

**Court-Sanctioned Violence:
The Experiences of Self-Represented Victim-
Survivors of Family Violence and Coercive
Control in Ontario Family Law Courts**

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I. Introduction

Women in family law cases face significant barriers that impact their ability to achieve fair outcomes, particularly in cases involving intimate partner violence (IPV) or family violence. Family violence is defined as violence committed by or against any family members, like spouses or children, while IPV is defined as violence committed specifically by current and former intimate partners against another partner.¹ At the core of family violence is coercive control, defined by an ongoing pattern of abuse and violence, rather than isolated incidents, to create fear, control victims and force submission.² In practice, coercive control can take many forms, such as physical, economic, psychological, sexual and emotional abuse, using tactics such as isolation, manipulation, surveillance, and threats.³

A common solution for family violence and IPV is separation— it’s assumed that after couples are at least physically separated, violence and control end. In reality, separation is a risk factor for continued or worsened IPV, higher rates of family homicide, and even the start of violence where there might have been none before.⁴ Family court involvement (e.g. divorce, parenting time disputes) was identified as a precursor to 46% of family homicides in the U.S.⁵ Through the legal system, abusers can continue harming their victim with few

¹ Shana Conroy, “Family Violence in Canada: A Statistical Profile, 2019” *Statistics Canada* (2 March 2021), online: <150.statcan.gc.ca/n1/pub/85-002-x/2021001/article/00001-eng.htm>.

² Glenda Lux & Sandy Gill, "Identifying coercive control in Canadian family law: A required analysis in determining the best interests of the child" (2021) 59: 4 *Family Court Rev* at 811.

³ Janet Eaton Mosher et al, "Submission to Justice Canada on the criminalization of coercive control" (2023) *Osgoode Leg Studies Research Paper* at 5.

⁴ Kathryn J. Spearman et al, "Post separation abuse: A literature review connecting tactics to harm" (2024) 21: 2 *J of Family Trauma, Child Custody & Child Development* at 146.

⁵ *Ibid.*, at 147.

consequences, so long as “harassment takes place in the ideal petri dish of the courtroom.”⁶ This is an area where self-represented litigants (SRLs) are particularly vulnerable. While legal abuse persists even for victim-survivors⁷ who are represented, without the barrier of legal representation, SRLs are directly exposed to the adversarial nature of the court process. Navigating the legal system as a victim-survivor, especially as a self-represented victim-survivor, is a frequently harmful and retraumatizing experience, but one not recognized by either the law or most legal actors. This essay will focus on the experiences of self-represented women⁸ in Ontario family law courts. While men are also the victims of IPV and family violence, post-separation abuse and coercive control are highly gendered phenomena.⁹ For instance, in 2019, the CDC reported that 50.8% of women murdered in the US were killed by a current/former intimate partner, compared to 7.2% of men.¹⁰

II. Research question

This essay will explore the issues faced by self-represented women victim-survivors of violence in Ontario family law courts, asking what underlying structures and ideologies

⁶ Lisa A. Tucker, "The [E] x Factor: Addressing trauma from post-separation domestic violence as judicial terrorism" (2021) 99:1 Washington UL Rev at 354.

⁷ This essay will generally use the term “victim-survivor” to refer to those who have experienced IPV or family violence. “Victim” recognizes that a person was harmed and subjected to violence, whereas “survivor” highlights that the person has endured said violence. The term “victim-survivor” attempts to recognize the complexity of the experience of violence, as many people may identify with one term over the other, or both, or neither.

⁸ Meaning, those who identify as women. It’s important to note that trans women and gender diverse people are also at increased risk for IPV, and there is also a significant lack of research on their experiences. This essay focuses on women due to the limited availability of secondary source research and case law involving self-represented gender-diverse individuals, a gap that future research should address.

⁹ Spearman, *supra* note 4 at 146.

¹⁰ *Ibid.*, at 147.

create the conditions for these experiences and barriers to justice (focusing on how the legal system may enable or worsen violence), what changes might be implemented to provide more effective support for them, and how organizations might help provide this support. This research is important because IPV is more common than many people believe. In 2019, 30% of all the police-reported instances of violence were reports of IPV.¹¹ This is particularly significant given that 80% of all IPV isn't reported at all.¹² The assumption that IPV is rare is itself a barrier to justice, as legal professionals often struggle to accept the prevalence of violence and may dismiss legitimate claims as improbable. Focusing on family law is also critical because it is already rampant with gendered power differentials. Many legal actors adhere to gendered myths about victimhood and motherhood that disadvantage women. While women are stereotyped as being favoured in family law courts, particularly financially, women with dependent children see their incomes decline by 21% after separation, while men's rise by 32%.¹³

Moreover, interaction with the legal system itself often acts as “a form of secondary victimization” for victim-survivors, due to poor treatment by legal actors, and practices that further victimize them.¹⁴ The effects of abuse also persist long after separation (even if violence ends, which often isn't the case). Women face physical injuries that might affect daily functioning, psychological trauma, and economic penalties from medical costs or

¹¹ Conroy, “Family Violence,” *supra* note 1.

¹² Shana Conroy, “Spousal Violence in Canada, 2019” *Statistics Canada* (6 October 2021), online: <150.statcan.gc.ca/n1/pub/85-002-x/2021001/article/00016-eng.htm>.

¹³ Tucker, *supra* note 6 at 352.

¹⁴ Heather Douglas, “Legal systems abuse and coercive control” (2018) 18:1 *Criminology & Crim Justice* at 85.

restricted employment.¹⁵ These effects are all amplified for marginalized women, such as immigrant, indigenous, disabled, or poor women. These issues make it difficult for victim-survivors to achieve independence or economic stability after separation, and can lead women to return to their abusers out of necessity.¹⁶ Finally, it's in the best interest of the court itself to crack down on legal systems abuse, since significant resources are wasted adjudicating frequent motions brought by abusers to harass their victims.¹⁷

III. Background and Literature Review

Recent legislative changes and academic scholarship reveal growing awareness of the challenges faced by victim-survivors in legal proceedings. The Canadian Divorce Act was amended in 2021 to require that family violence and its impact be considered when considering the best interests of children. Specifically, the amendment requires that the court take into account “whether there is a pattern of coercive and controlling behaviour”, and whether it's appropriate to require parties to cooperate on parenting matters.¹⁸ However, a significant gap persists between legal ideals and courtroom realities as legal actors overlook the risks women face in the post-separation period, especially for SRLs. Post-separation abuse is under-recognized because just as separation is believed to be a safe time for victim-survivors, the courtroom is understood as a safe place for victim-

¹⁵ Fiona Kelly, "Private law responses to domestic violence: the intersection of family law and tort" (2009) 44 *The Supreme Court L Rev* at 321-22.

