

**Constructions of Gender and Power: South African Mothers' Experiences of Intimate
Partner Violence and Family Court**

By

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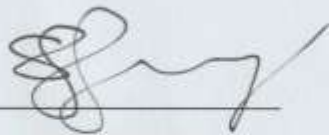
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February 2025

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DECLARATION

I declare that "Constructions of Gender and Power: South African Mothers' Experiences of Intimate Partner Violence and Family Court" is my own work and that all the sources that I have quoted have been indicated and acknowledged by means of complete references.



SHARON HARVEY

28 January 2025

DATE

Acknowledgements

This dissertation honours each and every victim of intimate partner violence. I hope that you know that you are not alone; and that this research can create some positive effect for you and your children. To the women who shared their personal experiences. You have all shown tremendous resilience and bravery in your personal and court experiences, and the role that you play in fighting gender-based violence through your contribution to this research.

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Abstract

Divorce and intimate partner violence, or domestic violence, have been well researched; however, the experiences of mothers' post-separation, and specifically during Family Court processes, in the context of domestic violence, has been less well-reviewed. Mothers' experiences of domestic violence after leaving abusive partners, and their post-separation experiences with Family Court, are for the most part poorly understood.

This study aimed first to explore South African mothers' experiences of Family Court processes in the context of intimate partner violence; and second, to explore the social constructions of gender and power in the context of Family Court and intimate partner violence, post separation. This qualitative study was underpinned by a social constructionist paradigmatic framework and a critical postmodern feminist theoretical approach. Participants were recruited using purposive and snowball sampling. Data was gathered until saturation using semi-structured face-to-face interviews and analysed by means of discourse analysis. Throughout the research process all ethical considerations were adhered to. The study found that mothers experienced ongoing abuse after separation and perceived the Family Court system as unsupportive and inadequate in addressing issues related to family violence, financial maintenance, and children's court matters. These systemic failures mirrored the dynamics of the abusive relationships. The research uncovered dominant discourses related to gendered narratives, dismissed safety concerns, and a perceived lack of knowledge or competence among experts and decision-makers regarding family violence, coercive control, and economic abuse, leading to long-term emotional and psychological trauma for the mothers and their children. These findings suggest the urgent need for systemic reform and a deeper understanding of the complex challenges around gender power imbalances that surround the Family Court system.

Keywords: Domestic Violence; Intimate Partner Violence; Systemic Abuse; South African Family Court; Mothers, Gender Equality; Power; Post-separation; Postmodern Feminist Theory; Discourse Analysis

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CHAPTER 1: INTRODUCTION

Happily ever after, a Western folklore phrase of an idealised love, is a rare occurrence in today's society, with between one-half and two-thirds of marriages ending in divorce (Mortelmans, 2021). This statistic does not include the number of unmarried, cohabiting couples and those in non-heteronormative relationship configurations who separate (Mortelmans, 2021). As a result of the increased rate of relationship dissolution, there has been an influx of families into the Family Court system, not only for divorces but also regarding care and contact (custody) disputes concerning minor children, maintenance, and domestic violence (Hall & Richter, 2018).

Domestic violence (DV) is considered a social ill that is significantly prevalent globally, as well as in South Africa, where an estimated 40% of women in Sub-Saharan Africa have experienced intimate partner violence (IPV) in the course of their lives (Domestic Violence Act No 116, 1998; Gass et al., 2011; Izugbara et al., 2020; Muluneh et al., 2020). Domestic violence can present as: physical and/or sexual assault, psychological abuse, social abuse and or financial abuse (Ashraf et al., 2017; Postmus et al., 2020; Spiwak & Brownridge, 2005; Stratemeyer, 2021). Domestic violence is often a precursor to ending a relationship or separating from an abusive partner, in societal narratives, *should* be the logical step for the abuse to cease (Stoever, 2019; Summers, 2022). However in reality, abuse often escalates at the time of separation from an abusive partner (Spearman et al., 2023; Stark & Hester, 2019; Stoever, 2019., Zeoli et al., 2013). Multiple studies have found that separated women were significantly more at risk for IPV at the time of their separation (John et al., 2020; Rezey, 2017; Rivera et al., 2012a; Smye et al., 2021; Stoever, 2019; Varcoe & Irwin, 2004; Zeoli et al., 2013).

Previous studies have comprehensively addressed the subject of divorce (Braver et al., 2016; Mahon & Moore, 2011; Mikolai & Kulu, 2018; Mortelmans, 2021), including the effects of divorce on children (Bertelsen, 2021; Broadhurst & Mason, 2017; Harwin et al., 2018; Martínez-Pampliega et al., 2021; Mol, 2019; Nilsen et al., 2020), issues of Family

Court (Alstott, 2009; Banda & Eekelaar, 2017), care and contact (Fitzpatrick et al., 2019; Themistocleous, 2017), father's rights (Richter & Morrell, 2006), children's rights (Claasen & Spies, 2017), parental alienation (von Boch-Galhau, 2018) and divorce mediation (Stratemeyer, 2021). Research has also been done on the pertinent issue of domestic violence and intimate partner violence (Hunter et al., 2018; Stratemeyer, 2021; Tuon, 2021). Studies have also considered the effects of domestic violence on children and at how domestic violence perpetrated against a close family member can have negative effects on the child witnessing such abuse (Douglas & Walsh, 2010; Namy et al., 2017; Zeoli et al., 2013).

While I do not wish to negate the experiences of fathers and am fully aware that domestic violence takes place within all types of social, economic, educational, racial, and religious backgrounds, and occurs in heterosexual as well as in non-heteronormative relationships (Badenes-Ribera et al., 2019; Ezelote et al., 2021; Rollè et al., 2018; Sanger & Lynch, 2017), mothers' lived-experiences of domestic violence after leaving abusive partners, and their post-separation experiences with Family Court, are for the most part, poorly understood (Callaghan et al., 2018; Ellis & Stuckless, 2000; Humphreys & Thiara, 2003b; James-Hanman & Holt, 2021; Khaw et al., 2021; Smyth & Moloney, 2019).

In addition, there is a dearth of literature regarding the above in a South African context, which is necessary and pertinent given the prevalence of violence, specifically violence against women and children in the South African context (Jamieson et al., 2018; Mathews et al., 2016; Muluneh et al., 2020).

In view of the above, this study undertook to explore South African mothers' lived experiences of domestic violence and of navigating Family Court processes when separating from a partner with whom there has been a history of intimate partner abuse. Due to the gaps in the extant literature, there was an interest in the lived experience of mothers after leaving abusive partners, particularly regarding their post-separation experiences of Family Court. This study delves into the specific interactions inherent in intimate partner violence

and the resulting impact on Family Court processes in the wake of divorce or separation. The study further explores the social constructions of gender and gendered power dynamics in the context of IPV and Family Court. By exploring these issues, the research aims to unearth areas for further investigation and work towards instituting efficacy in the handling of intimate partner violence in family court matters.

Background and Key Concepts

The physical and legal separation of a relationship are both life-changing occurrences that have been shown to have major implications on the health and well-being of the affected parties (Bertelsen, 2021; Duffy, 2015; Smyth & Moloney, 2019). Divorce and separation effects each member of the family, but particularly children (Andrew & Segun, 2019; Eyo, 2018; Haimi & Lerner, 2016; Hunter et al., 2018; Mortelmans, 2021; Smye et al., 2021; Themistocleous, 2017), and, where coupled with domestic violence, can have catastrophic consequences (Duffy, 2015; Ford-Gilboe et al., 2009; Jaradat, 2018; Smye et al., 2021; Varcoe & Irwin, 2004; Wuest et al., 2003).

For many mothers, the continued abuse of both them and their children is a significant concern when leaving their abusive partners (Elizabeth, 2017; Wilson & Daly, 1993). Furthermore, studies have shown that the combination of physical and legal separation bring about the highest risk of being killed by an intimate partner (Maluleke, 2018; Mathews et al., 2015; Monckton Smith, 2020; South African Government, 2020). In fact, the most identifiable feature in the prediction of an imminent homicide are said to be relationship separation and an escalation in controlling behaviours from former partners (Campbell & Wasco, 2000; Dekel & Andipatin, 2016; Kelly & Johnson, 2008; Monckton Smith, 2020).

Gender-based violence was exacerbated during the Covid-19 pandemic (Ali & Rogers, 2023; Bright et al., 2020; Campbell, 2020; Dlamini, 2021; Lyons & Brewer, 2021; Neetu et al., 2020; Piquero et al., 2021; Sharma & Borah, 2020; Usta et al., 2021; Wood et al., 2021; Zhang, 2020), which was suggested to have increased “pre-existing social norms and gender inequality” (Dlamini, 2021, p. 585).

While intimate partner violence, or domestic violence, have been well researched (Hunter et al., 2018; Stratemeyer, 2021; Tuon, 2021); research focusing on the specific interactions inherent in intimate partner violence and the resulting impact on mothers' experiences in Family Court processes has been less well covered.

Domestic Violence

Looking at both global and local statistics, it is evident that DV is prevalent (Ali & Rogers, 2023; Gass et al., 2011; Onditi & Odera, 2021) and widely experienced. It is a matter of concern (Coker, 2001; Dragiewicz, 2014; Houlgate, 2017; John et al., 2020; Onditi & Odera, 2021; Wesely et al., 2000), not only locally but provincially, continentally and globally (Global Domestic Violence Numbers, 2021). Globally, the likelihood of experiencing IPV in one's lifetime ranges from 22% in high-income countries to 33% in the World Health Organisation (WHO) Africa Region (World Health Organisation, 2021).

From a South African perspective, "gender-based violence in South Africa is unacceptably high" (South African Government, 2020; Stats SA, 2018; The National Development Plan, Chapter 12, 2012, p. 395). According to The National Strategic Plan on Gender-Based Violence and Femicide (South African Government, 2020), "South Africa holds the shameful distinction of being one of the most unsafe places in the world to be a woman" (p. 2). Despite several social awareness campaigns, such as The 16 Days of Activism for No Violence against Women and Children Campaign, The Warrior Project and the Stop Gender Violence Campaign; gender-based violence (GBV) poses a major challenge in South Africa, where according to recently released data from Statistics SA, South Africa has one of the highest rates of IPV in the world (South African Government, 2020, p. 2). Data indicates that a significant proportion of women across various provinces in South Africa have experienced domestic violence, with the highest rates being over three quarters in Limpopo (77%), over half in Gauteng (51%), nearly half in the Western Cape (45%), and over a third in KwaZulu-Natal (36%). A high proportion (78%) of men in Gauteng and 41% of men in KwaZulu-Natal, 48% in Limpopo and 35% in Western Cape admitted to

having perpetrated acts of violence against women in their lifetime (Enaifoghe et al., 2021, Gender Links, 2015).

Stark et al. (2019) describes DV, or IPV, as being “gender neutral” (p. 9), including same-sex (Rollè et al., 2018; Rossi et al., 2022), and female-to-male intimate partner violence (Hine et al., 2020; Machado et al., 2020; Martin, 2016; Turner et al., 2017). IPV is not only prevalent in married heterosexual relationships, but occurs in unmarried, cohabiting same-sex and heterosexual couples (Rollè et al., 2018; Rossi et al., 2022). While males are also victims of domestic violence (Hine et al., 2020; Machado et al., 2020; Turner et al., 2017), statistics, reflect that IPV is most frequently perpetrated against women, by men (Fulu et al., 2013b; Kaur & Garg, 2008; Sardinha & Catalán, 2018), particularly in South Africa (Boonzaier & Van Niekerk, 2018; Frade & de Wet-Billings, 2019; Gass et al., 2011; Jamieson et al., 2018; Machisa et al., 2017; Mathews et al., 2015; Mazibuko & Umejisi, 2019).

Domestic violence can present as; physical or sexual assault, psychological abuse, social abuse and or financial abuse (Ashraf et al., 2017; Postmus et al., 2020; Spiwak & Brownridge, 2005; Stratemeyer, 2021). It can take the form of physical aggression, assault or the threat thereof, or any other controlling or domineering behaviour, intimidation, stalking, passive/covert abuse (such as neglect) or economic deprivation (Ezelote et al., 2021, p. 82). Ezelote et al. (2021) defined domestic violence as a “pattern of abusive behaviours by one’s partner against another in an intimate relationship such as marriage, dating, family or cohabitation” (p. 82). In the book *Understanding Violence Against Women* (Onditi & Odera, 2021), the term gender-based violence is defined as “Violence that is directed at an individual based on his or her biological sex or gender identity” (p. 339).

Consistent with the extant literature and various legislation, domestic violence, domestic abuse, intimate partner abuse, intimate partner violence, and family violence are used interchangeably, and refer to physical, psychological, sexual, financial, and emotional abuse or control that occur in families (Douglas & Walsh, 2010; Hackbarth, 2018; Kelly &

Johnson, 2008; Postmus et al., 2020; Tuon, 2021; Zeoli et al., 2013). In line with both international and South African literature, and taking into account society's improved understanding of relationships, in terms of gender, marital status and sexual orientation (Gleicher & Gilbreath, 2021; Storer et al., 2021); these terms will be used interchangeably in this study. In addition, the more insidious elements such as coercion and control that often occur simultaneously in families affected by domestic violence and abuse will also be considered (Callaghan et al., 2018; Dichter et al., 2018; Postmus et al., 2020; Weissman, 2020).

Additionally, the terms *mothers* and *women* will be used interchangeably throughout this study to describe the participants, depending on the context of the discussion. This reflects the dual roles the participants occupy as they navigate domestic violence and the Family Court system.

Family Dissolution

While divorce is commonly defined as the "legal dissolution of marriage" (Mortelmans, 2021, p. 232), there are differential types of relationships that end, other than those that are legally terminated, culminating in a complex process of dissolution which is often made more complex when children are involved (Mortelmans, 2021). Relationships end due to various reasons. However, the process of termination can in itself fuel much conflict and enflame an already volatile situation.

While there has been a downward trend in the overall divorce rate, this does not necessarily mean that there are fewer divorces, but instead, can be attributed to changes in social patterns (National Department of Health, 2019), as well as changes in legislation and cultural and religious diversity that could result in an increased number of co-habiting couples, couples not legally married and those that never married (National Department of Health, 2019). Mortelmans (2021) describes two potential phases that couples experience when culminating their relationship. The first is the phase where couples decide to end the relationship and "spatially" separate from one another such as moving out of the common

home and the second phase is when the relationship has been legally terminated (Mortelmans, 2021, p. 232).

Most divorces in South Africa involve minor children (Themistocleous, 2017).

Themistocleous (2017) found that of the total number of divorces in South Africa, 54.7% (in 2012) and 55, 4% (in 2016) included children (p. 3). Many of these divorcing families required the services of Family Court with regards to care and contact of the children, maintenance, domestic violence or family dispute resolution. This does not consider the number of other types of family structures that may be dissolving or the number that may require Family Court services.

Divorce and separation has far reaching effects on all parties involved (Braver et al., 2016; Mahon & Moore, 2011; Mikolai & Kulu, 2018; Mortelmans, 2021); particularly children (Andrew & Segun, 2019; Eyo, 2018). The ramifications of divorce and separation and the impact that this has on children has been extensively researched (Andrew & Segun, 2019; (Bertelsen, 2021; Broadhurst & Mason, 2017; Eyo, 2018, Harwin et al., 2018; Mol, 2019; Nilsen et al., 2020). Parties generally “separate under antagonistic circumstances” (Themistocleous, 2017, p. 17), and are “embroiled in their own turmoil” (Lund, 2015, p. 408). In such circumstances parties often find it difficult to put their differences aside, particularly when making decisions about sensitive issues such children or money (Baskerville, 2018; Elizabeth et al., 2012b; Frade & de Wet-Billings, 2019; Jacobs & Andrews, 2021). The situation becomes more complex when a relationship has a history of violence or unequal power relations.

Family Court

Family Court and law proceedings encompass a broad range of issues such as care and contact, maintenance and domestic violence. In care and contact matters for example, the purpose of Family Court is to assist families to reach an agreement or settlement on care or contact of the minor children. Parents can then, ideally, focus on the best interest of the child rather than on the conflict or interpersonal difficulties (Lund, 2015, Themistocleous,

2017). However, according to Themistocleous, (2017) "it has, however, become increasingly apparent that care and contact evaluations are fraught with contextual, procedural, methodological and ethical challenges" (p. 31). As a result of the high levels of conflict and emotional upheaval surrounding these processes, experts and/or several professionals are often involved in the different stages of the proceedings and often work simultaneously on a case (Robertson & Broadhurst, 2019). However, the South African Law Commission Issue Paper 31 (2015, p. vi), titled Family Dispute Resolution: Care and Contact with children, claims that professionals do not always work harmoniously on a case and that "South African society fails to manage divorce effectively and that there is no coherent procedural family law system in place." As a result, of the disjointed measures and short-term pressures and resource constraints has led to an unstructured dual and fragmented court system that is confusing and burdensome to users, costly to run, and unable to adequately meet the needs of many (Themistocleous, 2017).

Consequently, it appears that there are inconsistent applications of policy and frameworks, leading to the needs of vulnerable mothers and their children being missed by Family Court and Service providers. Recognizing the impacts of domestic violence and Family Court processes is crucial for professionals to effectively support victims. As such, the study sought to explore the experiences of mothers in South Africa who have endured domestic violence and navigated the Family Court system.

Problem Statement, Rationale and Research Aims

While divorce and domestic violence have been well researched, the experiences of mothers' post-separation, and specifically in Family Court processes in the context of domestic violence, have been less well-reviewed. The difficulties and experiences of mothers who have left abusive partners, particularly regarding ongoing domestic violence and their interactions with the Family Court system, are not well understood (Callaghan et al., 2018; Ellis & Stuckless, 2000; Humphreys & Thiara, 2003b; James-Hanman & Holt, 2021; Khaw et al., 2021; Smyth & Moloney, 2019). This is despite literature showing that

post-separation abuse often occurs in the context of a prior history of domestic abuse (James-Hanman & Holt, 2021; Nnoli et al., 2023). Furthermore, there are concerns that domestic violence may in fact, "undermine gender equality and respect for children's rights within the traditional courts setting" (Proudlock & Rohrs, 2018, p. 21). Taking this into account, in conjunction with the large number of domestic violence incidents both locally in South Africa and internationally, it warranted further investigation into the current context.

Given the above, this research aimed to 1) explore how South African mothers' experience Family Court processes in the context of intimate partner violence; and 2) explore the social constructions of gender and power dynamics in the context of Family Court and intimate partner violence, post-separation.

To achieve the above aims, social constructionism was employed as the paradigmatic framework. The research was qualitative in nature and was guided by a critical postmodern feminist theory. Data was gathered until saturation using semi-structured face-to-face interviews and analysed by means of discourse analysis.

Research Question and Objectives

The research questions that guided the study were:

1. What are South African mothers' experiences of Family Court processes in the context of intimate partner violence?
2. How are gender and power dynamics constructed in the context of Family Court, and intimate partner violence, post-separation?

The practical and specific objectives that met the aims of the study were to interview mothers', who are involved in Family Court processes in South Africa, in order to 1) ascertain their experiences of Family Court in the context of intimate partner violence; 2) establish how they construct intimate partner violence and gendered power dynamics post-separation; 3) to identify areas that need further investigation and that can promote better proficiency in the handling of such matters in Family Court.

It is hoped that the findings of this study can contribute to a better understanding of domestic violence and the post-separation experiences of mothers, which will, in turn, have the potential to influence professionals, organisations, and institutions and to inform policies, strategies, and programmes concerning domestic violence, gender equality, and children's rights; and guide decision making, policy, and programmes, potentially benefiting IPV and Family Court processes.

The significance of the study is situated in several areas: 1) developing a critical understanding of mothers' experiences of intimate partner violence, and Family Court; 2) critically exploring the social constructions of gender and power in the context of Family Court and Intimate partner violence, post-separation; 3) critiquing the ideologies and cultures, to establish whether societal elements specifically race, gender, class, culture, and economics shape how mothers' construct their visions of what they constitute as their "individual realities" (Campbell & Wasco, 2000, p. 780); 4) identify interpretative repertoires that mothers use to construct versions of power and gender identity, and; 5) opening up new avenues for understanding the impact that Family Court has on issues of gender equality and children's rights "that are, to a certain extent, emancipatory" (Bertelsen, 2021; p.2).

Outline of Thesis Chapters

Chapter 1 mapped out the context and introduced the study. The research aims and objectives were elucidated, and the study's rationale and significance were discussed.

Chapter 2 locates the present study by providing a contextual discussion on the literature regarding intimate partner violence (IPV) and Family Court processes. Relevant South African legislation dealing with family dissolution is considered. In addition, the review addresses family dissolution and the systemic effects of domestic violence, as well as court processes pertaining to care and contact disputes and maintenance matters. The research is located within three complex issues, i.e. separation/divorce, domestic violence and Family Court, thus, these are comprehensively discussed in Chapter 2. The social constructions of

gender, power, and violence inherent in intimate partner violence will also be discussed, however, these will be further contextualised in Chapter 3.

Chapter 3 expands upon Chapter 2 and looks at more specific issues such as the social construction of gender and abuse, where gendered power dynamics inherent in intimate partner abuse will be highlighted. The intersectionality of the diversity of women's experiences is investigated, exploring the ways that social categories mutually produce and "shape relations of power and oppression" (Rice et al., 2019, p. 1). Chapter 3 will examine the interconnected social identities and associated systems of oppression and control that are used to marginalize and exclude individuals (South African Government, 2020). In addition, the relationships between these various forms of oppression will be considered which will allow for a fuller analysis of our current social problems. Postmodern feminist theories will be reviewed with consideration of how they may shape our understanding of families and the intricate power dynamics that occur within them.

Chapter 4 maps out the research design and methodology of the study. Chapter 4 addresses the postmodern perspective and social constructionism as the paradigmatic framework of the study. The qualitative research approach is discussed, in conjunction with a theoretical orientation of critical postmodern feminism. Chapter 4 presents a significant coherence between the paradigmatic framework, research approach, and theoretical framework in the proposed study, which aligns with the research question and the research issue under investigation. A description of the population and sample group, participant selection and sampling strategies, data collection and analysis techniques is included. Additionally, Chapter 4 addresses the measures that were taken to ensure the trustworthiness of the study and looks at the ethical considerations that guided both the content and processes of the research.

Chapters 5, 6 and 7 present the analysis and discussion of South African mothers' experiences of Family Court processes in the context of intimate partner violence and explore the social constructions of gender and power that shape these experiences. The

data obtained from the mothers was extensive, and warranted a more comprehensive approach, which will be detailed across the three chapters. The research findings are presented and discussed in the context of relevant academic literature and analysed, using Discourse Analysis as detailed in Chapter 4.

The findings in *Chapter 5* shift the research problem from a conceptual one to an individual and interpersonal one, exploring mothers' individual/micro experiences of intimate partner violence and Family Court processes. While the mothers spoke of their experiences and perspectives prior to separation, which included their experiences during the marriage or relationship; the focus of Chapter 5 is on mothers' post-separation experiences and interactions within the Family Court system. The chapter will provide a deeper exploration of the on-going challenges and obstacles mothers face navigating Family Court following separation from abusive partners. Further, it will shed light on the systemic barriers and inadequacies encountered within the Family Court system while attempting to secure safety, financial stability, and custody arrangements for themselves and their children.

Chapter 6 takes a meso-level perspective, examining the findings related to Family Court processes and the various service providers within the Family Court system. This section outlines the significant challenges faced by mothers, navigating the different systems after separating from abusive partners, and the replication of abusive patterns the mothers experienced in this context. The chapter sheds light on the systemic barriers and inadequacies that these mothers encountered as they sought support, safety, financial stability, and custody arrangements for themselves and their children through the Family Court system.

Chapter 7 is the final section of the findings. This chapter positions the findings in a broader sociological and socio-cultural understanding of woman abuse and Family Court processes. This chapter will delve into the systemic and socio-cultural factors that shape and constrain mothers' help-seeking efforts and legal outcomes, as they navigate the Family Court system in the aftermath of intimate partner violence. Chapter 7 addresses the

systemic failures of the Family Court system in protecting mothers and children from ongoing abuse. It situates the individual experiences explored in earlier chapters within a wider societal context, examining the deep-rooted societal norms, power dynamics, and structural inequities that enable and perpetuate domestic violence, while failing to adequately support and protect victims navigating the legal system.

Chapter 8 concludes the dissertation, providing a comprehensive discussion of the key findings from the study and their critical implications for policy, practice, and future research in this domain. Additionally, the strengths and limitations of the study are discussed. The thesis ends with a detailed discussion of the overarching conclusions drawn from the findings, along with a set of thoughtful recommendations to guide future scholarly endeavours in this important area of research.

Chapter Summary

This chapter provided an introductory overview of the topic, addressing the key issues and contextual factors underpinning the study. It serves as a conceptual and theoretical preview to an in-depth exploration of South African mothers' construction of gender and power in the context of intimate partner violence and Family Court, where we will uncover mothers' lived experiences navigating separation, intimate partner violence, and the Family Court system. This will be achieved through discourse analysis which allowed for the critical analysis of the mothers' constructions and discourses through a critical postmodern feminist lens. This approach will offer a nuanced examination of how gender, power, and agency are constructed and negotiated within the complex and often oppressive dynamics of personal and legal circumstances surrounding intimate-partner violence and Family Court in the South African context. The chapter serves as a crucial foundation for the deeper, more granular analysis of the systemic challenges and socio-cultural factors that shape and constrain the help-seeking efforts and legal outcomes of this vulnerable population.

CHAPTER 2: CONTEXTUALISING INTIMATE PARTNER VIOLENCE, FAMILY DISSOLUTION AND FAMILY COURT PROCESSES

This literature review provides a contextual discussion regarding domestic violence and Family Court processes, and situates the discussion with relevant South African legislation, as well as the social constructions of gender, power, and violence inherent in intimate partner violence. Literature focussing on women's agency, negotiation, and resistance in abusive relationships is also reviewed.

Conceptualising Domestic Violence and the Sequelae Thereof

An estimated 50% of divorcing parties report physical violence and/or victimisation, and 90% report experiencing psychological abuse (Rossi et al., 2022). While there is substantial data on intimate partner violence perpetrated against women, by men, the experiences of mother's post-separation have been less-well documented.

As specified in the South African Domestic Violence Act No. 116 (Domestic Violence Act, 1998), domestic violence occurs within various domestic relationships, presents in different forms of abuse, and positions victims of domestic violence as vulnerable members of society. In line with the definitions provided by Domestic Violence Act No. 116 (Domestic Violence Act, 1998, p. 2), domestic violence can include:

- (a) physical abuse;
- (b) sexual abuse;
- (c) emotional, verbal and psychological abuse;
- (d) economic abuse;
- (e) intimidation;
- (f) harassment;
- (g) stalking;
- (h) damage to property;
- (i) entry into the complainant's residence without consent, where the parties do not share the same residence; or

(j) any other controlling or abusive behaviour towards a complainant, where such conduct harms or may cause imminent harm to, the safety, health or well-being of the complainant.

Across the literature, authors vary in their use of the term's domestic violence, domestic abuse, intimate partner abuse, intimate partner violence, and family violence (Gleicher & Gilbreath, 2021; Houlgate, 2017; Saltmarsh et al., 2021). The term domestic violence (DV) is often used synonymously with intimate partner violence (IPV), in academic and public discourse (Storer et al., 2021). However, according to Gleicher and Gilbreath (2021), there are nuances in meaning, with domestic violence being the term originally used to describe abuse between married individuals of the opposite sex; and intimate partner violence being a more encompassing term that acknowledges society's improved understanding of relationships, in terms of gender, marital status and sexual orientation. The term intimate partner violence recognises that violence occurs within all types of relationships, in both current and former relationships, and is not gender specific in the assignment of perpetrator or victim (Gleicher & Gilbreath, 2021; Storer et al., 2021). IPV encompasses any behaviours that physically, sexually, or psychologically harm another, where abusers employ "a deliberate pattern of control that interferes with their partner's ability to obtain, use, and maintain economic resources"(Weissman, 2020, p.3).

Extending the above definition, the description family violence (FV) is any violence or abuse that occurs within a family where there is an abuse of power (Saltmarsh et al., 2021). Family violence encompasses a range of abusive behaviours within relationships characterized by care, kinship, dependence, or trust. This can include physical, sexual, verbal, emotional abuse, and neglect (South African Government, 2020). Family violence encompasses other terms such as domestic violence, intimate partner abuse, and child abuse, but, contrary to other criminal acts, is usually not a sudden, isolated or unexpected incident. There is often a consolidation of years of physical injuries, as well as psychological and emotional trauma, which often escalates and increases in severity over time (Houlgate,

2017; Stratemeyer, 2021). Furthermore, more concerning is the number of children worldwide that are affected by family violence. According to Saltmarsh et al. (2021), some fields have referred to this as 'the most pervasive, yet least recognised, human rights abuse in the world' (Saltmarsh et al., 2021, p. 774).

Gender-based violence (GBV) is the general broadly used term to characterise violence against women and children (Enaifoghe et al., 2021). Gender-based violence considers the unequal power connections between males and females within a particular society as well as how society normalises certain societal roles associated with a person's gender or sexual orientation (Enaifoghe et al., 2021).

In this study, while there is a preference for the term *intimate partner violence (IPV)*, the terms will be used interchangeably to refer to physical, sexual, psychological, financial, emotional abuse and control that may take place in families; taking into consideration the more subtle elements of coercion and control that occurs in those families that are impacted by domestic violence and abuse (Callaghan et al., 2015).

The directionality is also not limited to male-to-female domestic violence and does occur in female-to-male relationships. While heterosexual women are the largest group of domestic violence victims, males are also victims of domestic violence (Hine et al., 2020; Machado et al., 2020; Walker et al., 2019). Difficulty in documenting statistics of male victims of female-perpetrated IPV have been largely due to societal perceptions that view intimate partner violence as a predominantly female issue, as well as a reluctance of men to identify themselves as victims (Hamel, 2018; Hine et al., 2020; Walker et al., 2019). In recent years, more qualitative studies have been conducted, such as on the help-seeking experiences of male victims of domestic violence and abuse that encompasses both heterosexual men, gay men, and to lesser extent men of other sexualities (Huntley et al., 2019; Walker et al., 2019).

IPV is not only prevalent in married heterosexual relationships, but occurs in unmarried, cohabiting same-sex and heterosexual couples (Rollè et al., 2018; Rossi et al., 2022). Recent research has started to address IPV experienced by lesbian women (Rollè et

al., 2018), gay men (Rollè et al., 2018) bisexuals, transsexuals, and queer people (LGBTQ) (Badenes-Ribera et al., 2019; Rollè et al., 2018; Sanger & Lynch, 2017). Such studies have shown that intimate partner violence for lesbians, gays, and bisexuals (LGB) is equal to or greater than those in heterosexual individuals (Badenes-Ribera et al., 2019; Rollè et al., 2018; Rossi et al., 2022).

Also, IPV is gender neutral and can, and does take place in all forms of relationships, including female-to-male (Hine et al., 2020; Huntley et al., 2019; Machado et al., 2020; (Walker et al., 2019), same-sex partner violence (Badenes-Ribera et al., 2019; Barnes & Donovan, 2016; Rollè et al., 2018; Sanger & Lynch, 2017; Subirana-Malaret et al., 2019), it is most frequently perpetrated by men against women (Kaur & Garg, 2008; Mshweshwe, 2020; Tullio et al., 2021; Zhang, 2020), particularly in Africa (Ezelote et al., 2021; Sardinha & Catalán, 2018; Semahegn et al., 2019) and more specifically in South Africa (Boonzaier & van Niekerk, 2018; Frade & de Wet-Billings, 2019; Machisa et al., 2018; Mathews et al., 2015; Mazibuko & Umejese, 2019).

While this study focuses on the experiences of mothers in South Africa, who were in a heterosexual relationship with their ex-partner, fathers' and children experiences, are not negated nor intentionally minimised. Furthermore, the study does not aim to situate blame nor contribute to a stereotyped or stigmatised narrative or bias of fathers. Instead, it aims to critically explore a relatively under-studied phenomenon to contribute to the call to address gender-based violence. The researcher acknowledges this gendered paradigm and the domestic violence stereotype (Hine et al., 2020), of physical abuse being perpetrated only by men toward women. Furthermore, it is understood that there is a need for a more nuanced and comprehensive understanding of violence, which considers people's complex relationships to various dimensions of power and social inequalities (Gottzén et al., 2020; Khonou, 2018). However, for this research, a heterogeneous focus on mothers' who were in a heterosexual relationship with their ex-partner, as survivors of domestic violence, will be primary.

In addition, although false accusations of domestic violence and or child sexual abuse are not uncommon in the context of care and contact evaluations, for this research, the focus will be on mothers subjected to domestic violence in the absence of false allegations. False allegations are regarded as malicious, with the aim of making domestic violence allegations against one parent "to gain an unfair advantage in a custody case or to alienate the other parent from the child/children" and are more commonly alleged by mothers against fathers (Stark et al., 2019, p.33).

Statistics on Domestic Violence

IPV is a global social health problem (Walker et al., 2019), which is, according to research, both prevalent and gendered (Sheehy & Boyd, 2020). Statistics indicate that intimate partner violence affects a substantial number of women worldwide, with estimates ranging from one in three to one in four experiencing this type of abuse (Saltmarsh et al., 2021).

In Canada, a 2017 study by Burczycka et al. (2018) found that eight in ten victims of police-reported intimate partner violence were female, and women were almost four times more likely than men to be victims (Sheehy & Boyd, 2020). In Australia, national statistics by the Australian Institute of Health and Welfare (2019) showed that between 2014 and 2016, one woman was murdered every nine days, by a current or former intimate partner (Saltmarsh et al., 2021). In the United States, a report from Disease Control and Prevention (2014) found that in 2013 there had been 10,512,000 victims of physical violence by an intimate partner or spouse; showing a staggering rate of 20 victims of IPV per minute (Houlgate, 2017).

In the Southern African Development Community (SADC), which includes South Africa and several neighbouring states, the rates are particularly concerning (Vurden, 2024). In Lesotho, almost half (47%) of the women murdered in 2021 were victims of intimate partner violence. (Ngoepe et al., 2023). In Botswana, a nation rich in diamonds, nearly 70% of women have experienced gender-based violence at least once in their lives (Ngoepe et

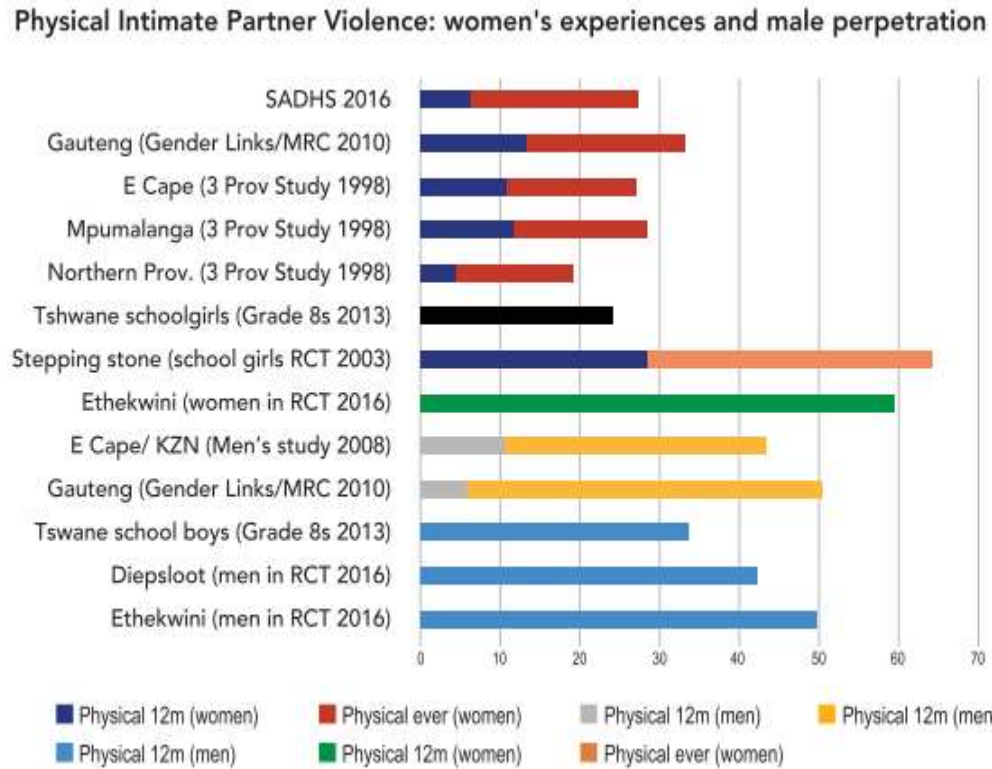
al., 2023). According to the UNPFA (United Nations Population Fund), which is the UN sexual and reproductive health agency, this statistic is more than double the global average. Even more alarming is that almost 30% of women have experienced violence in the past year, resulting in the violation of over 200,000 women's rights (Ngoepe et al., 2023). In Namibia, a country with nearly 2.5 million residents, gender-based violence is a significant concern. From 2020 to 2022, there were 10,478 recorded GBV cases (Ngoepe et al., 2023). According to the UNFPA (United Nations Population Fund), almost 700 rape cases were reported in 2021, disproportionately affecting women and girls (Ngoepe et al., 2023). Furthermore, the organization noted that 6% of women experienced violence during pregnancy, indicating the widespread impact of GBV in Namibia (Ngoepe et al., 2023).

South Africa, however, endures some of the region's highest GBV rates, with statistics reporting that a woman is murdered by an intimate partner every eight hours (Vurden, 2024). Reports show that between July–September 2023 alone, there were 10,516 rape incidents, and two-thirds occurring at the victim's home (Vurden, 2024).

In South Africa, The National Strategic Plan on Gender-Based Violence and Femicide (GBVF) (South African Government, 2020) reported that from different settings and populations, gender-based violence is rampant in the country, with physical violence the most prevalent type of violence perpetrated against women (Jewkes et al., 2001) (see Figure 2-1 below).

Figure 2-1

Intimate partner physical violence reported in studies in South Africa (South African Government, 2020)



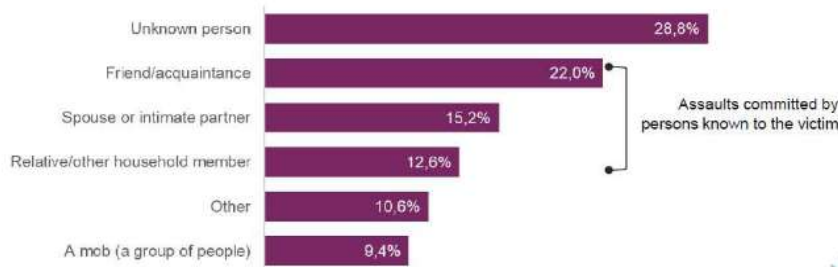
Stats SA (2020) statistically analysed crimes against women in the country and the phenomenon that exacerbates gender-based violence and femicide. A statistical chart from The Governance, Public Safety and Justice Survey of 2018/2019 found that almost 50% of assaults committed are perpetrated by someone close, such as an intimate partner, friend, acquaintance or other household member (see Figure 2-2 below).

Figure 2-2

Assaults committed across 2018-2019 (Stats SA, 2020)

Almost 50% of the assaults were committed by someone close such as a friend or acquaintance (22%), a spouse or intimate partner (15%), a relative or other household member (13%). About 29% of the assaults were committed by unknown persons.

Percentage of assaults committed by a specified perpetrator, 2018/19



Source: Governance, Public Safety and Justice Survey 2018/19



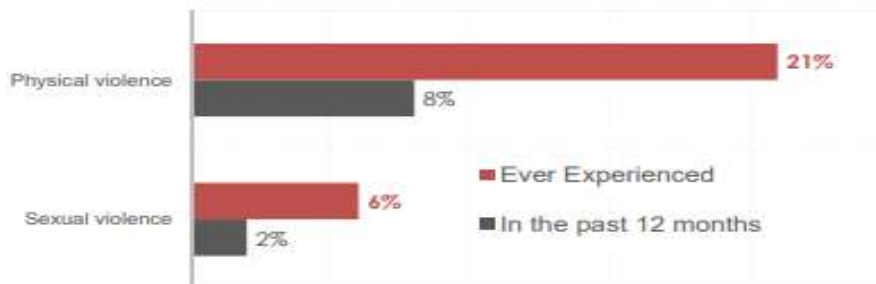
The South African Statistical report (Stats SA, 2020) includes the South African Demographic and Health Survey (2016) (SADHS) statistics of 2016 showing that one in five (21%) partnered women have experienced violence by their partner (see Figure 2-3 below).

Figure 2-3

Prevalence of violence against women 2016 (SADHS 2016) (Stats SA, 2020)

One in five (21%) partnered women has experienced physical violence by a partner (Ever Experienced)

Experience of violence by any partner, women 18+ years



Source: SADHS 2016

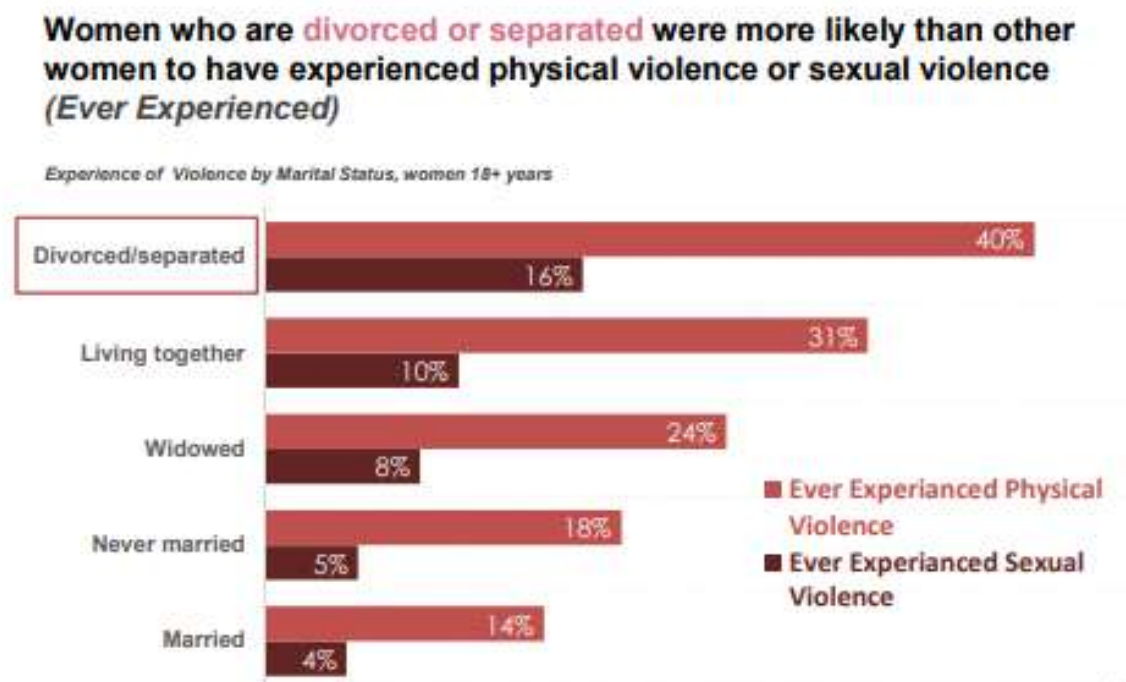


Studies on IPV indicate that violence is more prevalent in relationships that have children (Hamby et al., 2011; McDonald et al., 2006; Rezey, 2017), showing that 60% of couples with children living in the household, had experienced IPV (Hamby et al., 2010; Spearman et al., 2023).

Furthermore, the South African Demographic and Health Survey, 2016; (SADHS (2016) reported divorced or separated women faced a 40% higher risk of experiencing violence compared to women who are not divorced or separated (National Department of Health, 2019; Stats SA, 2020; SADHS 2016) (see Figure 2-4 below).

Figure 2-4

Rate of Violence according to Marital Status (SADHS 2016; Stats SA, 2020)



Source: SADHS 2016



The Cycle of Violence

As established, domestic violence is widespread and endemic in all areas of society. However, according to Enaifoghe (2019), the cycle of “violence is perpetrated by lack of a functional justice system and a dearth of available resources” (Enaifoghe et al., 2021, p.123), such as the lack of economic resources or opportunities which leads to the situation where a victim is dependent on their abuser. Enaifoghe et al. (2021) states that “the government and people need to do something different but suitable for the African context, different approaches towards addressing the prevalence of this scourge” (p. 123).

A Special Rapporteur on Violence Against Women by the United Nations claims that in South Africa this cycle of violence is still characterised on divisions rooted in race, class and gender which are legacies of South Africa’s apartheid history (United Nations, 2017).

This past is deeply entrenched in unequal power dynamics in gender relations, where patriarchal structures, sexism, xenophobia, homophobia and other harmful and discriminatory practices exist. Enaifoghe et al. (2021, pp. 139-140) goes on to say that “In addition to the issues surrounding gender-based violence and gender discrimination are socio-economic and social inequality, violence and the lack of accountability in the criminal justice system for victims of gender-based violence in the country.” The author emphasises that diverse forms of violence perpetrated against women originate from power differentials and social inequalities between men and women (Enaifoghe et al. (2021).

Gendered power dynamics are evident in all social tiers and structures. The constructions of gender and gendered power dynamics inherent in domestic violence are therefore most definitely mirrored in Family Court processes and will be further explored in chapter 3.

South African Legislative and Judicial System

Violence perpetrated against women and children, specifically domestic violence, has received substantial attention nationally and internationally with "calls for stringent measures to mitigate against this social ill" (Stats SA, 2018, p. 5). According to Vetten (2000, p. 4)

"transformative measures" were introduced, in order to deal with the problem of violence perpetrated against women, brought about by the political changes that occurred in South Africa in 1994 (Boonzaier, 2001; Jamieson et al., 2018; Vetten, 2000).

Since then, civil legal remedies have been instituted to address the domestic violence pandemic, policing and legal practices have been overhauled, and criminal laws have been implemented and revised (Dragiewicz, 2014; Jamieson et al., 2018; Mazibuko & Umejesi, 2019; Spies, 2019). As a protective mechanism, Domestic Violence Orders can be obtained from Family Court to prevent one's partner or family member from perpetrating acts of domestic violence (Spies, 2019; Zeoli et al., 2013). Other criminal and civil support structures available in DV cases include police intervention (Spies, 2019), telephonic crisis lines, victim support, counselling services, and community interventions (Dragiewicz, 2014; Jamieson et al., 2018; Turgoose, 2016).

However, despite greater focus on domestic violence issues and the many changes in the law and its application, including anti-violence campaigns, increased media attention and social control holding perpetrators accountable for their abuse; the issues surrounding domestic violence appear to be more challenging to implement in practice, particularly with regards to Family Court and the issues concerning women and children, and their rights (Douglas & Walsh, 2010; Humphreys & Thiara, 2003a; Jamieson et al., 2018; Spies, 2019; Stark et al., 2019). There are concerns as to whether the Family Court system can adequately deal with DV issues and whether or not the legal system is sufficiently effective (Humphreys & Thiara, 2003a; Jamieson et al., 2018; Radford & Hester, 2006). Zeoli et al. (2013) found that the presence of restraining orders and mandatory arrest laws provided little relief or protection for women. There is often a disconnect between various services such as police, child protection, and women's services, which in turn has serious implications in ensuring the safety of women and children (Douglas & Walsh, 2010; Proudlock & Rohrs, 2018). In noting systemic failure, Jamieson et al. (2018) noted a need to

transform “social norms that condone violence” against women and children, as well as to advance gender equality, in order to address systemic shortcomings (p.83).

Dragiewicz (2014) found that when utilising the justice system for assistance against DV such as with restraining or protection orders or calling the police, women found the justice system to be responsive and helpful. However, mothers reported that when they approached Family Court with matters or concerns regarding the safety of their children, they felt that the Family Court did not respond appropriately, which left mothers feeling unsupported and leaving them with concerns that they and their children were unprotected (Dragiewicz, 2014; Jamieson et al., 2018; Proudlock & Rohrs, 2018; Zeoli et al., 2013).

Victims reported that their accounts of the abuse were often discounted not only by the perpetrator, but by the lawyers, legal agencies and the justice and social services that they approached for help (Epstein & Goodman, 2018). Scepticism and suspicion shown to them by such agencies often compounded the abuse. According to Epstein and Goodman (2018) women face a “legal twilight zone” where the “laws meant to protect them, compensate them, and deter further abuse often fail in application, because women telling stories of abuse by their male partners are simply not believed” (p. 403).

A study by Smye et al. (2021) addressed the contextual issues that shaped women’s experiences of either leaving or staying with an abusive partner. Smye et al. (2021) found that the state’s involvement played a critical role in how a woman experiences the violence, with safe, appropriate and responsive services and support having a positive effect. Smye et al. (2021) further reported that women’s ties to their community, their health, and level of resistance to the abuse had a direct effect on their experience of leaving IPV contexts, as well as in their recovery from it. Smye et al. (2021) identified that negative experiences of support services and interventions were associated with increased trauma, stigmatisation and discrimination that added to the complex trauma of the experience of abuse.

Studies examining children’s coping skills, noted that within agencies working with children, there was often a conflict between the organisation’s agency of actively seeking to

support and assist children, and their response which was marred with passivity (Arai et al., 2021; Hines, 2014). This highlights how a failure of effective intervention can leave women and children unprotected and vulnerable to further abuse (Machisa et al., 2018).

Subsequent Effects of Domestic Violence

Violence against women, committed by intimate partners, is a significant issue in both developing and developed countries, where each year, millions of women suffer physical and sexual abuse perpetrated by intimate partners or former partners (Rivera et al., 2012a; Smye et al., 2021). Such exposure to intimate partner abuse has a devastating impact on all parties, including children, that are exposed to and witness the violence, regardless of whether the children experience the abuse as victims or not (Hamby et al., 2010; Houlgate, 2017). Abusive behaviour affects all areas of someone's life, directly and indirectly, resulting in psychological sequelae for fathers, mothers, and their children (Carolin & Xavier, 2020; Ford-Gilboe et al., 2009; Summers, 2022; Turner et al., 2017). In addition, domestic violence impacts family members' resources, physical and psychological well-being (Anderson & Saunders, 2003; Anitha, 2019; Enaifoghe et al., 2021; Eyo, 2018; Ezelote et al., 2021; Ford-Gilboe et al., 2009; Frade & de Wet-Billings, 2019), including their social, emotional and financial standing (Postmus et al., 2020; Sardinha & Catalán, 2018).

As demonstrated in several studies, the adverse effects of domestic abuse are related to long-term and chronic problems, particularly in cases of divorce and separation and in matters relating to children (Carolin & Xavier, 2020; Fry & Elliott, 2017; Gosal, 2018; Lloyd, 2018; Turner et al., 2017). Other studies noted that abusive behaviour has an adverse effect on parenting (Fulu et al., 2017; Hester et al., 2009; Stanley, 2011; Turner et al., 2017), not just the abuser's parenting but also the victims. The direct and indirect effects of the abuse can reduce a mother's sense of parental competence and self-efficacy, making child neglect more prevalent (Callaghan et al., 2018, p. 3). The abuse experienced by the mother tended to impair their parenting skills, making it less likely for the child to receive proper care from either parent. In addition, DV victims are more prone to developing anxiety, depression,

and other psychiatric disorders, leading to being less available and less nurturing as parents (Carolin & Xavier, 2020).

The interlink between domestic abuse against women and abuse against children has been clearly established in numerous studies (Callaghan et al., 2018; Fry & Elliott, 2017; Guedes et al., 2016; Hamby et al., 2010; Laing, 2010; Turner et al., 2017; Zeoli et al., 2013). Research clearly indicates that exposure of children to adult domestic violence is harmful to their well-being and their development (Arai et al., 2021; Laing, 2010). Even in cases where the child is not physically injured, both the parent and the child can be victims of DV, as both experience violence and intimidation (Arai et al., 2021; Dallos & Vetere, 2012). In such cases, "domestic violence" is synonymous to "child abuse", especially when the child is used as a method to control, manipulate or intimidate the other parent (Callaghan et al., 2018, p. 3).

The need to safeguard children due to the damaging effects that being exposed to domestic violence has on children, has been extensively highlighted in a number of studies (Carolin & Xavier, 2020; Fry & Elliott, 2017; Gosal, 2018; Lloyd, 2018; Turner et al., 2017). Furthermore, studies show continuing violence post-separation, with abusive fathers continuing to assault and harass former partners and children even after separation (Callaghan et al., 2015; Katz et al., 2020; Spearman et al., 2023; Zeoli et al., 2013). According to Namy et al. (2017), a higher probability of child abuse occurs in households characterised by marital conflict, as well as in male-dominated households. Furthermore, Hardesty and Ganong (2006) established that if men were controlling or abusive during their marriage, they persisted in exerting control upon mothers and children even after separating; resulting in mothers having to "manage conflict, set boundaries, and resist control in the context of on-going fear" (p. 555).

