

Full title: 'All over now?' The ongoing relational consequences of domestic abuse through children's contact arrangements

Running title: Relational consequences of domestic abuse through contact

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Abstract

The issue of child contact and domestic abuse has gained significant attention in recent years. Research highlights that domestic abuse may not end at the point of separation and the presence of children has been found to be a risk factor for continued abuse [PUBLISHER – THE PRECEDING UNDERLINED WORDS ARE FOR THE MARGIN]. This has raised questions about whether contact in the context of domestic abuse is safe for children and for women. This article presents findings from a qualitative study with 18 children aged 8-14 years and 16 mothers who had experienced domestic abuse in Scotland. Participants were recruited from domestic abuse support services in both the voluntary and statutory sectors. The research found evidence of the continued abuse of women and children following parental separation that was linked to contact arrangements. Children's contact with their non-resident fathers often took place amidst an absence of parental communication and of cooperation, which was traced to domestic abuse. This left children responsible for navigating the complex and charged dynamic of their parents' relationship. Children reported this negatively, especially for their relationships with their parents. The article, therefore, highlights the importance of considering the impact of the ongoing relational consequences of domestic abuse when considering children's contact arrangements.

Key practitioner messages:

- Domestic abuse may continue following parental separation, with children's contact becoming a central focus for continued abuse [PUBLISHER – THE

PRECEDING UNDERLINED WORDS ARE FOR THE MARGIN];

- Low levels of parental communication and co-operation following separation may be traced to domestic abuse;
- Poor parental relations negatively affect child contact.

Keywords: children, domestic abuse / violence, child contact, post-separation parenting

Word length: 3989

Introduction

Children's contact with non-resident fathers is a growing source of debate amongst policymakers. Research shows that child contact may mediate the negative impacts of parental separation (King and Sobolewski, 2006) yet its relationship to child wellbeing is not unqualified. A number of intermediary factors, including the resident parent's mental health (Dunn *et al.*, 2004; King and Sobolewski, 2006) and parental conflict (Bream and Buchanan, 2003; Harold and Murch, 2005; Grych, 2005; Trinder *et al.*, 2008) are found to influence the contribution of contact to children's wellbeing.

As in other jurisdictions, the issue of child contact when there are allegations of domestic abuse has gained prominence in Scotland [PUBLISHER – THE PRECEDING UNDERLINED WORDS ARE FOR THE MARGIN]. A body of research points to the negative effects domestic abuse may have on children (see Holt *et al.*, 2008 and Stanley, 2011 for an overview), as well as the potential overlap between domestic abuse and the direct abuse of children (Edleson, 1999; Goddard and Hiller, 1993). Evidence also demonstrates that women remain at risk of domestic abuse following separation, and that contact may provide opportunities for abuse to continue (Brownridge, 2006; Holt, 2013; Radford and Hester, 2006; Thiara and Gill, 2012). Taken together, these findings present a complex picture about children's contact with non-resident fathers when there is domestic abuse, raising difficult questions about the potential benefits and risks associated with contact in this context.

This article considers these difficult questions. Drawing from a Scottish study, it focuses on children's and mothers' experiences of contact when there is domestic abuse

[PUBLISHER – THE PRECEDING UNDERLINED WORDS ARE FOR THE MARGIN]. It found evidence of the continued abuse of women and in some cases the abuse of children linked to contact arrangements. It also found children's contact to take place amidst an absence of parental communication and cooperation which could be traced to domestic abuse. This was reported negatively by children, especially for relationships with their parents. These findings underline the salience of the ongoing relational consequences of domestic abuse when considering children's wellbeing and safety in contact arrangements.

