

Impact case study (REF3)

Institution: Brunel University London		
Unit of Assessment: 18 Law		
Title of case study: Domestic Abuse, Child Arrangements and the Family Courts		
Period when the underpinning research was undertaken: 2014 to 2020		
Details of staff conducting the underpinning research from the submitting unit:		
Name(s):	Role(s) (e.g. job title):	Period(s) employed by submitting HEI:
Dr Adrienne Barnett	Senior Lecturer in Law	01/2014 – present
Period when the claimed impact occurred: 2014 to 2020		
Is this case study continued from a case study submitted in 2014? N		

1. Summary of the impact (indicative maximum 100 words)

Dr Barnett's research has had significant impact on law, policy, professional and judicial practice and attitudes as well as the public discourse, and hence improved the judicial outcomes and experiences, and increased protection for, survivors of domestic abuse and their children. It shaped the Domestic Abuse Bill 2020 banning cross-examination of victims by their abusers in family court proceedings, and underpinned the UK Government Plan to improve family court protection for victims of domestic abuse and children. *Women's Aid* based their 2016 report and campaign around Dr Barnett's research, and *Rights of Women* employed her expertise for their campaigning work and publications. Her research on parental alienation, which exposed the harmful use of this concept in the family courts in England and Wales, has benefitted individual victims of domestic abuse and improved the practices of family court professionals. Dr Barnett has trained over 260 judges, lawyers and other family law professionals on court proceedings involving allegations of domestic abuse.

2. Underpinning research (indicative maximum 500 words)

Dr Barnett researches family and child law, including family law proceedings that are tainted by parental alienation (PA), a process which its proponents describe as a child becoming hostile towards one parent due to the psychological manipulation by the other parent. At the core of her research is the investigation of contemporary practice in family court cases involving domestic abuse. This is necessary because for many years there have been hostile responses in many jurisdictions globally towards the focus on domestic abuse in child arrangements cases, which recently have emerged in the form of accusations of PA.

At Brunel, Dr Barnett began conducting research in the areas in which she had seen an extremely large number of unsatisfactory cases during her time at the Bar, where she practiced for over 30 years prior to joining Brunel. She published a series of articles between 2014 and 2020 (Ref. 1; Ref. 2; Ref. 3; Ref. 4; Ref. 5) on domestic violence, child contact cases, and parental alienation. Although domestic abuse is a prevalent factor in family law cases, relatively little research has looked into the practices and perceptions of judges and professionals who often ignore or minimise domestic abuse, which puts children and victims at risk.

Dr Barnett's research identified that allegations of domestic abuse were rarely investigated. There was insufficient understanding of the scope and seriousness of domestic abuse by judges and professionals, particularly of coercive and controlling behaviour. Where alleged perpetrators

Impact case study (REF3)

were unrepresented, victims of domestic abuse could be cross-examined directly by their abusers. Risk was inadequately assessed or not assessed at all, and judges and professionals prioritised contact between children and non-resident parents even in proven cases of domestic abuse, resulting in unsafe contact arrangements. Mothers seeking to restrict contact between fathers and children who opposed such contact were accused of PA even in circumstances of domestic abuse and were at risk of losing custody of the children to the abuser. The research results revealed the benefits that arise when family courts and professionals gain a better understanding of domestic abuse and take it seriously, thereby reducing the risk to children and resident parents (Ref. 1; Ref. 2; Ref. 3; Ref. 4).

Dr Barnett's most recent research has been to examine PA in England and Wales. She undertook a review of all reported and published judgments and contextual material over the past 20 years, which was published in an article in 2020 (Ref. 5). This is the only research undertaken in England and Wales that examines PA in the context of domestic abuse. Subsequently, Dr Barnett was commissioned by the Ministry of Justice (MoJ) to undertake a review of the literature on domestic abuse in private law children cases, for the MoJ's inquiry into domestic abuse and other risks of harm in the family courts (Ref. 6). The literature review was also incorporated into the MoJ harm panel's main report, which contained recommendations for fundamental changes to the family court process.

