



WOMEN AGAINST VIOLENCE EUROPE

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Right of Children to Live a Life Free from Violence

Women and girls are often disproportionately affected by domestic violence: Statistics of police interventions show that majority of victims of domestic violence are women, while a vast majority of abusers who commit acts of violence are male family members, primarily husbands or intimate partners. Thus domestic violence is a form of gender-based violence, or “violence that is directed against a woman because she is a woman or violence that affects women disproportionately” (UN-CEDAW Recommendation No. 19, 1992). For women with children, violence against the mothers always affects the children as well. No matter which form of violence it is that women endure, whether it be sexual violence in the context of war or armed conflict, sexual harassment at work, or rape by their partners, among other forms of violence: women’s children will also suffer, therefore support for children is essential.

In the case of domestic violence, children are strongly affected, since the violent husband or partner often also abuses the children. Often the violence will not stop even after the mother has left the violent husband or partner. Witnessing violence against their mother also represents violence against children, and vice versa, abusing their children is a form of psychological violence against women. A woman who is dependent on a violent partner, either financially, because her right of residence is linked to him or for other reasons, will live in fear of violence and fear of jeopardizing her own or her children’s subsistence when leaving.

Since violent husbands or partners are also violent fathers or stepfathers, any protective measures should always apply to women and their children and every woman survivor of violence should have the right to obtain a protection order on behalf of her children.

Women and children experiencing domestic violence need special attention during the process of separation, since violence tends to escalate in this period. Most homicides are committed when women try to leave their violent partner and often children are severely affected or even murdered.

The so-called fathers’ rights movements have gained growing public attention and influence in court during the last few years. Unfortunately, violent fathers have also benefited from this development, jeopardizing the safety of children. Such initiatives often pretend to act in the interests of the child (in Austria they appeal to the “right of the child to both parents”), and even abuse the right of the child to maintain contact with both parents as an argument to assert their own interests. This certainly does not correspond with the provisions of the UN Convention on the Rights of the Child, 1989, which clearly states that it is the right of the

child, who is living separately from one or both parents to maintain personal contact with them - this includes the right not to have contact - otherwise, it would be a duty.

Unfortunately, from WAVE's experience, courts do not always pay attention to children's needs and their right to safety and thus grant violent fathers visitation rights and sometimes even custody. Children are forced to see their father, even if they do not want to. In such cases, the mothers cannot protect their children from unwanted contact with the father; on the contrary, the law obliges them to facilitate contact, and they can even be punished for obstruction of justice. This puts women in an agonizing and paradoxical situation: on the one hand they have the obligation to protect their children, but on the other hand they have also the obligation to respect the court's decision.

Child protection authorities may also lack sensitivity regarding children's safety needs and sometimes act in contradiction to these: Firstly, they insist that a woman separates herself from the violent partner to protect the children (instead of demanding of the violent father to change his ways and imposing certain duties on him in order to maintain further contact). Secondly, after the separation, the authorities seem to forget about the violence and support the father's right to see the child. This severely disrupts the relationship of trust between mother and child and puts the child in danger.

Women experiencing violence also face increasing restrictions on their freedom to move in Europe, courts are not allowing them to leave the country with the children after separation, because the father has a right to contact to the child. The Hague Convention sometimes supports these restrictions, for instance in Ireland where fathers initiate court orders forbidding women to cross the border to Northern Ireland in order to prevent "kidnapping", even if the woman has custody. Women are disproportionately affected by these restrictions, because they are still the ones mostly taking care of the children. Women from so called mixed marriages are often affected if they want to go back to their country of origin with the children after separation. Courts can force them to stay in the country, for the father's interest, or even grant the father custody to prevent the woman from leaving, even if the woman has no job and few possibilities to build up her own life in the country.

In order to fulfill the obligations under the UN Convention on the Rights of the Child, the rights of the father (custody or visitation rights) should never supersede the right of the child to be protected from violence.

Children's Safety First – Recommendations

- Men who are violent towards their partner and/or towards the children should never be granted custody rights for their children. Violence against the mother is also violence against the child and the abusive partner is an irresponsible father.
- Violent husbands/fathers should not be granted visitation rights for some time after an incident has occurred.
- Every child should have the right to receive support from a person providing active and practical support, such as court accompaniment and advocacy in the child's interest (i.e. women's shelters offer support to the children as well; in Mecklenburg Vorpommern, Germany, every intervention centre has one staff member supporting the children).

- There could be a separation period from 4 to 6 months in which the father is obliged – by child protection authorities - to change his behavior and to show that he has changed by refraining from any kind of violence, including coercion or putting pressure on the survivors.
- The perpetrator should attend an anti-violence training for at least 30 sessions.
- The perpetrator should take responsibility for the violence, apologize to the partner and the children and tell them that his actions were wrong and that it was not their fault.
- The perpetrator should respect that the partner and/or the children do not want to see him, in cases where violence has destroyed the trust between the family members.
- The perpetrator should assume financial responsibility for the partner and the children.
- The perpetrator should not use any legal means to force the woman or children to see him or force them to do anything else.
- If the woman has separated (preliminary or permanently) from the abuser and the child wants to see the father within the “cooling-off” period of 4-6 months, the child’s support person together with the mother have to decide if it is safe for the child or not.
- After the 5-6 months period and if the father has shown that he has changed, the court should decide if it is safe for the child to have contact with the father and if this is the case, supervised visits should be organized, in case the child wants to see the father.
- A child should never be forced to have contact with their abusive father.
- Mothers should never be forced to put pressure on a child who does not want to have contact with the father.
- In all countries, protective laws such as police barring orders or civil law protection orders, should also protect children and children should have the right to apply for a protection order.
- In accordance with the UN Convention on the Rights of the Child, courts should guarantee the rights of the child not to be subjected to violence, and in court decisions the rights of the father (custody or visitation rights) should never supersede the right of the child to be protected from violence.
- Civil law protection orders, visitation and custody issues should be dealt with by the same court to make sure safety issues and custody issues are dealt with by the same judge.
- Mediation should not be used in cases of domestic violence.
- Alimony should be granted to children immediately by court order and until the father is willingly paying, the state should step in.
- Child protection authorities, courts and all other agencies and professions dealing with domestic violence should have mandatory training concerning the issues of children and domestic violence. These issues should be integrated into the basic trainings for professions such as police, lawyers, judges, social workers, psychologists, doctors, other health professions, teachers and others.
- Programs for violent men such as the Anti-Violence-Training should put the safety of victims at the centre of their work, including the safety of children. Additionally, the issue of violence-free and responsible fatherhood should be part of the training.

- Men's movements against male violence such as 'White Ribbon' and others should support the right of children to live a life free from violence and should criticize any men's movement which does not support this notion.

References:

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