

Running head: WOMEN, CUSTODY & THE LEGAL SYSTEM

Playing the Game:
Women's experiences with Child Custody and the Legal System

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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, the Northern Women's Centre or the School of Social Work. Much of the content is made up of direct quotes from the ten female interviewees. The statements made were based on the participants' perceptions of their situations at that time. As such, 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 or legal aid.

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Introduction / Abstract

This study focused on qualitatively examining women's experiences and the impacts of gender-roles in relation to court-determined child custody, Legal Aid and the court process. Women were asked to describe their lived experiences related to the legal system and child custody, how wealth/ lack of wealth affected the process, and what resources and services they utilized. By researching women who have worked through the legal system we can discover what barriers, whether they be financial or lack of services, that created difficulties for women trying to manoeuvre the court system. By identifying barriers, we can then provide suggestions for changes in varying scopes, which could help other women navigate the legal system.

Methods

Population and participant recruitment

The population being researched were women of a broad age range, who had been involved in the court system while dealing with court-determined child custody arrangements. There were no other determining details that stipulated whether a women could participate.

Participants were recruited by word-of-mouth, snowball sampling and by advertisements posted throughout town, on the radio and in the newspaper. Participants self-selected to take part in the study on a completely voluntary basis.

Data collection procedures

10 women were interviewed at a time and place of each interviewee's convenience. All 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.

Interviews were semi-structured and contained open-ended questions exploring the participants lived experiences regarding child custody and the legal system.

Questions

- 1- Can you tell me your story of family changes/custody concerns/ engagement with the legal system?*
- 2-Can you tell me some of the biggest bumps in the journey you have been on?*
- 3-Can you tell me about some aspects that you feel have gone well/fairly/ appropriately?*
- 4-What were and are some of your feelings about lawyers?*
- 5-How do you feel about the legal system/or legal aid?*
- 6-If you had been a woman with more wealth how might you have been treated differently?*
- 7-Sometimes people have an intuition that another type of person (younger, older or male, female or...)might have had a different experience with the system. Do you have anything like that which you'd like to talk about?*
- 8-Were/are there aspects of your story that you feel should or could have happened in a different time frame? (faster/ slower; sooner/later)?*

9-Sometimes people engaging with social systems or big organizations feel they have been judged guilty of something, but aren't sure of how to prove they've done nothing wrong. Do you have any moments like that which are related to what you've been through or are going through?

10-Knowing what you know now and having gone through what you've been through, what advice might you give to someone who is beginning a journey similar to yours?

11-Are there any other themes or topics you would like to share with me?

12-If there is one thing you'd like social workers/lawyers/social justice activists to know about these situations, what would that one thing be?

The interviews were between 20-90 minutes in length. At the end of all interviews the researcher inquired how the participant was feeling. If the discussion had triggered any negative emotions, contact numbers for mental health professionals were provided.

Themes and Analyzing

All interviews were transcribed. These transcripts were then reviewed by the research team and relevant and recurring themes and topics were highlighted and recorded. The team then decided which common themes would be further analyzed and sections of transcripts were then coded under the corresponding themes, topics, and titles. Using the raw transcripts, the team compiled the results in a final report. While writing the report the team incorporated as much raw data (quotes) as possible. The team strongly believes that the best way to compile and share research based on women's experiences, is to allow the women's voices to be heard through out the report. This was accomplished by saturating the report with raw quotes from the transcripts.

Results

*"She told me that I needed to go to the family justice centre, I was unaware that I needed to do anything, I thought he was **my son**, why do I need anything saying that?"*

Introduction

This study focused on qualitatively examining women's experiences and the impacts of gender-roles in relation to court-determined child custody, Legal Aid and the court process. Women were asked to describe their lived experiences related to the legal system and child custody, how wealth/ lack of wealth affected the process, and what resources and services they utilized. By researching women who have worked through the legal system we can discover what barriers, whether they be financial or lack of services, that created difficulties for women trying to manoeuvre the court system. By identifying barriers, we can then provide suggestions for changes in varying scopes, which could help other women navigate the legal system.