¹⁶ *Ibid.*, at 323.

¹⁷ Tucker, *supra* note 6.

¹⁸ *Divorce Act*, RSC 1985, c3 (2nd Supp).

survivors.¹⁹ Abuse is harder to recognize when it happens in a time or place where victims are ostensibly protected.

As well, many abusive tactics are minimized because they don't "reach statutory or criminal levels of abuse."²⁰ Financial abuse is especially pernicious because it doesn't require physical proximity, and prevents victims from resisting other abuse or leaving the relationship.²¹ Examples include depriving a victim of their own money or authority over accounts, putting debt in a victim's name, and/or not allowing the victim to be employed.²² This can result in a victim-survivor accepting inadequate parenting plans and other legal offers out of financial desperation, or not being able to afford legal services altogether.²³

In this vein, 4 out of 10 family law litigants are unrepresented, and the most frequently cited reason is the inability to afford counsel.²⁴ Yet, stringent legal aid criteria mean many women can neither afford lawyers nor qualify for legal aid. Litigation also involves incidental costs, such as childcare, transportation, appropriate court attire, and complying with discovery requests.²⁵ Frequent court appearances might require women to miss work, incurring financial penalties or even job loss. Then, even after a case might be seemingly resolved, abusers frequently file motions to modify parenting time orders or appeal existing orders to continue harassing victims in court, and/or to increase court costs for the victim.²⁶

¹⁹ Tucker, *supra* note 6 at 343.

²⁰ Spearman, *supra* note 4 at 156.

²¹ Tucker, *supra* note 6 at 350.

²² Lux & Gill, *supra* note 2 at 816.

²³ *Ibid.*, at 821.

²⁴ Wendy Chan & Rebecca Lennox, "THIS ISN'T JUSTICE': ABUSED WOMEN NAVIGATE FAMILY LAW IN GREATER VANCOUVER" (2023) 35: 1 Canadian J of Family L at 93.

²⁵ Tucker, *supra* note 6 at 358.

²⁶ Douglas, *supra* note 14 at 86.

Abusers intend to cause these financial consequences, and their actions are also motivated by the hope that their victims will be forced to give in to their demands due to financial strain, especially as abusers often use the financial impact of their actions to argue that a woman is incapable of providing for their children.²⁷

As an additional point, it is worth mentioning that the majority of the literature on legal systems abuse and post-separation abuse focuses on mothers. This is partly because abusers know that “[mothers] will likely do almost anything to maintain custody of [their] kids”, and thus give in on issues of property division or child support to maintain parenting time.²⁸ As will be explored, mothers also face additional stereotypes and myths surrounding their character and credibility when they make allegations of violence. Judges tend to prefer giving abusers a chance to parent, rather than being cautious, assuming that mothers should undertake costly and retraumatizing labour for the sake of her children. This has resulted in cases of physical harm and even the murder of children when abusive fathers were granted unsupervised parenting time.²⁹

Moreover, research has been devoted to the problem of direct cross-examination for SRLs. Wangmann, Kaye and Booth (2022) focus on how self-represented abusers use cross-examination to further harass and intimidate victims in Australia.³⁰ In these cases, victim-survivors suffer from retraumatization and find it difficult to give their best evidence when questioned directly by their abuser. Due to the adversarial nature of most common law

²⁷ Tucker, *supra* note 6 at 358.

²⁸ *Ibid.*

²⁹ Lux & Gill, *supra* note 2 at 813.

³⁰ Jane Wangmann Miranda Kaye & Tracey Booth, “Addressing the Problem of Direct Cross Examination in Australian Family Law Proceedings” (2022) 45: 4 U of New South Wales LJ at 1416.

states, judges tend to be passive and refrain from intervening unless questioning is egregiously offensive, abusive or humiliating.³¹ When self-represented victim-survivors in turn cross-examine their alleged abusers, they find it difficult to “ask sufficiently probing questions or challenge responses.”³² Self-represented victim-survivors also tend to struggle to document their experiences of violence accurately and in a way the court understands.”³³

Despite this growing body of research, several gaps remain. Most notably, legal systems abuse still lacks a unified definition, which has hindered analysis and policy changes. Scholars use different terms—judicial terrorism, litigation abuse, and/or procedural stalking—to describe similar phenomena, reflecting a lack of coherence in both language and legal response.³⁴ Many studies focusing on family violence and/or post-separation abuse also tend to assume some level of legal representation, overlooking the vulnerability of SRLs, who are routinely involved in family law proceedings. This research aims to connect the injustices faced by self-represented victim-survivors with the broader gendered myths that shape family law, centering the ways the legal system and legal actors can be complicit in or even contribute to harm. Finally, while much of the existing research emphasizes larger-scale legal reforms, my research also emphasizes the need for improved education for legal professionals, victim-survivors, and laypeople alike, identifying how organizations can support these educational efforts.

³¹ Kaye, Wangmann & Booth, “Addressing the Problem,” *supra* note 30 at 1419.

³² *Ibid.*, at 1418.

³³ Jane Wangmann, Miranda Kaye & Tracey Booth, “*No straight lines*”: *Self-represented litigants in family law proceedings involving allegations about family violence* (Sydney: ANROWS, 2020). at 11.

³⁴ Tucker, *supra* note 6 at 342.

IV. Methodology

Secondary source research, case law research, and an interview with a case worker at a legal clinic will be incorporated into this research. Secondary source research aims to situate violence within larger structural patterns and ground the other aspects of my research within existing theory. This component will provide insight into the limitations of our legal system and the role of systemic biases in the problems observed. Case law research focuses on cases in the Ontario Court of Justice and Superior Court of Justice, where the majority of cases involving family violence are heard, but where there is a lack of research. It will also help support recommendations for reform. Finally, an interview with a case worker at a clinic for victim-survivors of violence will provide firsthand insights into the practical challenges that self-represented victim-survivors face, and the efficacy of existing resources and advocacy efforts. Collectively, these three aspects of my research will help identify where current supports are falling short and how organizations can more effectively direct their advocacy toward areas of greatest need.

V. Interview

S.B is a case worker at a GTA-based legal clinic for women and gender diverse people who have experienced violence, and works with SRLs. Responses are edited for length and clarity.

1. *What are the most common challenges you see faced by women navigating family violence cases when they are self-represented?*

S.B: Many women are in a state of diminished power, especially compared to an ex-partner, and just the knowledge of this power imbalance is challenging. Their fear hinders women

from knowing their rights and participating actively in self-representation. Another common issue is when the other party has more resources to counter the claims of the SRL or is represented. Common non-legal challenges involve precarious housing, finances and childcare, which add difficulty to an SRL's ability to be actively involved in their representation. Many clients also don't know basic information like their social insurance number, or have standard identification documents, because often, ex-partners handled matters like government communications. For instance, there are many cases where a woman's welfare payments went automatically into an ex-partner's bank account. Many SRLs don't know how to show proof of separation to the CRA to separate benefits.

