

# Voices of Experience, Voices for Change

## *The Impact of the Family Law System on Mothers and their Children*

BY KAREN BRIDGMAN-ACKER

*Cet article rapporte les résultats de deux projets d'une recherche qualitative faite à Hamilton, en Ontario, en 1995-96 qui exploraient ce que vivaient les mères, leurs intérêts et besoins ainsi que ceux de leurs enfants face au système des lois sur la famille.*

The family law process, including child custody, support, and parental access decisions, can have tremendous long-term implications for the physical, economic, and emotional well-being of mothers and children. Discussion of discrimination against women in the family law system has started to appear in feminist literature and consumer consultations undertaken in Toronto and Vancouver. In most other cities, however, no coordinated effort exists to document or address the needs of women as they go through this process. Many women struggle alone to raise children and to survive, financially and emotionally, upon the break-up of a relationship, with little support or information available to them. Taylor, Barnsley, and Goldsmith argue that gender bias against women in the family court system has created a crisis and allows men to continue exercising power and control over women and children in disputes over custody, access, and support.

The effects of these issues has been a long-time concern of mine, both as a custodial mother and as a social worker whose primary practice has been with sole-support mothers struggling through this difficult process. My interest in these impacts has developed over years of listening to the stories of women I have come in contact with through my work and in my friendships with other custodial mothers. Several years ago, I experi-

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enced the trials and tribulations of navigating the family law system to sort out custody, access, and child support for my two children. In the process of sharing this experience with other women, I was initially surprised to discover many similarities in our stories. As a result, I began to wonder about the apparent gaps in service and support for women as they face the family court system and the fathers of their children to sort out custody, support, and visitation on behalf of those children. During the course of my academic career in social work and women studies I facilitated two separate participatory research projects which collected and reported on data obtained from mothers in Hamilton, Ontario as they discussed their experiences and suggestions for reform for this system. The first project, entitled "Custody and Access: Response to a Public Discussion Paper," resulted in a report being submitted to the Canadian Department of Justice for consideration in the reform of Canada's divorce, cus-

tody, and access legislation. The second project, "The Mothers' Family Law Advocacy Project," offers suggestions for the development of a community service to assist women and children as they access the family law system. This article summarizes the research projects and combines the stories and input provided by the mothers who participated in both projects.

### **Who are these mothers?**

At one point, in the process of researching this issue, a newspaper reporter suggested that I could not be considered an expert in these matters. Upon reflection, I had to agree that I and all women with firsthand knowledge of this process share an expertise which we do not wish for others. My "expertness" in this area does not come from any level of education or objective way of knowing but from the hundreds of stories I have in my collection, including my own. In Webster's Dictionary (1993) an expert is defined as "a person having great knowledge, experience or skill in a certain field." Smith argues that each of us is "an expert practitioner of our everyday world" and in order to enhance our understanding of our experience as women, we need research strategies which start where women are, "as subjects and as knowers" (153-154). The research proposals for both projects involved talking to the "experts" about these issues from their standpoint and soliciting ideas to fill the apparent gaps, so that other women might not have similar stories to tell in years to come.

In the first project, 20 women, ranging in age between 18 and 52, attended one of three focus groups.

In the second project, 37 mothers aged 26 to 45, participated in seven focus groups. Of these 57 women, 70 per cent were in receipt of social assistance, only 50 per cent of them received child support as per the agreed upon amount, and the majority reported annual incomes below \$20,000. Three women no longer had custody of their children, while the majority of the other 54 women had custody of one or two dependent children.

While attempts were made to promote and make groups accessible to a diverse population of women by sending flyers to agencies serving culturally diverse communities and holding focus groups in physically accessible locations, the vast majority of women were white, heterosexual, and able-bodied. It should be noted that the mothers in this study did not presume to speak on behalf of all women's experiences. Occasionally, a woman would point out that she knew of situations where parents settled these matters amicably. I and other authors (Mothers on Trial; Wilson) agree that the collecting of women's stories about their family law experiences is not about father-bashing. It is recognized and appreciated that many fathers accept and take seriously the rights and responsibilities of childrearing. Most of these mothers would have liked their children to have healthy and positive relationships with their fathers. The majority would prefer to share the responsibility with an ex-partner who is responsible, reliable, nurturing, and committed. While many fathers fit this role, the unfortunate reality is that many do not.

### **Historical context**

Historically, the law has responded to social change and there have been corresponding shifts in child custody patterns: from a belief in the absolute authority of the father, to the ideal of nurturant motherhood, and finally, to a supposed gender-neutral standard where the best interests of the child is to be the sole consideration in

custody decisions. Social changes related to the roles of motherhood and fatherhood, and where the focus of parental rights is placed have factored into these shifts. Legislation and case law have been influenced by the social construction of parental roles, the media, social science research, and the lobbying of special interest

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groups and advocates (Bertoia).