The main themes that continuously arose throughout the interviews were lack of finances and the complications that impoverished women faced while on their child custody journey, and the very real “game” that women felt they were stuck playing with their spouse, while navigating the legal system. Women constantly expressed feelings of overwhelming frustration and hopelessness as they slowly manoeuvred through the court and, often multiple, interim and court orders. Many of the participants expressed how helpful it was to find a duty counsel, lawyer, service provider or friend that could explain the court system in laymen’s terms. Overall women stated that they felt that the court process was incomprehensible, expensive, slow and did not always consider the best interests of the children.

Games

“Then I think, maybe if I don’t play “the game” anymore - because it is a game to my ex”

Many women stated that they felt like they were stuck playing “games.” The stakes are high, as the children are the wager, and there are no clear rules or referees. Participants talked about the mind “games” that their ex-spouses would play with the children, the financial “games,” and the “games” that were used to manipulate the court room. In these games there seemed to be no clear sides and no one came out the victor, as there was always someone hurt - often times the children.

Parent Alienation

Throughout the interviews participants often referred to the games that were played, and how the ex-partner would try to paint a negative picture of the mother. This attempt to brain wash the child to resent the mother is referred to as parental alienation, and was a theme that appeared in the vast majority of the interviews.

“My ex is on the phone to [our daughter] saying he would have been contacting her, but [there were] those e-mails she was sending him telling him not to e-mail her anymore, so he just did what she said.

And she said “well I didn’t send any e-mails like that.” He said “well somebody that knows your password e-mailed me not to contact you any more. So she knows who that is, she knows he is implying me”

“West Jet - he took my son there. He had a girl phone in and had my son stand there and have the West Jet lady say “your mother has cancelled your flight.”

“I sent him e-mails, I try to contact him through Facebook, I try and phone him. He is so angry and so upset and he is being bullied and he’s been told his mother is a drunk and sleeps in hotels rooms with men.”

“[Her dad] e-mails her and he’s off on this wonderful vacation, and he’s doing this, and he’s got a new girlfriend that was Clara in the Nutcracker – ([he knows his] daughter is into ballet) and how wonderful his whole new life is.”

“He would do things like going to pick [the kids] up at daycare, I would get to daycare and he would have already picked [the kids] up, you know - little games.”

Financial

Other games that were played revolved around one of the single-most-important commodities – money. In common law relationships, or relationships where the mother worked as a full-time stay at home mom, the man who was generating a monetary pay check often had control over the finances. This resulted in mothers leaving the relationship with their children, but no financial support.

“The vehicle that we owned at the time was in his name fully. The insurance was in his name fully, so when he wanted the vehicle back and he wanted to be facetious, he ended up taking everything out of my name and bringing the vehicle back to his house.”

“Each time there was new counsel, there had to be [discovery] and he didn’t show up for [discovery] and nothing happened. He cancelled [discovery] so many times and it cost me in legal fees.”

“I don’t have the money to spend so he knows he can break the court order and there is nothing I can do about it”

“I tried to make it work out of court because he knew I couldn’t afford it, and he knew I wanted to go back to school. It was his way of financially controlling the situation.”

“I was blind sided, I had no idea it was coming. Over a period of a couple weeks he was slowly taking money out of our bank account, and because he was self-employed, he also had another bank account he was throwing money in. [The money] was completely in his accounts.”

Court/ Court Orders

Since much of a custody battle revolves around legal proceedings, it is incredibly important to have a good lawyer and to make sure you adhere to court orders and interim court orders. However, a “good” lawyer understands loop-holes and how one can manipulate the legal system. These manipulations, or straight violations of court orders, were another type of “game” that many women described in their interviews.

