

All Eyes on the Family Court

A watchdog report from
The Backbone Collective

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Introduction

The overall purpose of the Backbone Collective is to enable women to tell the Government, the media, and the public about how the system responded to women when they experienced violence and abuse, and how they need it to respond in order to be safe and rebuild their lives.

Violence against women is everybody's issue; it goes against women and children's right to be safe and it impacts heavily on individuals, society and the economy. Therefore, when violence against women happens, New Zealand needs a response system that has the biggest and most positive impact on as many cases as possible. We need a system that holds abusers accountable for their violent/abusive behaviour and keeps victims safe by wrapping a joined-up system around them to do everything possible to reduce the immediate and long-term effects of the violence/abuse. If this was done we would not only reduce the incidence of violence against women (and their children) but reduce the incidence of many other linked social issues and reduce the economic costs.

Violence against women is a complex social issue and single 'bright ideas' will have little impact on reducing the prevalence or impact. People who have written about how to tackle complex social issues have said that often information is not available that helps us know what to do in order to fix the problem and so a continuous improvement framework is essential – that is, the system needs to listen to the people who use it (or who could use it) and make changes accordingly in order for it to operate efficiently and safely.

Our mission is to help promote continuous improvement of the system that responds to women when they experience violence and abuse by giving women a safe and anonymous way to share their experiences and insights. We believe the system is accountable for how it responds to women and in our effort to encourage accountability, Backbone will be:

1. running an ongoing series of secure, online surveys to collect anonymous feedback from as many women who have experienced violence and abuse as we can reach and presenting the voices of women in a collective way so no individual can be identified
2. acting as a watchdog of the Government, the legal system and all agencies working within the response system by conducting close-up assessments of specific issues that have bubbled up from communications we have had with our women members and by tracking and reporting on whether any action has been taken to address the problems already identified by the Backbone members or from other reports. We will release a watchdog report in between each survey report as a way to keep shining the spotlight on system failure and holding those in authority to account for ensuring the system responds safely and effectively.

The issue under the spotlight in this first watchdog report is **the Family Court**.

The Backbone Collective's approach to continuous improvement

The Backbone Collective is based on the model of continuous improvement proposed in The Way Forward report written by Backbone founders in 2015¹, where women who have experienced violence and abuse are able to:

- tell authorities about how the system works or doesn't work to make them, and their children, safer and help them rebuild their lives

¹ <https://library.nzfvc.org.nz/cgi-bin/koha/opac-detail.pl?biblionumber=4451>

- make complaints when the system is not responding appropriately in their case
- have input into the design, planning, evaluation and implementation of the system to ensure it best meets their needs.

This is in line with a 2012 Government Family Violence report² ‘Incorporating the Voice of Experience’ that states:

- *Ensuring the voices of service users are heard while planning, implementing and evaluating services and new initiatives creates increased opportunities for you to provide higher quality, and more efficient and accessible services.*
- *One of the most basic forms of service user involvement is having an effective complaints process. Service user complaints represent valuable information about recurrent problems.*

Unfortunately, continuous improvement processes have not been built into the system and there are no mechanisms to gather the voices of women who have experienced violence and abuse in an ongoing way.

The Backbone Collective has been set up to achieve this end; if we don’t hear from those most vulnerable how will we ever know where changes are needed to keep women and children safe.

Background

Prior to our launch, and as part of building the Backbone as a collective based on women’s experiences and needs, we ran a survey to ascertain some background information to help us build an appropriate organisation. As we explained in our first survey report³, the majority of women signalled a need for the Backbone Collective to enable them to speak out about what they need from the response system when they experience violence and abuse. Women also told us they do not feel that the current system keeps them safe and that most of the people they have dealt with when they reached out for help did not have an excellent understanding of their needs and experiences.

We asked women to identify which parts of the response system they would like us to prioritise in our surveys. The highest-ranking topic was the Family Court.

The Backbone Collective officially launched on 5 March 2017. We issued two media releases as part of that launch – a general one about the Backbone and a second one about the ways women and their children were being abused through and by the Family Court⁴. We spoke out in the media about how women were telling us that the Family Court was not keeping women and children safe and was forcing children to have contact and care by abusive fathers.⁵

² <http://www.msd.govt.nz/documents/about-msd-and-our-work/work-programmes/initiatives/action-family-violence/voice-of-experience.pdf>.

³ <https://www.backbone.org.nz/surveys/>

⁴ <https://www.backbone.org.nz/latest-activity/>

⁵ <http://www.stuff.co.nz/national/90056721/former-glenn-inquiry-head-starts-domestic-violence-watchdog-the-backbone-collective>; <http://www.radionz.co.nz/national/programmes/sunday/audio/201835486/the-backbone-collective-violence-against-women>; <http://www.radionz.co.nz/news/national/325873/family-courts-'failing'-abused-women> <http://www.radionz.co.nz/national/programmes/morningreport/audio/201835525/govt-set-to-overhaul-domestic-violence-laws>; <http://www.radionz.co.nz/national/programmes/morningreport/audio/201835534/govt-to-toughen-up-domestic-violence-law-amid-criticism>; http://www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=11812241;

On 6 March 2017, the Minister for Justice and Courts, Amy Adams was asked about our claims. Ms Adams said:

I think the justice system works very hard to do what it can, but is there room for improvement – absolutely which is why I kicked off a full review of the Domestic Violence Act and we had a very long and fruitful engagement process with the entire sector seeking views on how to improve that.

Perhaps the Minister sought views from across the sector but she has not sought the views from the thousands of women who experience the system response when they reach out for help or are forced into Family Court proceedings.

In the same interview the Minister said:

I think you will find that this government has said for a long time that we are going to look at this as an integrated system which is what the sector have been calling for for some time and we are going to look at every aspect of it from Police response to the Court response to the NGO response to supports for victims – the entire system.

We're also working on court processes, the way we support victims through the system, the way the judiciary gets information to support what they do. So, we're open and up for looking at every single aspect of that because we can do better.⁶

The women who have signed up to the Backbone Collective will have been pleased to hear that the Government is open and up for looking at every single aspect of the court processes and how they support women through the system. We are equally sure many (if not most) of the Backbone members will wonder what this Government has been doing to keep them and their children safe through the Family Court system during the last eight and a half years they have been in power.

Shining the light

Many women contacted us after the media articles via Facebook, emails, and phone calls to share their experiences of Family Court abuse. One after another they have told us how the system is failing to keep them and their children safe and giving us examples of extremely concerning failures in the Family Court system. We have no reason to doubt any of these stories as they have come from women throughout the country who do not know one another.

To learn more about what members were telling us we asked ten of these women (there are so many more) to write questions regarding the operation of the Family Court that they would most like to have someone in authority answer. The ten women came from different regions around the country and were not told who the other nine women were.