The Birth to Twenty Plus (Bt20+) child and adolescent health and development study by Richter et al. (2007) was the longest-running longitudinal study in Africa. The sample had in excess of 2,000 children who were born in the township of Soweto during 1990 (Richter et

al., 2007). According to the data, of the 2000 children, nearly all (99%) had either directly experienced or witnessed some type of violence, and more than 40% had endured multiple instances of violence within their homes, schools, and local communities (Jamieson et al., 2018; p. 81). These studies show little likelihood of an amicable parenting arrangement post-separation (Elizabeth et al., 2012b). Contact in cases where violence or abuse has occurred can jeopardise the mother and the children's physical, psychological, and emotional safety (Elizabeth et al., 2012a; Sheehy & Boyd, 2020; Stark & Hester, 2019; Wood et al., 2021).

The negative impact of domestic violence has a profound and substantial effect on women and children, particularly in South Africa, where women and child abuse statistics are alarmingly high (Spies, 2019). IPV against women affects children directly and indirectly (Sheehy & Boyd, 2020). Vogelman and Eagle (1991, as cited in Spies, 2019; p. 54) described domestic violence, in South Africa, as being so rampant and widespread that it is “perceived as the norm instead of being challenged”. Despite innovative and progressive domestic violence legislation and campaigns supporting and protecting women against violence, statistics from the South Africa Demographic and Health Survey (Stats SA, 2017), shows that one in five South African women face the prospect of physical violence from an intimate partner (Spies, 2019).

A comprehensive review undertaken in South Africa in 2018, in the Victims of Crime Survey data, called attention to the impact of violence in a South African context and clearly showed that domestic violence has a severe and pervasive impact on women; particularly in households headed by women (Stats SA, 2018). While the abusive and violent behaviour affects all involved, as indicated above, there is evidence suggesting that levels of abuse, power, and control may continue post-divorce or post-separation (Boonzaier, 2013; Hardesty & Ganong, 2006; Stratemeyer, 2021; Zeoli et al., 2013).

The increase of IPV during Covid-19

Domestic violence increased globally during the Covid-19 pandemic (Dlamini, 2021; Lyons & Brewer, 2022; Usta et al., 2021). With the implementation of lockdown measures

during the initial phase of the pandemic, reports of domestic abuse increased world-wide (Bright et al., 2020; Lyons & Brewer, 2021; Moreira & Pinto da Costa, 2020; Neetu et al., 2020; Usta et al., 2021; Wood et al., 2021; Zhang, 2020). Due to Covid-19, gender-based violence has been exacerbated which, Dlamini (2021) suggests, has increased “pre-existing social norms and gender inequality” (p. 585).

Although relevant and accurate statistics may not be available as yet, research indicates that the surge in family violence was brought on by the large-scale lockdown (Zhang, 2020). While curbing the pandemic, the lockdown’s stay-at-home measures often introduced confinement, economic pressures and stress, and increased tension in the home. This tended to increased family conflict. Unemployment, marital and family conflict, and substance use and abuse all raised the risk factors for violence (Piquero et al., 2021; Usta et al., 2021). The increased social isolation created an opportunity for abusers to exert more power and coercive control (Piquero et al., 2021). The restrictions of movement also created the situation where victims were less able to seek help (Usta et al., 2021). During quarantine it was very difficult for victims to escape, seek help or report the abuse (Usta et al., 2021) and while help lines initially reported a drop in calls from victims of domestic abuse, this was only brought about by the movement restrictions which limited victims access to support services.

During the lockdown, organisations dealing with domestic abuse also found it extremely difficult to provide adequate support, partly because support structures weren’t able to access victims, who were unable to leave their abusive partners (Usta et al., 2021). Fears of reporting, lack of phone access and lack of privacy may also have contributed to this low reporting during the initial lockdown (UN Women. 2020; as cited in Usta et al., 2021).

As domestic violence and violence against women has increased as a result of the Covid-19 pandemic, (Dlamini, 2021; Lyons & Brewer, 2022; Usta et al., 2021), it has also

caused a ripple effect wherein there has been an increase in the rate of separation and divorce (Zhang, 2020).

Family Violence and Divorce/Separation

Dew (2021, p. 52) defines marriage as occurring between “two adults whose union has been legally recognized by a state entity”, however, a family is not necessarily the ‘married’ parents and the children of that marriage. The White Paper on Families in South Africa, developed by the Department of Social Development, (2021, p. 180) broadly define a family as “a societal group that is related by blood (kinship), adoption, foster care or the ties of marriage (civil, customary or religious), civil union or cohabitation, and goes beyond a particular physical residence” (Hall & Richter, 2018, p. 27). The National Strategic Plan on Gender-Based Violence & Femicide goes on to explain that a family is “a group of people living together and functioning as a single household, that will provide for the needs and protection of children and all its members. A well-functioning family provides members with emotional, social, spiritual and material support that is sustained throughout life and it also represents the cradle from which the values and norms of a society are transmitted and preserved, and is therefore a key institution for transforming values and norms” (South African Government, 2020, p. 10).

Family violence has a significant effect on the rate of divorce and separation (Ellis & Stuckless, 2000; Zhang, 2020). Bowlus and Seitz (2006), found that women who had been abused were 1.7–5.7 times more likely to divorce their spouses than women without a history of abuse. The findings of a number of researchers concur with the findings of Ellis and Stuckless, (2000, p. 462) noting that “male partner violence or abuse is a statistically significant predictor of the female partner’s decision to separate” (Murta & de Oliveira Parada, 2021; Smye et al., 2021; Spearman et al., 2023; Summers, 2022; Zeoli et al., 2013; Zhang, 2020).

Leaving Abusive Relationships

As described by Mortelmans (2021) there are two phases that couples go through when ending their relationship. The first is the phase the decision to end the relationship and to physically separate from one another, such as moving out of the common home. The second phase is the legal termination of the relationship. Divorce is commonly defined as the “legal dissolution of marriage” (Mortelmans, 2021, p. 232). Where there is knowledge of domestic violence, the social expectation centres around the notion that leaving an abusive relationship is essential in securing safety and security for the women and children involved (Smye et al., 2021). However, victims of DV often face numerous barriers that prevent them from leaving or ending an abuse relationship, even when it is a necessary step to ensure their safety (Stark et al., 2019).

Research confirms that ending an abusive relationship is not an easy decision, with women often leaving and returning several times for various reasons (Anderson & Saunders, 2003; Murta & de Oliveira Parada, 2021; Nikparvar et al., 2017; Storer et al., 2021); and that leaving any relationship, particularly an abusive relationship is not a singular event that is conclusive and final, but a process (Murta & de Oliveira Parada, 2021; Parada, 2021; Storer et al., 2021).

Contrary to popular belief, ending the relationship, does not necessarily result in an end to the violence (Murta & de Oliveira Parada, 2021), nor does it secure personal well-being (Murta & de Oliveira Parada, 2021; Storer et al., 2021). In some cases, an assessment of possible risk factors in deciding to leave an abusive relationship, results in the conclusion that leaving the relationship is indeed, not the safest option and that staying may lead to greater safety, at least in the short term (Anderson & Saunders, 2003; Murta & de Oliveira Parada, 2021).

Studies show that the decision to leave or stay is based on various psycho-social factors, as well as variables associated with external resources (Anderson & Saunders, 2003; Murta & de Oliveira Parada, 2021). Financial resources have been shown to be the

most predictive and consistent factor in the decision of whether to leave or stay in an abusive relationship (Anderson & Saunders, 2003; Murta & de Oliveira Parada, 2021). Financial dependency, can inhibit this decision, as less access to personal income and other external resources, including concerns about poverty, made it more difficult to leave an abusive relationship (Anderson & Saunders, 2003; Murta & de Oliveira Parada, 2021; Nikparvar et al., 2017).

The role of family support has also been identified in previous research as being a significant factor in making the decision and in the process of leaving a violent marriage (Nikparvar et al., 2017; Radford & Hester, 2006; Summers, 2022; Wilcox, 2012). Social issues such as poverty, and those concerning race, sexual orientation, or disability, for example, often create an intersection of vulnerability relating to the experience of violence (Anderson & Saunders, 2003; Murta & de Oliveira Parada, 2021).

A study by Storer et al. (2021), using the #WhyIStayed Twitter campaign, where a random sample of 3,086 Twitter users tweets were analysed, provided a multifaceted analysis of the challenges associated with leaving abusive relationships. Responses showed the many reasons for staying was the result of the cumulative impact of long-term and multiple types of intersecting and cyclical patterns of abuse. The most frequently mentioned abuses included physical, mental, and emotional abuse, financial exploitation, and threats of violence (Storer et al., 2021). Many of these tweets described how the cumulative impact of multiple types of abuse affected their sense of emotional well-being (Storer et al., 2021). The findings show the processes and mechanisms that influence decision-making, and how numerous barriers across various system levels influence the decision of them staying in their abusive relationships. Furthermore the study described how societal representations of domestic abuse can often impede a victims readiness to leave abusive relationships (Storer et al., 2021).

Nikparvar et al. (2017) found that women move through various stages in a nonlinear fashion, with internal and external factors influencing their decisions to leave their abusive

relationships. Nikparvar et al. (2017), identified six different stages in the process of leaving, including denial, using cognitive and internal strategies to save the marriage, using behavioural and external strategies to save the marriage, seeking power to end violence, preparation to leave the violent marriage, and the termination stage.

During the denial stage there is an attempt to deny, or minimise, hide, forget, or misinterpret the abuse, and during the second stage, cognitive strategies are employed, either by making excuses for their partner's abusive behaviours, or by taking personal responsibility for the abuse (Nikparvar et al., 2017). In the third stage, behavioural and external strategies to save the marriage are implemented, such as asking friends and family for help or going to counselling (Nikparvar et al., 2017). Attempts to protect themselves, and attempts to seek power to end the violence, such as by running away to the parent's house, calling the police or asking for a divorce, characterise the fourth stage, showing that women used available resources to try to save their marriages, and made attempts to gain power through legal actions to stop the violence (Nikparvar et al., 2017). The fifth stage consisted of making preparations to leave the relationship, with the final, sixth stage being the termination of the relationship (Nikparvar et al., 2017). The study showed that despite the many difficulties and various types of abuse that women experienced in their relationships, ending the relationship was often a difficult decision for them to make (Nikparvar et al., 2017).

The Consequences of Leaving Abusive Relationships

Although women are often encouraged to leave abusive partners (Anderson & Saunders, 2003; Boonzaier, 2013; Casey, 1997; Hydén, 1999; Spearman et al., 2023), the consequences of DV, particularly for women after separation are not well documented or understood. The available research on the subject of leaving abusive relationships tends to focus on the decision-making process and contributing factors influencing the decision to leave, while the difficulties and challenges faced by women post-separation or divorce have

received limited attention (Burnett et al., 2015; Ford-Gilboe et al., 2009; Spearman et al., 2023).

Leaving an abusive relationship can be a risky undertaking, with studies by Burnett et al. (2015) and Smye et al. (2021) confirming that separation or divorce from an abusive partner does not ensure a woman's safety or protection (Spearman et al., 2023; Summers, 2022). Research indicates an increased danger following separation, with physical violence sometimes occurring for the first time during this period (Summers, 2022).

Empirically, research has indicated that abuse does not end at divorce or separation but that it tends to escalate when a woman has left an abusive partner, or attempts to leave an abusive relationship (Beck et al., 2011; Campbell, 2002; Smye et al., 2021; Spearman et al., 2023; Spiwak & Brownridge, 2005; Stark & Hester, 2019; Summers, 2022; Zeoli et al., 2013). Beck et al. (2011) conducted a long-term study of 569 cases of inter-partner abuse that the Family Court referred to mandatory mediation, and inter-partner abuse was identified in 59% of the cases (Beck et al., 2011).

A 2010 report based on the National Crime Victimization Survey in the United States showed that in comparison with married women, intimate partner violence rates were 30 times higher for women that were separated, and nine times higher for divorced women (Rezey, 2017; Sardinha & Catalán, 2018; Spearman et al., 2023). Thus, the assumption that women and children who have left an abusive relationship are safer, is flawed and negated. However, this inference often affects adjudications made in Family Court, and guides decisions made by other agencies in their dealings of families, often resulting in dire consequences for mothers and children post-separation (Spearman et al., 2023). Not only do women face the risk of increased violence or even death when deciding to leave abusive partners (Campbell et al., 2002; Rivera et al, 2012a; Spearman et al., 2023; Stark & Hester, 2019), but they also face a multitude of other obstacles once they have decided to do so.

Even after leaving abusive relationships, mothers and their children often experience varying degrees of unwanted interference and intrusion, such as on-going harassment, or

continued abuse by their former partner (Ford-Gilboe et al., 2009; Rathi et al., 2018; Spearman et al., 2023; Summers, 2022). Further research confirms that women experience domestic violence both within their relationship and following separation; and that abuse experienced post-separation is often severe and multi-faceted, characterised by a pattern of behaviours that are aimed at exerting coercive control over an ex-partner separation (Fleury et al., 2000; Humphreys & Thiara, 2003b; Laing, 2010; 2016; Orr et al., 2023). Laing (2010) found that there are often “non-violent coercive tactics”, including economic abuse or subjecting their ex-partner to protracted litigation (Laing, 2010, p. 5). This type of IPV was referred to as “coercive controlling violence” by Kelly and Johnson (2008, p. 477). Kelly and Johnson (2008) devised a visual representation called The Power and Control Wheel (see Figure 2.5 below); which outlines the primary means of exerting control that constitute coercive, dominating violence. These include emotional abuse, intimidation, isolation, minimizing, blaming and denying behaviours, using children, the assertion of male privilege, economic abuse, as well as coercion and threats (Kelly & Johnson, 2008; Laing, 2010).

Figure 2-5

The Power and Control Wheel (Kelly & Johnson, 2008, p. 479)



Adapted from

Pence & Paymar (1993)

Kelly and Johnson (2008) noted that the most frequently reported forms of abuse, by the women, were emotional, psychological, financial, controlling behaviours, using the children, and using the system (Kelly & Johnson, 2008). It has been found that coercive controlling violence does not end with separation (Fleury et al., 2000; Humphreys & Thiara, 2003b; Laing, 2010; 2016), but in fact intensifies following separation, and most frequently occurs within agency settings, in particular, criminal, civil and Family Courts (Laing, 2010; Kelly & Johnson, 2008).

This ongoing abuse cycle is often coupled with other issues such as financial difficulties and economic hardships experienced by mothers leaving abusive relationships (Duffy, 2015; Monk, 2017; Postmus et al., 2020; Smye et al., 2021). Muliolino (2021) stated that compared to developed countries, DV tends to have a more severe and longer-lasting impact on women in developing countries. The financial stresses in single-parent households put mothers leaving abusive relationships at a higher risk of poverty, further marginalising women in the context of DV (Dekel & Andipatin, 2016; Guedes et al., 2016; Kaur & Garg, 2008; Kelly & Johnson, 2008; Mahon & Moore, 2011). After divorce or separation, a woman, as a single parent, carried the psychological responsibility of parenting, as well as the financial burden of having to make ends meet. This was often more difficult if she had been a stay-at-home mom or unemployed while in the relationship, and may be struggling to find employment or not have the necessary skills for the job market (Muliolino, 2021). Research highlighting the psychological effects of separation noted that post-traumatic stress, symptoms of depression, and anxiety were prevalent after leaving abusive relationships (Anderson & Saunders, 2003; Murta & de Oliveira Parada, 2021).

Numerous challenges are faced by mothers and their children, when women separate from abusive partners (Ford-Gilboe et al., 2009; Rathi et al., 2018; Schepard, 2004; Schmid, 2024; Storer et al., 2021; Wood et al., 2021). Smye et al. (2021) highlighted that after leaving the relationship, there was often a substantial decrease in income that resulted in; (1) financial and economic instability (Andrew & Segun, 2019; Duffy, 2015; Ford-Gilboe et

al., 2009); (2) housing insecurity, either residing in a shelter (Burnett et al., 2015), downscaling or relocating (Burnett et al., 2015; Mikolai & Kulu, 2018); (3) health issues (Adkins & Kamp Dush, 2010; Anderson & Saunders, 2003; Ford-Gilboe et al., 2009); (4) significant and severe child custody issues (care and contact) (Ford-Gilboe et al., 2009; Varcoe & Irwin, 2004; Wuest et al., 2003; Zeoli et al., 2013); and (5) re-victimisation by the courts (Duffy, 2015; Smye et al., 2021; Wuest et al., 2003; Zeoli et al., 2013). Tuon (2021) explains how domestic violence creates a negative impact for survivors as well as their children, families, their communities, and the larger society.

Family Dissolution and Family Court

Although divorce rates have shown an overall downward trend (National Department of Health, 2019), there remains a substantial number of divorces globally. This can be attributed to changes in social patterns, legislation, and cultural diversity, which have contributed to a rise in cohabiting couples, non-legally married couples, and those who have never been married (Emery et al, 2005; Polak & Saini, 2019; Mortelmans, 2021). In today's society, divorce and separation have become commonplace (Polak & Saini, 2019), with divorce statistics for 2019 showing that four in ten marriages (43,1%) lasted less than ten years (Divorce Statistics, 2021). Martínez-Pampliega et al. (2021) found that over 60% of divorcing families have children. According to Mortelmans (2021), this statistic only describes divorcing parties and does not include unmarried cohabiting couples that separate and those in other forms of relationships that dissolve. The number increases significantly if we include the number of children who do not fall under the category of divorcing families but who have never-the-less experienced their parents' separation or relationship dissolution.

The separation and dissolution process is a “multifaceted phenomenon” (Mortelmans, 2021, p. 243), with effects that can be measured longitudinally across generations (Mortelmans, 2021; Mikolai & Kulu, 2018). For families who experience high levels of conflict, the process of relationship dissolution can be extremely volatile (Birnbaum & Bala, 2010; Johnston, 1994; Martínez-Pampliega et al., 2021; Polak & Saini, 2019) and

while not all family dissolutions involve domestic abuse, family violence is prevalent despite being under-reported (Araji & Bosek, 2010; Farrell, 2021; Jamieson et al., 2018; Saltmarsh et al., 2021).

The complexities surrounding domestic violence escalate when parents turn to the Family Court to address matters related to their children, such as issues of care, contact, or maintenance. The high rate of divorce and separation in South Africa has led to an increase in care and contact disputes, previously referred to as custody disputes (Bosch-Brits et al., 2018). This, in turn, has led to a higher occurrence of parental conflict, particularly in high-conflict cases where the minor children's care and contact arrangements are disputed and tend to continue in the legal system for extended periods (Bosch-Brits et al., 2018). In most cases, conflict around care and contact are resolved by the parents outside of court. If parents are unable to reach such an agreement, the court will assist in determining the physical contact and decision-making authority that each parent will exercise in terms of their rights and responsibilities towards the child (Silberg & Dallam, 2019).

In recent decades, with increased divorce rates, the diversification of family configurations, and the influence of fathers' rights movements, have resulted in changes to child custody (care and contact) legislature in many western countries (Lessard et al., 2010). To make the divorce or separation processes smoother and less acrimonious (Johnston, 1999), changes have occurred in South African law and court systems (Hall & Richter, 2018; Jamieson et al., 2018; Mol, 2019; Ozah & Skelton, 2018). For example The White Paper on Families in South Africa, (Department of Social Development, 2021) was developed to provide a broad framework for all government departments dealing with families and that this family policy would "result in well-functioning and resilient families that are able to nurture and promote care to their family members" (Hall & Richter, 2018, p. 27).

Changes have also been made to policies to ensure that care and contact are more gender-neutral (Berg et al., 2018; Boyd et al., 2019; Bridgeman et al., 2011; Matthias, 2017; Swart, 2017) and children's rights have become paramount in all matters (Boyd et al., 2019;

Hall & Richter, 2018; Jamieson et al., 2018; Johnston, 2000; Matthias, 2017; Mol, 2019; Nazneen et al., 2019; Ozah & Skelton, 2018). For many parents with minor children, the legal system and policies regulating divorce, separation, as well as care and contact are vital components affecting their ability to ensure their and their children's safety, following their separation from an abusive partner (Emery et al., 2005; Ford-Gilboe et al., 2009; Galántai et al., 2019; Hardesty & Ogolsky, 2020; Jaffe, 2005; Mol, 2019; Saunders, 2008; Spearman et al., 2023; Stark et al., 2019). However, despite the best efforts of social workers, court officials, and the judiciary to empower and produce a conflict-free situation between separating and divorcing parties, the court intervention and court-ordered processes often fuel the conflict and hostility between parties (Frade & de Wet-Billings, 2019; Jacobs & Andrews, 2021; Robertson & Broadhurst, 2019). The Family Court context itself sets up conditions for abusive behaviours to occur following separation from an abusive partner (Spearman et al., 2023). The South African Law Reforms Commissions Issue Paper 31, titled Family Dispute Resolution highlights that "South African society fails to manage divorce effectively and that there is no coherent procedural family law system in place" (2015, p. v i), particularly in cases where family violence exists (Francia et al., 2019).

Family Court thus often becomes a "breeding ground" for domestic disputes, particularly in families with a history of DV (Stahl, 2010, as cited in Bosch-Brits et al., 2018, p. 92). This is aptly described by Anderson, Goolishian, and Winderman (1986) in the cybernetic concept of the problem-determined system, where those who aim to assist often "fall prey to perpetuating the very problem it seeks to cure" (Keeney, 1983, p. 23). Other researchers have described family violence as being the core business of Family Court (Easteal et al., 2018).

In family dissolution characterised by continued disputes concerning the minor children's care and contact agreements both in and outside of Family Court, research shows a general proclivity of DV (Anderson et al., 2011; Birnbaum & Bala, 2010; Johnston, 1994; Martínez-Pampliega et al., 2021; Polak & Saini, 2019). Allegations of domestic abuse and/or

child abuse are found in alarming high and disproportional numbers in divorce and Family Court matters pertaining to children (Jaffe, 2005; Robertson & Broadhurst, 2019; Sheehy & Boyd, 2020; Silberg & Dallam, 2019). However, it has also been shown that the majority of high conflict cases also involve IPV (Bertelsen, 2021; Deutsch et al., 2020; Emery et al., 2005; Spearman et al., 2023). Therefore, it is imperative to differentiate between a high conflict separation and a separation that involves violence or a history of domestic abuse (Polak & Saini, 2019). Polak and Saini (2019) assert that intimate partner violence differs significantly from high conflict matters and should be treated distinctly differently (Sheehy & Boyd, 2020).

Divorce and custody legislature and policies guiding Family Court processes often frame conflict as both parties being mutually responsible and fails to account for the dynamics of power and control dynamics that exist within the abusive relationship (Elizabeth et al., 2012b; Spearman et al., 2023). However, it is imperative to be able to decipher between different kinds of divorce conflict as to which are normal and functional, and which signal pathology and are dysfunctional, especially for children (Johnston, 1994). With IPV, there are behavioural patterns of coercive control and power, using violence or threats of violence to dominate and humiliate. Emotional abuse and other coercive measures are used to establish dominance and control (Bishop & Bettinson, 2018; Dichter et al., 2018; Douglas, 2018; 2018b; Johnston, 2006; Katz et al., 2020; Stark & Hester, 2019; Tolmie, 2018).

The ability to differentiate between conflict and abuse in families where there are serious allegations of parental alienation or domestic violence issues, would better allow for adjudications on shared parenting in some cases, and the identification of more toxic levels of conflict (Birnbaum & Bala, 2010; Polak & Saini, 2019; Robertson & Broadhurst, 2019). A better understanding of the concept and of the factors associated with domestic violence is important in order to allow the judicial system and associated professionals to more effectively address the needs of children and their parents (Birnbaum & Bala, 2010).

Domestic violence concerns may need more restrictions being placed on the abusive parent

regarding care and contact arrangements of the minor children (Birnbaum & Bala, 2010; Polak & Saini, 2019; Sheehy & Boyd, 2020).

Spousal and interparental conflict are often simply equated with divorce and separation. However the failure to distinguish between marital breakdown discord and dissatisfaction, and domestic violence and the accompanying hostile attitudes, and physical aggression, has resulted in confusion for the courts in dealing with such matters, and where the dangers and dynamics of domestic violence are often overlooked (Francia et al., 2019). Literature points to a need for a clear distinction between cases, particularly in matters where one parent primarily instigates the conflict or abuse (Birnbaum & Bala, 2010; Polak & Saini, 2019; Sheehy & Boyd, 2020).

Further, there is a need to ascertain whether the parental conflict originates from difficulties communicating; but can use the legal or health care channels which would allow for a move towards more shared parenting; or whether the parental conflict is at a toxic level of conflict, and is accompanied by serious alienation and/or domestic violence that would require more restrictions to be placed on the parent's interactions with the other parent and children (Birnbaum & Bala, 2010).

While many fathers are good fathers, and some mothers may make unfounded claims of abuse, research by Francia et al. (2019) found that the dominant discourse expressed by both mothers and fathers accommodated gendered narratives. These gendered narratives were striking, with mothers often referred to as "alienating" or "vindictive bitches," and fathers as "abusers" or "perpetrators." This research underscores the need to consider family violence on a case-by-case basis (p.10).

Johnston (1994) developed a conceptual model, to understand the types of conflict found between separating parents. The model made consideration of three dimensions of conflict: 1) the domain, 2) the tactics and 3) the attitudinal dimensions. Johnston (1994) distinguished different types of conflict to better explain which type of conflict is being considered. "Normal high conflict," was used to refer to cases where both parents remain

actively involved in their children's lives. Other kinds of conflict seemed to indicate pathology and a dysfunctional situation that would perhaps necessitate one or both parents to have their involvement in their children's lives substantially reduced or suspended for a significant period of time (Johnston, 1994). Birnbaum and Bala's research (2010) makes a distinction between different cases of conflict between separating parents; distinguishing between cases where there is (1) poor communication; (2) domestic violence; and (3) alienation. They also acknowledge that a clear differentiation should be made between cases where only one parent is the primary instigator of the conflict or abuse, and cases where both parents are responsible (Birnbaum & Bala, 2010).

A qualitative research study by Bertelsen (2021), done in Norway, showed that parents' experiences of divorce conflict are not abstract clinical phenomenon or legal dilemmas, but biographical realities of their lived experiences post-separation. The research produced a different picture from quantitative research on the subject. The findings showed that from the standpoint of parents, engaging in, and staying with, certain issues eventually resulted in them being labelled as high conflict. It is important to understand how the court experience from the viewpoint of parents enabled the researcher to get insight into the issue of conflict (Bertelsen, 2021).

According to Polak and Saini (2019), IPV is markedly different from high conflict and exhibits a pattern of control, power, and coercion, as well as domination and humiliation through the use of threats, violence, or the fear of violence, emotional abuse, or other coercive methods. It is important to distinguish between high conflict matters and intimate partner violence, because it has been confirmed that in cases where there was domestic violence prior to separation, there is also a high probability of continuing abuse post-separation (Johnston, 1994; Polak & Saini, 2019). According to Enaifoghe, (2019); the cycle of "violence is perpetrated by lack of a functional justice system and a dearth of available resources" (p.123). There is considerable evidence that Family Court magistrates, family law professionals, court representatives, and those dealing with family matters are not

adequately considering domestic violence when making care and contact decisions, or determinations that affect the family (Robertson & Broadhurst, 2019; Stark et al., 2019). It is, therefore, essential that legal professionals and healthcare workers in the Family Court and the justice system have a comprehensive understanding of the issues that families in such circumstances face (Birnbaum & Bala, 2010; Polak & Saini, 2019).

Family Court Processes

The term Family Court processes refer to the various agencies and professionals involved in resolving issues of post-separation parenting and those that are utilised to ensure the safety of victims of domestic violence and child abuse in this context. This includes the Family Courts of South Africa, legal practitioners, the Legal Aid Commission, child protection services, Family Dispute Resolution practitioners (Mediators), family consultants and social workers within the Family Court system, police services and other court services such as the Office of the Family Advocate. While some agencies may not necessarily be part of the system, their services or actions may affect the process and impact the outcome for the families and their children (Laing, 2010), and “multiple jurisdictional gaps” could place already vulnerable parents and children at further risk following separation, particularly in cases where family violence exists (Francia et al., 2019, p. 4).

In South Africa, Family Court is the local court where care and contact matters are heard. Maintenance and DV matters are held in the Maintenance Court, but all fall under the broad description of Family Court, with Maintenance Court and Children's Court part of the Magistrate's Court (Family Law, 2021). Matters pertaining specifically to children are heard in either the Children's Court or High Court, such as the child's protection and well-being, litigation over care and contact (Family Law, 2021), establishing if there is neglect, abuse, or exploitation, as well as decisions on alternative care placement (Understanding The Children's Courts, 2021). The High Court is considered to be the “upper guardian of all children”, with the responsibility of safeguarding the well-being of all children, therefore if a

child's well-being is in question, matters will most often be heard in the High court (Children's Act 38 of 2005, p.38).

Even though the rate of all separating and divorcing couples with children embroiled in extended litigation, court hearings, and trial is only about one tenth (Johnston, 2000), and even with the services offered, approximately one-fourth to one-third of divorcing couples report experiencing high levels of hostility and conflict over the ongoing care of their children, which often persists for many years after separation and extends well beyond the expected timeframe for resolving such differences (Johnston, 2000). It would appear that there are alarming levels of anger, frustration, cynicism and alienation from separating/divorcing parents with regards to their personal experience of Family Court and associated professionals with whom they have had dealings (Austin et al., 2013; Johnston, 2000; Monk, 2017; Turner et al., 2017).

While Family Court has the potential to offer a positive impact on the lives of those affected by domestic abuse, affecting them personally or their families; Family Court seems to instead create a "private tragedy" for families (Alstott, 2009, p. 3), with family members feuding against one another, using lawyers and the system in a battle over children, child support, and assets (Ozah & Skelton, 2018). Factors such as domestic violence, substance abuse, child neglect, unemployment, poverty, mental illness, disability, and other issues often concurrently occur while the legal battle rages. Alstott (2009, p. 3), characterised this as a "zero-sum struggle" for resources, where families end up self-destructing in the process. In this way, domestic violence and Family Court processes appear to "undermine gender equality and respect for children's rights within the traditional courts setting" (Proudlock & Rohrs, 2018, p. 21).

In addition to a heightened risk of physical violence, many victims of intimate partner violence may also be subjected to other forms of abuse, including being retraumatised by the court process itself (Katirai, 2020). Research by Miller and Smolter (2011) shows compelling evidence that "abusers manipulate systems to prevent formal help-seeking

behaviours, exert power, force contact and financially burden survivors” (Spearman et al., 2023, p. 1229). Legal and social systems, as well as litigation strategies are used by abusive partners in an effort to further abuse, intimidate, humiliate and terrorise their former partners post-separation (Spearman et al., 2023).

Any number of strategies are employed, including, custody stalking (Elizabeth, 2017), with attempts and threats to have the children removed from the mother’s care, making false reports of neglect or abuse to have her rendered an unfit parent (Gutowski & Goodman, 2020; Watson & Ancis, 2013); initiating frivolous lawsuits and paper abuse (Miller & Smolter, 2011); counterclaims of abuse with the express purpose of retaliation (Miller & Smolter, 2011); or any other legal action, court process, and/or system-related tactic or manipulation (Bancroft, 2002; Galántai et al., 2019; Gutowski & Goodman, 2020; Harman et al., 2018; Silverman et al., 2004); that shift the blame from the abuser to the victim and reduces her credibility (Epstein & Goodman, 2018). These system manipulations are often used in retaliation to a mother’s help-seeking behaviours, such as filing for custody, or applying to reduce maintenance in retaliation of her application for a protection order or having reported abusive behaviour to the police (Miller & Smolter, 2011; Spearman et al., 2023). This type of abuse has debilitating consequences to mothers trying to rebuild their lives after leaving an abusive relationship.

Mothers dealing with Family Court processes, often experience re-traumatisation (Katirai, 2020), or secondary victimisation (Douglas, 2018; Laing, 2016; Rivera et al., 2012b) by the abuser, his associates and legal counsel, the judiciary and court personnel, as well as by service providers and institutions connected with the family court and justice system (Rivera et al., 2012b).

When mothers are not protected, it affects all aspects and interactions within their lives (Jaffe et al., 2010; Saunders, 2008). Not only do mothers have to deal with the stresses of Family Court proceedings, but they have the added trauma of having their DV perpetrator opposing them in Family Court (Saunders, 2008). Mothers engaged in court proceedings

may be dealing with the physical and psychological consequences of past domestic abuse (Fulu et al., 2013a; 2013b; Hannah & Goldstein, 2010; Postmus et al., 2020; Rivera et al., 2012b), as well as struggling economically, emotionally and psychologically as a result of current domestic abuse post-separation (Duffy, 2015; Humphreys & Thiara, 2003b; Mahon & Moore, 2011; Murta & de Oliveira Parada, 2021; Rathi et al., 2018). The economic instability, instability in housing, and health challenges may force a mother to approach the maintenance court for spousal or child maintenance. They also have the added stresses of legal expenses, parenting concerns, work commitments, and other issues impacting their well-being and the well-being of their children (Jaradat, 2018).

As mentioned earlier, there is a societal expectation that a mother should leave an abusive relationship, ensuring her safety and acting in the best interest of the child. However, from a legal point of view, if a mother does not leave an abusive situation, whether by choice or necessity, she may risk subsequent unintended consequences; for example, children may be removed from a mother's care by social services for failing to protect them (Dragiewicz, 2014). However, in Family Court proceedings, such as maintenance or care and contact matters, mothers find themselves in a contrary position of balancing their safety concerns with the needs of their child/ren (Dragiewicz, 2014). Further to this, in care and contact matters, there is a prevailing assumption that mothers will now "facilitate, promote and encourage ongoing contact between their children and their abuser, also ostensibly for the sake of the children" (Dragiewicz, 2014; p. 122), based on the premise that such contact is in the child's best interest.

As was indicated earlier, separating or divorcing parents, in the context of domestic violence, are often also subjected to care as well as contact disputes and maintenance matters related to the minor children. In view of this, the following section will specifically focus on these two contexts.

Care and Contact Disputes

Due to legislative changes, new terms have been introduced into the Children's Act (Act 38 of 2005), which are of relevance when dealing with matters concerning children. Care and contact have replaced the term of custody, however, in this study, the term custody may still be used to refer to the legal right or duty of protective care or guardianship of a child, due to its relevance in literature (Themistocleous, 2017). Custody entails the legal right to retain, manage, protect, care for, and oversee a minor child (Krüger, 2004).

According to The Children's Act (Act 38 of 2005; p. 11), *Care* refers to the various responsibilities of a parent or caregiver in relation to their minor child, including the duty to provide the minor child with suitable shelter, food, clothing, medical, and educational needs and the necessary financial support. According to the Act it is a caregiver's responsibility to ensure that a child "(a) be protected from maltreatment, abuse, neglect, discrimination and exploitation or other harm; (b) be guided and receive appropriate education and upbringing in accordance with his/her age (c) have a sound relationship with the parent who will guide behaviour in a humane manner; and accommodate any special needs of the child" (Themistocleous, 2017, p. 9-10).

The definition of *Contact* is defined by The Children's Act (Act 38 of 2005; p.11), as the personal relationship that a parents or caregiver has with a child. In cases where the child does not reside with the parent or caregiver then contact may be in the form of visitation, or through electronic or other means such as phone calls, video call or emails and take place on a regular basis. The term *access* has been replaced by the term *contact* in South African legislature (Themistocleous, 2017).

Child care and contact disputes are among the most embattled war zones in the post-separation dissolution process (Elizabeth et al., 2012b). In an effort to diffuse conflict, joint parenting was introduced, based on the presupposition that parent's choices will be in the best interest of the child, and that both parents will continue to be actively involved in their child or children's upbringing (Emery et al., 2005; Lessard et al., 2010; Saunders et al.,

2013; Themistocleous, 2017). When both parents are in agreement and willing, joint care and contact shows considerable benefits and appears to be an ideal solution post-separation (Hunter et al., 2018; Smart, 2003).

In the cross-sectional population-based study of teenagers, Nilsen et al. (2020) found that adolescents living in nuclear families or joint custody arrangements showed less health issues than adolescents living with single or step-parent families who showed significantly higher levels of health complaints. Adolescent boys and girls showed similar patterns, although this arrangement is often not in the parent or the child's best interest especially when there is family violence or a history of violence.

Martínez-Pampliega et al.' (2021) research provides new insights into the impacts of divorce by exploring concurrent patterns in how parents view their children's behavioural and emotional difficulties. The study identified the importance of joint parenting of children but only supported this when parents were able to co-parent. They found that in some instances, the harmful effects on children's psychological health far outweighed any potential benefits (Martínez-Pampliega et al., 2021; Nilsen et al., 2020).

Family Court and professionals dealing with care and contact matters seemingly favour joint custody, (Hunter et al., 2018; Rivera et al., 2012a; 2012b), asserting that it allows children to maintain contact and a continuous relationship with both parents (Lessard et al., 2010; Saunders et al., 2013; Themistocleous, 2017). However, the consequences of domestic violence and its effects on children are often underestimated and misunderstood by Family Court judiciary, legal representatives and those attending to family and family violence matters (Martinson & Jackson, 2017; Sheehy & Boyd, 2020). Within legislature, while domestic violence is a determining factor in the consideration of the best interests of the child (Children's Act 38 of 2005), greater priority is given to the perceived need to encourage shared parenting than any legislative concerns for the safety and wellbeing of the children, or their protective parent (Hunter et al., 2018; Sheehy & Boyd, 2020).

When determining the child's best interests, Zorza's (2007) "friendly parent" standard exists in most Family Court. This standard expects mothers to facilitate and promote a positive relationship between the child and the other parent, even if the mother has reasonable concerns or reluctance to co-parent due to concerns about potential harm (Dragiewicz, 2014; Fontes, 2004; Hans et al., 2014; Hardesty & Ganong, 2006; Jaffe, 2005; Rivera et al., 2012b; Saunders et al., 2013; Slote et al., 2005; Zorza, 2007).

Judiciary, legal representatives, mediators and Family Court professionals appear to have the view that the father's history of interpersonal violence has no relevance to the mother's concerns for her child's safety (Silberg & Dallam, 2019), and does not affect the parenting, or the well-being of the child. When formulating recommendations for care and contact, there is the assumption that past abuse should remain in the past (Sheehy & Boyd, 2020), that separating from an abusive relationship will put an end to future abuse (Stark et al., 2019) and that past abuse has no bearing on the present situation, particularly that of the children (Sheehy & Boyd, 2020).

According to Jaffe et al. (2003), common misconceptions by Family Court systems include the notions that (1) domestic violence is no longer an issue for couples who are in the process of separating/divorcing, and/or disputing child custody as the abuse will not continue once they are separated; (2) domestic violence will result in eventual separation; (3) children exposed to domestic violence are not harmed unless directly injured; (4) domestic violence is exclusively between the adult parents and has no place in child custody decisions; (5) assessment of the needs of abused women and their children, and the effects caused by the perpetrator, can be satisfactorily conducted by Family Court, attorneys, mediators and other court services; (6) legal and mental health services are readily available, for female victims and their children; and (7) community assistance and solutions are available to victims of domestic violence and their children when separating from the perpetrator.

Untrained evaluators often mistakenly assume that divorce or separation will resolve the issue of domestic violence. However, the purpose of domestic violence is often a need for power and control. Therefore, separation from the abuser does not end the problem; in fact, it can exacerbate the situation (Hans et al., 2014; Saunders et al., 2013).

Findings suggest that the predominant discourse and literature guiding divorce, custody and Family Court judicial decision-making, often frames conflict as mutual and fails to take account of the dynamics of power and control inherent in abusive relationships (Boonzaier, 2008; Hans et al., 2014; Spearman et al., 2023; Stark et al., 2019).

In contrast to situational couple violence that happens between intimate partners and is mutual; coercive abuse, involves one intimate partner engaging in patterns of controlling behaviours that are not limited to a particular situation; with patterns of coercion that are pervasive throughout the relationship (Kelly & Johnson, 2008; Stark et al., 2019; Stark & Hester, 2019). According to Stark and colleagues (2019), coercive abuse encompasses more than just physical violence. It can also involve intimidation, emotional abuse, isolation, minimisation, denial, and blaming of the victim. Abusers may also exploit children, assert male privilege, engage in economic abuse, and make use of coercion and threats against the victim.

Whereas prior to separation, abuse and harassment may have occurred through mechanisms such as physical attacks, stalking, or threatening the mother, however, following separation, Wuest et al. (2003) noted that an abusive ex-partner often continued the abuse through; a) using the children, b) the restructured family dynamic, and c) the Family Court system; as methods of continued abuse and harassment (Spearman et al., 2023; Wuest et al., 2003). Abusive ex-partners often used contact with the children as an opportunity to abuse or harass their ex-partner, as well as making threats related to custody negotiations (Wuest et al., 2003). Wuest et al. (2003) observed how the restructured family dynamic was utilised to exert control with “ex-partners’ continuing their abuse by purposefully threatening, undermining, and destabilizing the new family unit through stalking,

violating family expectations, challenging children's understanding of why the family had separated, disrupting family routines through unpredictable visitation, and withholding child support" (Wuest et al., 2003, p. 603). Furthermore, perpetrators utilised and engaged within the Family Court system to further perpetrate abuse and use the system as a mode of coercive control (Dichter et al., 2018; Douglas, 2018; Elizabeth et al., 2012a; Francia et al., 2019; Khaw et al., 2021; Laing, 2016; Spearman et al., 2023; Stark et al., 2019; Stark & Hester, 2019; Tolmie, 2018; Wuest et al., 2003).

In reality, research shows that ongoing contact with an abusive ex-partner is often accompanied with increased risk of further abuse for the mother (Callaghan et al., 2018; Dekel & Andipatin, 2016; Humphreys & Thiara, 2003a; Rezey, 2017; Saltmarsh et al., 2021; Smyth & Moloney, 2019; Spearman et al., 2023), increased risk of the child being exposed to abuse, (Callaghan et al., 2015; Francia et al., 2020; Fulu et al., 2017; Gosal, 2018; Haimi & Lerner, 2016; James-Hanman & Holt, 2021; Stark et al., 2019; Zeoli et al., 2013), increased risk of physical and psychological maltreatment of the child (Douglas & Walsh, 2010; James-Hanman & Holt, 2021; Katz et al., 2020; Stark et al., 2019; Zeoli et al., 2013), as well as poor role modelling and care (Hardesty & Ganong, 2006; Jaffe et al., 2003; Saunders, 2008; Saunders et al., 2013; Sheehy & Boyd, 2020; Silberg & Dallam, 2019).

Care and contact arrangements often legitimise the abusive parents' ability to be in contact with their ex-partner, thus providing opportunities for further intrusion, intimidation and harassment (Hunter et al., 2018; Saunders et al., 2013; Spearman et al., 2023; Wuest et al., 2003). An abusive ex-partner often uses subtle behaviours that give the impression of an involved parent (Hunter et al., 2018), but will continue to abuse the mother through interactions about care and contact, or at child exchanges, also leaving children vulnerable to abuse during unsupervised or poorly supervised visitation (Radford & Hester, 2006; Saunders et al., 2013).

However, despite this, IPV, child maltreatment and exposure to abuse are frequently undetected or minimised in family court proceedings, often resulting in long term

consequences for mothers and children (Khaw et al., 2021; Meier & Dickson, 2017; Meier & Sankaran, 2021; Saunders, 2008; Saunders et al., 2013; Spearman et al., 2023). Mothers experiencing IPV post-separation face barriers to their safety when having to negotiate co-parenting arrangements and during interactions at Family Court (Khaw et al., 2021; Smye et al., 2021; Spearman et al., 2023; Stark & Hester, 2019). Victims of IPV and their children run the risk of serious harm as a result of care and contact decisions that ignore or inadequately account for IPV (Saunders et al., 2013).

Fathers' rights groups assert that women's allegations of family violence post-separation are used as a tactic to gain advantage in family law decisions (Francia et al., 2019). The claim is that mothers routinely make false allegations of domestic violence or child abuse as part of a "gamesmanship of divorce" (Stark et al., 2019, p. 6), in order to gain an economic advantage in the divorce, to *win* custody, or advantage in the care and contact matter, or to alienate the father from his child (Stark et al., 2019).

Although there is the claim that courts favour mothers over fathers (Stark et al., 2019), research seems to indicate the contrary (Jaffe, 2005; Saunders et al., 2013; Stark et al., 2019). Iberg and Dallam (2019), found that mothers who raised reasonable concerns about abuse were not only "often sanctioned for reporting abuse" (p. 141), but were either threatened with the loss of contact with her children, or in many cases lost custody of her children to her violent ex-partner (Araji & Bosek, 2010; Broadhurst & Mason, 2017; Meier, 2009; Radford & Hester, 2006; Saunders et al., 2013). Instead of being seen as protective of their child, mothers raising such concerns about abuse are either simply not believed, seen to be exaggerating or more likely fabricating incidents of domestic violence in order to manipulate the courts to gain an unfair advantage, were considered obstructive, or viewed as alienating the child from the other parent (Harman et al., 2018; Jaffe et al., 2010; Meier & Dickson, 2017; Silberg & Dallam, 2019; Stark et al., 2019; Stark & Hester, 2019; Von Boch-Galhau, 2018).

Parental alienation and other litigation tactics and manipulations are often used by abusers to undermine allegations of DV and child maltreatment against them (Hannah & Goldstein, 2010; Harman et al., 2018; Jaffe et al., 2010; Laing, 2016; Meier, 2009; Meier & Dickson, 2017; Sheehy & Boyd, 2020; Von Boch-Galhau, 2018). In Family Court proceedings, particularly care and contact matters, abusive ex-partners are known to use their ex-partners' personal, physical or medical history against them (Miller & Smolter, 2011; Spearman et al., 2023; Wuest et al., 2006), often using this information in their claims of them being an unstable or unfit parent (Gutowski & Goodman, 2020; Spearman et al., 2023; Watson & Ancis, 2013).

While judicial decisions should demonstrate a sincere concern for the safety and security of children and their primary caregivers (Sheehy & Boyd 2020), research indicates that judiciary, legal representatives, social workers and custody evaluators are inclined to believe that mothers make false allegations (Hans et al., 2014; Stark et al., 2019). Mothers are therefore discouraged by their legal representatives from raising concerns about abuse or pursuing restricted visitations with abusive fathers, even with documented evidence of such abuse (Hardesty & Ganong, 2006; Hardesty & Ogolsky, 2020; Rivera et al., 2012a), as they run the risk of being seen as obstructive and could lose custody of their child/ren (Bemiller, 2008). Additionally, it was found that a father who claimed that a mother was alienating him from his child/ren, was far more likely to obtain the order that they were seeking (joint or sole custody of their children), even in cases where Family Court was aware that the father had committed acts of DV against his ex-partner or child (Elizabeth, 2017; Sheehy & Boyd, 2020; Silberg & Dallam, 2019; Stark et al., 2019).

It was also found that in contested cases, and Family Court matters, court decisions are heavily influenced by psychological reports, care and contact evaluations by social workers, psychologists, family advocate reports and such (Saunders et al., 2013; Silberg & Dallam, 2019). Judicial decision and court rulings frequently rely on such reports, not recognising that much of the information presented in these reports, especially those

produced by poorly trained or biased evaluators, may reflect subjective opinions rather than conclusions that are data-based (Silberg & Dallam, 2019). Saunders et al. (2013), found that the evaluators' background, beliefs and their knowledge about intimate partner violence directly affected their recommendations regarding care and contact.

Silberg and Dallam (2019) noted similar findings, with psychological tests often interpreted in a way that supported the evaluator's personal belief system and ignored when they did not. It was further found that even when presented with evidence of domestic violence, psychological reports tended to favour fathers, and were often biased against mothers (Silberg & Dallam, 2019). Another erroneous factor, observed by Silberg and Dallam (2019) within Family Court, was "the pathologizing of mothers", where "two-thirds (67%) of the mothers were pathologized for advocating for the safety of their children" (p. 159). Saunders et al's. (2013) research confirmed that IPV and controlling behaviour was viewed as not being relevant to custody/supervision decisions and evaluations in Family Court proceedings. In addition, Saunders et al. (2013) found that the evaluators' belief that a mother was making false allegations, and their recommendations that the perpetrator should have custody or unsupervised visits was positively associated with (a) being a male evaluator, (b) patriarchal norms, (c) not knowing a survivor of IPV, and (d) less knowledge of IPV (Saunders et al., 2013, p. 473). The results of their study highlighted erroneous beliefs about custody, the false view that mothers were alienating children from the other parent, and that survivor symptoms of intimate partner violence were labelled as a sign of chronic psychopathology (Saunders et al., 2013).

Professional responses to a mother's disclosure about abuse, or safety concerns has a significant impact on the well-being of victims (Silberg & Dallam, 2019), and judicial decisions made in Family Court can impede the health and safety of mothers and children exposed to intimate partner violence particularly in the context of post-separation (Araji & Bosek, 2010; Douglas, 2018; Katz et al., 2020; Laing, 2010; Spearman et al., 2023). Family Court's treatment of mothers, conservative judicial interpretations, and unsupportive

responses to family violence by professionals, only serves to compound the harm and trauma already associated with the abuse (Broadhurst & Mason, 2017; Gutowski & Goodman, 2020; Harper, 2022; Nnoli et al., 2023; Silberg & Dallam, 2019). Minimising or invalidating victims' allegations of abuse, not only intensifies victim's levels of distress (Silberg & Dallam, 2019); but increases the severity of post-traumatic symptoms (Campbell, 2002; Fulu et al., 2013a; Humphreys & Thiara, 2003a; Machisa et al., 2018; Silberg & Dallam, 2019).

The vulnerability of survivors of IPV is compounded by gender-based inequalities (Nnoli et al., 2023), that intersect with other sources of oppression faced by women such as race, class, disability or geographical location, to name a few (Anitha, 2019; Boonzaier & van Niekerk, 2018; Gottzén et al., 2020). These are further compounded by 'patriarchal social structures' (Fulu et al., 2013b; Mshweshwe, 2020; Namy et al., 2017; Saunders et al., 2023; Spearman et al., 2023; Vyas & Jansen, 2018), that limit economic opportunities for women, often resulting in what scholars term the 'the feminisation of poverty' (Crenshaw, 1991; Easteal et al., 2018; Muliolino, 2021).

Understanding the specific techniques used in post-separation abuse is a vital step towards developing interventions and strategies that recognize the experiences of navigating violence, separation, and divorce, as well as the systemic factors that create obstacles to safety and well-being (Spearman et al., 2023).

Maintenance Matters

Parental rights and responsibilities are specified in The Children's Act (Act 38 of 2005), and includes the parental responsibility of contributing to the maintenance of one's child (Jamieson et al., 2018). Maintenance of a child includes a parent's responsibility to contribute to the child's food, clothing, accommodation, education, and medical care, which can also consist of additional costs dependent on the family's financial resources (Matthias, 2017). When parents separate, the payment of child or spousal maintenance can become a highly contentious and disputed issue. When one parent deliberately or maliciously refuses

to financially support their child/ren, it places a tremendous strain on the other parent by diminishing their already limited capacity to meet the basic nutritional, health and educational needs of the children (Khonou, 2018; Proudlock & Rohrs, 2018). In domestic abuse contexts, the controlling or abusive behaviour can extend to using financial control, which is used to harm the other parent and child (Bishop & Bettinson, 2018; Postmus et al., 2020). In such instances, the parent deliberately disregards their constitutional obligation to prioritise their child's socio-economic rights, which according to section 28 (1) (c) of the Constitution of the Republic of South Africa (No. 108 of 1996), they are expected to do (Khonou, 2018; McCarthy et al., 2018).

Economic abuse consists of deliberate patterns of behaviour that “control, exploit, or sabotage an individual’s economic resources including employment” (Postmus et al., 2020, p. 2). As contained in the Domestic Violence Act (Domestic Violence Act, 1998), and according to the National Strategic Plan on Gender-based Violence and Femicide (South African Government, 2020, p. 9), economic abuse includes “the unreasonable deprivation of economic or financial resources”, which a person is entitled to by law or may require out of necessity, and includes the unreasonable disposal of household effects or other property to which the person has an invested interest. In the literature, financial and economic abuse are often used interchangeably, where the abuse causes or affects the financial or economic insecurity of the victim.

