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# The Re-traumatisation of Domestic Abuse Survivors: The Problem of Mother Blaming in Public Child Law Proceedings

By Lisamarie Deblasio

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**Key words:** domestic abuse, public child law, birth mothers, victim/mother blaming.

## Abstract\*

Social science literature reports on the existence of institutional victim and mother blaming attitudes towards women who have experienced domestic abuse.<sup>1</sup> Despite major law reform and a greatly improved understanding of domestic abuse, there remains a problematic victim blaming culture within children's social care and the family courts. A recent report published by Safe Lives and the Domestic Abuse Commissioner found that *'the family justice system retraumatises victims with a strong theme of victim blaming along with a system perpetuating myths of domestic abuse'*.<sup>2</sup> Women whose children have been adopted from care (referred to

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<sup>1</sup> See J Taylor, Why Women are Blamed for Everything: Exploring the Victim Blaming of Women Subjected to Violence and Trauma (Lulu.com, 2020).

E Stark and A H Flitcraft 'Women and Children at Risk: A Feminist Perspective on Child Abuse', *International Journal of Health Services* [1988] 18,1, 97-118.

S Choudhry 'When Women's Rights are not Human Rights- the Non-Performativity of the Human Rights of Victims of Domestic Abuse within English Family Law', *Modern Law Review* [2019] 82,6, 1072-1106.

L Davis and J Crane 'Shaking the Legacy of Mother Blaming: No Easy Task for Child Welfare', *Journal of Progressive Human Services* [2008] 7,2, 3-22.

<sup>2</sup> Safe Lives and the Domestic Abuse Commissioner, Understanding Court Support for Victims of Domestic Abuse (June 2021) 7.

here as birth mothers) appear to be highly vulnerable to mother blaming by professional bodies. Holding mothers solely responsible for family dysfunction is not a new problem; research shows it exists in many institutions from health care to law.<sup>3</sup>

The aim of this study was to explore the personal perspectives of birth mothers who experienced domestic abuse and who were involved with children's social care and the family courts. Specific attention was paid to the attitudes and language used by professionals both in and out of court. To achieve authentic voice, unstructured interviews were conducted with ten birth mothers. The interview transcripts were analysed using discourse analysis, with words and narratives being compared to examples of victim and mother blaming language in cases of domestic abuse. Analysis revealed that responsibility and culpability for domestic abuse was often placed on the victims by professionals, who at times adopted a 'passive voice' where domestic abuse is acknowledged but the perpetrator is not. This practice maintains the invisibility of the abuser, known as 'agent deletion', this being where the agent of the process, in this case the perpetrator of abuse, is omitted or backgrounded.

The findings, although small scale, provide additional knowledge to the fields of adoption, birth mothers and institutional attitudes towards survivors of domestic abuse. As a group birth mothers are stigmatized in society<sup>4</sup> as well as being stereotyped as culpable victims. The emotional implications for these women, who lose all rights to parent their children, are severe. They are traumatised by domestic abuse and then find they are blamed by authority figures who may have initially been seen as offering support. Many birth mothers are left feeling suicidal and unable to forgive themselves for being unable to prevent abuse they had no control over. The residual culture of mother blaming within the family courts and children's social care

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<sup>3</sup> D Jackson and J Mannix, 'Giving voice to the burden of blame: A feminist study of mothers' experiences of mother blaming', *International Journal of Nursing Practice* [2004] 10:4 150-158.  
Choudhry, n1 above.

<sup>4</sup> L Deblasio, *Adoption and Law: The Unique Personal Experiences of Birth Mothers* (Routledge, 2021) Chapter 8.

should be addressed with relevant training and awareness. Adoption of aspects of empowerment models, traditionally deployed by domestic abuse advocates, and a trauma-informed approach would be a step in the right direction.

## **Introduction**

Over the last two decades, UK governments have invested in reducing domestic violence.<sup>5</sup> Significant progress has been made with the Domestic Abuse Act 2021, which promised to *‘raise awareness and understanding about the devastating impact of domestic abuse on victims and their families’* and *‘further improve the effectiveness of the justice system in providing protection for victims of domestic abuse and bringing perpetrators to justice’*.<sup>6</sup> The new legislation was swiftly followed with the ‘Tackling Violence against Women and Girls Strategy’ which aims to *‘provide a once in a generation opportunity to reduce the prevalence of violence against women and girls, and improve the support and response for victims and survivors’*.<sup>7</sup>

The government has also funded what is called ‘major overhauls’ to the family courts to protect domestic abuse victims.<sup>8</sup> Reforms include shielding them from abusers in court with separate entrances and protective screens, whilst increasing judges’ powers to issue barring orders to prevent abusers using repeated court applications as a form of control over victims. The reforms were preceded by an expert led review, which found *‘that an adversarial process in the family courts often worsened conflict between parents, which could retraumatise victims and their*

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<sup>5</sup> M Hester and N Westmarland, Tackling Domestic Violence: effective interventions and approaches, Home Office Research, Development and Statistics Directorate (February 2005).

<sup>6</sup> Home Office Policy Paper, Domestic Abuse Act 2021: Overarching Factsheet (July 2021).

<sup>7</sup> Home Office Policy Paper, Tackling violence against women and girls strategy (July 2021).

<sup>8</sup> Ministry of Justice, Press Release, Major overhaul of family courts to protect domestic abuse victims (25 June 2020).

*children*'.<sup>9</sup> Nicole Jacobs, the Domestic Abuse Commissioner said, *'problems in the family court are the single most common concern raised with me as Commissioner'*.<sup>10</sup>

Whilst positive work is being done to address domestic abuse and increase safety measures for victims when they have to attend court, the outdated attitudes of some family judges towards domestic abuse is more challenging to reform. In 2020, Judge Robin Tolson QC made inappropriate comments to the mother in a fact finding hearing where she opposed her ex-partner having contact with their child. She reported that she had been raped and subjected to controlling tactics. Judge Tolson considered *'that she had taken no physical steps to stop the man and as such this could not constitute rape'*.<sup>11</sup> Ms Justice Russel who gave the judgment in the High Court was critical of Judge Tolson, stating that his judgment made for *'concerning reading, this is a senior judge, a leadership judge in the family court, expressing a view that a complainant must and should physically resist penetration, in order to establish a lack of consent. This would place the responsibility for establishing consent or lack thereof firmly and solely with the complainant or potential victim'*.<sup>12</sup>

This case was one of four conjoined appeals heard by the Court of Appeal in relation to fact-finding hearings in private law cases where domestic abuse was raised as an issue.<sup>13</sup> The Court took the opportunity to issue guidance on domestic abuse hearings and findings of fact. It concluded that it was,

*'Satisfied that the modern approach to domestic abuse is well understood and has, through experience and training, become embedded with the vast majority of judges and magistrates sitting in the Family Court. There is, however, no room for*

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<sup>9</sup> Ibid.

<sup>10</sup> Home Office Policy Paper, Domestic Abuse Commissioner Factsheet (28 July 2021).

<sup>11</sup> UK Parliament (6 February 2020) Early Data Motion: Conduct of Judge Robin Tolson QC. EDM:147: tabled on 06 February 2020, Tabled in the 2019-21 session.

<sup>12</sup> *JH v MF* [2020] EWHC 86 (Fam) para 37.

<sup>13</sup> *Re H-N and Others* [2021] EWCA Civ 448.

*complacency and the Family Court is engaged in a continuing process aimed at developing and improving its procedures. A judge who fails properly to determine the issues before him or her is likely to be held on appeal to have been in error*'.<sup>14</sup>

The court also made it clear in *Re B-B*<sup>15</sup>, the appeal concerning judge Tolson's findings, that, *'the impact of the judge's comments upon a young mother must not be underestimated*'.

