



The Harm of Forced Child Removal and Violence and the Problems Caused By Inadequate Policies

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80,000 ⁽⁸⁾

Children removed from their parents in the year up to 2021



Only 4,600 ⁽⁸⁾

Children had a "placement order granted" for their removal



14.2% ⁽⁷⁾

People have been through domestic violence in their childhood in the UK

Current policies in the UK's Family Courts regarding the welfare of children are flawed in many aspects. Policies such as the Children Acts of 1989 and 2004, fail to protect the child and lead to forced child removal and violence.

The causation of the removal of children from their birth parents varies depending on different contexts, but it is mainly the consequence of domestic abuse, neglect, alcohol and substance misuse. The colossal damage of child removal affects all aspects in a child's lifetime.

Policy Framework Focus:

Children's Act 1989 & 2004
Domestic Abuse Act

Policy Target Group:

UK National Family Courts
UK National Criminal Law



Urgent action is needed to alleviate the physical and mental consequences inadequate policies have to ensure **child safety**.

Background

1 Policy

The Children's Act of 1989 and 2004 provides a legislative framework for child protection in England. It ensures that local authorities promote and safeguard the welfare of children, sometimes resulting in child removal (2,3).

The term "parental alienation" has been increasingly used in family court. Parental alienation is defined as the child's unjustifiable opposition or hatred towards one parent due to psychological manipulation by the other parent. However, there is a lack of solid cases and studies to back up alienation in child arrangement proceedings. (10)

There tends to be a stigma in family courts regarding women and survivors of domestic abuse.

These include:

- Many survivors are told to forget their experiences of domestic abuse and focus on the importance of co-parenting and their children having contact with both parents.
- This disregards the dynamics of domestic abuse and how it's harmful to children.
- This can lead to 'Mother blaming' - where women are accused of deliberately obstructing contact between mothers and fathers thus claiming domestic abuse.

@theblacklawgroup, 2022



2 Forced Child Removal

Forced child removal is the involuntary removal of children from their parents. If the local authority finds that there are reasonable grounds to suspect that a child is suffering or is likely to suffer significant harm, it will carry out an assessment under Section 47 of the Children Act 1989 to determine whether measures are required to protect and promote the welfare of the child. If the concern is substantiated and the child is judged to be at ongoing risk of harm, then an Initial Child Protection Conference should be held within 15 working days (2).

3 Violence

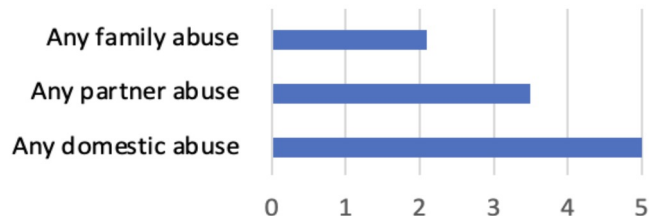
Domestic violence is a pattern of behaviour intended to gain or keep control over an intimate partner in any relationship (1). Any family member can be a victim of domestic violence.

Domestic violence actions or threats include (1):

- **Physical abuse:** hitting or kicking
- **Sexual:** non-consensual sexual activities
- **Emotional:** lack of trust, jealousy and emotional manipulation
- **Economic:** making a person financially dependent by maintaining total control over financial resources
- **Psychological:** threats of harm (partner, self, children)

5% of the adults aged over 16 years in the UK experienced domestic violence and were victims once or more in 2022. Among them, 3.5% of adults experienced domestic violence.

Percentage of adults aged 16 years and over who were victims once or more



*All exclude physical abuse threats force sexual assault or stalking Data from (4)

Children can suffer psychological damage (aside from potential physical abuse) when they observe their mother or other family member being subjected to domestic violence. As a result of witnessing domestic abuse, children may have varying cognitive, behavioural and emotional effects over time.