2. Are there any specific patterns of behaviour by abusers you observe in these cases that affect women's ability to self-represent effectively?

S.B: When the opposing party is represented, it is common for SRLs to receive continuous requests from the opposing party's counsel for documents that are unnecessary and that use intimidating technical language as a means to create uncertainty. In the courtroom, many survivors are alone, while opposing parties arrive with many family members and friends, which exacerbates fear. This shows the importance of support workers since even survivors with lawyers often want someone else in the courtroom with them. Many ex-partners will also use smaller gestures like smirks or aggressive body language to intimidate.

3. How do you find the court treats self-represented women? How do judges, court registrars or clerks engage with self-represented women?

S.B: So far, in the family and criminal courts I've been to, most staff and judges have been accommodating and helpful. But, despite their desire to help, they have limits and can't, for

instance, help if an SRL doesn't have the necessary documentation, which illustrates the importance of work before an SRL arrives in a courtroom.

4. Are there any support or resources that women frequently request or need but are unable to access?

S.B: Frequently, women want clinic workers to go to court on their behalf, especially if they have trouble going themselves (e.g. travel issues, fear of ex-partner), but clinic workers can't do this. They also assume that clinic workers can speak on their behalf with duty counsel, legal aid, etc, but that also isn't the case. Moreover, there are many online resources on general family law, but a lack of information on simple divorce (which is an area of acute need because legal aid doesn't cover it), how to obtain a peace bond, and the difference between peace bonds and restraining orders.

5. What types of gaps in knowledge or resources do you perceive among self-represented litigants dealing with IPV or family violence?

S.B: As mentioned, there is a lack of knowledge on restraining orders and peace bonds in particular. Many SRLs don't know that after a restraining order expires, they can apply for a peace bond. Many are also unaware that they still need the other parent's permission, or court approval for major decisions regarding children, even if the ex-partner was abusive. This leads to SRLs making major decisions without consulting other parties, which can be interpreted as malicious, but is just due to a lack of knowledge. Newcomer and immigrant women also fear losing their immigration status, especially if they were sponsored by or immigrated with a partner. They incorrectly assume that leaving an abusive spouse will automatically terminate immigration status, which leads to fear of leaving said spouse, and,

later, fear for their immigration status. As a side note, immigrant women are not monolithic. Some can read and write in English and are highly educated, while others might not be able to read in their native language.

Women also overestimate what the clinic can do for them. During intake, they tell workers their story and assume that the clinic can act as legal counsel for them and intervene with other agencies (e.g. explain their situation to the Children's Aid Society). They assume we can submit forms and documents on their behalf, but while I can help fill out the form and a clinic lawyer can review it, an SRL must submit it themselves. There is also a lack of knowledge about legal aid and legal aid lawyers— many people don't know what to expect from free legal help, which is very limited. Women want to tell their stories, but need to fit their lives and their story into a court case, and beyond that, what a legal aid lawyer can do for them. The system is what we have, but sometimes, human life doesn't fit.

6. Are there particular kinds of evidence women struggle the most to gather or present effectively?

S.B: Most survivors of abuse, regardless of SRL status, don't have basic documents (e.g. a passport), having either fled home in a rush or had their documents destroyed or withheld by abusers. Documents like proof of address may also be under an ex-partner's name. This is particularly acute with immigrant women.

7. Are there common misconceptions about what qualifies as evidence of domestic violence, and how do you address them with clients?

S.B: Clients often recount their abuse with little to no evidence of the violence. Many clients also aren't able to identify abuse at all. Sometimes, there are cultural factors, but many

women have different ideas about what constitutes abuse. Women will come to the clinic with stories of physical abuse, and when telling their stories, clinic workers often point out parts of their stories that indicate financial, emotional, or sexual abuse that the victim was unaware of.

8. What court practices do SRLs find particularly challenging?

S.B: There isn't any particular practice, but the legal system as a whole is very difficult to navigate and not set up for survivors. As mentioned, the courts assume that survivors will have documentation that many just don't have. Courts also lack sufficient support staff.

9. Are there any strategies or resources you've noticed that are particularly helpful for self-represented women facing family violence?

S.B: Some helpful resources are: <https://stepstojustice.ca/> (by CLEO) for general legal support, any local legal clinics that focus on IPV in a particular area, the Metro Toronto Tenants Association for housing, language-specific services (e.g. Centre Francophone), and the FCJ Refugee Center for refugees.

10. Are there any particular demographics or groups that you feel are particularly under-supported under current frameworks?

S.B: Key demographics are immigrants, those with limited English language skills, and those with mental health challenges (either pre-existing or resulting from abuse).

11. How do you think organizations can educate or prepare women for legal processes in cases involving family violence or IPV?

S.B: Generally speaking, there's a need for more information, orientation, and guidance for SRLs, but also guidance on what information they need and what resources to reach for.

SRLs need people who can guide them to specific, accurate information that is relevant to their case. We also need more translated materials in housing, immigration, and family law, including information on peace bonds, restraining orders, and simple divorce. Organizations might consider working with settlement agencies. There are more settlement workers than workers in legal clinics or women's clinics, and these workers are the first point of contact for newcomers in Canada, who are particularly vulnerable to violence. However, these workers need more training on IPV. Organizations could train settlement workers to recognize violence and provide them with resources to give to newcomers who may be experiencing violence.

12. Are there specific policies or court practices you think should be reformed or changed to better address the needs of self-represented women facing IPV?

S.B: As mentioned, we need more court support staff and victim services workers because there just aren't enough. We also need a more accessible way to access and receive government benefits and child tax benefits. Broadly, a more livable minimum wage and accessible childcare will help survivors.

13. From your experience assisting self-represented women facing family violence, are there any lessons you've learned that you think should be shared with those looking to help these women?

S.B: More one-on-one support and personalized help are needed. Many survivors don't have anyone else on their side and need significant help with legal forms and documents for their particular case. Also, many women make too much money to qualify for legal aid but not enough to hire a lawyer. They might have homes/property in their name that don't let them

access legal aid, but no actual cash to hire a lawyer– the legal aid threshold should be increased.