Such outdated attitudes by family court judges suggests a failure to apply new understandings and domestic violence awareness in place of victim blaming. In some parts of the legal system patriarchal attitudes remain. Women continue to be held responsible for male abuse, whilst perpetrators are protected because their invisibility is maintained. This in turn prevents the eradication of the intergenerational cycles of abuse that commonly exists within families who come before the courts.<sup>16</sup> The findings from this research increase our understanding of the culture of victim blaming in public child law proceedings. Using narratives from interviews with survivors of domestic abuse, it advances the recommendations recently put forward by the report from Safe Lives for the Domestic Abuse Commissioner. This being that trauma informed practices should be employed by practitioners and judges who are involved in cases of domestic abuse, whilst outdated attitudes towards victims must be urgently addressed.<sup>17</sup>

## **Background**

A 2017 study explored the experiences of 32 birth mothers and compulsory adoption.<sup>18</sup> Domestic abuse was not an aspect of the research, which focused on the provisions of the

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<sup>14</sup> Ibid. paras 23-34, 54.

<sup>15</sup> [2021] EWCA Civ 448.

<sup>16</sup> C Proudman and F Trevena, 'Setting Parents up to Fail is Integral to Care Proceedings', *Family Law* [2012] 987, 988.

<sup>17</sup> Safe Lives n2 above.

<sup>18</sup> The term 'birth mother' was not intended to label women; it was used to distinguish between women who gave birth to the child who was adopted as opposed to the term 'adoptive mother' who was the mother of the child following the adoption.

Adoption and Children Act 2002 designed to support birth mothers. Reasons given by birth mothers for grounds for care and placement orders leading to adoption of their children were:

- Emotional abuse and/or risk of future emotional abuse in 29 cases.
- Neglect and/or risk of neglect in 25 cases.
- Failure to protect children from seeing or being caught up in domestic violence in 20 cases.
- Mental illness of the mother in twelve cases.
- Drug and alcohol abuse with the partner or close family member in ten cases.
- Drug/alcohol problems with the birth mother in five cases.
- Mental illness of a partner in two cases.
- Two cases of mothers with a learning disability.
- A child's behavioural condition causing loss of parental control in one case.
- One case of physical injury to a child.
- One case of a mother with a physical illness and disability.

Additionally, the results showed that 28 respondents were experiencing domestic violence at the time child protection services intervened.<sup>19</sup> In this context, a key theme of 'self-blame' appeared during analysis. The data revealed that women feeling responsible for the circumstances leading to adoption of their children was pertinent to being blamed for domestic abuse, not only by their partners, but also by professionals and during court proceedings. These findings inspired the current study, which aimed to learn how participants who were experiencing domestic abuse felt they were treated by professionals, both in and out of court, during care and adoption proceedings.

The focus was placed on women with lived experience of domestic abuse, and their personal perspectives of the attitudes and language used by professionals they interacted with throughout the process of care and adoption proceedings. Unstructured interviews were conducted with ten birth mothers who were recruited using purposive sampling. The interview transcripts were analysed using discourse analysis to establish the meaning of their words in a wider social context. The data was compared with examples of mother and victim blaming

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<sup>19</sup> Deblasio, n4 above, 86-90.

language, which transfers blame from the perpetrator to the victim and the use of passive voice, which deletes the agent from the situation, making them invisible.

## **Definition and Scope of Domestic Abuse**

Women's Aid provide a wide definition of domestic abuse,

*'An incident or pattern of incidents of controlling, coercive, threatening, degrading and violent behaviour, including sexual violence, in the majority of cases by a partner or ex-partner, but also by a family member or carer. It is very common. In the vast majority of cases it is experienced by women and is perpetrated by men'.*<sup>20</sup>

In 2012 the Home Office Published a cross government definition of domestic violence as,

*'Any incident of threatening behaviour, violence or abuse [psychological, physical, sexual, financial or emotional] between adults who are or have been intimate partners or family members, regardless of gender or sexuality. This definition includes so called 'honour' based violence, female genital mutilation (FGM) and forced marriage, and is clear that victims are not confined to one gender or ethnic group'.*<sup>21</sup>

This was neither a statutory nor a legal definition, but section 1 of the Domestic Abuse Act 2021 provides a statutory definition of domestic abuse. This is broader than the original 2012 cross government definition because it also refers to behaviour. The judiciary have been instrumental in widening the legal definition of domestic violence, with recognition that it is not confined to physical violence. In *Yemshaw v London Borough of Hounslow*<sup>22</sup> Lady Hale

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<sup>20</sup> Women's Aid (2020) What is Domestic Abuse, [www.womensaid.org.uk/information-support/what-is-domestic-abuse/](http://www.womensaid.org.uk/information-support/what-is-domestic-abuse/) (accessed 1 May 2021).

<sup>21</sup> Home Office, Cross-Government Definition of Domestic Violence (Sep 2012).

<sup>22</sup> [2011] UKSC 3.



when interpreting section 177(1) of the Housing Act 1996, said ‘*violence*’ is not a term of art. It is capable of bearing several meanings and applying to many different types of behaviour’.<sup>23</sup>

Domestic abuse in intimate relationships happens with frequency and is primarily a woman’s victimization issue. Domestic abuse occurs across the whole of society, although some vulnerable women are particularly at risk, including women from deprived backgrounds, those suffering from mental health problems or who are homeless.<sup>24</sup> In the year ending March 2019, 1.6 million women experienced domestic abuse from a male partner and almost one in three women between the ages of 16 and 59 will experience domestic abuse in her lifetime.<sup>25</sup> Domestic abuse often begins during a woman’s pregnancy or following the birth of children.<sup>26</sup> At any given time, around 130,000 children live in homes where there is high-risk domestic abuse.<sup>27</sup> Sixty-two per cent of children living with domestic abuse are directly harmed by the perpetrator of the abuse, in addition to the harm caused by witnessing the abuse of others.<sup>28</sup>

Concern that a child is experiencing or witnessing domestic abuse is a common reason why children’s services become involved with families.<sup>29</sup> Research shows that children suffer even if abuse is not directed at them. It is damaging to their emotional wellbeing in both the short and long term.<sup>30</sup> The law recognises this and gives powers to authorities to remove children on these grounds. Section 31(9) Children Act 1989 as amended by section 120 of the Adoption

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<sup>23</sup> Ibid para 27.

<sup>24</sup> Safe Lives, Getting it right first time: Policy Report: Bristol: Safe Lives (2015).

<sup>25</sup> Office for National Statistics (2019) Domestic abuse victim characteristics, England and Wales: year ending March 2019.

<sup>26</sup> Women’s Aid, nearly 60% of survivors using domestic abuse services are mothers and 1 in 15 are pregnant, according to latest Women’s Aid report (2019) [www.womensaid.org.uk/nearly-60-of-survivors-using-domestic-abuse-services-are-mothers-and-1-in-15-are-pregnant-according-to-latest-womens-aid-report/](http://www.womensaid.org.uk/nearly-60-of-survivors-using-domestic-abuse-services-are-mothers-and-1-in-15-are-pregnant-according-to-latest-womens-aid-report/) (Accessed 20 July 2021).

<sup>27</sup> Safe Lives, n2 above.

<sup>28</sup> Co-ordinated Action Against Domestic Abuse, In Plain Sight: Effective help for children exposed to domestic abuse, CAADA’s Second National Policy Report Bristol (Feb 2014).

<sup>29</sup> B Featherstone, A Gupta, et al. ‘The role of the social worker in adoption – ethics and human rights: An Enquiry’, *The British Association of Social Workers* (2018) 13.

<sup>30</sup> M Hester, ‘Who Does What to Whom? Gender and Domestic Violence Perpetrators’, *European Journal of Criminology* [2009] 10:5.

and Children Act 2002 (ACA) includes harm suffered by children from seeing or hearing the ill treatment of another.