“He had gone, in the first couple of weeks, to every lawyer in town, and once you speak to a lawyer, that lawyer is off limits to me [because of conflict of interest]”

“Because he had the highest paid lawyer we went to court all together, I think it was, 12 times. It kept getting adjourned because either his lawyer couldn’t make it or he couldn’t make it. It’s the game right? That’s how you play it.”

“I was trying to comply with the interim court order. I would show up at the police station with her little suitcase packed, he wouldn’t show up. I’d go into the police station “witness, I am here!” When we go back to court I want you to know that I am complying with the court order. I am doing what I am supposed to do – and he wouldn’t show up, and then I would have to explain why her dad didn’t come”

“Because we were still in court proceedings [the kids] couldn’t do counselling without both our signatures, because we both had custody at the time and he refused to sign. He said [the kids] were fine, “there was no problem.”

“He said I need to start bidding on jobs in southern BC because him and his girlfriend are going to move. They started dictating where I could live and I’m like “you can’t tell me what to do, you’re not my boss, you’re not anything! You’re just my [kids] dad.”

Money

“If I was a male, generally I would make more money. So I would have a top lawyer, like my ex did.”

The golden rule - he who has the gold can make all the rules. Unfortunately this was a fact that many women faced during their custody battle. Participants were finding themselves in a tough spot with children, bills and no finances or assets in their name. With no money to pay for child-care, the mother is forced to stay home unless she can find other day-care arrangements. With no income it becomes impossible to pay the bills. The next thing the mother is being accused, by the ex-partner, that she is not adequately providing for her children. However, one must reflect on the gender differentials related to income. Statistics Canada (2006) stated that in 2004 average earnings for women working full-time, year round, were \$ 36,500 and \$51,700 for men. This means that women are making 70.5 cents for every dollar a man makes. In addition to men making more money on average, women are more likely to be working part-time while taking care of her children, women are more apt to stay home to care for the children while sick, and more women take on the role as stay-at-home parent. All of these factors directly impact a women’s financial situation, and the likelihood of her having enough money set aside to ensure herself and her children could survive if she becomes the sole income earner.

Stay-at-home mother- the unpaid profession

Many women who choose to, or need to, stay at home with their children are not supplied any monetary compensation for the work they put into keeping an orderly house and raising children. Even though these stay-at-home mothers are working full-time they may not be able to accumulate money or assets. However, the fathers are free to work and earn a pay-cheque that arrives with their name on it. Although this system often works when a couple appreciates the amount of work that both individuals

do – complications arise when a women finds herself stuck paying bills with no income and/or no access to funds or assets that are in her husband’s name.

“He moved out of the house that we lived in and it was just myself and my son...when he left he left completely, I was in charge of all the bills, the mortgage and everything. He didn’t pay child support or spousal support.”

“He didn’t give me any money, and I was on EI, and I had a mortgage, a car payment, and baby diapers...so I went back to work when she was 9 months old because I had to, I didn’t have any choice.”

“It was hard for me at that point to get a lawyer because he left with the assets, the funds, so I wasn’t able to get a lawyer. Most of them say right away “I need 5000 dollars to retain me.”

“if I was male I would have financial access, you know? A huge portion of women do not have financial access, like money or access to money, because the husband does it all right or the husband owns everything or the husband has all of the RSPs.”

Child support

Many participants spoke about how they felt like they were being left to the mercy and generosity of their ex-partner. Sadly, many women had to fight to receive financial assistance, and this monetary support created another situation of dependency on the ex-spouse.

“He thought that if he gave me sole guardianship he didn’t have to pay child support, or he could give child support, what HE thought per month.”

“he was court ordered to pay me 300 dollars at the time for both kids. He never did. He paid me 150 dollars a month.”