Seven of the ten women are currently in the Family Court. The other three were last in the Family Court between one to eight years ago. Four of the ten women have spent over seven years in the Family Court, five have been in the Family Court for four to six years and the remaining woman has currently been in the Family Court for between two and three years. The average number of applications made to the Family Court by one of the women is three and the average by their abusers is eight.

⁶ <http://www.radionz.co.nz/national/programmes/morningreport/audio/201835525/govt-set-to-overhaul-domestic-violence-laws>

These 10 women collectively submitted 160 questions for us to pass on to the necessary authorities via this Watchdog report. Their questions have been presented as they submitted them to us. Because we have presented all the questions there may be some expected minor duplication or inconsistency. We found a significant commonality in what the 10 women were saying in their questions - many women have experienced all or most of the issues highlighted in the other women's questions.

The questions were sorted by Backbone and divided into subheadings based on general themes and listed in no particular order. The subheadings were grouped into two categories. The first category outlines what appear to be the cause of the problems in the Family Court, and the second category highlights the consequences for women and children who have experienced violence and abuse who end up in the Family Court either by their own applications or defending those made by their abuser.

Part One –Problems at the core of the Family Court

- There is little or no independent and transparent monitoring of the Family Court
- Family Court practices and processes are failing to uphold basic principles of natural justice and due process
- There is cause for serious concern about the quality of the practice of (some) Family Court judges
- Some lawyers-for-child are putting children in more danger rather than keeping them safe
- Women's voices and women's complaints are not being used to inform change that would make the Family Court safer
- There are shortfalls in the legislation

Part Two – The consequences

- The rights of children are not being upheld in the Family Court
- Parenting arrangements - the rights of abusive fathers appear to trump the safety of children
- Mothers are being punished for trying to protect their children
- Women are being re-victimised and abused by the Family Court
- Violence and abuse is minimised by the Family Court
- The Family Court is being used as a tool of abuse by the abusive ex-partner/husband
- Protection orders are being watered down by the Family Court
- Family Court proceedings are forcing women into debt
- The Family Court does not recognise the impact of financial abuse on women and their children and respond appropriately

Staff at Backbone have written the introductory and explanatory text in this report to provide context to the women's questions but the essence of the report lies in their questions – questions they have asked on behalf of all women – questions they hope will be answered by the relevant person in authority – questions they hope will inform the continuous improvement of the Family Court system for all women, and their children.

We suspect these questions do not reflect all that's wrong with the Family Court - other issues are likely to be identified once our members read this report, as more women contact the Backbone after its release and via our upcoming survey on the Family Court. This report merely gives readers a taste of what women tell us about the abuse, malpractice and dangerous practices happening in Family Courts all around the country.

Next steps

We and the 400 members of The Backbone Collective expect a response to each of the questions contained in this report and responses will be published on our website along with time taken to respond.

The first step will be to ascertain who has the authority to answer each of the women's questions. The report and the 160 questions contained in it will be formally submitted to those in authority⁷, asking that they individually and collectively respond to the questions. If any questions are not within their authority to answer they will be asked to advise who the appropriate authority is and then ensuring that person/agency responds accordingly.

Within the next 4 to 6 weeks we will be releasing a survey report about the Family Court which will provide evidence about where changes need to be made based on many more women's experiences of the Family Court.

This Watchdog report and the pending Survey report will collectively send a strong message about how the New Zealand Family Court needs more than minor improvements – it needs a major overhaul if it is to achieve the objective of making women and their children in New Zealand safe and stop further abuse being done when they try and escape violence and abuse.

⁷ For example, Amy Adams, Minister of Justice and Courts, Laurence Ryan, Principal Family Court judge, the President of the Law Society, Chairperson of the New Zealand Psychologists Board

PART ONE – Problems at the core of the Family Court

There is little or no independent and transparent monitoring of the Family Court

Outline of the issue

The Family Court in New Zealand is a closed court. The reason for the private way it operates was originally to protect the people who used the court. No-one was being charged with breaking the law – a public matter (like in the District Court), the cases were of a ‘private’ nature – people’s personal relationships.

However, what Backbone members are telling us is that the closed nature of the Family Court allows it to operate without the usual (and legislated) checks and balances to ensure it acts fairly, safely and lawfully. The closed nature of the Family Court makes it difficult for media to report on cases, impossible for members of the public to scrutinise and dangerous for women to speak out about - as in doing so they are immediately identifiable and they are telling us that if they do speak out they are ‘punished’ at their next court appearance.

Violence against women thrives in silence. Women often do not speak out about the abuse they experience because they are fearful of the abuser’s response to that, they think they will be judged, they feel that no one will understand, they fear they will be punished by society. When women do speak out they are often in more danger from both the abuser and the system that should respond safely to them. Women are telling Backbone that the Family Court processes mirror their experiences of violence and abuse – its hidden – its secret, its threatening, it’s dangerous and no one else knows what is going on.

Abuse breeds in silence and when a woman stands up to it she is beaten down even harder. The same is true of the Family Court. It is a silent court and rife with abuse of power. If you complain the results are often that custody of your child is compromised. I have had a judge falsely accuse me of making unilateral decisions when in fact it is the father who is doing that. The father and his girlfriend have constantly badmouthed me to the child but the lawyer for child has ignored this. The child is now distancing himself from them emotionally and I am blamed for parental alienation.⁸

Women’s questions

1. Abuse breeds in silence. The family court is silent. Should the Family Court be more transparent to avoid abuses of power that happen in the court?

⁸ Quote from one of the ten contributors to this report

2. The family court operates in silence – without external scrutiny. Should the Family Court be more transparent to avoid abuses of power that happen in the court?
3. Why are family court judges allowed to remain completely unaccountable and lack any transparency with no checks and balances in the way they conduct the business of the Family Court? For example:
 - No public scrutiny
 - No media scrutiny
 - Judges “approve” and alter transcripts
 - Appeals are discouraged or legally impossible. Appeal courts not overturning unlawful family court decisions, high costs being awarded to the abuser, legal aid is not available and/or legal aid take longer than the legally allowed time limit to give a decision on legal aid
 - Complaints about those involved in the case eg lawyer for child, psychologist go to the presiding judge not to an external body
 - Expert witnesses who can refute court appointed specialists are either not permitted, or considered as partisan and their evidence dismissed.
4. How many more innocent lives will the current Minister of Justice allow to be deliberately damaged and compromised before we call an end to this misuse of power "behind closed doors"?
5. Who or what entity is responsible for:
 - ensuring the delivery of just and equitable outcomes within the Family Court framework?
 - the protection of the lives of vulnerable persons caught under the jurisdiction of the NZ Family Court?
5. Why is there no independent accountability process for the ‘professionals’ working within the Family Court system?
6. How can these ‘professionals be given these powers, which can destroy people? There are clinical psychologists in the system that should not be allowed to do this work.
7. Does the Family Court have any quality control processes to ensure access and custody rulings have not had a negative impact on the children concerned? If not, why not?
 - When the judge orders a child psychologist assessment about access and custody matters, is the child psychologist required to take into consideration the safety of the primary victim (usually the children’s mother), particularly during handover arrangements? If not, why not?
 - Would a counsellor or general practitioner, who might have an established relationship with the family be more suitable to advise the judge on such matters?
8. Why are Section 133 report writers (psychologists) in New Zealand being allowed to report on the best interests of the child within a framework of "parental alienation syndrome" where that "syndrome" is rejected by the international scientific community and does not meet Daubert standards (USA) nor international rules for a fair trial?