Over the last 20 years, policy, law and practice have developed to provide for children's needs with preventative measures to protect children from violence. Despite improvement, Lord Laming's report on child protection in 2009 made it clear that ministers, council chiefs, social work managers, NHS staff and police officers all need to do more to safeguard vulnerable children living in homes with domestic abuse.<sup>31</sup> Similarly, Eileen Munro's review of the child protection system found that children living in homes with domestic violence have not been prioritised enough to evidence progress.<sup>32</sup>

Research also finds that women are equally under-prioritised. Women are hospitalised or killed by their partners every week in the UK. During an International Women's Day Debate, the Labour Party's Shadow Domestic Abuse Minister Jess Phillips read out the names of 118 women and girls who were killed in the UK this year. In each case a man had been charged or convicted as the primary perpetrator.<sup>33</sup> In the words of Phillips, '*society has just accepted women being killed by male abusers as one of those things*'.<sup>34</sup> During the Covid 19 pandemic 'lockdown', police forces and domestic abuse charities reported significant increases in the number of domestic abuse incidents and support services such as Women's Aid were overwhelmed by demands for help.<sup>35</sup> In a survey conducted by Women's Aid, 61.3 per cent of

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<sup>31</sup> Lord Laming, *The Protection of Children in England: A Progress Report* (Department for Education) (2009).

<sup>32</sup> E Munro, *The Munro Review of Child Protection: Interim Report: The Child's Journey* (Department for Education) (2011).

<sup>33</sup> BBC News, 'Jess Phillips: Society has 'just accepted' dead women' (11 March 2021) [www.bbc.co.uk/news/uk-politics-56365827](http://www.bbc.co.uk/news/uk-politics-56365827) (Accessed 10 July 2021).

<sup>34</sup> *Ibid.*

<sup>35</sup> S Davidge, *A Perfect Storm: The Impact of the Covid 19 Pandemic on Domestic Abuse Survivors and the Services Supporting them*, Women's Aid (2020) [www.womensaid.org.uk/a-perfect-storm-the-impact-of-the-covid-19-pandemic-on-domestic-abuse-survivors-and-the-services-supporting-them/](http://www.womensaid.org.uk/a-perfect-storm-the-impact-of-the-covid-19-pandemic-on-domestic-abuse-survivors-and-the-services-supporting-them/) (Accessed 24 Aug 2021).

survivors reported that the abuse they experienced got worse during the pandemic. This finding was especially true for those women still living with abusers.<sup>36</sup>

## **The Law**

The Domestic Abuse Act 2021 introduced a new civil Domestic Abuse Protection Notice (DAPN) (Part 3) to provide immediate protection following a domestic abuse incident, and a new civil Domestic Abuse Protection Order (DAPO) (section 27) to provide longer-term protection for victims. The Act also creates a Domestic Abuse Commissioner (section 4) and it places a duty on local authorities to give support to victims of domestic abuse and their children in refuges and safe accommodation (section 57). Other legislation provides numerous protective and preventative measures for domestic abuse. The Family Law Act 1996 provides for injunctions (section 42) and occupation orders (sections 33-36), although it is expected that the Domestic Abuse Act orders will replace these in cases of domestic abuse.<sup>37</sup> The criminal law now goes beyond sanctions for physical violence with section 76 of the Serious Crime Act creating an offence of controlling or coercive behaviour. Victims of domestic abuse can seek an injunction under the Protection from Harassment Act 1997 and public bodies have a duty to protect them under the Human Rights Act 1998, in particular Articles 2 and 3 of the European Convention. The state has a duty to investigate incidents of domestic abuse and provide protection to adults and their children. In addition to the law, community-based domestic abuse projects throughout the UK provide services to women and children which include refuges and safe houses, national and regional emergency helplines, crisis support, counselling, medical

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<sup>36</sup> Ibid.

<sup>37</sup> Orders that are used in cases of domestic abuse are Non-Molestation Orders, Occupation Orders, and Restraining Orders. These orders vary in terms of who can apply for them, the conditions that can be attached to them and the consequences of breach. There was no single order that was accessible across the criminal, family and civil courts. This can lead to confusion for victims and practitioners in domestic abuse cases and problems with enforcement. The intention is that the DAPN and DAPO will replace these orders in domestic abuse cases. See Home Office Policy Paper, Domestic Abuse Protection Notices/Orders factsheet (28 July 2021).

and mental health referral and localised support groups, many of which are run by volunteers and charitable organisations.

### **The Feminist Perspective on Domestic Abuse**

There are numerous theories that try to explain what causes domestic abuse, one being the feminist perspective. Feminist social scientists focus on gender as the central component to the cause of domestic abuse. This abuse is seen as a manifestation of patriarchal domination over women.<sup>38</sup> In other words, domestic abuse through the feminist lens is the act of men controlling women.<sup>39</sup> As Kurz explains, '*men use violence as a way to control female partners, battering incidents occur when husbands try to make their wives comply with their wishes*'.<sup>40</sup>

Michelle Madden Dempsey argues that domestic violence exists in societies where patriarchy is part of the social structure.<sup>41</sup> Patriarchy is defined by feminists as male domination both in public and private spheres; in family environments, men have all the control and authority over women and children. Feminists assert that men are predominantly perpetrators of domestic abuse and in cases where females are violent, it tends to be attempted self-defence to existing violence. This theory is supported by research that finds that women tend not to use coercive or controlling behaviour; rather they rely on physical acts of retaliated violence that responds to male violence.<sup>42</sup> In earlier work Dobash and Dobash observed '*the use of physical violence against women in their position as wives is not the only means by which they are controlled and oppressed but it is one of the most brutal and explicit expressions of patriarchal domination*'.<sup>43</sup> They argue further that the domination of women by male abuse is a symptom

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<sup>38</sup> R E Dobash and R Dobash, *Violence against wives: A case against the Patriarchy* (Free Press, 1979).

<sup>39</sup> E Schneider, *Battered Women and Feminist Lawmaking* (Oxford University Press, 2000).

<sup>40</sup> D Kurz, 'Social Science Perspectives on Wife Abuse' *Gender and Society* [1989] 3: 4 489-505, 495.

<sup>41</sup> M Madden Dempsey, *Prosecuting Domestic Violence, A Philosophical Analysis* (Oxford University Press, 2009) Chapter 7.

<sup>42</sup> R E Dobash and R Dobash, 'Women's Violence to Men in Intimate Relationships: Working on a Puzzle', *British Journal of Criminology* [2004] 44:3, 24.

<sup>43</sup> Dobash and Dobash n37, above, ix.

of the lengthy cultural history of legally permitted male subordination and ownership of women. Indeed historically, and in the modern day, governing institutions have legitimised the use of abuse by men to control women.<sup>44</sup> In the mid-19th century, the term ‘domestic abuse’ was unknown. There were ‘*acceptable boundaries of abuse*’<sup>45</sup> that allowed men to control their wives and children without fear of prosecution.<sup>46</sup> Cornish and Clark note that violence against wives under a rigid regime of patriarchy ‘*earned guarded approval*’.<sup>47</sup>

Despite the law ‘*having a certain penchant for the idea that a husband might subject a wife to reasonable chastisement*’,<sup>48</sup> judges possessed the authority to fine or imprison husbands for beating their wives and children. During the 1800s, they were also empowered to try summary assaults by husbands. Wife battering amongst the working classes continued to gain attention, and by 1878 legislation was proposed to allow a wife to obtain a separation order from the courts and maintenance payments, where her husband had been convicted of her assault.<sup>49</sup> This was called judicial separation under the Matrimonial Causes Act 1878, which replaced divorce *a mensa et thoro* offered by the ecclesiastical courts. Judicial separation provided wives with similar rights to divorce except the right to remarry.<sup>50</sup> It could be granted on the grounds of adultery, cruelty or two years’ wrongful desertion.<sup>51</sup>

The law had progressed to provide both physical and financial protection to women, yet conversely rape within marriage was not made a criminal offence until 1991<sup>52</sup> and domestic

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<sup>44</sup> A Clark, ‘Domestic Violence, Past and Present’, *Journal of Women’s History* [2011] 23:3.

<sup>45</sup> B Godfrey et al, Domestic Abuse in England and Wales 1770-2020, Working Paper no 2, Responding to the Shadow Pandemic, *University of Liverpool* (2020).

<sup>46</sup> Ibid. Men were not exempt from prosecution for murdering their wives.

<sup>47</sup> W R Cornish and G. de N Clark, *Law and Society in England: 1750-1950*, (Sweet and Maxwell, 1989) 391.

