L., & Bouillon, V. (2009). *Playing the Game: Women's Experiences with Child Custody and the Legal System*.

Brownstone, H. (2009). *Tug of War: A Judge's Verdict on Separation, Custody Battles and the Bitter Realities of Family Court*. Toronto: ECW Press.

Ministry of Attorney General (April, 2007), *Family Relations Act Review, Family Justice Reform and Family Justice Services*, Chapter 5.

Ministry of Attorney General of BC, Law Courts Education Society of BC. (2007). *Parenting after Separation: For your Child's Future – A Handbook for Parents*. Ministry of Attorney General of BC & Department of Justice Canada.

Public Health Agency of Canada, 2006 *What determines health?* Ottawa: Public Health Agency of Canada. As referenced in, "Benoit, C. And Shumka (2009), L. *Gendering the Health Determinants Framework: Why Girls' and Women's Health Matters*. Vancouver: Women's Health Research Network.

Statistics Canada (2006) *Women in Canada – A Gender-based Statistical Report*. Ottawa: Statistics Canada

Varcoe, C. & Irwin, L.G. (2004). "If I killed you, I'd get the kids": Women's Survival and Protection Work with Child Custody and Access in the Context of Women Abuse. *Qualitative Sociology* 27 (1).

World Health Organization. (1986). *Ottawa Charter for Health Promotion*. As referenced in, Benoit, C. And Shumka (2009), L. *Gendering the Health Determinants Framework: Why Girls' and Women's Health Matters*. Vancouver: Women's Health Research Network.