The potential effects of children witnessed domestic violence:

1. Short-term effects:

- Fear
- Anxiousness
- Confusion
- Shock

1. Long-term effect:

- Experiencing post-traumatic syndrome
- Abusing drugs & alcohol
- Becoming an abuser themselves
- Depression and anxiety



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Humanitarian Problems

Policy

- Legal frameworks (e.g., the Children Act 1989 and 2004) provide a coherent and needed continuity of assessing a child's welfare. However, the frameworks are insufficiently understood by all levels of staff (including social workers). This is crucial as their sole judgement and capacity of collecting evidence are often hardly questioned by family courts, which means that encouragement towards removal is provided by them (11). This makes their knowledge crucial as unlawful practices can occur due to ignorance of the protocols.
- Domestic abusers often want to diminish the parenting skills of non-abusive parents. This includes trying to change the minds of professionals involved in child contact protocols about how well the victims can parent their children. Regardless of the nomenclature used to characterise it, it entails claims of parental alienation that are used to obfuscate and refute claims of domestic abuse. There have been many cases where the custody proceedings have been based on gendered views, stereotypes, and myths about domestic violence. For example, "victimised" fathers and "obstructive" mothers have been blamed for parental alienation as a way to hide domestic violence instead of an "equal" counterpoint (9, 10).

Forced Child Removal

- Based on the Convention on the Rights of the Child (5), a legally binding international agreement, childhood should be a special, protected period, while the children who have experienced and witnessed domestic violence during their childhood, have their right to grow, learn, develop, and thrive in dignity is undermined.
- According to Crime Procedure Rule 19.2 (6), expert witnesses are supposed to help the court achieve its final objective decision in an unbiased matter. However, as expert witnesses are paid by the party instructing them to testify in court, they can often misconstrue data and give biased opinions to ensure payment. In family courts and especially in cases of forced child removal, the testimony given by expert witnesses who are biased has the potential to cause great harm to children.

Violence

- Children who witnessed domestic violence suffer significant damage to their physical and psychological health. Some argue that children witnessing abuse is abuse (1). Extra measures must be taken to safeguard the children and prevent them from suffering irreparable harm as a result of witnessing parental domestic violence.

Recommendations

Policy

1

A clear understanding of the legal frameworks that strive for a child's welfare is mandatory by all levels of staff (from frontline to directors) involved in the family intervention. This can be achieved by **regular training** to ensure that workers are informed of the current and 'correct' interpretation of the 1989 Children's act. In training, the additional focus should be emphasised on the **development of relationship skills in social workers** to facilitate a smoother and more coherent interaction between them and the parents. Furthermore, to ensure an accurate and supervised practice, **social workers should be monitored by the family courts in the collection of their evidence** so it can be ensured that the child's welfare is maximised.

2

No parental alienation case should be accepted without considering the effects on domestic abuse victims and their children. Parental alienation is a term based on gendered preconceptions; in any child arrangement case, its effects on victims should be thoroughly examined. Considering gender inequality and the grave ignorance of family court specialists about domestic abuse and its effects on children, **both children and parents should undergo psychological evaluations to assess PAD, PAS, or PA (Parental Alienation)** when child maltreatment is a concern. All professionals involved in parent-child contact decisions should be aware of the risky scenarios that arise when domestic abuse charges are paired with parental alienation before embracing "alienation" as a theory, syndrome, or collection of behaviours. Professional evidence can help the court determine what referrals, interventions, or support are needed to end or lessen negative effects on the child.

3

Violence

Permanency planning for the child should be first considered in irreversible domestic violence between parents. It must be focused on the **best option for the child**, therefore it requires an **ongoing needs assessment and projection of the child's self.** Depending on the child's current family situation, eg: where both parents are in custody due to criminal responsibility and lack of guardianship, family members and friends should be considered first. **This guarantee should be ensured through, giving continuity and assistance with the child's needs.**

4

Forced Child Removal

Special guardianship can be given to other family members or friends for certain situations where domestic violence between children's parents or guardians has been solved or relieved. It should be issued in situations where the child or parent is at no risk of harm after the experts' evaluation. **Through this method, the issues regarding why the child was removed can be resolved**, while children will not entirely be separated from their biological parents, giving them the opportunity to obtain redress and lost companionship from their original family.

5

There should be rigid, independent background checks by courts on expert witnesses to ensure credible testimonies and unbiased for their own benefit. After giving testimony, the family court should **provide an independent expert witness** for a second opinion. Expert witnesses should also be **warned of the punishments for committing perjury** to ensure they uphold strong moral values.

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