9. If a judge's decision results in more violence, no reduction in violence, or non-elimination of violence why should that decision form case law, when the case law will only cause more bad decisions to be made with an exponential increase in violence? Should the construct of case law apply in cases of family violence unless results are tracked and inbuilt into the case law?
10. Why are international practices, and research, which oppose violence against women and children, hold men responsible for their violence, supports the safe healing of women and children, outlines safe and respectful practices for professionals, and aligns with UN and WHO policies and protocols, discredited by the Family Court in Aotearoa New Zealand?
11. Why is there a huge disparity between UN recommendations, FVDRG reports and the application of law in the family court?
12. Why do the voices of abused mothers who have been through care and contact litigation not carry in the forming of Family Court practices and policies?
13. Why does the construct of caselaw exist when Family Court decisions are often the result of inadequate and unprofessional evaluations, poor ethics, gender bias and bullying tactics, and further, have no ongoing, follow-up process to monitor the effectiveness, impact or outcome of the decisions being imposed?
14. When are Family Court professionals (judges, lawyers, psychologists, child advocates, supervised contact centre staff and those who run programmes for children exposed to violence) going to be trained and assessed by experts independent from any government services or departments, and to UN standards?
15. The UN recommends that in order to ensure that officials charged with implementing legislation on violence against women fully adhere to their responsibilities, "Legislation should: Provide for effective sanctions against relevant authorities who do not comply with its provisions." How is NZ achieving this? In particular; *with respect to those key personnel whose individual authority determines whether women and children live violence free, autonomous lives or lives that are tortuous in every sense of the word particularly judges and police.*
16. Will the Government get an International expert, such as Lundy Bancroft, to investigate practices in the family court and wider system?
17. Given the collective experiences reported by the Backbone community, is the Minister of Justice willing to concede that something is seriously wrong with the current functioning of the NZ Family Court?

Family Court practices and processes are failing to uphold basic principles of natural justice and due process

Outline of the issue

Our legal system relies on the concept of people's right to natural justice being upheld. Natural justice is centred on two rules; the rule against bias and the rule of the right to a fair hearing. The women who have contributed questions to this Watchdog report have told us that they believe their

right to natural justice is not being upheld by the Family Court and they are experiencing bias, are not getting access to a fair hearing and are being made less safe as a result of their interactions with the Family Court.

Women's questions

18. How can high profile lawyers 'only' have access to the back offices of the FC and access highly confidential information from court staff which results in internal investigations by a minister office(recorded) yet no action is taken to further prevent more abuses of the justice system?
19. Why are there cases of men being granted protection orders based on perjury (proved) when there are many cases of women being refused protection orders even when there is evidence of abuse?
20. Why are so many judgments from the Family Court erring in facts?
21. Why is it my ex breaks court orders relating to contact yet is never pulled up on it when I have bought it up. He can turn up very late, not at all, not respond to texts. I wonder if the FC think I deserve this type of treatment? The kids certainly don't!
22. In the criminal court perverting the court of justice by lying to police of a judge carries a sentence of imprisonment of typically 3 years. However, in the Family Court there is no such penalty and perpetrators often lie. Why is this?
23. Why does the court not allow, or dismiss the evidence of, expert witnesses who can refute court appointed specialists?
24. Why do specialist reports carry so much weight when research increasingly shows the efficacy of this process is at best ineffective and at worst dangerous?
25. If mediation is used in cases where there has been violence or abuse what processes and protocols are in place for this to be done safely with no undue influence or intimidation by the abusive partner?
26. Why does the Family Court ignore the fact that disclosure is a process and occurs through actions and behaviours as well as verbal disclosures?
27. Why don't ex-spouses receive more severe penalties for failing to comply with court orders to provide documentation, when all they seem to get is a mild rebuke? They get away with blue murder.
28. If post separation, one parent is undertaking all things required of them and putting in ground work - real effort to improve their life and taking steps to heal and improve their situation (and they have evidence of this), while the other parent is only focused on attacking and winning and unconcerned with the fall out and damage done to children, why isn't that seen as evidence of their differing characters and priorities?
29. Nobody has the right to use intimidation, threats, or mind games to gain power over another person. The family court is this in action. I know of someone who many professionals have decreed over many years has a psychologically abusive ex-partner. He has used the legal system

for going on a decade to continue this abuse and recently his lawyer girlfriend was allowed to do the same in court as his approved McKenzie friend. It is well documented that his girlfriend has caused an extensive amount of conflict and it has been suggested that people who are legally trained are not usually approved as a McKenzie friend. The court permitting this has exacerbated conflict and emotional grief of the victim and so she has asked that the McKenzie friend be removed. If she is removed can the victim apply for compensation for the hurt and humiliation this has caused?

30. What are the processes and protocols for managing conflicts of interest within the family court?
31. If the lawyer for child (or child psychologist or any other professional engaged by the court) was friends with the abusive partner or his family, would that be a conflict of interest and would the individual concerned be stood down?
32. I understand that the Family Court is private and support people have restricted access. Is it acceptable to the Government that a victim attending the Family Court on her own is intimidated by a large gathering of her abusers' friends and family gathering outside the family court? If not what procedures and protocols are in place in Family Courts throughout New Zealand to ensure that the victim is able to feel safe when she is entering and leaving the court on her own?
33. Is it common practice in the Family Court for court officials (lawyer for each party, lawyer-for-child, judge, court staff) to have documentation clearly marked as not for the clients to see that contains information about both parties that each have separately disclosed to their lawyers? If so this suggests that family court lawyers are sharing confidential information without the consent of their client.

There is cause for serious concern about the quality of the practice of (some) Family Court judges

Outline of the issue

The justice system in New Zealand is based on the Westminster System which holds judiciary independent from the government. Therefore, judges are not accountable to the government or its agencies. The Westminster system is supposed to have built-in checks and balances to protect the system from judicial bias, corruption, and inefficiency. That relies mainly on the media's ability to report on proceedings or public access to court hearings. Unfortunately, there is very little public or media scrutiny of the Family Court as most of its workings happen behind closed doors.