“He took me to court here to reduce his child support because his income was lower, so it got cut from 800 to 600. Then it got cut from 600 to 400, and then it got cut totally. We went to court because he got fired, so he had no income. This is “his story,” he got “fired.” I don’t know if he really did get fired or if he made it look that way on papers, so he didn’t have to pay child support”

Legal Aid

Many of the participants faced financial difficulties, such as the struggles quoted above, a lack of funds forced many women to seek assistance through legal aid. However, many of the interviewees, even though they were now lone parents and sole income earners, were turned down for legal aid. In British Columbia, the Legal Services Society has provided this chart to help individuals determine if they are eligible for legal aid. To qualify, an individual’s net monthly income must be below the amount for your household size in the table below:

Household size (number of family members)	Net monthly income (income after taxes)
1	\$ 1,400
2	\$ 1,950
3	\$ 2,500
4	\$ 3,050
5	\$ 3,600
6	\$ 4,160
7 or more	\$ 4,715

As well, household assets must be considered. So although the now lone parent is stuck paying the mortgage bill herself, the house is still seen as an asset and makes her less eligible for legal aid. Legal aid that she needs so she can fight to get financial support for things like mortgage payments and child care bills.

*Disclaimer- Although this information is taken from the Legal Services Society website only a trained legal intake assistant can determine your financial eligibility for legal aid. The following information is not complete. To find out if you qualify for a legal aid lawyer, it's best to speak to a worker at a legal aid office.

Reference- http://www.lss.bc.ca/legal_aid/doIQualifyRepresentation.asp

“Technically I make too much money to apply for legal aid, but at the end of the day, when I have to pay my daycare and my mortgage and my bills and my food and raise a child, the money is pretty much all gone. Then I am supposed to fight for child support, that I am not getting, with money that I don’t have – and assistance I can’t get.”

“I went to legal aid and they hung up on me. They said “we’ve spoken to your ex,” because John has contacted them on any given stupid thing, they refused to me...and flat out refused because of conflict of interest.”

“I didn’t qualify for legal aid because I made 50 dollars too much.”

“I actually ended up going to legal aid because I had absolutely no financial means at the time, because I was a fulltime student, and legal aid looked at me and I think they asked me three questions, if not four questions at the front desk, and told me basically I did not qualify to be there because my ex-husband made too much money”

“I think legal aid is a joke, but if you are on welfare and you have no where to go, it works for a simple court order or simple situation.”

“I have spoken about my concerns...that my lawyer hasn’t done anything in 15 months. I’ve contacted him and I have documented days and conversations I have had with him...and she just says “well come in and change your lawyer” and I feel that I can’t change my lawyer because it took me so long to get this one.”

Time

Not all court expenses are of a monetary nature. Participants talked about the toll that time and waiting had on their emotional and mental state. Sometimes the waiting and anticipating can be more emotionally taxing on a person than the legal bills. Many women talked about anxiously waiting to get a court order that would give them some stability in their life, as compared to interim orders that could be challenged if one parent deemed it unfair.

“I just want to see my son, even if he doesn’t want to live with me, I should still be entitled to visitations, and each time it doesn’t happen. I was supposed to get him spring break, I didn’t get him. I had to wait ‘til summer, now summer is going to be gone and I have to wait ‘til Christmas.”

“It was hell living together for a year and a half afterwards. We were both legally advised not to leave the residence with or without the children because, if we would have left with the children, we would have been charged with kidnapping, because as it stood we both had legal custody at the time. If we would have left without them we would have been charged with abandonment and the other party would have been automatically awarded the kids”

“I cant bare it anymore, I can work and I will work for the next ten years to pay off my debt because of this situation”

“That is when I found out how slow the legal system is, but I guess a year isn’t too slow, but you can really put things off if you want.”

The “cost” of separation and a custody battle was a topic that every woman said she grappled with. Whether a participant lacked money or assets in her name or had “too much” money to be eligible for legal aid – all the women cited money as being a major stressor. One woman, with a note of defeat in her voice said: *“sometimes I wish I had a million dollars to go to court with and maybe...or I had a million dollars to buy my son back off of him.”*

On top of the monetary costs of a custody battle, there is also the emotional price that a mother must pay by being separated from her child or seeing her child in pain. The legal process can be a long process that is not only financially, but emotionally draining.

