

Taking violence into account in custody decisions – call for action from the field

Enikő Pap

legal expert, NANE Women's Rights Association

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HIGHLIGHTS

- ▶ Introduction of NANE Women's Rights Association
- ▶ Short overview of backlash in women's rights
- ▶ Domestic violence and child custody/visitation in Hungary – research results and practice
- ▶ Key recommendations and ways forward

NANE WOMEN'S RIGHTS ASSOCIATION (1994)

Member of the Hungarian Women's Lobby

- ▶ **Grassroot NGO focusing on elimination of violence against women**, especially intimate partner violence and sexual violence
- ▶ **Activities in different levels:**
 - ▶ **Individual** (helpline, self-help groups for victims, integrated client service)
 - ▶ **Community** (trainings, prevention programs for young people atc.)
 - ▶ **Societal/national** (16 Days of Activism, conferences, publications)
 - ▶ **International**
 - ▶ membership in the WAVE Network
 - ▶ Monitoring state compliance with international human rights norms and standards, together with partner organizations, demanding legal and policy changes

OVERVIEW OF BACKLASH IN WOMEN'S RIGHTS

- ▶ Study in 2018 for the request of EP FEMM Committee (6 countries)
- ▶ The backlash is present across countries
- ▶ Arrived when promoting women's rights faced fundamental problems
- ▶ The intensity and effect of the backlash have varied, but the main areas and fields appear to be common:
- ▶ **Role, place and space for women's rights NGOs** (being catalysts/progress leaders in legal, policy changes, service provision) **were affected**. Pre-existing challenges further heightened, measures were introduced aiming at or resulting to create unfavourable or hostile environment. The NGOs are sidelined and replaced by actors following a gender-blind/not women's rights based approach.
- ▶ In **elimination of violence against women** the Istanbul Convention attacked by fake news campaign. Shared custody is promoted while history of violence is often ignored in custody/visitation cases. Men's/fathers groups are increasingly visible; problematic concepts – like "parental alienation syndrome" – are promoted.

DOMESTIC VIOLENCE AND CHILD CUSTODY/VISITATION IN HUNGARY – RESEARCH RESULTS AND PRACTICE

- Background: Intimate partners violence (**IPV**) **might increase after separation of partners** (that is being a dangerous period). **Visitation can offer an opportunity to the perpetrator for maintaining power and control over the mother and child.**
- **New related concepts are introduced** in the last decade like „custody or paper abuse” or „custody stalking”.
- **There was a lack of research in Hungary** to investigate the issue of abuse of power and control in child custody and visitation cases with a history of IPV, and its effects on victims.
- The research – as a first step – was commissioned by NANE Association, conducted by independent researchers.

Mixed method – quantitative (screening questionnaire – 593, online survey for those having problematic child custody cases – 168) and qualitative (30 half-structured interviews with mothers who have experienced intimate partner violence and have an ongoing child custody legal case)

➤ **Two main research questions:**

- **1. Are custody and visitation rights used as a form of custodial violence and thus a continuation of IPV in Hungary?**
- **2. How do institutions involved in custody and contact-related legal procedures take into consideration the violence of the abusive ex-partner as a major factor when determining custody and contact rules?**

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- More on the research in English:

Júlia Galántai, Anna Sára Ligeti and Judit Wirth:
Children Exposed to Violence: Child Custody
and its Effects on Children in Intimate Partner
Violence Related Cases in Hungary.

Journal of Family Violence 2019; 34(5): 399–409.

- <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6588710/>

Qualitative Findings – Maintaining IPV after Separation:

The **overwhelming majority of interviewees reported that children were present during abusive acts.** In some cases, the child witnessed the mother being abused by the father, in many cases were directly targeted by the abuse.

- ▶ **Anxiety and fear of the father** because of past memories of violence emerged for the children as physical symptoms or mental disorders.
- ▶ **Unpredictability and complete uncertainty** was a recurrent theme. It was mentioned as being difficult for the children to bear, and also undermining trust in their parents.
- ▶ Mothers reported that **children did not want to attend the visitation.** Bad memories made them anxious about spending time with the father without the mother, but often such experiences occurred during visitation.