Women in the Backbone have reported that the Family Court judges hold all of the power and in some cases the judges are acting with bias against the women and denying them the right to a fair hearing. Women have talked of being abused in court by Family Court judges and being terrified of making a complaint against judges whom they believe will punish them for that action. When women do complain about any matter pertaining to the Family Court their complaint is merely referred back to the judge concerned.

Women's questions

34. Are the Minister of Justice and the Principal Family Court judge aware of the serious damage currently being inflicted upon the innocent and vulnerable by the callous and indifferent actions of the NZ Family Court Judiciary?
35. How does the MOJ determine the suitability of prospective Family Court judges?
36. Why do Family Court judges continue to align with the concept of parental alienation, despite its being discredited internationally, in addition to having its roots in paedophilia, its failure to consider the impact of violence and abuse on women and children, and its overt gender bias?
37. How can a Family Court judge be removed from a case then re instate themselves, when Head of Bench, family court staff along with JCC tell you no they are removed? (Proof in writing and recorded conversations of this having occurred)
38. Why aren't judges more accountable? In my case the judge refused to make my ex-husband answer to the very extensive property portfolio that I found in his name. The poor or unbelievably discriminatory decisions by judges set us on a very expensive path to failure. The judicial commissioner just brushes us off and an expensive appeal is out of the question
39. Why is it a common practice in New Zealand that Family Court judges are not held accountable for their decision even if they have a negative impact on those who have been victims of family violence ie the mother and children?
40. Why do judges enable court personnel, such as psychologists, lawyers and lawyers for children to breach their professional code of ethics and practice notes, commit perjury and avoid providing evidence of their credentials?
41. Why are judges ordering FC lawyers to submit shorter affidavits and submissions when (a) judges admit to not reading the file before a hearing and (b) identifying and arguing patterns of abuse over the course of years, including coercion and legal abuse, by nature, require lengthy affidavits and submissions?
42. Why is it that the High Court of NZ has criticised the same two to three Family Court judges over and over again and in a number of recent decisions the High Court has criticised a number of orders made by Auckland Family Court judges, describing them as "offensive" and "inconsistent with the Care of Children Act.
43. I regularly hear of judges screaming at court users. This is verbal abuse. Why is it allowed to happen in our court?
44. Who is responsible for ensuring that judges hold true to their Judicial Oaths?
45. The UN recommends that "training be provided in close consultation with non-governmental organizations and service providers for complainants/survivors of violence against women." Please explain how Family Court judges in NZ are trained in close consultation with genuine representation from complainants/survivors of violence against women? How do authorities then assess whether Family Court judges are making decisions in accordance with said training?

46. Why do women often hear: “no, leave that bit, you don’t want to upset the judge” or “think very carefully about appealing, judges don’t like being appealed, it will go against you” ? Why are appeals discouraged, and made incredibly difficult to achieve?
47. What provisions (if any) does the Ministry have in place to prevent judges acting as "agents" for individuals with histories of abusive and controlling behaviours?
48. Why are judges able to refer to violence as “conflict”, “a dispute”, “an argument” a “toxic relationship” or similar minimisations?

Some lawyers-for-child are putting children in more danger rather than keeping them safe

Outline of the issue

In Family Court cases a judge often appoints a lawyer-for-child who is an independent lawyer and whose role is to represent the views of the child. Backbone members have shared with us how the lawyer for child in their cases has often caused more harm than good. Their criticisms have been based on experiences of lawyer-for-child failing to understand or report the impact of violence and abuse on the child, not meeting with the child, not fairly, safely or accurately representing the child’s views to court or colluding with the abuser, specialists or other counsel who are involved in the case.

Women’s questions

49. Is it right that a lawyer-for-child whose only qualification is law is responsible for making life changing decisions for someone else 's children?
50. What qualifies the lawyer for a child to represent our children's best interest during every single Family Court case when in fact the lawyer for a child never had any education in children's development, child psychology, early childhood education and education for children whatsoever as their field is law?
51. Why are there many instances where the lawyer for child appointed by the Family Court is exposed to be lying to the court?
52. Lawyer for child frequently refuses to include reports from specialists and professionals. Does studying the law qualify the lawyer-for-child to be an expert in these other fields meaning they do not need to refer to other experts?
53. How can lawyer for a child determine what's in the best interest of the child without meeting their clients and at least having a conversation with the child who they are representing? Why is it so irrelevant to hear the voice of our children?
54. Are children permitted to view, or have the contents of the reports that lawyer for child writes about them disclosed to them? Do they have the right and the means to challenge the content if they believe it is not accurate or representative of what they expressed? Why are family court lawyers and particularly lawyers for child not required to show competence in their understanding of the dynamic of family violence?

55. Are judges obliged to respond to complaints from children about lawyer for child, and to remove said lawyer for child if the child requests, with valid evidence, a new lawyer to represent them?
56. How can a model that claims to put children at the front of decision making, force them to engage with lawyers they do not know, do not trust and do not feel safe with?
57. My child's lawyer rang the psychologist before my visit (ordered by the judge) and told him that I was not in touch with reality. Is this acceptable practice?
58. Why are children forced to see the lawyer for child alone? Why is any fear children have of doing this minimised by judges?
59. At every meeting, I have had with the lawyer assigned by the court to act for my young daughter, he has talked to me about sex, or made some reference to his sexual exploits. I then have had to leave my young daughter alone with this man. I should not have to. This behaviour is not acceptable to me, yet despite raising my concerns with court staff nothing is done. Is this acceptable to a government and a legal system that says it protects children and if not what can I do about it?
60. Why are children not provided with a range of options for having a voice?
61. What is the expected code of conduct for the lawyer for child?
 - Is Lawyer for Child required to be impartial and treat both the abuser and victim with equal respect?
 - Is Lawyer for Child required to meet the child's primary caregiver (usually the victim) prior to any hearing in the Family Court.
 - Is Lawyer for Child able to question the victim in court or are they required to gather all evidence prior to the court hearing?
 - Is the Lawyer for Child permitted to ridicule, intimidate, or otherwise make the victim feel unsafe or uncomfortable during the Family Court hearing?

Women's voices and women's complaints are not being used to inform change that would make the Family Court safer

Outline of the issue

As we said in the introductory sections of this report, the voices and complaints of those who use the system are extremely important to continuous improvement. If we have clear complaint processes and other means women who have experienced the system can hold it accountable and be part of influencing change if the system is failing in any way.

Women have told us that there is no opportunity for them to tell those in the system, government, judiciary, and the executive where the system is failing and what would make it work better. Women have told us that if they complain they are seen as being obstructive and difficult and they feel at much greater risk of being harmed by the Family Court system – it is simply not safe for them to complain.