The 1980s saw fathers' rights groups begin to organize to demand equal rights in the private sphere of home and family as women had organized to demand equality in the public sphere of labour. While non-custodial fathers complain that mothers and the court deny them custody and access to their children and control over their children and their money, custodial mothers are concerned about fathers who use threats of joint custody and withhold child support and visitation to maintain power and control over their lives (Crean; Bridgman-Acker; Taylor, Bransley, and Goldsmith).

The average woman appears to have been excluded from much of this ongoing political activity and often ends up on the receiving end of decisions and discussions which have a serious impact on her ability to adequately parent and support her children. Her reality is often in contrast and far removed from the political process. "Women are losing their live-

lihoods, their savings, their health, their self-esteem, their children, and sometimes their lives, in custody battles with men" (Crean 6). The present family law system is failing to protect the best interests of the children (Department of Justice) and failing to enable mothers to do the work of mothering (Landsberg) in healthful situations for themselves and their children. Children of single mothers are five times more likely to live in poverty than other children (Dhooma) and the family law system contributes to this poverty by ordering low child support payments and failing to adequately address the 70-80 per cent non-compliance rate for child support orders (Lindsay). Women, abused by their male spouses, enter courts which some say consider woman abuse irrelevant to custody and access, and which demand higher standards of parenting from mothers than fathers (Department of Justice; Hester and Radford; Wilson).

In 1993, the government initiated a community consultation process and recommended non-legislative options, parenting education, and more mediation as reform measures in custody and access decisionmaking (Department of Justice). In 1997, new federal child support guidelines were implemented, only after amendments proposed by father's rights groups and sympathetic senators were adopted.

Historical and current literature support what too many mothers already know from their own experience. Legislation, policy, professionals, and their opponents in this adversarial system of family law make their ability to mother their children a continuous and long-term uphill battle. The cost to them and their children is far greater than many people know. Their stories remain untold and their energy to fight for change is often depleted by their day-to-day struggles. It is with this knowledge that those of us involved in "Custody and Access: Response to a Public Discussion Paper" and "The Mothers' Family Law Advocacy Project" sought to give voice to moth-

ers' concerns and develop a plan of action for change.

### **The process of collecting stories**

The primary objectives of both participatory projects were twofold. The first objective was to conduct a community consultation with mothers who have been consumers of the family law system (experiences could include interactions with lawyers, mediators, social workers, judges, the family court, or other associated personnel as defined by the participants). The second objective was to create an action plan utilizing the data collected to influence changes in policy or practice related to family law issues. These research projects, based on the ideals of participatory action research and tending toward the model of "citizen-directed research" (Williams and O'Connor) involved community consultation which asked participants to "tell their stories" and then to "paint a picture" of the ideal policy or program to help women and children in similar circumstances.

In both studies, participants were contacted using a purposive, snowball sampling technique. I, with the help of several of the participants, recruited women by initially posting flyers in local women's organizations and through contact with mothers and service providers already known to us. Once the initial contacts were made, women were asked to refer other interested participants to the study who shared a common concern or experience with the issue of inequities in family law. The design of these exploratory studies involved the collection of qualitative data through women's voluntary participation in focus groups. Focus groups were the chosen approach to data gathering because of the capacity of groups to raise consciousness, reduce feelings of isolation, and to provide a means to generate a wide range of ideas and strategies for change. Group discussions have traditionally enabled women to share personal information with each other through self-help, consciousness-raising, therapy,

and more recently, research groups.

Various women's organizations in Hamilton, such as shelters for abused women, services for single parents, the Women's Centre and counselling agencies, were approached for support in promoting and hosting focus groups. Their co-operation was anticipated and received due to the rel-

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evance of this topic to their mandates of assisting women in crisis and problems of daily living and to their generally shared goals of women's empowerment. Focus groups were scheduled at various times during the day and evening at different locations in order to be accessible to a larger number of women with varying schedules and commitments. In an attempt to limit as many barriers as possible to women's participation, a volunteer was recruited to provide child care for those families who required it, and sites that are wheelchair accessible were utilized.

### **Voices of experience**

The women discussed in great detail and with ranging emotions their own stories of accessing the family law system, covering all aspects of the legal process and their relationships with the people key to this process. Emerging from their descriptions, were three central themes: their sense of exclusion and marginality, their

sense of disempowerment and devaluation, and the negative impacts of these realities on themselves and their children.