<sup>48</sup> Ibid.

<sup>49</sup> Ibid.

<sup>50</sup> O Anderson, *State, Civil Society and Separation in Victorian Marriage, Past & Present*, (Oxford University Press, May 1999) No. 163, 161-201, 167.

<sup>51</sup> Ibid.

<sup>52</sup> *R v R* [1991] UKHL12. See also *R v Clarence* (1989) 22 Q.B.D. 23 per Hawkins J. A husband who forced his wife to have sexual intercourse could not be guilty of rape.

abuse remained, for the most part, hidden within society.<sup>53</sup> As recently as the 1970s, wife-beating was viewed as a private matter that occurred behind closed doors and which society turned a blind eye towards.<sup>54</sup> Domestic abuse is no longer a taboo issue but feminists maintain that there is still a cultural reluctance to hold perpetrators responsible. Jessica Taylor argues that women are blamed for all of the injurious actions of men, be it sexual violence, other forms of violence or child abuse. She believes institutional patriarchy and misogyny continue to prevent female empowerment leaving them collectively vulnerable in society.<sup>55</sup>

### **What we know about Institutional Victim and Mother Blaming**

Victim blaming is customary in power-based cultures. When the principal aggressor is the most powerful, the victims are held responsible for their own ill-treatment. This stance helps observers to remain complacent and feel reassured that the system is effective and no changes are necessary.<sup>56</sup> Research has found that blaming victims for domestic abuse has its roots in society's discomfort with the reality of such abuse as Lopez and Koss argue,

*'The victim blaming mind-set often comes into play when people read about domestic violence. Many people have a gut reaction to violence. It is emotionally charged. They think if somebody is being abused, they probably did something to incite it. In essence,*

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<sup>53</sup> G Hague and P Wilson, 'The Silenced Pain: Domestic Violence 1945-1970', *Journal of Gender Studies* [2000] 9:2, 157-169, 158.

<sup>54</sup> Ibid.

<sup>55</sup> Taylor, n1 above.

<sup>56</sup> E C Lopez and M P Koss, 'The Restore program of restorative justice for sex crimes: A case study in restorative justice with therapeutic components' in E Zinsstag and E Keenan, *Sexual Violence and Restorative Justice: Legal, Social and Therapeutic Dimensions* (Oxford: Routledge, 2019).

*if people can find a reason why abuse is the victim's fault, then abuse is something that can not only be controlled but prevented. And, in turn, it won't happen to them'.<sup>57</sup>*

Victim blaming, sometimes also called mother blaming where it concerns women and their children, has long been criticized as an obstacle to effective institutional support and protection of women and their children. Taylor argues that blaming females exists in all aspects of the legal system including the family and criminal justice systems.<sup>58</sup> According to Shazia Choudhry, mother blaming in private child law proceedings violates the human rights of both mothers and their children.<sup>59</sup> Stark and Flitcraft found that social workers and health care professionals blamed mothers for woman battering and for enabling child abuse carried out by men.<sup>60</sup> Davis and Crane assert that, '*mother blame is a pervasive feature of child welfare work*'.<sup>61</sup> This theory is supported by Douglas and Walsh who report that women who experience domestic abuse are justified in trying to conceal it because they are primarily afraid of having their children removed by social workers, '*Child protection officials often misunderstand the dynamics of domestic violence and that this has negative consequences for mothers and children. Many workers interviewed suggested that the misunderstanding of domestic violence often leads child protection officials to hold nonviolent mothers responsible for ending the violence*'.<sup>62</sup>

Choudhry's research into child contact cases and the human rights of victims of domestic abuse found evidence of the judiciary treating women differently in ways linked to their gender, victim blaming attitudes and discriminatory practice. In Children Act 1989 contact proceedings, the courts regularly awarded child contact orders to abusive fathers, whilst

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<sup>57</sup> Ibid. 17.

<sup>58</sup> Taylor, n1 above.

<sup>59</sup> Choudhry, n1 above

<sup>60</sup> Stark and Flitcraft, n1 above.

<sup>61</sup> Davis and Crane, n1 above, 21.

<sup>62</sup> H Douglas and T Walsh 'Mothers, Domestic Violence and Child Protection', *Violence against Women* [2010] 16,5, 489-508, 499.

purporting blame on mothers for being ‘implacably hostile’ towards their partner when they feared for their children’s safety enough to prevent contact.<sup>63</sup>

In incidents of domestic abuse, victim blaming is where a perpetrator’s abuse is blamed partially or entirely on the victim.<sup>64</sup> Myths are relied upon, for example, ‘*they asked for it*’, ‘*they were too weak*’, ‘*they didn’t ask for help*’.<sup>65</sup> Evidence suggests that social welfare personnel use mother blaming language when working with women, Lien Bragg found evidence of,

*‘Inappropriate comments and questions that suggest the alleged victim provoked or deserved the violence including the following: “what did you do to make your partner so mad, what could you have done to stop him or her from hitting you, why do you put up with the violence, why do you hit each other, if you care about your children, why would you stay?”’.*<sup>66</sup>

Unfair allocation of blame undermines survivors. It upholds a culture of patriarchy, where violence against women is accepted. When a woman fears that she will be blamed or may have her children removed she is less likely to seek help or ask for support to leave the relationship. Radford et al tell us that,

*‘Domestic violence perpetrators often block their partner’s access to sources of support by socially isolating her, monitoring or regulating her movements, using threats, financial abuse and emotional manipulation. The perpetrator’s coercive*

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<sup>63</sup> Choudhry, n1 above.

<sup>64</sup> Women’s Aid, Challenging the Myths (2021) <https://www.womensaid.org.uk/information-support/what-is-domestic-abuse/myths/> (accessed 17 Nov 2021).

<sup>65</sup> H. Lien Bragg, Child Protection in Families Experiencing Domestic Violence (2003) [www.childwelfare.gov/pubPDFs/domesticviolence.pdf](http://www.childwelfare.gov/pubPDFs/domesticviolence.pdf). (Accessed Sep 8 2021) 40.

<sup>66</sup> Ibid. 40-41.



*control, threats to take or harm the children and the still widespread practice of mother-blaming can make women fearful about disclosing the abuse’.*<sup>67</sup>

In families where domestic abuse situations become known to services, interventions are generally multi-agency. Each of these agencies will bring different responses to the situation. Marianne Hester’s ‘Three Planet Model’ defines wide variations in approaches by domestic violence work, child protection and safeguarding and child contact. The individual institutions exist as separate planets possessing its own exclusive culture and ‘professional assumption’ which dictate the way it responds to victims. A woman who finds she is subjected to the differing approaches of the planets are likely encounter inconsistent treatment and contradictions and find they are ‘*situated as a culpable victim*’.<sup>68</sup> This environment makes it possible for abuse to continue and for perpetrators to remain invisible.

Collective institutional blaming of women supports and co-perpetrates domestic abuse. It relates to patriarchy and the way in which men exerting power over women is acceptable in society. Under this model, if a woman complains or acts in a way not befitting her role as a subordinate member of the family, she is unlikely to find state support or protection on her doorstep. In her lecture ‘Celebrating Women’s Rights’, Lady Hale noted that the law has become fairer to women over the last three decades but ‘*is shot through with male perceptions, anxieties and interests*’, in particular where domestic violence is concerned, as, ‘*this is a frequent reason why women lose their children to the care system*’.<sup>69</sup> Yet the law failing to

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<sup>67</sup> L Radford et al, Meeting the Needs of Children Living with Domestic Violence in London, Research Report (Nov 2011) 52. [www.nspcc.org.uk/globalassets/documents/research-reports/meeting-needs-children-living-domestic-violence-london-report.pdf](http://www.nspcc.org.uk/globalassets/documents/research-reports/meeting-needs-children-living-domestic-violence-london-report.pdf). (Accessed 12 Aug 2021).

<sup>68</sup> M Hester, ‘The three planet model - towards an understanding of contradictions in approaches to women and children’s safety in contexts of domestic violence’, *British Journal of Social Work* [2011] 41: 837 – 853. 838.