VI. Theory and Analysis

Family law itself originates in English coverture, in which a woman’s legal existence became subsumed under that of her husband.³⁵ The family unit was seen as a private entity, and priority was placed on “ensuring the sanctity of the family unit which legal remedies for divorce or IPV were thought to destroy.”³⁶ For instance, Ontario was the first province to abolish interspousal immunity only in 1975– before that, wives were unable to sue for violence perpetrated against them by husbands.³⁷ Domestic violence has only recently become a public concern, as feminists attempted to turn domestic violence into a social issue that merited a public law response (e.g. criminalization).³⁸

However, a similar criminal law response to coercive control may not be merited, especially as there is significant disagreement about what constitutes coercive control, whether physical violence is an essential element and whether it’s experienced primarily by women. Crucially, there is no agreed-upon answer to “how many acts, of what sort, and over what period of time equate with coercive control”, which means the application of laws

³⁵ Maeve E. Doggett, *Marriage, wife-beating, and the law in Victorian England* (Columbia: University of South Carolina Press, 1993) at 34-35.

³⁶ Deanne Sowter and Jennifer Koshan, “‘Weaponizing’ The Tort of Family Violence? Myths, Stereotypes, Lawyers’ Ethics and Access to Justice” (2024) 40 Windsor Yearbook of Access to Justice at 329.

³⁷ Kelly, *supra* note 15 at 323.

³⁸ Kelly, *supra* note 15 at 324.

surrounding coercive control is sure to be varied, and likely misunderstood, particularly to the detriment of marginalized women.³⁹

However, there is some consensus on what constitutes coercive controlling behaviour. Abusers often surveil/stalk victim-survivors, exert psychological control (e.g. isolation, threats, humiliation, intimidation, false reports of abuse), exert financial control, use physical violence (including punching walls, breaking things, threatening self-harm or suicide), and/or employ sexual abuse. Crucially, many abusers take advantage of children and the legal system itself to continue violence after the end of a relationship, as children and the legal system are two avenues where ex-partners can be forced to interact. For instance, abusers may use parenting time arrangements to track victim-survivors, alienate children from mothers during unsupervised parenting time, or use pick-up/drop-off to create conflict.⁴⁰

Moreover, common stereotypes and assumptions act as barriers to justice for victim-survivors. The “best interests” of a child is often assumed to be access to both parents, regardless of the *Divorce Act* requirement that family violence be taken into account in determining best interests.⁴¹ Mothers are held to far higher standards than fathers—judges tend to give fathers the overwhelming benefit of the doubt, as their presence in children’s lives is seen as an almost universal good. Men are assumed to be good fathers even if they have proven histories of abuse towards a partner. Paired with the belief that violence ends with separation, parenting orders frequently expect mothers to perform “substantial,

³⁹ Mosher, *supra* note 3.

⁴⁰ Chan & Lennox, *supra* note 24 at 349.

⁴¹ *Ibid.*, at 89. See also *Divorce Act*, RSC 1985, c3 (2nd Supp).

unremunerated, retraumatizing labor.”⁴² They require mothers to interact regularly with abusers and worry constantly for their children’s safety.⁴³ Yet, any deviation from this high standard of ideal mothering can result in the reduction of parenting time.

Similarly, women who raise issues of violence in family law courts are often assumed to be engaging in alienating behaviour when they do not conform to the stereotype of ideal victimhood.⁴⁴ This myth alleges that credible abuse is physical and well-documented, and that victims leave the relationship and alert the authorities the moment abuse occurs.⁴⁵ Many legal professionals do not understand why someone would stay in an abusive relationship. The reality is that financial dependence, forced isolation, stalking/surveillance, pre-existing vulnerabilities (e.g. poor English ability), and/or psychological manipulation make it difficult, if not next to impossible, for many women to leave abusive relationships within a timeline that courts find credible. However, any delay in leaving an abusive partner is often used to discredit a woman’s experiences.⁴⁶

Intersecting with these gendered assumptions is a victim-survivor’s status as an SRL. As discussed with S.B, SRLs vary significantly in their capacity to self-represent. Once in court, SRLs also encounter significantly different environments based on the level of the proceeding, jurisdiction, individual judges, and their own identities. Especially due to the discretionary nature of family law decision-making, the experiences of SRLs in family law

⁴² Chan & Lennox, *supra* note 24 at 117.

⁴³ *Ibid.*, at 118.

⁴⁴ *Ibid.*, at 117.

⁴⁵ Sowter & Koshan, *supra* note 36 at 336.

⁴⁶ Lux & Gill, *supra* note 2 at 814.

courts, even within a single jurisdiction, are highly varied.⁴⁷ Nonetheless, in most cases, SRLs struggle to accurately document their experiences of violence and often feel pressured to settle for unsafe or unsatisfactory outcomes. For SRLs who have experienced family violence, their ability to complete documentation is impacted by the emotional and psychological toll of reliving violence through paperwork.⁴⁸ While some SRLs can present their cases well, most struggle due to inadequate preparation for court, inaccurate expectations on what being in court entails and what is permitted, and the negative impact of trauma caused by violence. Victim-survivors struggle to control their fear and anxiety in proximity to their abusers, especially when SRLs are also subject to potential abuse in the courtroom: perpetrators have shouted at, intimidated and threatened victim-survivors in the courtroom.⁴⁹

SRLs must also navigate the dual burden of conforming to the idealized image of the competent litigant and the credible victim. The courtroom continues to operate on the assumption that litigants are represented and should be emotionally neutral.⁵⁰ SRLs (particularly women) who present as emotional are often seen as lacking credibility. The law's expectation that litigants present coherent, linear narratives also disadvantages women whose experiences of coercive control do not map neatly onto discrete incidents of violence, especially in a system that continues to prioritize physical evidence and visible

⁴⁷ Kaye, Wangmann & Booth, "*No straight lines*," *supra* note 33 at 15.

⁴⁸ *Ibid.*, at 11.

⁴⁹ *Ibid.*, at 13.

⁵⁰ Kaye, Wangmann & Booth, "*No straight lines*," *supra* note 33 at 11. See also Sowter & Koshan, *supra* note 36 at 336.

harm.⁵¹ Furthermore, SRLs lack the legal counsel to frame and support their claims strategically. This is especially disadvantageous in family law, when deviation from scripts of idealized victimhood and motherhood might cast an SRL as not only unprepared, but open them up to accusations of parental alienation or false allegations of violence.⁵²

Finally, beyond the requirement to consider family violence when determining the best interests of a child, the current legal responses to family violence largely prioritize criminalization and adversarial court procedures, which often re-trench harm for victim-survivors, especially those who are self-represented or otherwise marginalized. Women are urged to file police reports for harassment, threats, and/or stalking, or file legal complaints about false evidence or perjury in cases of legal system abuse. However, involving law enforcement forces victim-survivors to relive their trauma, continue contact with their abuser, and navigate costly and time-consuming legal proceedings.⁵³ Even where legal remedies such as cost awards are available, they are rarely enforced without further proceedings that many SRLs are unable to initiate. Reliance on criminal law is particularly problematic— Moshier, Harris, Koshan and Wiegiers (2023) caution against the criminalization of coercive control as a standalone solution, arguing that it risks reinforcing carceral responses that disproportionately harm racialized and marginalized communities.⁵⁴

⁵¹ Sowter & Koshan, *supra* note 36 at 335.