Scottish legal context for contact and domestic abuse

The Children (Scotland) Act 1995 (CSA) is the primary legislation that deals with child and family law in Scotland. Section 11 of the Act provides individuals with opportunities to seek parental responsibilities and rights like contact, and to regulate the responsibilities and rights of others. In making decisions about contact, s11 (7) (a) clearly states that the court, "*shall regard the welfare of the child as its paramount consideration*". However, less clear is what it is that the court constitutes to be a child's best interests. Amendments made by s24 of the Family Law (Scotland) Act 2006 to the CSA have acted to clarify the best interests principle. S11 (7A-D) of the CSA now requires courts to give particular consideration to both abuse (including domestic abuse) and parental co-operation when weighing a child's interests [PUBLISHER – THE PRECEDING UNDERLINED WORDS ARE FOR THE MARGIN, i.e. 'The CSA now requires courts to give particular consideration to both abuse... and parental co-operation when weighing a child's interests'].

Best interests and domestic abuse

A key criticism of the 'best interests' principle is that it is ambiguous (Mnookin, 1975). This means decisions may be susceptible to personal values or indeed prejudice (Mnookin, 1975; Woodhouse, 1999), while lack of transparency surrounding best interests may mean children's interests are given insufficient protection (Eekelaar, 2002). Rather than basing decisions on a rigorous and objective assessment of a child's interests, decisions may be based on adults' assumptions of what *might* be in a child's interests. These criticisms are evident in research about child contact and domestic abuse, with a recurring theme being that, rather than questioning whether contact in this context is in a child's interests, decisions focus on making contact happen (Hester, 2011).

How allegations of abuse are dealt with during contact disputes is addressed in Trinder *et al.*'s (2009) analysis of English court based conciliation or court based resolution sessions. They report that allegations of abuse are often marginalised and that conciliators "*routinely ignore, reframe and reject allegations*" (p. 29.) unless claims were supported by external evidence. Trinder *et al.* (2009) suggest that this indicates that court based conciliators may see their role as being to promote and restore contact, but that this overriding focus on making contact happen risks minimizing the impact domestic abuse has on children [PUBLISHER – THE PRECEDING UNDERLINED WORDS ARE FOR THE MARGIN]. It also risks marginalising non-abusing mothers as competent parents, which in turn may jeopardise any assessment or management of risk. Similar findings are reported in an Irish study (see Holt, 2011) and in a US study

about custody mediation in the context of domestic violence (see Rivera *et al.*, 2012 and Zeoli *et al.*, 2013).

These ideas are expanded by Hester's (2011) 'three planet model', where she uses Bourdieu's (1989) 'habitus' to illustrate the how the 'planets' of child protection, domestic violence and child contact each have their own 'cultural histories'. Hester argues that this translates in the planets having differing thresholds of harm and subsequent intervention in families lives. The child contact planet is underpinned by ideas of low intervention, and where there is a dispute, mediation and negotiation are preferred. Unlike the child protection and domestic violence planets with their concern for past abuse, Hester argues the child contact planet is concerned with the future and a presumption of contact. This focus risks concerns about contact being overlooked, fathers not being challenged about abuse, and children's best interests not being objectively considered nor achieved.

These critiques reveal that the way in which domestic abuse is dealt with in family law is contentious [PUBLISHER – THE PRECEDING UNDERLINED WORDS ARE FOR THE MARGIN]. Ambiguity about what children's best interests are, and how these are weighed, has the potential for particular ideas about what is good for children to dominate decisions and for other concerns to be minimised or ignored. As the literature suggests, a preoccupation with making contact happen may result in contact decisions that do not fully assess the risks posed by a father who perpetrates domestic abuse.

The amendments made to the CSA have the potential to raise the profile of domestic

abuse and issues connected to parental co-operation in contact disputes, and to ensure that the risks and benefits of contact in this context are explored. This article reflects on these provisions, using data generated with children and mothers about their experiences of contact when there is domestic abuse.

Methodology

A qualitative approach was selected for the research as the topic was concerned with sensitive and complex issues, and with events that unfolded and changed over time (Ritchie, 2003). Separate in-depth interviews were carried out with children and their resident mothers, with a total of 18 children and 16 mothers participating. The age of child participants ranged from 8-14 years [PUBLISHER – THE PRECEDING UNDERLINED WORDS ARE FOR THE MARGIN]: eight were boys and 10 were girls. The majority of the families identified as White Scottish, one family identified as Asian and one as Chinese. A purposive sampling strategy was used (Silverman, 2005), with families recruited from domestic abuse support services in both the voluntary and statutory sectors. This helped identify children who had experienced domestic abuse, parental separation and contact, while also a supportive setting in which to conduct the research.