<sup>69</sup> Hale, Lady Brenda President of the Supreme Court, Celebrating Women’s Rights, Birmingham Law Society and Holdsworth Club (29 Nov 2018) 7-8.

protect women or respond effectively to their need for help means they cannot see a way of escaping the abuse, continuing to place her and her children at risk.<sup>70</sup>

When domestic abuse is exposed through the lens of patriarchy, mothers who live with abuse fear child services because they are resigned to victim blaming. According to Caplan and Caplan, *'Most mothers realize that if anything at all goes wrong with their children, they as mothers will be held almost entirely responsible. This places mothers under intolerable pressure. Mothers thus operate under intense strain, and this can make them anxious and fearful, so that the tasks of mothering become even more difficult than they have to be'*.<sup>71</sup>

Whether this misdirection of blame is pertinent to lack of understanding of the dynamics within abusive relationships or is bound by an individual's own deeper-rooted biases, the negative impact of this approach should not be underestimated. In the words of Corinne May-Chahal, *'when a social worker visits [about child welfare concerns] mothers are faced with a further terror: they may be told that unless they can manage the perpetrator's violence well enough to keep their children safe, a care plan will be set in motion and their children removed'*.<sup>72</sup>

## **Methodology**

A qualitative, small scale study was carried out involving ten participants who identified as birth mothers. The birth mothers ranged in age from 22 to 46 at the time of their interviews. Seven participants described themselves as white British, two described themselves as being from a mixed ethnic group and one described herself as black British/African. They all had one or more child who had been taken into care and eventually adopted. The participants were recruited via purposive sampling, having taken part in previous research into adoption law. For ethical purposes, before obtaining their consent, the women were asked to confirm that they

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<sup>70</sup> Hester and Westmarland, n5 above.

<sup>71</sup> P Caplan and J Caplan, *Thinking Critically about Research on Sex and Gender* (Routledge, 1994) 71.

<sup>72</sup> L Tickle, Domestic abuse: how can services protect children in violent homes? *The Guardian*, (9 May 2105).

were no longer experiencing domestic abuse and that there were no ongoing court proceedings involving their children. The ethical responsibility when working with vulnerable people is enhanced. Participants may not be conventionally vulnerable, but if they are in dependent relationships or are engaged in legal proceedings involving their families, they can feel coerced or pressured into taking part in research, so extra care is needed to ensure their involvement is ethical. A further ethical issue was the lead researcher being a birth mother herself. This position could affect the reliability of the findings due to unconscious bias from having insider status.<sup>73</sup> A researcher with insider status shares some common identity with her participants. This risk was addressed with the adoption of reflexivity at all stages of the project. Etherington believes that *'[reflexive] research encourages the inclusion of the researcher's story thus making transparent the values and beliefs that are held, which will certainly influence the research process and its outcomes'*.<sup>74</sup> A further insurance against bias was to balance the emic voice of the lead researcher with the etic voice of a research mentor, who oversaw the process and has no personal experience of the topics covered in the research.

The data was collected by semi-structured and unstructured interviews conducted by video calls. Face to face interviews were preferred but were not feasible due to the Covid 19 pandemic. Re-interviewing participants is a social science method known as 'serial interviewing'. This method is appropriate when there is a need to verify information from initial interviews. A benefit of this method is the opportunity to utilise the familiarity between interviewer and participant to *'explore different facets of participants' experiences'*<sup>75</sup> that may have not been an aspect of the original interview.

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<sup>73</sup> V Braun and V Clarke, *Successful Qualitative Research: A Practical Guide for Beginners* (Sage, 2013) 10.

<sup>74</sup> K Etherington, *Becoming a Reflexive Researcher: Using ourselves in Research*, (Kingsley, 2004) 27.

<sup>75</sup> BL Read, 'Serial Interviews: When and Why to Talk to Someone More Than Once', *International Journal of Qualitative Methods* [2018] doi:10.1177/1609406918783452.

Feminist research methods favour unstructured interviews in a supportive and empathic environment. Reinharz explains *'the use of [unstructured] interviews have become the principal means by which feminists have sought to achieve the active involvement of their respondents in the construction of data about their lives'*.<sup>76</sup> According to Ann Oakley, the feminist perspective rejects traditional masculine interviewing techniques where there is the avoidance of sensitivity and emotionality. Rather it embraces the traits of openness, emotional engagement and the development of trust within a non-hierarchical relationship.<sup>77</sup>

Opening questions were focused on asking women about their experiences of domestic abuse in general and more specifically in the context of their involvement with child welfare agencies and the family courts. Further questions were asked in response to each participant's individual narrative, primarily requests for clarification or elaboration of certain things. The aim of the interviews was to collect data from natural conversation so that the participants did not feel pressured to give 'correct answers'. This approach provides the potential for obtaining rich and detailed data. This data provides empirical information about the lives and perspectives of the participants through use of words.<sup>78</sup>

The data was analysed using discourse analysis. This method studies aspects of social life which is understood through the analysis of language and its contextual meaning. Discourse analysis supports the idea that language and discourse, in the sense of speech and communication, is not a fixed reality, but one that is shaped by social context. According to Jankowicz, discourse analysis is of particular relevance when listening to people's own narratives of a situation. It allows researchers to gain an understanding of social groups and how they communicate and explore meaning from conversations about the social life of

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<sup>76</sup> S Reinharz S, *Feminist Methods in Social Research* (Oxford University Press, 1992) 18.

<sup>77</sup> A Oakley, 'Interviewing Women: A Contradiction in Terms' in H Roberts (Ed) *Doing Feminist Research* (Routledge, 1981) 223.

<sup>78</sup> K F Punch, *Introduction to Social Research: Quantitative and Qualitative Approaches* (Sage, 2005) 56.

participants.<sup>79</sup> From individual data, we can look for analytic themes and discursive features. From the data as a whole, we can look for patterns in words, anecdotes and the use of language.<sup>80</sup> In the present study, the participants' discourses were analysed twice. Firstly to look for specific words and phrases that were comparable with what we know to be victim blaming language, and secondly, to look at each conversation holistically to get a sense of the participants' interactions with professionals and how this made them feel. Victim/mother blaming language, like discourse analysis, is shaped by social context. Once seen as an acceptable standpoint to take towards survivors of domestic abuse, it now has less credibility through social awareness and understanding.

### **Findings: Context**

Prior to interventions by children's social care, domestic abuse was a frequent problem in all of the birth mothers' lives. They described abuse inflicted on them by husbands, partners and ex-partners. This involved physical abuse, from minor assaults to injuries requiring hospital treatment. There were accounts of emotional abuse, with men constantly criticizing them or blaming them for everything that went wrong, including the abuse itself. Four women spoke of being subjected to sexual violence and abuse. Two described being imprisoned in their homes by their partners, physically by being locked in, or by being threatened not to leave. All recalled being verbally abused, including threats made to them and their children. Three were financially abused by their partners withholding money for food and bills. All of the participants described differing levels of jealousy and controlling and coercive behaviours, such as being constantly accused of sleeping with other men, prevented from working or being punished for prioritising their children's needs over their partners. One participant's husband told her he would commit suicide and kill her children if she left him.

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<sup>79</sup> A D Jankowicz, *Business Research Projects* (Thomson, 2005).

<sup>80</sup> J Potter and M Wetherell, *Discourse and Social Psychology: Beyond Attitudes and Behaviour* (Sage, 1987).

A strong theme in the data revealed that husbands and partners played minimal or non-existent roles in child nurturing. The mothers assumed the role of primary care giver whilst trying to be ‘peace keepers’, to mitigate the impact of domestic abuse on their children. Only two birth mothers said their partner directed abuse towards their child(ren), but the other participants were clear that their children were aware of or had witnessed abuse and were emotionally harmed by their experiences. Domestic abuse was a significant factor that led to their child’s adoption. Because the family dynamic lacked positive engagement by fathers, when child protection agencies became involved, mothers instinctively stepped forward to take responsibility for problems affecting their children. It is possible to see at this early stage, before court proceedings, how perpetrator invisibility manifests.