Women, collectively and historically, have been excluded from the structures and institutions constructed by the powerful (usually men). Exclusion includes being silenced, ignored, and being absent from the circles in which men "attend to and treat as significant only what men say ... and carry forward the interests and perspectives of men" (Smith 18). Women in these studies spoke of continually being excluded from, and feeling like outsiders within, the process of decision-making regarding custody, access, and child support. Being silenced by professionals when their concerns and opinions were expressed left many women wondering if the process was even about them and their children. For example, mothers said they often were not informed of court dates, upcoming actions, and proposals offered by the other party. When they expressed opinions about amounts of child support or suggested arrangements for visitation, many women were told to leave these worries to the lawyers. Several women on social assistance were advised by lawyers to forgo child support because the government would only deduct the amount from their monthly cheques, even though they knew that returning to court at a later date would be difficult and expensive. Not only did this increase their sense of dependence on the state, but often these women had to deal with parental support workers who later admonished them for not pursuing the fathers of their children for payment of support.

Unsurprisingly, women's sense of marginality in a legal process, ostensibly about them, generated feelings of disempowerment. Simply being involved in a system where someone in authority can make decisions about one's life creates a situation where a person can feel powerless and helpless.

The women in the focus groups

talked about encounters with professionals and ex-partners where they were manipulated, emotionally, verbally, and financially abused and given little control in the outcomes of their cases. Some mothers identified parallels between their personal and professional relationships and how they were left feeling victimized and hopeless in both. Women recognized that the men in their lives who were controlling during a relationship continued to control and intimidate them during the family law process.

When women spoke of the dramatic toll these encounters and this process had on the well-being of themselves and their children, it was obvious that there were both physiological and material consequences for them and their families. Many felt that control over their lives, including their economic status, had been taken from them by players in a system they expected to support and safeguard them. Women described physical and emotional symptoms ranging from feelings of guilt, anger, frustration, inadequacy, and isolation to fear, anxiety, and panic. Some women required medical treatment and psychological counselling to get them through stress-related sickness such as ulcers, headaches, panic attacks, depression, and exhaustion. It is apparent that women's emotional and physical health and their ability to economically survive suffer from their involvement with the family law system (Mothers on Trial).

### **Voices for change**

Participants reflected on what changes could counter the negative effects for them and their children and which positive interactions could be transferred to ensure a more equitable and comfortable experience for others. Most women said they envisioned a partnership between sensitive professionals and women with personal experience of dealing with the family law process.

The first step to empowerment for these women would be to include

them at all levels of planning, development, and delivery of any policy, service, or program. Staples defines empowerment as a bottom-up process where people become active participants in the development and implementation of the policies, decisions, and processes that affect them. Opportunities are maximized by the

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provision of resources, information and support. Breton summarizes the necessary components of empowerment as social action, political awareness, having a voice, being recognized as competent, and being able to use power to influence outcomes. Professionals must abandon the role of "expert" and relinquish power to recognize the knowledge and skills that clients possess in order to establish collaborative and participatory relationships. Lord and Farlow found the answer to personal empowerment does not always lie in the creation of additional professional services. While certain resources and supports are sometimes needed to help people gain personal control and participate in the community, the process of empowerment is accelerated when people are independent and encouraged to develop self-help systems.

Interestingly, the women in this study proposed a model which would be consumer-driven operating with support and some resources provided by professionals. It is imperative that

women with personal experience within the family law system offer self-help, support, and information to users of the service. Women were interested in co-facilitating groups, offering individual support and court accompaniment, sitting on advisory committees, and providing awareness and sensitivity training to staff, volunteers, and professionals in the community. They saw the role of women with life experience as one which could offer empathy, sensitivity, and emotional connections for women as they navigate the family law system. Their own practical experience could be used to ease women's struggles through the bureaucratic process. Involvement in both research projects was in some ways representative of the process of support and networking proposed by the women who participated. They discussed how their inclusion in the focus groups was both empowering and therapeutic to their own healing. While women were attracted to the notion of autonomy, they recognized that expertise existed across the community in areas such as advocacy, political and social action, counselling and legal issues which could be utilized to the benefit of all women. They wanted a service which could have some affiliation with a trusted women's organization while at the same time operating as a consumer-designed program.

In terms of physical space, priorities included safety, accessibility, and a comfortable, welcoming environment. The women wanted to ensure that the service be open and available to a diverse population of women and children and recommended that printed and visual resources be provided in various languages. They discussed the need to eliminate as many barriers as possible to women's participation and considered the availability of child care, transportation, parking, and interpreters. Training for all staff and volunteers would need to include awareness of woman and child abuse issues, cultural sensitivity, and the effects on children of divorce and witnessing abuse. Fund-

ing ideas included government grants, donations from service clubs, professional associations and private businesses, fundraising activities, and flexible fees for service.

