

# THE EXPERIENCES OF SELF-REPRESENTED SURVIVORS OF INTIMATE PARTNER VIOLENCE IN FAMILY LAW COURTS

## WHAT ARE THE CENTRAL ISSUES FACED BY SELF-REPRESENTED WOMEN EXPERIENCING IPV IN FAMILY LAW CASES IN ONTARIO, AND WHAT CHANGES CAN BE IMPLEMENTED ON INDIVIDUAL, ORGANIZATIONAL, AND SYSTEMIC LEVELS TO PROVIDE MORE EFFECTIVE SUPPORT FOR THEM?

### 1. INTRODUCTION AND BACKGROUND

- Self-represented women in family law cases face barriers that impact their ability to achieve fair outcomes, particularly in cases involving intimate partner violence (IPV), family violence, and/or coercive control.
- The legal system is poorly equipped to address violence faced by self-represented survivors.
  - Stringent legal aid criteria means that many survivors can neither afford paid representation nor qualify for legal aid. For women who do qualify, the hours are insufficient to complete a case. Legal aid lawyers are also not well-paid, so few experienced lawyers take legal aid cases.
  - The adversarial nature of our court system means that women are forced to face, and sometimes even directly cross-examine, their abusers.
- Moreover, many actors in the legal system, like judges, operate under outdated assumptions about the nature of abuse and fail to recognize violence.
- The legal system is also vulnerable to exploitation by abusers looking to further control their ex-partners beyond the end of a relationship, taking advantage of common legal protocols like parenting schedules or child drop-off to further track and/or harass their victims.

### 2. KEY TERMS

- IPV = violence committed by current and former intimate partners like spouses or romantic partners against another partner.
- Family violence = violence committed by or against any family members.
- Coercive control = a form of family violence and IPV defined by patterns of abuse (e.g. isolation, surveillance, economic abuse, etc) that seek to control victims and instill fear in them, rather than isolated incidents.

### 3. THE NSRLP



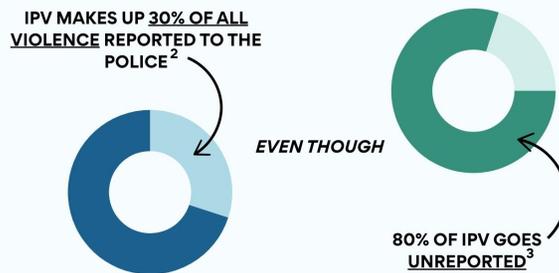
- The National Self-Represented Litigants Project (NSRLP) is advocates for “systemic change in the Canadian justice system to better meet the needs of self-represented litigants (SRLs).”<sup>1</sup> Scan the QR code to learn more.
- The purpose of this project is to identify structural and ideological barriers to justice for SRLs who are survivors of IPV and to develop potential strategies and practices to work toward eliminating these barriers.

### 4. METHODOLOGY

- Case law research: focusing on the Ontario Court of Justice and Superior Court of Justice, where the majority of cases involving family violence are heard.
- Secondary source research: to ground research in existing legal theory.
- An interview with a case worker at the Barbra Schlifer Commemorative Clinic, which offers legal services to women and gender diverse people who have survived violence: The interview provides firsthand insights into the practical challenges that self-represented survivors face.

### 5. SIGNIFICANCE

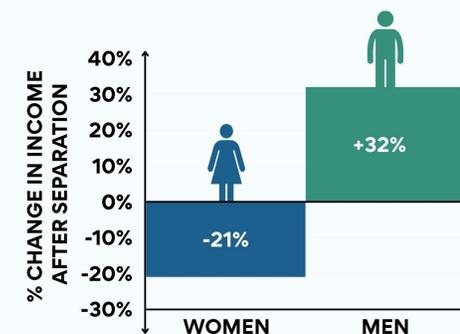
First, IPV is far more widespread than one might believe:



Second, there are many misconceptions about IPV that negatively affect self-represented survivors navigating the legal system.

MYTH	REALITY
<i>Women fabricate or exaggerate violence to deny their ex-spouses parenting time.</i>	Empirically, survivors tend to downplay abuse, and accusations of fabrication are rarely backed by evidence. Even with histories of abuse or absentee parenting, fathers are almost always granted parenting time, because the “best interests of the child” is often interpreted as maintaining contact with both parents. Fathers who abuse their spouses are still seen as capable of being good parents.
<i>If a woman really did experience violence, she would have left her partner the moment abuse began, and she would have the documentation to prove violence.</i>	Abusers often ensure that victims are unable to leave by hiding victims’ ID, controlling resource access, or alienating them from support systems. Abusers maintain tight control over victims, monitoring their communications or physically stalking them, so victims have few opportunities to actually record evidence. Moreover, victims tend to be marginalized women (e.g. newcomers) unfamiliar with Canadian law, and are doubly vulnerable to abusers, who may, for instance, threaten a victim’s immigration status.
<i>Separating partners ends violence, including any risks to children.</i>	Post-separation abuse is common, as abusers continue to harass victims psychologically and financially, taking advantage of their continued access to children to do so. There are, unfortunately, many cases in which separated fathers have used unsupervised parenting time to abuse children. <sup>4</sup>

In fact, while women are stereotyped as benefitting from divorce, particularly financially, women with dependent children see their incomes decline by 21% after separation, while the income of men with dependent children rises by 32%.<sup>5</sup>



Finally, structural factors create further barriers to justice and make some women particularly vulnerable to violence.

- Related to the myths mentioned previously, women struggle to present evidence in a manner that courts find convincing.
- Broader issues such as poverty, limited access to affordable childcare, un/underemployment, lack of affordable housing, etc... exacerbate all the aforementioned issues.

### 6. RECOMMENDATIONS

- The option for remote hearings in all cases. Virtual hearings reduce the financial burden of court appearances, allow judges to see inside homes, and reduce the in-person intimidation that abusers admit is a goal of repeated hearing requests.
- More funding for legal aid and settlement agencies, who are the first point of contact for new immigrants who are particularly vulnerable to violence.
- The exploration of alternative justice options, (e.g. restorative justice), in family court settings. Alternative justice allows survivors to bypass the retraumatizing and costly nature of traditional court proceedings. In criminal sexual assault cases resolved through restorative justice, survivors claim these models center the needs of survivors and focus on stopping cycles of violence.

References  
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