According to Postmus et al. (2020), economic abuse is a “frequently hidden or invisible form of abuse” (p. 1), with the link between gender and economic abuse becoming increasingly clear in the literature. Gender-based economic disparities, including wage gaps, societal discourses that devalue mothers' unpaid domestic work, as well as misogynistic perceptions of mothers as obstructive or vindictive, contribute to increased vulnerability to abuse post-separation (Elizabeth et al., 2012a). These structural and ideological barriers make it exceptionally challenging for mothers to care for their children and attain financial

independence after separation, consequently heightening their risk of enduring continued abuse (Spearman et al., 2023).

Spearman et al. found that economic abuse is linked to employment insecurity, childcare difficulties, and housing instability. It was also observed that abusers can exploit the legal system to financially drain their former partners, leaving them bankrupt, impoverished or destitute (Anitha, 2019; Bowlus & Seitz, 2006; Miller & Smolter, 2011; Spearman et al., 2023). Furthermore, it has been found that some IPV survivors compromise their demands for child support, prioritising their immediate safety over their children's long-term well-being (Hardesty & Ganong, 2006; Spearman et al., 2023).

Research has shown that most victims of economic abuse also experience other forms of domestic violence (Anitha, 2019; Sharp-Jeffs, 2021), with studies showing how financial control is a highly prevalent form of coercive controlling behaviour (Stark & Hester, 2019; Weismann, 2020). Dutton and Goodman (2005), note that economic abuse has the effect of “wearing down resistance” through “resource depletion” (p. 749). These resources may be personal (such as physical stamina and determination), social (such as emotional support), and tangible/economic (such as transportation and a place to stay). Sharp-Jeffs, (2021) notes that economic abuse further creates co-dependency on the abuser which deprives mothers “of the means needed for ‘independence, resistance and escape’” (Dutton & Goodman, 2005, p. 749).

Summers' (2022) research revealed that while 60 percent of 185,700 single mothers who had experienced intimate partner violence were employed, many still struggled financially, with their earnings often inadequate to cover the needs of themselves and their children, leading to considerable stress. Hall and Richter (2018) noted that despite the existence of progressive legislation such as the Children's Act and constitutional mandates to safeguard children's socioeconomic rights, these rights are frequently not prioritised, particularly in the context of child maintenance. They observed that a significant portion of

non-resident fathers in South Africa fail to financially support their children, with the state not effectively enforcing maintenance obligations (Hall & Richter, 2018).

To ensure economic justice and to ensure the best interest of the child, government must adopt gender-responsive laws. The report by Gender Links (2021) states that:

Lack of economic independence is one of the many factors that derails progress on women economic empowerment efforts in the region. Yet economic empowerment is a sustainable solution to gender violence. It ensures access and participation of women in various economic sectors. According to the UN Women, investing in women's economic empowerment sets a direct path towards gender equality, poverty eradication and inclusive economic growth. (p. 28)

Enforcing maintenance obligations is essential for simultaneously achieving children's rights and promoting gender equality (Proudlock & Rohrs, 2018). Ensuring that non-resident parents, often fathers, fulfil their financial responsibilities to their children, is vital in safeguarding children's access to essential resources and opportunities. This, in turn, empowers mothers who may have been financially dependent on abusive partners, enabling them to establish economic independence. Effective maintenance enforcement is a critical component for upholding the rights and wellbeing of children, while also addressing the systemic gender inequalities that increase mothers' vulnerability to domestic abuse (Postmus et al., 2020; Weissman, 2020). It is key in creating more equitable and secure outcomes for both children and their caregiving parents (Hall & Richter, 2018; Proudlock & Rohrs, 2018).

Chapter Summary

This chapter provided a comprehensive contextual overview of the literature on domestic violence, Family Court processes, and post-separation abuse. It examined research on IPV, highlighting its pervasive yet under-recognised nature as a human rights violation (Saltmarsh et al., 2021). The chapter explored the escalation of abuse when women leave or attempt to leave abusive relationships and addressed the complex interplay

between South African legislation and the judicial system in this regard. Additionally, the chapter delved into the intricate relationship between IPV and family dissolution in the context of Family Court processes, noting how domestic violence can significantly complicate proceedings around critical issues such as care and contact, and maintenance matters. This chapter's exploration of these multifaceted dynamics lays the groundwork for a comprehensive investigation and deeper understanding of the data.

CHAPTER 3: THE CONCEPTUAL FRAMEWORK OF GENDER AND POWER

This chapter, forming part of the literature review, provides a contextual discussion regarding the social constructions of gender, power, and violence inherent in intimate-partner violence within the South African legal and social context. Through a critical postmodern feminist lens, this chapter sets the stage for a nuanced examination of how gender, power and agency are constructed and negotiated the complex and often oppressive dynamics of personal and legal circumstances surrounding IPV and Family Court.

The Social Construction of Gender and Abuse

A feminist perspective emphasises the critical need to comprehend domestic violence and abuse as a form of gendered violence. This viewpoint recognises that gender refers to socially constructed differences between men and women, especially mothers and fathers, rather than biological sex differences. A gendered approach to understanding IPV and coercive control is essential to capture the complex dynamics and develop tailored interventions and support for survivors (Dekel & Andipatin, 2016; Stark & Hester, 2019).

Gendered Power Dynamics and Intimate Partner Abuse

Kaur and Garg (2008) described domestic violence as the power that is misused in a relationship by an individual to control another. They explain that in a relationship, fear and control are established using violence as well as other types of abuse (Kaur & Garg, 2008). Power dynamics are often gendered, and according to the literature, power is the central factor in inequality between men and women (Becker, 1993; Elizabeth et al., 2012b; G'sell, 2018). Therefore, it is essential to look for power inequities that are created by society (Becker, 1993; Bishop & Bettinson, 2018; Boonzaier, 2008; Bullock et al., 2020; Enaifoghe, 2019; McCarthy et al., 2018; Minto et al., 2020; Shefer & Ratele, 2011), if we are to eradicate the inequality between women and men. Becker (1993) believes that we need to scrutinise whatever it is that "gives men a power-related advantage relative to women whether it be via political power, economic resources, or whatever" (p.304). More

importantly, it is essential to be aware of inequalities in power that are established between the sexes when society perceives differences between men and women (Fulu et al., 2013b; McCarthy et al., 2018).

Within a South African context, a “gendered hierarchy” (Jamieson et al., 2018, p. 83) is established by societal norms, where abuse that is used against women and children is seen to be justified (Fulu et al., 2017). This social and cultural context promotes a gendered and hierarchical view where men are seen to be in a more superior position to women and children (Jamieson et al., 2018), and violence is a means of expressing masculinity, enforcing gender norms and as a suitable method to discipline children (Jamieson et al., 2018; Namy et al., 2017). Within this socially constructed gendered hierarchy, Mathews et al. (2015) noted that men often used violence to gain respect and power and that the controlling behaviour used against women and children often increased the risk of resorting to physical punishment and child abuse.

Boonzaier's research (2005) indicated that early feminists' explanation of woman abuse claimed that the violence of men toward women originated “from a system of gender inequity and male domination” (p. 61), where patriarchy is the basis of woman abuse. While Connell's (1995) hegemonic masculinity theory specified that while patriarchy does not benefit all men equally, some types of masculinity have indeed become more culturally or racially superior (Boonzaier, 2001; Gottzén et al., 2020; Litosseliti, 2013). Connell (1995) argued that hegemonic masculinity is not about the individual personalities of men but is a social construct that maintains male power and legitimises the subordination of women. In this way gender inequality exists between men and women, and is reinforced by societal views of gender differences (Fulu et al., 2013b; McCarthy et al., 2018).

Connell (1995), outlined three distinct forms of femininity that are all shaped by the subordination of women to men. The first is compliance, where women accept gender inequality by accommodating men's interests and desires, (emphasised femininity), representing women's acceptance of gender inequality. The second is resistance or non-

compliance, where femininity actively challenges the notion that power belongs solely to men. The third is a middle ground between the two, where femininity is neither fully agreeing nor resisting.

Building on Connell's theory (1995), Paechter (2013), explored the dynamic relationship between hegemonic masculinity and femininity. According to Paechter (2013), femininity is positioned as subordinate, while masculinity is associated with power. Within this dualistic framework, femininity is perceived as the absence of masculine traits, rendering it powerless. Consequently, women are unable to occupy positions of power, as power is linked to masculinity. As a result, women are confined to subordinate, passive, and powerless roles. Paechter (2013), states that in practice, this means that 'masculinity' becomes synonymous with 'what men do' and is inherently tied to power.

So while domestic violence occurs on a particular level with individual men perpetrating abuse and exerting control on their female partners, the action is linked to a more extensive system of "male control" (Houston, 2014, p. 270). This system encourages individual acts of violence where, Houston (2014) explains: "Violence is tolerated and maintained in the patriarchy through the interlocking structures of individual beliefs, institutional response, and social/cultural attitudes" (p. 270). The specific incidents of abuse plays a part in reinforcing domination within a larger and more complex system in which widespread violence occurs and oppression of women continues (Houston, 2014; Minto et al., 2020). Thus the gender inequality system is produced and reinforce through the allocation of resources, institutional practices, social norms and social interactions, patterns of behaviour, and internalised beliefs and identities (McCarthy et al., 2018), which in turn often increases men's power over women (Connell, 2012; Mathews et al., 2015; McCarthy et al., 2018; Ridgeway & Correll, 2004).

The power dynamics found in families and the role that families play in the transmittal of cultural and social knowledge both affect and are affected by broader social frameworks (Elizabeth et al., 2012b; McDowell & Fang, 2007). Foucault (1980) observed that power is

not only about individuals holding positions, receiving rewards, or devising plots, but rather the functioning of political technologies throughout the fabric of society. An analysis of power requires the consideration of both the local/micro expressions and control mechanisms, as well as its larger/macro forms, and their underlying ideological foundations (Foucault, 1980).

Therefore, it is essential to locate “cultural differences within the wider nexus of power relations of which they form a part” (Mcdowell & Fang, 2007, p. 552). Collins (2000) refers to the “structural domain of power” (p. 287) where large-scale, interlocking social institutions also contribute to women’s subordination.

As a result, domestic violence does not just affect individual victims but affects and influences the lives of all women (Connell, 2012). Therefore, putting an end to domestic abuse is a feminist issue, in that stopping domestic violence can liberate all women, not just those who are marginalised (Boonzaier & Gadd, 2015a; Houston, 2014; Pieterse, 2007). In discussing the concepts of gender and power in African contexts, Mama (2001) explains how feminist theory has developed a “sophisticated understanding of power” (p. 68) which can be used in consideration of identity and of intimate partner abuse.

These dominant constructions of masculinity emphasise specific characteristics at particular social and historical moments in time (Gottzén et al., 2020; G’sell, 2018). However, from a South African perspective, gendered power dynamics are interlinked with a more extensive social system, where men try to maintain their grasp on these hegemonic constructions of masculinity by perpetrating violent acts. In South Africa, this attempt to maintain hegemonic forms of masculinity is evident within a context of a perpetually changing socio-political and economic climate (Boonzaier, 2013; G’sell, 2018). Critical theorists explain that the power found in hegemonic masculinity is obtained through devaluing, marginalising and disempowering forms of femininities, as well as through the process of devaluing, marginalising, and disempowering ‘other’ masculinities, such as gay or ‘feminised’ men, and through the use of disempowering systems such as in South Africa’s system of apartheid (Laubscher, 2013).

When questioning “Why do some men use violence against women and how can we prevent it?” Fulu et al. (2013b), noted that “gender inequalities and power imbalance between women and men are the foundational causes of violence against women” (p. 4). Tuon (2021) maintained that power imbalances occurred even in relationships that did not report physical violence.

An earlier study by Elizabeth et al. (2012b), which comprised of interviews with mothers living separately from ex-partners, and who were currently in disputes about contact issues regarding their minor children, showed that women experienced consequential continuities in gendered power dynamics even when the women did not report violence by their intimate partners. Although scholars and women's rights activists have brought attention to domestic abuse and secured protection for women and children by juxtaposing abusive relationships with ones described as 'normal,' this process has blurred the gender dynamics found in relationships, especially when women still experience an imbalance of power and gender inequality but may not have experienced violence directly. Extending on the dominant discourses indicated above, Julia Wood (2001) found that women who have been abused also assign a particular meaning to their abusive relationship, and often use the accessible reserve of discourses, where narratives often “reflect and embody culturally produced, sustained, and approved narratives of gender and romance” (p. 257).

Furthermore, it has been established that women sometimes utilise these hegemonic gendered constructions themselves, and in other circumstances, these gendered constructions are resisted (Boonzaier & De La Rey, 2003). Women often conform to traditional gender norms and narratives, making excuses for their partners' abusive behaviour and internalising the belief that they should care for and support their romantic partners (Boonzaier, 2008; Wood, 2001). In another study by Boonzaier (2008), it was determined that the narratives that women use to explain abuse also consist of stories of fairy tales and romance that are culturally embedded and used in an effort to understand the violence.

This aligns with a number of studies which confirm that women draw on cultural resources and narratives available to them make sense of their relationships (Dekel, 2013; Dekel & Andipatin, 2016; Tolmie et al., 2010; Wood, 2001). These discourses encompass and represent culturally constructed, maintained, and accepted narratives surrounding gender and romantic relationships (Wood, 2001). These social constructions of love, romance, and gender often intertwine in complex ways, especially within abusive relationships (Jackson, 2001; Shefer, 1999; Towns & Adams, 2000).

Research also revealed that men are often portrayed as dual masculine identities (Dekel, 2013), where they reveal both positive and negative qualities, as either the prince or the beast (Boonzaier & De La Rey, 2004) or where there is a splitting from the good to the bad (Dekel & Andipatin, 2016), as in tales like "Beauty and the Beast" (De Jong, 2005; Dekel & Andipatin, 2016; Jackson, 2001; Towns & Adams, 2000; Wood, 2001). These dark romantic narratives suggest that women turn to certain ways of speaking that highlight romantic narratives and adhere to social beliefs to make sense of intimate partner violence. However, this splitting from the good to the bad . often keeps women in the relationship because of the hope in that they will change back to their "former selves" (Boonzaier, 2008; Dekel & Andipatin, 2016; Wood, 2001). According to Boonzaier (2005), men adopt narratives of 'emasculatation' or 'crisis' and deliberately position themselves as the victim. This switch between hegemonic constructions is often used as a strategic tactic to assert control or dominance (Anderson et al., 2012; Boonzaier, 2008). Similarly, men who abuse use several masculine narratives to explain their violence perpetrated against women partners (Boonzaier, 2008; Dekel, 2010; Towns & Adams, 2000) drawing on various rhetorical devices, of which many discourses emphasise a sense of male entitlement and male dominance.

The issue of gendered power dynamics is central to this research, as gender-based violence, financial abuse, court processes, and the social constructions of these dynamics are significant given the pervasive domestic and gender-based violence taking place within

South Africa. McDowell and Fang (2007) state that knowledge of minority culture is often subjugated and misrepresented by comparing it to the dominant culture. They suggest that these "subjugated knowledges need to be recognised and 'revalued' in their own right and as sources of critique of dominant discourses" (McDowell & Fang, 2007, p. 552). Therefore, as the social construction of gender is increasingly acknowledged, this understanding will allow for a more thorough examination of gender, race, ethnicity, and class (Allen & Baber, 1992; De Reus et al., 2005; Ferree, 1990, 2010; McDowell & Fang, 2007).

Gender differences are also evident in economic power, where disparities between men's and women's salaries, as well as societal attitudes that undervalue mothers' unpaid domestic labour and view them negatively, and norms that view women as vindictive or obstructive can make mothers more vulnerable to abuse after separation (Elizabeth et al., 2012b; Spearman et al., 2023).

Not only is post-separation abuse perpetrated at an individual level, that affects one's autonomy, dignity and self-worth, and where factors such as power differentials between intimate partners or family members play a part, but is further facilitated and perpetuated by the broader communal and societal level such as the legal systems influenced by gender and patriarchal norms (Spearman et al., 2023). Therefore intimate partner violence and particularly in the context of post-separation abuse in the Family Court setting, must be understood not just in terms of the abuse perpetrated at an individual level, but in terms of how it is further facilitated and perpetuated by the system in which it exists (Silverman et al., 2004; Spearman et al., 2023; Stark & Hester, 2019).

Baxter (2006, p. xiv) points out that women continue to face challenges in gaining full acceptance within key institutional settings, including government, law, education, politics, religion, media, and the business world. Furthermore, studies have demonstrated that within these settings, women often encounter discrimination operating at multiple levels, in both institutional structures as well as in everyday interactions, such as through dominant discourses and language use (Baxter, 2006; Coates, 2012).

Coates (2012) examined everyday interactions to uncover how male speakers asserted dominance over female speakers through their language usage. Coates (2012) discussed the gendered differences in language that emerge, noting that some researchers view these linguistic differences as reflecting the dominant-subordinate relationship between women and men, while others interpret them as arising from the distinct subcultures in which women and men are socialised. Therefore, the words spoken and the way they are expressed represent not only gender, but also the broader social context in which it is situated.

Wooffitt (2005), suggests that when communicating, describing, or referring to something, there are various word choices and phrases available. Therefore, language is not merely a neutral tool for conveying subject knowledge, but rather a form of social practice that shapes and reflects social realities. Similarly, Discourse Analysis from a Social Constructionist perspective views language use as constructive of social reality, with gender not as a fixed attribute but as something achieved through interaction and discourse (Silverman, 2000; Baxter, 2010; Wooffitt, 2005). Therefore, research using Discourse Analysis, coming from a Social Constructionist perspective “sees language use as constitutive of social reality and gender not as a given but as accomplished through talk” (Coates, 2012, p. 91).

According to a critical postmodern feminist perspective, the language used in research is a textualising practice. This approach requires that analysts should continually remain reflective and self-aware of the constitutive influence that the language used in their research wields, recognising its power to shape and construct social realities (Baxter, 2010).

Such critical self-reflexivity of the part of the analyser about what we do with language reveals the connections that are often hidden but that maintain the ideologies and power relations, which from a Feminist perspective, are important (Litosseliti, 2013). A pertinent study by Zimmerman & West (1975) brought to light how conversational dominance could be established through linguistic methods, such as through interruptions

(i.e. starting to talk before another speaker finishes); by taking too many turns, holding the floor for lengthy periods, or by using a non-response or strategy of silence. It was also noted that conversational dominance was more common in the conversations between a man and a woman (Coates, 2012). A further study by DeFrancisco (1991), focused on non-cooperation during interactions. The study observed that the men used various non-cooperative strategies to control the conversation, such as not responding, interrupting, delayed or inadequate responses, and the use of silence. What was also noted was that, although the women in the study talked more and introduced more topics, this was not associated with dominance, and they were less successful in getting their topics accepted than their male counterparts.

Sylvia Shaw's (2006) research drawing on a social constructionist framework, looking at discourse patterns, showed how conversational dominance exists within government and the workplace. In her analysis, Shaw (2006) found that women members of parliament in the UK experienced difficulty during parliamentary meetings, with male frequently break the rules, making illegal comments, and not being censored, suggesting that this type of rule breaking is viewed as normal behaviour by the male members, with women disadvantaged due to their reluctance to break the rules.

Research has addressed discourse patterns within the court system and specifically at the institutionally structured conversational turn-taking of cross examination (Matoesian, 1993; Finegan, 2012). It was found that in the legal context, "cross-examination is an adversarial war of words, sequences, and ideas, a war in which the capability to finesse reality through talk represents the ultimate weapon of domination" (Finegan, 2012, p. 487).

In the book *Toward a Feminist Theory of the State* (1989), Catherine McKinnon (1989) identified the subtle and implicit ways that assumptions about gender influence both culture and the law; and how fundamental gender inequality is at the foundation of our legal system and culture. McKinnon's (1989) insight is profoundly applicable to the state of Family Court,

currently, particularly civil courts adjudicating care and contact of children and maintenance matters. She identifies that male-gendered assumptions are often hidden in plain sight within law and culture. Significant academic research and empirical evidence indicate that Family Court systems frequently overlook or downplay men's domestic violence within the home setting and is often made invisible through Family Court processes (Fitch & Easteal, 2017; McKinnon, 1989; Meier & Dickson, 2017).

Coates (2012) elaborates that within institutional settings, women are significantly disadvantaged, stating that:

Women are expected to adapt to androcentric norms, for example to use the more adversarial, information-focused style characteristic of all-male talk, and typical of talk in the public domain. But women who successfully adapt to characteristically male linguistic norms run the risk of being perceived as aggressive and confrontational, as un-feminine, while those who choose to use a more affiliative, cooperative style risk being marginalized. (p. 93)

A critical postmodern feminist theoretical approach to discourse analysis considers gender differentiation to be a dominant discourse among competing discourses when analysing all types of text. In addition, in keeping with social constructionism, the idea of language as social practice; the relation between language and power; the importance of the self-reflexive researcher, the principle of intertextuality; and the role of deconstruction are defining features in conducting discourse analysis. However, this type of research also challenges binary thinking that some more powerful: as those (people, groups, systems) who wield power over others, and the less powerful, or those who suffer its abuse (Baxter, 2010). In light of this view, women “are not helpless victims of patriarchal oppression, but that gender identities are complex, shifting and multiply located, continuously fluctuating between subject positions of powerfulness and powerlessness” (Baxter, 2010, p. 18).

Intersectionality of a Diversity of Women's Experiences

Despite the growing attention to gender and power dynamics (Ferree, 2010), how women name, define and understand their abuse is also connected to the specific context in which their violent experiences occur (Boonzaier & De La Rey, 2003).

Intersectionality studies the “ways that race, gender, disability, sexuality, class, age, and other social categories are mutually shaped and interrelated through forces such as colonialism, neoliberalism, geopolitics, and cultural configurations to produce shifting relations of power and oppression” (Rice et al., 2019, p. 1). Intersectionality describes the way people from different backgrounds encounter the world and how interlocking, overlapping, and contradictory systems of oppression and power impact and influence their lives (Mahalingam et al, 2009; Mcdowell & Fang, 2007; Mama, 2012; Vetten, 2000). These systems are formulated from the way that categories of identity including gender, age, sexual orientation, class, race, one's nation of origin, language, culture, ethnicity, abilities, disabilities, and other societal groupings are reciprocally constructed and interconnected within a wider social system (Boonzaier & Gadd, 2015b; Mama, 2012; Mcdowell & Fang, 2007; Rice et al., 2019).

Intersectionality addresses the fact that gender is not an “isolated variable” (Mama, 2012, p.3) or “homogenous category” (Lafrance & Wigginton, 2019, p.11) and that looking at the interconnections of these categories allows one to gain deeper insight into the ways that women from different backgrounds encounter the world and how these intersections reveal discrepancies within social relations (Collins, 2000; Smye et al., 2021). Intersectionality is, therefore, a valuable method to explore macro and micro-level dynamics and events among people, and groups, and their position in social discourses (Rice et al., 2019).

Intersectionality offers a relevant framework when examining issues surrounding domestic violence, as it is grounded in the lived experiences of individuals and can capture the complexities of their intersecting social identities and locations (Hankivsky & Cormier, 2011).

Multiple intersections of race, class, ethnicity, clan, religion, sexuality, age, nationality, citizenship, ability or disability and status, can exacerbate gender inequalities, which can compound the issue, making some people more prone or more vulnerable to violence or abuse, and less likely to receive protection (Boonzaier & Gadd, 2015a; Crenshaw, 1989; Mama, 2012; Mahalingam, 2009). We are thus able to recognise that violence can occur within these intersections (Varcoe, 1996; Smye et al., 2021) and can acknowledge those that are marginalised by looking at their lived experiences of discrimination (Smye et al., 2021).

According to Crenshaw (1991), there is not only a single approach to discrimination, but the previous theory of discrimination failed to consider the multiple marginalisations that women and especially women of colour experienced. For example, when describing women's experiences, black women are often categorised according to either race or gender; and not the interaction of both (Crenshaw, 1989). This is further shaped by the broader social and historical issues such as colonialism or apartheid, which can bring about evolving associations of power and oppression (Hobbs & Rice, 2018; Rice et al., 2019). This is apt for South African studies, where, according to Vetten (2000), the particular ways in which violence against women is manifested, stem from the unique intersection of race, gender, and other types of power, resulting in complex dynamics. Boonzaier and De La Rey (2003) go on to say that:

The sociocultural context provides the boundaries through which women filter their experiences of violence and through which men assess preferred or devalued forms of gender identity. An analysis of woman abuse among South African women, therefore, cannot be accomplished without acknowledgement of multiple levels of analysis, such as the social, cultural, economic, and historical contexts. (p. 1004)

So, while the issue of oppression is evident in all women's lives, black women, particularly, have a distinctive and specific position when it comes to oppression, as they experience both gender and racial oppression concurrently, and encounter other factors

including racism, ageism, classism, ableism, for example (Collins, 2000). Therefore, we must consider this when trying to unravel issues of oppression in the context of intimate partner violence, which will be further elaborated on in the subsequent section of postmodern feminist family theories.

Postmodern Feminist Family Theories

Postmodern feminist family theories draw on critical and multicultural perspectives, social location (which gives greater attention to issues of race, ethnicity and culture) (Bean et al., 2002), and feminist discourses on identity politics (McDowell & Fang, 2007).

Several factors have led to the formulation of postmodern feminist family theories. The first is that greater acceptance of postpositive research has allowed for more diverse methodologies that support feminist studies (McDowell & Fang, 2007). This, in turn, has led to more multicultural and feminist research within family studies. A number of ethnic family studies that have used a postmodern approach which question the Eurocentric standard and rejects a singular objective world, have produced research that has focussed on the diversity of families (Cross, 2019; Dilworth-Anderson et al., 1993; Platt, 2009; Zinn et al., 2011). This contributed to a wider variety and broader understanding of family theories. Secondly, as family studies research has developed, the social construction of gender has increasingly been acknowledged (McDowell & Fang, 2007).

Postmodern family theories acknowledge that our understanding of ourselves and how we describe our experiences are indistinguishable and inseparable from the various contexts that locate us in society (McDowell & Fang, 2007). This has resulted in a more enhanced and theoretical understanding of the reciprocity between the numerous identities and their social locations that incorporates the analysis of issues such as race, class, ethnicity, and other social categories (Allen & Baber, 1992; De Reus et al., 2005; Ferree, 2010; McDowell & Fang, 2007).

In an effort to eradicate the social rules differentiating men and women, Feminist Family Theories address gender equality by examining sexism (Becker, 1993). MacKinnon

(1979) points out that the different treatment of men to women is not the main issue of discrimination, rather, “the core of discrimination is not treating similarly situated men and women differently” (as cited in Becker, 1993, p. 304). Becker (1993) argues that societal practices routinely transform differences between men and women, whether real or perceived, into advantages for men and disadvantages for women. These actual or perceived differences are leveraged to justify unequal treatment of men and women, resulting in the establishment of a hierarchy that is at the core of discrimination.

By looking at the politics embedded within social contexts, postmodern feminist family theories uncover such oversimplified and essentialist portrayals of society and family life (Mcdowell & Fang, 2007). As is relevant to the research, De Reus et al., (2005) noted that critical race feminist theories emerging from legal scholarship can direct research to critically examine families within a broader socio-political context and observe intersectionality operating at the intrapersonal/micro, interpersonal/meso, and community/macro levels, which is relevant to this study (De Reus et al. (2005).

When studying family dynamics, it becomes evident that the "relationships between family members are deeply influenced by social discourses and material realities associated with the social locations of each member and the family as a whole" (Mcdowell & Fang, 2007, p. 555). There are interactions between the family members and between them and the broader social system that is reciprocally influential (McDowell & Fang, 2007). In the same way, power dynamics in families, the individual roles that family members have in the transference of these power dynamics, and social and cultural knowledge also influence and are influenced by broader social structures (McDowell & Fang, 2007).

While family studies have moved away from simply “celebrating diversity” and understanding cultural differences (McDowell & Fang, 2007, p. 549) as was done in earlier decades (Dilworth-Anderson et al., 1993; Falicov, 2003), postmodern feminist family theories critically analyse power dynamics within diverse family structures, focusing on how gender performance and membership shape power relations. To understand institutional change,

including within families, these theorists employ intersectionality to uncover complex power relationships, which is a relatively new process of analysis (Ferree, 2010).

Postmodern feminist theories incorporate the original activist and emancipatory tenets of feminism and the deconstruction tools that are found in postmodernism (Baber, 2009). Theories of subjectivity, language, and social processes are used by postmodern feminists in order to make sense of existing power relations and to thus to identify areas and strategies for change (Dekel & Andipatin, 2016). Of concern to postmodern feminists is how systems of power are shaped by sexism, racism, heteronormativity, and how class hierarchies work to restrict the lived experiences and opportunities of those situated within the intersections of constructed social categories (Baber, 2009).

A postmodern feminist perspective recognises that the experiences of inequality and power are an ever-present component and relate not only to the personal but also the social (Boonzaier, 2008; Boyd et al., 2019; Elizabeth et al., 2012b; Fulu et al., 2013b; 2017; Jamieson et al., 2018; Mama, 2001; Namy et al., 2017; Salo, 1999). There is a reference to a critical perspective on the self, such as “ensembled individualism” (Sampson, 1988, p. 15), and “social individuality” (Sampson, 1988, p. 18), which highlights the importance of psychosocial studies in understanding the interconnectedness between individual experiences and social and political structures (Laubscher, 2013).

To develop relevant and impactful postmodern feminist family theories, it is essential to consider the complex realities that shape people's lived experiences across diverse cultures and social locations (Mcdowell & Fang, 2007). Within the domain of family life, to gain a more representative, comprehensive, and inclusive understanding of varied family structures, it is also important to examine the social, cultural, and historical contexts embedded in family dynamics (Mcdowell & Fang, 2007). In South Africa, the political past has profoundly shaped how family relationships are formed and structured (Mathews et al., 2016). Mcdowell and Fang (2007) emphasise that it is essential for researchers to recognise that individuals from diverse cultural backgrounds and social contexts often hold vastly

different understandings of relationships, and study participants may have varied, and conflicting perspectives of family life, relationships and family dynamics compared to those of the researcher.

Boonzaier, a South African postmodern feminist theorist, primarily adopts a narrative perspective that reflects the subjective experiences of South African women. She is interested in the social construction of discourses, including how women can contribute meaning and assist in developing a scientific knowledge base through their voices (Boonzaier, 2008; 2013; Boonzaier & De La Rey, 2003, 2004; Boonzaier & Gadd, 2015a, 2015b; Boonzaier & van Niekerk, 2018; Boonzaier & van Schalkwyk, 2011; Gottzén et al., 2020). Amina Mama, an American scholar, who conducts feminist research within an African context (Mama, 2001, 2004, 2011, 2012, 2016; Mama & Okazawa-Rey, 2012), has the view that:

Feminist theory and ethics have enormous potentials to transform and energize the discourse on academic freedom and social responsibility. As a theory of knowledge and an intellectual practice, feminism deconstructs the epistemological foundations of patriarchy and contributes to the emancipation of women as subjects and studies on and about women as critical intellectual engagements (p. 1).

Chapter Summary

This chapter looked at the literature on the social constructions of gender, power, and violence inherent in intimate-partner violence. Chapter 3 looked at how family dynamics and broader social frameworks can perpetuate patterns of abuse and oppression. Postmodern feminist family theories were discussed as a lens to critically analyse these complex family and societal dynamics, particularly within the South African context where the political history has significantly influenced family relationships. Intersectionality was explored as a way to understand the diverse experiences of women and the interconnected systems of power that shape their lives (Mama, 2012; McDowell & Fang, 2007; Vetten, 2000). The literature further highlighted that in addition to issues of gender-based violence and discrimination, many

forms of violence perpetrated against women are rooted in power and social inequalities between men and women (Enaifoghe et al. (2021).

CHAPTER 4: RESEARCH DESIGN AND METHODS

Following from the literature review and the contextualisation of domestic violence and the associated gendered power dynamics, this chapter begins with a revisit of the problem statement and then maps out the research design and methods employed in this study. In addition, ethical considerations and measures to ensure rigor and trustworthiness will be discussed. The chapter will conclude with a brief introduction to the mothers who participated in this study.

Problem Statement, Research Questions, and Aims of the Study

As highlighted in Chapter 2, DV has deleterious consequences for all involved, but especially for mothers and children, including negative consequences to a mother's physical, psychological and emotional safety; financial stressors, amongst others (Alstott, 2009; Banda & Eekelaar, 2017; Elizabeth et al., 2012a; Hunter et al., 2018; Stratemeyer, 2021; Tuon, 2021). Literature has indicated that while divorce and domestic violence have been well researched, the experiences of mothers' post-separation, and specifically in Family Court processes in the context of domestic violence, have been less well-reviewed. The consequences of domestic violence for women, especially after leaving abusive partners, and their post-separation experiences with Family Court, are for the most part poorly understood (Callaghan et al., 2018; Ellis & Stuckless, 2000; Humphreys & Thiara, 2003b; James-Hanman & Holt, 2021; Khaw et al., 2021; Smyth & Moloney, 2019).

Furthermore, there are concerns that domestic violence may in fact, "undermine gender equality and respect for children's rights within the traditional courts setting" (Proudlock & Rohrs, 2018, p. 21). Taking this into account, in conjunction with the large number of DV incidents both in South Africa and internationally, it warranted further investigation into the current context. In view of this, this study aimed to 1) explore how South African mothers' experience Family Court processes in the context of intimate partner violence; and 2) explore the social constructions of gender and power dynamics in the

context of Family Court and intimate partner violence, post-separation. The research questions guiding the study were:

1. What are South African mothers' experiences of Family Court in the context of intimate partner violence?
2. How are gender and power dynamics constructed in the context of Family Court, and intimate partner violence, post-separation?

Research Design and Methods

The study adopted a postmodern social constructionist paradigmatic framework and utilised a qualitative research approach in conjunction with a critical postmodern feminist theoretical orientation. There was substantial coherence between the paradigmatic framework, research approach, and theoretical framework in the study, aligning with the research question and the issue under investigation. The subsequent sections detail the research design and methodology selected for the study.

Given that this research study did not aim to interpret the social world through causal relations or to determine sociological and psychological facts using objective measurement, a positivist research paradigm was not considered appropriate. Instead, the systemic experiences of the court system in the context of intimate partner violence warranted a more critical approach (De Vos et al., 2011). Consequently, the ontological orientation of the theories guiding this study is derived from social constructionism, which views reality as subjective, intersubjective, and something that can have multiple meanings (Jacobs & Andrews, 2021).

Social constructionism provides a fitting ontological framework for this research study, as it views reality as personally or socially constructed through active participation (Burr, 2015; De Vos et al., 2011). This aligns with the study's intent to examine mothers' experiences within the contexts of intimate partner violence and Family Court processes, where the emphasis is on exploring social processes and questioning the categorisation of people and phenomena that shape our thinking and language (Burr, 2015). By adopting a

social constructionist approach, the study can challenge "taken-for-granted" assumptions that knowledge is based on objective and unbiased perspectives, encouraging a more sceptical and nuanced understanding of the world (Burr, 2015, p. 223).

The social constructionist framework is well-suited for this study, as it recognises that 'reality' and knowledge are socially constructed phenomena that emerge within specific sociocultural contexts (Berger & Luckmann, 2023; Burr, 2015; Guba & Lincoln, 1994). This approach enables the examination of the complex and contextual experiences of mothers within relationships involving intimate partner violence, as well as their interactions within the Family Court system, which are embedded in various power structures. The study's focus on exploring the subjective and intersubjective experiences of mothers within these contexts is well-aligned with the social constructionist perspective.

Furthermore, social constructionism recognises that societal elements such as gender, race, age, class, culture, ethnicity, economic and political views can influence beliefs, behaviours, and experiences (Arthur & Nazroo, 2003; Burr, 2015). This coherently aligns with the study's theoretical orientation, as individual experiences need to be understood and interpreted from a broader social, political, and historical context (Anderson & Saunders, 2003; Wigginton & Lafrance, 2019). As R. Campbell and Wasco (2000) explain, these societal factors are not "merely lenses through which we see reality, they are agents shaping how we construct our visions of what constitutes our individual realities" (p. 780). As a researcher, social constructionism, allows one to acknowledge that there are multiple truths and multiple realities located in particular times, spaces, and places (Becvar & Becvar, 2013; Wigginton & Lafrance, 2019). Additionally, since social constructionism does not simply "reflect or mirror reality" but instead creates it, it allows the researcher to become an integral part of constructing knowledge (Wigginton & Lafrance, 2019, p. 9). This approach emphasises the importance of context, the social construction of individuals and problems, and the creation of narratives. This is well-suited for my research, as it enables me to understand the experiences of participants from a broader social, political, and historical

perspective, rather than relying on objective or unbiased perspectives, which is particularly relevant to a South African study. By adopting a social constructionist approach, I can challenge taken-for-granted assumptions and encourage a more nuanced and sceptical understanding of the world.

This approach allowed me to examine how language and discourse reflect the interests and power dynamics within society (Burr, 2015; Graham, 2015), where language is not seen as something neutral or a route to underlying realities, but rather that language itself constructs reality in an interactional and relational process (Graham, 2015). In social constructionism, language reflects the interests and power of dominant groups and knowledge systems within society (Wigginton & Lafrance, 2019). Therefore, by analysing the language or discourse used by participants, I can gain insight into how power dynamics manifests and are resisted (Wigginton & Lafrance, 2019), as well as how certain 'truths' about participants and their world are produced and sustained (Raskin, 2002). According to Becvar and Becvar (2013), social constructionism emphasises the importance of context, the social construction of individuals and problems, and the creation of narratives. This relates to the focus of the study, which aims to explore the complex and contextual experiences of mothers involved in intimate partner violence and the Family Court system, which are embedded within various power structures.

As this research paid attention to participants' narratives of their lived experiences, it aligned with a social constructionist paradigmatic framework (Guba & Lincoln, 1994), which recognises that reality is personally and socially constructed and that participants actively make meaning (Guba & Lincoln, 1994; McDowell 2021), shaped through these societal lenses (Campbell & Wasco, 2000), which influence their beliefs, behaviour, and experiences (Arthur & Nazroo, 2003; Burr, 2015; Wigginton & Lafrance, 2019). Such an approach allowed the research to “extend beyond the individual participant and into social, political, and economic realms” (Burr, 2015, p. 223), making it an invaluable paradigm for feminist

research, critiquing ideologies and cultures, and analysing discourses, all of which were relevant to this study.

Further to the above, a critical postmodern feminist theoretical framework was employed to analyse and synthesise the findings and contribute to a critical approach to a complex topic (Jacobs & Andrews, 2021), which will be discussed under *theoretical framework* below.

Research Approach

The qualitative research approach was well-suited for this study of mothers' experiences with intimate partner violence and the Family Court system. By focusing on the participants' own perspectives, meanings, and narratives, the qualitative approach allowed the researcher to gain a nuanced and contextualised understanding of the complex social, political, and power dynamics shaping the mothers' lived realities (Campbell & Wasco, 2000; Guba & Lincoln, 1994; Hammarberg et al., 2016).

From a qualitative perspective, meaning can only be context-dependent because it is derived exclusively by "the human mind and through socially constructed meanings" that it is comprehensible (Hammarberg et al., 2016; Snape & Spencer, 2003, p. 11). This approach gave the researcher the opportunity to understand the essential qualities of the mothers' experiences, meaning, and perspectives (Hammarberg et al., 2016) and to explore the complexities of socially constructed gender and power discourse within the context of domestic violence and Family Court. It also facilitated an understanding of how language perpetuates certain narratives about the mothers' worlds (Campbell & Wasco, 2000; Raskin, 2002).

This approach aligned with the study's social constructionist theoretical framework, which recognises that individuals' beliefs, behaviours, and experiences are shaped by broader societal factors such as gender, race, and socioeconomic status (Arthur & Nazroo, 2003; Burr, 2015). These intersections of race, class, gender, nation and historical positioning (Collins, 2000), produce unequal social relations, violence, and oppression

(Smye et al., 2021; Varcoe, 1996). By emphasising the importance of context and the social construction of individuals and problems, the qualitative methodology enabled the researcher to explore how the mothers' experiences were embedded within various power structures and discourses.

By using a qualitative research approach a rich perspective of the participants' thoughts and experiences was gained which is vital if we are to enhance our understanding of how mothers experience the court processes in the context of domestic violence (Alase, 2017; Creswell, 2013). This exploratory approach was well-suited for this study, as it allowed the researcher to investigate issues in a less structured and more open-ended manner. This facilitated the interpretation and deeper understanding of the problematic issues relevant to qualitative research studies (Alase, 2017; Creswell, 2013). Exploratory research enables researchers to explore the issues from different perspectives through an inductive, discovery-based process. This involves disclosing patterns and working from a bottom-up approach, which allows them to extract meaningful insights during the research process (Braun & Clarke, 2006; Creswell, 2013; Themistocleous, 2017). Additionally, this methodology presents the raw data from participant interviews and observations, providing valuable insights into the research topic, particularly in areas where few prior studies have been conducted. By focusing on the participants' own perspectives, meanings, and narratives, the qualitative approach allowed the researcher to gain a nuanced and contextualised understanding of the complex social, political, and power dynamics shaping the mothers' lived realities.

This approach gave the researcher the opportunity to understand the essential qualities of the mothers' experiences, meaning, and perspectives and explore the complexities of socially constructed gender and power discourse within the context of domestic violence and Family Court (Hammarberg et al., 2016; Henning, 2004; Snape & Spencer, 2003). It also facilitated an understanding of how language perpetuates certain narratives about the mothers' worlds (Campbell & Wasco, 2000; Raskin, 2002). By using a

qualitative research approach a rich perspective of the participants' thoughts and experiences was gained, which is vital if we are to enhance our understanding of how mothers experience the court processes in the context of domestic violence.

Theoretical Framework

As discussed in depth in Chapter 3, a postmodern feminist theoretical framework guided the interpretation of the findings. Critical postmodern feminist theory draws on various epistemologies and paradigms, including social constructionism, described earlier.

Common aspects of postmodern feminist theories are:

- a) **A Subjective Reality:** According to postmodern feminist theories knowledge is inherently subjective and constrained by limitations of language (Campbell & Wasco, 2000).
- b) **The idea of only one single truth or a single objective reality is rejected** (Berger & Luckmann, 2023, Campbell & Wasco, 2000, Guba & Lincoln, 1994). Instead, there is recognition of multiple context-dependent truths, where different women can share diverse stories and perspectives based on their unique lived experiences and knowledge (Harding, 1987; Campbell & Wasco, 2000).
- c) **A Socially Constructed World:** Postmodern feminist theories recognise that the world is socially constructed (Boonzaier & De La Rey, 2003, 2004; Collins, 2000; Osmond & Thorne, 1993; Wigginton & Lafrance, 2019), with multiple truths (Dekel & Andipatin, 2016), shaped by the social context (Dekel & Andipatin, 2016). These socially constructed realities are produced and sustained through discourse (Bertelsen, 2021; Lafrance & Wigginton, 2019), and to understand them, researchers must engage participants in interactive dialogue to uncover and make these constructions visible (Campbell & Wasco, 2000).
- d) **Dominant Discourses:** Postmodern feminism recognises that there are socially and historically constructed dominant discourses that reveal power structures (Boyd et al., 2019; Elizabeth et al., 2012b; Haque, 2020; Mama, 2004; Salo, 1999). They are

developed in thought processes and social institutions, and laws (Baber, 2009).

Campbell and Wasco (2000) noted that the stories women tell often “reflects the social values and concerns of dominant societal groups” (p. 777). In the *Handbook of Feminist Family Studies* (2009), Lloyd, Few, and Allen found that social constructions of gender within families and within society has been addressed by several feminist scholars; who considered how dominant discourses are reinforced in our thinking and infiltrate into a societal level which becomes evident in social institutions and laws.

- e) **Deconstructions:** Postmodern feminist theories use deconstructions as “a powerful tool” to challenge taken-for-granted concepts and constructions of reality. (Baber, 2009, p. 58). This involves analysing the language people use to describe their experiences and questioning the meanings behind the terms they employ (Campbell & Wasco, 2000). Postmodern feminism aims to specifically deconstruct women's lived experiences and the ways in which social realities are constructed through language (Fonow & Cook, 2005).
- f) **Power Relations:** Postmodern feminists see power relations as being established, maintained, and perpetuated through these discursive strategies, which reinforce the gender binaries (Boonzaier & van Niekerk, 2018; Collins, 2000; Ferree, 2010; Haque, 2020; Mathews et al., 2015; Nzegwu, 1998; Spiwak & Brownridge, 2005).
- g) **No Objective Facts:** Postmodern feminists reject the notion of objective facts, instead challenging the belief in a single, universal truth (Laubscher, 2013). Probyn (1990), refers to this act as attempting “to remove the 'veil' of objectivity p. 182). They aim to deconstruct taken-for-granted concepts and expose the socially constructed relations that are affected by power dynamics (Baber, 2009; Boonzaier, 2008; Boonzaier & De La Rey, 2003; Salo, 2010). Postmodern feminist theory offers new possibilities for rethinking gender power dynamics in society (Baber, 2009).

This research was informed by a postmodern feminist theoretical approach, which assumes that multiple truths exist, dependent on the social context in which they occur.

Postmodern feminist theories expand on traditional feminist theories, providing valuable strategies for studying relationships, families, and the context in which these relationships operate. As a researcher, my goal was to unpack the ways women understand their diverse lived experiences and perspectives, particularly in the context of intimate partner abuse and Family Court processes. I also considered how these experiences are constructed in discourses and within the power relations in which they exist. The phenomena that impact these experiences was also considered (Dekel & Andipatin, 2016). This created multiple different meanings, understandings, and perspectives of domestic violence of DV (Dekel & Andipatin, 2016), as well as insights into Family Court processes in the context of domestic violence, gender, and gendered power dynamics, which could then be examined and refuted.

The insights into domestic violence and court processes, and the constructions surrounding such a context fraught with power differentials and gendered discourse, were derived from women's discourses in a specific social and cultural discursive setting (Smye et al., 2021; Varcoe, 1996). Furthermore, as this approach looks at discourses and acknowledges that they are shaped by unequal power relationships among individuals and groups, it was a suitable theory for this research (De Vos et al., 2011). Such theory also strives for researchers to challenge and critique knowledge systems, ideologies, and dominant discourses (Anderson & Saunders, 2003; Creswell, 2013; Smye et al., 2021).

This theoretical base has proven useful in offering pragmatic guidance to those advocating for gender equality (Baber, 2009). As postmodern feminist theories recognise the subjective and socially constructed nature of reality, they can critically examine dominant discourses and the gendered power dynamics that exist (Fine, 2011; Boonzaier & Gadd, 2015a; Lafrance & Wigginton, 2019).

In summary, the use of postmodern feminist theories in this research provides a nuanced, critical lens for exploring the intersections of gender, power, and social constructions that shape women's experiences of domestic violence and the justice system.

Research Method

Given the research aims and research design discussed above, the following research methods were employed to address the research questions: 1) What are South African mothers' experiences of Family Court processes in the context of intimate partner violence? and 2) How are gender and power dynamics constructed in the context of Family Court, and intimate partner violence, post-separation?

Population and Sample Group

A qualitative approach is less interested in universal truths and more focused on the generation of meaning, and thus qualitative research usually draws on a comparatively smaller sample size (Arthur & Nazroo, 2003; Hydén, 1994). The target population for this study was South African mothers, aged 18 years and above, that had been in a heterosexual relationship with their former partner. An inclusion requirement was that they had experienced domestic violence and have been part of Family Court processes, either in Children's Court in care and contact disputes or maintenance matters in South Africa. In addition, the research focused on mothers who were no longer involved in an intimate personal relationship with their partner who perpetrated the abuse, and who were currently 'post-separation'. The final participant group was homogenous in that the focus was on heterosexual mothers; however, heterogenous of age, race, and culture.

Participant Selection and Sampling Techniques

As the research was qualitative and explorative, it was necessary to select participants that could advance the purpose of the research. Therefore, participants were selected using purposive sampling and snowball sampling (Moser & Korstjens, 2018). According to Moser and Korstjens (2018), sampling strategies should be chosen to yield rich information and align with the methodological approach used. Purposive sampling was applicable as the researcher aimed to select the participants who would be the most informative for the research (Moser & Korstjens, 2018), and this particular sampling method offers a more detailed exploration and understanding of the research issue (Snape &

Spencer, 2003). Participants needed to be carefully selected according to their specific experiences and knowledge of domestic violence and Family Court, and while selection criteria had been included, participants needed to be willing and able to share their experiences of this sensitive issue with the researcher (Moser & Korstjens, 2018). Purposive sampling ensured that the participant selection was of relevance to the research issue and that some diversity could be included in the study so that the full impact of the research issue could be explored (Snape & Spencer, 2003).

I initially began the participant selection process with the intention of contacting Family Court mediators and social services within the provincial court jurisdictions to distribute an information brochure and invitation to participate, to potential candidates that suitably fit the requirements of this study.

To begin the participant selection process, I drafted the Information Brochure Distribution Request (Appendix B) and the Invitation to Participate (Appendix C) and prepared to distribute these to potential candidates meeting the requirements of this study by contacting Family Court mediators and social services within the provincial court jurisdictions. Instead, I was able to recruit participants through a non-government service provider. I contacted the administrator of a Facebook group focused on assisting mothers experiencing difficulties in Maintenance Court. I discussed my research requirements with the administrator and sent the Information Brochure Distribution Request (Appendix B). The administrator fully supported the research and agreed to circulate the invitation to participate. She then posted a notice on the Facebook group, and interested mothers contacted the administrator, consenting to have their names and contact details shared with the researcher.

This process of participant selection resulted in snowball sampling where women then suggested the research project to other women that they knew who were in a similar situation, or from people or institutions that had access or knowledge of potential participants (De Vos et al., 2011; Moser & Korstjens, 2018; Slabbert & Green, 2013). This process

resulted in numerous mothers wanting to be part of the study. This snowballing sampling proved highly effective, leading to participant selection with minimal promotion of the study. This approach significantly strengthened the overall sample as women had diverse socioeconomic backgrounds and a wide range of experiences.

Following the initial outreach from potential participants, I contacted potential participants via email or telephone, to ensure that they met the inclusion criteria. Two mothers did not meet the inclusion criteria. A Participant Information Sheet (See Appendix D) was emailed to those interested in taking part in the research study. Some of the women did not respond further, but those who agreed to take part were sent the Informed Consent Form (Appendix E) to sign. I then made the necessary arrangements to discuss the interview process and to set up the interviews. Establishing contact with potential participants proved to be an essential part in building rapport with the women, especially considering the sensitive nature of the research topic, with most women wanting clarification of details and many wanting confirmation of their anonymity.

As the basic tenet in qualitative studies is that data is collected until saturation, the target sample size was a minimum of 6 participants. This sample size was adjusted accordingly to include 9 participants when data saturation was successfully reached. Data saturation was achieved when new data revealed no new information and a sense of closure was reached (Moser & Korstjens, 2018).

The sample was drawn from a population that satisfied the following inclusion criteria:

- Mothers aged 18 years and older and who reside in South Africa.
- Participants who had been in a heterosexual relationship with their alleged abusive ex-partner.
- Participants must have experienced domestic violence by the other parent (whether previously married, cohabiting or living apart) with a protection order granted by a South African Court for acts of domestic violence.

- Participants must have been or are currently involved in Family Court processes (care and contact or maintenance matters) concerning the minor child or children.
- Participants must have a child or children with the ex-partner with whom they experienced domestic abuse and with whom they were/are litigating against in court.
- Mothers currently separated or divorced from their ex-partner (and parent of their child/children) who perpetrated acts of domestic violence against them or their children.

The exclusion criteria include:

- Mothers who had children with a different father with whom they have been in an intimate violent relationship.
- Mothers who were younger than 18 years of age.
- Mothers that have been through the court process for domestic violence but who do not have children.
- Mothers who have made false allegations of domestic violence.

Data Collection

Quantitative research is the “systematic collection of data about a phenomenon, using standardized measures and statistical analysis” to interpret the results (Hammarberg et al., 2016, p. 499). On the other hand, qualitative research entails the systematic gathering and organising of data, including describing and interpreting verbal, textual or visual data (Hammarberg et al., 2016). In qualitative data collection, it is often a requisite to capture real-life experiences, giving insight to questions that have a personal or social meaning and are different from one person to the next (Akinyode & Khan, 2018; Hammarberg et al., 2016). Creswell (2013) explains that when doing qualitative data collection, in place of relying on

one data source, a researcher can gather numerous types of data, for example interviews, documents or observations.