Women's questions

62. What should women do when they and their children are not treated in accordance with the law and human rights and guiding principles of family violence by judges? By lawyers? By doctors? By the education system? By supervised contact centres? By psychologists? By counsellors? By social workers? By police?
63. If victims complain, what should they do when they and their children are not treated in accordance with the law and human rights and guiding principles of family violence by the bodies that are supposed to watchdog these people and organisations. By Judicial Conduct Commissioner? By Law Society? By Health and Disability Commissioner's Office? By PHOs? By Ministry of Education? By ANZASCS? By Children's Commissioner's Office? by IPCA? By Ombudsmen's Office? By HRC? By Privacy Commissioner's Office? By Department for Courts? By Psychologists Board?
64. How many complaints has the MOJ received (within the past decade) alleging the failure to protect the rights of vulnerable persons by members of NZ Family Court Judiciary and how many have been upheld?
65. How many complaints (over the past decade) has the MOJ received alleging criminal fraud facilitated within Family Court by a member of the NZ Judiciary and how many have been upheld?
66. The Minister of Justice invited me to make submissions on the injustices of the Family Court system. How does this specifically help me and the thousands of other victims who have been in the legal system for decades? Will the results end up in some backroom office, ignored? What will happen to these submissions if the government changes?
67. I have been brushed off by every authority I have complained to about my treatment in the Family Court - some several times over and I find that I am not alone. Some don't even bother to reply or lose your correspondence. Do the authorities see that a core aspect of natural justice is for women who have experienced violence and abuse to have clear and effect complaints mechanisms, to be heard and treated with dignity when they complain, and to have their issues resolved quickly?

There are shortfalls in the legislation

Outline of the issue

Legislation, decided by Government determines the basis for activity in the Family Court. The judiciary must implement or apply the law in a way that upholds the parties' rights to natural justice. Backbone members have told us that the legislative frameworks their cases are decided under do not 'talk to each other' in way that makes them or their children safer. We are hearing over and over again that The Domestic Violence Act promises safety and protection from abusers but that this is being undermined by the Care of Children Act which trumps women and children's safety with rights of fathers to have contact with the children. On 15 March 2017, the Minister of Justice and Courts, Amy Adams announced that a new Bill is being introduced to the House to reform the Domestic Violence Act 1995 and she says that it will be "a core part of reducing New Zealand's

horrendous rate of family violence”.⁹ That is yet to be seen...and Backbone will provide a submission on the Bill. However, women are telling us that there are serious issues with our current legislation and how the law interacts and is implemented.

Women’s questions

68. Why has NZ not criminalized VAW except for discrete acts of some physical and sexual violence that meet the criminal standard for assault or sexual assault? For example, why is coercive control not criminalized? Given that NZ has the worst rate of family violence in the developed world and coercive control is the defining feature of most of family violence, how can it remain decriminalised If this government is actually committed to reducing family violence?
69. Why does legislation use language that minimises violence, often through the use of gender-neutral terminology, and language which enables the perpetrators of violence to avoid responsibility for their actions? UN and WHO have both signalled a gendered approach to violence. Why does the legislation not reflect this?
70. Why does NZ’s legislation make provisions for survivors of violence to be criminally charged for protecting themselves and their child/ren? (S78 Care of Children Act)
71. UN recommendations are clear that survivors should be protected, not victimized further by the system and that the best way to protect children is by protecting their mothers. Why therefore does NZ legislation provide, “in the best interests of the child” for child survivors to be uplifted by force and taken from a place of safety and forced into somewhere unsafe? (S73 Care of Children Act / S39 CYFS Act)?
72. Why are care and contact arrangements for children and their mothers who are victims of violence decided under the same legislation as children and women where violence is not involved?
73. Why does NZ’s legislation not prioritise VAW legislation over other legislation as recommended by the UN?
74. Why does the application of guardianship law override family violence law child and adult victims forced to stay where the perpetrator knows where they live?
75. Why does the legislation provide for parenting orders to be made that weaken or negate protection orders? (S19(2)(e) Domestic Violence Act means that any contact made by the perpetrator in accordance with the parenting agreement is not a breach. So if the judge has ordered phone contact, is not a breach of the protection order the perpetrator can ring the victim 20 times in a day to speak to his child.
76. Why does NZ legislation provide for women to be criminally charged for fraud from government agencies like WINZ and Housing NZ when a violent man insists on being in her home? If a perpetrator is using coercive control to come to a victim’s home and stay there for periods of time even if the victim has asked him to leave, Government agencies will charge the victim with

⁹ <https://www.beehive.govt.nz/release/family-violence-laws-introduced-parliament>

fraud for being in a “relationship” instead of triggering a family violence investigation resulting in the perpetrator being kept away from the victim.

77. Why does the legislation provide that the guardianship rights of a violent man must be upheld without considering whether and how he is upholding his guardianship responsibilities?

PART TWO – The consequences

In Part One we provided 75 questions from women regarding the structural aspects of the Family Court that are putting women and their children in more danger when they experience violence and abuse. In Part Two we will outline the consequences of those structural issues on practice within the Family Court. The questions contained in Part Two of the report indicate that there are significant and dangerous outcomes for women and their children if they become involved with the Family Court. Many of the questions in the following sections are particularly concerning and warrant urgent investigation by those in authority.

The rights of children are not being upheld in the Family Court

Outline of the issue

New Zealand is bound by international and domestic law to protect the rights of children and hold safety of children as a paramount (the most important) consideration. The law also clearly spells out that children's safety should be the system's number one priority. However, Backbone members are continually telling us that in their experience the Family Court is not upholding and protecting children's rights to be safe or be heard.

Women's questions

78. Why is contact imposed over a child's objections, and why are children forced into therapy with a parent they are afraid of and who has abused them?
79. Why are children forced into contact which they don't want but their opinions are continually overridden and contact enforced by warrant if necessary?
80. Is it acceptable to have a teenager asking over and over again not to live with a parent as they find them abusive, only to be ignored in Family Court? And is it right that the effect on this is that the teenager ended up wanting to kill themselves, ending up in A&E and consequently missing long periods of school?
81. Amy Adams recently quoted as saying "the underlying rationale still remains, which has always and continues to put the safety of children right at the forefront of decision-making". Please explain why my daughter has a range of psychological injuries as a direct result of decisions made in the Family Court? Please explain why her father's "rights" have always been considered as paramount to her human rights including her right to live free from violence.
82. Why are children often deemed incapable of knowing what they want and need and believe is best for themselves at any given time? Why does the Family Court insist on taking away the personal power of children who have already had their personal power removed through being abused?
83. Is it acceptable that the Family Court:

- forces children to spend time with the criminal convicted fathers even when they refuse to?
 - fails to listen to, or take into account children's choice, wishes, and decisions?
 - fails to have representation about the children's psychological trauma and mental health caused by witnessing domestic violence situation not been represented?
84. When the Family Court has evidence of supervised contact providers falsifying records, why are they not held accountable?
85. Why does the Family Court abuse children to punish “non-conformist” mothers – i.e. mothers who are protecting their children?
86. What do I tell my daughter when her father calls her fat, thick and useless knowing there is nothing I can do to help her as the Family Court didn't believe me when he abused and ridiculed me plus refuse to listen to her?
87. Why does the Family Court not ensure that young children who have witnessed their father assaulting mum receiving adequate counselling?