Court Process

“I hadn’t started any legal proceedings, I didn’t really know where to start”

The legal system has never been a simple or easy to understand structure. This is why lawyers attend school for seven years and get paid thousands of dollars to assist their clients in navigating the complex legal system. Many of the participants had financial struggles and either had to depend on legal aid or had to go into great debt to retain a lawyer. Even with a lawyer, the process can be complicated

and convoluted. For a women who is traversing a separation and possibly getting accustomed to being a single parent, court jargon, expensive suits and a male judge and lawyer (this paper recognizes that there are many female judges and lawyers as well) the court room can seem like a daunting and foreign place.

“Stress can make the system incomprehensible to even the most intelligent and educated person. Be patient, speak kindly, tell the truth.”

“One court appeal does not mean one court hearing, it means several, and they always want to do case conferencing so you don’t have to go through the trial...It was ridiculous, I didn’t think it was worth my while, especially because it is meant for people who want to work together. This was like the USA and Korea; there was no coming together, like collaboration.”

“I think that it’s a huge problem, the whole system is not explained to the average person that doesn’t know the legal terminology.”

Orders not enforceable

“Even with the best lawyer, I could still end up with a court order I can do nothing with.”

Those who can pay enough to get a lawyer to thoroughly explain the rules and loop holes can have the power to manipulate the legal system. Court orders, although legally binding, are not necessarily enforceable. Even with a court order, unless there is a clause stating that the order can be enforced by a police officer, the order can be violated and repercussions would follow only if the matter is brought back into court. However, more court time means more legal expenses, and as previously discussed in this paper, many women lack the financial means to continuously go back to court.

“I have to fight to get him to pay, but it’s going to cost me more to fight than it will to just leave it, so it’s frustrating in that aspect. There are no repercussions on him if he doesn’t pay at all.”

“It should be criminal to isolate your child like he has done, it should be criminal if you do not comply with a court order – but it’s not.”

“Now, because we all moved to BC...I have to take this court order and try and take it to court in BC. Like, I don’t know why a court order is not Canada wide.”

“There should be consequences, why bother getting a court order if nothing happens?”

Abuse

“Eventually I went to E-Fry [Elizabeth Fry Society], and realized this is an abuse cycle. Because the fear of what he is going to do, I agree to everything he says.”

Although the research team did not specifically try and recruit women who had been abused in their relationship, the researchers found that every women interviewed experienced abuse before, during or after the custody battle. Much of the abuse took the form of control and fear tactics – often revolving around access to children and finances. Many of these women faced both physical and emotional abuse before they separated, and cited this abuse as being a large factor in the deterioration of the relationship.

“A power imbalance needs to be assessed properly...he doesn't need to punch me in the face to be abusive. He doesn't need to slam me against the wall, (even though he has done that,) to be abusive. You need to be able to examine all the other things - physiological, emotional, financial abuse - and be able to have operational definitions of those things to say the power imbalance is here with the finances...”

*“When I asked questions about financial things he'd say “when you earn a pay cheque you can ask questions, otherwise shut your F*ing mouth.” He had taken control of everything.”*

“Look at what I could have lost and I would have lost it because I am responding in fear. I'm not getting any help, any services, anything at a critical time – right? ‘Cause women don't go to a court building and say “I am a woman that is being abused.”

“ I went to [a community service] to say , maybe, I need mediation. I didn't want to get a lawyer, I didn't want to go through the courts, I didn't want it to get ugly. They said “oh, he threatened your life? We are not going to touch you with a ten foot pole.”