For this research, data collection was through individual semi-structured in-depth interviews with the mothers, where guiding questions were used initially to probe and explore further insights (Moser & Korstjens, 2018). The selection of interviewing style was dependent on the research question and the study's theoretical orientation, which in turn was directed by the researcher's ontological and epistemological frame of reference (Boonzaier, 2013). Conducting face-to-face in-depth interviews was an appropriate data collection method for this qualitative study, as the aim was to gain deep insights into the participants' experiences, thoughts, perceptions and feelings (Moser & Korstjens, 2018, p. 12).

As the research had a postmodern feminist theoretical orientation and the research aimed to achieve a holistic view of women's individual experiences of domestic abuse and Family Court processes, the individual semi-structured interviewing style was best suited to the study. Other research on similar issues showed many benefits in not using a formal structured interviewing style and confirmed my choice of selecting this data collection method (Bertelsen, 2021; Boonzaier & De La Rey, 2004; Boonzaier & van Niekerk, 2018; Boyd et al., 2019; Dekel & Andipatin, 2016; Morris, 2015).

The interviews had a narrative style question and included one open ended question: *“Please narrate your experience of being in a relationship characterised by intimate partner violence, or domestic violence, from conception to separation, and the related Family Court processes you have experienced”*. This was often simplified to *“Please can you share your story about your relationship, the history of domestic violence, your family and your experience about the Family Court system.”* A narrative style questioning allowed me to stay connected to the participants' particular frame of meaning (Boonzaier, 2013), and to obtain a more comprehensive understanding of the research issue.

Individual face-to-face interviews took place, which ensured that a detailed collection of data was obtained. While in-person face-to-face interviews were preferable, the study

made allowances to make use of online methods. Some participants were not in close proximity to the researcher, therefore online interviews were done with four of the participants. One of the limitations of online interviewing in contrast to face-to-face interviewing was that it may have potentially limited the nuances obtained that could be obtained with face-to-face interviews, particularly with such a topic. All interviews were held at a convenient time for each participant, and if face-to-face interviews were conducted, these took place at a location that was convenient for the participants and conducive to interviewing. Interviews were audio recorded for the purposes of transcription as well as the audit trail.

The interviews began with some basic questions relating to the Demographic information Sheet (Appendix F). This was done to gently introduce the areas of discussion and to make the mothers feel more comfortable with the interview. Further, this introductory process allowed me to strike a balance between the rapport with participants while maintaining a respectful professional distance, which in qualitative research is sometimes difficult to achieve (Schmid et al., 2024), and where the lines between research, friendship, counselling and therapy are often blurred.

Most of the women had not previously had the opportunity to share their story of their relationship with the father of their children, or their experiences post-separation. They therefore often revealed important details during the initial phone call or before the formal interview began and often continued sharing their experiences after the recorded interview ended. The participants also on occasion provided documents or WhatsApp messages related to legal processes to support their story. I would sometimes receive updates from participants after their interviews. I considered what data I could be ethically include in the research and resolved this by asking and receiving consent from participants to include data from telephone calls and information received outside of the formal recorded interviews.

Although I expected interviews to last 60-90 minutes, giving participants enough time to speak freely and not to feel rushed (Moser & Korstjens, 2018), many exceeded two

hours. I was concerned about the length of the interviews on the women and on the data analysis. I considered ways to collect data more efficiently, such as reminding them about time constraints; or guiding the interview more effectively for example through more definitive conclusions to their narrations, such as thank you, or moving onto another topic with a new question. However, the emotional nature of the women's stories made constraining the participants' way of telling their stories to concise interviews ineffective. I therefore adjusted my approach and allowed the women the time and space to tell their stories in their own way. According Melville and Hincks (2016):

It is important that sensitive interviews are not rushed, and that researchers allow time to develop rapport, participants are able to cry, take a break or move between topics as need be. Participants also need to feel that they can express their feelings without being constrained by time. (p.10)

In line with Schmid et al.'s (2024) observations, I too found that all the women were grateful for the opportunity to share the full story of their relationship, and the aftermath of separation. The women seemed to need the time to feel they had completely expressed themselves. As a result, I informed later participants in advance that the interview could be lengthy and encouraged them to take this into account when scheduling the interview. Ultimately, I learned to trust the process of allowing the women the time to fully recount their stories, both for their benefit and for that of the research.

Often the women expressed concern about not being systematic in their account. However, as Pitman (2010) described, "People do not tell stories and narrate their lives in a linear fashion – in neat, tidy sequences; they move back and forth, revisiting, reframing, adding and altering. This is part of the sense making process" (p. 95). Although I had The Interview Topic Guide (Appendix G) handy and made use of it to guide the interview, I explained to participants that there was no definitive way of telling their story, that their story was theirs to tell. Informing them that there was no need to be methodical or linear in the recounting helped the women feel more relaxed, despite the emotional and potentially

overwhelming topic. The women described their experiences and perceptions from meeting their partners and elaborated on the complex relationship and post-separation experiences, including the court process.

While a conventional interview protocol suggests avoiding participants' questions about the interviewer's personal life (Schmid et al., 2024), I was open to sharing my own experiences of relationship abuse, and shared minimal relevant and useful information for the women I interviewed. Scholars like Laban (2024), Schmid et al. (2024), and Maclean and Richards, 1999) note that self-disclosure can encourage a mutual understanding and trust between the researcher and participant. They maintain that self-disclosure can help address any power imbalances between the researcher and participant. However, conducting sensitive interviews requires self-reflection concerning the relationship between the researcher and the participants, especially if this relationship is unequal.

The intense data collection process raised tensions for me as a researcher as to the extent to which I as the researcher should involve myself in the participants' lives (Schmid et al., 2024). I struggled with ending the relationship or distancing myself, given the intimacy and trauma shared. The research experience left me unsettled about how other researchers appropriately conclude the intricate, personal relationships that can develop during data collection, especially when participants shared profound distress and trauma. However, further research revealed that I was not alone and that other researchers faced similar challenges in domestic violence studies:

All the researchers in our study experienced research encounters with vulnerable participants that were extremely touching and sometimes disturbing. Some researchers were affected by deep sympathy and concern for individual participants, and although they were aware of the limitations of their role as researchers, they felt responsible for ensuring that their participants would find help if needed. (Schmidt 2024, p.1266)

Data Analysis

Analysis of qualitative data is usually determined by the purpose and theoretical framework of the study (Akinyode & Khan, 2018, Wagner et al., 2012). In qualitative research, objectivity is outmoded, and instead the researcher is now the instrument, with the subjects being participants that actively participate in the analysis and interpretation of data (Denzin & Lincoln, 1998). In this study, a postmodern feminist theoretical framework guided the data analysis where women's stories were the 'object' of investigation, which focused on how the mothers construct meaning around their experiences. Discourse analysis allowed for the critical analysis of women's constructions and discourses through a critical postmodern feminist lens values (Campbell & Wasco, 2000; Guba & Lincoln, 1994; McDowell, 2021). Discourse Analysis was also suitable for the following reasons: firstly, as women were telling their stories about personal experiences of violence, it was crucial to find an analysis method that did not simply allow me to fit the data into my preconceived theories and categories (Cohen & Crabtree, 2008). Secondly, discourse analysis allowed me to analyse the texts of mothers' experiences of Family Court processes in the context of intimate partner violence; and thirdly, it enabled me to unpack the various discourses that mothers use to understand the social constructions of gender and power in the context of intimate partner violence and Family Court.

Discourse analysis emerged from postmodernism (Guba & Lincoln, 1994; Denzin & Lincoln, 2000) where the participant's story is the subject being investigated (Riessman & Quinney, 2005). Following the postmodern position of this study, discourse analysis is less interested in a universal 'truth' and more interested in the way that participants tell their personal stories and how these stories represent particular truths that are situated in a particular moment, context and setting (Cohen & Crabtree, 2008). Social constructionism emphasises the distinctiveness of historical and cultural knowledge, and the analysis of data should therefore focus on the pivotal role of language in shaping people's and events' constructions (Burr, 2015; Coates, 2012; Goodman, 2017; Willig, 2019). Therefore, these

dominant discourses are considered to be context-bound, affected by social, cultural and political forces, where they are open, and there are continually shifting meanings (Boonzaier, 2013). Billig (1995) explains that dominant cultural identities are perpetuated through the mundane repetition of categories in everyday discourse (Billig, 1995; Parker, 2005).

The issue of language is the central focus in discourse analysis, where the function of language is an essential source of data within these discourses (Bryman, 2012; Gavey, 2007; Parker, 2005). According to (Bryman, 2012), discourse analysis is “the analysis of talk” (Bryman, 2012, as cited in Dekel & Andipatin, 2016, p. 7), and text is interested in “the relationship between language (the words used), meaning (the sense that is made through using those words) and practice (the actions and behaviours afforded by the words used) (Willig, 2019, p. 11).

Discourse analysis examines how individuals' understandings of reality and their experiences are communicated through language and other forms of discourse (Bryman, 2012, Coates, 2012; Dekel & Andipatin, 2016). It also looks at how an understanding of one's experience is established using language (Willig, 2008). For the data analysis of the research, Discourse Analysis involved exploring how discourses assisted or limited the mothers' understanding of domestic abuse, particularly in the context of Family Court processes. From a critical perspective, Blommaert and Bulcaen (2000, p. 451) view discourse as a “social phenomenon” and looks at situating discourse within society. Potter and Wetherell (2010) prescribed the following eight steps of conducting discourse analysis:

- 1) Determine the research question/s;
- 2) Select the sample of data;
- 3) Collect records, including transcripts, etc;
- 4) Conduct the interviews or conversations;
- 5) Transcribe in detail;
- 6) Code the data, as the first pass;
- 7) Analyse the data by looking for any patterns of inconsistency or variability in the discourse. Then go through the data again, looking for those same patterns and validating them by looking at how the discourses assist in understanding, what still needs to be known, and what was learned;
- 8) Write it up, presenting a clear argument.

Based on the suggestions of Willig (2008) and Goodman (2017), discourse analysis was conducted in the following way:

1. Initially, each interview was transcribed and thereafter each transcribed interview was checked against the recorded interviews to ensure that there were no errors (Creswell, 2013).
2. The transcripts were read and reread, which enabled the researcher to immerse herself in the data (Dekel & Andipatin, 2016), and become familiar with it (Goodman, 2017). The recorded interviews were listened to while reading the transcripts. This resulted in a fuller understanding of "participants' accounts as well as to the words that were spoken" (Dekel & Andipatin, 2016, p. 7).
3. As Parker (2005), suggests the researcher thought through the following questions: 1) "why is the text interesting?" (p. 92), (something contradictory or complex should strike the researcher); 2) "what do we know of the material out of which it is constructed?" (p. 92) (by drawing on our own already constructed position), 3) "what might be the effects of different readings of the text?" (p. 92) (as different readings may lead in different directions), and 4) "how does the text conform to or challenge patterns of power?" (p. 92) (the ideological force of the text may seem to point in one direction, but it may also point in another direction). In this research, the researcher identified the transcript sections that contributed to the construction of gender and power in the context of intimate partner violence and Family Court. After that, the researcher paid attention to the differences in these constructions, which was done because, according to Dekel and Andipatin (2016), "what appears to be one and the same discursive object can be constructed in very different ways" (p. 7).
4. In the next part of the analysis, the researcher situated the "discursive constructions" of gender and power "within wider discourses" (Dekel & Andipatin, 2016, p. 7). According to Van Dijk (2004, p. 352), this is referred to as Critical Discourse Analysis, which studies "the way social power abuse, dominance, and inequality are enacted,

reproduced, and resisted by text and talk in social and political contexts". By examining various discourses, including institutional, political, gender, and media, revealed how certain social groups may be poorly represented or mischaracterised across different types of discourse (Lemke, 2007; Sriwimon & Zilli, 2017). This was in keeping with a critical postmodern feminist theoretical perspective.

5. In analysing the texts, the researcher observed that the participants were discussing issues situated within various domains, ranging from their personal relationships to broader societal structures. To contextualise these experiences, the researcher turned to Bronfenbrenner's (1994) ecological systems theory, which were shaped by interconnected personal, interpersonal, community, institutional, and societal factors. This multi-layered ecological analysis allowed the research to uncover the complex dynamics that influenced the participants' journeys and interactions with the legal system.
6. As Willig (2008) mentioned, the process of coding the transcripts was determined by the study's aims, and from what emerged from the data. This was found from listening to what the mothers' themselves highlighted as important. Dekel and Andipatin (2016) note that what is of importance is "how these discourses reproduce or challenge existing gender relations specifically in the context of a violent relationship, while also noting the social and economic context and relations of power", which is especially relevant in a South African context (p. 8). This step also included coding using Atlas.ti to cross reference the coding between participants.
7. The next step involved careful examination of the discursive contexts of intimate partner violence (Willig, 2008). This facilitated a better "understanding of what the different constructions of the discursive object are capable of achieving in the text" (Dekel & Andipatin, 2016, p. 7). As there was a wide variety of data, I referred to Goodman's (2017) discursive devices and strategies when analysing the transcripts. Goodman (2017) describes a number of discursive devices and rhetorical or

interactional strategies that can be identified in data. 'Interpretative repertoires' (Potter & Wetherell, 2010) are "a recognizable routine of arguments, descriptions and evaluations found in people's talk often distinguished by familiar clichés, anecdotes and tropes ... 'what everyone knows'" (Goodman, 2017, p. 148) 'Ideological dilemmas' are found "when people attempt to negotiate competing ideologies, often in the form of competing interpretative repertoires" (Goodman, 2017, p. 149). Another feature of talk that may be found in Discourse Analysts is that of 'subject positions and identity'. "This relates to how speakers (and writers) construct themselves and others in discourse" (Goodman, 2017, p. 150). In this way Discourse Analysis "moves away from viewing identities as something fixed and stable within an individual and instead 'allows for an analysis of 'when' and 'how' identities are invoked and constructed in conversation" (Goodman, 2017, p. 150). In this way consideration can then be given to the way in which varying identities as well as group identities are constructed, and for what purpose (Goodman, 2017).

8. After identifying the different constructions of gender and power in the text, the researcher located them in broader discourses. The following step was to explore the subject positions that they offered the mothers. During this stage, attention was paid to contradictions and inconsistencies while remaining aware that people's identities and roles are not permanent or rigid, but instead are shifting, fragmented, and contradictory (Gavey, 2007; Dekel & Andipatin, 2016).
9. After that, the researcher explored "how discursive constructions and the subject positions contained within them open up or close down opportunities for action" (Dekel & Andipatin, 2016, p. 7). A postmodern perspective considered that "By constructing certain versions of the world, and by positioning subjects within them in specific ways, discourses limit what can be understood" (Dekel & Andipatin, 2016, p. 7).

10. The last stage in the analysis of the data involved "the exploration of the relationship between discourse and subjectivity" (Dekel & Andipatin, 2016, p. 8) and was done systematically and comprehensively (Sriwimon & Zilli, 2017). According to Dekel and Andipatin (2016) "Discourses make available certain ways of understanding the world and construct social as well as psychological realities in which discursive positioning plays a vital role" (p. 8).

Reflective practices and a cyclical approach were necessary so that the researcher remained as neutral and unbiased as possible, taking account of the intersubjective type of the research as well as the research design. To ensure my thorough engagement as the researcher, not only with the data but also with the reflexive processes of this type of research, I kept a reflective journal throughout and had frequent discussions with my research supervisor (Smith et al., 2009). In addition, and in line with a social constructionist perspective, the impact of the researcher could not be ignored nor negated. Thus, I positioned myself not as an expert on the subject matter but rather as a co-collaborator. This will be discussed under the section of self-reflexivity below.

Measures to Ensure Trustworthiness

In qualitative research, the principles of validity and reliability may not be directly applicable, but the research must still adhere to ethical standards, address important topics, be clearly described, and employ appropriate and rigorous methodological approaches (Cohen & Crabtree, 2008; Hammarberg et al., 2016). Qualitative research uses the term trustworthiness to question whether research findings can be trusted and the measure of confidence that a researcher has in the data. Trustworthiness is evaluated utilising the criterion of credibility, transferability, dependability, and confirmability. In addition to the listed criteria, researcher credibility, self-reflexivity, and the development of ethical relationships are important in qualitative research. According Hammarberg et al. 2016), rigour and ethics cannot be separated in qualitative research, therefore, to ensure an ethical, rigorous, and rich study, self-reflexivity was utilised to make experiences, values, and biases of the

research process and the researcher explicit (Hammarberg et al., 2016). Reflective notes were kept throughout the research process, and when reviewing literature, selecting participants, and collecting, analysing, and interpreting the data. The researcher used individual open-ended semi-structured interviews which were audio-recorded and transcribed. The following section details the measures that were taken to ensure trustworthiness.

Trustworthiness

A qualitative study should contain the same procedural descriptions as other research, such as the research aim/s, how it was done, methodology decisions, specifics about the generation of data, and how managing these should be explicit and transparent (Hammarberg et al., 2016). However, the measures of internal validity, reliability, generalisability, and objectivity used in quantitative research are not appropriate or suitable for a qualitative study. Qualitative research uses the term trustworthiness to question whether the research findings can be trusted (Korstjens & Moser, 2018). While there are various definitions of trustworthiness, Lincoln and Guba (1985) refer to the following criteria of trustworthiness; credibility, dependability, transferability, and confirmability.

Credibility

Credibility is the confidence given to the *truth* of the research findings (Denzin, 2009) and whether the findings and conclusions adequately account for participants' experiences. If the findings can be trusted, they are then "confirmable, valid and reliable" (Denzin, 2009, p. 149), which means that they can be generalised (Denzin, 2009). As Haq and colleagues (2023) explained, a research study can be described as credible if the research findings taken from the original data give a plausible explanation of the participant's original perspective. Strategies that were employed in this study to guarantee credibility included prolonged engagement, thick descriptions and data triangulation (Creswell & Miller, 2000; Korstjens & Moser, 2018). I made use of prolonged engagement which provided thick descriptions by investing enough time with each participant so that there was enough time to

build rapport and to get to know the data richly (Creswell & Miller, 2000; Korstjens & Moser, 2018). In other words, I collected data until data saturation was achieved.

Thick, rich descriptions and detail in the interviewing stage provided rigour and credibility to the study, contributing to the study's transferability, as did the accuracy of transcriptions, the coding and analysing of the data, and the clarity of field notes. In the data analysis, I did not simply describe the participants' behaviour and experiences but also described their context so that the behaviour and experiences became credible sources of information (Korstjens & Moser, 2018). Additional data and documentation from participants provided data triangulation. Transparency and verifiability were also achieved by making comprehensive and detailed field notes. The processes and procedures of the study was sequentially and logically presented, which makes for a credible research study.

Dependability

This refers to how stable, and consistent the data and observations of the findings would be under similar circumstances. Consistency, or dependability of results, is used for evaluating what is known as reliability in quantitative research (Hammarberg et al., 2016). While this will not guarantee that identical results will be observed in similar contexts, it ensures that with the same data, other researchers should discover related patterns (Hammarberg et al., 2016). In this research, dependability was obtained through maintaining an accurate audit trail throughout, with specific research steps and reporting of the findings (Korstjens & Moser, 2018). In addition, the data analysis was checked by the supervisor, Dr Nikki Themistocleous, and a co-coder. Thick, rich descriptions and details of the interview also offered more dependability.

Transferability

Transferability is the extent to which findings are able to be generalised and applied to different settings (Hammarberg et al., 2016; Korstjens & Moser, 2018). Hammarberg et al. (2016) state that a research study will meet the criterion of transferability if "its findings can fit into contexts outside the study situation and when clinicians and researchers view the

findings as meaningful and applicable in their own experiences" (p. 500). In this research thick, rich descriptive data was provided, as well as the research context, the sample, sample size, sample strategy, setting, demographics, interview questions, and criteria for inclusion and exclusion (Korstjens & Moser, 2018) to ensure transferability. 'Thick descriptions' enable others to make a transferability judgement and assess whether the findings of the research are transferable to other settings (Korstjens & Moser, 2018). In addition, purposive sampling was used to obtain data that was most relevant for the research and could sufficiently answer the research question.

Confirmability

Confirmability is when research findings can be corroborated or confirmed by others, with an aspect of 'neutrality'. This was obtained by transparently describing the research steps, reporting the findings, and keeping accurate records during the entire research process (Korstjens & Moser, 2018). To obtain confirmability, as a researcher I was aware of my subjectivity or bias and made use of the process of critical self-reflection and regular supervision. While one cannot control bias completely, I ensured that, as far as possible, the participants' viewpoints were accurately portrayed. Research notes regarding the decisions made during the research process and a comprehensive audit trail were kept ensuring confirmability.

Ethical Considerations

While ethical considerations need to be made in any research study, it becomes pertinent in qualitative research because of the unstructured and in-depth nature of qualitative research and due to the likelihood of qualitative research raising issues that the researcher did not anticipate (Arthur & Nazroo, 2003). Various ethical considerations in relation to this study merit discussion, and I include some of the considerations below.

Ethical Clearance

The ethical imperative of ethical oversight and permission was fulfilled in this research. The research project adheres to university research policies, guidelines, and

procedures (Unisa, 2013) and the ethical guidelines of the Health Professions Council of South Africa (HPCSA) (Health Professions Council, 2016). Guidelines given for research in the social sciences fosters the production of high-quality research (Denzin, 2009).

The proposed research was submitted to the Department of Psychology's Higher Degrees Committee for Scientific Review and all appropriate ethics review panels for ethical oversight. Official written permission was obtained before commencing any research (Unisa, 2013). After being approved at the Departmental Higher Degrees Committee, the research proposal was submitted to the College of Human Science Research Ethics Committee (CREC) (See Appendix A for Ethical Clearance Certificate). Ethical clearance was obtained before contacting potential participants or collecting any data (Unisa, 2013). There were no conflicts of interest.

Dignity and Respect

During the research, the participants' human rights and dignity were always respected. Protection of participants' rights included the right to privacy, autonomy and confidentiality, the right to self-determination, the right to fair treatment, and to be protected from any discomfort or harm (Unisa, 2013). The Policy on Research Ethics (Unisa, 2013), indicates that "a researcher should treat participants as unique human beings within the context of their community systems, and should respect what is sacred" (p. 10).

The researcher respected the human rights, dignity and equality of the participants. Clause 6.1.7 of the Health Professions Council of South Africa (2016, p. 4) served to ensure that the researcher's personal beliefs or views did not play a part in influencing the selection of research participants. Such beliefs could have been prejudicial in decisions of race, colour, gender, sexual orientation, culture, beliefs, age, social status, lifestyle or perceived economic worth of research participants, which would have been unethical.

The principle of autonomy was complied with, where participants could make their own choices and were respected for their self-determination (Health Professions Council,

2016, p. 2). According to the Guidelines (Health Professions Council, 2016), "vulnerable participants need to be afforded safeguards against harm or abuse" (p. 2).

Participants identified in this study could be regarded as a vulnerable population on one hand, being mothers who have lived through experiences of domestic violence, where continued forms of abuse post-separation may have subsequent sequelae. However, it was also important that while the selection of, and interviews with, potential participants was managed with the utmost sensitivity, ethics, and respect, it was just as important not to reinforce the dominant discourse of women as weak, or the possible maintenance of woman as victims, but to allow their autonomy and agency to guide their decision to participate, as well as allow their stories to emerge and be constructed from a place of respect and dignity.

Competency of the Researcher

I am a trained and certified Family Mediator which provides invaluable insight into the phenomenon of relationship dissolution, domestic violence, divorce, and care and contact disputes. While this experience could provide an informed position from which to position myself as a researcher, I similarly acknowledge that this previous experience could have potentially coloured my subjective narratives and possible bias, necessitating a critical and self-reflexive process throughout. In addition, the study was supervised by an experienced clinician and researcher, Dr Nikki Themistocleous.

Informed Consent

The ethical directive of informed consent was adhered to. Participants were provided comprehensive information, before the interviews, about the purpose, objective and process of the research, expectations of participants, and potential risks and benefits associated with participating. Through the provision of the Participant Information Sheet (See Appendix D), informed consent was addressed, during which I described the nature and aim of the study, what was expected of them, and the potential benefits and risks that may have arisen as a result of participating in the research project (Dekel & Andipatin, 2016). The participants were given sufficient information to allow an autonomous, and informed decision about

participating. In addition, participants were allowed to ask clarification questions to decide whether they wished to participate before they signed the Informed Consent Form (See Appendix E). Arrangements for informed consent gave the participants guarantees of confidentiality and autonomy (Arthur & Nazroo, 2003). The mothers participating in the research were given a copy of the signed consent form, which contained the agreed conditions.

Voluntary Participation and Freedom to Withdraw

Voluntary participation was pertinent to ensuring the autonomy of participants and to avoid maintaining and reinforcing the oppression of women who have been abused. Participants were informed that their participation in the study is voluntary. They were informed that they had the right to withdraw at any stage should they so wish, without experiencing any negative outcomes (Health Professions Council, 2016). It was explained that should participants feel distressed by the interviews; the researcher would provide a debriefing session. If participants required additional support in the form of counselling, appropriate referrals, as discussed below, would have been made to relevant professionals, without cost to the participants (Health Professions Council, 2016). No participants withdrew from the study. No referrals were made.

Self-Reflexivity

As the researcher, my experiences are not isolated and removed and had an impact on the research (Snape & Spencer, 2003), indicating that a reflective stance was needed. Thus, I as the researcher, had to “reflect on, examine critically, and explore analytically the nature of the research process” (Fonow & Cook, 2005, p. 2218), and had to reflect on my understanding and portrayal of the participants' views (Snape & Spencer, 2003) as well as having the participants reflect on the meaning that they had given to their experiences (Bishop & Shepherd, 2011).

This implies that I had to be aware of how my own experiences, values, and beliefs influence every stage of the research process (Klopper & Klopper, 2008). My personal

experience of domestic violence, relationship dissolution, Family Court experiences, and survival strategies shaped and determined the understanding and interpretation of the research, as well as affected the design of research questions, collection of data, and interpretations of the data, and findings (Campbell & Wasco, 2000). My own life experiences brought tremendous insight into the study and fostered trust with the research participants. However, addressing all potential known and unknown narratives or discourse that may have potentially harmed or skewed the research process was pertinent. This was addressed through critical self-reflexivity, detailed field notes, and ongoing research supervision. Instead of unknowingly injecting bias into the research, this mutual exchange enhanced disclosure and as a result increased the richness of the data. To respect the concept of reflexivity as pertinent in qualitative research and ensure that my role as a researcher enhanced and did not bias the research, I kept a reflexive journal throughout and discussed any related matters within the research supervision relationship.

The Power Differential

The role of power is relevant in qualitative research, particularly during the interview process (Boonzaier, 2008). During the interview process, the researcher should be acutely aware of power differentials between themselves and the participants (Boonzaier, 2013). Several factors can contribute to a power differential including educational level, age, or economic status. Boonzaier and De La Rey (2003) point out that a researcher must be self-aware and continuously reflect on her biases or assumptions and power differentials that exist between the participants and herself (Boonzaier & De La Rey, 2004). It can be argued that referring to the mothers as participants contribute to and reinforce a power differential. This awareness of positionality and the possible influence that this has on the research was important to explore. According to Fontana and Frey (1998, cited in Denzin & Lincoln, 1998), the researcher's decisions about their self-presentation was essential as it could leave certain impressions on the participant that may have affected the research process. From a

postmodern perspective, there is no objective truth or reality, therefore each individual is 'different' from oneself. Shefer (1999) addressed this concern in the following statement:

I find myself questioning the notion that it is possible to ever be anything but 'other' to the participants of one's research. There are so many lines of difference in the social realm, it is virtually impossible to define a group that is not 'different' to oneself in at least one dimension of subjectivity. (p. 158)

Maconachie et al. (1993) recommend that when research is with respect to women's personal accounts of violence from their partners, a distinction needs to be made between a psychological research interview and a counselling session. I had to be aware that due to the traumatic experiences and emotional nature of the topic, some participants may have placed me the researcher into a counselling or therapeutic role. However, it should be made clear that the research process is not therapeutic, and any participant who requested or needed further assistance would have been referred to relevant sources of assistance. Only one interview required clarifying my role as a researcher, rather than providing legal guidance about the court process or maintenance funds. In addition, no costs were involved for the participants, as well as no remuneration for their participation as incentives and other reciprocal arrangements that may have created a power differential (Arthur & Nazroo, 2003).

Beneficence and Non-Maleficence

The ethical prescription of beneficence as well as non-malevolence was complied with. Beneficence is the action that is done for the benefit of others with the over-riding principle that one should do no harm (Health Professions Council, 2016). According to the HPCSA (Health Professions Council, 2016) the principle of beneficence requires that the research benefits should outweigh any risks. The Policy on Research Ethics (2016) indicates that through beneficence, the research should positively contribute to people's welfare.

The principle of nonmaleficence concerns itself with the moral principle of 'do no harm' where the risks and any harm to participants should be minimised (Health Professions Council, 2016). The researcher was thereby liable for making sure that the research

participants were not harmed during the research. This included their physical as well as psychological wellbeing.

The topic can be sensitive, and while no obvious foreseeable or expected negative consequences for participating in the research were anticipated, there remained some risk in that the topic could cause some emotional distress for participants. If participants experienced any distress or discomfort, a debriefing session was to be provided by myself, the researcher. In addition, participants would be referred to the following free psychological services for psychological counselling:

1. Unisa Psychotherapy Clinic (at Muckleneuk Campus, Pretoria)
2. Lifeline South Africa

The potential benefit of participating in the study was that:

- Participants would have an opportunity to reflect and gain insights into their experiences, by sharing their experiences.
- It can contribute to a richer and meaningful understanding of the mothers' experiences and to the ever-growing body of knowledge regarding intimate partner violence and family matters.
- The ever-growing body of knowledge in relation to intimate partner violence and family matters could contribute to the services offered by professionals, organisations, and institutions, as well as to inform policies, strategies, and programmes concerning domestic violence, gender equality, and children's rights; and guide decision making, policy, and programmes.
- Furthermore, Smye et al. (2021) maintain that a tremendous healing "can be found in telling your story and reclaiming ownership over these and 'rewriting your [own] scripts'" (p. 13), including the knowledge that comes from realising that we are not the 'only one' and that others are walking a difficult path. A

further benefit is an importance of creating change for other mothers that come after (Smye et al., 2021).

- It opens up new avenues for understanding the impact that Family Court has on issues of gender equality and children's rights "that are, to a certain extent, emancipatory" (Bertelsen, 2021, p. 2).

Stakeholders and interested groups that could benefit from this study include individual survivors of intimate partner violence, their families, their households, the affected communities such as schools and workplaces, Family Court personnel and support services, relevant practitioners, professionals, organisations, and institutions, and researchers. The relevance for the stakeholders, affected parties, or interest groups is that:

- The research will open dialogue for strategies that address domestic violence against women and children. Such research will be critical for Family Court and family law settings and for future use to assist in the efforts to support vulnerable children and their caregivers (Jamieson et al., 2018).
- It may give insight that can assist "the state to strengthen its support to parents and families, who are the primary protectors of their children's rights" (Ozah & Skelton, 2018, p. 59).
- It can "motivate for targeted and responsive policies, programmes, and services that support families as they provide care and nurture children's development" (Hall & Richter, 2018, p. 21).
- In recognising the complex nature of family life and intergenerational trauma; prevention, and protection services can be more equipped to be of service to caregivers and their vulnerable children (Hall & Richter, 2018).
- The research can inform strategies and programmes that may lead to solutions to the real problems experienced by mothers facing the trauma of Family Court and intimate partner violence.

- The research can directly benefit women as much healing can be found in talking about the experiences of abuse.
- The research will have the continued effort to address the inequalities and marginalisation of women.

Privacy and Confidentiality

This research study did not violate the ethical imperatives of privacy, confidentiality, and anonymity (Dekel & Andipatin, 2016). According to the principle of confidentiality (Health Professions Council, 2016, p. 3), “The researcher must ensure that where personal information about research participants or a community is collected, stored, used or destroyed, this is done in ways that respect the privacy or confidentiality of participants or the community and any agreements made with the participants or the community”.

As the interviews could reveal personal and private information about the women, information collected during the research remained strictly confidential. Although the researcher, supervisors, examiners, transcribers, and co-coders had access to the data, the participant's identity and their accounts of their experiences were kept without any identifying labels, with a participant number replacing their real name (Boonzaier, 2013; Saltmarsh et al., 2021). While sections of the transcriptions may have been incorporated either into the study or as appendices, all identifying details were absent; and as the research situation was confidential, bound by a confidentiality agreement, reporting anything disclosed without the participant's consent would be unethical.

Each participant was interviewed in a private space where the privacy of the participant was guaranteed. The researcher at all times made sure that the privacy and confidentiality of participants was respected (Dekel & Andipatin, 2016). Consent forms and information obtained from the interviews have been kept private and safe, as discussed below under ‘data management’. A further consideration was to ensure the participant's location for the face-to-face or online interview was conducive to the privacy and confidentiality of the interviews.

One aspect that was discussed during the informed consent process was the ethical consideration of confidentiality. The participants were informed that as per The Children's Act 38 (2005), any person who becomes aware of suspected or potential child abuse is legally required to report it to the relevant authorities. Though the research aimed to interview adult mothers, there was a possibility that a participant could disclose previously unreported child abuse. In such a scenario, the researcher would have been obligated to report the abuse. This limitation was fully disclosed to all potential participants from the outset. One participant had reported child abuse for which the father had been convicted. Ultimately, there were no disclosures of *unreported* child abuse made during the interviews, and the researcher did not have to take any reporting action.

Data Management

Data collection was by means of face-to-face and online semi-structured interviews. All information was appropriately and accurately audio-recorded, transcribed, captured, and collated. All hard copy information has been safely stored and securely locked in a cupboard at the researcher's premises. All interviews were audio-recorded, which were then transcribed to ensure the study's trustworthiness (Haq et al., 2023; Lincoln & Guba, 1985). The transcribed transcripts and coded data were saved on a computer, and a backup copy has been kept on an external device. All electronic data has been stored securely using password-protected devices, with only the researcher and supervisor being able to access data. All data that was made available to the co-coder had all personal and identifiable information removed first. Field notes and consent forms have been kept confidential and stored securely, ensuring the participants' privacy and confidentiality. Any changes to the study of unexpected occurrences have been documented.

Ethical issues, such as potential interview bias and negative reporting, was avoided and managed through a process of critical self-reflexivity and ongoing supervision. The processes and procedures of the study have been sequentially and logically presented,

which will make for a credible research study. All interviews were audio-recorded and transcribed, which increased data accuracy.

Accurately Reporting Research Findings

A final ethical issue after the data has been collected, is the ethical responsibility to accurately report the findings (Vivar et al., 2011). Furthermore, reporting should be free of plagiarism without falsification or fabrication of the data or results (Denzin, 2009).

While the interpretation of qualitative data is never absolutely objective (Bishop & Shepherd, 2011), every effort has been made to report the findings accurately by allowing the participants to analyse and verify their experiences. It is essential that data was used correctly and in the studied population's best interest. Findings have been used in the form of a research dissertation, which will be submitted for examination purposes, and if accepted, published in the Unisa Library. In addition, the findings will also contribute to academic articles to be submitted for publication in accredited academic journals. This was thoroughly detailed and explained to participants before informed consent was obtained.

Chapter Summary

This chapter outlined the methodological approach used in the research. It discussed the study's problem statement, research questions, and aims, and how philosophical beliefs informed a compatible research design with pragmatic methods to effectively build conceptual layers of the study. A postmodern social constructionist paradigm was employed, built on the ontological assumption that reality is socially constructed and subjective. This aligned with a critical postmodern feminist theoretical framework, which acknowledges power imbalances and accepts women's lived experiences as legitimate knowledge. The research methods, including population, sampling, data collection and analysis, ethical considerations, and participant information, were also detailed.

CHAPTER 5: DISCUSSION OF FINDINGS

FROM HOME TO COURTROOM: INTIMATE PARTNER VIOLENCE AND THE GENDERED CONTINUUM OF CONTROL

The following three chapters present an analysis and discussion of South African mothers' experiences within the Family Court system, in the context of intimate partner violence, and explores the social constructions of gender and power that shape these experiences. The discussion of findings will be presented across three chapters that align ecologically and chronologically with the mothers' experiences. The findings across these three chapters will be coalesced to address the specific research questions in the final concluding chapter.

To elucidate the discourses of participants, the discussion of findings will be structured in three sections. Chapter 5 explores mothers' micro-level experiences of intimate partner violence and interpersonal interactions within Family Court, in both maintenance and care and contract matters. Chapter 6 examines the meso-level system of mothers' experiences within the Family Court system. Mothers described the Family Court system as encompassing the legal processes of Maintenance Court and Children's Court in care and contact matters, as well as the court personnel and service providers such as magistrates, court staff, legal service providers, and legal representatives. Chapter 7 will take a broader, systemic view, addressing the institutional and societal failure of the Family Court system and the ways in which it perpetuates abuse and oppression against mothers and their children. While all chapters examine issues of power and gender, Chapter 7 will explore the power dynamics, gender inequities at a macro-level addressing the institutional betrayals that have led to the Family Court becoming a tool for continued subjugation and oppression rather than a place of protection and justice.

Situating Voices: Introducing the Mothers and the Analytic Process

Before delving into the study's findings, an introduction to the participants will be provided and the analysis process will be clarified.

The Participants

Below are summaries providing a general overview of the participants, including their age, number of children, years of marriage, divorce/separation details, and the legal proceedings they have navigated. It also details their primary struggles.

Participant 1

Participant 1 is a 45-year-old divorced mother with 2 teenage children. She described facing challenges regarding financial support and parenting matters after her divorce. Her former husband's non-compliance with court orders and lack of financial support left her in a difficult situation, which impacted her emotionally and financially. She spoke of how her former husband failed to provide proper financial documents and delayed court process. She explained that while he did eventually start paying maintenance, the court process was frustrating and drawn out. She found that the interactions in Family Court with her former partner, were confrontational and intimidating, making her feel unsupported by the court. She was unable to afford legal assistance and felt that the court-appointed attorney lacked experience. While there was an eventual settlement on maintenance and parenting matters, Participant 1 felt that the court process offered no real resolution or victory. She described facing a power imbalance in court, where she felt attacked as a mother. In hindsight she felt that the need to settle amicably led to her not receiving a settlement that was in her and her children's best interest. She spoke of ultimately prioritising her and her children's mental health, choosing to move forward for their overall well-being.

Participant 2

Participant 2 is single mother with a young daughter. She was married for 4 years. She has a Protection Order against the father, and he has not contacted their daughter who is in pre-grade. She shared her struggles with maintenance and care and contact matters, financial difficulties, and lack of support from the Family Court and their negative treatment of her and her maintenance needs. She has been trying to get a maintenance order for her young daughter but has been unsuccessful to date. She works full time but does not earn

enough to cover all the monthly costs. She discussed the ongoing battle for financial support from her former partner, and the challenges faced in the legal process. She expressed concerns that asking for maintenance will re-open the door to contact with her abusive former husband, which will leave her and her child vulnerable to further abuse. She expressed fear and frustration over the Family Court system's perceived bias, challenges in enforcing agreements, and the emotional and financial difficulties caused by her former partner's neglect. However, despite the fear, the importance of addressing visitation rights for the child's benefit was recognised.

Participant 3

Participant, 3, is a mother of three. She is physically disabled and in a wheelchair. She is still married and has been trying to finalise out her legal issues for over 12 years. Her process has been ongoing, and her children are now adults, although she is a guardian of the one daughter who has special needs. She has been in and out of various maintenance and criminal courts during the past years. Despite having a Protection Order that was issued, and a criminal case that resulted in a conviction, she faces continual challenges in court related to domestic violence from her husband, and from the legal and justice system. The unresolved maintenance left her homeless when she and her children were evicted from their home. She has struggled to recover and still faces ongoing challenges and the threat of being destitute. She relies on a SASA grant (South African Social Security Agency Grant). She shared her journey dealing with lack of support, legal battles, financial strain, and caring for her daughters amidst abuse, financial hardship, and lack of legal aid. Despite challenges, she remains determined to seek justice and look after the well-being of her daughters.

Participant 4

Participant 4 is a 49-year-old mother of two school going children. She has been separated for 5 years now and is still not divorced. She has been in Maintenance Court, Domestic Violence Court, and High Court, but is still experiencing problems with maintenance for her children. She has used both legal services and represented herself in

court matters. Participant 4 faces legal and financial challenges due to her former partner's behaviour but remains determined to provide for her children amidst ongoing court battles. She discussed her struggles with legal and financial battles against her husband and his legal team. She highlighted the power imbalances in court processes and the complexities of navigating Family Court as a self-represented litigant. Participant 4 emphasised the importance of supporting her children, despite the numerous difficulties and personal sacrifices made for their well-being.

Participant 5

Participant 5 is 39 years of age. She has one son, aged five, who was recently diagnosed to be on the Autism Spectrum. She was married for 4 years and has been divorced for 3 years, with the divorce taking 1,5 years to conclude. She has been in Children's, Maintenance and Domestic Violence Court and has seen the family advocate, social workers, psychologists and mediators. She hopes that things will settle now that a parental co-ordinator has been appointed. During the interview she described emotional and physical abuse, financial struggles, and legal battles with her former husband, even after securing court orders. She highlighted the manipulation and threats by her former partner, and the challenges in co-parenting. The complex legal battle involving financial abuse, court challenges, and frustrations in the court system's response was discussed. Her story highlights perspectives on gender, power dynamics and abuse; emphasising the need for reforms in the legal system to protect individuals and prevent abuse.

Participant 6

Participant 6 is a mother of 5 children. Her matter has been ongoing for over 12 years, and she is still not divorced. Her children are no longer minors, however her one son is special needs and requires full time care. She has been struggling for years to get the maintenance for her son to provide for his care. She has encountered endless issues within the court. During the interview she shared her challenges with separation, divorce, domestic violence, and navigating the legal system. Her experiences included confronting a fraudulent

divorce, struggles with maintenance payments, eviction, and child mental health crises. She described the traumatic experience with her former partner and the legal system, where issues of coercive control, economic abuse, flawed mediation processes, and challenges with legal representation were discussed. Her story involved legal and personal challenges, highlighting economic abuse, and lack of legal protection for women, and the importance of advocating against gender-based violence. Her journey highlights the need for policy changes and better support systems for mothers.

Participant 7

Participant 7 is a mother with one young son. She describes her experiences, frustrations, and challenges faced in navigating the court systems involving care and contact matters, intimate partner violence, and maintenance issues. Her story highlights concern about professionals dismissing safety concerns, court processes being hostile and traumatic, and delays affecting the child's best interests. She spoke of manipulation tactics in co-parenting with an abusive former partner, and the need for addressing complex situations involving domestic violence and parental manipulation. She expressed concern about the lack of protection for the child and discussed the burden falling on mothers in ensuring children's rights. She spoke of the difficulties she faced without resources, and the impact that this had on her mental health. She expressed feeling unsupported and powerless in the system, by the lack of protection from the court. Her story emphasises the need for prioritising the child's well-being in legal decisions and highlights the need for better education on children's rights, co-parenting responsibilities, reforms in the legal system, and accountability in parenting rights.

Participant 8

Participant 8 is a mother with one daughter. She describes that the maintenance has been ongoing, with her daughter now having to be in Maintenance Court herself as she is no longer a minor. She describes her experience of Family Court, highlighting issues of intimate partner violence, control, manipulation, struggles obtaining financial support, and tensions

with her former husband affecting the lives of her and her daughter. She shared her experience of a difficult marriage and divorce, where her former husband neglected family responsibilities and showed little empathy. She described feeling unsupported and described numerous challenges post-separation such as dependency, lack of communication, and financial support issues. She expressed her frustration with the legal system and her former spouse post-separation, noting the lack of support from the court and court bias. She detailed her daughter's struggles, lack of emotional support from the father, mental health challenges, and dropping out of school. She spoke of the personal challenges of starting over post-divorce at an older age, feeling neglected by society, as well as feelings of betrayal after investing in their marriage. The emotional toll of the court process, lack of legal system support, and her difficulty standing up for herself and her daughter are highlighted. She talked about post-divorce challenges with lack of family support and financial struggles, experiencing social stigma and emotional/physical impacts. She reflected on finding strength and emotional growth, where forgiveness and self-appreciation after such struggles were emphasised. Her journey of her difficulties within Family Court highlights the need for better support for mothers.

Participant 9

Participant 9 is a mother of 4 children. She shared her struggles with obtaining financial support for her children, navigating court processes, and dealing with emotional and financial stress. She describes her frustrations with the court process, challenges faced in navigating the court systems, the lack of understanding of her financial difficulties by the court and lack assistance from them. She expressed the need for more support for mothers in similar situations and highlighted the importance of love and emotional care in addition to financial support for children, from the fathers. Her story shed light on the difficulties experienced by mothers in such circumstances and the need to influence policy changes to better support them.

Table 1 below, provides a summary of the type of domestic abuse that participants disclosed having experienced during their pre-separation relationships.

Table 1

Domestic Abuse Disclosure

PRE-SEPARATION DOMESTIC VIOLENCE DISCLOSED				
Participant	Pre-Separation Abuse Disclosed			
	Physical	Emotional	Financial	Controlling Behaviours
Participant 1	✓	✓	✓	✓
Participant 2	✓	✓	✓	✓
Participant 3	✓	✓	✓	✓
Participant 4	✓	✓	✓	✓
Participant 5	✓	✓	✓	✓
Participant 6	-	✓	✓	✓
Participant 7	-	✓	✓	✓
Participant 8	-	✓	✓	✓
Participant 9	-	✓	✓	✓

Table 2 below, provides an overview of the court processes the participants were engaged in, as well as their legal representation.

Table 2*Court Processes and Legal Representation*

COURT PROCESSES AND LEGAL REPRESENTATION							
Participant	Maintenance Court	Children's Court	Protection Order	Other	Legal Representation		
					Attorney	Pro Bono	Self-Litigant
Participant 1	✓	✓	✓	Magistrate's Court for Emergency Monetary Relief.		✓	✓
Participant 2	✓	✓	✓		✓		✓
Participant 3	✓	✓	✓	Criminal Court		✓	✓
Participant 4	✓		✓	High Court	✓	✓	✓
Participant 5	✓	✓	✓	Criminal Court	✓		✓
Participant 6	✓		✓		✓		✓
Participant 7	✓	✓	✓		✓		✓
Participant 8	✓		✓			✓	✓
Participant 9	✓		✓				✓

The Analysis Process

Exploring the first research question, participants described their relationship and experiences of Family Court processes, drawing on various linguistic devices to explain and understand their experiences of relationships, abuse, family, and the legal process. The sequence of participants' journeys was linear in its progression, following a distinct sequence of events, which they narrated using key discourses. This timeline could be experienced or constructed differently, depending on the discourses that participants were able to access or chose to utilise. However, these phases generally followed a common path, beginning with the early stages of the relationship, progressing through the breakdown and separation, and culminating in their post-separation experiences within the Family Court system. This timeline of phases, was also situated within a multi-layered context, encompassing personal, community, and institutional levels of interaction. Within this overarching sequence of

events, key discourses were identified operating at the interpersonal/micro level, the community/meso level, and the macro/systemic level. The levels described aligned with Uri Bronfenbrenner's (1994) ecological levels. While Bronfenbrenner's (1994) ecological theory was not used as a lens for analysis, this multi-level analysis provided a comprehensive framework for understanding how an individual's development is shaped by the various environmental systems in which they are embedded.

Bronfenbrenner's (1994) ecological systems theory describes how an individual's development is shaped by the various interconnected systems of their surrounding environment, ranging from their closest personal relationships (microsystem) to broader societal structures (macrosystem). This ecological perspective allowed for a nuanced exploration of how the participants' experiences were not only shaped by their individual relationships and circumstances, but also by the broader community, institutional, and societal dynamics that surrounded them. By situating the analysis within this multi-layered ecological model, the research was able to uncover the complex interplay between the personal, interpersonal, and systemic factors that contributed to the participants' journeys and their interactions with the legal system.

The analysis process thereby involved breaking down the data from the timeline into the following separate parts: 1) mothers' interpersonal and micro-level experiences, which included a) pre-separation experiences such as participants' relationship journeys, experiences of intimate partner violence, and the breakdown of the relationship; and b) their post-separation interpersonal experiences, where mothers recounted their continued experiences of intimate partner violence and their personal encounters with their former partners within the Family Court system (Chapter 5); 2) the meso-system of mothers' experiences with Family Court processes and service providers within Family Court (Chapter 6); and 3) the broader macro-level of the Family Court system (Chapter 7).

Table 3 below provides an outline of the ecological levels and descriptions, which will be followed by an explanation of such.

Table 3*Outline of Ecological Levels*

Ecological Level and Description		
Level	Ecological Level	Description
1	Micro-Level	Interpersonal experiences of within intimate partner relationship
	a) Pre-Separation	Pre-separation experiences of relationship, breakdown and dissolution
	b) Post-Separation	Post-separation interpersonal experiences of Family Court processes and post-separation abuse
2	Meso-Level	Mothers' experiences of Family Court processes and service providers
3	Macro-Level	Analysis of systemic issues, institutional barriers and systemic failure

Within these ecological levels, participants described various phases. In the pre-separation phase, they discussed their experiences within the relationship, while the post-separation phase focused on their encounters within the Family Court system.

The analysis process revealed similarities between the phases of participants' pre- and post-separation experiences, of the micro/interpersonal relationship and the meso and macro relationships within the institutional Family Court setting, which followed a remarkably similar trajectory. Both stages began with a sense of hope and promise as they entered the relationship or court system, actively navigating and adjusting to the experiences they encountered. However, this was inevitably followed by the breakdown of the relationship or a dissolution of the court process, driven by a profound sense of disillusionment, and feelings of loss and betrayal. This multi-layered pattern of hope, disillusionment, and loss echoed across the participants' intimate and institutional experiences, highlighting the interconnected nature of the personal, communal, and systemic factors shaping their journeys.

Table 4 below presents an overview of the phases of the relationship and court experiences, highlighting the parallels between the two trajectories.

Table 4

Phases of the Relationship and Court Experience

Phases of the Relationship				
Phase	Happily, Ever After	Trouble in Paradise	Should I Stay, or Should I Go?	Let's Call it Quits
Description	The Initial Stages of the Relationship	The Breakdown of the Relationship	Questioning the Relationship	Termination of The Relationship
Phases of the Family Court Experience				
Phase	A Knight in Shining Armour	This is a Problem	And Now What?	Laying Down the Law
Description	Entering the Court System	The Breakdown Phase	Questioning the System	Systemic Failure and the Aftermath

In exploration of the research question "What are South African mothers' experiences of Family Court processes in the context of intimate partner violence?" mothers described their experiences navigating the Family Court system and of intimate partner violence. As their narratives unfolded, dominant discourses emerged, revealing that mothers' experiences of Family Court processes are inextricably linked to their experiences of intimate partner violence, and vice versa. Their accounts convey not only the pattern of abuse, but also the extent and pervasiveness of it across various social structures and systems (Humphreys & Thiara, 2003b). Once in the system they described facing a myriad of additional challenges and barriers. First, on a micro/interpersonal level with their former partners; second, on a meso/community level, including court officials, service providers, and legal representatives;

and third, on a macro level consisting of the broader Family Court system and social structure.

In Chapter 5 mothers' interpersonal issues are analysed. Chapter 6 looks at the issues at a meso-level regarding Family Court processes and the community, service providers and such; and Chapter 7 addresses the challenges and barriers at a systemic level.

The answering of the second research question, required an analysis of the systemic issues at a broader conceptual level, examining the power dynamics and gender implications reflected in the linguistic devices used by the mothers. The analysis examined how mothers used key discourses to narrate their experiences of intimate partner violence and Family Court processes within the phases of the relationship or court process. These discourses reflected widely accepted societal beliefs that shaped the mothers' perceptions and constructions of power and gender (Dekel, 2013; Tolmie et al., 2010). In exploring the second research question, "How are gender and power dynamics constructed in the context of Family Court, and intimate partner violence, post separation?" it became evident that examining the social constructions of gender and power dynamics in the context of Family Court and intimate partner violence requires looking at the power dynamics not only within the relationship but also within the system itself. Intimate partner violence and family law often involve complex power dynamics, with gender playing a central role.