Parenting arrangements - the rights of abusive fathers appear to trump the safety of children

Outline of the issue

As we outlined under the Legislation heading, Backbone is hearing repeatedly that The Domestic Violence Act promises safety and protection from abusers but that this is being undermined by the Care of Children Act 2004 which trumps women and children's safety with rights of fathers to have contact with the children. Women are telling us their experiences of abusive fathers being awarded contact regardless of their histories of abuse, the child/ren's wishes, and the danger to the child and the mother. This section has the greatest number of questions reflecting the level of concern we are hearing from women about the ongoing harm to their children.

Women's questions

88. When the children have witnessed their father abusing their mother should the severity of the domestic violence and the effects of this on the children be considered by the judge considering parenting arrangements? Should the judge put the father's rights before the emotional and psychological well-being of a child in these situations?
89. Why are there not automatic provisions in legislation excluding a rapist guardianship rights to a child resulting from his rape? What evidence would be required by the court that the child was the result of a rape given the very low reporting and conviction rates of rape, especially rape occurring within a relationship?
90. In a case where the father has been convicted of family violence offences, should the children who have been victims be forced to spend time with their abuser/their father?
91. Should the Family Court be responsible for making sure that parenting orders will not cause further trauma and distress?

92. Why our children's emotional and psychological well-being not considered when parenting orders are being made?
93. Is it acceptable that a Family Court judge ignores the fact that a teenager is pleading repeatedly not to be forced to live with his father, that the court appointed child psychologist quits the case and the lawyer for child heavily criticises the process after fighting hard for the child wishes to be upheld – fully or partially? Is it of concern that, in the same case, the lawyer-for-child made a comment to the family's lawyer "I don't have any friends in the family court at the moment" (meaning judges). How wrong is this that people within the legal system know they can't really fight for justice unless they are ok to be outed by their peers?
94. Does the Government's family violence risk assessment framework include any guidance on the risk of violence and abusive parents (usually men) having access to or shared custody of their children after separation? If not, why not?
95. Why are the rights of criminally convicted fathers considered more paramount than our children's rights to feel safe all the time, every time?
96. Why do Family Court judges appear more concerned about the rights of a father who has been found guilty in the criminal court for domestic violence common assault of the mother in front of the children and on the children that the rights of the victims of that violence – specifically the children?
97. Why are abusers wants put ahead of the health, wellbeing and healing of children?
98. Does the Government have any policies, guidelines or legislation detailing how child access with an abusive and violent parent can be managed in a way that is safe for the victim parent and her children – for example:
- Should the abusive parent be allowed access to see the child at the victim parent's house without a support person or a supervisor present?
 - Should the victim parent be able to choose to have access handover undertaken by a third party so that these has no contact with the abusive ex-partner?
 - If not, is it up to individual judges to make a ruling on such matters?
 - Are there are policies, guidelines or legislation that judges are required to follow in making such decisions?
99. Whose responsibility is it to determine whether it is the best interest of the child to spend time with the criminal fathers before any counselling services been available for the children running the risk of further psychological issues in the children?
100. Why does the Family Court judge:
- refuse to discuss, fail to intervene, and fail to remove a child from his father's care when:
 - the father admits to court appointed experts that he has given their child drugs and alcohol?
 - the child begs to be removed from his father's care even if this means him being placed into foster care?

- experts and lawyer-for-child express extreme concern?
 - look to blame the mother for this situation and request the mother have a physiological assessment even though the court orders prevent her from having any unsupervised contact with the child?
101. Why does the Family Court claim to operate from a “Best interests of the child model” which is highly subjective and therefore creates an opening for judges and other court personnel such as psychologists to follow their own preferences and prejudices?
 102. Why do mothers have to fight in the Family Court to try to keep their children safe from further physical and mental abuse even after the father has been found guilty of domestic violence in the criminal court?
 103. Why does the Family Court make sure that the father's rights are paramount compared to the child no matter how traumatised the child is by experiencing family violence?
 104. Who is accountable for the horror this is all causing? What will happen if our son is to be removed from his home? At this stage, he does not know what is happening.
 105. When the lawyer-for-child is aware that the child has witnessed their father abusing their mother should they be responsible for recommending to the judge that the child be referred to appropriate professional services?
 106. Why does the court advocate for shared care when Mother Nature doesn't? In the animal world mothers care for their young and even in a normal household one parent typically has a lot more care than the other. Why are you not at least upholding the status quo for the child? As you say it is in their best interests the status quo is upheld?
 107. The Family Court often say that beating, raping, psychologically abusing his partner/mother of his child does not make a man a bad parent. Does the Family Court acknowledge that when a man abuses his (ex)partner/mother of his child, he is actually making a parenting choice?

Mothers are being punished for trying to protect their children

Outline of the issue

Backbone members are often mothers and are forced into the Family Court proceedings either to defend applications made by their abuser or in an effort to proactively protect their children. Research currently available states very clearly that when children witness (they don't have to see it directly to be a witness) violence from their father against their mother they are harmed in the same way, and have the same long term damage, as if they were abused directly.

Mothers who have contacted us are shocked to find that when they try and protect their children from ongoing harm, trauma and abuse they are punished, denigrated (put down) and accused of trying to alienate their children from their father. Their attempts at protecting the children are ongoing, come at a huge financial and emotional cost to themselves and sadly are often unsuccessful.

Women's questions

108. Why is it mothers who fight to protect their children are deemed obstructive and mothers who do not are deemed neglectful?
109. Why are mothers criticised and threatened for their concern that the abuser will abuse the children in similar ways to his abuse of her? Both research and clinical experience indicate strongly that a high proportion of abusers re-create key aspects of the abusive style that they use with the adult partner in their relationship with their children after the relationship has ended.
110. Why do courts accuse the woman of being obstructive, and threaten to remove her children from her care when she is traumatised by having to face the man who abused her?
111. Why should women who experience violence and abuse reach out for help when no one is listening, when lawyers and judges don't understand domestic violence?
112. Why does the Family Court place no value on the relationship between mothers and their children or value the role and importance of the mother-child relationship in the healing of children subjected to abuse?
113. Why are mothers threatened with losing the care of their children if they attempt to protect their children and fight for what the children say and demonstrate they want?