“Here are some of the thoughts going through my head...1. he is an alcoholic, he's a pretty desperate guy, would he take off with my daughter? Question 2, would he get into the mind set that if I can't have her then no can? And hurt her. Question 3, and here is the most likely of the three scenarios – me, John and Jane- are we in danger?”

Mothers on trial

“I kept saying to him “what does this have to do with parenting my children?”

Participants spoke about the public's perception of fathers that strived to attain custody of their children; *“the man that goes for custody of his kids, “like what a hero,” you always get that... “he is such a hero for going for custody of his kids, good for him, lets help him out.”* The women then talked about feeling as if their “motherhood” was on trial. Women often felt there was tremendous pressure to be a flawless mother. This pressure created incredible stress and fear. Women shared about how their partner was seen as a loving and dedicated father for showing interest in his children, yet women were expected to fight for their children. This is a blatant double standard; however this underlying schema seemed to follow the mother throughout their trial, as their character was in question, rather than “what was in the best interest of the child”.

“Anyone can be a father but it doesn't make them a dad”

“I was scared to talk to my doctor because I thought that if I did, or it turned out I did need help, they would take my [child] away”

“Everything I do is being judged and that is probably why I have such a stable home. They want [my child], not because they want to raise him, but because they don’t want me to have [my child]. That is probably why I am so neurotic about being so perfect, because they will take [my child] away”

“I am not your girlfriend, I am not your wife, I am not anything. I am the mother of your child and you need to respect that!”

“It is funny because they are “mine” when they are bad and “his” when they are good.”

“I never wanted to keep them from him, that wasn’t my intention. Kids need both parents to parent them.”

“When we are talking about children, it is important to understand that within the family unit you have to pull the court stuff aside, and the court will kind of espouse neutrality, but it is not even close to neutral or an equitable situation in probably 98.8% of all families.”

“I am not saying that in all cases [women] should get custody, but this is what we know from science – I carried her for nine months, he was drinking for nine months. I had a c-section, he didn’t. I nursed for 7-8 months, he didn’t. I had to go through the process of raising this child! While I am pregnant, my neuro-networks are being reprogrammed and redirected in my head, and men’s aren’t. You know, that’s just some basic science there for you, so let’s apply it to the family.

“Deep down I just hope he remembers I was the Kool-Aid mom. I was the mom that had all the kids, I was a good parent, I am a good parent!”

“I went to a company golf tournament, and he was watching the girls, I had a bit too much to drink and so I left my car at the golf place...I went to some co-workers house and spent the night there, I couldn’t drive and he brought that up next time we were in court. [Saying] that I was an irresponsible parent because I didn’t come home that night. The judge said “well it sounds to me that she is a very responsible parent, she didn’t drive home that night.”

Shouldn’t a mother’s parenting skills, rather than her character, be considered in a custody trial?

Service feedback and Participant Advice

An important part of any feminist research is how the data and results can be used to assist marginalized populations and women in need. The research team felt that it was very important to ask the participants to give feedback to service providers, as well as offer support and advice for women

who are in the process of navigating the legal system. The following transcript excerpts are directly from the participants and are not necessarily the beliefs of the research team or funders. It is important to note that this IS NOT legal advice, and for individuals seeking legal assistance, they should contact their local legal aid office.

“ I am paying BC tax dollars and Federal tax dollars for services and everyone of them have failed me.

So do I feel like donating money to [social services]? No. Do I feel that the [agencies and social workers] are doing a service? No. I do not feel that anyone is providing me with services, I do not even know what they are even doing. I was going through all this stuff and I went through the [counselling], I needed emergency counselling, you can imagine what I am going through. I am not stable, I had two appointments and then I got kicked out...I don't qualify for more than that”

“ So what needs to happen is, things need to integrate. They need to be integrated, they need to be coordinated. We have something called sustainable or integrated forest management, so if I am dealing with something that needs to go to the Ministry of Environment, then I have to really deal with them or deal with archaeologists, but a forester I am the steward of that particular chunk of land. If I see, hey – I could potentially have an issue with fisheries, I better bring in those people and their expertise. This isn't happening here!... The left doesn't know what the right foot is doing and if you don't have every limb and appendage working in an integrated fashion, I don't know what you're building, but you're not building a country and you're certainly not building families”

“[It] is really critical having the right information at the right time, with the right legal information to help.”