Based on the transcripts of the nine participants, the mothers' discourses were analysed to reveal how power and gender were linguistically manifested. The analysis process revealed how language was used to create and reproduce power dynamics and social order. The mothers' personal accounts were influenced by both their own experiences, as well as broader social and cultural discourses about gender and power. The analysis process explored these dynamics within the intimate partner relationship, court processes, and interactions with service providers in the court and legal system, as well as at the societal or institutional level. The mothers' experiences of intimate partner violence

exposed how societal factors like race, gender, class, culture, and economics shaped their individual realities (Campbell & Wasco, 2000, p. 780). Therefore, within each of the three ecological levels the question was asked "How are gender and power dynamics constructed in the context of Family Court, and intimate partner violence, post separation?" This resulted in a broader, systemic perspective that examined issues of power and gender at a micro, meso, and macro level.

Presentation of Findings

The presentation of findings will be structured according to the narrated experiences and timelines of participants. Analysis of the data uncovered key discourses used by mothers to narrate their experiences of intimate partner violence and Family Court processes, which will be described fully within each chapter and related area. As discussed, the findings were categorised according to Bronfenbrenner's (1994) ecological model. The research revealed how post-separation abuse occurs at the individual/micro level but is enabled and sustained by factors at the community/meso and societal/macro levels, where power imbalances are evident between intimate partners, as well as within the community, legal, and court system responses. Additionally, gendered and patriarchal norms are also pervasive at the societal level. The findings chapters align with these levels, with Chapter 5 discussing mothers' interpersonal and micro-level experiences. Chapter 6 examining the meso-level system of mothers' experiences with Family Court processes and service providers, and Chapter 7 exploring the broader macro-level of the Family Court system.

Table 5 below, provides an outline of the Chapters, which is followed by a discussion of mothers' pre-separation interpersonal experiences.

Table 5

Outline of Chapters and Discourses

Outline of Chapters and Discourses		
Chapter 5 From Home to Courtroom: Intimate Partner Violence and the Gendered Continuum of Control		
Description	Ecological Phase	Dominant Discourses
<p>Pre-Separation: All's Fair in Love and War</p> <p>Discourse of the Interpersonal experiences of the intimate partner relationship (Presented in Chapter 5)</p>	<p>Happily, Ever After Describing the Initial Stages of the Relationship</p>	
	<p>Trouble in Paradise Describing the Breakdown of the Relationship</p>	
	<p>Should I Stay, or Should I Go? Questioning the Relationship</p>	
	<p>Let's Call it Quits Describing the Termination of the Relationship</p>	
<p>Post Separation Abuse: The More Things Change, The More They Stay the Same</p> <p>Discourse of the Mothers' micro/interpersonal experiences of Family Court Processes Post-Separation – (Discussed in Chapter 5)</p>	<p>A Knight in Shining Armour Entering the Court System</p>	
	<p>This is a Problem The Breakdown Phase</p>	<p>I'll Show You Who's Boss! Domestic Violence and Coercive Control</p>
		<p>I'll Screw You Over! Legal Abuse, Litigation Tactics and Power</p>
		<p>I'll Make you Pay! Economic Abuse and Financial Control</p>
	<p>I'll Hit You Where It Hurts! Emotional Abuse, Relational Tactics and Gender</p>	

Chapter 6 Structured Encounters: Gendered Navigation Through the Institutional Web of Family Court		
Description	Ecological Phase	Dominant Discourses
Family Court Processes: How Can We Not Help You? Discourse of the Mothers' meso-level experiences of Family Court Processes and Service Providers including the Court's Response and Intervention, Institutional Barriers and Challenges (Discussed in Chapter 6)	A Knight in Shining Armour – Faith in The Law	
	This is a Problem The Breakdown Phase	We'll Show You Who's Boss! Systemic Abuse
		We'll Screw You Over! Family Court's response and Intervention
		We'll Make You Pay! Maintenance Court Matters and Economic Abuse
		We'll Hit You Where it Hurts! Care and Contact Issues and Children
Chapter 7 When Justice Fails: Gender, Power and the Institutional Betrayal of Mothers in Family Court		
Description	Ecological Phase	Dominant Discourses
Systemic Failure: Justice is Blind Discourse of the Mothers' macro-level experiences of the Family Court System and Discourse around the Institutional Abuse and Betrayal, and Systemic Failures (Discussed in Chapter 7)	And Now What? Questioning the Process Phase	
		Bullying, Power and Patriarchy
		Gender Inequalities and Patriarchal Bias
		Resistance and Agency
		Gaps in the Family Court System
		Competing Discourses
	Laying down the Law Systemic Failure and the Aftermath	
		Mothers' Recommendations
		In Retrospect
		In Hope and Healing

PRE-SEPARATION: ALL'S FAIR IN LOVE AND WAR

This section summarises the key findings on mothers' experiences before separation. While primary focus of the study was on post-separation experiences, understanding the pre-separation circumstances is essential to understanding the mothers' overall journey. Despite diverse individual experiences, the data revealed common themes in how the mothers described their relationship dynamics, highlighting how gender, power, and control intersected to shape and exacerbate women's experiences of intimate partner violence. Furthermore, the pre-separation experiences convey not only the pattern of abuse (Fleury et al., 2000; Humphreys & Thiara, 2003b; Laing, 2010; 2016; Orr et al., 2023), but also the extent and pervasiveness of it (Kelly & Johnson, 2008; Stark et al., 2019; Stark & Hester, 2019). These interpersonal experiences of intimate partner violence, both before and after separation and within and outside the Family Court system, provide the foundation for examining the systemic abuse and failures of the Family Court system, which will be discussed in Chapter 7. Mothers' experiences of their relationship showed that the pre-separation period was marked by four definitive stages. Table 6 below, provides a summary of the Four Pre-Separation Phases and Discourses, which will be followed by a discussion.

Table 6

Summary of the Pre-Separation Phases and Discourses

Discourses Around the Interpersonal Experiences Within the Intimate Partner Relationship		
Pre-Separation All's Fair in Love and War	Happily, Ever After	Describing the Initial Stages of the Relationship
	Trouble in Paradise	Describing the Breakdown of the Relationship
	Should I Stay, or Should I Go?	Questioning the Relationship and the Process of Leaving
	Let's Call it Quits	Describing the Termination of The Relationship

Happily, Ever After - Describing the Initial Stages of the Relationship

The study found that in the early stages of their relationships, participants had romanticised views of their partners, which was shaped by cultural notions of love, romance, and gender, especially prevalent in abusive relationships (Jackson, 2001; Shefer, 1999; Towns & Adams, 2000). These beliefs often led the mothers to minimise abuse and remain in the relationships, hoping for their "happily ever after." The study found that the mothers also portrayed partners through masculine dual identities, as either the prince or the beast (Boonzaier & De La Rey, 2004), or in dark romance narratives (Wood, 2001), where partners transitioned from kind and loving to hostile and abusive (Dekel & Andipatin, 2016). Analysis revealed how the roles of wife and mother were socially constructed (Boonzaier, 2008; Dekel, 2013; Dekel & Andipatin, 2016), and intertwined with gendered societal expectations, which included the view of women as self-sacrificing (Alstott, 2009; Boyd et al., 2019; G'sell, 2018). The discourses revealed that the mothers' experiences were shaped by social and cultural constructions of gender, romance, and power, which were reflected in the language that they used to describe their relationships (Dekel, 2013; Tolmie et al., 2010).

Trouble in Paradise - Describing the Breakdown of the Relationship

The analysis uncovered a common pattern where the initial romantic beginnings gave way to underlying abuse, power imbalances, and control. However, idealised notions of love and family often prevented mothers from leaving abusive partners. The mothers' accounts show them to have experienced physical, emotional, psychological, economic, and controlling tactics from their partners prior to separation. Physical abuse was highly prevalent, with 55% of participants reporting such incidents, affirming the gendered nature of domestic violence (Hine et al., 2020). The findings likely underestimate the full extent of abuse, as some participants may have chosen not to disclose abuse during the interview. The discourses revealed partners using a range of coercive and controlling tactics, as methods to dominate and exert control (Epstein & Goodman, 2018; Machado et al., 2020; McCarthy et al., 2018; Nnoli et al., 2023; Vyas & Jansen, 2018). These behaviours went

beyond physical aggression and encompassed intimidation, isolation, manipulation, asserting male privilege, economic abuse, and threats (Kelly & Johnson, 2008; Stark et al., 2019; Stark & Hester, 2019). Such actions restricted the mothers' equality, autonomy, and wellbeing (Callaghan et al., 2018; Dichter et al., 2018; Elizabeth et al., 2012b; Stark et al., 2019), often trapping them in an abusive relationship, especially when financially dependent or when children were involved (Enaifoghe, 2019). It was often only after separation, that mothers were able to recognise the underlying issues of controlling tendencies, gender stereotyping, and patriarchal privilege that had been present in their relationships (Nnoli et al., 2023; Pitman, 2010; Spearman et al., 2023). While mothers were clear that not all men are abusive, their experiences illustrated how certain abusive men exploited traditional gender norms using a system of "male control" (Houston, 2014, p. 270), and used various strategies, including threats and violence, to maintain power and control over their partners.

Should I Stay, or Should I Go? – The Questioning Phase

Analysis of the data uncovered interlinking stressors that compounded the domestic violence and contributed to the breakdown of the intimate partner relationships, such as the effects of alcohol, drugs, or financial issues. It was found that participants used various strategies, including relational, help-seeking, and employment, in attempting to save their marriages (Nikparvar et al., 2017). Despite agency and resilience, the mothers' efforts were seen to be limited by social and structural factors, as well as by imbalances of power within their relationships. The study found that decision to end an abusive relationship is complex, shaped by various personal, social, and systemic barriers (Anderson & Saunders, 2003; Nikparvar et al., 2017; Storer et al., 2021), including financial dependence, fears of escalated violence and losing child custody, societal stigma, and intersecting factors like race, sexuality, or disability that heighten their vulnerability (Anderson & Saunders, 2003; Enaifoghe et al., 2021; Murta & de Oliveira Parada, 2021). Additionally, systemic failures in the criminal justice system, social services, and healthcare sectors further marginalised the mothers, often denying them proper avenues to seek justice or protection.

Let's Call it Quits - Describing the Termination of the Relationship

The study found that the separation process often involved ongoing risks and challenges (Anderson & Saunders, 2003; Boonzaier & van Niekerk, 2018; Hydén, 1999; John et al., 2020; Smye et al., 2021; Spearman et al., 2023; Stoever, 2019). During this initial separation stage, many mothers sought Protection Orders to safeguard themselves and their children (Campbell et al., 2003; Maluleke, 2018; Mathews et al., 2015; Monckton Smith, 2020; South African Government, 2020). In this study, 5 out of 7 participants had asked for divorce or separation, while the others were either not legally married or were in a customary marriage, confirming that women who experience domestic violence are more likely to leave their partners (Bowlus & Seitz, 2006; Ellis & Stuckless, 2000; Zhang, 2020). Over half the participants (55.5%) had finalised their divorces, while others remained legally married. For some participants the divorce process and legal separation was swift, describing the divorce process as “amicable”, while others faced ongoing divorce proceedings. Analysis revealed that participants who finalised their divorces expeditiously often did so by not contesting the proceedings and not making extensive demands, due to fear of retaliation, power disparities, and financial dependence on their spouses. This confirms studies showing that power imbalances can lead women to accept unequal divorce agreements, with men frequently receiving more favourable settlements (Sharps-Jeffs, 2015). As Participant 5 noted, *"a lot of them are women, either settling, women are being bullied"* (P5:801). For most participants, the legal divorce process exacerbated conflict and volatility between the parties, with participants facing ongoing litigation for years to resolve divorce and child-related issues. This concurs with literature that divorce and separation involving children can be complex, with a significant portion of couples continuing to experience high levels of conflict over child care arrangements for years after separating (Baskerville, 2018; Elizabeth et al., 2012a; Frade & de Wet-Billings, 2019; Jacobs & Andrews, 2021; Johnston, 2000; Mortelmans, 2021; Themistocleous, 2017), and that they tend to continue in the legal system for an extended period of time (Bosch-Brits et al., 2018).

POST-SEPARATION ABUSE: THE MORE THINGS CHANGE, THE MORE THEY STAY THE SAME

This section, *The More Things Change, The More They Stay the Same* explores mothers' post-separation experiences of intimate partner violence and their encounters within the Family Court system. While mothers had separate hoping for a fresh start, the findings show that abuse and control persist post-separation, particularly through Family Court processes. This section of the findings and discussion highlights the impact of the former partners' attitudes and behaviours on the experience and outcome of Family Court proceedings. Second, it demonstrates how persistent patterns of abuse extend to all spheres of the mothers' lives post-separation, particularly in relation to legal strategies, finances and children (Fleury et al., 2000; Humphreys & Thiara, 2003b; Laing, 2010; 2016; Orr et al., 2023). Although participants spoke of various abuses and tactics used both in and out of Family Court, the analysis will focus only on the mothers' experiences within the Family Court system, mentioning issues outside of Family Court, where relevant. Third, the analysis revealed how a history of abuse, power imbalances, and systemic failings perpetuated gender-based violence for the participants, even after separation and divorce. The mothers' prior experiences of intimate partner violence significantly shaped their post-separation struggles, where power and gender dynamics, particularly within the Family Court system, were used against them to maintain control and inflict further harm (Humphreys & Thiara, 2003b; Miller & Smolter, 2011).

Mothers' experiences within Family Court showed that the post-separation period was marked by four definitive stages, that mirrored the phases of the pre-separation period. Although the mothers' meso-level experiences of the Family Court system will be discussed fully in Chapter 6, it begins with the mothers' entry into Family Court.

Table 7 below, provides a summary of the key discourses surrounding the interpersonal experiences within Family Court processes.

Table 7

Summary of Post-Separation Phases and Discourses

Key Discourses of Mothers' Interpersonal Experiences of Family Court Processes				
Description of Chapter Section	Ecological Phase	Discourses Framing Mothers' Post-Separation Experiences	Gendered Power Dynamics in Family Court and Post-Separation Abuse	
Post-Separation Abuse The More Things Change, The More They Stay the Same	A Knight in Shining Armour Entering the Court System			
	This is a Problem The Breakdown Phase	I'll Show You Who's Boss! Domestic Violence and Coercive Control		
			I'll Screw You Over! Legal Abuse, Litigation Tactics and Power	Non-Compliance with Court Orders
				Using Their Legal Team to Bully and Harass
		Delay Tactics		
		I'll Make you Pay! Economic Abuse and Financial Control	Withholding or Deliberate Non-Payment of Maintenance Obligations	
			Hiding Funds and assets to Which She is Entitled	
		I'll Hit You Where It Hurts! Emotional Abuse, Relational Tactics and Gender	Using Children's Court and Relational Ties to Children as a Method of Control	
Redirecting Legitimate Concerns				

A Knight in Shining Armour - Entering the Court System

Mothers who separate from abusive partners are often involved in Family Court for maintenance matters or care and contact determinations of joint children (Khaw et al., 2021; Proudlock & Rohrs, 2018). After separation, all participants in this study found themselves thrust into the complex and daunting landscape of the Family Court system, often with little choice but to engage in its processes in order to maintain the care or safety of their child(ren) (Khaw et al., 2021; Proudlock & Rohrs, 2018), or participate in property and financial settlements (Douglas & Walsh, 2010; Machado et al., 2020; Orr et al., 2023). They had done so in either of two ways: 1) being summoned to court as a tactic employed by their former partner, often as a means of maintaining control or exerting further abuse, or 2) through their own proactive help-seeking behaviour, as they navigated the complex legal system in an effort to secure protection, resources, and a fair resolution to their family disputes:

“Um, I was, what’s the right word subpoenaed to go to, I’m not sure if that is the right word. They set the court date and then we went and um they requested certain documents and bank statements and everything.” (P1:44)

“So, [pause] anyway then (Husband’s name) went to Maintenance Court in April 2018... Yes, he approached them to reduce, so he approached the Maintenance Court to reduce the maintenance... Oh to make a reduction and on his form, he wanted to make the amount, he put ZERO. He wanted to make his maintenance ZERO. ZERO RAND [Emphasis].” (P4:152)

“I approached the Maintenance Court the moment he had not complied with the order.” (P6:57)

In the examples above we see how mothers were either forced into the Family Court system against their will, such as through former partners' requests to reduce maintenance, or through their own efforts to obtain maintenance for their children. Other participants had approached the courts with concerns for their children's safety, while others been

summoned to court with partners filing for primary care of the child or raising issues about their ability to parent. Regardless of the specific circumstances, it was found that all participants were confronted with the challenges and uncertainties of the Family Court system following their relationship breakdown. The literature noted similar difficulties, indicating that the process of relationship dissolution is often a difficult process (Birnbaum & Bala, 2010; Johnston, 1994; Martínez-Pampliega et al., 2021; Polak & Saini, 2019), fraught with high levels of conflict (Baskerville, 2018; Elizabeth et al., 2012a; Frade & de Wet-Billings, 2019; Jacobs & Andrews, 2021; Johnston, 2000; Mortelmans, 2021; Themistocleous, 2017).

Participant 4's description shows that the termination of her relationship was an indication of the difficulties that would follow, as navigating the court system amid the context of intimate partner violence can prove to be a challenging endeavour:

"And when he was walking out here, [partner's name] that day, well being dragged out, in his drug-fuelled crazy state, he said to me "I'm going to F you over" "You think that you got F'ed over by your ex, wait and see. You will get nothing." He laid down the rule and from that moment on it's been financial abuse, economic abuse, however you want to word it. He hasn't paid a cent of maintenance in 5 years..."
(P4:65)

The narrative reveals a pattern of abusive dynamics, with the use of emotive language like *"drug-fuelled crazy state"* and threats to *"F you over"* and *"You will get nothing"* suggesting a hostile and controlling environment. The description that her former partner "laid down the rule" points to a gendered hierarchy of him having power to determine her fate, and implicitly shows how abuse is rooted in power and social inequalities between men and women (Enaifoghe et al. (2021). This is further demonstrated through the financial and economic abuse even after separation, as has been extensively written about in literature (Enaifoghe et al., 2021). Analysis of the participant's relationship journey reveals that the abuse she experienced at the *onset* of separation, was a continuation of the abuse

experienced in the relationship. This points to the literature showing how domestic violence is not an isolated event but often the consolidation of years of abuse including psychological and emotional trauma, often escalating and increasing in severity over time (Houlgate, 2017; Stratemeyer, 2021). Furthermore, the specific mention of the non-payment of child maintenance over 5 years reflects the long-lasting impact and the systemic nature of the abuse (Machisa et al., 2018; Smye et al., 2021).

This is a Problem – Interpersonal Experiences within Family Court

After separating, the women in the study described facing significant and severe challenges in the Family Court system, particularly regarding maintenance matters and care and contact disputes (Ford-Gilboe et al., 2009; Varcoe & Irwin, 2004; Wuest et al., 2003; Zeoli et al., 2013). As one participant, Participant 1, explained:

“The problem started when um a year later after we got divorced when um he stopped paying maintenance and um that’s when our chaos really really started with regards to the court system. Because um I then had to go to Maintenance Court and everything was just turned upside down from then.” (P1:42)

Similarly, Participant 2 shared:

“Well obviously, the divorce went fine. That thing went smoothly because I initiated it. He obviously didn’t want to so, I went to the court that went fine. It actually started with the Maintenance Court where I went and did what the Maintenance Court told me to do. ...that’s where the protection order came in actually because of the abusive emails I got and the harassment I got and when I went for the first court date in 2019.” (P2:23)

The excerpts reveal that mothers experienced various challenges following separation, alluding to issues with both their former partners and the Family Court system. Participant 1’s use of emotive language such as *“chaos really really started”* and everything being *“turned upside down”* conveys the overwhelming nature of the issues that she encountered within the court system, particularly regarding maintenance issues. The use of

phrases like *"well obviously"* and *"that thing went smoothly"* by Participant 2 conveys a sense of confidence and control over the divorce process, suggesting that she took an active role in initiating the process despite her partner's reluctance. However, her tone shifts when identifying Maintenance Court as the point where *"the problems started"*. She lists abusive emails, harassment, and the need for a protection order, confirming research that varying degrees of unwanted interference and intrusion, such as on-going harassment, or continued abuse by former partners occurs post-separation (Ford-Gilboe et al., 2009; Rathi et al., 2018; Spearman et al., 2023; Summers, 2022).

The analysis of the experiences of the mothers revealed that former partners continued to use various methods of control post-separation, often using the Family Court system where continued difficulties were experienced both in and out of Family Court, as Participant 6 describes below:

"Anyway, I then decided to go and see my attorney, tried to serve papers, couldn't find him. I went to the attorney, because I also wanted jurisdiction in [area] because it kind of gave me the feeling that this was going to be a battle." (P6:23)

The extract speaks of not being able to "serve papers", and that she "couldn't find him" showing that even from the onset of divorce proceedings various tactics were often used by former partners. While her decision to *"go and see my attorney"* suggests a proactive approach, her description *"it kind of gave me the feeling that this was going to be a battle"* suggests that levels of abuse, power, and control may continue post-divorce or post-separation (Boonzaier, 2013; Hardesty & Ganong, 2006; Stratemeyer, 2021; Zeoli et al., 2013), with the legal system often used against mothers.

Across participants' accounts, the court and legal system was seen to be used as a method of control, which included the manipulation of financial aspects, and the use of their children, confirming findings that post-separation abuse is often centred around court issues with former partners using and misusing the Family Court system to exert power and control (Elizabeth et al., 2012b; Khaw et al., 2021). In line with research, the participants' discourses

show that for mothers who had experienced domestic violence within their relationships, the situation can become extremely volatile (Chadwick & Morgan, 2009; Hannah & Goldstein, 2010; Mathews et al., 2016; Saltmarsh et al., 2021), where they faced not only safety issues but challenging legal battles to secure safety and support for themselves and their children (Douglas & Walsh, 2010; Machado et al., 2020; Orr et al., 2023).

Dominant Discourses

Within the accounts of their experiences with the Family Court system, the mothers described how former partners inflicted systemic abuse, used certain strategies and engaged in a number of tactics during court appearances, whether through dragging out court proceedings to leave them broke, sabotaging attempts to get support, weaponising the courts (Seelen, 2023), their personal history (Spearman et al., 2023), or using their relationship with their children against them (Khaw et al., 2021).

Analysis uncovered four distinct discourses. I have titled and categorised the predominant discourse by its overarching theme, as follows: 1) *I'll Show You Who's Boss!* refers to abuse and coercive control, where domestic violence and coercive control include economic abuse, legal abuse, and emotional abuse and the use of children, constituting the theme of domination. The dominant discourses are categorised as follows: 2) *I'll Screw You Over!* refers to litigation tactics and legal abuse predominantly used in Family Court, where the abuser weaponises the court and legal system against the mother. These refer to discourses of power; 3) *I'll Make You Pay!* refer to discourses of financial control, referring to financial tactics and economic abuse used to exert financial control through money and economics. These refer to discourses of control, particularly financial control; 4) *I'll Hit You Where It Hurts!* refers to emotional abuse, threats, intimidation and relational tactics, where the abuser uses the children or gender against the partner with threats and intimidation. These refer to discourses of gender. Although I speak of issues of either power, control or gender, I refer to the predominant and most visible issue at play, although in most instances various degrees of power, control and gender were evident.

In analysing the discourses, it became apparent that there was also an overlap between abuses and tactics within post-separation interactions, particularly noticeable in Family Court. For example, while the former partner may utilise financial tactics in Maintenance Court, they may also use litigation tactics as well as coercive controlling behaviours. As seen in the pre-separation discussions on domestic violence, coercive control encompasses economic abuse, legal abuse, and threats and intimidation. Therefore, all these tactics and abuses can be understood as part of the overarching issue of domestic violence and coercive control, which can be recognised as a form of intimate partner terrorism (Ellis & Stuckless, 2000; Gottzén et al., 2020; Humphreys & Thiara, 2003b; Saunders et al., 2023).

Furthermore, during the analysis stage of the second research question, it became evident that while the mothers described tactics that were particularly noticeable within the Family Court system their discourses spoke of broader issues that were used both in and out of court, post-separation. These discourses highlight broader elements of power, control and gender dynamics within the post-separation relationship. So, while we may observe controlling tactics within Family Court, they encompass the broader elements of domestic violence and coercive control. For instance, while litigation tactics were used in Family Court proceedings, they constitute a component of the legal abuse employed both in and out of court with the aim of exerting power. Similarly, financial tactics predominantly employed within Maintenance Court, reflect the broader economic abuse used outside the court system to exert control through money and economics. Additionally, while relational tactics were used in Children's Court proceedings, where former partner often weaponised children or their gender against the mother, the tactics relate to emotional abuse and intimidation both in and out of court where the intent was to limit the mothers' agency and reach.

I'll Show You Who's Boss! – Domestic Violence and Coercive Control

I'll Show You Who's Boss! essentially encapsulates the dynamic of domestic abuse and coercive control, seen in the mother's narratives both in and out of Family Court, where

power and dominance over former partners was exerted through a range of tactics. This included economic abuse, legal abuse, emotional abuse, and the manipulation of children, all of which contribute to the overall theme of domination within the post-separation relationship (Bishop & Bettinson, 2018; Dichter et al., 2018; Douglas, 2018; Johnston, 2006; Katz et al., 2020; Stark & Hester, 2019; Tolmie, 2018). Participants in this study described experiencing a range of post-separation abuses and tactics, including stalking, harassment, financial abuse, and legal manipulation and “paper abuse” used to maintain power and control over them, even after separation (Humphreys & Thiara, 2003b; Miller & Smolter, 2011). Intimidation and threats of violence were also utilised (Minto et al., 2020). One such example is from Participant 5, who explains:

“In February, and [Pause] and that’s when he had breached the court order. And when we went back in February, /... / He verbally abused me in the court passages to the point where I was in tears. /... / He was rude to me. He was lecherous. Like I was standing across the passage, like it’s so busy in that court, like there often isn’t anywhere to sit and he was sitting, and /... / and he’s got an empty seat next to him and he keeps patting it “Come sit here. Come sit here”. I’m like “Please leave me alone” “Ah but come sit here. Maybe you’re looking a little bit fat hay?” Like ja it was so bad. [Laughs] I was like borderline hysterical. I was, I couldn’t actually believe that he still and the power to make me feel like that. And he just wouldn’t stop. He just wouldn’t care and now we are in a court passage with all these people.” (P5:474)

In her account she indicates that her former partner had violated the court order, which necessitated her going to court in the first place. The court appearances then provided the opportunity for him to intimidate and harass her. In the extract, she describes the emotional impact and trauma of such an interaction. Her narrative highlights how in Family Court, not only do mothers have to deal with the stresses of court proceedings, but they had the added trauma of having their domestic violence perpetrator opposing them in Family Court (Saunders, 2008). Her narrative illustrates how even in the absence of physical

violence, the history of abuse within the relationship, reinforces the current threats and maintains the abuser's control and dominance (Boonzaier, 2001; Johnson, 2018; Vetten, 2000). This ties in to the Power and Control Wheel (Kelly & Johnson, 2008; Laing, 2010), which puts forth that it is the threat of violence that holds the wheel together, and that the tactics of abusive men are utilised in an effort to keep women in their submissive positions and to maintain male power and control (Nnoli et al., 2023).

The extract shows that court appearances provide abusive partners with further opportunities to harass former partners before entering the courtroom, which is already a highly stressful event in itself. As previous research by Hardesty and Ganong (2006) has shown, this study found that if men were controlling or abusive during the relationship or marriage, they continued to exert control over mothers and children even after separation. This required that mothers had to "manage conflict, set boundaries, and resist control in the context of on-going fear" (p. 555). This further confirms that abuse experienced post-separation is often multifaceted, with a pattern of behaviours aimed at exerting coercive control over former partners (Fleury et al., 2000; Humphreys & Thiara, 2003b; Laing, 2010; 2016; Orr et al., 2023). Participant 5 goes on to describe how she had to take steps in court to minimise the effect of the emotional abuse and threats of physical abuse:

"Like it, not like eventually it's gotten to the point where [name]'s gotten a guy who used to be his personal trainer, he's this massive Nigerian guy, like his arms are like two times the size of my head. I take [name removed by researcher] with me to Court. Because then he leaves me alone. On days when I don't have an attorney, um I took him with to the Family Advocate [Laughs] [name] like my body guard because otherwise he's so abusive and it's all like, it's hard to explain emotional abuse to someone who hasn't been subject to it, because it's all so like under [Pause] the radar but it's the accumulation of its very hard to, you know you can say to someone "but he said that to me" and they'll go and ... you know, but it's just the like constant, you know." (P5:542)

The excerpt demonstrates how former partners who had been abusive during the relationship continue to exert control over mothers after separation, often manipulating the court system to perpetuate the cycle of abuse (Miller & Smolter, 2011). This was seen to be done often in response to mothers' attempts to seek help and protect themselves and their children, such as filing claims of neglect at Children's Court after a mother had obtained a Protection Order, or after a mother had received a Maintenance Order (Miller & Smolter, 2011), or in this case, enforced a court order. The discourses illustrate how court proceedings create opportunities for the continuation of abuse post-separation. In the extract, Participant 5 describes the abuse as "*hard to explain*" and as being "*under the radar*" highlighting the covert nature of the tactics used, often unnoticed by others (Callaghan et al., 2015), or disguised as standard legal practices (Miller & Smolter, 2011). This aligns with research findings showing how these insidious elements of coercion and control often occurred simultaneously in families affected by domestic violence (Callaghan et al., 2018; Dichter et al., 2018; Elizabeth et al., 2012a).

The narrative from Participant 5 further highlights the enduring power dynamics within the relationship, that continues to impact the post-separation relationship. It also sheds light on the subtle, often unseen acts of coercive control, where gendered issues such as comments about her weight are used to undermine her self-confidence. While, Participant 5's narrative demonstrates her agency in seeking help, it also illustrates the limited power and control many women face (Elizabeth et al., 2012a; Watson & Ancis, 2013). The dominant approach to domestic violence often narrowly focuses on physical violence, frequently failing to recognise coercive control as the defining feature of abuse. This example further highlights the lack of support and understanding of domestic violence dynamics within the Family Court system, leaving mothers unsupported and vulnerable to ongoing abuse (Dragiewicz, 2014; Jamieson et al., 2018; Proudlock & Rohrs, 2018; Zeoli et al., 2013).

Although Participant 5's account is one example, all participants confirmed that the abuse persisted even after they ended their relationships, continuing and escalating in intensity post-separation (although often in different forms), (Beck et al., 2011; Campbell et al., 2017; Callaghan et al., 2018; Francia et al., 2019; Fleury et al., 2000; Hardesty & Ganong, 2006; James-Hanman & Holt, 2021; Jaradat, 2018; Katz et al., 2020; Laing, 2016; 2016; Nnoli et al., 2023; Rathus et al., 2019; Spearman et al., 2023; Spiwak & Brownridge, 2005; Stratemeyer, 2021; Stark & Hester, 2019). Participants described how, within family court proceedings, a) the father's abusive history did not impact court processes, b) he continued to abuse them in and out of court, and c) he used the court system to perpetuate further abuse.

I'll Screw You Over! – Legal Abuse, Litigation Tactics and Power

The research findings revealed how former partners exploited various legal and social systems and used various litigation strategies. *I'll Screw You Over!* refers to litigation tactics and legal abuse, where the court and legal system is weaponised against mothers. All participants, spoke of how the abuse continued and escalated after separation, particularly through the legal system as former partners found new avenues to maintain power and control over them (Douglas, 2018; Hardesty & Ogolsky, 2020; Humphreys & Thiara, 2003a; Mathews et al., 2015b; Miller & Smolter, 2011; Orr et al., 2023). The findings align with previous research showing that abusers misuse and manipulate systems (Bancroft, 2002; Galántai et al., 2019; Gutowski & Goodman, 2020; Harman et al., 2018; Silverman et al., 2004; Spearman et al., 2023); and that such abuses and tactics to manipulate and misuse systems, were done in an effort to continue to abuse and harass former partners after separation (Douglas, 2018; Spearman et al., 2023; Watson & Ancis, 2013). In the following extract, Participant 4 explains how her former partner applied to the High Court to have her removed from the home and the children from their school in one application:

“Ja and anyway /.../ he went to the High Court to have us removed from the home and schooling /.../ He applied to remove us from this house /.../ and to remove the children from school. /.../ He didn’t care. I must home-school them. He didn’t care. Ja and where we live, he didn’t care. So, he was claiming he needed the money to pay, to pay bank credit card debt.” (P4:508)

The extract shows how legal abuses and tactics were not limited to the Family Court system but extended to other courts, and systems (Bancroft et al., 2002; Galántai et al., 2019; Gutowski & Goodman, 2020; Hines et al., 2014; Miller & Smolter, 2011; Silverman et al., 2004). Participant 6 noted how her former partner continued to use (and abuse) the court system in a cyclical fashion:

“So that was, ja, that was the end of 2014. I mean since then I mean it’s been continuous. Almost like a cycle...Every couple of years we are back to, back to where we started. Um and then I have to go knowing that I must approach the court and then we go to criminal trial and halfway through criminal trial, which is now 12 months later, he will pay, and they never conclude the criminal process. And the file closes and life carries on. So, he literally knows how to manipulate the system.” (P6:160)

Participant 6 describes how he *“literally knows how to manipulate the system”* which aligns with prior research demonstrating the misuse and manipulation of legal and judicial processes (Bancroft, 2002; Galántai et al., 2019; Gutowski & Goodman, 2020; Harman et al., 2018; Silverman et al., 2004; Spearman et al., 2023); intentionally undertaken to further abuse and harass survivors (Douglas, 2018; Spearman et al., 2023; Watson & Ancis, 2013).

The following extract from Participant 5 highlights how the threat of legal action is used as a tactic post-separation:

“Ja, but in the interim still constantly threatening me with um, going to court to reduce maintenance amount. Every argument we’d have it would be how he was paying too much maintenance. He knows how much maintenance he should be paying and it’s

too much maintenance and there was always, always something. Then he accused me, he was going to report me...he was going to report me because I was, I think his words were “abusing my influence /... / to unlawfully access his records” because I had said something about like “you’re complaining about maintenance, but you are spending your weekend at the (Name) Hotel and the only reason I knew that was because he videoed called [child] and I could see. it’s a very distinctive.” (P5:306)

In the examples above, threatened legal actions, such as reducing the maintenance payments and threatening to report her, are system-related tactics and manipulations that shift the blame from the abuser to the victim and undermine her credibility (Bancroft, 2002; Epstein & Goodman, 2018; Galántai et al., 2019; Gutowski & Goodman, 2020; Harman et al., 2018; Silverman et al., 2004). In such examples the threat of reducing maintenance speaks to broader issues of gender and power. It becomes apparent that abusive partners recognised that the “lack of economic independence” restricts mothers’ economic empowerment (Gender Links (2021, p. 28), affecting gender equality. Thus, by restricting economic independence, male power is maintained, which in turn legitimises the subordination of women (Fulu et al., 2013b; McCarthy et al., 2018). In this way, the gender inequality system is produced and reinforced through the allocation of resources, institutional practices, social norms and social interactions, patterns of behaviour, and internalised beliefs and identities (McCarthy et al., 2018), which in turn often increases men’s power over women (Connell, 1995; 2012; Mathews et al., 2015; McCarthy et al., 2018; Ridgeway & Correll, 2004).

The analysis identified a range of litigation tactics employed by former partners in Family Court proceedings that fell under three main categories: 1) non-compliance with court orders, 2) using their legal team to bully and harass the mothers (Douglas, 2018; Spearman et al., 2023; Watson & Ancis, 2013), and 3) employing delay tactics such as postponements, not providing documents, not arriving at court, and transferring matters from one part of the system to another.

Non-Compliance with Court Orders

In the interviews mothers consistently reported that their former partners failed to comply with court orders. Participant 4 explains:

“When he came out (of Rehab) him and our attorneys at the time, um sat down at a round table and came to a settlement agreement that included contact, drug testing and maintenance, um which was a very fair contract. We both agreed to it and he had it made an order of the court in a Rule 43. That was in the November of 2017 and um, [pause] it was literally the 25th of November he didn’t, he stopped paying a cent.” (P4:69)

Analysis uncovered that not only did former partners violate and ignore court orders, but many had multiple breeches of orders. This concurred with findings that almost half (42%– 50%) of abusive men violate orders (Spearman et al., 2023).

Using Their Legal Team to Bully and Harass

Accounts showed that former partners were often vexations litigants who used legal strategies such as using legal representatives to gain an unfair advantage or to bully and intimidate on the father’s behalf (Galántai et al., 2019; Gutowski & Goodman, 2020; Hines et al., 2014; Miller & Smolter, 2011; Silverman et al., 2004; Spearman et al., 2023). Participant 4 explains: *“and they’ve got endless money to fight me in the courts, and they’ve got a firm of attorneys to fight me in the court”* (P4:369). Such accounts demonstrate the pervasive nature of post-separation abuse, where legal tactics intersect with financial tactics and economic abuse. This highlights the intersectionality of legal tactics, which can co-occur with emotional and relational tactics (Mama, 2012; Mahalingam, 2009; McDowell & Fang, 2007). In Maintenance Court proceedings, Participant 4 explains how the father used his financial resources and legal representation to undermine the participant's efforts to secure the necessary financial support for their children:

“So yes. So, we went to Maintenance Court. We went for I don’t know how many Section 6 enquiries, sitting with the maintenance officer, um [long pause], I’m just

trying to think, at this stage I had ended my mandate with that attorney... Ja, So I was there on my own, doing these Section 6 enquiries and he had his attorney. He has a firm of attorneys and senior counsel... So, at any stage in Court, he's got three or four or five [emphasis on each number by hitting table when saying number] attorneys and he's sitting there and senior advocate. You know a senior advocate charges about R50 000 a day just to wake up. Ja, I'm doing it myself and he... And he's pleading poverty as a reason why he wants a reduction...." (P4:154)

The excerpts highlight how the court and legal system can be leveraged as a tool of control and manipulation against the mother. Furthermore, abuse is facilitated and perpetuated at the broader communal and societal level (Spearman et al., 2023), where the former partner's legal team was able to exert influence through various systems, including the legal system, which are shaped by gender and patriarchal norms (Spearman et al., 2023). So, while Participant 4 was representing herself, her former partner had access to a large team of legal professionals, including senior counsel, to advocate on his behalf, revealing a significant power imbalance between the participant and her former partner in the maintenance proceedings. The language shows that Participant 4 felt disadvantaged and frustrated by this disparity, noting that her former partner's lawyers charged exorbitant fees "*just to wake up*". She explains how she in comparison, had to do it on her own without the same legal support. In the discourse, she views his claims of poverty as a reason for a maintenance reduction with scepticism, as the cost of securing legal representation would show this to be untrue. This can therefore be seen as tactic with the former partner manipulating the court system to exert power, and financially burden the mother (Miller & Smolter, 2011).

Delay Tactics

Participants consistently spoke of how former partners used delay tactics in Family Court proceedings. Participant 1 explained her experience in Maintenance Court as follows:

“But um we got there, and my ex-husband had brought nothing. He had brought nothing to court.” She explains that this delay strategy was routinely used, “Um when we went back there again, he didn’t have proper documents with regards to bank statements and everything” (P1:53).

Participant 4’s had a similar experience in relation to the counter-side failing to provide relevant court documentation required to conclude the matter noting: *“Anyway, they did not provide the documents” (P4:193).*

Participant 2 and 6 explained how their former partners never arrived at court, with Participant 2 saying *“And, the summons was sent, he signed for it. You sit there, they see that he’s signed for it, he’s not there. So, ja he never pitches up. He’s not, he doesn’t care.” (P2:24)*

Despite appearing trivial, collectively, these examples give compelling evidence that systems-level manipulations were used, and that they were used to hinder efforts to access formal help, assert dominance, compel ongoing interaction, and economically burden the mothers (Miller & Smolter, 2011; Spearman et al., 2023). Participants provided numerous examples, describing how former partners deliberately exploited the legal system to perpetuate difficulties, using it against the mothers. Within maintenance proceedings, mothers noted that former partners were aware of their desperate need for maintenance, and deliberately leveraged the legal system to control, manipulate, and negatively impact them. Participant 2 describes her former partner’s actions below:

“So, he knows what he is doing. He absolutely knows what he is doing. And he’s laughing it off. I got emails for the first court visits where he said “Ha ha-ha good luck with court. You won’t see me” and have I ever seen him at court...” (P2:276)

The account from Participant 2 illustrates the intentional and calculated nature of the acts. Yet, as mentioned, because masqueraded as routine legal procedure (Miller & Smolter, 2011), they were commonly overlooked and unacknowledged as abusive acts by court officials (Callaghan et al., 2015), but seen as part of the process. This was found in the

literature indicating that men's domestic violence is often made invisible through Family Court practices (McKinnon, 1989; Meier & Dickson, 2017).

Collectively, the participants' accounts reveal a pervasive pattern of such manipulative and exploitative conduct within the Family Court system (Kelly & Johnson, 2008; Stark et al., 2019; Stark & Hester, 2019). This pattern is described by participants below:

"We then, she [Court official] then said to him she'll send him an email with the next court date, he needs to be there. Then he went quiet. Then he starts blocking numbers. That's a pattern." (P2:29)

"So that was 2012 when I entered the system and I realised like that in and out, in and out and postponements, and um [pause] but I started really focussing on his behaviour, you know the things he would say to me, the pattern, I just I just started noticing all of that." (P6:63)

The extracts describe how former partners were aware of the failures of the court system and knew that there was no justice or power that would curtail their abusive behaviour or keep it in check (Spearman et al., 2023). In this way the findings corroborate extant literature, demonstrating how "abusers manipulate systems to prevent formal help-seeking behaviours, exert power, force contact and financially burden survivors" (Spearman et al., 2023, p. 1229). This is additionally evident in the extract below:

"...and the best part is the mockery where he says "take me to court. See what the court does," because he knows he knows exactly what the justice system is at the moment, and he knows that he's not going to have anything happen to him, and that's why he got away with it, because he knew that nothing was going to happen because they don't do their jobs properly. So, he literally just disappeared." (P2:339)

Participant 2's account shows a troubling belief by her former partner that he could act without consequences and would not be held accountable by the court. The language suggests a dynamic of power and control, where he feels empowered to tease and mock the

mother in her efforts of ensuing justice. Such discourses highlight the systemic barriers and lack of accountability within the legal system that allow such behaviour to continue. As Wuest et al. (2003) observed, after separation, abusive ex-partners shifted their tactics, moving away from pre-separation methods like physical attacks, stalking, or threatening the mother, and instead continued their abuse through methods such as exploiting the children, the changed family dynamics, and the Family Court system (Spearman et al., 2023; Wuest et al., 2003). Such actions further compounded the challenges faced by the mothers (Jaradat, 2018; Smye et al., 2021). Another example, Participant 3 explained that court delays and escalating financial troubles led to health issues that were exacerbated by her disability. She recounts having a heart attack yet still needing to attend the court date for maintenance, as her and her children's survival depended on it. Financially, she could not afford to delay the proceedings by an additional month:

“Only struggles and struggles and struggles. In between I got a heart attack already, um [Crying] and one day I went to court just after the heart attack. He didn’t show up and I got a, the first warrant that was 2015, and um, I was still supposed to be in hospital, but I discharged myself because I ... then I would have missed the one [court case] in 2015 too. I just got out of hospital into the court, and nobody felt anything. NOTHING.” (P3:430)

The extract above is an example of how court related issues further compounded the stressors that mothers already faced, including financial and economic instability (Andrew & Segun, 2019; Duffy, 2015; Ford-Gilboe et al., 2009); housing insecurity (Bullock et al., 2020; Burnett et al., 2015; Mikolai & Kulu, 2018), health issues (Adkins & Kamp Dush, 2010; Anderson & Saunders, 2003; Ford-Gilboe et al., 2009); and other challenges that profoundly impacted the well-being and lived experiences of the mothers and their children (Jaradat, 2018). As found in the study, this creates a "private tragedy" for families as they navigate complex legal battles over children, child support, and assets (Alstott, 2009, p. 3), with factors such as domestic violence, substance abuse, child neglect, unemployment, poverty,

mental illness, disability, and other issues often occur concurrently during these protracted legal proceedings. These findings further illustrate the negative consequences of domestic violence, and the far-reaching effects that it has on mothers, their children, families, communities, and society as a whole (Tuon, 2021).

Mothers' narratives describe various power dynamics taking place within Family Court processes. As described by (Fulu et al., 2013b, p. 4), "gender inequalities and power imbalance between women and men are the foundational causes of violence against women". The extracts show how patriarchal systems can be used to abuse mothers, and how gender inequality is at the foundation of our legal system and culture (Easteal et al., 2018; McKinnon, 1989; Meier & Dickson, 2017). Furthermore, the mothers' accounts reveal that in legal and judicial systems such as Family Court, there is not only a disparity between the partners but within the system. The study shows that these mothers found themselves trapped in a vicious cycle of manipulation, legal complications, and systemic barriers, which will be explored more fully in Chapter 6.

I'll Make You Pay! - Economic Abuse and Financial Control

I'll Make You Pay! refers to discourses of financial control, where financial tactics and economic abuse are employed to exert financial control using money and economics. Within the context of this study, these discourses predominantly related to maintenance and Maintenance Court matters. With regards to economic abuse post-separation, Participant 6 makes the following observation:

"So, its domestic violence, economic abuse, through the maintenance lens, because my observations are that the economic abuse, the abuse continues, but the moment you leave the relationship it changes into more into financial abuse and economic abuse. The behaviour patterns are the same, the same coercive controlling behaviour but money becomes the main tool... As opposed to limitations of economic opportunities or economic sabotage or exploitation. It changes where money is directly used as a tool to cause harm and also noticing that when they don't quite get

the desired result through the money, they then use the child as a tool. But in order for that all to work they weaponise the courts against us. So, I really started interrogating all of this, our Maintenance Act has no provision for the protection of women.” (P6:300)

In this extract, the participant describes how the nature of the abuse changes after separation, which is well documented in the literature (Dichter et al., 2018; Douglas, 2018; Elizabeth et al., 2012a; Francia et al., 2019; Khaw et al., 2021; Laing, 2016; Spearman et al., 2023; Stark et al., 2019; Stark & Hester, 2019; Tolmie, 2018; Wuest et al., 2003). She observes that while the underlying patterns of coercive control remain the same, following separation the tactics shift to focus more on financial abuse and economic exploitation (Bishop & Bettinson, 2018; Postmus et al., 2020; Spearman et al., 2023; Sharp-Jeffs, 2021). The participant notes that when financial abuse does not yield the desired result, then the former partner used the child as a tool against her (Kelly & Johnson, 2008; Stark et al., 2019; Stark & Hester, 2019). Stark et al. (2019), found that coercive abuse extended beyond just violence, including tactics such as intimidation, emotional abuse, isolation, minimisation, denial, blaming, exploitation of children, assertion of male privilege, economic abuse, and coercion or threats. Furthermore, the participant expresses frustration that the legal system, specifically the Maintenance Act (Maintenance Act No 99, 1998), does not provide adequate protection for women in these situations. The language used, such as *“they weaponise the courts against us”* and *“our Maintenance Act has no provision for the protection of women,”* conveys a sense of injustice and the feeling of being trapped in a system that fails to address the complex realities of post-separation abuse and allows the weaponisation of courts against women.

In and out of Family Court mothers described how former partners caused financial difficulties that severely and negatively impacted them and their children. Mothers described how former-partners caused financial difficulties with regards to maintenance such as 1) withholding or non-payment of maintenance; applying for a reduction, paying then not

paying, or only paying when faced with severe consequences such as jail time; 2) hiding funds and assets to which she is entitled; 3) incurring legal costs for the mother, and; 4) using money as a method of control.

Withholding or Deliberate Non-Payment of Maintenance Obligations

The economic abuse was particularly evident in the withholding of child maintenance payments, which is coherent to findings in the literature (Bishop & Bettinson, 2018; Postmus et al., 2020; Spearman et al., 2023; Sharp-Jeffs, 2021). All participants spoke of how former partners withheld maintenance payments, with Participant 3 saying:

“The father stopped the maintenance totally in 2012. No in 2012 he paid less, in 2014 he stopped the maintenance totally.” (P3:242)

As noted earlier, Participant 4 explained, how the father had “approached the Maintenance Court to reduce the maintenance... Oh to make a reduction and on his form, he wanted to make the amount, he put ZERO. He wanted to make his maintenance ZERO. ZERO RAND [Emphasis]” (P4:152). Her emphasis and repetition of the word “ZERO” emphasises the extreme nature of this request, showing her disbelief at the father prioritising his own interests and disregarding the needs of the children.

For all mothers the financial stress of supporting the children, often without the support of the father through his deliberate non-payment and economic control placed them into financial difficulties (McCarthy et al., 2018; Postmus et al., 2020). Such acts highlight the gendered nature of money and control. McKinnon’s (1989) insights on the influence of gender inequality on culture and law are profoundly relevant to this study, as they note the subtle and implicit ways that assumptions about gender shape both culture and the law.

Hiding Funds and Assets to Which She is Entitled

Participants described how financial tactics were used in court to conceal funds and assets that the mothers were legally entitled to (Spearman et al., 2023), either through the father hiding money meant for maintenance payments or by claiming that there was no money (Sharps-Jeffs, 2015), as seen below:

“Understand he’s pleading that he’s poor but in this time, he’s been overseas four times. He’s gone to watch Man United against Ol’, play at Ol’ Trafford. He’s gone to the States. He’s gone to Cape Town. He’s gone to the Bush. This year alone he’s taken my children to the bush nine times, on Bush holidays but hasn’t paid a cent of maintenance, [Pause] so anyway...!” (P4:373)

“Um And then um some months he wouldn’t pay at all and when I started questioning things like that then he would just say “I don’t have the money. I don’t have the money” but then the next month there were like overseas trips. I mean he didn’t even do a very good job of hiding stuff. It was quite pathetic. So, um there was a lot of tension with regards to that.” (P1:91)

The discourses of Participants 1 and 4 suggest a pattern of financial abuse, where former partners failed to pay court-ordered maintenance, yet were able to take vacations overseas, indicating that affordability was not the issue and that concealing funds was more plausible.

In the study, fathers showed deliberate patterns of behaviour that “control, exploit, or sabotage an individual’s economic resources” (Postmus, Plummer & Stylianou, 2016, as cited in Postmus et al., 2020, p. 2). Participant 1 expresses frustration at the blatant and deliberate non-payment, describing it as *“quite pathetic.”* The tension and distress caused by this manipulation is evident in her words, with her description of there being *“a lot of tension”* suggesting a power dynamic using both the legal system and financial means. The accounts of the participants reveal a deliberate intent from former partners, consistent with research findings on how post-separation abusive partners may purposefully threaten, undermine, and destabilise the new family unit through various methods, including withholding of child maintenance (Khonou, 2018; Wuest et al., 2003). In such instances, the parent deliberately economically deprives and disregards their constitutional obligation to prioritise their child’s socio-economic rights, which according to section 28 (1)(c) of the Constitution of the Republic of South Africa (No. 108 of 1996), they are expected to do. As the above examples

show, economic abuse and economic deprivation and control, have an adverse and detrimental impact on mothers' ability to acquire, use or maintain money or property, goods or services and their ability to adequately care for the children in their care (Sharp-Jeffs, 2021).

Incurring Legal Costs for the Mother

The court proceedings were not only stressful events in themselves but mothers also incurred significant time and financial costs in seeking legal assistance. Participants reported how additional costs were spent on legal representation:

...“and the first attorney was about R100 and no R288 000 thousand rand. Ja, so I had nothing. I had to cash in all my policies to pay for that attorney and you never got any service basically. Nothing. Nothing in fact he did damage. He did big damage. So ja, and I'm 50 years old next year, so I had policies in place since I was 18 that I started when I was 18, and I had to just cash it all in and pay attorneys that didn't help me at all.” (P4:221)

The mothers reported feeling tensions due to the protracted legal process and court-related issues. Participant 5 explained that she was in a lot of debt for legal assistance, and that the incurred legal costs could be better spent on the children's maintenance:

“I've spent a lot of money and I'm in a lot of debt for lawyers, Hundreds of thousands [nods] I don't know what. I don't want to know. I'll just like leave it [chuckles]. What you've saved in one you could have, but you're fighting maintenance but it's costing in food...out of your child's mouth.” (P5: 617)

The mothers' narratives convey their dismay at the financial and personal cost of obtaining the necessary legal or other support that was required (Ford-Gilboe et al., 2009; Wuest et al., 2003; Jaradat, 2018), which is seen within the literature. In addition, mothers also spoke of “attorneys that didn't help me at all” (P4:221).

The narratives from the participants further reference “fighting for maintenance” which highlights the adversarial nature of Family Court proceedings, particularly in relation to

money where issues of economic control and power are evident. Such examples show how mothers who have experienced domestic abuse face multiple barriers when navigating the Family Court system, where their trauma, and vulnerability are further exploited, and their limited resources drained (Stark et al., 2019; Kelly & Johnson, 2008; Sheehy & Boyd, 2020).