- In order to re-establish control ex-partners employed **unreliability in terms of complying with the arranged visitation times**. Mothers felt it as manipulation of their and their children's everyday lives and well-being.
- Abusive partners made various types of **allegations to authorities** (also of crimes or misdemeanors). It also included accusation of restricting his visitation rights. The related procedures were time- and money-consuming for the mothers.

Qualitative Findings – Institutions' roles and responses

There was a pervasive lack of attention to violence by authorities handling child custody cases.

- ▶ In almost all cases authorities **failed to recognize the dynamics in the relationship, and the abuse** (abusive acts).
- ▶ They „saw” mutual disagreements between partners with equal power – thus denying the effects of violence on victim – and with equal responsibilities – thus refusing to hold abusers accountable for their acts. They also saw/read violence as a communication problem which the couple should manage.
- ▶ Mothers also reported **the absolute lack of recognition of the significant impact of the abuse on the children** by the child protection agencies.

- **Visitation** (especially sleep-over contact) with **an abusive parent was frequently disliked by children**, who asked not to go. In some cases mothers tried to not force their children to participate in such contact.
- If women did not comply with the requests of ensuring visitation, they would be threatened with removal of children to foster care. Some women saw these threats as intimidation into giving up her attempts to protect the children from traumatic visitations.
- (In the cases coming to our organization's attention if trying to protect the children from such visitation women faced heavy fines by the authorities, even criminal procedures of the offence of „obstructing visitation“. At the same time obligatory mediation in child protection cases was introduced into the law.)

► „...I received a letter saying that, because I had endangered the child [by not ensuring the exercise of contact rights], not only would the child welfare center place her in foster care, but they would also press criminal charges against me because I obstructed the visitation process. And I was completely broken. After all, I've been everywhere, I asked for help from the child welfare center, but nobody helped me, and now I will go ... [to jail] or I am deemed to have committed a crime? While the father is shouting at my daughter 'I will put your mother in jail?!'” (P.K.)

► „I think there is an abusive person, the father; and there is an abusive office, which is the child welfare center. If I had to describe what it is like, it is the same as an abusive person. It threatens, does not pay attention to the things you do, does not understand what you say.” (L.P.)

- ▶ It was a recurrent theme how **the tactics of the abuser also worked on the employees of various agencies** (guardianship office, child-welfare center) who, after experiencing accusations, harassment and threats of lawsuits, felt victimized. In such cases the employees or the authority itself wanted to get rid of the case by passing it over to another person or authority.
- ▶ **...There is a common interest** of the victims – both the women and children –, of the women's rights NGOs and service providers, and of the authorities and institutions to call for an effective response and action both at the national and EU level...

KEY RECOMMENDATIONS TO EU STAKEHOLDERS:

- Adopt a **strong and comprehensive EU policy for equality between women;**
- Strengthen an **enabling environment** and sustainability (access to funding) **for women's rights NGOs and service providers working in the field;**
- Monitor compliance with equality between women and men and women's rights, including in distribution and utilizing EU funds;
- Address the issue of custody/visitation in cases of domestic violence high on the political and policy agenda.

KEY RECOMMENDATIONS AT NATIONAL LEVEL:

- ▶ Adopt **policies, laws, protocols** – in light of the Istanbul Convention – to clearly address domestic violence/IPV and its effects on children; to guarantee that prior history of violence is duly taken into consideration in custody and visitation procedures; to exclude application/reference to detrimental methods and concept (mediation, PAS etc.).
- ▶ Introduce systematic **training** for all relevant professionals, including law enforcement, justice personnel, and child protection authorities.
- ▶ Meaningfully **involve women's rights NGOs and service providers in all related legal and policy processes** and development. That would guarantee the overall aim: to **put the rights and needs of the victims and their children to the centre** into all measures.