“Get a good lawyer, because you need one.”

“ Supreme court duty council, here is a guy that you could sit down with, he would take the time to talk to you and give you answers. He was the only person, honestly, that helped me.”

“I felt he gave me really bad legal advice. “don't charge the golden goose, he'll go to jail and then you'll get no money,” Which I got no money anyway.”

“she was an excellent lawyer because she trained me before I went on the stand.”

Advice

“[If they are going through a] similar journey, and the father was not participating in the child's life, get sole guardianship so you have control over the child's life; so you have a say in everything they do.”

“Set up the child support right off the bat. Child support is the biggest pain...but it helps the most, and if you can enforce it right off the bat, like you can use the Family Maintenance Enforcement Program. They can enforce the payment of child support if there is a court order. So if you have a court order right

off the bat, then you don't have to go through this legal process. Trying to get it after the fact is even more difficult."

"Get someone to explain the [court] procedure because it is fricken scary when you walk in the court room with or without a lawyer, because when you walk in that court room it is extremely intimidating. Even now that I have been in there like 10 times, I still get extremely nervous."

"[Get someone] coaching you on what to say, what not to say, how to dress, because the judge is going to make a decision about the rest of your life on your first impression."

"Do your homework, keep your receipts, pay attention even if you have a lawyer"

"Interview lawyers and make sure they have your best interest in mind, or your child's best interest, rather than just doing it for the money."

Discussion

There were several significant trends that emerged throughout the research phase of the Gender, Legal Aid and Child Custody project. As much as possible the voices of the participants were used to highlight key findings, for this reason the report is saturated with participant's quotes and lived experiences.

Participants spoke of "not having a clue where to start". They spoke of seeking help through various services but not receiving the assistance that they had wanted in working towards resolution of their child custody issues. However, many of the participants spoke of one helpful individual who made a difference along the way. Helpful individuals included: a social worker, a service provider, a lawyer, current spouse, a friend, and others. These individuals were often instrumental in explaining the court system and process so that the participant had a better understanding of the proceedings.

One finding that was noted was the "games" that women constantly referred to being forced to play. The system around child custody and access was in several instances manipulated against women and/or their children entirely for their selfish purposes and as a form of punishment e.g. ex's harassing former spouses with unending court applications they had to respond to; ex's phoning the child welfare system or police to report false child abuse/negligence allegations; and with holding finances that were crucial to pay bills and daycare. What was alarming was the lack of consequences and enforcement of ex's games, non-payment of child support and that there was little to no accountability when threats of violence were made against women and their children.

A primary reason for conducting this research project was to examine gender in relation to court-determined child custody and access arrangements. The disparity of income between males and females was a key variable in the exploration of how gender plays out in the legal and court processes surrounding child custody and access. The power differential created by this disparity of income

manifests itself in many ways that are detrimental to women and children. Participants spoke of their husbands being able to afford a lawyer whereas they were either unrepresented or under-represented. A couple of women were fortunate to have others in their lives who could pay a lawyer. Some women were able to obtain legal aid for a period of time, but the majority of participants were forced to work many, many long hours in order to represent themselves in court or resort to drastic measures, such as selling their house to pay for legal fees.

Eligibility for legal aid was identified as an area in need of reform. The threshold for income eligibility needs to be raised in order for more individuals to access the much needed service. Many women who were interviewed were making a little over the cut-off for Legal Aid. In addition, current, physical violence is another criterion used to determine eligibility; this particular criterion eliminated many participants from obtaining legal assistance.