### **Analysis of Discourses: Children’s Social Care professionals**

Elizabeth Hutchison argues that ‘*child welfare is no stranger to mother blame. When children come to the attention of child welfare authorities, more often than not it is their mothers who are scrutinized and held accountable*’.<sup>81</sup> In these cases, professionals become co-perpetrators, possessing what Contratto terms as a ‘*misogynistic tendency to blame mother for whatever problems arise with her child*’.<sup>82</sup>

Analysis revealed references to ‘*blame*’, ‘*my fault*’, ‘*bad mother*’ and ‘*should have protected them*’ in the context that women felt or were made to feel responsible for domestic abuse. The mothers and their parenting ability were the focus of social work assessments and reports prepared for the courts. The perpetrators of domestic abuse, according to the data, remained largely invisible in the process. Within these findings was evidence that mothers were told they

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<sup>81</sup> ED Hutchison, ‘Child welfare as a woman’s issue: Families in Society’, *The Journal of Contemporary Human Services* [1992] 73:2 67-78, 68.

<sup>82</sup> S Contratto, ‘Child Abuse and the Politics of Care’ *Journal of Education* [1986] 168:3, 70-79, 75.

should have prevented the abuse and protected their children. If they were unable to do so, they were blamed for allowing their children to be exposed to abuse.

This is where allegations of ‘failure to protect’ originate, which makes the mother accountable for the abuse rather than the abuser. Failure to protect is a finding of fact by practitioners when a relationship is frequently marked with domestic violence that is having a serious and detrimental effect on the children in the household. The harm, emotional rather than physical, can be equally significant and damaging to a child.

Karis described the child protection assessment of her family as completely focused on her care of her children. It seemed to her that the social worker failed to notice her partner because no questions were directed to him. Gill felt she deserved to be held responsible for not protecting her three children. She remembered being told that adoption was planned for her children because she ‘*could not keep them apart from their dad*’. Jane said she was blamed for not leaving her partner, ‘*at the time I didn’t realise it but now looking back, it was all on me, you know, the blaming. Child protection were right though, I should have left sooner*’. Becky spoke of feeling traumatised by her child’s care proceedings. She felt ‘*attacked*’ and ‘*ripped to pieces*’ by social work reports which she said made her look like ‘*the worst mum in the world*’ while she felt her partner’s abusive conduct was side-lined.

These stories show a gendered approach to parenting where the mother is the focus of child nurturing and is held responsible if things go wrong, even if the problems are not caused by her. The over reliance on mothers’ failure to protect children from domestic abuse in child proceedings is mother blaming, because it places responsibility on the victim and ignores the perpetrator. Birth mothers said that domestic abuse was recognised and documented by agencies and was material to adoption plans; but some described professionals talking about domestic abuse as an experience they were having rather than referring to the source of the

abuse, the perpetrator. This is known as the ‘passive voice’ or ‘agent deletion’. This is illustrated by Amy’s experience, where a social worker advised the court that her children had suffered harm from living without heating and not enough food, but failed to explain that Amy’s partner controlled the family income and tampered with the thermostat so the heating could not be used. Gill had a similar experience. Child protection proceedings were started because of her husband’s violence and he was banned from court because he was abusive towards social workers. Over the next year Gill realised that assessments, reports and evidence mentioned domestic abuse less and less, while her mental health and its impact on her children was put in the spotlight. Absent from this evidence was any critical examination of the abuser’s conduct. Though he perpetrated the offence, his behaviour was overlooked. The adoption of ‘agent deletion’ means the authorities concerned have contributed to the invisibility of the abuser.

### **Mother Blaming in the Family Court**

Mason and Selman found that birth mothers’ court appearances were deeply traumatic. They suggest the trauma was instigated by *‘the selective nature of evidence given by social workers to support their case, the adversarial nature of child care proceedings unnecessarily and publicly brands mothers as bad.’*<sup>83</sup> In the present study, birth mothers’ feelings about their experiences of court echoed that of Choudhry’s participants, who felt degraded by their court experiences.<sup>84</sup> Words such as *‘powerless’* and *‘worthless’* were used with frequency. Around half of the participants recalled that although they had seen reports that were going to be

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<sup>83</sup> K Mason and P Selman P, ‘Birth Parents Experiences of Contested Adoption’ *The Journal of the Association of British Adoption and Fostering Agencies* [1997] 21:1 21-28, 26.

<sup>84</sup> Choudhry, n1 above.



presented in court, they were unprepared for the way they were painted in such a negative light. Mother blaming language was apparent in Emma's account,

*'I heard my child's solicitor say to the guy sitting next to her, maybe a barrister I can't remember, she said 'she doesn't stand up for herself or leave, she hasn't proved that she wants it to stop', I realized she was talking about me expected (sic) to fight back when three months ago he (ex-partner) had pushed me so hard I had a miscarriage'.*

Becky found the experience of being held responsible for her husband's abuse harmful and traumatic, *'the shame of my life being shared (in court). It broke me apart. I had to go and listen to...hear myself talked about as a terrible mum, not their dad, he didn't even go (to court). Then after court, you're forgotten, like a piece of rubbish'.*

There was one example of a judge using direct victim blaming language in a final hearing, where domestic abuse was mutualised in circumstances where Jade was said to be provoking her partner to make threats to kill her by asking him for money. Gill recalled that the judge, in summing up her husband's behaviour, failed to include the abuse she had suffered, *'she said nothing about (...) just read out a list of all the (abuse) (husband) had dished out to social workers and the guardian, saying he won't engage with anyone, he's a threat to the children'.*

The birth mothers talked about their court experiences in a similar way. Attending court represented a culmination of collective blaming by professionals, to which judges became privy. This included social workers, Cafcass personnel and other professionals, such as a psychiatrist providing a mental health assessment. There were also accounts of solicitors and barristers for all sides engaging in language that could be read as victim blaming. Women, such as Annie, felt *'attacked from all sides'.* Although there were many recollections of the courts discussing domestic abuse in detail as evidence in favour of care/placement orders, the impact

of the abuse on the birth mothers appeared to be minimised, the responsibility for the abuse jointly redirected towards them.

### **The Impact of Institutional Victim Blaming on Birth Mothers**

Birth mothers who had engaged with domestic abuse services were confused about the way they were treated by child protection professionals. They had found domestic abuse support workers to be non-judgmental and focused on helping them to build on their individual strengths. This illustrates Hester's Planets Model in action, where contradictory practice exists within agencies that come into contact with women. Where child protection social workers and the family courts approach the situation through a lens of child neglect, with the needs of mothers low on the list of priorities, domestic abuse workers' involvement provides holistic services, such as refuge, economic assistance, support groups and counselling.

Four women asserted that unless practitioners actually witnessed violence or saw bruises and scars, they did not appreciate how serious the abuse was. Sara told a social worker that her partner had threatened to break both her arms and electrocute her, the social worker chastised her for *'taking him too literally'*. Jasmine said there seemed little point in speaking out in court about the impact of emotional abuse when she feared she would not be believed. Choudhry found similar evidence where, *'in court women's accounts of domestic abuse were treated with suspicion'*.<sup>85</sup> Women being afraid of professional scepticism endorses an abuser's denial of the existence or seriousness of the abuse and its effect on the victim and her children. This conduct resonated with birth mothers' personal experiences of perpetrators' minimising or denying the abuse. This is one of the tactics used by an abuser to control their partner. Although women were accustomed to being blamed by partners, being held responsible for domestic abuse by

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<sup>85</sup> Choudhry, n1 above, 1076.

professionals was extremely disempowering. It reinforced negative beliefs they already held about themselves.

The discourses showed high levels of self-blame, guilt and shame. Women blamed themselves for letting their children down, for not being able to fight back, for being bad mothers. This self-blame was detrimental to their quality of life. Over half of the women believed they did not deserve to be happy. Although most no longer believed they were responsible for their partner's abuse, some, like Gill for instance, harboured anger at herself for '*being weak, pathetic, not leaving the first time he hit me*'.