Using Money as a Method of Control

In the mothers' narratives of maintenance matters the issue of economic power and financial control consistently emerged as a significant theme, both in and out of court.

Participant 8 shares her views below:

“Um, and I can definitely agree that the [Pause] [sigh] control happens after the separation and when the divorce comes in, because they... he wants to give us as little as possible. He is quite happy for us to live in a, well not my daughter but me to live in a shack on the side of the road.” (P8:48)

In the extract above, Participant 8 refers to control used in the post-separation relationship. She describes her fears of living in a “*shack*” which from a South African perspective would be referencing the low-cost housing or *shacks* in which a vast majority of black South Africans live below the breadline. Postmodern Feminist research demonstrates that black women face more severe and distinct forms of oppression compared to white women, as white women do not adequately represent the oppression rooted in racism and classism that primarily impacts black women (Nnoli et al., 2023). As a white woman, the comment of Participant 8, shows her implicit understanding of the levels of oppression and poverty experienced by other women in a South African context. However, for Participant 9, as a black South African woman, this is explicitly understood, with her expressing her struggles with poverty, post-separation, saying “*hmm, hard. I'm carrying HARD [Emphasis]. I'm carrying hard. A lot.*” (P9:39).

The accounts of economic abuse and tactics employed in Maintenance Court proceedings reveal the gendered nature of financial power dynamics, which are central to the inequality between men and women (Elizabeth et al., 2012b). Feminist perspectives

highlight the concept of patriarchy, which is characterised by a value and belief system that validates male dominance (Nnoli et al., 2023). Within this social system, men hold power and privilege, including the ability to dominate women (Nnoli et al., 2023). As Participant 4 mentions, *“Um, so definitely where the money is, is where the power is” P4:687*).

Furthermore, the difficulties experienced by Participant 9 above, is highlighted in the research of G’sell (2018), who showed the connection between women’s child support claims and race as very relevant in South Africa.

Across all participants' accounts, there were descriptions of gender inequality, being prevalent in discourses about money, where fathers used finances as a means to maintain control and exert power even after separation (Kaur & Garg, 2008). In all cases the father was not taking responsibility for the upkeep of his children. Mother’s discourses speak of the father not taking responsibility for his children and all the burden resting on them. In the research, even when the mothers were employed, their earnings were frequently insufficient to support themselves and their children without financial assistance from the father:

“I was grateful he was paying school fees at least but that was really just it. Um, and the job where I was working at, I wasn’t making great money. It was really just sort of getting me by and um I really I really needed the maintenance.” (P1:52)

“I fear how I’m frickin going to pay school fees when he doesn’t and I fear, like this pool was a swamp at one stage and ... I’m flippin selling face cream, you know and I fear for my parents and I think how the hell am I going to take care of them. Jisses. Ja ja and they’ve just had to help me and the children; and and, even things like fetching the kids from school and that kind of stuff. It’s all me. Its petrol. It’s all costs.” (P4:673)

Within this study, all the participants (even those who were employed) reported being dependent on former partners for financial support. In the extracts above, Participants 1 and 4 explained how they were not getting by each month and require the fathers’ contribution towards the maintenance of the children. It was noted that mothers who had been stay-at-

home-moms while in the relationship, were unemployed, or had health issues were further disadvantaged, finding it difficult to make ends meet, often struggling to find employment, or not having the necessary skills for the job market (Muliolino, 2021). The mothers' financial reliance on the fathers left them dependent on them following separation (Enaifoghe et al., 2021), which placed them at greater risk for further abuse and poverty (Enaifoghe et al., 2021). The literature shows that gender disparities in economic power, such as wage gaps between partners, along with negative stereotypes about women that depict them as difficult or vengeful, increased women's susceptibility to continued abuse after separation (Elizabeth et al., 2012b), justifying men's ability to withhold maintenance and economically abuse them.

In the extract below, Participant 9 uses variants of the word *"punish"* three times to express the extent to which her and her children are at the effect of the economic abuse. She describes how the actions affected the children who inadvertently suffer because of the actions of her former partner, saying:

"It's now in his favour now. Because he wants to punish me and the kids, and I get punished. I get punished. The kids get punished. They don't have the food, proper food. They suffer" (P9:17).

The extract reveals a financial disparity that contributes to the power and control dynamics within the post-separation relationship, and increasing her vulnerability to continued victimisation post-separation (Spearman et al., 2023). Mothers' discourses reveal a pattern of control, with former partners withholding money to "punish" them or offering it on the premise that the mothers must beg for it. In the description from Participant 6, she also uses variants of the word "punish" to describe how her former partner used maintenance money as a tool to "punish" her:

"So, if I had had a fall out with one of the kids then he'd say "ag [Sighs] you're going to be punished. You're not getting any money, or he'd say I'll sent it tomorrow and then tomorrow it doesn't come and then I don't know what happens the next day and the next day." (P6:55)

She describes how her former partners, would promise to pay then fail to do so. She explains how the need for maintenance money for her child compelled her to engage with her former partner through phone calls or in-person meetings, exposing her to continued verbal abuse and economic exploitation:

“So, every time I needed money, I would have to ask him and beg him and it gave him the opportunity to verbally abuse me and tell me that I’m extorting money from him and eventually it would lead to “even your kids hate you” ... and all sorts and it just opened me up to a barrage of verbal abuse.” (P6:31)

Her account of having to beg him reveals the imbalance of power created by the financial dynamics. This imbalance compelled her to submit to and endure financial and verbal abuse, resulting in a dynamic where she had to plead with him, which further elevated his sense of power over her. She explains how money was used as a reward and punishment mechanism:

“...and so, I think we eventually had the maintenance agreement at least but it was always a reward and punishment, and eventually it’s you’re harassing me” and “you’re pathetic because you’re begging for money” you know all of that kind of stuff.” (P6:57)

Participant 8 also describes how money was used as a means of control to exert power. She describes how the father of her child would offer financial assistance but would then withhold or withdraw the offer. Her account reveals a pattern of making and reneging on promises, as well as a dynamic of reward and punishment, which has been observed in other participants' narratives:

“...and now, like I said, he sent me a message that said, “all the help he’s given me.” I said I didn’t ask you for any of this help, you offered it, but now he’s taking it away; and that is him. He promises and takes it away. Then promises, then takes away.” (P8:156)

From such descriptions, we see how the economic control and power dynamics that were inherent during the relationship continue to play out post-separation (Sharps-Jeffs, 2015). They illustrate a similar dynamic, with the partner using their male influence to make promises, take actions, and ultimately control the mothers. The extracts also reference the duality of personality, depicting the partner as having both positive and negative qualities, with acts of kindness followed by malice (Dekel & Andipatin, 2016; Wood, 2001):

“So, they’re as mean as ... anything and then a couple of months later they are really kind to you, so you never know where you stand with this person, and you still always and me personally, I am still um, what can I say, give him the benefit.” (P8:60)

The description from Participant 8 refers back to her partner's dual identity, exhibiting both a Jekyll and Hyde-like personas, that was evident before the separation (Dekel & Andipatin, 2016; Wood, 2001). However, as research shows, women's desire for men to revert back to their *princely* ways means they often do not fully recognise the *beast* for what it is (Boonzaier, 2008; Dekel & Andipatin, 2016). The mothers show uncertainty as to whether their former partners will be kind, forgiving, and financially supportive, or cruel, uncaring, and unwilling to provide:

“..and then all of a sudden it gets to a stage where he says “Um ok well I can’t do this anymore. I have to look after myself, and he’s cutting all communication with me... so, he’s said to me “by the end of July he can’t help anymore” So lord knows how we are going to survive but anyway., it’s all by the grace of god.” (P8:72)

This echoes the romantic discourses with fluctuations between a kind, loving *prince* and the *beast* persona (Dekel, 2013). The accounts illustrate how social constructions of love and romance continue to play out post-separation (Boonzaier & De La Rey, 2004; Dekel, 2013; Martinson & Jackson, 2017), with Participant 8 drawing on dual narratives where her former partner oscillates between being *“as mean as”* and then *“really kind”* (P8:60).

The socially constructed notions of romance add complexity to the dynamics of post-separation abuse, as women may still give the benefit of the doubt to their former partners and continue to trust them, despite having witnessed their negative qualities. As in the marriage, Participant 8's former husband utilises these dramatic fluctuations as a method of control, and again she is at effect and has no control over her financial certainty. Furthermore, the comment from Participant 8, that she still "*give(s) him the benefit*" reveals a gendered dynamic where she still views herself as the caring, kind and accommodating partner. The societal view that women are self-sacrificing and that as mothers they should sacrifice themselves in their relationships (Alstott, 2009; Boyd et al., 2019; G'sell, 2018) means that she has no personal control over her situation and needing to relinquish her problems to a higher power.

For all participants in the study the economic inequality not only had a negative effect, on their autonomy, agency and their ability to move forward and prosper following abuse (Boyd, 2010; Elizabeth et al., 2012a; Friedman, 2017; Maclean & Richards, 1999), but it kept them shackled to former partners and in an endless cycle of being indentured, dependent and subordinate (Sharp-Jeffs, 2015, 2021; Vyas & Jansen, 2018).

I'll Hit You Where It Hurts! - Emotional Abuse, Relational Tactics and Gender

I'll Hit You Where It Hurts! refers to emotional abuse, threats, intimidation and relational tactics, where the abuser uses the children or gender against the partner with threats and intimidation. These refer to discourses of gender. For the focus of this research, they describe issues related to care and contact matters within Children's Court.

The analysis revealed that in and out of Family Court processes there were ongoing disputes concerning the minor children's care and contact arrangements. This affirms findings in the literature that care and contact disputes are among the most contentious battlegrounds in the post-separation dissolution process (Elizabeth et al., 2012b).

Using Children's Court and Relational Ties to Children as a Method of Control

In Children's Court the mothers noted how former partners not only utilised the Family Court system as a tool to continue their abuse, but specifically chose to utilise their motherly bonds and children against them. The findings indicate the link between domestic violence and care and contact disputes which is supported by literature (Anderson et al., 2011; Birnbaum & Bala, 2010; Johnston, 1994; Martínez-Pampliega et al., 2021; Polak & Saini, 2019). As Participant 7 explains:

"Yes, they transmit their abuse in a different form and it's around "let me get the child off the mother because I know that that's the next best way to hurt her." (P7:223)

The phrase *"transmit their abuse"* from Participant 7, is an interesting choice of words, suggesting the pervasive and contagious nature of abuse within the court system. Within their post-separation experiences within Family Court, mothers described how former partners continued to employ various tactics to exert control, such as through 'custody stalking' (Elizabeth, 2017), with attempt and threats to have the children removed from the mother's care, making false reports of neglect or abuse to have her rendered an unfit parent (Gutowski & Goodman, 2020; Watson & Ancis, 2013). Participant 2 describes her Children's Court experience:

"I went to Children's Court, did that whole application and she then did the whole thing with the social worker, did the assessment, they've contacted him. Obviously now he's telling them I'm such a bad mother I'm not capable of looking after her and he brought up things like my parents wanted to lock me up in some hospital because mentally I'm not stable." (P2:50)

Participant 2 describes how in Children's Court her ex-husband deliberately undermined her parenting ability, using it as leverage to assert control over the situation, and to win favour with the court. The clear intention was to cause the mother distress and make it difficult for her to defend the case brought against her.

The study observed that former partners devalued and attacked the mothers' contributions and roles as mothers (Elizabeth et al., 2012a; Khaw et al., 2021), with accusations of parental alienation, claims of mental instability and by intimidating them with threats of having the children removed from their care, as described below:

“Let me prove her unstable. Let me take the child away and I can hurt her because I can't physically hurt her, you know. Mentally so anyway, to still cause collateral damage or still then to maintain the control. I mean a normal person I mean you know like if you cared for your child like a normal person...” (P7:225)

Participant 7's narrative describes how her former partner attempted to “*prove her unstable*” in Children's Court, describing the feeling that this was a deliberate effort to continue abusing her in other ways now that he could no longer physically abuse her post-separation. As noted by Kelly and Johnson (2008), the most frequently reported forms of abuse by the women post-separation was emotional, psychological, financial, controlling behaviours, using the children, and using the system (Kelly & Johnson, 2008). The extract above reveals how former partners can exploit the system, weaponise their children, and engaged in emotional, psychological, and controlling behaviours. The impacts of countering such claims are substantial, including the financial burden of transportation and legal representation, as well as lost income from taking time off work. It is evident that the threats to remove the child from the mother's care were driven by malicious intent to harm her. Her use of the term “*collateral damage*” reflects the damage and hurt she experienced from these actions. This study's findings align with previous research, which determined that mothers who had separated from former partners and were engaged in disputes over contact with their minor children, continued to experience gendered power dynamics, even when they did not report experiencing violence (Elizabeth et al., 2012b).

In another example, Participant 5, shared how her former partner used her Domestic Violence Interdict against her in Children's Court claiming that she was unstable. This was also done with the intent of having the child removed from her care:

“So, I got the Interim order and that changed things because then he was ...very nervous to contact me and bother me and he still would but it was a lot less and for the first time in ages I could breathe; but they took a paragraph out of my DV order and tried to use it to claim that I was mentally unstable and needed to be assessed because they are worried about [Child’s name removed by the researcher]’s safety.”
(P5:742)

The mothers accounts showed that former partners often took such actions such as filing for primary residency of the child, or applying to reduce maintenance in retaliation for the mother leaving the relationship, obtaining a protective order, being successful in a maintenance claim, or reporting abusive behaviour to the police (Miller & Smolter, 2011; Spearman et al., 2023). The literature suggests that threats and attempts to have the child removed from the mother’s care were often done in an effort to remain present in the mothers’ lives (Elizabeth, 2017; Elizabeth et al., 2012b; Khaw et al., 2021; Rivera et al, 2012a; Zeoli, et al., 2012).

Participants’ accounts showed how former partners would initiate matters related to care and contact to gain contact, which then enabled them to intimidate, harass, and abuse the mothers. This was seen earlier in the chapter in the account from Participant 5 under *‘I’ll Show You Who’s Boss!’*.

This type of abuse has debilitating consequences to mothers trying to rebuild their lives after leaving an abusive relationship. Participants’ narratives of Children's Court describe a complex and pervasive issue, with accounts revealing the power imbalances between men and women that arise when society perceives gender differences (Fulu et al., 2013b; McCarthy et al., 2018):

“Absolutely there was a power thing. Um definitely from a personality point of view. I think we are put in these situations as major tests to ourselves, and I think that um because of his strong personality and because I am so soft that there was a definite

power imbalance because he gave the impression to anybody that he was in charge, and I was the worst mother.” (P1:131)

What was particularly striking, was how former partners weaponised the mothers' emotional bonds with their children and their maternal instincts against them. The analysis shows that such tactics were often deployed in an effort to control or harm the mother, or coerce her into certain actions, with Participant 5 noting:

“He thought I would appear without a lawyer, that I would get wrapped over the knuckles [accent on knuckles] for being a naughty mom and not giving him what he wants, and he could bully me into submission and go “Now see there. See what happened.” (P5:436)

Participant 6 noted that while many men often do not contribute to maintenance or remain present in their children's lives after divorce or separation, however, when held accountable to pay court-ordered maintenance, they may then demand a relationship with the child or make claims of parental alienation against the mother. This underscores the gendered power dynamics at play in these situations:

*“...because the interesting thing is men disappear, by their, mostly by their own choice. Then when they're held accountable by the Maintenance Court **suddenly**, they either alleged parent alienation... or they then demand to start having a relationship with their child when they've never had one. /... / So, you know my, then I, then I look at this and I go; okay, so men are clearly seeing children like a material investment and if they are being **forced** to pay then they want a return on their investment. Like it's, and it's not, and and and the patterning is this, that they do that and the majority of them two months later stop seeing the children. So, if we look at this and this is where we are lacking in research because if we look at the responsibility of Children's Court and to protect children emotionally, the revolving father is not good for the child's emotional and mental well-being.” (P6:451)*

Participant 6 suggests that when men are held accountable to pay court-ordered child maintenance, they may be seeking a return on their "investment" in the child by suddenly demanding a relationship with the child. This dynamic was evident in the case of Participant 2, who expressed fears that the absent father she was taking to Maintenance Court for non-payment would suddenly want to be involved with the child when forced to pay. This suggests that non-paying fathers may indeed be seeking a return on their investment. The account from Participant 6 highlights how according to The Children's Act (2005), both care and contact are in a child's best interest and that "*the revolving father*" cannot be good for the emotional and mental well-being of the child. According to the Act (2005), it is a caregiver's responsibility to ensure that a child "(a) be protected from maltreatment, abuse, neglect, discrimination and exploitation or other harm; (b) be guided and receive appropriate education and upbringing in accordance with his/her age (c) have a sound relationship with the parent who will guide behaviour in a humane manner; and accommodate any special needs of the child" (Themistocleous, 2017, p. 9-10).

In Children's Court, mothers described facing various accusations, such as their parenting being called into question, being portrayed as a bad mother, claims of parental neglect, blame, reporting of issues like a child's poor school performance after the divorce. This is evident in the account of Participant 1:

"I was reported to child welfare, by my ex-husband because um I didn't sign his homework diary. It was the most ridiculous situation, but I felt totally let down even by that organisation because he went in there with the stance "my child is not being looked after" and he put it under neglect, and I was made to feel like such a terrible mother because I didn't sign a homework diary." (P1:62)

Participant 1 describes how this accusation came about from a deliberate attempt to hurt her by undermining her parenting and threatening her with the loss of her children. Gendered power dynamics were used against the mother to manipulate court proceedings and punish or hurt her in the most profound way by attacking her role as a mother. However,

despite having a Protection Order, and evidence of this being a trivial and malicious act, the court entertained this and did the full investigation and social worker investigation.

Mothers also noted accusations of parental alienation. As Participant 5 notes:
“Because that’s their favourite. Parental alienation. Parental alienation [whispers].” (P5:950). She explained how her former partner employed various tactics, such as claiming she was denying him access to the child and alleging parental alienation. She recalls an incident where, even though the father had the child with him, he brought the child back to her house, then went to court to lodge a complaint that she was denying him access. With hindsight, she now recognises the absurdity of the situation, but it was deeply distressing at the time:

“He went and pre-empted it and parental alienation is the classic. Um then I didn’t know about this obviously, [Child] had gone to him and he /.../ he sent me a message /.../ “Can you have him again tomorrow? I’ve got an interview?” [Laughs] He had [Child’s name removed] [chuckling] with him, he brought him back to me. He went to court and got an interim order for access, claiming I was denying him access and came back and fetched him; and came and got him the next day. He brought him back to me so that he could go and claim NO Access.” (P5:414)

Her narrative raises concerns as the father was awarded an Interim Order without any information of the case. In her situation, we see how various system manipulations are utilised and used in retaliation to mothers’ help-seeking behaviours (Miller & Smolter, 2011; Spearman et al., 2023).

Research by Neilson (2018) found that 41.5% of 357 PA cases involved claims of intimate partner violence or child abuse. In 76.8% of these cases, the parental alienation claim was made by the alleged perpetrator of intimate partner violence. In 23.2% of cases, the claim was made by a parent, usually the mother, who reported intimate partner violence or child abuse (Sheehy & Boyd, 2020). As seen in this study, the findings highlight the highly gendered nature of parental alienation allegations and adjudication.

Redirecting Legitimate Concerns

Importantly, counter-allegations frequently emerged when mothers raised legitimate concerns about safety or abuse within the Children's Court. As seen in Participant 7's account, these tactics were used to cast doubt on the mothers' concerns and divert attention from the actual issues of safety and abuse:

“but the focus is then on the father or the other parent saying they are being alienated as opposed to saying “These are the concerns that I have for the child. This is what the child is saying” and um now they are saying “you are putting words into the child’s mouth, or you know alienating the child to say these things.” (P7:252)

Participant 7 found that when she raised concerns about safety issues or other concerns, she had with the child spending time with the father, it was redirected into claims that she is feeding the child false information by *“putting words into the child’s mouth”* and that the child's statements were untrue. This was evident in the literature showing that abusers use legal action, court process, and/or system-related tactics (Bancroft, 2002; Galántai et al., 2019; Gutowski & Goodman, 2020; Harman et al., 2018; Silverman et al., 2004), to redirect the focus away legitimate safety or childcare issues and onto the victim, in order to reduce her credibility (Epstein & Goodman, 2018), and with the purpose of retaliation (Miller & Smolter, 2011).

As seen in the study, such actions redirected the focus and altered the direction of the court proceedings. By undermining the mothers' credibility through allegations of instability, parental neglect, or parental alienation, the focus of the court shifts away from the abusive partners' behaviour and onto the mothers themselves. Meier (2003) speaks of parental alienation being used by Fathers Rights groups to describe a “syndrome” whereby vengeful mothers employed child abuse allegations in litigation as a powerful weapon to punish ex-husbands and ensure custody for themselves. However, studies show that parental alienation’ and other litigation tactics and manipulations are often used by abusers to undermine allegations of domestic violence and child maltreatment against them (Hannah

& Goldstein, 2010; Harman et al., 2018; Jaffe et al., 2010; Laing, 2017; Meier, 2009; Meier & Dickson, 2017; Sheehy & Boyd, 2020; Von Boch-Galhau, 2018). As indicated in the research, this can have devastating consequences for the mother and child, as she may face the risk of losing custody of her child(ren) or her child(ren) being denied adequate protection from the court (Humphreys & Thiara, 2003b).

Chapter Summary

This section highlights the complex, pervasive pattern of post-separation abuse that mothers face, after leaving intimate partners. The research findings of Chapter 5 demonstrate how abuse and control persist post-separation, through Family Court processes. The accounts show that abuse often escalates, with former partners employing various tactics to maintain power and control over the mothers. Dominant methods were, 1) continued abuse and coercive controlling behaviours, 2) legal abuse and litigation tactics where former partners exploited the court system used legal strategies to continue their patterns of abuse, 3) continued financial abuse and economic deprivation and control both in and out of court where money was used to exert control, and; 4) through relational tactic where ex-partners calling into question the mother's parenting abilities (Douglas, 2018; Rivera et al., 2012a), or redirecting legitimate child safety concerns.

The chapter showed how mothers who have experienced intimate partner violence face a complex and harrowing experience when navigating the Family Court system, in which they must confront their abusers and advocate for their own and their children's safety and well-being. The mothers' discourses throughout this section revealed the gendered power dynamics present in relationships marked by intimate partner violence. Their experiences revealed dominant discourses that reflect underlying power structures (Callaghan et al., 2015; James-Hanman & Holt, 2021; Nnoli et al., 2023; Smyth & Moloney, 2019).

It was observed that former partners were not held accountable by the court system, which enabled them to utilise and manipulate the legal and justice system. As a result,

abusive partners frequently exploited loopholes and manipulated court processes. This was evident in mothers' accounts of Maintenance Court, where abusive partners avoided meeting their financial obligations by taking advantage of legal loopholes and manipulating the judicial system. Financial issues compounded mothers' difficulties, as mothers often lacked financial means, especially if they had been stay-at-home parents, which further impeded their ability to afford legal support. Their experiences were worsened by poverty and hardship, with housing shortages, economic dependence, and unemployment further intensifying the negative effects of intimate partner violence. Additionally, in Children's Court, abusive partners exploited the court process and the mothers' relationships with their children as a means of control, often redirecting legitimate safety concerns.

The chapter further revealed that gendered power dynamics are evident across all social tiers and structures. The constructions of gender and gendered power dynamics, which were inherent in the domestic violence pre-separation relationship, are also reflected in Family Court processes post-separation. Mothers' discourses gave a more encompassing understanding of the many identities and social locations that influence issues such as race, class or ethnicity, and other issues pertaining to women (Allen & Baber, 1992; Ferree, 1990, 2010; McDowell & Fang, 2007). The social constructions of gender and power evident within the social domain of Family Court will be explored in greater depth in Chapter 6.

CHAPTER 6: DISCUSSION OF FINDINGS

**STRUCTURED ENCOUNTERS: GENDERED NAVIGATION THROUGH THE
INSTITUTIONAL WEB OF FAMILY COURT**

This chapter, the second in the analysis and discussion of South African mothers' experiences in the Family Court system amidst intimate partner violence, presents women's accounts of the Family Court processes. Chapter 6 examines mothers' experiences navigating the Family Court system. Mothers' descriptions of the Family Court system encompass the legal proceedings of Maintenance Court and Children's Court regarding care and contact matters, as well as interactions with court personnel and service providers such as magistrates, court staff, service providers, and legal representatives.

Mirroring the stages of their abusive relationships, the mothers' experiences navigating the Family Court system followed a similar path and were comparable to their pre-separation relationship with their former partners. In the mothers' accounts of their experiences navigating the Family Court system, four distinct phases emerged:

1. A Knight in Shining Armour! – The Initial Phase
2. This is a Problem! – The Breakdown Phase
3. And Now What? – The Questioning Phase
4. Laying down the Law – Systemic Failure and the Aftermath

During the initial phase of *A Knight in Shining Armour!* mothers described how they initially placed their trust in the Family Court system, hoping it would protect them and their children. In the second phase, *This is a Problem!* mothers described the Court's response and interventions, and systemic barriers that they encountered within the Family Court system. As in the relationship, the third *And Now What?* phase, mothers entered the questioning phase, questioning the system and its processes. Despite the mothers following established rules and principles of Court, navigating and adapting to complex judicial and legal processes, as well as adjusting their expectations and approaches in the hopes of favourable outcomes, participants described the process as being marred by institutional

barriers. In the final phase *Laying down the Law*; mothers describe how through the process there was betrayal and loss of faith in the system, leaving them to confront the impact and consequences on their lives in the aftermath of their traumatic experience.

The phases of mothers' experiences within Family Court reveal how mothers' perceptions and understandings of the family court process changed and developed over time. For example, many mothers initially have put their faith in the system, trusting that it would protect them and their children from their abusive former partners. However, as they navigated the complex legal process, they often had to adjust their expectations and strategies, even if that meant conceding on some of their priorities or safety concerns (Zeoli et al., 2013). Just as their personal relationships had followed a pattern of escalating control and violence, so did their experiences within the Family Court system show a similar pattern, with a loss of control and institutional abuse, with the court and with various service providers failing to provide the protection and support that they needed. For all mothers, the result was a loss of faith in the system. The study found that all mothers encountered unfavourable and potentially unsafe outcomes for themselves and their children. Furthermore, the legal and court processes significantly impacted them both psychologically and financially. Within these phases various discourses emerged which will be described within the chapter.

Table 8 below, provides a summary of the Discourses and key findings discussed in Chapter 6.

Table 8

Summary of Main Findings for Chapter 6

Key Discourses of Mothers' Meso-Level Experiences of Family Court Processes and Service Providers				
Description of Chapter Section	Ecological Phase	Discourses Framing Mothers' Meso Experiences of Family Court Processes	Gendered Power Dynamics in Family Court and Post-Separation Abuse	
Family Court Processes – How Can We Not Help You?	A Knight in Shining Armour – Faith in the Law			
	This is a Problem - The Breakdown Phase			
			We'll Show You Who's Boss! - Systemic Abuse	
			We'll Screw You Over - Family Court's Response and Intervention	Free Roaming – Failing to Enforce Consequences
				Kicking the Can Further Down the Road- Postponements and Delays
				A Sausage Mill of Service and Care – Running into Walls
				Not Crossing your I's and Dotting you T's – Procedural and Distributive Justice
			We'll Make You Pay - Maintenance Court Matters and Economic Abuse	Withholding/Non-Payment of Maintenance
				Preventing Access to Funds and Assets to Which She is Entitled
	Incurring Legal Costs for the Mother			
		We'll Hit You Where It Hurts - Care and Contact Issues and Children	Using Money as a Method of Control	
			Stuck Between a Rock and A Hard Place <ul style="list-style-type: none"> - Discounted - Indifference - Scepticism and Suspicion - Turning The Tables - Collusion - Systemic Barriers - Institutional Betrayal 	

A Knight in Shining Armour – Faith in the Law

As established, intimate partner violence does not end with the separation (Beck et al., 2011; Campbell, 2002; Smye et al., 2021; Spearman et al., 2023; Spiwak & Brownridge, 2005; Stark & Hester, 2019; Summers, 2022; Zeoli et al., 2013b). Following their separation, mothers who had experienced intimate partner violence often sought help from the Family Court system, in relation to maintenance or with safety concerns for their children. In some instances, mothers were taken to court by former partners as a legal strategy, either to reduce maintenance payments or to challenge their fitness as a parent. It was observed that the mothers went to great lengths to protect themselves and their children from further abuse, often navigating and shifting between private and individual efforts, to public and institutional avenues to ensure their safety and well-being (Smye et al., 2021).

During this initial phase of *A Knight in Shining Armour!* mothers entered Family Court. The mothers showed *faith in the law* approaching the court, seeking support, justice, safety, and stability for them and their children. The dictionary definition of the word “*faith*” is a noun used to describe belief and trust in something (Merriam-Webster, n.d.). The mothers showed a strong conviction that the Family Court would fulfil its duty as indicated by laws and promotional material and trusted the system to honour their commitment to that purpose. In this study, all mothers had approached Family Court either in a help seeking effort or because of legal tactics by their former partners. They had all entered the court trusting the system to protect them and their children. Mothers who were involved in care and contact cases were there through matters brought about from fathers raising concerns about their parenting, or through their own concerns about child safety. All 9 mothers already had Protection Orders against their former partners at this point and believed that this would be relevant in all court proceedings.

The study showed that mothers entered Family Court trusting the system, legal system and court professionals to guide them and protect their rights. As they were all the biological mothers and survivors of domestic violence, they not only believed that the court

would assist them but that the court had a duty of care towards them. Mothers in Maintenance Court expected that the maintenance issues would be resolved, and that their former partners would be held accountable for their responsibilities towards the children. Participant 1, a mother of two children says: *“And um I eventually had to get help from the maintenance investigator” (P1:53)*. Her use of the words *“get help”* shows her approaching the court with the view that they would come to her aid. She believed that the court would assist her to sort out her maintenance so that she could take care of her children. Participant 7 approached Children’s Court for assistance with concerns about the safety of her child *“So I take this to the court, and I met the social worker /... / and I was like “What must I do? I’m here for help. Tell me what to do?” (P7:317)*.

Echoing the sentiments of the early days of their romantic relationships, mothers’ narratives entering Family Court have an almost romantic notion of hope and promise. Following the relationship issues and post-separation struggles mothers’ narratives have a personified image of the court as some kind of knight or a prince coming to their rescue. The extracts reveal that constructions of romance are culturally embedded and extend way beyond the marital relationship and into social systems (Boonzaier, 2008; Dekel, 2013; Tolmie et al., 2010; Towns & Adams, 2000; Wood, 2001). In this case the mother situates the court in the role of ‘Being the Saviour’ (Boonzaier & De La Rey, 2004). In the extracts above and the example below from Participant 6, participants explained how they were under the assumption that the court would be of assistance and protect them and their children’s rights:

“I approached the Maintenance Court the moment he had not complied with the order, because I was under this really [pause] naive [Chuckles], you know, um perception that this is a court order, and it’s got teeth and and I will go and enforce it and there are going to be consequences at least [Chuckles]“ (P6:57)

The account from Participant 6 above indicates a belief that Family Court would see to it that there were consequences and would enforce the court order. She uses the

metaphor “teeth” to convey this sentiment. This figure of speech compares two unrelated items, one being the court order and the other, teeth. This vivid metaphor expresses the idea of the court order having grip or not letting go. Further, it alludes to the romantic discourse and dual identity theory (Dekel, 2013), that were evident within the relationship but here it extends to the personification of the court system where mothers view the court as a protector or a “good beast”, who can take on their brutish, abusive ex-husbands, and defeat them. This metaphor imbues the court system as having power and influence. The mother’s use of the metaphor serves a social function, showing how women draw on cultural resources available to them, integrating socially constructed narratives into their everyday discourses to make sense of their relationships and experiences (Boonzaier, 2008; Dekel, 2013; Tolmie et al., 2010; Towns & Adams, 2000; Wood, 2001). In this case, the relationship refers to the institutional connection with the Family Court system, which reflects and perpetuates culturally produced, sustained, and sanctioned narratives of gender and the notion of romantic heroism, that *the knight in shining armour* will save the day (Wood, 2001).

Mothers described how they prepared for court matters, trusting the process and doing what was required of them. Their accounts convey a sense of entering into battle. Participant 1 describes her preparation for the process of Maintenance Court and her fear of entering the *legal battle* below:

“And um I came there with everything I was very very very prepared. In fact, I sat with a friend for about a week before; going through all my documents because he had been through this system and so he sat with me and said you have to do this. He was saying you are not ready. You need to be, you need this, and I was really really, I think, and the information that I received was both a blessing and a curse. A blessing because I was ready and but a curse because it made me so nervous that it actually made me sick. I was like physically ill, for like literally having to stop my car on the highway to throw up, 2 or 3 days before court because I was so so nervous.”
(P1:48)

In explaining the preparation process Participant 1 shows how she followed all court instruction implicitly, trusting the process, and not questioning what was asked of her, but that the fear of the upcoming battle made her physically ill. Her description shows how she was not naturally a “fighter” and was therefore trusting the court to be her saviour and assist her. The same held true for Participant 2:

“It actually started with the Maintenance Court where I went and did what the Maintenance Court told me to do. I went to the court, and this was the process you’ll follow and you actually you do everything to a T. You’ve got the right documents, you do what you have to do, you go there, you sit there...” (P2:23)

She describes that she did “everything to a T”, indicating that she prepared everything perfectly, as instructed, such as compiling and filing the right documents, and waiting as instructed. Her discourse shows, trust and faith in the system. We see that the mother initially found the delays acceptable, trusting that the system would support her in her *quest* for maintenance for her daughter. In the extracts above; mothers discourses draw on hegemonic gender roles (Paechter, 2013) taking on subordinate, compliant and accommodating positions within the system. While Connell's theory (1995), theory of emphasised femininity describes how women comply with their own subordination by accommodating the interests and desires of men; within the Family Court system we see this same compliance and subordination in relation to patriarchal power structures of the system itself.

The extracts show how mothers initially believed the court system would have this power to assist them with maintenance processes or prioritise the safety of their children in care and contact matters. However, this was not the case, with the mothers' experiences within Family Court. As in their descriptions of the early days of their abusive relationships, research has found that women may initially characterise their partners in positive terms, describing them as the *perfect man* (Towns & Adams, 2000), we now see how mothers described the Court system in favourable terms, however, the mothers soon discovered that

the reality did not match their expectations, and as we will shortly see this view soon turned as it did within the abusive relationship.

This Is a Problem! – The Breakdown Phase

Once in the system, mothers described their experiences of Family Court processes. In Chapter 5 *The More Things Change, the More They Stay the Same* mothers spoke of various interpersonal challenges within the Family Court system. However, once in the system and after their trust had become shaky, the mothers spoke of the court's response. In Chapter 6, in the second phase, mothers speak of the Court's response and interventions, as well as a number of systemic barriers and challenges that they encountered within the Family Court system.

These challenges were not only on a micro/interpersonal level because of their former partners abusive actions and tactics, but also directly from the court system itself where participants experienced challenges on a meso/community level, with court officials, service providers, and legal representatives, and on a macro level within the broader Family Court system, judicial system and social structures.

FAMILY COURT PROCESSES – HOW CAN WE NOT HELP YOU?

The findings in Chapter 5, of mothers' interpersonal experiences of Family Court, had uncovered that the abusive acts present within the intimate partner relationship prior to separation were mimicked and echoed in participants' post-separation interactions with the Family Court system. Following separation, abusive partners utilised various covert tactics of coercive control, as well as a range of abusive strategies, including intimidation, emotional abuse, isolation, manipulation, asserting male privilege, economic abuse, manipulation involving children, and threats, which had often been present in the pre-separation relationship (Kelly & Johnson, 2008; Stark et al., 2019; Stark & Hester, 2019). These were found to fall under the umbrella of 1) Coercive and Controlling Tactics, which included 2) Legal/Litigation Tactics, 3) Financial Tactics; and 4) Relational Tactics. In Chapter 5 they

were labelled as 1) *I'll Show You Who's Boss!* referring to domestic violence & coercive control, 2) *I'll Screw You Over!* referring to legal abuse and litigation tactics, 3) *I'll Make You Pay!* to economic abuse and financial tactics, and 4) *I'll Hit You Where It Hurts!* referring to emotional abuse, and relational tactics.

Disturbingly, this study found that while mothers had described various tactics that were employed by their ex-partners at the micro-level within Family Court processes, the analysis revealed that mothers' accounts of their meso-level experiences in the Family Court system mirrored the tactics used by their abusive ex-partners. The Family Court system itself exploited legal processes and procedures, economically deprived and controlled the mothers, and utilised and manipulated the mothers' relational ties to their children. In fact, the system abused the mothers using a pattern of domination and oppression. This systemic abuse further compounded the trauma and challenges the mothers faced. The Family Court system, which was intended to provide justice and protection, instead perpetuated the cycle of abuse and oppression, leaving the mothers feeling trapped and betrayed by the very institutions meant to support them.

The analysis points to how the pervasive gendered hierarchy has been replaced by a patriarchal structure of oppression within the Family Court system. The study shows that issues of gender, power and control were evident in the system and that it had an oppressive effect on the mothers and their children. The accounts draw attention to the fact that the court system that is meant to assist, both colluded in the same abuses and continued to abuse them further, using the system's own processes and procedures against them. Various actions and inactions, both implicit and explicit within the Family Court system, created a situation where the system exerted abuse and control over the mothers, resulting in secondary victimisation (Douglas, 2018; Khaw et al., 2021; Laing, 2016; Rivera et al., 2012a), and institutional abuse (Duffy, 2015; Smye et al., 2021; Tuon, 2021; Wuest et al., 2003; Zeoli et al., 2013).

In Chapter 6, and in reference to the systemic barriers and abuses, the sections elucidated below are labelled as 1) *We'll Show You Who's Boss!* referring to systemic abuse, 2) *We'll Screw You Over!* referring to systemic barriers, 3) *We'll Make You Pay!* to economic abuse and maintenance matters, and 4) *We'll Hit You Where It Hurts!* referring to emotional abuse, and care and contact issues.

We'll Show You Who's Boss! – Systemic Abuse

The dominant discourse of *We'll Show You Who's Boss!* reveals an overarching theme of oppression and domination of women. Where we previously observed the theme of *I'll Show You Who's Boss* in the interpersonal relationship, with the extent to which abuse and coercive controlling behaviour can reach; we now see how this cycle of abuse extends to the system, both on a meso/community level, with court officials, service providers, and legal representatives; but also on a macro-level within the broader family court system, judicial system and social structures, where systemic abuse is committed and held in place by social constructions of gender, patriarchal values and gender hierarchies (Spearman et al., 2023). This will be discussed more comprehensively in Chapter 7.

We'll Screw You Over! – Family Court's Response and Intervention

In Chapter 5, in the discourse *I'll Screw You Over!* we saw how post-separation abuse is often centred around court issues with ex-partners using and misusing the Family Court system to exert power and control (Elizabeth et al., 2012b; Khaw et al., 2021). However, at a meso-level mothers now noted that within Family Court processes there were similar abuses in the Family Court system, with process delays, failure to utilise laws and policies available, bullying and harassing through the system and service providers, abuse of court processes, systemic barriers and other manipulations within the system (Bancroft et al., 2002; Galántai et al., 2019; Gutowski & Goodman, 2020; Hines et al., 2014; Miller & Smolter, 2011; Silverman et al., 2004; Spearman et al., 2023).

Family Court plays a crucial role in addressing and preventing domestic violence, yet their failure to properly recognise and respond to these issues allows the cycle of abuse to

continue, even after separation (Ford-Gilboe et al., 2009; Varcoe & Irwin, 2004; Wuest et al., 2003; Zeoli et al., 2013). In fact, for all the mothers in this study, this is where they describe the beginning of another type or form of abuse or a secondary tier of abuse where they described not only abuse from their ex-partner but abuse from the court system itself. As one participant, Participant 1, explained:

“The problem started when um a year later after we got divorced when um he stopped paying maintenance and um that’s when our chaos really really started with regards to the court system, because um I then had to go to Maintenance Court, and everything was just turned upside down from then.” (P1:44)

Referring to Family Court processes, Participant 5 notes: “Um so that’s when it started as and then it just escalated” (P5:728).

Participants noted that the court was not helpful or sympathetic to their situation, did not acknowledge the past or current abuse and that their process itself became abusive. As indicated by research, mothers identified various issues within Family Court that re-victimised them and where they experienced systemic abuse from the system itself (Duffy, 2015; Smye et al., 2021; Tuon, 2021; Wuest et al., 2003; Zeoli et al., 2013). As noted by Participant 3:

“So, where do we start because actually what I can tell you about the courts, I can start at the courts. I’ve had no support EVER!” (P3:92).

Participants’ accounts of Family Court processes describe several systemic barriers, such as legal manipulation and lack of accountability, numerous postponements and delays, lack of service and care, and ineffective and poorly implemented procedural and distributive justice, which hindered the process, created several compounding problems, and resulted in institutional abuse and betrayal. These will be described below.

Free Roaming – Failing to Enforce Consequences

Participants in the study noted that while their former partners failed to produce documents, arrive at court, or delay process, Family Court allowed them to misuse the

system through legal manipulation and failed to hold abusers accountable for their delay tactics, legal abuses, manipulations, and other abuses, as described below:

“Anyway, they did not provide the documents. Um we kept on going back to court and there was like “no sorry we don’t have the documents” and the magistrate was like “well bring them next week” and “next month” and “bring them” and nothing Flippin... NO CONSEQUENCES [Emphasis] for no discovery. So, I was...” Absolute utter bull crap.” (P4:193)

“The investigating officer, the magistrate in the [name of the Maintenance Court], complete and utter waste of time. Even when mandates are in place, and they are not fulfilled there is no consequence. No Consequence.” (P4:552)

“But there’s just no consequences.” (P5:472)

“but they get away with it, they get away with it. There’s no consequence to say “well you’re actually being penalised” it’s just like so “Cool, don’t worry. We’ll see you next time” you know, but you’ve had to take leave of work and ...” (P7:151)

Participants explain that there were no consequences, and that former partners were not held accountable for their delays of court process and litigation tactics:

“..and what frustrated me was that he [The Magistrate] they just said OKAY let’s just let’s just postpone. They kind of gave him a a wrap across the knuckles and just said OKAY well come back in 30 days or however many days. So, that was very very frustrating.” (P1:48)

Participant 1 shows feelings of being treated as inconsequential with her former partner receiving a slight “wrap over the knuckles” like a naughty schoolboy and not as someone who is disregarding his parental rights towards his children, deliberately avoiding responsibility, and in violation of a court order. Participant 4’s emphasis of the words “NO CONSEQUENCES”, shows her frustration at the system that allowed this to happen.

Participant 2 says “I went for the first court date in 2019 that’s when I realised that I’m not getting anywhere” (P2:23). The lack of holding defaulters’ accountable points to systemic

issues but also a gendered bias towards the mothers. The mothers described how ex-partners violated and ignored court orders, which concurred with finding (Spearman et al., 2023), with many of the fathers having multiple breaches of court orders, however, the courts failed to hold them accountable. In the interview mothers noted that former partners consistently failed to comply with court orders, with the courts not taking any action. In the extract from Participant 2, we see how the court not only failed to get the respondent to come to court, but also failed to utilise the laws available:

“There’s this person living his life, lying on each stukkie papier [each piece of paper]. It’s okay? It’s an utter lie, and the court is supposed to do something about it. If this person is lying, block his bank account because they can actually do that. They can stop the bank. He can’t have access to it. To get him to come to court. They don’t do it. Free roaming because it’s wonderful to be a man. Let’s make children but we don’t have to look after them. That’s what I see from my point of view. It’s fine for them to do that. There are fathers that are involved, and I have the world’s respect for them but “Hierdie klomp wat so kinders, kinders, kinders” ... [this bunch that make children, children, children] ...but are not there.” (P2:176)

Participant 2 uses the humorous analogy of "free roaming", likening her partner's behaviour to cell phone roaming with data coverage across borders, to indicate that he has indeed left the country, taken no responsibility, and is free to do and behave as he pleases. While she initially makes a generalised comment that "it's wonderful to be a man," she qualifies this by stating that it refers specifically to fathers who "make" children but take no responsibility for them. Her use of the Afrikaans phrase "hierdie klomp," meaning "this bunch," shows her acknowledgment that not all men fail to take responsibility for their children. Although her former partner was failing to pay maintenance to spite her, Participant 3 noted how the court did not hold him accountable and seemed to show a biased attitude towards her:

“...but ja, that was to spite me. I went to the Chief Magistrate of [Name of Court removed by researcher], when we were still there, she told me “but who says he has to pay me maintenance?” and then [Child] was still underage [meaning he was under 18 years old and in need of support], “Who says he has to be held accountable to pay maintenance?” They, he was told he doesn’t have to. “Won’t hold him accountable for that”. As I say already in 2012, he was told that if he wants, he doesn’t have to. If he wants to deduct, he can deduct. You can do as you wish.”
(P3:324)

The accounts reveal that maintenance court officials often utilised their own tactics that deflected their own accountability, shifted blame and responsibility to the victims. The extract above shows how the official takes on an authoritative role, questioning her as to “*Who says he has to be held accountable to pay maintenance?*” Such comments seem to indicate a bias towards the non-paying parent. The example show how gender biases are frequently concealed within law and culture (McKinnon, 1989; Meier & Dickson, 2017). The extracts demonstrate the capacity for abuse to extend into women's post-separation lives and into the Family Court system (Fleury et al., 2000; Humphreys & Thiara, 2003b; Laing, 2010; 2016; Orr et al., 2023). It was observed that while abusive former partners exploited the legal system as a tool to maintain control, Family Court bears the responsibility for not adequately protecting the mothers who were all victims of domestic violence; or of holding the abusers accountable (Duffy, 2015; Smye et al., 2021; Tuon, 2021; Wuest et al., 2003; Zeoli et al., 2013). By enabling the perpetuation of such abuse, the courts fail to break the pattern of patriarchal control and domination and thereby become complicit in perpetuating this abuse.

Kicking the Can Further Down the Road - Postponements and Delays

Mothers found that while delay tactics were used by their ex-partners the court itself impeded court process, through postponements, no discovery, no progress, not going through papers, or understanding the matter at hand. The discourse from participants was

that there was no urgency from the court in the handling of their matters, with postponements and lack of action rendering them complicit in the abuse:

“So, we actually had a date to go back, but it was again postponed. I think Children’s court was probably postponed seven or eight times for different things and the DV application I think two.... or three times.” (P5:722)

“You know, there are times where I went and where I sat [Emphasis] I mean, I was summoned on my birthday, by my ex-husband. I went to court like three or four times, and every... went in and every time I went in it was postponed, postponed, and postponed.” (P8:38)

Such actions were taken by Family Court knowing of the mothers’ desperate need for maintenance, or need to protect their children, yet seemed to deliberately delay process, and leverage the justice and legal system against them. As Participant 1 notes regarding maintenance: *“..and I think this is where the process really really let me down is that I would go back every week or every 2 weeks to see if there was any progress and there was no progress.” (P1:53)*

In the case of delays within Maintenance Court, mothers were in a precarious situation, especially if they relied on their ex-partner for financial support (McCarthy et al., 2018; Postmus et al., 2020). The delays, postponements and what mothers experienced as incompetency affected the mothers’ ability to care for their children, and invited opportunities for continued victimisation; creating additional opportunities for further and ongoing abuse and frustrations, such as financial and economic instability (Andrew & Segun, 2019; Duffy, 2015; Ford-Gilboe et al., 2009); and housing instability (Burnett et al., 2015; Mikolai & Kulu, 2018). Mothers described the compounding difficulties because while these delays continued, they still needed to survive each month:

“Um that was really really frustrating because as much as I wanted assistance from the court there was no assistance. There was, they kind of just said come back in 30 days, come back in 30 days, and I kept saying “Ja but my rent is due in like 4 [days]

you know” ... and I just couldn’t, couldn’t make it; and anyway, I think he eventually um realised. Um so that was the maintenance issue.” (P1:59)

“and then eventually it went to the Investigating Officer. // I mean it was like a crazy, crazy.... but just aside, in between all of this, this is between waiting for a subpoena and waiting for an enquiry, every time it’s a month... You have to survive for that month, and they don’t care.“ (P4:284)

“So, we had the maintenance thing. I then tried to apply for a Garnishee Order. The magistrate would say “well discuss it when you’re in Court” That’s not good enough because in the meanwhile someone has to pay school fees. Someone has to pay medical aid. Someone needs to pay for all his therapies that are not covered by medical aid. Someone has to pay for that stuff and guess what “It’s me!” (P5:520)

Participant 1 describes her frustration with the court and explains that as much as she wanted assistance there was not any, using emphasis and repetition in the words *“really really frustrating”* and *“I just couldn’t, couldn’t make it”*, to describe the extensive effort and difficulty she experienced. Participant 4 repeats the word *“waiting”* in *“waiting for a subpoena and waiting for an enquiry”* and uses the word *“survive”* emphasising that her need is a matter of necessity, not vindictiveness as her former husband believed. She expresses dismay at the Courts' lack of concern for such situations and the challenges faced by women such as herself, in her use of the words *“crazy, crazy”* in reference to court processes.

Participant 5's repeated variants of the phrase *“someone has to pay”* and *“someone needs to pay”* and *“someone has to pay”* illustrates how court delays were a significant stressor. These delays created situations where mothers did not receive necessary maintenance or support, ultimately leading to their re-victimisation within the court system (Duffy, 2015; Smye et al., 2021; Tuon, 2021; Wuest et al., 2003; Zeoli et al., 2013).

Mothers shared similar sentiments within Children’s Court matters noting how the Court extensively delayed the proceedings and failed to resolve the issue, further jeopardising the child's safety:

“but you know it's it's yeah, it's the postponements, that that's also what gets to me. I think that's the way I feel that it's injustice. There's a massive problem because, in the Children's Act it talks about, it's in the children's best interest to resolve things timeously, because a long and protracted thing is not in the child's basic interests, and the courts fundamentally are the exact opposite. They don't have the infrastructure to make a decision quickly. Same goes with the maintenance.” (P7:89)

Participant 7 describes the postponements as an “*injustice*” that are in conflict with The Children’s Act (2005), as the Courts do not “*resolve things timeously*”. She goes on to say:

“... the system doesn't support the rights of the children that's what I'm saying like it shouldn't be on the mother to be so compromised to fight for something that legislatively the children are entitled to; care. It's all, ... the burden all falls on the mother.” (P7:91)

In the extract below, Participant 5, describes the magistrate as “*simply kicking a can down the road*”:

“and nobody read the papers, and the magistrates didn't just make a call to like end it. We went to see the social worker. I wanted a court coordinator. If they had just appointed the court coordinator on the first or second date it would have been done ages ago, but they didn't. They just kicked the can further down the road. Went back in like April and we had a new magistrate...” (P5:728)

The discourse speaks of the father using the litigation tactics to raise concerns about her parenting as a method of control. She describes how the court failed to read the papers, which would have given them an understanding of the matter to “*make a call to end it*” Instead she speaks of the matter being referred to “*see the social worker*” and of further delays with the appointment of “*a new magistrate*”. The idiom used, describing the magistrate as “*simply kicking a can down the road*” is used in a slightly critical manner to refer to the action of postponing or delaying addressing the care and contact issue, in the

hopes that it will resolve itself, or that someone else will make the decision. This is relevant to the mother's accounts of care and contact matters, where magistrates often refer childcare concerns to mediators, social workers, court-appointed attorneys, and psychologists, in the hopes that will submit a report to the court that can then be used to adjudicate the matter (Saunders et al., 2013; Silberg & Dallam, 2019).

Mothers spoke of how the delays impacted them and their children and how it was not in a child's best interest to have a long-drawn-out matter, either in maintenance or care and contact matters. Participant 7 describes this as "*undermining the voice of the child*":

"They are undermining the voice of a child and putting the child at unnecessary risk because the nature of the court system is protected, delayed it's it's it's, ...

[Hesitation] the best interests of the child should be, ...[pause] in order to conclude the matter, decisions should be made quickly, because the longer things go on the more the detriment on the child. /... / There is so much uncertainty around the process, but the point is that this has an impact, the negative impact on the child day to day, /... / and it's undermining his sense of self." (P7:254)

The study revealed that alarmingly, the Family Court system, which is intended to prioritise the best interests of children, shows a concerning lack of concern in the expediency of the process.