Interviews with children were divided into participative research activities, with the view to making interviews more engaging (e.g. Tisdall et al, 2008) and dilute the intensity of the interview. Activities provided a physical entity to focus on rather than the dialogue and interaction between the child and researcher (Barter and Reynold, 2000). The first substantive research activity used a 'storyboard', a pictorial vignette to explore three key areas: parental separation, participation in decisions about contact;

and experiences of contact. The second research activity 'My Story' encouraged children to map their own experiences of contact onto paper.

Interviews with women were open and tended to be directed by the woman being interviewed. At the start of the interview, women were asked about the legal processes that had taken place pertaining to contact and anything else they thought was important to their child's contact. Although a topic guide was developed that explored these areas, women tended to provide full accounts without much prompting, with the topic guide tending to be referred to more as a 'checklist' during the interview.

Interviews were recorded and later transcribed, with an inductive analytic strategy adopted for analysis. Interview transcripts were coded and analysed thematically using themes from the literature review, the research questions and new issues that emerged from the data. See Morrison (2014) for a fuller discussion about the methodology and analytical strategy adopted in this study.

Given the vulnerability of participants and the sensitivity of the topic, the research, paid particular attention to ethical issues throughout including addressing informed consent, dealing with risk and child protection, privacy and confidentiality, and distress and damage. Ethical approval for the research was sought from and given by the University of Edinburgh's Ethics Committee.

Findings

Children's contact arrangements

Children had a range of contact histories, the majority of which had changed over time. The length of time since parental separation varied across the sample. The shortest period since separation was less than 1 year and the longest was 5 years. Despite this variation, experiences of contact were predominantly negative [PUBLISHER – THE PRECEDING UNDERLINED WORDS ARE FOR THE MARGIN]. Common across all the children’s contact arrangements was the presence of informal contact arrangements almost immediately following parental separation. This was the case even though separation had often been abrupt and, in most cases, followed a serious attack on women. This presents a narrative counter to the legal characterisation of contact disputes, where women are presented as ‘implacably hostile’ and supports Harrison’s (2008) challenge to this. Rather than purposefully withholding or obstructing contact, all of the mothers interviewed had facilitated contact immediately after separation. In spite of domestic abuse, women described child-father relationships as important to their children’s wellbeing [PUBLISHER – THE PRECEDING UNDERLINED WORDS ARE FOR THE MARGIN], and wanted to preserve these relationships through contact. However, like Harrison’s (ibid) research on contact centres and domestic violence, this study also found children’s contact to be a site for continued post-separation abuse. In this study, women identified ongoing post-separation abuse as well as concerns about children’s welfare during contact as factors that led to children’s contact arrangements breaking down and legal assistance about contact being sought.

At the time of interview, 13 of the 16 families had contact arrangements that were

court ordered; the remaining three had contact that was arranged outwith court. The high proportion of the sample having court orders in place for contact correlates with other research (e.g. Hunt and MacLeod, 2008) that finds a high proportion of families seek court assistance to resolve contact disputes where domestic abuse is an issue of concern. The thirteen families where contact had been ordered by the court had a variety of contact orders. Three of the cases had orders for 'no-contact', one case had an order for 'supervised contact', and the remaining nine cases had orders for 'unsupervised contact'. Levels of contact also varied across both court and non-court ordered contact arrangements.

The ending of the relationship does not translate to the ending of abuse

As other research reports, the ending of the parental relationship did not equate with the ending of domestic abuse. Abusive episodes often correlated with significant events like divorce proceedings and women re-partnering [PUBLISHER – THE PRECEDING UNDERLINED WORDS ARE FOR THE MARGIN]. Five women described being afraid that their ex-partner would kill them. This fear was connected to the severity of attacks they had been previously subjected to, and to threats their ex-partner had made. Many spoke about an escalation of abuse before and immediately after separation. In the case of Emma, clear connections were drawn between the ending of the relationship and concern about the severity of any subsequent attacks:

Emma: 'If he got me on my own now [since leaving] or I don't know, it would be more extreme, it would be more definite. And I am under no illusions that he would kill me. I know he would. He nearly did it twice, so I am under no illusions

there.'