3. References to the research (indicative maximum of six references)

Ref 1. Barnett A, 'Contact at all costs? Domestic violence and children's welfare' (2014) *Child and Family Law Quarterly*, 26(4), 439-462

Ref 2. Barnett A, "Like Gold Dust These Days: Domestic Violence Fact-Finding Hearings in Child Contact Cases (2015) *Feminist Legal Studies*, 23 (1), 47-78 [10.1007/s10691-015-9278-4](https://doi.org/10.1007/s10691-015-9278-4)

Ref 3. Barnett A, 'Family Law Without Lawyers – A Systems Theory Perspective' (2016) *Journal of Social Welfare and Family Law*, 39(2), 223-245 [10.1080/09649069.2017.1306355](https://doi.org/10.1080/09649069.2017.1306355)

Ref 4. Barnett A, "Greater than the mere sum of its parts": coercive control and the question of proof' (2017) *Child and Family Law Quarterly*, 379-400

Ref 5. Barnett A, 'A genealogy of hostility: parental alienation in England and Wales' (2020) *Journal of Social Welfare and Family Law*, 42(1), 18-29 [10.1080/09649069.2019.1701921](https://doi.org/10.1080/09649069.2019.1701921)

Ref 6. Barnett, A. *Domestic abuse and private law children cases* (2020) Ministry of Justice [Domestic abuse and private law children cases \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

4. Details of the impact (indicative maximum 750 words)

Although domestic abuse is taken seriously in criminal, civil and public law jurisdictions, it is still side-lined by family courts. The situation faced by survivors of domestic abuse in family courts is often worse than the abuse itself to the extent that many survivors say, if they had known how bad it was going to be, they would have chosen to stay with their abusers. It has been an ongoing challenge to change the perceptions and practices of family courts and any attempts repeatedly face opposition from others.

Dr Barnett's research challenges this, and it has led to changes in law, improved judicial and professional training practices, supported lawyers in their legal practices and contributed to greater public awareness of the detrimental experiences of children and victims of domestic abuse in the family courts.

Impact case study (REF3)

1. Impact on domestic abuse campaigns and practices

a. Rights of Women

In 2014, Dr Barnett was invited to join the Advisory Group of Rights of Women (ROW), as the only academic member. ROW is a national charity that provides free legal advice to over 2,000 women annually (equivalent to approximately 12,000 women in total during the assessment period) and campaigns for law and policy to meet women's needs, with a focus on domestic abuse. The Government regularly consults ROW on issues relating to domestic abuse and the family courts.

Dr Barnett's research (Ref. 1) showed ROW how to provide women survivors of domestic abuse with more accessible legal information, enhance their campaigning and support for women survivors of domestic abuse, and help bring domestic abuse into the public domain. This was particularly relevant in light of the fact that legal aid underwent severe cuts in 2013. The Senior Legal Officer for ROW confirmed that ROW was able to "produce essential legal guides for women survivors of domestic abuse involved in court proceedings; encourage courts and policy-makers to recognise the risk posed by domestic abuse to children and women survivors involved in family court proceedings; provide a detailed response and recommendations to the Domestic Abuse Bill consultation" (E2). Between 2014 to date Dr Barnett's research outputs "have helped support and inform [ROW's] work on improving law and policy for women survivors in the context of family law" (E2).

b. Women's Aid: Child First Campaign

In 2008, the President of the Family Division issued Practice Direction 12J (PD12J) which stipulates best practice for courts in child arrangements and contact cases where allegations of domestic abuse are made. Even though it made significant improvements to existing practices, a campaign initiated by Women's Aid in 2016 revealed that fundamental problems remained.