Guilt and shame were sometimes too much to bear, '*life was not worth living*' and '*I wanted to die*' appeared several times in the data. Six women said they felt suicidal. One tried to take her own life and spent a long period in a psychiatric hospital. The suicidal feelings were triggered by the abuse, the loss of their children and re-traumatisation from the legal process, sometimes protracted over several months, or years in two cases. They were emotionally and mentally overwhelmed from being held responsible for circumstances they were unable to control or rectify.

Traditional views on gender would not comprehend nor accept these mothers as victims and survivors requiring support and consideration, as Davis and Crane argue,

*'The mythical representations of women as all giving and selfless nurturers creates unrealistic expectations of mothers and lays the ground for the inevitable torrent of mother blame which ensues when their children are less than perfect. What is not assumed about mothers is that they have emotional and psychological needs, that they are fallible, and that their material resources are key in shaping the context for mothering capacity'.<sup>86</sup>*

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<sup>86</sup> Davis and Crane n1 above, 6.

These myths were evident within the narratives. Women found that in court evidence of good mothering was demoted in favour of detailed reports on every failure, whether real or perceived by social workers. Annie recalled *'I suffered from severe post-natal depression; I was totally honest about it when they were writing their reports. I told them that I struggled to care for myself, let alone care for the kids. All that was used against me later on, plus every tiny thing I did or said that supported the adoptions'*. Emma felt even if she had managed to leave her home with her children, it would not satisfy a social worker who reported to the court that Emma was a *'classic victim typology'*. Such a reductionist standpoint means a woman experiencing domestic abuse has an uphill struggle proving to a court that she is a capable mother and as such, this will usually result in children being removed. As Lien Bragg notes, this has a devastating impact, *'children are removed from victims who, in addition to their abuse, suffer the agonizing loss of their loved ones'*.<sup>87</sup>

### **The problem with making women responsible for domestic abuse by telling them to leave**

To support mothers to become empowered to end abusive relationships it is important that professionals understand the barriers women face when trying to leave. There are many reasons why women stay in abusive relationships, for example, fear of further harm to them and their children if they left. This was a reality for Emma who moved to another town with her children with the help of children's services but court documents had been sent to her ex-partner with her new address disclosed by mistake. This led to an increased level of threats and violence. A common reason is financial dependency, such as in Jade's case, *'my husband worked, I gave up my job after my son was born, I had no money and the council said if I left him, I was making*

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<sup>87</sup> Lien Bragg n 65 above, p48.

*myself homeless so they wouldn't house me*'. They may feel guilt and shame that the abuse is their fault, emotional dependency and isolation, as Karis described:

*'One night, after a really bad evening when he (partner) screamed abuse at me for hours, I sat by the house phone with my address book, looking for someone I could call to ask for help or just a friend to talk to. I realised that all those names and contacts were my past, I didn't have no one, no family or friends I could call cause (sic) I was so ashamed of my life and what I was letting happen, I was on my own with no one to turn to, except for him, he was all I had*'.

There remains a cultural mind-set that women can control domestic abuse by leaving the abuser.<sup>88</sup> It is misguided to believe that a woman leaving an abuser means the abuse will end. Escaping domestic abuse can be an impossible thing for a woman to do alone. We know that leaving an abusive partner can be dangerous. Women are at the greatest risk of being killed at the point of separation or after leaving a violent partner. Crown Prosecution Service Guidelines provide that,

*'In most cases, separation from a partner or escape from a relationship is likely to lead to an increase of abuse a complainant will experience. This may take a different form of abuse (such as harassment, stalking or intimidation, committed either online, offline or by both methods) and may be of increased severity, and as result prosecutors need to be sensitive to the changing risk to a complainant, as well as changing safety requirements*'.<sup>89</sup>

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<sup>88</sup> J Costello, Ending Victimisation & Blame: Victim Blaming & Domestic Violence: take one simple step, Women's Aid Report (2014).

<sup>89</sup> Domestic Abuse Guidelines for Prosecutors, Crown Prosecution Service, (28 April 2020) [www.cps.gov.uk/legal-guidance/domestic-abuse-guidelines-prosecutors](http://www.cps.gov.uk/legal-guidance/domestic-abuse-guidelines-prosecutors) (Accessed 1 July 2021).

James-Hanman argues that social services often follow a misguided process when working with families in domestic abuse situations,

*'First, that the mother leaving a relationship ends the abuse and that if she leaves the children will be safe. And then, there is not yet a widespread appreciation that domestic abuse is often an attack on the mother-child bond, and that when you should be intervening to strengthen that bond, [statutory] interventions instead make her feel terrible about herself.'*<sup>90</sup>

A considerable lack of empathy is evident when professionals fail to recognise simple facts that abusers often resent a woman's close relationship with her children and make efforts to sabotage it, and, that attempting to leave a relationship can be blocked or punished by the primary aggressor. Someone who has not experienced this may have some difficulty appreciating the impossibility of breaking free from abuse, but responsiveness and empathy can be learned.

### **Suggestions for Improved Practice**

The persistence of mother blaming attitudes despite increased social awareness and education efforts is frustrating. Research shows that this may be down to professional misinterpretation of a situation and individual unconscious biases about who is responsible for domestic abuse. The key to removing mother blaming lies with a change of ethos achieved through better training of personnel, who should foster a more receptive understanding of the ordeals of mothering whilst living with domestic abuse, and the negative influence that can have on a woman's relationship with her children.

All of the women interviewed now live free of domestic abuse. Some women had been positively supported by mental health or addiction services. All had previously engaged to

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<sup>90</sup> Tickle n72 above.

some degree with community-based support such as Women's Aid or non-government agencies and charities who work with women and children. They spoke positively about these services which became the key source of support leading to their emancipation from domestic abuse. These services train their personnel to support women using empowerment models and 'trauma informed practice'.

Better understanding of the effects of trauma would ensure that practitioners are able to acknowledge the source of the abuse and not divert blame. The change in approach should begin with the training of child protection professionals, Jo Sharpen suggests a process where,

*'Practitioners need to develop a more trauma informed approach. Past experiences of trauma and complex needs can sometimes lead to conditioned behaviours, which serve as a psychological defence or coping strategy for women but may feel very difficult to understand for an untrained worker. In fact, some practitioners find some women's presenting behaviours difficult to understand and respond to'.<sup>91</sup>*

Trauma-informed practice recognises the prevalence of trauma and its impact on the emotional, psychological and social wellbeing of people. Hopper et al describe trauma-informed practice as, *'a strengths based framework that is grounded in an understanding of and responsiveness to the impact of trauma, that emphasizes physical, psychological, and emotional safety for both providers and survivors, and that creates opportunities for survivors to rebuild a sense of control and empowerment'.<sup>92</sup>*

Organisations working in a trauma informed framework tend to incorporate values encompassed by the 'four Rs': It Realises the impact of trauma and understands potential paths

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<sup>91</sup> J Sharpen, Safe Lives, Trauma informed work: the key to supporting women (2021) [https://safelives.org.uk/practice\\_blog/trauma-informed-work-key-supporting-women](https://safelives.org.uk/practice_blog/trauma-informed-work-key-supporting-women) (Accessed 25 August 2021).

<sup>92</sup> E Hopper, E Bassuk and J Olivet, 'Shelter from the storm: Trauma informed care in homeless service settings' *The Open Health Services and Policy Journal* [2010] 3 80-100, 81.

for recovery. It Recognises the signs and symptoms of trauma in clients and their families. It Responds by integrating knowledge about trauma into policies, procedures, and practices. It Resists re-traumatisation of clients.<sup>93</sup> Re-traumatisation of birth mothers through the child protection process was perceptible during interviews. Women spoke of being scared to answer to door to social workers and terrified of attending court, of being ‘*dead inside*’<sup>94</sup> and ‘*empty of emotions*’<sup>95</sup> after proceedings were over.