Following separation, some women continued to be subjected to physical violence, with attacks often being connected to children's handovers for contact visits. Several women were assaulted when men picked up or returned children from a contact visit. Children inevitably witnessed these assaults, highlighting how children's contact can be inextricably linked to children's continued exposure to domestic abuse [PUBLISHER – THE PRECEDING UNDERLINED WORDS ARE FOR THE MARGIN]. This is highlighted in the following extract where Sophie recounts the events that occurred when her ex-partner returned their children four hours later than ordered by the court.

'He ran down the path and then, he says, "You'll no take my kids off me." [...] And he just threw their bags and came running into the garden. At which point I held him by the shoulders and the kids got into the house. [...] And then he slapped me, and then was shouting and bawling. By which point we [the children and Sophie] were all crying. At this point there had been three incidents of violence I had reported at contact with him bringing back the kids.'

While contact served as a 'flashpoint' for physical violence in some cases, all of the women described being subject to emotional abuse and harassment following separation. This was both connected to children's contact visits and outwith contact arrangements. Here Michael explains why he finds his father's behaviour towards his mother at contact handovers upsetting:

Michael: '...sometimes my dad says not very nice things to my mum when I am going

into my dad's car which makes me feel upset.'

Researcher: 'Can you tell me what he says?'

Michael: 'He said my mum is an idiot. And it made my mum feel upset when she was going home.'

Michael's response to his father's behaviour highlights how domestic abuse affects both women and children (even when the latter are not direct victims). Across the study, women described how children routinely witnessed their father shout, swear and, in some cases, threaten their mother at contact handovers. Sophie and Michael's experiences demonstrate how getting to and from a contact visit can be a fraught and frightening experience for children and women [PUBLISHER – THE PRECEDING UNDERLINED WORDS ARE FOR THE MARGIN]. In several cases, women had attempted to reduce opportunities for ongoing abuse, and children's exposure to it, by involving third parties in handovers for contact. In most cases family members and friends were used, with contact centres only being used in a minority of cases. However, women did not view any third party as a sustainable solution to problems surrounding contact. Contact centres were seen to be short-term measures; women reported concern that while men may 'follow the rules' at a contact centre, any change in behaviour would only be temporary. Family and friends often withdrew from acting as a third party to facilitate contact because they found men's behaviour at handovers to be abusive and frightening. This is exemplified in the extract from Joanne's interview:

'On Christmas night I had went to swap the kids over. Because his behaviour had

been so bad, I had nobody that was willing to be a third party. At this point we had run out, because he was threatening my parents, my sister and my auntie. So there was nobody.'

Women described receiving abusive and, at times, threatening telephone calls, text messages and emails from their ex-partner or from a third party that they believed to have been orchestrated by their ex-partner. Several women reported that men would turn up at places where they knew women and children would be likely to be.

Together, this highlights how domestic abuse crosses social space [PUBLISHER – THE PRECEDING UNDERLINED WORDS ARE FOR THE MARGIN] and that while not necessarily being physically abusive, men, at times, remain an unwelcome and harmful presence:

Lydia: 'He was everywhere we turned up. He was at my son's basketball club. And he was upsetting the children and embarrassing them too [...] I could see Luke [son] was embarrassed, he felt awkward and he felt guilty towards me. I was visibly upset. He was very clever; there were interdicts in place that he couldn't verbally abuse me. But he would just say a few words, that meant something to me, but meaningless to other people. And that would set me off.'

Lydia's account demonstrates that abuse may continue in spite of legal protective measures [PUBLISHER – THE PRECEDING UNDERLINED WORDS ARE FOR THE MARGIN].

It also shows how actions that may appear benign can hold a different significance in the context of domestic abuse. It provides insight to the significance that emotional

abuse has in post separation parenting arrangements, the fear it can engender, and the distress it can cause to both adult and child victims.