Women's Aid invited Dr Barnett to join the Expert Advisory Group to the Child First Campaign in 2016, given her extensive research in the area. The Policy and Research Officer for Women's Aid, stated, "I just wanted to let you know how useful your research has been. We used your work to help inform the report [*Nineteen Child Homicides*] and we have quoted from your 2014 article *Contact at all costs?*" (E3; E4). In Women's Aid's subsequent report, the then President of the Family Division described *Nineteen Child Homicides* as "a valuable report on an important issue which I take very seriously" (E5). The Shadow Justice Secretary referred to the report as "urgent and important work [which shows] that a culture of 'contact at all costs' has unfortunately arisen in our family courts" (E5).

The Child First campaign led to 5 significant amendments to PD12J which changed court practice in domestic abuse proceedings and reduced the risk of harm to children and victim parents (E6). The success of the campaign has transcended legal and policy circles. The dangers of coercive control were highlighted in the media, and in December 2016 the story of Helen and Rob's coercively controlling relationship in *The Archers* graphically brought the issue to wider public attention. Between 2016 and 2019, Women's Aid have supported 1,037,436 women and children who were victims of domestic abuse. From 2017 to 2020, in addition to her work with ROW and Women's Aid, Dr Barnett also trained over 260 judges, family lawyers and child welfare professionals to highlight the problems that survivors experience at court and to understand and implement the law effectively.

Impact case study (REF3)**2. Changing judicial and professional attitudes and practices: The Ministry of Justice Inquiry into Domestic Abuse and the Family Courts**

In a historically unprecedented occurrence, Dr Barnett's work with ROW and Women's Aid paved the way to the biggest shake-up to the UK family courts in history, from the point of view of victims of domestic abuse. In 2019 alone, 266,059 new cases started in family courts (E13). These included 54,920 private law Children Act cases, with allegations or findings of domestic abuse in approximately 50% of cases (E8). From October to December 2019 alone, the private law Children Act cases saw 20,966 children involved, equivalent to approximately 84,000 children annually (E13).

In May 2019, in response to calls to improve the family courts' response to domestic abuse, the MoJ announced an inquiry into how the family court protects children and parents in private law children cases involving concerns about domestic abuse and other serious offences (E8). To assist the inquiry, the MoJ commissioned Dr Barnett to review the available literature on these issues (Ref. 6). The review was published separately, in full, alongside the MoJ's final report on the assessment of the risk of harm to children and parents in private law children cases (E8). Dr Barnett's findings showed that abuse is systematically minimised, leading to traumatic court processes; inadequate assessment of risk and unsafe child arrangements, with allegations being ignored or disbelieved; children left unheard; abusers exercising continued control through repeat litigation.

Following the MoJ's report and Dr Barnett's review, the government immediately announced a "major overhaul of family courts to protect domestic abuse victims" (E9). The Justice Minister said: "This report lays bare many hard truths about long-standing failings, but we are determined to drive the fundamental change necessary to keep victims and their children safe" (E9).

The government's implementation plan contains 12 major reforms designed to reverse the long-standing, systemic issues underpinning family court practice and improve the experiences of and outcomes for victims of domestic abuse and children in the family courts. The Justice Minister confirmed, "The Domestic Abuse Bill...will enable us to make some of the immediate changes called for in the Panel's report, alongside other measures which will help to ensure that victims have the confidence to come forward and report their experience" (E1). He says, "this Implementation Plan sets out the immediate changes we are making in response to the panel's report, including prohibiting the cross-examination of victims by perpetrators and alleged perpetrators of abuse, and legislating to give victims of domestic abuse a presumption of eligibility for special measures in the family court" (E1). The changes were approved at the Bill's 3rd reading in the House of Commons in July 2020.