⁵² Chan & Lennox, *supra* note 24 at 117.

⁵³ Douglas, *supra* note 14 at 93.

⁵⁴ Moshier, *supra* note 3 at 36.

VII. Case Law and Analysis

Ahluwalia v Ahluwalia, [2022] OJ No 908, 2022 ONSC 1303, 161 OR (3d) 360, 81 CCLT (4th) 74, 2022 CarswellOnt 2367, 2022 ACWS 327, 2022 CFLG para 27,860, 68 RFL (8th) 255.

The applicant father, Amrit Ahluwalia, sought joint parental decision-making and weekend parenting time, while the self-represented respondent mother, Kuldeep Ahluwalia, sought sole decision-making authority, child support, spousal support, and damages for the father's alleged abuse. This claim for damages was the central issue, as the parties disagreed on what constituted tortious conduct.⁵⁵ Kuldeep alleged a pattern of emotional abuse and financial control, and specific incidents of physical violence in 2000, 2008 and 2013.⁵⁶ She stated that these specific incidents were indicative of a larger pattern of coercive and controlling behaviour, and that the tortious conduct was the family violence perpetrated against her over the whole of the relationship.⁵⁷ In contrast, Amrit believed tortious conduct was limited to specific incidents of emotional abuse and the aforementioned incidents of physical violence.

Ultimately, the trial judge, Renu Mandhane, recognized a new tort of family violence, awarding \$150,000 to Kuldeep. Judge Mandhane acknowledges that the award was atypical, but justified the creation of a new tort because of the unique aspects of family violence not covered by existing torts. Existing torts focus on specific incidents of harm, whereas a tort of family violence would focus on patterns of controlling or violent conduct, and

⁵⁵ *Ahluwalia v Ahluwalia*, 2022 ONSC 1303 at paras 31-32 [*Ahluwalia*].

⁵⁶ *Ibid.*, at paras 21-22.

⁵⁷ *Ibid.*, at para 32.

compensate for this pattern of harm.⁵⁸ Consistent with tort law’s compensatory goals, the new tort would also alleviate economic barriers for victim-survivors, since currently, “the negative financial and social impact of family violence is almost exclusively borne by the survivor.”⁵⁹

However, a year later, after an appeal by Amrit, the Ontario Court of Appeal (ONCA), while upholding liability, reduced the damage award to \$100,000, finding that Judge Mandhane erred in awarding punitive damages.⁶⁰ The ONCA ruled that the new tort was unnecessary, as existing torts were able to ground an award of damages for violence in domestic relationships.⁶¹ The court also held that Judge Mandhane’s use of the *Divorce Act* to define family violence was problematic, since that definition was crafted specifically for parenting plans.⁶² However, the cases cited by the ONCA to argue that existing torts were sufficient to address IPV were largely cases of physical and emotional abuse, rather than the patterns of harm that characterize coercive control.⁶³

KK v MM, [2021] OJ No 3820, 2021 ONSC 3975, [2021] OJ No 3820

The father, KK, and the self-represented mother, MM, both sought sole primary decision-making and principal residence with their two children.⁶⁴ Both were self-represented over their approximately 40 court appearances before the trial, though they

⁵⁸ *Ibid.*, at para 54.

⁵⁹ *Ibid.*, at para 67.

⁶⁰ Sowter & Koshan, *supra* note 36 at 328.

⁶¹ *Ibid.*, at 312.

⁶² *Ibid.*, at 328.

⁶³ *Ibid.*, at 332.

⁶⁴ *K.K. v. M.M.*, 2022 ONCA 72 at para 707 [K.K].

each retained counsel for the trial.⁶⁵ KK and MM were married in India, where KK was a doctor. From the beginning of their relationship, KK regularly put MM down, controlled what she wore and ate, and hit her when he was angry.⁶⁶ MM did not have a bank account, a mode of transportation, and was not allowed to work. When they moved to Canada, KK used his English skills and position as a doctor to manipulate not only MM but also law enforcement and other medical professionals about the nature of his relationship with MM, culminating in MM's misdiagnosis of bipolar disorder. As such, when MM told doctors about KK's abusive behaviour, they wrote it off as erratic behaviour due to mental illness.⁶⁷ This pattern of behaviour is a clear illustration of coercive control, in which KK systematically isolated MM, restricted her independence, and manipulated others to discredit her.

After the couple separated, a court-appointed doctor (Dr. Goldstein) found that MM had attempted to alienate the couple's children from KK, such as their elder child, VK's, "shared delusions" of abuse with MM.⁶⁸ A case supervision judge ordered KK to take sole custody of the children, with no contact with MM for at least three months.⁶⁹ MM did not see or communicate with her children for 18 months, and regularly attended therapy for parental alienation.⁷⁰ When MM was finally granted time to see VK, and the younger child, JK, she encouraged them to listen to their father, and spoke positively about KK, details corroborated by employees at the centre for Access for Parents and Children.⁷¹ However,

⁶⁵ *Ibid.*, at para 4.

⁶⁶ *Ibid.*, at para 189.

⁶⁷ *Ibid.*, at para 277.

⁶⁸ *Ibid.*, at para 487.

⁶⁹ *Ibid.*, at para 485.

⁷⁰ *Ibid.*, at para 505.

⁷¹ *Ibid.*, at para 510.

when she applied for increased regular access to the children, the case supervision judge rejected her request on the basis that she had not acknowledged her role in alienating the children from KK.⁷² Later, the initial finding of parental alienation by Dr. Goldstein was discredited, and the doctor was required to undergo remediation before being allowed to practice again.⁷³ This case highlights how the accusation of parental alienation can be weaponized against mothers who raise legitimate concerns about abuse, especially when the abuser has already undermined their credibility. Despite MM's compliance with court orders, the initial finding of alienation—later discredited—was still used to deny her contact with her children, illustrating how women are often punished, rather than protected, when they disclose violence. This finding of alienation was also detrimental to the children. In an audio that VK recorded, KK is heard calling JK a “fucking idiot,” and VK describes physical violence from KK, among many other documented instances of abuse that later came to light.⁷⁴ By granting KK unconditional parenting time with the backing of the court, he was able to continue abuse without fear of accountability or intervention.