A Sausage Mill of Service and Care – Running Into Walls

The mothers found that court staff, and service providers were unsympathetic, unhelpful and did not support them in any meaningful way. This indifference from court officials contributed again to the maintenance of abuse that the mothers were already subjected to. Participants accounts show an alarming pattern of court officials failing to hold defaulters accountable for child maintenance, delaying such processes and further abusing mothers by not assisting them, as well as through poor or no implementation of policy and procedures. Participant 8 gives the following account:

“Ok um, with regards to court, I don't think they, I think they're understaffed, and [pause] overpaid. Understaffed and those that are there are overpaid. They don't really care about anybody, and obviously they have seen so much over the years that it's just another face, or another number. Nobody is unique or special, or anything like that. Yes, just another number. When you arrive there, you sit like, almost like a, um I don't know how to put it, [Pause], not a victim, but you've you've got something to be.... afraid of in the sense that you don't know if they're actually going to show any interest and actually help you.” (P8:30)

Based on her observations, Participant 8 found the Family Court system to be understaffed, and the staff overpaid, with the officials not genuinely caring about the individuals they serve. She expresses a sense of being *“just another face”* or *“another number”* to the court staff, who appear to have become desensitised after dealing with so many cases over the years. In her account she describes a feeling of unease and uncertainty when approaching the court, suggesting that the court environment is *not a safe place*. Her account shows how mothers moved from trusting the system to feelings of apprehension about the prospect of engaging with the system. In the participant's discourse we see a sense of disillusionment and distrust towards the court process and its representatives, with Participant 7 expressing feelings of distrust:

“Ja but you just get a feeling of like [sigh] ja, like questioning of you, and it's like “oh it's just more of the same now and” um, and just the the bitterness. From the way that they treat you when you arrive at the court office. It's almost like you're inconveniencing them. “This is a safe place, I feel guided.” You don't feel that when you go there.” (P7:289)

She expresses a sense of being questioned as though her reasons for approaching the court are not valid, describing feeling like an inconvenience to the court staff, with the environment not providing a *“safe place”* or sense of guidance as one might expect. She notes being treated with bitterness when at the court office. The participant's use of phrases

like *"it's just more of the same"* and *"the bitterness"* conveys a deep-seated frustration and disillusionment with the court system, suggesting that participants perceive the court process as unsupportive and dismissive of their needs and concerns.

Of special concern was the Maintenance Officer and Maintenance Investigators:

"And the investigating officer never did one single thing. ... He didn't. he didn't do anything, Nothing. I was there every single day for about three weeks at [name] Court, knocking on his door. If he was there once Sharon. If he actually answered my knock once, in three weeks it was a lot. I didn't know where the oke [guy] was. But he was never in his office." (P4:195)

"They said 'Sorry, we can't do anything for you. He's not available' So they get way with being not available. [Laughs] That's the famous saying "we can't asset you because they don't make themselves available for the court. That's the sentence that you get. [Laughs] [hmmm] Which is quite interesting because the court is actually there to assist you ... [Pause] because you can't do it yourself." (P2:82)

Mothers' narratives describe a lackadaisical attitude from the court and a general lack of care. They described how they felt that no one cared about their situation or for their children:

"I went to the Court manager and had a massive fight there. I said to him that "for me I'm feeling that you don't care." (P2:45)

"You know. Um, (pause) and they're actually not very... um understanding. They're not, they're not very understanding, they're very ...[pause] um unsympathetic, and un-empathetic, if that makes sense to you. They don't seem to give a toss." (P8:46)

Mothers felt that Court officials and judiciary did not assist them and described encounters that showed the Court officials to be incompetent and unprofessional: Participant 5 pointed out: *"and I'm sorry but you cannot have somebody who doesn't understand finances working as a Maintenance Officer"* (P5:580).

Additionally, mothers noted an apparent lack of understanding about family violence issues, as well as gendered attitudes:

*“There was no empathy there. There was no empathy whatsoever. It’s all men and they treat you like... [Pause] **crap**. [Emphasis]. They actually treat you like crap. I burst into tears in the court because I didn’t know how to do it, which is why I ended up getting a pro bono um um attorney because I didn’t know how to, what to do, how to do it. They expect you to know the processes. I had NO [Emphasis] clue!”*

(P8:316)

“Never listen to the mom Aah Shame, but then they never listen to the mother. Never. That’s what I’ve experienced. You can ... Jy kan sit, jy kan huil, smeek and soep aan. [You can sit, you can cry, beg and plead]. They don’t listen. So, its ... [pause] bad. [Laughs].” (P2:263)

“Another thing that really upset me was the entire um, how can I say it, the whole court system, so you don’t feel like you are getting a proper, a proper um representation, and you don’t, I didn’t feel like they actually saw it from both sides. They certainly didn’t see it from my side or my daughter’s side. You know to me it was “it’s a man’s world”. The men get away with bloody murder there. You know...”

(P8:126)

Mothers’ narratives show how they felt that there was a gendered bias within the court official’s treatment of them, as though they were suffering prejudicial treatment simply by being women. Participant 8’ comment above is an example: *“There was no empathy whatsoever. It’s all men and they treat you like...[Pause] **crap**. [Emphasis]. They actually treat you like crap” (P8:316).*

Mothers narratives confirm research that shows that discrimination against women can occur on multiple levels, through institutional structures and everyday interactions (Baxter, 2006). Participant 2 felt that the court never listened to the mom and spoke of being more comfortable with a female assisting her:

“At this stage I feel like I’m running into a wall. The lady that’s now there I can say I feel comfortable because they’ve actually got a lady doing maintenance now and since this lady has been there apparently the maintenance orders have gone up, so they are doing something right now.” (P2:64)

She uses the metaphor of “*running into walls*” to describe how the process of maintenance process is an unproductive and a futile exercise that does not bring about any results. Her view concurs with research findings that there are alarming levels of frustration, anger, cynicism and alienation from separating/divorcing parents with regards to their personal experience of Family Court and associated professionals with whom they have had dealings (Austin et al., 2013; Johnston, 2000; Monk, 2017; Turner et al., 2017).

Participant 1 describes Family Court’s response and intervention using the metaphor of “*a sausage factory*”. She explains that within this “*sausage factory*” everyone is in and out as though on a conveyer belt. This metaphor reinforces the view expressed by mothers that the system does not care for the individual and treats everyone the same, without regard for their unique circumstances:

“I think so, because the first few times I was there it felt like a sausage factory. It was you’re in you’re out, next. You’re in you out next, and it was like they want to get things done. Respectfully because there are 100 people after you and you’ve been sitting there for two hours already waiting for your turn so it’s not like they have all day to listen to your problems and so in a situation like that it is the louder voice that gets heard because um in my situation it felt like I couldn’t even voice my opinion because there was like I say you can’t sit there for like two hours talking about what needs to get done. It’s like they need to come to a solution now to get it done. Um ja, I did I felt as though the louder your voice the more you are heard. That’s how I felt.” (P1:134)

This narrative highlights the gendered nature of the court system with the “*louder voice*” being heard. She expresses how she couldn’t even voice her opinion which seems

problematic within a court situation where judicial decisions within Family Court proceedings are often made, based on testimony.

The description from Participant 1 reveals the social construct that maintains male power and legitimises the subordination of women. The participant's statements, such as "*I felt like I couldn't voice my opinion*" and her use of the word "*respectfully*" draws on gendered narratives. This aligns with the concept of conversational dominance where women experienced difficulty expressing their perspectives, while men frequently broke the rules, interjected, and made inappropriate comments without consequences. This suggests that this type of rule breaking behaviour is viewed as normal by the men, putting women at a disadvantaged due to their reluctance to disregard or break the rules (Connell, 1995; Paechter, 2013; Shaw, 2006).

Connell (1995) discussed the various ways that gender inequality exists between men and women, which is reinforced by societal views of gender differences (Fulu et al., 2013b; McCarthy et al., 2018). Participants' accounts further consolidate the issues of a rushed and no care attitude of Family Court. The court's treatment of mothers, the delayed process, unsupportive officials, problematic judicial interpretations, and responses from judiciary, legal representatives and service professionals that did not consider the impact of domestic violence, only serves to compound the harm and trauma already associated with the abuse from the former partner (Broadhurst & Mason, 2017; Gutowski & Goodman, 2020; Harper, 2022; Nnoli et al., 2023; Silberg & Dallam, 2019).

Not Crossing Your I's and Dotting Your T's - Procedural and Distributive Justice

The participants' narratives link with the findings of The South African Law Commission (2015), Issue Paper 31, titled Family Dispute Resolution which states that "South African society fails to manage divorce effectively and that there is no coherent procedural family law system in place" (p. vi) particularly in cases where family violence exists (Francia et al., 2019). Within Family Court processes mothers raised concerns about the implementation and distribution of laws and legal remedies available, noting that policy

and procedure were often non-existent or poorly implemented (Orr et al., 2023; Saltmarsh et al., 2021). Participant 5 explains:

“You know, so then the Maintenance Officer wouldn’t serve the subpoena on him because it didn’t say served by the Maintenance Officer on it, so then she wouldn’t serve it on him.” (P5:560)

In maintenance matters mothers complained that judiciary and officials did not go through the papers with Participant 2 saying: *“I then said to the lady that the fact that she’s gotten these papers from him she never actually went through it” (P2:37).*

In Children’s Court mothers also observed that the Court often did not go through the court papers which had a negative effect on the outcome of the matter as court officials and judiciary made assumptions about the case instead of understanding the facts of the matter:

“Well, the father admitted all of that before the time and now we’re just, just not willing to look at those documents and those WhatsApp coming from him you know, [pause] so yeah, it’s frustrating.” (P7:95)

While remedies are in place to prevent acts of domestic violence, such as Domestic Violence Orders that can be obtained from Family Court (Spies, 2019; Zeoli et al., 2013), civil legal remedies, law which have been implemented and revised (Dragiewicz, 2014; Jamieson et al., 2018; Mazibuko & Umejesi, 2019; Spies, 2019), and other support structures put into place (Dragiewicz, 2014; Jamieson et al., 2018; Turgoose, 2016), the mothers in the study still found that the Court did not assist them (Dragiewicz, 2014; Jamieson et al., 2018; Mazibuko & Umejesi, 2019; Spies, 2019). Participant 3 explains:

“The Maintenance Officer, I only know him by [name removed by researcher]. He told me you can wait for 20 years before we ah um serve the warrant. The warrant was issued from court, but he said you can wait for 20 years before we issue ag serve the warrant.... [tearful], and I’m sorry for crying... I don’t mean to.” (P3:488)

Such comments from the Maintenance Officer in Participant 3’s account indicate a hierarchical power dynamic, reminiscent of her abusive relationship, that the court official is

exercising against her. In this situation, she finds herself, once again in a subservient and submissive position, waiting for the court to deem it appropriate to serve the warrant. This failure to implement policy, procedure and practices available and in place significantly compromises the safety and wellbeing of the mothers and their children (Araji & Bosek, 2010; Douglas, 2018; Katz et al., 2020; Laing, 2010; Saltmarsh et al., 2021; Spearman et al., 2023). Participant 9 experienced similar obstacles in serving a subpoena:

“Even yesterday I was asking, “Did you went and serve subpoena?” The subpoena for the court order to them because they say they are going to serve the Subpoena to court. He said, “Not yet. I just sent the email; I’ve got to go to the police and make the police to serve the letter to them.” It’s been three weeks now. He’s still going, not going and not going to give them that letter to serve. So, it means the 14 days is already passed. So, meaning all again, and then the next month, your rent is due, everything’s due, no one’s done anything to help you. I don’t know even how to do.”
(P9:13)

Such ineffective execution of judicial decisions made in Family Court impeded the health and safety of mothers and their children particularly in the context of post-separation abuse (Araji & Bosek, 2010; Douglas, 2018; Katz et al., 2020; Laing, 2010; Spearman et al., 2023). Participant 9 expressed the difficulty in serving the subpoena and how “*no one’s done anything to help*”. Her words “*I don’t know even how*” shows her stress and difficulty in managing financially without the help of the Court. In a South African context, this shows the challenges that mothers face in Family Court and the further difficulties that marginalised groups face, navigating a justice system that was once used to oppress them, and the related financial burdens. The lack of effective intervention in procedural and distributive justice reflects the historical injustice and neglect in the post-apartheid Family Court system, particularly for marginalised groups (Boonzaier & De La Rey, 2003). The mother’s accounts seem to indicate that the cycle of violence is still in effect, characterised by divisions based on race, class and gender which are inherited from its apartheid past (United Nations, 2017),

where unequal power dynamics in gender relations, patriarchal structures, sexism, xenophobia, homophobia and other harmful and discriminatory practices exist (Enaifoghe et al., 2021). Furthermore, we see how issues surrounding gender-based violence and gender discrimination create socio-economic and social inequality, which is maintained through the lack of action and urgency in the Family Court system.

Participant 2 goes on to explain that despite promises to get the father to court, the Court officials never did what was required:

"I went to court I think six times and it was between the Maintenance Officer and the Investigating Officer where I think they never met up but somewhere something went wrong because with the file if you look at it the worst part is all the summonses are there. They've never been sent out and they promise you "Oh we'll send it out. We will get him here, because you know women and children" [Laughs]." (P2:24)

Mothers' accounts highlight issues of how poor communication between departments and other bureaucratic obstacles impeded the process. As Participant 2's laughter suggests, while the Family Court claims to support women and children by holding fathers accountable for paying maintenance, the reality is that the court made very little effort to assist them in their struggle to obtain the necessary financial support. The excerpts demonstrate how the lack of or inadequately implemented policies and procedures can be exploited by abusers, exhibiting well-documented patterns characteristic of post-separation domestic violence (Saltmarsh et al., 2021). Furthermore, mothers felt that when the Court made recommendations or orders that they were often prejudicial to them and their children which created a spiral effect of financial, emotional and legal stresses that added to the trauma that the family had already endured (Broadhurst & Mason, 2017; Gutowski & Goodman, 2020; Harper, 2022; Khonou, 2018; Nnoli et al., 2023; Silberg & Dallam, 2019).

Women face a difficult time in Family Court, as Epstein and Goodman (2018, p. 403) point out the "laws meant to protect them, compensate them, and deter further abuse often fail in application." Participant 5's account shows that while the Domestic Violence Act 116

(Domestic Violence Act, 1998) provides protective measures for mothers and their children, these safeguards are often overlooked in Family Court proceedings and rulings:

“and then they couldn’t find the clerk of the court and the [Magistrate’s name] came in and was shouting at us but it was the fact that I had made a Domestic Violence application. On what planet is it okay for a magistrate in a Children’s Court to be annoyed with a woman for taking out a, for getting a Domestic Violence Interdict against her abusive ex-partner. How is that okay? ... and what would women do that are literally, those whose life it at risk from an ex-partner.” (P5:770)

The study observed that in Family Court processes, mothers who mentioned the existence of a Domestic Violence interdict, found that the courts frequently exhibited a sense of hostility towards them. Furthermore there was often a lack of understanding in how these cases were adjudicated (Birnbaum & Bala, 2010; Polak & Saini, 2019; Spearman et al., 2023).

Despite the focus on domestic violence issues and changes in the law and its application, including anti-violence campaigns, increased media attention and social control holding perpetrators accountable for their abuse; the issues surrounding domestic violence appear to be more challenging to implement in practice, particularly with regards to Family Court and the issues concerning women and children, and their rights (Douglas & Walsh, 2010; Humphreys & Thiara, 2003b; Jamieson et al., 2018; Spies, 2019; Stark et al., 2019). In the study we do not see any heed to the national and global "calls for stringent measures to mitigate against this social ill" (Stats SA, 2018, p. 5). As noted by Participant 6:

“because not once have they come to me and said “we acknowledge you’re a victim of domestic violence, how can we support you? What can we do to enable you to navigate this better? To not only protect [Child’s name removed by researcher] but you as well”.” (P6:382)

From the accounts it was observed that in Family Court, perpetrators of abuse were able to manipulate the legal system to maintain control over former partners. All participants

felt that their concerns about their children's safety and well-being were not adequately addressed in Children's Court, and that their children's right to maintenance were not promptly rectified in Maintenance Court proceedings. Despite "transformative measures" being introduced, in order to deal with the problem of domestic violence perpetrated against women, brought about by the political changes that occurred in South Africa in 1994 (Boonzaier, 2001; Jamieson et al., 2018; Vetten, 2000, p. 4), none of the participants felt that the court processes were fair or that they received the necessary protection and support, with all mothers feeling that the system failed to adequately address their needs and concerns.

Mothers expressed that the court did not respect the fact that they had Protection Orders or that the situation was stressful. On a personal level mother's safety concerns were not considered, and even with the law providing safety provisions this was not the case when entering Family Court, where court proceedings, including, maintenance matters, and care and contact matters, provided multiple opportunities for abusers to maintain control and continue victimising the mothers (Miller & Smolter, 2011). When asked if the father's abusive history affected the court process, Participant 5 replied:

"...but it hasn't, the thing is it hasn't affected the court processes because he's been allowed to use the court to perpetrate more abuse. It never, they, in the Family Court they never looked at it. You know they, the fact that I had a DV interim DV order (but it) was an annoyance that angered them rather than made them go "Hmmm? One of my peers has read the documents and granted an interim order perhaps there is some merit to it". It actually made them annoyed rather than you know so." (P5:1046)

In the extract above Participant 5 described how her abusive ex-partner was allowed to use the court to perpetrate further abuse, how the Family Court did not consider the abuse, but rather the existence of her Domestic Violence interdict was an annoyance to the Court. She expressed concern that the Interdict made in the Domestic Violence Court was not considered relevant to the matters in the Family Court and appeared to be disregarded.

The accounts confirm research showing that the presence of restraining orders and mandatory arrest laws provided little relief or protection for women following separation from abusive partners (Zeoli et al., 2013). It further reveals that there is often a disconnect between various services such as police, child protection, and women's services, which in turn has serious implications in ensuring the safety of women and children (Douglas & Walsh, 2010; Proudlock & Rohrs, 2018).

The legal framework, rather than providing the necessary protection and support, often compounded the challenges and vulnerabilities of the mothers. The decisions made in Family Court can have a powerfully positive or negative impact on the lives of mothers and their children, particularly those affected by domestic abuse. This emphasises the need to strengthen support and resources available, to ensure that mothers, particularly those who have experienced intimate partner violence receive the necessary protection and assistance to overcome the challenges that they face as they rebuild their lives.

The findings show that navigating the Family Court process was an arduous and re-traumatising experience for all the mothers, as they were forced to confront their abusers and advocate for their rights as survivors and for those of their children.

We'll Make You Pay! - Maintenance Court Matters and Economic Abuse

In the dominant discourse of *We'll Make You Pay!* mothers accounts draw parallels to the *I'll Make You Pay!* discourse, where economic abuse and financial tactics were used against them. The mothers' discourses revealed how the Family Court system created difficulties in relation to maintenance matters and created and compounded financial difficulties for the mothers. The actions within Maintenance Court process mirror abusive acts and tactics utilised by abusive former partners. In the Family Court system the actions of the court included 1) withholding or non-payment of maintenance; through actions such as postponements and process delays, not serving summons or subpoenas, failing to assist; 2) preventing access to funds and assets to which she is entitled through actions such as

delaying process and withholding judicial decisions; 3) Incurring legal costs for the mother, and; 4) using money as a method of control.

Withholding or Non-Payment of Maintenance

In Maintenance Court, mothers' narratives reveal the perpetuation of economic abuse by the non-paying father, as well as from the court in their failure to implement policies and expeditiously resolve the matter. Such actions reveal how through such actions Family Court is guilty of economic abuse themselves. Their failure to assist mothers in their maintenance applications is economic abuse in that the result is to "control, exploit, or sabotage an individual's economic resources including employment" (Postmus et al., 2016, as cited in Postmus et al., 2020, p. 2). Participant 5 notes how the maintenance process was a long and arduous process:

"It's very easy to prove a child's expenses. I mean we know how much children cost. So that was Maintenance Court. It was Like very hard work [Chuckles]." (P5:696)

The texts highlight the pervasive gender power dynamics and lack of understanding around economic abuse within the Family Court and criminal justice system. These actions reflect a continued prejudice against women, and more significantly, the lack of genuine will to protect mothers and their children. This systemic failure of the Family Court system has devastating consequences, which undermines its core mandate which is to "result in well-functioning and resilient families that are able to nurture and promote care to their family members" (Hall & Richter, 2018, p. 27). As a result, Family Court and other related systems, whose responsibility is to assist "fall prey to perpetuating the very problem it seeks to cure" (Keeney, 1983, p. 23).

Preventing Access to Funds and Assets to Which She is Entitled

The analysis showed this to be done in court processes through actions such as delaying process and withholding judicial decisions. So, while ex-partners renege and default on their maintenance obligations, the irony is that so do the courts. Here, the very institutions charged with upholding the law failed in their duty to enforce the Children's Act

(Children's Act 38 of 2005) and Maintenance Act (Maintenance Act No 99, 1998), and their constitutional obligation to prioritise children's socio-economic rights (Constitution of the Republic of South Africa (No. 108 of 1996)). In the account of Participant 6, she observes that even with all the laws in place, the law still did not protect women who were generally the primary caregivers of children:

“So, [Pause] um we know that law was written by men, the western justice system or the Dutch or the Roman Dutch, it was all formulated on men's rules and how society was how men deemed society should be socialised and it was designed and and and the laws were made to protect men, because women had no legal standing. I mean they weren't even like legal citizens; we were objects owned by men and that's when the laws were written and that's the whole institution is around protecting patriarchy. So even with all of our amendments there is nothing in our Maintenance Act that protects women. Nothing. All of the provisions being to be protecting the defendant, the respondent's rights according to the constitution, according to criminal and civil, so every, they deem us like, like a corporate. They give us the same status.”

(P6:304)

Her discourse reveals issues of gender, noting that the western justice system or Roman Dutch law was built on patriarchal views. She describes how within this system women had no legal standing and alludes to how this is enacted in law still today with the courts *“protecting patriarchy”*. From the study it is evident that gender inequality is clearly produced and reinforced through the allocation of resources, institutional practices, social norms and interactions, patterns of behaviour, and internalised beliefs and identities, which increase men's power over women (Connell, 2012; Mathews et al., 2015; McCarthy et al., 2018; Ridgeway & Correll, 2004).

The definition of domestic violence is the misuse of power within a relationship, where an individual attempts to control another (Kaur & Garg; 2008). In domestic abuse contexts, the controlling or abusive behaviour extends to using financial control, which is

used to harm the other parent and child. In Family Court, the definition of economic abuse is fulfilled, as the controlling or abusive behaviour extends to using financial control to cause financial challenges and economic instability for the mothers (Kaur & Garg; 2008).

Incurring Legal Costs for the Mother

Within the court system mothers noted being further disadvantaged by their inability to afford legal counsel due to financial constraints, ineffective and/or costly legal services, and found that the court system was unsympathetic to their struggles. Mothers expressed their dismay at the financial, and personal 'cost' of obtaining legal or other assistance that was required (Ford-Gilboe et al., 2009; Wuest et al., 2003; Jaradat, 2018). As one example from Participant 5 shows:

“No, I’ve spent a lot of money and I’m in a lot of debt for lawyers. Hundreds of thousands [Nods]. I don’t know what. I don’t want to know. I’ll just like leave it [chuckles]. What you’ve saved in one you could have, but you’re fighting maintenance but it’s costing in food...Out of your child’s mouth.” (P5:162)

She explained how she was in a lot of debt for legal assistance. She uses the metaphor describing how the money for the lawyer was taken directly “*out of your child’s mouth*”. This metaphor is used here to explain that the money was meant to purchase food but was spent on legal fees. In this case the mother had weighed up the odds of paying legal fees that in the long term she would have maintenance and finances, however, this was not the case. She describes “*fighting maintenance*” in terms of fighting the maintenance court system.

Participant 2 noticed that if a person has a lawyer, then the Court officials and judiciary were more willing to assist:

“I think there are a lot of people who go through this and it’s sad. It’s very sad that you have to, I’ve noticed, if you’ve got a lawyer, they are more than willing to assist. They get things done. You pitch up alone, you don’t know the Maintenance Act, you

don't know certain things. You come in there clueless, and they do treat you like you are clueless "Oh sorry can't do this" because you don't know." (P2:142)

She describes how she had to seek additional support and resources, however, unfortunately, women are often treated as though they are "clueless" within the Family Court system. She notes that, there are numerous legal remedies and protections that could be utilised to better serve the needs of families, however Maintenance Court fails to apply these measures in any meaningful way. This suggests that the issue is not an inability to provide adequate assistance, but rather a conscious choice or systemic bias against fully addressing the challenges faced by individuals, particularly women, navigating Family Court processes.

Mothers found that the legal services were expensive and that for many this was a service that they could not afford, with research showing that mothers also have few resources for protecting themselves in such proceedings (Miller & Smolter, 2011). Participants spoke of how they could not afford proper legal services and were weary of court appointed lawyers and pro bono attorneys who often did not have the necessary skills to litigate against the father's private legal counsel. In Participant 1's account she describes how her ex-husband had an attorney, while she did not and how the lack of support against such formidable odds created unsurmountable stress. She expresses a desire for "proper legal assistance" and explained that the level of expertise was different between private attorneys and court appointed attorneys: She explains her experience in this regard below:

"and the court did appoint an attorney at some stage but that never happened. That never happened because we, he then paid by the time we were supposed to go into court so like I was not able to get the proper assistance, and I realised that when an attorney is appointed to you by the court that they certainly don't give you these these attorneys that have had bucket loads of experience. So, they kind of give you well I don't know ...little interns or whatever you call them but um um that in itself you're kind of... At one point I was chatting to this one um um appointed attorney who had to google certain things because he wasn't quite sure what they were and I

was, I was after months and months of experience I had in court with my maintenance I even knew some of the terms that he didn't. So, it was quite, it was quite um frustrating because all I wanted to do was pick up the phone and phone the first attorney that came up on family law on google but I mean you need a deposit of at least R10 000 before they even look at your case, and by that time the court file gets bigger and bigger and bigger and the bigger it is the more reading they have to do so you can't swop and change from attorney to attorney because it becomes costly." (P1:74)

Such examples show how mothers who have experienced domestic abuse face multiple barriers when navigating the Family Court system, where their trauma, vulnerability, and limited resources are further exploited by the court system (Stark et al., 2019; Kelly & Johnson, 2008; Sheehy & Boyd, 2020). In the narrative below, Participant 8 describes the complex web of Family Court:

"It's impossible, and the maintenance courts don't help. They just don't help! /... / There was no ... um support system whatsoever. Nothing! No support system ... AT ALL, and I find that very difficult. They should have social workers there. They should have um people there who are prepared to ... fight on your behalf... you know I mean they say if you can't have an attorney, ...they'll provide one. The ones that they provide are the ones that suck so badly that none of the attorneys um want to take them on, you know, the businesses or firms...and then you get attorneys that will go there for a fee, that you can't even bloody afford. So, you can't afford an attorney. They'll offer you a shitty attorney, that knows stuff all and then you'll get bloody squat because ex spends. He's got the money to pay for them, and he can have them if he wants to, so I mean there's nothing um... there's no equality there whatsoever. The.... most expensive...It's the one who comes with the most experienced um attorney and that knows how to duck and dive and pull the wool over everyone's eyes...." (P8:332)

Participant 8 raised several issues in her narrative, the cost of attorneys, issues of parenting without maintenance, gender issues about legal costs, and not being able to afford an attorney. She referred to the financial inequality for women who had been a stay-at-home moms and how following separation they had limited resources to protect themselves in these legal processes (Miller & Smolter, 2011). Describing the lawyers that win in court, she described them as those that know how to “*duck and dive*” and can “*pull the wool over everyone’s eyes*”. This gives the suggestion that such attorneys are unscrupulous and use manipulative tactics to gain an advantage in the legal process, rather than focusing on achieving fair and just outcomes. This was found in literature showing that one of the many barriers mothers face when navigating the Family Court system, is unscrupulous legal counsel (Stark et al., 2019; Kelly & Johnson, 2008; Sheehy & Boyd, 2020). This further highlights the significant power imbalance and difficulty accessing proper justice, which is important for mothers, and particularly those that have experienced domestic violence.

The experiences of the participants in this study illustrate the profound challenges and deficiencies within the current Family Court system when it comes to addressing domestic violence and ensuring the safety and autonomy of survivors and highlights the gaps in the system particularly in reference to maintenance and economic abuse by the court, recognising the gendered bias against mothers.

Using Money as a Method of Control

The issue of power and control over money was a significant and pervasive theme throughout the mothers' descriptions of their experiences both within and out of the Family Court system. In relation to Family Court, mothers' narratives showed that the numerous systemic barriers and ineffective procedural and administrative justice created a situation where they were severely and negatively impacted. These actions reveal a deliberate pattern of control used against the mother by the Family Court system, and the effect that such had on the mothers and their ability to take care of their children. Wuest et al. (2003) state that while the restructured family dynamic was utilised by former partners to exert

control, “ex-partners’ continuing their abuse by purposefully threatening, undermining, and destabilising the new family unit through stalking, violating family expectations, challenging children’s understanding of why the family had separated, disrupting family routines through unpredictable visitation, and withholding child support” (p. 603); the actions of Family Court purposefully threatened, undermined, and destabilised the new family unit. Such acts fall under the definition of economic abuse which consists of deliberate patterns of behaviour that “control, exploit, or sabotage an individual’s economic resources including employment” (Postmus et al., 2020, p. 2).

All participants spoke of the need for the maintenance and a need for the court’s support in obtaining such, as Participant 1 notes: *“Um, and the job where I was working at, I wasn’t making great money, it was really just sort of getting me by and um I really I really needed the maintenance” (P1:52)*. Participant 1 described how, after receiving no support from the Maintenance Court, she had to approach the Domestic Violence Court to obtain emergency relief, as she was unable to pay rent or buy groceries:

“and then 30 days later we had to go back and um um I filed for one of those emergency relief I can’t remember the name of that that whatever it’s called um where you have to file for emergency relief for money and um mm it was issued but he was ordered to pay a certain amount and and he only really paid only a fraction. It was really like pathetic and um I was having to pay rent. I was eating at my parents almost every night because I couldn’t afford to buy food for my kids um and um the frustrating part was that he was being taken overseas two or three times a year by his girlfriend, and we were literally not being able to even you know like buy decent groceries.” (P1:48)

Such examples highlight the gendered nature of money, and the intersections of money, power and control (Dragiewicz, 2014; Kelly & Johnson, 2008; Stark et al., 2019; Stark & Hester, 2019), where the vulnerability of survivors of intimate partner violence are compounded by gender-based inequalities (Nnoli et al., 2023), where ‘patriarchal social

structures' (Fulu et al., 2013b; Mshweshwe, 2020; Namy et al., 2017; Saunders et al., 2023; Spearman et al., 2023; Vyas & Jansen, 2018) intersect with other sources of oppression faced by women such as race, class, disability or geographical location, to name a few (Anitha, 2019; Boonzaier & van Niekerk, 2018; Gottzén et al., 2020).

Many of the mothers spoke of the additional and compounding effects of continued trips to Maintenance Court, the taking time off work, unnecessary legal expenses, that reduced their financial resources, emotional reserves, physical stamina and health; capturing what Dutton and Goodman (2005, p. 749) described as 'wearing down resistance' through 'resource depletion'. As Sharp-Jeffs (2021) described, these resources may be personal (such as physical stamina and determination), social (such as emotional support) and tangible/economic (such as transportation and a place to stay) (Sharp-Jeffs, 2021). This 'resource depletion' further traps mothers in co-dependency on their abusers, depriving them of the resources needed to live independently, resist the abuse, and escape the situation (Dutton & Goodman, 2005). However, none of these factors were considered by judiciary, or court officials in any of the matters, or by other systems was evident in the accounts from participants.

The extracts instead show how the delays from the court compounded financial and other difficulties for the mothers. The narrative from Participant 8 shows the difficulties that she experienced due to the delays and postponements from the Maintenance Court. She becomes tearful in recounting her experience. She notes that not having employment means the delays, and postponements did not affect her ability to work as it did with other mothers who had to continuously take time off work to attend court:

“and you sit there for hours on end, and and if you are working, can you imagine having to take time off all the time to go and sit in this court room. You lose a whole morning. At 12 o'clock when they decide they are going to have lunch ,they haven't seen you. They postpone. The following month you're back. They haven't seen you; they postpone. They can postpone for MONTHS on end. It doesn't bother them,

but it bothers you and it bothers the company if you are working for a company, because you have to take time off every time...Thank god I didn't have a salary [Tearing up] I wasn't earning anything, so I didn't have to worry about something like that, but it's very very, it's very disturbing, and most of these guys have got the money to deal with things like this so it's REALLY SOOO aggravating." (P8:592)

In the excerpt from Participant 3 we observe how the deliberate non-payment of maintenance and the lack of assistance from Maintenance Court resulted in her being evicted, having to uproot her children, and live in a shelter (Burnett et al., 2015; Smye et al., 2021). She describes her experience below:

Participant 3: ..and um we stayed on our own then. We couldn't afford to stay on our own at the place then, so we got evicted again. Every time we get evicted, evicted, and the more I went to court and asked them um, actually [Court Name removed by researcher], we asked them "Please we can't keep moving around and about. I need the maintenance just to get something where we can stay." They never cared. Never... so ja that's the whole time going on and still I'm waiting now 10 years for the court to sort out the maintenance.

Researcher: and tell me where is your husband, your ex now?

Participant 3: He's staying in the house that actually was said to be sold because it's in debt. It was never in debt. Never. It wasn't in debt. (P3:194)

Her experience shows the impact that financial power had on her and the children. The housing insecurity created a spiral of downscaling or relocating (Burnett et al., 2015; Mikolai & Kulu, 2018; Smye et al., 2021), and struggling to find alternative accommodation; that ultimately led to homelessness, and later to her children being removed. She describes approaching the court in need of their assistance and of receiving none. In the mother's narratives, as in the literature, we see how such control and abuse of power in regards to maintenance and financial control, limit economic opportunities for women, often resulting in

what scholars term the 'the feminization of poverty' (Crenshaw, 1991; Eastal et al., 2018; Muliolino, 2021).

As the above examples show, the economic abuse and economic deprivation and control from the court, had an adverse and detrimental impact on their ability to acquire, use or maintain money or property, goods or services and their ability to adequately care for the children in their care (Sharp-Jeffs, 2021).

We'll Hit You Where It Hurts! - Care and Contact Issues and Children

In the *We'll Hit You Where It Hurts!* discourse we see the actions within care and contact disputes and the use of children and gender to cause harm, echoing the *I'll Hit You Where It Hurts* discourse where emotional abuse and relational tactics were used on a micro-level in the interpersonal relationship. In care and contact matters, mothers' discourses describe a complex pattern of abuse and betrayal in which children and safety issues were used against mothers. Despite an established interlink between domestic abuse against women and abuse against children within numerous studies (Callaghan et al., 2018; Fry & Elliott, 2017; Guedes et al., 2016; Hamby et al., 2010; Laing, 2010; Turner et al., 2017; Zeoli et al., 2013), there were often disconnects between services, and domestic violence seemed to have no bearing on family court matters. The mothers in the study found that the Court and service providers 1) discounted safety concerns and did not take appropriate action; 2) colluded in attempts to have them mothers rendered an unfit parent (Gutowski & Goodman, 2020; Watson & Ancis, 2013), 3) weaponised the mothers' emotional bonds with their children and their maternal instincts against them, with threats or court ordered actions to have the children removed from their care, and 4) various systemic barriers and abuses that limited their influence and control.

Stuck Between a Rock and a Hard Place

Mothers involved in care and contact matters were often there for genuine concerns about child safety. As mentioned, all mothers had Protection Orders against their ex-partners and believed this would be relevant to all subsequent court proceedings. Approaching

Children's Court, mothers placed their trust in the legal system and court professionals, expecting them to guide and safeguard their rights. As biological mothers and survivors of domestic violence, they firmly believed the court would protect them and their children.

As research shows, for many parents with minor children, the legal framework governing divorce, separation, as well as care and contact arrangements are important factors that impact their ability to safeguard their own and their children's wellbeing, after separating from abusive partners (Emery et al., 2005; Ford-Gilboe et al., 2009; Galántai et al., 2019; Hardesty & Ganong, 2006; Jaffe, 2005; Mol, 2019; Saunders, 2008; Spearman et al., 2023; Stark et al., 2019). The law states that child safety is of utmost importance, with a duty to report such acts immediately to authorities (Dragiewicz, 2014). Mothers in the study were aware of their legal duty to report such abuse, to ensure the child's safety and in the best interest of the child. They were also aware that they risked subsequent unintended consequences; such as having their children removed from their care by social services for failing to protect them, should they not report such knowledge (Dragiewicz, 2014). Mothers describe their experiences below:

“and the Children's Act and even um Protection Orders if you are aware of something going on and don't protect a child, you're actually guilty of a criminal offense yourself so now you you go and do that step and then you told you're crazy.” (P7:66)

Participant 3 spoke of how she had been told that should she fail to protect her children from abuse then she would be arrested:

“but also, in court they, the judge actually said that he's going to lock me up to because I'm also guilty unless proven otherwise....” (P3:100)

This aligns with extant literature showing that mothers often face a difficult dilemma in approaching institutions as Family Court, in that they risk losing custody of their children either to child protective services or to their abuser, when they do (Meier, 2020; Saunders & Oglesby, 2016). This can happen if they are seen as failing to protect their children, or if they are perceived as alienating or unwilling to co-parent with their abuser. Participant 7 was

warned that should she take such a matter to Family Court that she risked her child being removed from her care:

“So I take this to the court and I met the social worker, and she said to me “You be careful because um the court is going to see this as the child is not being cared for and he’s going to be taken into state custody so you’d better be careful and sort this out” like “critically” and I was like “What must I do? I’m here for help. Tell me what to do?”” (P7:317)

This threat of having her child removed from her care for raising safety concerns seems in stark contract with The Children’s Act 38 of 2005, and policies where the rights of children should be paramount in all matters (Boyd et al., 2019; Hall & Richther, 2018; Jamieson et al., 2018; Johnston, 2000; Matthias, 2017; Mol, 2019; Nazneen et al., 2019; Ozah & Skelton, 2018). Such threats can be seen to act as deterrents in help-seeking, and deter mothers from seeking legal recourse, which in turn can prevent children from receiving support and disempower mothers who seek to protect their children from abusive situations. Yet despite such serious threats and actions the mothers still approached authorities with safety concerns. However, in the case of Participant 3, her children were removed from her care and placed into state care:

“So, I had to fight for my children. My children were then taken into foster care, so I wasn’t allowed to for um six weeks I wasn’t allowed close to my children.” (P3:100)

While judicial decisions should demonstrate a sincere concern for the safety and security of children and their primary caregivers (Sheehy & Boyd 2020), the study’s findings align with research indicating that judiciary, legal representatives, social workers and custody evaluators are inclined to believe that mothers make false allegations (Hans et al., 2014; Stark et al., 2019). This raises concerns that such biases undermine the effectiveness of the justice system in upholding the rights of vulnerable individuals and addressing the root causes of domestic violence.

Discounted: Within Family Court and institutional settings, the mothers found that their accounts of the abuse were disregarded not only by the perpetrator, but also by the lawyers, legal agencies, and justice and social services they had approached for help (Epstein & Goodman, 2018). When the mothers brought concerns about their children's safety to the Family Court, they felt the court and relevant professionals did not take their disclosures of abuse or safety issues seriously and failed to respond appropriately. This left them feeling unsupported and worried that they and their children remained unprotected (Dragiewicz, 2014; Jamieson et al., 2018; Proudlock & Rohrs, 2018; Zeoli et al., 2013). Participant 3 noted how when she approached court, or other systems her concerns were dismissed and her children experienced ongoing abuse from the father:

*“Um, and whenever after that he’s make sexual advances against my daughters if we go to the police, they wouldn’t listen to us. **Nothing.** They didn’t believe us. We were just ignored. That’s it. No, we could go nowhere and actually 2002 they told me that if I don’t speak up, I will get locked up.” (P3:118)*

The extract shows how the institutional response failed to take the mother's concerns seriously, further marginalising and disempowering her, and neglecting to protect her children. It also reveals a troubling double standard, where mothers are expected to protect their children, facing potential punishment for failing to do so, yet are penalised for reporting the abuse, leaving them in an impossible situation. The mothers' accounts echo Epstein and Goodman (2018), in that women face a "legal twilight zone" where "laws meant to protect them, compensate them, and deter further abuse often fail in application, because women telling stories of abuse by their male partners are simply not believed" (p. 403). In this case this applies to safety concerns for the children, highlighting how the institutional response fails to adequately address safety concerns for the children.

Indifference: In care and contact matters, participants describe that despite their effort to report concerns and seek assistance to ensure the safety of their children the

Court's response was generally one of indifference. Participant 3 explains that despite countless attempts to safeguard her children "nothing ever happened":

*"What they said is, if he doesn't stop then they will lock him up again. Never happened. **Nothing.** Nothing ever happened. Nothing. We didn't ever get any support. Everything that was, that needed to be done I had to do it, I had to find the way myself, nobody supported me." (P3:134)*

This was similar to research that identified negative experiences of the state's involvement, support services and interventions (Smye et al., 2021). All of which were associated with increased trauma, stigmatisation and discrimination that added to the complex trauma of the experience of abuse. As a result the mothers' ability to protect themselves and their children was reduced, leading to further abuse and frustrations (Douglas & Walsh, 2010; Proudlock & Rohrs, 2018; Smye et al., 2021).

Scepticism and Suspicion: Mothers noted that scepticism and suspicion was shown to them by the court, service providers and such agencies. The participants' accounts indicate that their interactions with service providers in the system were often unhelpful and further compounded the challenges they were facing. Participant 7's narrative illustrates how the issues she faced were further exacerbated when she was court-ordered to pay for the forensic psychologist's report, who dismissed her concerns and informed the court that *"They don't see any concern around the contact time with the father"* (P7:59).

Turning The Tables: Within care and contact matters, mothers raised concerns that the court and relevant professionals did not take a mother's disclosure about abuse, or safety concerns seriously and in many cases, this was used against them. Participant 7 noted that despite two legitimate applications to the court concerning the safety of her child, the court disregarded the severity of the matter and instead turned the tables on the mother. In some cases, mothers' personal attributes or traits associated with their role as a mother were used against them. For Participant 7, her mothering attributes were portrayed as

pathological. She was made to feel that she was in the wrong for not “*trust(ing) the professionals*”. This participant goes on to describe her concerns below:

“One of the concerning things around that was that her [the psychologist’s] conclusion was that [hesitates] I don’t, I don’t trust the professionals in their view when they say there’s no concern and I am like an like what do you call it like anxious or whatever it is you know.” (P7:58)

In Participant 3’s case, she found that that her disability was continually used against her:

“The thing is, I’m sorry to say this, but my disability, every time came into the way. Every time, my disability, because I’m disabled “Who’s going to take care of me?” So, “You can’t put him into jail. You can’t keep him in jail, because he’s the only provider.” So, I was told that I’d better see to it that he gets help, otherwise I won’t get back my children.” (P3:100)

In the case of Participant 3, the intersectionality of her disability further disempowered her and resulted in the severe and pervasive impact that this had on her and her family’s life (Mahalingam, 2009; McDowell & Fang, 2007). Her narratives show how multiple intersections of race, class, ethnicity, clan, religion, sexuality, age, nationality, citizenship, ability or disability and status, can exacerbate gender inequalities, which can compound the issue, making some people more prone or more vulnerable to violence or abuse, and less likely to receive protection (Boonzaier & Gadd, 2015a; Crenshaw, 1989; Mama, 2012).

Collusion: The study found that the court system colluded in attempts to have the mothers rendered unfit parents (Gutowski & Goodman, 2020; Watson & Ancis, 2013), with participants describing how the children’s court processes created a deflection from the issue of child safety and did not deal with the matter at hand:

“Yes, the thing I was saying was, is that the courts creates a deflection from issues at hand, [pause], so instead of dealing with the complaint at hand there is now a

diversion of parental alienation which is raised and now we are focusing on um another issue which has got nothing to do with, or concern regarding the child but the focus is then on the father or the other parent saying they are being alienated as opposed to saying "These are the concerns that I have for the child. This is what the child is saying" and um now they are saying "You are putting words into the child's mouth", or you know "alienating the child to say these things," but on what grounds are they making that assumption, on what do they base this assumption?" (P7:250)

Participant 7 raises concerns of how the court addressed her concerns, allowing the father to divert attention from the core issue of safety and instead focus on the mother's parenting abilities. Despite research clearly showing that parental alienation and other litigation tactics and manipulations are often used by abusers to undermine allegations of domestic violence and child maltreatment against them (Hannah & Goldstein, 2010; Harman et al., 2018; Jaffe et al., 2010; Laing, 2017; Meier, 2009; Meier & Dickson, 2017; Sheehy & Boyd, 2020; Von Boch-Galhau, 2018), the courts entertained the father's parental alienation claims. The focus shifted onto the mother, and the father became the victim of a plot against the father's rights, with claims of the father being alienated. Instead of acknowledging *"These are concerns that I have for my child. This is what the child is saying,"* the courts employed a deflection tactic, accusing the mother of *"putting words into the child's mouth"*, or *"alienating the child to say these things"*. In so doing, Participant 7 believes that courts undermine the voice of the child. The institutional response further privileges the father's narrative and seems to discredit the mother's concerns, perpetuating the power imbalances within the relationship and the Family Court system.

Systemic Barriers: The study found that participants described various systemic barriers and abuses that limited a mother's influence and control, with accounts showing that laws, policies and support structures were not utilised to protect them. Participant 5 explains how when it was raised in Children's Court that she had an existing Domestic Violence interdict the magistrate became angry with her:

“Ja like those magistrates were just like rogue magistrates. I don’t know it was, the whole thing about that she blew up when she found out that I had a DV that for me was like, I mean if you look at like GBV in this country and the amount of women that are murdered by their partners, its daily. It’s all the time. / .../ HOW can you be annoyed with a woman for taking out a domestic violence order and like it just, it doesn’t make sense to me? I can’t...!” (P5:994)

Such examples demonstrate how the courts fail to recognise the connection between domestic violence, child safety and the well-being of the mother. Furthermore, it suggests a gendered bias where the mother’s concerns are assumed to be frivolous attempts to undermine the father’s credibility. In Family Court, issues of safety are often dismissed as *frivolous* or *without merit* as the courts tend to frame conflict as being a mutual *tit for tat* occurrence between disaffected and resentful divorcing couples, without considering the dynamics of power and control that exist within abusive relationships (Elizabeth et al., 2012b; Spearman et al., 2023).

Furthermore, the study noted that laws, policies and support structures were not utilised to protect mothers and their children. Participant 3 explains that she had been told that services would be available to support her and her children, however, she is still waiting for such proof:

“.... and I went to a social worker, and he threatened he was going to burn us down with the house; so she advised “better leave” and it’s better to leave because the children, me and the children are in danger, so it’s better to leave and there will be a support system, support system to see that we, for abused women and children and that we will definitely get support like maintenance and everything” [Chuckles] Ja. Nothing. I still want to see where this support system is. I want the proof of the support system.” (P3:134)

As demonstrated in several studies, the adverse effects of domestic abuse are related to long-term and chronic problems, particularly in cases of divorce and separation

and in matters relating to children (Carolin & Xavier, 2020; Fry & Elliott, 2017; Gosal, 2018; Lloyd, 2018; Turner et al., 2017). In the case of Participant 3, the lack of support from institutional settings, compounded her and her children's difficulties leading to long term and compounding issues of poverty, housing instability, not having funds for her daughter to continue in school, dropping out of school, her daughter falling pregnant, gang involvement resulting in her the participant's granddaughter being removed from their care. Such examples shows that the cumulative impact of domestic violence, and the systemic failure of the Family Court system has a profound and substantial effect on women and children, particularly in South Africa, where women and child abuse statistics are alarmingly high (Spies, 2019)

Institutional Betrayal: In line with Dragiewicz (2014) and other research (Jamieson et al., 2018; Proudlock & Rohrs, 2018; Zeoli et al., 2013), mothers in this study reported that Family Court did not respond appropriately to their concerns about their children's safety Mothers spoke of their experiences within Children's Court and the impact that the family court had on them and on their children. Firstly, in its failure to protect their children, Participant 7 explains *"but the father still has access to the child, and I'm not happy about it but what can I do"* (P7:325). She describes how her child no longer trusts the system and service provides, having to repeatedly tell strange people that do not do anything about it. Secondly, she describes the desperation at not being able to assist her child, and at the personal betrayal by being made out to be delusional.

Literature confirms that the negative response from the court and service providers significantly impacts the well-being of victims (Silberg & Dallam, 2019), and that judicial decisions made in Family Court can jeopardise the health and safety of mothers and children exposed to intimate partner violence, especially in the context of post-separation abuse, where child safety concerns are framed as divorce conflict (Araji & Bosek, 2010; Douglas, 2018; Katz et al., 2020; Laing, 2010; Spearman et al., 2023). In line with literature, the

mothers indicated that continued abuse was enabled and maintained by the courts' failure to protect them and their vulnerable children (Miller & Smolter, 2011).

Chapter Summary

When mothers attempt to seek legal recourse and protection through the Family Court system, they often face further challenges and systemic failures. This study elucidated how gender played an important role in the systemic abuse, and institutional barriers post-separation. It was found that in the Family Court system, policies and services negatively impacted the outcomes for mothers and their children who had left abusive partners. Within Family Court, mothers experienced adverse effects when seeking help, as the court and court officials, service providers, and legal representatives often failed to prioritise the best interests of their children. The Family Court system mirrored the abusive acts present in the intimate partner relationship. Abuse occurred at both the community and broader system levels, driven by social constructs of gender and patriarchal values, creating a system of oppression of women.

This chapter further revealed systemic barriers within Family Court, including lack of accountability, numerous delays, poor service, and ineffective justice implementation, which hindered the process and resulted in institutional abuse and betrayal. The courts allowed abusers to misuse the system, failed to hold them accountable, and lacked urgency and action, effectively condoning their conduct. Furthermore, court staff and service providers were unsympathetic and unhelpful, failing to assist mothers or hold defaulters accountable, further hindering their help-seeking efforts. There were concerns about the implementation and distribution of laws and legal remedies, as well as non-existent or poorly implemented policies and procedures, with the court's administration of justice often created barriers that exacerbated mothers' difficulties with maintenance matters and child custody issues, compounding their financial and other challenges.

Additionally, economic abuse occurred in the Family Court system, including withholding or non-payment of child support, preventing access to funds and assets,

incurring legal costs for mothers, and using money as a method of control. Moreover, emotional abuse was also prevalent, particularly in children's court proceedings, where the court and service providers discounted safety concerns, colluded to render the mothers as unfit parents, weaponised the mothers' emotional bonds with their children against them, and imposed various systemic barriers and abuses that limited mothers' influence and control.

The participants' narratives point to findings of The South African Law Commission, Issue Paper 31 (2015), titled Family Dispute Resolution highlighting that "South African society fails to manage divorce effectively and that there is no coherent procedural family law system in place" (p. vi) particularly in cases where family violence exists (Francia et al., 2019).

CHAPTER 7: DISCUSSION OF FINDINGS

**WHEN JUSTICE FAILS: GENDER, POWER, AND THE INSTITUTIONAL
BETRAYAL OF MOTHERS IN FAMILY COURT**

In Chapter 5, the research revealed that domestic violence and its related sequelae have become increasingly more complex when parents enter the Family Court system (Birnbaum & Bala, 2010; Johnston, 1994; Martínez-Pampliega et al., 2021; Polak & Saini, 2019). In this study it was observed that in Family Court processes abusers used various strategies and tactics to exert control over the mother. These findings aligned with several previous studies (Bancroft et al., 2002; Galántai et al., 2019; Gutowski & Goodman, 2020; Hines et al., 2014; Miller & Smolter, 2011; Silverman et al., 2004). However, in Chapter 6, the mothers' discourses of their post-separation experiences of Family Court processes revealed that the abuse was not limited solely to their former partners, but rather to the larger system itself (Bancroft et al., 2002; Galántai et al., 2019; Gutowski & Goodman, 2020; Hines et al., 2014; Miller & Smolter, 2011; Silverman et al., 2004). This finding aligns with research by Enaifoghe et al. (2021) who noted that the cycle of violence is perpetuated by a lack of a functional justice system and the scarcity of available resources.