Women are being re-victimised and abused by the Family Court

Outline of the issue

Women's experience of violence and abuse can leave them with ongoing symptoms of trauma and physical and emotional conditions. Backbone members are stating that their experience in the Family Court mirrors the abuse they experienced from their abusive ex-partner. They feel, controlled, frightened, terrorised, put down, silenced and punished for speaking out about the abuse. They have told us about bullying, intimidation, fear, stand over tactics, power, control and coercion being used by individuals within the Family Court system and of feeling trapped. This suggests that those working in the Family Court have adopted the same attitudes, beliefs and controlling tactics as the abusers.

Many of these women tell us the Family Court process is re-victimising them because they are forced to have ongoing contact with the person that abused them and are directly abused by the court as well. The trauma has a detrimental impact on their lives and on their children.

Women's questions

114. We are victims in this situation, so why are we treated as aggressors, hostile witnesses, and tellers of tales by the court, lawyers and the police etc when we are just seeking what is rightfully ours. This is stressful and intimidating?
115. Why do courts further abuse and victimise women by forcing them to come face to face with the person who abused them?

116. Why does the court make me ongoingly attend appointments with my abuser?
117. Why are women who find it traumatising to have to come face to face with their abuser traumatising (for example due to requirements of the parenting order) deemed to be “difficult” “obstructive” uncooperative” “incapable of co-parenting”?
118. Why is it that the Family Court proceedings can re-victimise women who have been the victims of family violence – where a woman can be forced to relive the abuse during a criminal court case and then forced to relive the abuse during multiple hearings in the Family Court – to a point where perfectly healthy women end up with depression and other mental illness as a result?
119. Why is it that the ex-abusive partner and his lawyer can use bullying other intimidation tactics that wouldn't be allowed in a court hearing during a roundtable meeting ordered by the Family Court?
120. Why does the Family Court actively prevent women and children from healing from the abuse they have been subjected to, and/or place their access to the support to heal in the hands of the abuser?
121. Why are trauma informed responses not the standard?
122. Why does the Family Court not pay careful attention to the physical and emotional safety of children and their mothers and to the need for a life context that supports recovery from trauma?
123. Why are mothers blamed for children being afraid or uncomfortable to speak?
124. Why are there cases of Family Court judges personally sending their judgments into the community (to the school, police, local kindy, refuge), identifying the woman involved and claiming a traumatised woman is vexatious and abusive?
125. How can a judge send a very personal judgement with lots of details like medical records to the children's school for all staff to read? children privacy totally breached as some teachers are also local parents?
126. The domestic violence brochure in the Family Court describes psychological harassment - legal harassment falls under this category does it now?

Violence and abuse is minimised by the Family Court

Outline of the issue

Violence against women is a serious issue that has an enormous impact on women and children's lives in New Zealand. Our current legislation describes domestic violence as including physical, sexual, psychological and financial abuse and that an act or a pattern of behaviour can result in domestic violence. If children are forced to see or hear violence or if someone puts the child at real

risk of seeing or hearing domestic violence then that too is considered to be abuse.¹⁰ However, women are telling Backbone that their accounts of violence and abuse are not understood and are being minimised or dismissed by those working in the Family Court. It is commonplace for abusers to minimise and deny their abuse and blame the woman for it - women are telling us the Family Court is doing the same thing when they explain or report the abuse they and their children have suffered.

Women's questions

127. Why does the Family Court minimise the violence and abuse that women and children experience, often suggesting, claiming, arguing that the violence is situational, therefore placing a portion of responsibility with the victims and survivors of abuse instead of placing responsibility with the person who commits the abuse?
128. Why are allegations of violence treated as fabricated or exaggerated when there is an obvious lack of a thorough and sophisticated investigation process due to a lack of adequately trained evaluators?
129. Are couples referred to mediation if one of the parties divulges that there has been violence or abuse in the relationship? What evidence test is used to make this decision?
130. If mediation is not used for family violence situations what is the alternative approach and what processes and protocols are in place to manage this safely?
131. Why does the Family Court minimise at best and ignore at worst, coercive control, and its damaging impact on women and children?
132. I thought it was illegal to hit a child under the NZ law? If a parent admits to court they are hitting the child and can't guarantee they would stop, then why is there no intervention and it is ignored when in writing?
133. Why is it that men attending Family Court who admit to abusive and criminal behaviour that has not previously been dealt with in the criminal court, are not referred to the criminal court by the Family Court judge?
134. Is it possible that the tendency Family Court judges have of downplaying the risk of further harm to the woman and children is getting transferred to the criminal courts? For example, in one case man charged with domestic violence assault was bailed to the same small town where his victim lived and the day before he was due to appear in the criminal court he killed her in front of their child.

¹⁰ <http://www.legislation.govt.nz/act/public/1995/0086/latest/DLM372117.html>

Family Court is being used as a tool of abuse by the abusive ex-partner/husband

Outline of the issue

For many women who are trying to escape the violence and abuse through separation, the Family Court becomes the abuser's new weapon of abuse and control. Many women are telling us that their ex-partner (particularly if he is wealthy with unlimited financial resources, or connections) file relentless applications with the Family Court relating to Care of Children as a way of punishing her and the children and keeping them under his control.

Women have told us they are trapped in a cycle of numerous Family Court cases spanning many years – some for more than 12 years.¹¹ These women are financially ruined through the cost of legal representation. Indications are from what women tell us that many of those working in the Family Court actively create further conflict or 'feed' existing conflict with their actions and judgements. Women tell us that court officials (particularly lawyers) are not paid to shut down conflict - they are paid more when conflict is not resolved as cases continue to cycle through the Family Court with one fixture/hearing after another.

Women's questions

135. Why does NZ's legislation have provisions to enable and encourage coercively controlling men to use the legislation/the system as a tool to continue their campaign of coercive control? Specifically, S16 CoCA for example not allowing child and adult victims to move to a town where she feels safe and has support networks, or not allowing child/ren therapy to overcome the violence, or not allowing the child to be schooled where or how they wish).
136. Why are men permitted to, and supported in, using the system to maintain an ongoing form of relationship with the survivors of their abuse?
137. Why is someone allowed to harass you through the family court when domestic violence has already been noted on police files? Is this allowing perpetrators to continue their abuse?
138. Statute law states under the Care of Children Act says that custody matters must be settled in a timely manner. People spend years in the family court. The evidence suggests that the practise of the court is in breach of statute law is it not?
139. Why are women being kept in the Family Court system for up to 12 years where under legal aid, the tax payer ends up funding many of these cases?
140. How many times do you consider the maximum a victim/survivor of family violence should be required to attend a Family Court fixture?
141. How many hours do you consider the maximum that a victim/survivor of family violence should be required to attend to Family Court matters (preparing submissions, attending court, lawyer's meetings, police complaints, giving evidence, travel etc)?

¹¹ Some of the women who have spoken to Backbone and have already been in the Family Court expect to be trapped there until their youngest child turns 16 years of age.

142. How many years do you consider the maximum that a victim/survivor should be required to engage with Family Court processes?
143. What policies, procedures or mechanisms are in place to limit the number of times women are required to defend applications made to the Family Court by their abusive ex partner/husband?