It became evident in the interviews that the adversarial nature of the court system had many damaging impacts on families. In particular, the “best interests of the children” seemed to be lost in the shuffle. Courts base custody on what is in the best interest of the child; however a child can not be treated as a single factor, as children are directly affected by their surroundings. Things such as attachment, coping, and attention need to be considered, and all of these factors directly involve other individuals in the family. So perhaps the question should be “*what in the best interest of the child and those who have a direct influence on their life?*” “*They go “ok, what is the best interest of the child?” – but what is the best interest of these children? what is the best interest of this family? What is the best interest of their extended family?”*

Disturbingly, nearly all of the individuals who shared their stories with us had experienced physical, verbal and/or emotional abuse in their relationships with their ex-spouses. This is an interesting finding as we had not purposely recruited individuals who had been abused. In relation to child custody, several participants spoke of losing full or partial custody of one or more of their children due to fear of their former partners.

The current philosophy of gender neutrality, i.e. men and women are equal, does not take into account the reality of gender roles in child rearing within the majority of families. The underlying belief in the court system that men’s and women’s roles are interchangeable does not reflect the reality of how most families operate. The division of labour is such that women, even if they are working outside of the home, still do the majority of work relating to child rearing (including breastfeeding, diaper changing, bathing, and school lunches) and household chores i.e. cooking, laundry, cleaning, shopping, etc.. This reality needs to be reflected in court-determined custodial arrangements. In essence, credit needs to be given where credit is due; it hardly seems fair for the legal system to claim they espouse gender neutrality and equality when it is not a reality in the household.

When participants were asked to provide advice to separating parents, they had several suggestions. Firstly, keeping the children’s needs “front and centre” were at the top of the list. Settling out of court was also highly recommended. Obtaining a good lawyer and getting something in writing

outlining child custody, guardianship and visitation as soon as possible after separation was also deemed to be critical. Most participants recommended that journals, photos, phone messages, emails be kept to provide proof in court (if they were unfortunate enough to end up in court). It was evident from the interviews that the burden of proof was on the women's shoulders. Mediation and collaborative law were recommended, BUT not when abuse or violence were apparent.

The benefit of having a good lawyer to navigate the system was underlined many times by participants. However, in several instances participants described lawyers who were paid exorbitant amounts of money while receiving little in the way of substantial legal assistance. Obtaining a competent and empathetic lawyer, either paid or through legal aid, made a huge difference for the participants. Having the right information at the right time from the right person was deemed to be critically important.

The participants at times described dysfunction within, what was seen to be, a monolithic "system" around child custody and access, and in other instances they discussed dysfunction with specific parts of the system e.g. court system, legal aid, child protection, police, counselling, etc.. *"I can honestly say, there isn't anything positive. The worst of it is, I can't decipher between the break-up and the legal hoops I have to jump through - what's worse. I don't know this legal system [which has] made me a little jaded about the system."* What was apparent from the participant's view point was that there was a need for greater integration, coordination and collaboration within the whole system.

It needs to be noted that one man was interviewed and that this man shared many of the same oppressive and abuse situations that all of the women participants faced. The research team recognizes that men also face struggles in the legal system, however there is a larger phenomena of women that must navigate the legal system with little in the way of financial resources, support and legal expertise. As previously noted, the child custody journey is fraught with "games" which were at times facilitated through the various "systems" surrounding child custody that were actually supposed to be helping them! In reality, they were hindering them!

The research team greatly appreciated the time given by the individuals who participated in the study. The personal stories shared were at times very sad and moving for the researcher. All involved with the Child Custody Research project have great admiration for the courage that the participants displayed in revealing many intimate details relating to their personal lives.

"I have been made to feel that I am not the greatest parent and that is the worst feeling. I think I am a great parent, everybody has there ups and down... we all have a story. The bottom line is there are children involved and I think for the most part, I think as a mother, we all try and do our best"