However, more optimistically, this is a case in which a judge recognized myths about family violence. When MM was being cross-examined, KK's counsel suggested that if MM had been abused, she would have left KK. Judge Petersen highlighted how this insinuation rested on “discredited myths about how victims of domestic violence ought to behave.”⁷⁵ Recognizing such myths and the underlying dynamics of coercive control is critical to

⁷² *Ibid.*, at para 521.

⁷³ *Ibid.*, at para 116.

⁷⁴ *Ibid.*, at paras 555, 578.

⁷⁵ *Ibid.*, at para 190.

ensuring justice for both victim-survivors and any children. Recognizing the broader pattern of violence and control that characterized their relationship, as well as the danger that KK posed to both MM and the children, Judge Petersen ordered that MM be given sole parental decision-making responsibility and that the children live primarily with her. She also ordered a temporary period of no contact with KK for JK, as he had been alienated from MM.⁷⁶

KM v JR, [2022] OJ No 22, 2022 ONSC 111, 341 ACWS (3d) 369, 66 RFL (8th) 35, 2022 CarswellOnt 35, [2022] OJ No 22.

The mother, KM, filed a motion to reduce the father, J.R.'s, parenting time of their child, "Carson," arguing that Carson was conceived as a result of sexual assault, and that JR was abusive and controlling. JR, who was self-represented, filed a motion for sole decision-making authority and to increase his parenting time to half. He argued that KM's accusation of sexual assault "reflects the extremes to which [she] will go to try to win" and that KM "uses fabrications of family violence [...] in a self-serving effort to preclude the court considering any form of co-parenting."⁷⁷ The reality is that fabrications of violence are rare. In the U.S., only 1.3% of allegations of child mistreatment from mothers against fathers were intentionally false, compared to 21.3% of allegations made by fathers against mothers.⁷⁸ Yet, mothers are still advised against bringing up experiences of violence in court over fear of accusations of parental alienation.⁷⁹ While it is assumed that women gain advantages in

⁷⁶ *Ibid.*, at para 579.

⁷⁷ *K.M. v. J.R.*, 2022 ONSC 111 at para 23 [*K.M.*].

⁷⁸ Lux and Gill, *supra* note 2 at 812.

⁷⁹ Mosher, *supra* note 3 at 29.

family law courts when they make allegations of violence, the truth is that women who raise concerns about domestic violence receive harsher treatment.⁸⁰

Moreover, this case illustrates the double standard of credibility to which women are held. Judge Pazaratz found JR unruly as a witness and an SRL, interrupting the KM's evidence with profanity and disrespectful comments. While Judge Pazaratz found his evidence about his relationship with Carson to be credible, JR "couldn't have made a worse impression" on other matters, and acted with the aggression that KM described during her testimony.⁸¹ However, Judge Pazaratz found that JR's behaviour "enhanced the spontaneity and credibility of his evidence [because] nobody trying to impress a judge" would act as JR did.⁸² JR's emotional outbursts were seen as displays of authenticity and honesty that transferred legitimacy to the rest of his testimony, as Judge Pazaratz argued that "a person's behaviour as a *parent* is more relevant than their behaviour as a *litigant*", since family court is a uniquely stressful experience⁸³

In contrast, Judge Pazaratz found KM (who had counsel) to be pleasant, well-organized and credible, but perceived her justification for reducing the father's parenting time as "not credible at all", and backed by "superficial and selfish" evidence.⁸⁴ Despite being described by Judge Pazaratz himself as respectful, KM was held to far higher standards than JR, more than might be reasonably explained by JR's self-representation. Her attempts to limit JR's parenting time, rather than being seen as an attempt to protect her

⁸⁰ Chan & Lennox, *supra* note 24 at 97.

⁸¹ *K.M.*, *supra* note 77 at paras 103, 93.

⁸² *Ibid.*, at para 104.

⁸³ *Ibid.*, at para 336.

⁸⁴ *Ibid.*, at para 82-83.

child from someone she believed was abusive, were interpreted as alienating behaviours. While JR's aggressive behaviour was framed as a sign of sincerity and stress that was immaterial to his parenting ability, KM's discomfort answering questions surrounding her allegations of abuse and allegations that JR was an unfit parent undermined her credibility. In contrast with the stereotype that claims of violence allow mothers to gain advantage in family law proceedings, KM's allegations of abuse contributed to the court finding that she would "intentionally marginalize the father" if granted more parenting time.⁸⁵

As mentioned, Judge Pazaratz found that the JR was aggressive, and used profanity and offensive language so regularly that "it constituted completely unacceptable intimidation and abuse."⁸⁶ Shared parenting has clearly led to ongoing exposure to harassment for KM. Yet, Judge Pazaratz chose not to limit JR's parenting time, and actually increased his time to be equal with KM's, out of fear of potential parental alienation by KM. Judge Pazaratz also held that both KM and JR are "excellent parents" when they don't have to interact with each other.⁸⁷ This exemplifies the persistent assumption that fathers who are abusive toward their ex/partners can continue to be good parents. The result is that KM's motion was dismissed, and JR's appeal was allowed in part, though KM was able to retain sole decision-making authority to reduce parental contact.

Mane v Mane, [2023] OJ No 4939, 2023 ONSC 5343, [2023] OJ No 4939.

The applicant father, Rohan Mane, sought equal parenting time and joint decision-making responsibility (with the "final" decision if there is a stalemate) for the child he had

⁸⁵ *Ibid.*, at para 390.

⁸⁶ *Ibid.*, at para 272.

⁸⁷ *Ibid.*, at para 337.

with the self-represented respondent mother, Karynah Mane.⁸⁸ Karynah, in contrast, argued that Rohan should have as little contact with their child as possible, due to his physical, psychological and financial abuse. While Rohan admits he was “unkind” to Karynah, he denies coercive control.⁸⁹ Judge Agarwal acknowledged the presence of family violence and its relevance to the best interests of the child, as is required by the *Divorce Act*. However, he did not find family violence relevant to the allocation of decision-making responsibility or parenting time. He specifically rejects Karynah’s claim that Rohan’s past abuse means that he should have limited parenting time and decision-making because of the risk to her and their child, and claims that there was no evidence of risk to either Karynah or the child that would justify reducing Rohan’s parenting time and decision-making.⁹⁰ Judge Agarwal maintained that it was in the child’s best interests for decision-making responsibility and parenting time to be allocated equally.⁹¹ While he rejects Rohan’s request for a veto on parenting decisions, he orders Karynah and Rohan to use a mediator or parenting coordinator to reach joint parenting decisions. Despite the surface-level acknowledgment of family violence, the court ignored the risk of harm posed to both Karynah and the child by forcing Karynah and Rohan to continue to interact. The highest potential for legal systems abuse is in these moments, when the system enforces contact without fully accounting for the risks involved. By assuming that shared parenting is in the best interests of a child, and

⁸⁸ *Mane v. Mane*, 2023 ONSC 5343, at para 4 [*Mane*].