The direct abuse of children during contact

In this study two mothers suspected their children were sexually abused by their fathers during contact. These concerns had been investigated by social work but were not substantiated and no further action was taken. Three children described being physically abused during contact. The majority of children were subject to emotional abuse during contact [PUBLISHER – THE PRECEDING UNDERLINED WORDS ARE FOR THE MARGIN]. Jane provides a powerful example this in the extract below:

‘He’s said a lot of nasty things to Lisa [daughter]. Like I’d drop her off and he said, ‘You know your mum’s not coming back for you. Your mum’s away with all these different men.’ And I wasn’t I was coming back here [the refuge] and he said all these nasty things to her and she asked him to phone me, and he wouldn’t let her phone me.’

This extract is particularly disturbing when we consider that Lisa had been living in a refuge because of her father’s severe violence towards her mother. This occurred on the first overnight contact visit since Lisa’s parents’ separation. Lisa had no prior experience of contact and had to spend the night with her father not knowing whether her mother would return or not. This all emphasises the importance of considering that while parental relationships may have ended, fathers’ willingness to abuse may remain [PUBLISHER – THE PRECEDING UNDERLINED WORDS ARE FOR THE MARGIN].

Quality of parental relationships and children's contact

The on-going consequences of domestic abuse had negative impacts on the quality of parental relations following separation. All of the children's contact took place amidst an absence of any parental communication. None of the parental relationships involved communicating or sharing information about issues that affected their children. Some women had to change their telephone numbers or 'block' their ex-partner's telephone numbers in order to minimise harassment. There were also cases where men refused to share telephone numbers with women, leaving them unaware and anxious about where their children were during contact. However, like the use of third parties for contact handovers, the absence of communication did not prevent disputes or post-separation abuse [PUBLISHER – THE PRECEDING UNDERLINED WORDS ARE FOR THE MARGIN].

Fathers' outward hostility towards mothers during children's contact was a recurring theme across the study. Both mothers and children described how men spoke negatively about and denigrated women during contact visits. In the extract below, Helen describes how her daughter returns from contact visits distressed by what her father has said about her mother:

'I mean sometimes she'll come back and say, 'For hours he was speaking about how bad you are.' The night he dropped her off at the shops when it was meant to be overnight, she had the whole journey up from Aberdeen with him going he wishes I

was dead, how much he hated me. And she came in crying.'

Some fathers were angered if children even mentioned their mother during contact

[PUBLISHER – THE PRECEDING UNDERLINED WORDS ARE FOR THE MARGIN]. In

Joanne's case, her father made a rule that she and her brothers were not allowed to talk about their mother during contact. This expectation that children should compartmentalise relationships with parents during contact was repeated in other interviews, yet was an unrealistic dictum. Children often spoke about missing their mother during contact, with younger children in particular wanting to talk to them. In several cases fathers prevented such children from doing so. In many cases, it seemed that fathers expected contact to be a time where children's attention and thoughts should be directed towards them alone.

Children often became de facto messengers between parents, passing on information

about changes to future contact arrangements [PUBLISHER – THE PRECEDING

UNDERLINED WORDS ARE FOR THE MARGIN]. Such messages were not limited to

practicalities about visits, but extended to threats from men to women. In Paul's case, his father used contact to find out about his mother Sophie's life and to subsequently threaten legal proceedings in a bid to exert control over her. After learning about Sophie's new partner during contact, Paul's father told Paul that he would be raising this new relationship with the court reporter and at the next court hearing. Paul relayed this to Sophie after a contact visit, who interpreted this as evidence that her ex-partner was angry about her new relationship and an attempt to use legal proceedings about contact to punish her for it.

Children were also used to further disputes about finances. The extract below illustrates how the quality of Michelle's parents' relationship affected her contact and how through contact children may unwillingly be drawn into parental disputes [PUBLISHER – THE PRECEDING UNDERLINED WORDS ARE FOR THE MARGIN].

Researcher: 'Are there particular things you don't want to be involved with?'

Michelle: 'Money aspects. I don't want to be involved in that.'