Bjelajac et al propose that trauma informed care could be tailored to work specifically with women who are experiencing gender based violence and who are vulnerable to victim blaming,

*‘For survivors a recognition and understanding of the short and long-term impact of gendered violence is a validation of the difficulties faced in seeking support and the barriers faced. There is an understanding of the pervasive nature of gendered violence which can leave women and girls further vulnerable to poly-victimization’.*<sup>96</sup>

When working with women under this framework children’s welfare practitioners would appreciate the short and long term impact of domestic abuse on both mother and children, in particular the problems survivors face in seeking support and barriers to leaving.

Directly linked to trauma informed practice are empowerment models. An empowerment model followed by child protection professionals would be advantageous because this is the traditional approach taken by domestic abuse workers and thus creates some consistency when there is multi-agency involvement. The Women and Girls Network advocate the adoption of a trauma informed approach within the ‘Holistic Empowerment Recovery Model’ (HERM). This is defined as an ‘*integrated trauma specific therapeutic model that is applicable to all support*

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<sup>93</sup> Substance Abuse and Mental Health Services Administration, SAMHSA’s Trauma and Justice Initiative (July 2014) [https://ncsacw.samhsa.gov/userfiles/files/SAMHSA\\_Trauma.pdf](https://ncsacw.samhsa.gov/userfiles/files/SAMHSA_Trauma.pdf). (Accessed 13 August 2021).

<sup>94</sup> Sara.

<sup>95</sup> Gill.

<sup>96</sup> P Bjelajac at al, ‘Trauma-informed or trauma-denied: Principles and implementation of trauma informed services for women’, *Journal of Community Psychology* [2005] 33: 4 461–477, 470.



*workers’ and ‘offers an illustration of how in practice trauma informed principles can be embedded within a care model aimed specifically at survivors of any form of gender-based violence’.*<sup>97</sup>

HERM uses a simple, phased approach to working with survivors which can be adapted to specific practices. In particular, empowerment work should be gender responsive, holistic and multifocal, to include the mother and her children, while considering the individual impact of domestic abuse. A mother should be enabled to recognise her strengths and helped to form resilience. The central aspects of HERM are collaboration and mutuality between women/mothers and practitioners. Adopting simple aspects of trauma informed practice and empowerment models not only assists in the avoidance of mother blame, both practices are focused on the end point of helping women to recover from experiences of violence.<sup>98</sup>

The judiciary is becoming more proactive in adopting modern understanding of the impact of domestic abuse on women. Hester notes that the family courts dealing with child contact *‘have begun to take domestic violence into account in policy and case law’.*<sup>99</sup> This is evidenced by the publication from the Private Law Working Group in collaboration with the President of the Family Division. The report raised a number of concerns about the way domestic abuse is viewed by judges, in particular, *‘the low level of understanding of the issue of abuse, particularly the issue of coercive control, by many family court magistrates and judges’.*<sup>100</sup> The report concluded that, *‘there needs to be a better understanding by the judiciary and other professionals of the difference between parental conflict and domestic abuse which is often*

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<sup>97</sup> Women’s Recourse Centre: Violence against Women and Girls. Good Practice Briefing Developing: A Trauma Informed Approach: The importance and application of A Trauma Informed Approach for Working with Survivors of Gender Based Violence, [www.wgn.org.uk/sites/default/files/2020-05/Good-Practice-Briefing-TIA-Model-1.pdf](http://www.wgn.org.uk/sites/default/files/2020-05/Good-Practice-Briefing-TIA-Model-1.pdf) (Accessed 28 August 2021).

<sup>98</sup> Ibid.

<sup>99</sup> Hester, n30 above, 848-849.

<sup>100</sup> Private Law Working Group, Second Report to the President of The Family Division (12 March 2020) [www.judiciary.uk/wp-content/uploads/2020/04/private-law-working-group-report-1.pdf](http://www.judiciary.uk/wp-content/uploads/2020/04/private-law-working-group-report-1.pdf) (Accessed 2 Sep 2021).

*chronic*'.<sup>101</sup> The Safe Lives for the Domestic Abuse Commissioner report produced similar results, stating, '*the family and criminal justice system retraumatizes victims*' and '*there was a strong theme of victim blaming along with a system perpetuating myths of domestic abuse*'.<sup>102</sup> A key recommendation of the Safe Lives report is a need to introduce trauma informed practice and '*cultural change training for all professionals*'. This includes the judiciary and all practitioners involved with women and their children, with the aim of, '*improving understanding of domestic abuse and coercive controlling behaviour throughout the justice system and to mitigate trauma experienced by victims*'.<sup>103</sup>

## **Conclusion**

This article has explored issues of mother blaming for domestic abuse within child welfare institutions and the courts. There has been a recent influx of research leading to policy changes as well as influential case law on the matter of private law child contact, mothers and domestic abuse; but as is often the case, birth mothers in public child law proceedings are seldom considered. This study shows that mothers who are subjected to child protection interventions and care/adoption proceedings are extremely vulnerable to being blamed for their partner's abusive behaviour.

For many birth mothers, the process of losing their children to adoption possessed a terrible incongruity. Domestic abuse was so often the catalyst for their personal crises such as mental illness, addiction or a chaotic lifestyle, which led to child protection involvement. Any hope they harboured that this involvement may lead to help and support was overshadowed by misdirected blame and eventual separation from their children. Losing children to adoption is

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<sup>101</sup> Ibid.

<sup>102</sup> Safe Lives n2 above.

<sup>103</sup> Ibid.

horribly traumatic. It provokes feelings of shame, guilt and self-hatred, which fight for precedence with profound grief for children who are still living; there is no closure to this form of mourning, only a confusing indeterminate state.

The adoption of their children had a profound impact on these birth mothers' existence. Many perceived adoptions as yet another act of violence towards them and their children and they were deeply traumatised. Their children were often their anchor points in an unstable and chaotic environment. For some, the months of court proceedings, dealings with professionals, not seeing their children, and having their lives dissected and discussed culminated in a breakdown. It is unsurprising that some women ended up in mental health units. There were a number of instances where women physically searched for children. Some were convinced their children had died. In two cases, birth mothers held solitary memorial services. These are grieving reactions, but as Howe et al point out, a person's capacity to manage each stage of grief is affected by the behaviour and attitudes of other people.<sup>104</sup>

In addition to moving away from institutional blaming, there must be recognition of the self-blame that birth mothers carry. Those who work with women in a trauma informed framework know that they blame themselves for domestic abuse. They are aware that this understanding has been indoctrinated into their belief system by abusers. Working with women to reduce self-blame rather than reinforce it has been shown to be effective in empowering women, Lum explains, '*when abused women are empowered, they are freed from feeling responsible for their negative situation*'.<sup>105</sup> This theory is supported by Wood and Middleman who assert that '*decreasing self-blame is a critical step in empowerment practice with battered women because*

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<sup>104</sup> D Howe, P Sawbridge and D Hinings, *Half a Million Women: Mothers Who Lose Their Children by Adoption* (Penguin, 1992) 29.

<sup>105</sup> D Lum, *Social work practice and people of colour* (Pacific Grove, 1996).

*many battered women believe that the abuse is their fault. An empowering belief is that they are not responsible for the violence and rage of their abusers'.*<sup>106</sup>

Mother blame therefore needs to be challenged, whilst abusers must not be protected by invisibility. Practitioners should acknowledge that being unable to professionally transcend negative opinions of mothers would undoubtedly influence their aptitude to support them. Previous research has found that children play a key role when women are deciding whether to stay in an abusive relationship or not.<sup>107</sup> Many women have found the strength to seek help and break free from cycles of abuse through the wish to improve their children's lives. The safety of abused children is strongly connected to the safety of adult victims. By supporting and empowering victims of domestic abuse and providing trauma informed services, the well-being of children may also be enhanced which would in turn lessen the risk that they need to be permanently removed.

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<sup>106</sup> GG Wood and RR Middleman, 'Groups to Empower Battered Women' *Affilia* (1992) 7:4 82-95  
doi:10.1177/088610999200700406.

<sup>107</sup> Hester and Westmarland, n5 above.