Looking at recent literature which documents the experience of other women in North America and Britain going through the family law system (Women's Research Centre; Hester and Radford; Taylor, Barnsley, and Goldsmith; Wilson), I was struck by the familiarity of their stories and the consistent nature of their proposals for change. Taylor, Barnsley, and Goldsmith suggest that women need a place to go where they can share stories and trust others to believe them, to validate their feelings, and be supported. They need correct and useful information about the system and it helps them to know that others will work with them in advocating, educating, and lobbying to change systems and institutions that perpetuate the problems. The authors advocate and provide guidelines for establishing custody and support groups in a collaborative process involving women who are professional helpers with women who have been through the system and who share a desire to help other women.

### **Reflections and concluding thoughts**

We designed and conducted participatory research studies based on the ideals and values of feminist social work practice (Gregg). This approach reflects the belief that participants, if given the opportunity and resources, are able to define and solve their own problems. Target populations have the capacity and the right to take part in the development of policies and programs which affect them.

While the samples were limited in terms of diversity and geography, I am aware that similar experiences and program proposals have been echoed in other large centres such as Vancouver and Toronto (Taylor, Barnsley, and Goldsmith; Mothers on Trial). The literature from the United States and Britain suggests parallel reactions

and conclusions from mothers who access family law systems in those countries (Chesler; Hester and Radford; Wilson). While no two people's experience is the same, I would anticipate comparable patterns of women's stories across other populations. I expect that women in rural centres, or those with multiple

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disadvantages would have multiple issues to report, so I suspect their experiences, while varied, could be even more complex than the ones presented in these projects. Their access to services and support would likely be more limited and difficult.

While those of us who originally came together to work on the two research projects knew of our own experience, it was validating and encouraging to learn none of us is truly alone. It is more apparent than ever when women are discriminated against and mistreated while attempting to sort out custody, access, and child support, that their physical, emotional, and financial well-being is at risk, thereby inhibiting their ability to provide for, protect and mother their children (Mothers on Trial).

The benefits of this research are considerable. Our understanding of the problem is enhanced, which can improve our ability as social workers and other professionals to support and advocate on behalf of women as

they maneuver through the family law system. The research participants confirmed the empowering nature of their inclusion in the process of a participatory action research project. When people have little control over decisions that impact their lives, they report feeling powerless and helpless (Whitmore and Kerans). Empowerment occurs when people are able to participate in the problem definition and the action designed to benefit their own welfare.

Our participation in "Custody and Access: A Response to a Public Discussion Paper" enabled several women who would not likely have had a voice in any public consultation process to discuss their issues and concerns and to collectively submit a response for consideration by government policy makers. "The Mothers' Family Law Advocacy Project" was designed to explore women's experiences and perceptions of the family law system with the goal of having them develop plans for a service that would offer an improved response to the needs of mothers and children. Although at this time, the actual service as proposed has not materialized, several new initiatives, for which this project was partly the impetus, have started in Hamilton which may lead us in the right direction for the future.

Impatience and frustration at the slowness of change are, perhaps, inevitable, however Ristock and Pennell remind us that for feminists

the primary means of empowerment has been the telling of women's stories ... women are encouraged to come forward and give voice to their realities as a way of beginning to change the oppressive and constraining conditions that still exist. (3)

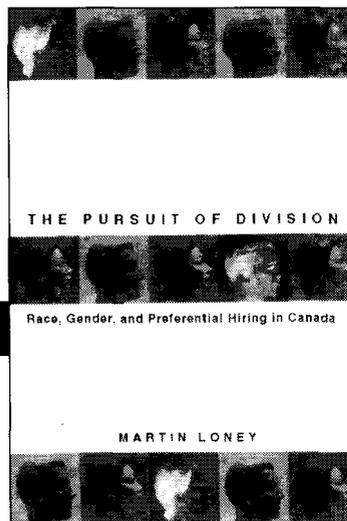
So far, and to that end, I think we have made some important beginnings.

*Karen Bridgman-Acker (MSW) is a social worker and custodial mother with personal and professional interest and*

experience in women's issues related to the family law system. This article is extracted from a larger unpublished research project report submitted to the School of Social Work at McMaster University in Hamilton, Ontario as partial requirement for her MSW degree. Karen would like to acknowledge and thank Dr. Jane Aronson and the McMaster Research Centre for the Promotion of Women's Health for their assistance with the research. Personal appreciation and affection is extended to Sean, Jennifer, and Laurie for their ongoing support.

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