Researcher: 'Do you feel you are been brought into that?'

Michelle: 'Sort of. Because my mum says, 'Tell your dad to get the money.' And I'm like, 'Dad, Mum needs money.' He's always like, 'No.' And then I have to go and tell mum she can't have any money.'

The lack of communication amongst parents meant that parents' new relationships were particularly problematic for children. Several children met their father's new partner during contact [PUBLISHER – THE PRECEDING UNDERLINED WORDS ARE FOR THE MARGIN]. These tended to be relationships that children and their mothers had no prior knowledge of before children were introduced to the new partner. In the extract below, Suzanne describes her discomfort and her perception that her father used his new relationship as a means to hurt or taunt her mother.

'..my dad was putting an arm around another girl's neck. And I felt quite jealous. I don't know if that was for me to go back and tell my mum. Like mum: my dad's got a new girlfriend.'

The introduction of new partners during contact left children with an uncomfortable choice [PUBLISHER – THE PRECEDING UNDERLINED WORDS ARE FOR THE MARGIN]: to tell their mother about their father’s new relationship, or to withhold this information. It highlights the often adult role and responsibility that children had to take on in order to mediate and negotiate between their parents.

Hostility towards mothers, changes to contact arrangements, threats, post-separation finances and new partners are all difficult issues to deal with in post-separation parenting. However, it is important to recognise the context in which these all occurred. The breakdown in parental relations took place in a context of men’s continued harassment and abuse. Nevertheless, the poor quality of parental relations left children responsible for navigating the complex and charged dynamic of their parents’ relationships [PUBLISHER – THE PRECEDING UNDERLINED WORDS ARE FOR THE MARGIN]. This in turn exposed children to further parental conflict and arguably made them vulnerable to further abuse.

Conclusion

Limitations of the study

This study was concerned with gaining an in-depth understanding of children’s and mothers’ experiences and therefore involved a deliberately small sample. Research participants were recruited from domestic abuse support services. This had both ethical and practical advantages. Participants had spoken about their experiences prior to the research and participants who matched the sample criteria for the research

were more easily identified than might have otherwise. However, this could mean that particular groups or perspectives are not represented in the sample. It would be useful to carry out similar research and recruit participants from a more general population.

Non-resident fathers of the child participants were not included in this research.

Fathers' perspectives are of course important in any debate on contact and domestic abuse. However, the decision to not include fathers was made so as not to undermine the safety of children and mothers [PUBLISHER – THE PRECEDING UNDERLINED WORDS ARE FOR THE MARGIN], and in a bid to ensure that the research was not dominated by the parental dispute about contact.

Discussion

This article has argued that in order to fully consider children's wellbeing and safety in contact arrangements, the ongoing relational consequences of domestic abuse must also be taken into account and addressed. In returning to Hester's (2011) 'three planet model', we can observe the legal requirements of the Children (Scotland) Act 1995 to consider both domestic abuse and parental co-operation when weighing a child's best interests have potential to address children's wellbeing in contact disputes. However findings from this study show that despite legal reform, both domestic abuse and parental co-operation continued to be significant problems for families [PUBLISHER – THE PRECEDING UNDERLINED WORDS ARE FOR THE MARGIN].

This raises questions about how contact in cases of domestic abuse should be addressed. While courts may make orders that regulate child contact, they do not deal

with the consequences that contact in this context may bring. Many of the post-separation services like contact centres are designed to limit parents' interactions in order to reduce opportunities for abuse and conflict (Morrison and Wasoff, 2012). However, far from being 'all over now', the relational consequences of domestic abuse continue through contact and leave children vulnerable to continued parental conflict and exposure to abuse [PUBLISHER – THE PRECEDING UNDERLINED WORDS ARE FOR THE MARGIN]. Holt (2013) argues that abusive men need to be held accountable for their behaviour *before* contact begins. I agree and would further suggest that such accountability needs to be conceptualised not as a static event, but as something that is dynamic and that it should be returned to and addressed in an ongoing way. I would further argue that such accountability should provide space for children and women to recover from the abuse they have experienced.

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