The amendments made to the Bill were a direct consequence of Dr Barnett's previous work with Rights of Women and Women's Aid, as the 'Child First' campaign set in motion the proposition to prohibit alleged abusers from cross-examining their victims. Benefitting from Dr Barnett's research, both organisations contributed to the original Domestic Abuse Bill to ban direct cross-examination of victims of domestic abuse by alleged perpetrators (E2, E7). The Bill is currently backed by GBP35,000,000 to support victims and their children – with an additional GBP76,000,000 announced in May 2020 to support vulnerable victims during the Coronavirus pandemic, including victims of domestic abuse and sexual violence (E1).

The changes occasioned by the report and literature review were widely heralded in the national media as the most sweeping overhaul of the family courts to protect victims of domestic abuse. The Huffington Post reported that: "A major overhaul of family courts is underway after a report

Impact case study (REF3)

found domestic violence was ‘systematically minimised’ and allegations often ‘ignored, dismissed or disbelieved’. ...The findings have prompted ministers to pledge a raft of ‘sweeping’ reforms, including committing to carrying out an urgent review of ‘pro-contact culture’ and laws which presume that a parent’s involvement in their child’s life is beneficial” (E10).

3. Parental alienation

Dr Barnett’s most recent research into parental alienation (PA) (Ref. 5) continues to unearth the necessity to make fundamental changes to the family courts. To date, Dr Barnett provides the only study on PA and domestic abuse in England and Wales, which was solely instrumental in bringing this issue into the legal and public domain. It was picked up by *The Independent* in January 2020 (E12) which hailed it as ‘first-of-its-kind research’ and reports that Dr Barnett’s study “has become part of a “shrewd rhetoric” in custody battles involving children, including those who suffered domestic abuse” (E12). The article has been reproduced in Italian and Australian newspapers and reported on the websites of approximately 8 solicitors, 3 Australian law firms, and domestic abuse organisations internationally. A barrister wrote that: “Dr Barnett’s recently published research on parental alienation has been a revelation to me in confirming the problems that I have encountered in the family courts. I fully intend to utilise her research on parental alienation in my cases” (E11). Barnett has received over 50 emails from victims of domestic abuse accused of PA on 3 different continents who have said how much her article on PA helped them.

5. Sources to corroborate the impact (indicative maximum of 10 references)

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- E1** Ministry of Justice, *Assessing Risk of Harm to Children and Parents in Private Law Children Cases Implementation Plan* (June 2020)
- E2** Letter from Rights of Women, 9 January 2020
- E3** Email from Women’s Aid, 13 January 2016
- E4** Women’s Aid, *Nineteen Child Homicides* (2016)
- E5** Women’s Aid, *Child First: a call to action on year on* (2017)
- E6** President of Family Division circular: Practice Direction PD12J – Domestic Abuse, 14 September 2017
- E7** Email from Women’s Aid, 5 January 2017
- E8** *Assessing Risk of Harm to Children and Parents in Private Law Children Cases*, Final Report (Ministry of Justice, 2020), [Assessing risk of harm to children and parents in private law children cases - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/news/major-overhaul-of-family-courts-to-protect-domestic-abuse-victims)
- E9** Major overhaul of family courts to protect domestic abuse victims, UK Government Press Release, 25 June 2020, <https://www.gov.uk/government/news/major-overhaul-of-family-courts-to-protect-domestic-abuse-victims>
- E10** Major Overhaul Of Family Courts As Report Finds Domestic Abuse 'Systematically Minimised', Huffington Post, 25 June 2020, https://www.huffingtonpost.co.uk/amp/entry/family-courts-overhaul_uk
- E11** Letter from Barrister, 18 March 2020
- E12** Domestic abusers winning time with children by accusing mothers of parental alienation, study finds, Independent, 21 January 2020, <https://www.independent.co.uk/news/uk/home-news/domestic-abuse-parental-alienation-family-courts-brunel-study-a9294726.html>
- E13** Family Court Statistics Quarterly, England and Wales, October to December 2019 including 2019 annual trends, [Family Court Statistics Quarterly, England and Wales, October to December 2019 \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)