Protection orders are being watered down by the Family Court

Outline of the issue

The Domestic Violence Act 1995 makes it possible for women to receive protection from an abusive person she is in a close personal relationship with, if there is a balance of probability that violence and abuse has occurred and she is in need of protection. There is the capacity for women to apply for an order themselves although most do not as the application process and writing and filing of affidavits is complex. Women who do apply for Protection Orders do this without notice, which means they apply for protection from the court without the abusive person's knowledge – because if he did know about the application she would be in more danger. Women are telling Backbone that Protection Orders are not being granted at all or are being put on notice (the abuser gets served with her application and affidavit before a ruling is made). In addition, many women have told us that when a Protection Order is granted, the children are not protected under it as the parenting orders are taken to supersede the Protection Order. Women are saying that Protection Orders are not keeping them or their children safe.

Women's questions

144. Why are parenting orders permitted to override protection orders, often forcing women into direct contact with the perpetrator, and placing 'protected' children in unsupervised contact with the perpetrator of abuse against them?
145. When a Family Court judge makes "further orders" which are clearly in breach and contravening pre-existing Protection Orders who or what entity is responsible for ensuring that the Protection Orders are upheld?
146. Why is the discharge rate of protection orders so high when research shows that violent men are resistant to change?
147. Why are judges discharging protection orders when they are aware of breaches?
148. Why are breaches only considered a breach if there has been a conviction relating to that breach?
149. Why are so many abusers able to get off breaches because the judge deems the 'breach' to be minor or reasonable?

Family Court proceedings are forcing women into debt

Outline of the issue

Backbone has heard from women who are forced into ongoing Family Court proceedings, to respond to a steady stream of applications made by their abuser or to protect themselves and their children, are forced to borrow vast amounts of money to pay for legal counsel or being forced to defend themselves. Many women are unable to get legal aid and are financially ruined by the proceedings. The debt is having serious impact on their and their children's livelihood. Some women are forced to attend court hearings unrepresented as they can't borrow any more money to pay for a lawyer and yet they are forced to defend applications made by their abuser.

Women's questions

150. What should a VAW survivor do if she cannot get legal aid? Or can get legal aid but cannot find a lawyer available, willing, and competent to take on her case?
151. Why are there women being not only refused legal aid when they meet the eligibility requirements but who are then being financially ruined with legal bills up to NZ\$500,000?
152. What does the minister propose to do to attract more lawyers to become legal aid providers given the severe shortage of legal aid lawyers? (Legal aid lawyer paid NZ\$120/hr whereas can earn up to NZ\$1000 per hour with most private lawyers/Barristers between NZ\$240-500 per hour).
153. How is it that someone in a long-term marriage, eg 31 years to a wealthy man, ends up with nothing and a half million dollars of legal bills?
154. The Minister of Justice, Amy Adams, told me I can relitigate but how does she expect me to do this when I am financially bereft, psychologically stressed and understandably have no faith in the system? I have been unable to find a pro bono lawyer to work for me!
155. Why don't you bring in arbitration like the employment court so people are paid a set amount and can't manipulate their fees?
156. If you truly believed in the best interests of the child and wanted what was best for the family you would write into orders that parents hire a family therapist and give them decisions making power to remove the financial and emotional grief caused by the family court. When are you going to allow this to be written into parenting orders?

The Family Court does not recognise the impact of financial abuse on women and their children and respond appropriately

Outline of the issue

The Domestic Violence Act was amended in 2013 to recognise financial or economic abuse as a form of domestic violence. However, it is not only when women are in a relationship with an abuser that he can use financial abuse to control and punish her. The Backbone is hearing from many women how abusers use the Family Court as a tool to financially ruin them. As noted in previous sections

their abusers file prolonged and multiple applications over many years. Unfortunately, this strategy is not seen as vexatious litigation and therefore the Family Court allows this behaviour to continue – often for many years. Women wonder why financial abuse is listed as a form of psychological abuse in the Domestic Violence Act 1995, but the Family Court continues to sanction, and some would suggest promote, financial abuse via vexatious and repeated litigation by their abusers.

Women's questions

157. On separation, many women and children end up in a lifelong poverty cycle. Why is financial abuse such a taboo subject, never tackled by the media and basically ignored by the family court? If it was brought to the fore and dealt with severely it would not exist.
158. Should I as an older woman having separated after a long marriage to a wealthy man have to do an exhausting full time job because I ended up with no assets from my marriage after a property settlement case in the Family Court?
159. Women not only need help with their bruises and a bed for the night. Why are women who alleged financial abuse not given the services of an independent forensic accountant, as the biggest perpetrators of matrimonial fraud are businessmen, financiers and accountants/liquidators?
160. Is it acceptable to Government that if a woman escapes a violence and abusive relationship that the abuser can remain in the family home, while the victim and the children have to be housed elsewhere and the abuser can withhold all furniture and belongings – refusing to enter into any negotiations about sharing the relationship property?
- Is the victim's only option to apply to the family court?
 - If so, what does the Government see is a reasonable timeframe for settling matrimonial/relationship property cases in the family court?
 - What support can the victim expect to receive from the public sector if she and her children are unable to live in their own home because of violence and abuse and if the abuser is refusing to hand over any of their possessions?

Conclusion

We trust that the experiences and insights the ten Backbone members have used to create the questions in this report will be treated with the respect they deserve. Individually and collectively these questions are cause for serious alarm. These ten women's questions provide a lived reality of what is happening in New Zealand's Family Courts. New Zealanders should be extremely alarmed by the questions these women are asking. Those responsible are urged to act quickly, positively, and constructively to respond to these questions and to assure all women who have experienced violence and abuse that these matters will be investigated and reported on transparently and thoroughly.

Perhaps the most concerning system failure signalled in these questions is the failure to protect children. We are all left wondering 'who is responsible if a Family Court judge rules, despite the evidence from the mother, that a child must have contact with their abusive father and that child is then harmed (physically, sexually or psychologically)?'

There is no monitoring, no follow-up, and no safety checks after such a ruling has been made to ensure these children are not harmed. Mothers are forced to go it alone into battle against the Family Court juggernaut and their abuser to help lift their child/ren to safety. This is a national disgrace and *someone must be held responsible*.

There have been calls for an independent inquiry into children harmed while in state care in New Zealand Children harmed while under arrangements forced on them by the courts are surely also the state's responsibility? The state is responsible for their safety if the state ordered the situation?

It is fitting that the final words are from one of the 10 women who contributed so generously to write the questions for this report:

[My experience in the Family Court] has been overwhelming, multitudinous and all quite unnecessary. Like many of us involved long term with the court we are psychologically spent and have paper everywhere. Often, we are afraid to open emails and letters.¹²

¹² Quote from one of the ten contributors to this report