⁸⁹ *Mane*, at para 107.

⁹⁰ *Ibid.*, at para 109.

⁹¹ *Ibid.*, at para 4.

thus ordering continued interaction through joint decision-making and mediation, the court overlooks how such contact can be weaponized by an abuser to maintain control.

Moreover, during the trial, Karynah referred multiple times to the “tort of abuse,” which does not exist.⁹² She was likely referring to tort claims arising from alleged family violence, which the ONCA rejected in *Ahluwalia v Ahluwalia* (2023). Yet, she was also inconsistent on whether she was making a tort claim at all, maintaining a claim for tort damages, but also saying she made the claim to support her position on parenting time.⁹³ This confusion about the application of tort law reflects the overwhelming complexity SRLs face when trying to navigate legal systems without adequate support. However, it also reflects a moment where Judge Agarwal may have been able to take a more supportive or inquisitorial approach, helping to clarify the nature of the claim. Like many SRLs, Karynah lacked the legal training needed to effectively articulate her experiences in legally recognizable claims. Finally, three years before the trial, Karynah agreed to a temporary order which stated that she would provide a video of her home every week to show she was keeping it “in a reasonable state of cleanliness and tidiness.”⁹⁴ Karynah was unaware that this temporary order would be the basis for a final order, or that it would continue for three years and regretted consenting to the order given the control Rohan was able to assert over her through this. This condition demonstrates how coercive controlling behaviour can be sustained through court orders, particularly when a litigant is self-represented and unaware of the long-term implications of their consent.

⁹² *Ibid.*, at para 34.

⁹³ *Ibid.*, at para 36.

⁹⁴ *Ibid.*, at para 131.

VII. Suggestions and Recommendations

Organizational Recommendations

Organizations and legal clinics that already work with issues of IPV are uniquely suited to provide education on such issues in their communities, and to those who are likely to encounter victim-survivors in their professions. Drawing from my interview with S.B, settlement workers are often the first people newcomers encounter in Canada. They are more likely to have the language skills necessary to communicate effectively with new immigrants and are in a position to address violence comprehensively with victim-survivors in a way that some other organizations or legal clinics may not be able to. However, settlement workers need more education on how to recognize IPV and family violence, and on what resources should be offered to victim-survivors. Similarly, medical professionals are likely to encounter victim-survivors in their work, but are not necessarily equipped to recognize psychological abuse or coercive and controlling behaviours. For instance, in *KK v MM*, KK was able to manipulate medical professionals about MM's mental health, so that MM's disclosure of KK's abusive behaviour was dismissed. Organizations should look to work directly with those who are likely to encounter victim-survivors to provide education about violence and coercive control.

Organizations also need to increase public legal education and resources for victim-survivors themselves. S.B explained the need for further education on simple divorce, restraining orders, and peace bonds, as well as education on how to fill out required forms and documents. This is supported by Kaye, Wangmann and Booth (2020), who found that SRLs struggled to fill out documents due to language and literacy issues, limited access to

technology, limited knowledge of the law, and the general complexity of the legal process.⁹⁵ Moreover, since coercive control lacks a clear legal definition and involves varied tactics, both victim-survivors and legal professionals may need education on what it entails. S.B mentioned that many women will describe physical abuse, and unintentionally describe psychological or financial abuse that a clinic worker needs to point out to them. Given the vulnerability of newcomer women to violence, it is also ideal that these materials be provided in a variety of languages. In *KK v MM*, MM struggled to express her experiences to others because she did not know the words “domestic violence” or “abuse” in English.⁹⁶

Systemic Recommendations

Education about family violence and coercive control should also be mandatory for legal professionals. While S.B observed that most court staff and judges were helpful, it may be worth questioning whether the presence of a support worker itself affects how court staff interact with SRLs. In April 2023, Bill C-233, Keira’s Law, passed, amending the Judges Act to provide education on IPV and coercive control for federal judges. However, this education is not mandatory.⁹⁷ In Ontario, Bill 102 likewise establishes courses for judges on IPV and coercive control, requiring newly appointed judges to receive training from the Chief Justice. However, the Chief Justice is not required to create courses on IPV or coercive control. This

⁹⁵ Kaye, Wangmann & Booth, “*No straight lines*,” *supra* note 33 at 11.

⁹⁶ *K.K.*, *supra* note 64 at para 275.

⁹⁷ Joelle Seal, “‘A life sentence’: No escape from abusive relationships when navigating family court system, say victims” *CBC* (22 June 2023), online: <[cbc.ca/news/canada/saskatchewan/family-court-domestic-violence-saskatchewan-1.6881225](https://www.cbc.ca/news/canada/saskatchewan/family-court-domestic-violence-saskatchewan-1.6881225)>.

also doesn't apply to continuing judges.⁹⁸ These laws are insufficient. Education on IPV, family violence and coercive control should be mandatory education for all legal actors (e.g. lawyers, judges, mediators).

Coercive control should also be officially defined, either in the *Divorce Act* or in separate legislation. The *Divorce Act* tells legal professionals to look for “patterns of coercive and controlling behaviour” but does not define what this means.⁹⁹ Legal professionals thus often struggle to apply this standard, leading to its minimization or misinterpretation. For instance, in *Mane v Mane* (decided after the 2021 family violence amendment to the *Divorce Act*), the court dismissed the relevance of coercive control and family violence to decision-making responsibility and parenting time, forcing continued interaction between the victim and her abuser.¹⁰⁰

Moreover, while the tort of family violence was struck down by the ONCA, *Ahluwalia v Ahluwalia* is currently under consideration by the Supreme Court of Canada. As highlighted in Judge Mandhane's decision, existing torts do not adequately cover the pattern of harm encompassed by coercive control. The reliance on multiple existing torts complicates and fragments the legal process, an especially significant barrier for SRLs.¹⁰¹ The recognition of a tort of family violence would help increase access to justice for victim-survivors and acknowledge the economic impacts of coercive control on victim-survivors. However, tort

⁹⁸ Bill 102, *Strengthening Safety and Modernizing Justice Act*, 1st Sess, 43rd Leg, Ontario, 2023 (assented to June 8th, 2023) SQ 2023, c 12.

⁹⁹ *Divorce Act*, RSC 1985, c 3 (2nd Supp), s 16.

¹⁰⁰ *Mane*, *supra* note 88 at para 104.

¹⁰¹ Sowter & Koshan, *supra* note 36 at 342.

claims, just like most other legal proceedings, are expensive—pursuing a tort claim may not be an accessible goal for many SRLs. As such, legal aid should be expanded. As S.B. noted, many women make too much money to qualify for legal aid, but not enough to hire a lawyer. Expanding legal aid to account for these financial grey zones and reassessing eligibility criteria is essential. In this vein, the legal system does not operate in isolation from broader issues of social justice. Changes like more affordable childcare and housing are essential because they directly affect a woman's ability to leave abusive relationships and participate actively in legal processes. For instance, in *KK v MM*, MM recounts wanting to leave KK, but being unaware of community supports and unable to afford her own home, she ended up returning to his house.¹⁰² Without addressing these broader socioeconomic barriers, legal reforms alone cannot ensure safety for victim-survivors, particularly for those who are otherwise marginalized by race, immigration status, income or more.

More modestly, remote hearings should be an option for all family law cases, though not mandatory, as some SRLs lack the technical expertise or access to technology to successfully navigate a virtual hearing. Currently, family court hearings are already virtual in some regions, though judges have the authority to change the mode of any proceeding.¹⁰³ This prevents in-person intimidation, reduces the financial burden of frequent court appearances (e.g. transport, childcare, time off work), and lets judges see inside parents' homes if one parent is accusing another of providing a poor environment for children.¹⁰⁴

¹⁰² *K.K.*, *supra* note 64 para 347.

¹⁰³ Office of the Chief Justice, "Scheduling of Family Matters," *Ontario Court of Justice* (23 April 2024), online: <ontariocourts.ca/ocj/notices/scheduling-of-family-matters/>.

¹⁰⁴ Tucker, *supra* note 6 at 369.

Virtual hearings also allow judges to better control aggressive litigants. In *KM v JR*, the court registrar mitigated JR's belligerence by regularly turning his video and audio off, so witnesses could complete their answers without interruption.¹⁰⁵ Judge Pazaratz noted that this worked surprisingly well, even improving JR's skill as an SRL, since he used his time more wisely when he knew it was limited.

Finally, alternative justice models for family law courts might offer a less adversarial, less costly, and more accessible model for dispute resolution, that has the potential to reduce courtroom retraumatization.¹⁰⁶ Though often vaguely defined, it emphasizes that "justice and healing must be synonymous."¹⁰⁷ S.B discussed how many victim-survivors struggled to fit their lives within the parameters of a court case, and wanted to share their stories more freely. Restorative justice allows victim-survivors to tell their stories in a less restrictive and intimidating setting.¹⁰⁸ These processes also allow those involved to spend more time on solutions tailored to specific situations, unlike the solutions prescribed by

¹⁰⁵ *K.M. v. J.R.*, 2022 ONSC 111, at para 90 [K.M.]

¹⁰⁶ Most restorative justice models have their origins in Indigenous forms of dispute resolution in Africa and the Americas. Ubuntu, for instance, refers to African style conflict-resolution mediated by elders who are part of the community in conflict, and that prioritizes reconciliation over retribution. See also Susan Swaim Daicoff, "Families in circle process: Restorative justice in family law" (2015) 53:3 Family Court Rev at 433.

¹⁰⁷ Amrita Roy Chowdhury Majumdar, "Advocates Call for More Options for Justice for Sexual Violence Victims" *The Newmarket Today* (23 June 2023), online: <newmarkettoday.ca/local-news/advocates-call-for-more-options-for-justice-for-sexual-violence-victims-7184149>.

¹⁰⁸ Juliet Behrens, "Meeting the needs of victims of domestic violence with family law issues: The dangers and possibilities in restorative justice" (2005) 1:3 Intl J of L in Context at 225.

traditional law.¹⁰⁹ However, given its varied definitions and applications, it is more useful to study specific jurisdictions where restorative justice has been implemented than only in theory.¹¹⁰ In 2008, Judge Martha Mills launched a voluntary peacemaking circle process program in her Cook County, Illinois family law court, primarily involving low-income, unmarried, and self-represented parents.¹¹¹ The circle keepers (facilitators) described their process as one that involved not only the parties directly affected by the conflict, but others in their community to decide how to move forward constructively and respectfully.¹¹² Entire families, including children of an appropriate age, were able to share their perspectives on the situation, create new communication patterns, and hold each other to account.¹¹³ The circle-keepers and Judge Mills reported that the process reduced hostility and resolved cases that would have otherwise repeatedly returned to court.

Successful outcomes, however, do depend on the skills and knowledge of facilitators and judges.¹¹⁴ The application of restorative justice to cases involving family violence and coercive control also has great potential for abuse, especially as coercive control tends to be characterized by repeated apology and re-offending. The risk of post-separation abuse remains in restorative justice models, as well as the pressure for a victim-survivor to accept an apology, or reconcile with an abuser.¹¹⁵ Restorative justice is thus not appropriate for every situation, and should not replace traditional family law litigation.

¹⁰⁹ Daicoff, *supra* note 106 at 430.

¹¹⁰ Behrens, *supra* note 198 at 225.

¹¹¹ Daicoff, *supra* note 106 at 434; Behrens, *supra* note 108 at 225.

¹¹² Daicoff, *supra* note 106 at 433.

¹¹³ Daicoff, *supra* note 106 at 434.

¹¹⁴ *Ibid.*, at 436.

¹¹⁵ Behrens, *supra* note 108 at 224.

However, it still holds promise as a more affordable, accessible, and less retraumatizing approach to resolving family court matters that is worth considering.

VII. Limitations

Secondary source research and written judgments offer valuable insights but can never fully capture the lived realities of victim-survivors. Written judgments in particular often fail to reflect the emotional toll of violence and the undocumented aspects of abuse that victim-survivors face. This research also focuses on family violence and coercive control in relationships between cisgender men and women. For that reason, it does not fully address the experiences of LGBTQ+ individuals, and trans and gender non-conforming individuals in particular, who are uniquely vulnerable to violence, but encounter different patterns of abuse, systemic bias, and legal challenges. Finally, while the analysis touches on the role of immigration status and socioeconomic precarity, it does not comprehensively explore how intersecting factors such as race, disability, or Indigeneity shape access to justice or experiences of legal systems abuse. These intersecting identities can compound systemic disadvantage, influence how victim-survivors are perceived by legal actors, and further restrict access to meaningful legal recourse.

IX. Conclusion

This essay has explored how Ontario's family law system, particularly in cases involving self-represented women victim-survivors, can unintentionally reinforce and legitimize coercive control and legal systems abuse. Through an analysis of case law, interviews, and existing research, it becomes evident that legal structures and actors often uphold harmful myths about motherhood and victimhood that discredit the experiences of

victim-survivors. True justice requires not only changes to the way our legal system handles cases of IPV, but a commitment to broader social justice goals, so our legal system protects rather than punishes the most vulnerable. Without these efforts, family courts risk continuing to be a site where violence is frequently allowed and enabled rather than addressed.

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