The participants' accounts showed how the Family Court system, which is meant to promote justice and protect mothers, did not assist or safeguard them or their children. Instead, the system utilised and manipulated gender-based power dynamics and patriarchal control that further compounded the abuse they had already experienced. Intimate partner violence and mothers' subsequent experiences in Family Court processes are deeply rooted in systemic failures and the perpetuation of gender-based violence. This failure on the part of the legal system is a significant issue in the perpetuation of gender-based violence (Duffy, 2015; Smye et al., 2021; Tuon, 2021; Wuest et al., 2003; Zeoli et al., 2013).

In view of the above, this chapter will explore the systemic and societal factors that shape and constrain the help-seeking efforts and legal outcomes of mothers navigating the Family Court system after experiencing intimate partner violence. It situates the mothers'

individual experiences within a broader social context, analysing the deep-rooted societal norms, power structures, and structural inequities that enable and perpetuate domestic violence. It also addresses the systemic failures of the Family Court system, which fails to adequately support and protect victims as they navigate the legal system.

Table 9 below presents a summary of the discourses and key findings discussed in Chapter 7.

Table 9

Summary of Main Findings for Chapter 7

Discourse Around the Phases of the Family Court System and Discourses around Institutional Abuse and Betrayal, and Systemic Failure			
Description of Chapter Section	Ecological Phase	Discourses Framing Mothers' Macro Experiences of the Family Court System	Gendered Power Dynamics in the Family Court System
Systemic Failure - Justice is Blind	And Now What? – Questioning the Process Phase	Fighting Beasts and Monsters	
			Bullying, Power and Patriarchy
			Gender Inequalities and Patriarchal Bias
			Resistance and Agency
		Gaps in the Family Court System	Gender neutrality and the law
			Domestic Violence and Post-Separation Safety Concerns
			Intimate Partner Violence and the Impact on Children
			Gender Roles, Mothering and Family Court
			Gender, Economic Abuse and Maintenance
			Gender, Court Process and Patriarchy

		Competing Discourses	Father’s Rights Trump Children’s Rights <ul style="list-style-type: none"> - “The friendly parent” standard - Understanding of domestic violence by service providers
			Rights but not Responsibility
			Allegations of Parental Alienation
	Laying Down the Law – Systemic Failure and the Aftermath	Fighting a Losing Battle – Systemic Abuse and Betrayal	
		Battle Scars – The Impact	
		Mother’s Recommendations	<ul style="list-style-type: none"> - Urgent reform - Comprehensive risk assessments - Targeted education programmes - Financial support and assistance during maintenance processes - Procedural changes
		In Retrospect	
		In Hope and Healing	

And Now What? – The Questioning the Process Phase

In the And Now What? Phase, we observe mothers questioning the system. Within the Family Court system, mothers faced a daunting experience navigating complex and adversarial processes. Despite adhering to court rules and procedures, navigating and adapting to judicial and legal processes, and adjusting their expectations and strategies in the hopes of securing a favourable outcome, all participants encountered severe challenges within the Family Court system, especially regarding maintenance matters and disputes over care and contact arrangements (Ford-Gilboe et al., 2009; Varcoe & Irwin, 2004; Wuest et al., 2003; Zeoli et al., 2013). Mothers described the process as marred by institutional barriers and systemic abuse, resulting in systemic failure. Mothers found that the court system became a new battleground, with Family Court and associated service providers unable or

unwilling to safeguard them and their children. Within the system, mothers described being trapped in a vicious cycle of systemic failure, including gender and power imbalances that led to their giving up or eventual loss and defeat.

Fighting Beasts and Monsters

The discourses reveal how the initial promise of the court system being a beacon of hope faded to reveal a more sinister *beast* (Boonzaier, 2008; De Jong, 2005; Dekel & Andipatin, 2016; Jackson, 2001; Towns & Adams, 2000; Wood, 2001). In their post-separation experiences of court processes, the women turned to certain ways of speaking to make sense of the violence, much like in the early stages of their relationships. As Julia Wood (2001) suggests, women tend to adopt narrative and social belief patterns to comprehend intimate partner violence. This would therefore hold true in this case where dual masculine identities were constructed in reference to social structures with the court being seen in two forms either *a knight in shining armour* or a savage beast (Boonzaier & De La Rey, 2004).

Despite their hopeful entry into the system, many participants found that the underlying issues of power and control they had experienced with their former partners were also present within the court system, which put an end to the idea of a promising and happy resolution to their situation (Boonzaier & De La Rey, 2004). As participants navigated the court processes, their descriptions shifted from the initial trust in the system to adapting to the legal procedures in the hopes of a favourable outcome, and to eventual loss of faith in the system. This progression mirrored the change from viewing the court system as a kind and loving prince to perceiving it as the beast itself (De Jong, 2005; Dekel & Andipatin, 2016; Wood, 2001).

In an account from Participant 6, she describes going into the "*underbelly of the justice system*". This metaphor is highly descriptive, as the term "*underbelly of the justice system*" may refer to the minacious underbelly of the beast, the systemic, inhumane treatment of certain groups of people by the justice system. In this case the justice system

has become the beast showing no mercy in devouring those who do not wield power (Dekel, 2013):

“This took me into the underbelly of the justice system and this, this one chapter needs to close. One, because if I, everybody does, just gives up because of the systemic failures, then nothing is going to change, because they are not held accountable, that’s the one thing. Secondly, if, he will be found guilty, I mean there’s just no doubt about it. I said when he is found guilty at least then my boys will realise that this was not a figment of my imagination, that what he did was criminal, and it was harmful and there are consequences thereof.” (P6:270)

Participant 6 also describes her experience as “*not a figment of my imagination*” highlighting the disconnect between the fantasy and fairy-tale narratives and the harsh realities she faced. While her world is a social construction, and her discourse reflects and embody culturally approved narratives of romance and gender (Wood, 2001), her story is far from a romantic fairy-tale with a happy ending. Instead, the abuse was real, intricately entwined within various systems (Jackson, 2001; Shefer, 1999; Towns & Adams, 2000), resulting in numerous harmful and negative consequences for her and her family. She speaks of giving up due to “*the systemic failures*”, which was echoed by Participants 1, 4 and 5. In other extracts we see analogies of the beast in references to their former partners and the system, as relayed in the example from Participant 4:

“So no, oh my god Sharon. I get to, when I do sleep even if it’s an hour a night I sleep so peacefully because I don’t fear that this monster is going to come through the door and kill me or rape me...” (P4:665)

Participant 4 describes her former partner as a monster, using the discourse of a savage beast. She explains that although he is a monster, since their separation she can now sleep peacefully, knowing that he won’t come through the door to kill or rape her as she feared during the relationship. In another account, Participant 4 recounts her interaction with her former partner in Family Court, highlighting the many compounding difficulties that

mothers face when attending court in the context of intimate partner violence. These issues are often not adequately considered by Family Court, adding to the systemic failure of the Family Court system:

"I don't look at him. I don't look at him. I couldn't tell you if he had a face full of pimples I wouldn't know. I don't look at him. I feel sick. [Pause] I feel sick, and I feel all confused because this was a man who would lay down in front of a train for me. I'm confused. I don't know but I keep rationalising to myself that it's the drugs that he, that his brain is not how it is used to, and he is not the man that I loved, and, and since all the drug testing and everything and ag it's a whole other story but anyway there was supervised contact for a long while and eventually it filtered down to unsupervised. Ja but doesn't pay a cent of maintenance." (P4:482)

In the extract, Participant 4 expresses confusion at seeing the *"man who would lay down in front of a train"* for her now treating her so badly. She rationalises this change, attributing it to the effects of drugs. Participant 4 draws on romantic narratives, even after the relationship has ended. This is in line with research showing that women often use culturally embedded stories of fairy tales and romance to try to understand the violence that they face (Boonzaier, 2008).

The narrative shows that while young girls may be socialised to believe in fairy tales, women become aware that such fairy-tale endings are often fantasy and real life does not guarantee a *happily ever after* (Dekel, 2013; Dekel & Andipatin, 2016; Tolmie et al., 2010, Wood, 2001), particularly in cases of domestic abuse. Sometimes the acute awareness of the difference between their own life and the fairy-tale can create cognitive dissonance where women become painfully aware of their own lives and that of their romanticised fairy-tale ending that they grew up and hoped for (Boonzaier & De La Rey, 2004; Dekel, 2013; Dekel & Andipatin, 2016; Tolmie et al., 2010; Wood, 2001).

In the accounts of their pre-separation relationships, mothers described how their former partners transitioned from being initially viewed as a charming *prince*, to that of an

abusive and controlling *beast* (De Jong, 2005; Dekel & Andipatin, 2016; Wood, 2001). However, in their subsequent experiences navigating the Family Court system, these mothers found that the Family Court itself had become a new and even more formidable *monster* that they had to confront. Participant 1's account reveals that her fear of the *systemic beast* of Family Court was even greater than her fear of her former partner. This was because the Family Court system, with its inherent biases and lack of predictability, proved to be more volatile and destructive in its impact on her and her children. The Family Court, meant to be a safeguard, had instead become an unpredictable and oppressive force that compounded her trauma and undermined her ability to protect herself and her children:

"I still remember how that feels. When you walk into that office, and I knew that I had nothing to hide. I had presented everything I had gotten all my documents, all my bank statements, everything um and these court officials are very good at making no one feel like they are the baddies or the victims rather than the defendants you could say, um I was never any good at fighting my ex-husband, and he has always been a very good fighter. So, when it came to appearing in these offices where you are already so intimidated... Intimidated by the environment, intimidated by the person sitting across the table from you because initially you don't know them. You don't know and you know like I'd never say that he was on anybody's side but when you are in a situation like that you feel like everybody is against you. so, I when it comes to fight, flight or freeze I am definitely a freeze person. When I'm confronted with a difficult situation I freeze and I can't talk, so it was very very difficult for me, because my ex-husband is very confrontational whereas I am not confrontational so he was all very loud and in your face with regards to excuses as to why why he could justify his actions and the environment was so um foreign to me that I struggled and I never got used to it. Every appearance, every single time, I felt sick I felt nervous I felt I felt frustrated because he was so-so in your face with the with the um what do you call that maintenance guy?" (P1:101)

Participant 1's account reveals the often unrecognised power dynamics at play in Family Court, where the Family Court system, combined with the former husband's confrontational tactics, create a deeply intimidating and disempowering experience for her (Bishop & Bettinson, 2018; Dichter et al., 2018; Douglas, 2018; Johnston, 2006; Katz et al., 2020; Stark & Hester, 2019; Tolmie, 2018). Participant 1 describes the court environment as "*foreign*" and that "*everybody is against you,*" evoking a sense of the system as a monstrous, inhumane entity that she is powerless against. Her former husband's aggressive behaviour and her own tendency to "*freeze*" in difficult situations further worsen the power imbalance, revealing a "*fight, flight or freeze*" response to trauma.

In the extract, the power dynamics are further evident through displays of conversational dominance (Zimmerman & West, 1975), where her former partner is able to leverage the court setting to his advantage, using "*excuses*" and being "*loud and in your face*" to justify his actions, while she struggles to effectively advocate for herself (Coates, 2012). This dynamic reflects social constructions of gender (Boonzaier, 2008; Dekel, 2013; Dekel & Andipatin, 2016), where women are often expected to be demure and self-sacrificing (Alstott, 2009; Boyd et al., 2019; G'sell, 2018). This gendered power dynamic is evident in the court system, where her former partner's confrontational style is seen as acceptable, while her more passive approach leaves her feeling overwhelmed and vulnerable. This uncovers how the Family Court system overlooks issues of power and renders abuse invisible through its very processes (Fitch & Easteal, 2017; McKinnon, 1989; Meier & Dickson, 2017). Furthermore, the court officials, instead of protecting her as a victim, are described as making "*no one feel like they are the baddies*" highlighting how Family Court processes frame the conflict as both parties being equally responsible, and failing to account for the power and control dynamics in abusive relationships (Elizabeth et al., 2012b; Spearman et al., 2023). Such actions reinforce the sense that the system itself is a threatening, monstrous force that mothers must navigate alone.

Participant 8 felt that she had to fight alone, without anyone truly *in her corner*, further disempowering her in a system already stacked against her as a woman. Even with an attorney, she felt isolated and unsupported in the Family Court system, showing how gender inequality is deeply rooted in our legal system and culture (McKinnon, 1989):

“because right now, and I had this pathetic bloody attorney, that didn’t even fight for me. ...So, the attorneys aren’t exactly up, up, worth, their[pause] they are not worth their salt. Really. They’re also not very um, understanding. They’ve seen too much of it, and they couldn’t give a toss. I had two attorneys. The one first with the one I first started off and the second one who was bloody useless.” (P8:124)

Participant 8 spoke of how her attorney *“didn’t even fight”* for her, suggesting the attorney was part of the same oppressive, patriarchal system that undermined her efforts to advocate for her and her child’s needs. This suggests that even the presence of legal counsel could not overcome the entrenched patriarchal nature of the Family Court system, which continued to undermine and dismiss the mothers’ concerns and needs. Participant 8 explains that the attorney she was given to assist her, was in her view, *“pathetic”* and *“useless,”* and failed to genuinely fight for her or her daughter’s interests. She expresses a lack of regard towards legal representatives, stating they are *“not worth their salt”* and *“couldn’t give a toss”*, suggesting that legal representatives are often more aligned with the existing power structures of the court system rather than advocating effectively for the needs of their clients.

In an earlier passage, Participant 4 described how her former husband's abuse extended into the court system, where he had *“a firm of attorneys to fight”* her, being able to leverage resources and power against her. She described how the courts compounded her issues by delaying proceedings and failing to enforce the disclosure of documents, suggesting a systemic alignment between the courts and her abusive partner:

“...and they’ve got endless money to fight me in the courts, and they’ve got a firm of attorneys to fight me in the court; and endless delays. So, I still don’t have those documents. Still don’t have what I asked for.” (P4:369)

Such examples demonstrate how the legal system itself can become an extension of the abusive control, trapping mothers in a pervasive pattern of adversarial processes in which they were often forced to fight alone. This adversarial approach often fails to address the underlying complexities and trauma or the underlying issue of domestic violence within these families, which further destabilises the fragile dynamics of such post-parenting relationships as well as eroding the well-being of all involved, especially vulnerable children caught in the crossfire. Furthermore, the Family Court system exacerbates the situation, where abusers leverage lawyers and the judicial processes against them, often creating protracted legal battles over care and contact matters or their maintenance obligations (Alstott, 2009). The discourses demonstrate that intimate partner violence, including post-separation abuse, is a multifaceted phenomenon that is rooted in systemic power imbalances and structural inequalities, rather than just individual acts of physical aggression (Boonzaier & De La Rey, 2004).

According to the mothers, court intervention and court-ordered processes exacerbated the conflict and hostility between the parties following separation (Frade & de Wet-Billings, 2019; Jacobs & Andrews, 2021), and created conditions for abusive behaviours to persist (Spearman et al., 2023). Due to the lack of a functional justice system (Enaifoghe, 2019), mothers experienced further abuse and control within the system, consequently leading to re-traumatisation as they navigated Family Court processes (Katirai, 2020):

“I find it very, um what’s the word um like hostile I would say. I mean look the clerks at the Maintenance Court you know they’re inundated with people. They’re wrapping around the building. So, you go there and you’re like OK is it my day, I’ve got to fill out a form where they haven’t complied with the Maintenance Order like um you know and I’ve almost, I think I’ve almost, what’s the word called when you’ve become

numb to it? In the beginning I was like Intimidated and I was like oh nervous, and now I just see it as just put on some comfortable shoes and make sure you are wearing black trousers and just go there because it's gonna be time consuming, it's gonna be inefficient, it's going to be like you know, people crying in the halls, like like it's trauma you know. It's actually trauma. You go there and you feel traumatised.”
(P7:97)

Participant 7 describes becoming numb to the trauma of navigating the hostile and overwhelming Family Court system. She describes how the inundated court clerks offering little guidance, and the repeated failures and losses leading to a numbing effect, a possible coping mechanism against the “*actual trauma*” of the process. In her account, Participant 7 explains how she, in a sense, dresses for battle, putting on the armour of comfortable shoes and black pants as if suiting up for war. It further suggests an action of “de-feminising” herself to enter the system, where she needs to harden herself for a day filled with inefficient bureaucracy and emotional anguish, the sounds of crying children only adding to her own anguish for her child. This account reveals the systemic failures that force mothers to sacrifice their femininity to survive a system that should protect and support them.

Participant 1 narrates that in this post-separation scenario of trying to get over the loss of the relationship, with all the added trauma of the court and betrayal from the Family Court system (Katirai, 2020), even when the order of the court was signed and stamped it never felt like a win but rather “*like a sticky plaster over an infected wound*”:

“and eventually when you do get the order. I mean eventually the order of the court was signed and stamped It doesn't feel like a win. It feels like a like a sticky plaster over an infected wound; because it feels like you have just settled for everyone to keep quiet. There is no win.” (P1:115)

Participant 1 conveys a superficial fix when eventually receiving a court order that does not address the root causes. This metaphor suggests the Family Court are treating symptoms rather than the more serious underlying issues of domestic violence and

patriarchal power dynamics that are festering underneath. In doing so, Family Court fails to consider the complex, intersectionality of gender, power and patriarchy and, as a result perpetuates harmful power dynamics and fails to provide long term, sustainable solutions (McDowell & Fang, 2007). The vivid metaphor conjures up leaving the battlefield bloodied and injured, further emphasising the deep wounds and lasting scars inflicted by the adversarial Family Court system, particularly on survivors of intimate partner violence and their children.

The mothers' experiences within Family Court were highly stressful, as the system they had hoped would be their "knight in shining armour" turned out to be the "beast" that ultimately betrayed and devoured them (Dekel & Andipatin, 2016). This duality, where the system displayed both positive and negative qualities, mirrored the pattern seen in their abusive relationships, where women often remain hopeful that their partners will return to their *princely ways*. Mothers' discourses revealed a shift from initial hope that the "beast" would revert to its *former self* (Boonzaier, 2008), or that the system would deliver the promised justice, to a sense of despondency, betrayal, and loss when they realised they had been deceived twice over. Ultimately, the participants' experiences highlight how the Family Court system fails to provide a neutral and fair forum and instead becomes an extension of the abuse and control. This leaves mothers feeling trapped and powerless against this immense, and relentless *beast* of the system (Dekel & Andipatin, 2016).

The mothers' narratives revealed a pervasive pattern of system-related coercive control resulting in an overarching *We'll Show You Who's Boss* sentiment. The extracts of mothers' experiences within the Family Court system demonstrate how domestic violence is a complex issue deeply rooted in power imbalances, systemic inequalities, and coercive control. This sentiment was not only limited to Family Court but extended to various other legal and social systems and institutions. The discourses reveal how patriarchal systems have been used to abuse mothers, and how gender inequality underlies both our legal system and broader culture (Easteal et al., 2018; McKinnon, 1989; Meier & Dickson, 2017).

Mothers' narratives expose the power dynamics that are evident within Family Court proceedings, based on a system of socially constructed gendered hierarchies. According to research within a South African context, this "gendered hierarchy" (Jamieson et al., 2018, p. 83) is established and perpetuated through societal norms, where abuse that is used against women and children is seen to be justified (Fulu et al., 2017).

SYSTEMIC FAILURE - JUSTICE IS BLIND

The study shows that mothers navigating the Family Court system, experienced a devastating cycle of re-traumatisation (Katirai, 2020), and secondary victimisation (Douglas, 2018; Laing, 2016; Rivera et al., 2012a). This was perpetuated not only by the abuser for whom they had obtained the Protection Order but by their associates, legal counsel, families and religious organisations. Furthermore, it was perpetrated by judiciary, court personnel, legal counsel, service providers connected to the Family Court, and even the broader justice system, the very institutions and individuals tasked with providing support and impartial justice (Rivera et al., 2012a). The court process and institutional interactions were inextricably linked to underlying issues of power and control.

Bullying, Power, and Patriarchy

Within discourses, power dynamics were explicitly evident, with mothers describing pervasive patterns of domination and subjugation that manifested as a palpable "bullying attitude" that extended beyond the Family Court to various institutional systems.

The extracts from Participants 5 and 7 below, demonstrates how this gendered power dynamic manifests, with abusive partners using tactics like bullying and creating chaos to maintain control:

"Like and the biggest issue like right now is he can't bully me, and he doesn't like it. He doesn't know how to handle it, "You want people to be scared of you. You're a bully. At your very core you are a bully. You want the people around you to feel like shit". (P5:1092)

“Like they deliberately like create chaos around those trivial things because that makes you look bad.” (P 7:153)

As Connell (1995) proposed several decades ago, this hegemonic masculinity is a social structure that perpetuates male dominance and justifies the subordination of women, reinforcing gender inequality through societal perceptions of gender differences (Fulu et al., 2013b; McCarthy et al., 2018). Houston (2014) indicates that domestic violence is connected to a broader system of "male control" (p. 270), in which individual acts of violence are encouraged. As Houston (2014) explains, this violence is tolerated and sustained within the patriarchy through the interconnected structures of individual belief systems, institutional responses, and sociocultural attitudes. This is evident in the extract from Participant 2, who describes being held against her will and abused by the courts when she tried to voice her concerns. The court official's actions of locking her in the office and laughing at her are examples of how this gendered power dynamic manifests not just in individual acts of violence, but also through institutional structures and everyday interactions, as Houston's (2014) research suggests:

“and I said “I want my file to see what’s going on here”, and I went to that court manager, and. I said, “These people are not doing their jobs,” and the lady locked me in her office. I was held against my will. [Laughs]. I was being abused by the courts, literally. My parents were on the phone, and they heard me scream at this lady and she was laughing at me. She was sitting on her chair, and she was laughing the matter off. And she just said to me “She’s not going to do anything”. So that was the worst experience.” (P2:286)

The mother's account illustrates how abuse and discrimination against women can occur on multiple levels, within various institutional structures (Baxter, 2006). The interlocking structures of individual beliefs, institutional responses, and social/cultural attitudes all contribute to the maintenance of this gendered hierarchy (Houston, 2014). The account also demonstrates how issues of power are evident not only in actions but also in

the non-verbal communication, such as the officer “laughing” at the mother. In addition, Participant 2 laughs herself, when recounting being treated so dismissively, suggesting possible disbelief at being treated in such a manner, by the institution that is tasked with protecting her rights.

The extract from Participant 3, describes how the court system and its officials perpetuated harmful gender hierarchies and power imbalances, systematically disempowering and subjugating the mother:

“and in [Name of the court removed by the researcher] Maintenance Court 2012, um we actually arrived here in 2012, so it’s 10 years ago // Then she told my husband “Listen but you can deduct whatever you want whenever you want, you don’t need to pay maintenance” I said “What? I must come to court every time if I want an increase or anything I want to do with the maintenance I have to come to court but now you tell him he can do WHATEVER HE WISHES TO DO. He doesn’t have to pay, and a lady named [name omitted by researcher] came and told me “But listen. Get a boyfriend so he can take care of you and your children”....Clerk. Ja. She told me to get a boyfriend. [Laughs].” (P3:208)

In the excerpt we see how the court sided with the husband, allowing him to disregard his financial obligations, while the clerk dismissively told the mother to “*get a boyfriend*” to support her and her children. This reflects the entrenched patriarchal attitudes that view men as the breadwinners and women as dependent on male providers, rather than recognising the mother's autonomy and right to equitable treatment. The account illustrates how these socially constructed gendered norms operate as forms of harassment, coercion, and domestic violence within institutional settings, stripping women of their agency and reinforcing their marginalisation (Allen & Baber, 1992; De Reus et al., 2005; Ferree, 1990). The above account shows how social gender hierarchies lead to harassment, control, and violence against women (Mathews et al., 2015). These power imbalances and inequalities disempower and subjugate women, and reduce their autonomy (Mcdowell & Fang, 2007).

Participant 8 expressed uncertainty about whether engaging with the court system was even helpful, noting: *“...and I’m not sure if going to the court and all of that even helped, I think a lot of the time it made it worse.”* She described how within Family Court *“There was no empathy there. There was no empathy whatsoever. It is all men, and they treat you like crap.”* (P8:315)

Her statement reflects a gendered perspective on the mistreatment of women. However, in this case Participant 8’s frustration is directed not just at the individual men, but at the broader patriarchal system and its representatives who, in her view were fighting her and showing their ugly side instead of empathy and care. The extract reveals that intimate partner violence and post-separation abuse within a Family Court setting, needs to be understood not only in terms of the individual-level abuse, but also in the context of the broader system that enables and sustains it (Silverman et al., 2004; Spearman et al., 2023; Stark & Hester, 2019).

Participant 4 experienced a significant amount of bullying not only from her former partner but from his legal team saying:

*“[Sighs]... um. There has been a terrible amount of bullying from his legal team against me, **terrible**. More so that I’ve represented myself, since I’ve been representing myself, in an attempt just to break me down. Um, so definitely where the money is, is where the power is, and the courts as well. So, when he comes in with an attorney and an advocate, immediately the courts favour him over me.”* (P4:685)

Participant 4 observed that legal power was linked to financial power, where the wealthier party had more influence both in and out of the courts. She also noticed power imbalances in the court system, with her former partner bullying her and using his legal team to gain control. This shows how power extends beyond the personal relationship, where the legal system was used to exert power over these mothers. Her account suggests the courts favoured her former partner, pointing to gendered court system.

Studies have found that women face ongoing gender-based power differentials even without reported partner violence (Elizabeth et al., 2012b). Gendered power dynamics are central, especially in South Africa given the prevalence of domestic and gender-based violence (South African Government, 2020). The narratives from participants reveal how they struggled in Family Court, not simply because of their former partner's post-separation abuse, but because the Family Court system and other systems used power and gender to oppress them. Such issues confirm that discrimination against women can occur on multiple levels, through institutional structures and everyday interactions (Baxter, 2006). The extracts reflect the pervasive influence of patriarchal power structures, where gender norms and expectations are exploited by abusive partners, court officials, legal representatives, judiciary, and service providers, which are entrenched in sexist ideologies and inequalities.

In the exchange below, Participant 3 explains how the abuse extended across various social systems where she experienced further marginalisation based on the intersectionality of her disability and other social identities. She describes how she faced discrimination and abuse not only from her former partner, but also from the courts, hospitals, and other systems that were supposed to provide her support and assistance:

*Participant 3: The thing is to me, the government, the media, everybody speaks out about assistance supporting you. Where is that system? I'm still looking for the system. Ja. I'm still looking for; I want to know where is that system for abused women and children. Ja, so I mean where's the system? I can't find it. I You know what I found along all the way, **abuse**. The court's abuse, this one abuses, the hospital abuses me, everywhere I tried to get help I just got abused because you're disabled. I wanted to swear.*

Researcher: No go on.

Participant 3: Because I'm Mindfucked as they believe. I can't have depression. I can't have, I can't feel anything. I haven't got a heart. My heart is pulled out. I've got no feelings. I mean, come on man. Listen, why do I cry then. Is it because I've got no

feelings. Sorry, come up with another excuse. Um ja, and don't judge me if you emotionally break me. Don't judge me because that's what the hospital also did. "Ja she's cuckoos". I'm not cuckoos. I can show you. (Chuckles). P3:542

Participant 3's disability intersected with her gender, compounding the discrimination and marginalisation she faced, as she was perceived as "Mindfucked" and undeserving of care or support. The extract highlights how mothers' experiences of abuse and oppression are not limited to a single domain, but are shaped by the intersectionality of factors such as gender, class, disability, age, and other social categories that impact and influence systems of oppression and power (Mama, 2012; McDowell & Fang, 2007; Vetten, 2000). These experiences are manifested across multiple social systems that are entrenched in patriarchal power structures and sexist ideologies (Crenshaw, 1991; Rice et al., 2019).

Participant 6 described a traumatic encounter where she was further victimised by police officials, she approached to reinforce the Protection Order and obtain maintenance for herself and her child:

"I went back to the Police Station and said "He's in violation of our Protection Order" and a white Captain said to me " I'm sorry I can't see where he's abused you" and I said "if you have a look at my protection order it doesn't talk of physical abuse it talks about economic is my first, economic, emotional and psychological and verbal abuse". So, she goes "Sorry I'm not going to open up a case for you". I said to her "Do you understand all the forms of domestic violence? "She said "Don't you dare me! Are you questioning me? I know my job properly!" and I had my phone in my hand, and she said, she tried to, I don't know if she tried to grab it, but she came towards me and was like "if you're recording that I will I will lay charges against you" and she like literally like victimised me." (P6:178)

The exchange highlights how the abuse and oppression extend across various social systems where violence and oppression of women continues (Houston, 2014; Minto et al., 2020). Research indicates that women generally cannot occupy positions of power, as

power is associated with masculinity, leaving women in subordinate, passive, and powerless roles (Paechter, 2013). This is evident in the account, where Participant 6 questioned the police officer's knowledge of the various forms of domestic abuse, only to be threatened with "*Don't you dare me! Are you questioning me?*" for challenging the officer. Despite the participant's efforts to explain the different forms of domestic violence she endured, including economic, emotional, psychological, and verbal abuse, the police officer dismissed her concerns and threatened to press charges for recording the interaction. The account suggests that the police officer is female, highlighting how even female officials can perpetuate the patriarchal dynamics and power structures that underlie the systemic issues described in the passage. This further exposes how deeply entrenched these gendered hierarchies and biases are, such that they are reflected and reproduced even by women within the system. Participant 6 goes on to say:

"They made me that I had to go back to the police station. When I got there I, they laughed at me. They made such a joke of my Protection Order because there was no physical abuse. They said "What! We go out and catch criminals and rapists and hijackers and murders and you want us to go and arrest somebody for economic abuse "what the hell is this even?" you know. Um, and I ended up with a trauma counsellor..." (P6:133)

This incident illustrates how the participant's marginalised identities, such as her gender and socioeconomic status, intersected with power dynamics, compounding the discrimination she already faced, even within the justice system meant to protect her.

The mothers' discourses revealed how domination and subjugation were not just in the family court, but across a wide range of legal and social systems. This revealed deep-rooted power imbalances and systemic inequalities that underpin domestic violence after separation. The discourses revealed how the various systems meant to help ended up replicating the control the mothers had experienced. As Foucault's (1980) work shows, power and gender inequities extend from micro-level actions within intimate relationships to

macro-level manifestations seen in broader social structures, institutions, and patriarchal systems that abuse, dominate, and oppress mothers. This individual struggle is part of larger forces that systematically marginalise and oppress women, especially mothers, through gender-based discrimination, biases, and structural inequities. Therefore, to analyse power at its micro-level within the relationship or the court system, it is also necessary to examine its macro-level ideological aspects as well (Foucault, 1980).

Gender Inequalities and Patriarchal Bias

Mothers' frustrations and stresses within the Family Court system, shows that it was not an easy or straightforward process, as it required navigating a web of systemic abuses, financial abuse, institutional barriers, and patriarchal power dynamics that compounded their difficulties and kept them in shackled to both their former partners and to the system. In the examples we see how financial abuse, systemic inequality, and patriarchal power dynamics intersect with domestic violence situations, which places already vulnerable parents and children at further risk following separation, particularly in cases where family violence exists (Francia et al., 2019).

The discourses revealed how deeply ingrained patriarchal structures and gender-based inequalities are entrenched within society, culture, and institutions such as the Family Court system (Mcdowell & Fang, 2007). The participants describe a pervasive *"man's world"* (P8:132), where men can evade accountability for abusive and violent behaviours, perpetuating a larger system of oppression against women, especially mothers (Houston, 2014; Minto et al., 2020). As the extract from Participant 8 shows:

"So, you don't feel like you are getting a proper, a proper um representation, and you don't, I didn't feel like they actually saw it from both sides. They certainly didn't see it from my side or my daughter's side. You know to me it was "it's a man's world". The men get away with bloody murder there. You know..." (P8:132)

The discourse highlights how traditionally held gender narratives, and the social construction of gender are reflected in the court's failure to adequately address the

experiences and perspectives of the mothers and their children. This points to the need to recognise and revalue "subjugated knowledges" (Mcdowell & Fang, 2007, p. 552), where the lived-experiences and marginalised voices of women are recognised as a crucial source of critique against dominant patriarchal discourses that underpin these structural inequities.

The study showed that gender-based power imbalances and biases are not just evident in the court system, but are deeply embedded within broader social, economic, and legal frameworks. As research shows, addressing this complex web of oppression requires dismantling the patriarchal foundations that enable the continued marginalisation and subjugation of women, particularly mothers who are uniquely vulnerable to post-separation abuse and control (Fulu et al., 2013b; Mshweshwe, 2020; Namy et al., 2017; Saunders et al., 2023; Spearman et al., 2023; Vyas & Jansen, 2018).

Gender dynamics were deeply embedded within discourses surrounding financial matters, with gender differences evident in economic power, well-documented in the literature (Anitha, 2019; Elizabeth et al., 2012b; Postmus et al., 2020; Sharp-Jeffs, 2021; Spearman et al., 2023). The narratives revealed how gender-based inequities and power imbalances profoundly shaped the mothers' experiences, particularly in relation to financial resources and economic security. These gendered issues were often implicit, underlying the struggles the mothers faced in navigating legal and social systems that reflected and perpetuated patriarchal structures and biases (Fulu et al., 2013b; Mshweshwe, 2020; Namy et al., 2017; Saunders et al., 2023; Spearman et al., 2023; Vyas & Jansen, 2018).

Participant 5's statement highlights the profound gender and power imbalances within the legal system, where patriarchal structures and biases systematically disadvantage and marginalise mothers. She explains how the system is rife with so many *"loopholes for men to get out of their responsibilities,"* enabling fathers to continually drag mothers back into court, despite mothers often being the sole providers for their children:

"Yes, how does this work? How does this system...? How does the system help mothers and children, well not even mothers, the Primary Caregiver? How is it

helping them? It's NOT. There are so many loopholes for men to get out of their responsibilities and the fact that he can just make applications like this [clicking fingers]. Left right and centre he can make applications, and I must constantly be dragged in there. Never mind that I'm basically the only person supporting (child). I'm the only one paying school fees, medical aid, his therapies, his clothes. I'm doing all of that, but now I must constantly take time off work and its fine for me because I can take a day's leave, you know and then I just get "Aah what a waste of a day's leave" but there are women who will get fired for taking too many days off." (P5:648)

Participant 5's account shows how deeply entrenched patriarchal structures fail to support and protect mothers, ultimately compromising the wellbeing of their children as well (Fulu et al., 2013b; Mshweshwe, 2020; Namy et al., 2017; Saunders et al., 2023; Spearman et al., 2023; Vyas & Jansen, 2018). Additionally, the research indicates that societal narratives which undervalue mothers' domestic work and promote misogynistic stereotypes portraying mothers as obstructive or spiteful further exacerbate mothers' vulnerability to abuse post-separation (Elizabeth et al., 2012b; Spearman et al., 2023).

The excerpts reveal how gendered power dynamics and patriarchal biases are embedded within legal, economic, and social systems, which systematically disadvantage and marginalise mothers. These gendered power imbalances reflect the larger gendered hierarchy where fathers wield disproportionate power and control, while mothers, as the primary caregivers, are forced to sacrifice their livelihoods and financial stability to navigate a system that fails them. This limits their access to resources and heightens their vulnerability (Nnoli et al., 2023). The extracts above show how the challenges faced by mothers in their post-separation Family Court experiences are further exacerbated by the intersection of gender-based inequalities and other forms of oppression related to factors like race, class, disability, or location (Anitha, 2019; Boonzaier & van Niekerk, 2018; Gottzén et al., 2020). These barriers, compounded by patriarchal social structures, restrict economic opportunities

for women, leading to the 'feminization of poverty' described by scholars (Crenshaw, 1991; Easteal et al., 2018; Muliolino, 2021).

Resistance and Agency

The mothers' discourses revealed their resilience and agency. Even in positions where they felt powerless or were overpowered, the mothers still exercised agency and resisted oppressive power in various ways. This included both subtle acts of defiance and negotiation, as well as the strategic use of social, emotional, or intellectual resources. This agency was exercised within the context of social structural constraints, showing how within this context, they often had limited options and choices but negotiated these boundaries in their attempts to navigate and succeed within Family Court processes.

The mothers' narratives reveal a complex interplay of embracing and resisting dominant power structures and gender roles (Boonzaier & de la Rey, 2003). Their experiences within the Family Court system demonstrated their agency in both conforming to and at other times challenging societal expectations of masculinity and femininity (Connell, 1995). In accordance with the theory by Connell (1995), mothers either 1) accommodated men's (patriarchal) interests and complied with subordination, 2) were non-compliant and actively resisted the idea of male patriarchal power or 3) displayed a middle ground where they neither fully agreed or resisted.

In the mother's description of their interaction within Family Court we see how they adapted and navigated the court system often by accommodating and complying with the demands of the system. During court processes mothers either resisted or accepted outcomes that were often not in their or their children's best interest. Participant 6 explains that having come from an abusive relationship, she had grown accustomed to dysfunctional dynamics, which meant that she did not readily recognise the systemic and cultural barriers she faced during court proceedings. She explains this below:

“Ja, it’s pretty insane, I mean I keep coming back to the fact that we become so adjusted to surviving in dysfunctional relationships and I mean personal relationships, um and we kind of adjust to systemic and cultural barriers.” (P6:11)

In the extract from Participant 5 we see her accommodating the needs of her former partner:

“and [Pause] I mean the frustrating thing is that I’ve never tried to deny him access, ever. I’ve encouraged access you know, but when I’ve encouraged it, he doesn’t want it, then he’ll take me to court for what I’ve just offered you. I just, I mean it’s just. None of it makes sense.” (P5:984)

Within the context of their pre-separation abusive relationship mothers had described how they often had to adopt gender norms, passive positions and submissive behaviour to protect themselves from escalating violence. Following separation and in their experiences within Family Court, we see how their decisions to remain passive and avoid confrontation were often shaped by their past experiences of abuse, where standing up for themselves had escalated the situation and often resulted in violence (Houlgate, 2017; Stratemeyer, 2021). It was observed that the mothers’ agency and resistance was influenced by the specifics of their circumstances, including the level of power they had (or lacked) in their relationship, and the extent of their partners' control and abuse. It further shows the need for women who have experienced domestic abuse, to conform to these accommodating and constraining roles to ensure their own safety and shows the patriarchal power structures that women must navigate, and which are of particular significance when mothers are domestic abuse survivors.

Participant 1 described that as the more passive party she was not able to *fight* her husband or the court system. She described how she felt as though the louder your voice the more you are heard and how she had never been very good at fighting saying that:

“I was never any good at fighting my ex-husband, and he has always been a very good fighter” (P1:99).

While Participant 1 felt constrained in her ability to fight her husband or the court system, the broader extracts reveal how mothers who have experienced intimate partner violence often face considerable challenges in asserting their agency and resistance within the patriarchal structures of the legal system. The study shows that mothers may feel compelled to adopt more passive roles, but this passivity is not a reflection of their inherent capabilities, but rather a consequence of the power imbalances and systemic disempowerment that they confront.

As seen in this study and in the literature, discrimination and domination against women occurs on a number of levels; through the institutional structures; and even in everyday interactions, including language (Coates, 2012; DeFrancisco, 1991; Finegan, 2012; Litosseliti, 2013; Matoesian, 1993; Shaw, 2006; Wooffitt, 2005; Zimmerman & West, 1975). The extracts further reveal how in this patriarchal society, men are often socialised to assert dominance, relegating women to subordinate positions and denying them autonomy and agency (Bishop & Bettinson, 2018; Dichter et al., 2018; Douglas, 2018; Johnston, 2006; Katz et al., 2020; Stark & Hester, 2019; Tolmie, 2018). This creates an environment where mothers are systematically silenced, which makes it difficult for them to advocate for their rights and those of their children. However, despite this, their very presence and continued efforts to navigate these systems shows resistance and agency, despite the barriers that they faced.

As research suggests, within the system, participants often had limited agency, with women confined to subordinate, passive, and powerless roles (Paechter, 2013). This was evident in the account from Participant 2, who described how she should wait, be patient and not challenge or tell the court what it should be doing:

"I mean you shouldn't tell the court what they should be doing, you must just keep quiet, and they must run at their pace, and I think that's why it dragged out because it's at their pace. They decide when something should happen and that's why people give up its because it takes too long" (P2:139).

Such examples illustrate how gender relations and power relations are interlinked and are particularly relevant within an adversarial court setting with an abusive ex-partner. This aligns with research by Coates, (2013) , who noted, that within institutional settings, women are significantly disadvantaged, as they are expected “to adapt to androcentric norms, for example to use the more adversarial, information-focused style characteristic of all-male talk, and typical of talk in the public domain. But women who successfully adapt to characteristically male linguistic norms run the risk of being perceived as aggressive and confrontational, as un-feminine, while those who choose to use a more affiliative, cooperative style risk being marginalized” (p. 93). This was noted in the study where mothers who challenged this system were often punished. For example, the account from Participant 8 shows that within the system, mothers who were non-compliant and actively resisted, by challenging or questioning the patriarchal power structures were often put in their place:

“Well, [Pause] I remember the one thing we went to ...[Pause] um court. We went to, before he went to to um, [overseas], and this was a reason I brought it up. He’s telling me he’s got no money but he’s going to [name of city removed by researcher] ... and the magistrate turned around and says “That’s got nothing to do with you Ms [Surname removed by researcher]. Ja “It’s got nothing to do with you. Mr [Surname removed] don’t worry about that it’s got nothing to do with her. It’s your life [in reference to the husband] “ok thank you”.” (P8:138)

Participant 8 recounts how the magistrate reprimanded her for bringing up the issue of her former husband's failure to pay child maintenance while traveling overseas. She describes how the magistrate ostracised her and sided with her husband. Such examples demonstrate how the courts may covertly or overtly reinforce gender hierarchies and penalise mothers who challenge the system. Another example is from Participant 6, showing a similar pattern:

“He’s just told them that he’s emigrating to [country removed by researcher], ...and they did not interrogate the authenticity of this document. He took his word for it. Considering we are in the middle of a criminal trial, and this is a very serious offence I request that you you take his passport away until this has been settled. The [official] said “We cannot infringe on his constitutional right to freedom of movement” Anyway we then go into the court because he’s asked for a postponement, the magistrate says to him “I see that you’ll be travelling out of the country, if you are unable to be back in the country in time, please let us know and we will postpone the matter for you”. Also, very considerate towards him.” (P6:168)

Participant 6 explains that when she raised concerns about her former partner emigrating, she was told that *“We cannot infringe on his constitutional right to freedom of movement”* and the court accommodated his needs in deciding when the next court date would be. She felt that court officials were always very accommodating towards her former husband who was defaulting in breach of court orders and Protection Orders, indicating a prejudicial and gendered attitude towards her.

The accounts from the participants illustrate how, in many interactions, resistance and agency were shaped by various factors such as, the allocation of resources, institutional practices, social norms and social interactions, patterns of behaviour, and internalised beliefs and identities. In this way, it becomes apparent that the context can influence women’s decisions, behaviours, and emotions to varying degrees (Campbell & Wasco, 2000; Guba & Lincoln, 1994).

Participant 3 explains how, in her desperation, she was pleading for assistance but *“almost”* got into a fight due to asking *“What’s going on?”* Her narrative shows that when she demanded assistance and was assertive, she was instead dismissed and ignored:

“...but we almost got into a fight because I was asking them “What’s going on now?” because everything is quiet, but this is now 10 years. We’re desperate. We’re desperate. We want the support. We’re desperate. I can’t stop it. We’re desperate.

/ .../ and then all of a sudden everything is quiet.” (P3:510)

Research has shown that women's experiences are shaped by their diverse social contexts that situate them within society (McDowell & Fang, 2007). Examining factors like race, class, and ethnicity provides a more nuanced understanding of how women's intersecting identities and complex social positions both empower and constrain their agency (Allen & Baber, 1992; De Reus et al., 2005; 2005; Ferree, 2010; McDowell & Fang, 2007). The discourse of mothers show how their exercise of agency was not a simple, individual act, but rather occurred within a particular socio-cultural framework that significantly influenced the meaning and consequences of their choices and actions (Hobbs & Rice, 2018; Rice et al., 2019). This is evident in the extract from Participant 6 below:

“because that’s why I’m here. I was literally thrown out of [Name of Police Station removed by researcher] for making a nuisance of myself, and long story short um, I said, “Why am I the only woman who is so aggrieved that’s ended up in your office?” And he said “Women are scared, um they don’t have money. They don’t know who they are dealing with, and they could possibly put the fathers of their children in jail”, and when he said that Sharon, I promise you it was like a fire had just ignited in the deep down inside me.” (P6:37)

The interplay between the individual and the broader sociocultural context highlights the nuanced and multifaceted nature of women's experiences, decisions, and emotional responses within the context of intimate partner violence and Family Court (Anderson & Saunders, 2003; Dekel & Andipatin, 2016; Smye et al., 2021).

The extract from Participant 1 shows a middle ground where she grappled with the tension between actively resisting the idea of male patriarchal power in the Family Court system and accommodating her former husband's interests to maintain some civility or functional relationship for the sake of their children. She displays a complex navigation of agency, neither fully agreeing with subordination nor fully resisting it:

“and um there was always this feeling from me, excuse me, through all this fighting, through all the abuse I always felt like that at the time. I don’t feel like that now thank heavens, but I always felt as though you know what if I just kept quiet if I don’t fight then things will get better and that he, not that we would, not that we would re um restore the marriage, but that we would have a certain amount of reconciliation. Where we can get to a point of either civility or really a functional friendship for the sake of our children, but it was always at my cost because we were never on the same page with that. Until today there is a huge amount of resentment. There is a huge amount of of this like shoo Amazon River between the two sides.” (P1:124).

Participant 1 describes feeling a constant internal struggle, where she considered keeping quiet and not fighting back, in the hope that things would improve, and her and her former husband could possibly reach a point of civility or functional friendship. However, this was always at her own personal cost, with her describing how they were never on the same page. Ultimately, this led to a huge amount of resentment and division between the two sides. Her narrative reflects the difficult balance women must strike between exercising agency and conforming to patriarchal norms within the Family Court context.

The mothers' discourses show shifting identities and strategies in response to the violence in their lives, both from an interpersonal and on a meso and macro level. These accounts challenge stereotypical representations that portray abused women as passive, powerless victims. These shifting, diverse, and at times contradictory identities, which are expressed through the participants' language and draw on cultural and contextual resources, align with a post-structuralist understanding of language and subjectivity (Baber, 2009; Boonzaier, 2008; Boonzaier & De La Rey, 2003; Salo, 2010). According to this perspective, women are not simply helpless victims of patriarchal oppression, but rather, their gender identities are complex, shifting, and situated in multiple contexts, continuously fluctuating between positions of power and powerlessness (Baxter, 2010, p. 18).

By recognising the diverse ways that the mothers' asserted agency and resisted oppression, we move away from oversimplifying the experiences of those who have endured abuse. This provides more nuanced and comprehensive understanding of violence, which considers people's complex relationships to various dimensions of power and social inequalities (Gottzén et al., 2020).

Gaps in the Family Court System

During their questioning of the system in the *And Now What?* Phase, participants' insights revealed a pattern of power dynamics and gender bias towards mothers, which disempowered and negatively impacted them and their children. Furthermore, the study exposed gaps in the Family Court system's ability to identify and respond in cases where relational and post-separation abuse exist (Miller & Smolter, 2011), with the following being noteworthy:

Gender Neutrality and the Law

Findings suggest that while the law claims to be neutral, gender was a compounding factor across all Family Court processes, with gender disparities highly noticeable and relevant in post-separation interaction in the Family Court settings (Miller & Smolter, 2011). Participant 6 describes a confrontation with a judicial officer regarding the *gendered nature* of the Family Court process of maintenance:

"I said to her, "So how is it that you don't consider the genderedness of maintenance because this is a very gendered thing?" and she, she had the audacity to say to me "Um the laws not gendered," and it's because of the equality laws that it works to the detriment of women, and I'm going "that's a load of crap" because every single policy, every single legislation, every single process is policy informed and how is it that policy in terms of enforcing maintenance is not gender informed because the impacts of this are very gendered." (P6:334)

The account highlights how the law aims to ensure equality, but the reality in Family Court processes is that gender and power dynamics inherently disadvantage women,

especially mothers. While South Africa has made strides in advancing gender rights over the past decades, resulting in gender-neutral parental rights, that can now be exercised by parents of the same gender (Ridgeway & Correll, 2004), this equality also informs the fathers' rights movement's argument and influences legal decisions regarding children post-separation. Accounts from mothers revealed that even when the law posits itself as gender-neutral, underlying gendered and patriarchal dynamics of the system persist.

Domestic Violence and Post-Separation Safety Concerns

Within the Family Court setting, despite the numerous advances in gender rights, mothers noted that the social constructions of gender were apparent within the Family Court system (Ridgeway & Correll, 2004). Mothers navigating Family Court found themselves in a contrary position, of having to balance their own safety concerns with prioritising the needs of their children, which were often overlooked due to standard legal practices (Miller & Smolter, 2011). Court proceedings frequently provided abusers with the opportunity to harass and intimidate the mothers. While the children's needs took precedence, the mothers described that their own safety and needs were often treated as secondary:

“So now your your love of your child or your want for his future, you have to put your needs second, or your fears and your safety concerns almost second. So, you have to sit there like you were saying in a court, but you are there for your child, but your own needs are now secondary.” (P5:1047)

Participant 1 expressed a similar sentiment: *“You are trying to do it for your children, but you've also got your own personal trauma”* (P1:108). As a result, mothers often have to participate in these proceedings without adequate social, psychological, and legal support, confirming that the state's involvement critically shapes mothers' their post-separation experiences (Smye et al., 2021).

In Family Court, despite having Protection Orders, all mothers were still legally required to participate in proceedings and have contact with their abusers (Khaw et al., 2021). For instance, Participant 5 described how she requested support from the court in

navigating her safety concerns, however, she explains that her safety concerns were not considered in the Family Court system. She describes being dismissed and forced to sit in the designated waiting area, with the word "*insisted*" suggesting that she had limited agency, despite having a Protection Order:

"The whole system doesn't make sense. I don't know how it works, um but just my experience with the Maintenance Court, you know like in the [name of Court removed by researcher] they've got demarcated, designated areas that you sit for each court. So, you go for like a Section 6 at the court and I was sitting in the wrong area, and they wanted me to sit down there, and I'm not sitting there. I said "He is there, and I've got an Interim Protection Order. I don't have anyone else with me here today and he abuses me. He is rude to me. I said, "I'm not sitting there" and she insisted that I sit there despite the fact that there is an Interim Order." (P5:540)

Participant 3 described a similar experience: "Ja, so that's what happened to me and um I actually feel I never got support from court especially this protection order" (P3:100).

Such accounts confirm research showing that mothers felt that the Family Court did not respond appropriately, which left them feeling unsupported (Dragiewicz, 2014; Jamieson et al., 2018; Proudlock & Rohrs, 2018; Zeoli et al., 2013). The examples above illustrate how there is a societal belief that leaving an abusive relationship will put an end to the abuse (Smye et al., 2021). However, as the study showed, this was not the case, with the mothers facing numerous barriers to ensuring their safety (Stark et al., 2019). This confirms research showing that a failure of effective intervention leaves women and children unprotected and vulnerable to further abuse following separation (Machisa et al., 2018). The mothers' accounts revealed that minimising or invalidating their experiences of abuse increased their levels of distress (Silberg & Dallam, 2019); but increases the severity of post-traumatic symptoms (Campbell, 2002; Fulu et al., 2013a; Humphreys & Thiara, 2003a; Machisa et al., 2018; Silberg & Dallam, 2019), and had an impact on their well-being and that of their

children (Silberg & Dallam, 2019). As Participant 7 accurately observes, if a mother is not safe how can she provide safety and care for the child:

“You think that what would be paramount was the safety of the child, would ultimately you would think that because it’s a mother’s special right to care for the child and to be available for the child, emotionally, to nurture that child. If a mom is not safe, how can they provide that safety for the child.” (P7:287)

Consistent with research findings, mothers described how 1) the courts and service providers minimised or dismissed intimate partner violence; 2) felt that past abuse was irrelevant to current matters and not an issue post-separation in Children’s Court matters; 3) were advised by legal and social services to avoid raising domestic violence, as it would not serve them well in court. Consistent with research findings, the analysis revealed that the judiciary, court personnel, legal services (Dutton et al., 2009), and divorce mediation (Laing, 2016; Rivera et al., 2012b; Zeoli et al., 2013), held dismissive attitudes towards domestic violence, even though participants observed that these professionals often lacked a comprehensive understanding of the issue and the challenges faced by families (Birnbaum & Bala, 2010; Polak & Saini, 2019). Mothers found that recommendations were often biased, based on the personal and socially constructed views of professionals (Saunders et al. 2013; Silberg & Dallam, 2019), who considered domestic violence between divorced or separated parties irrelevant to post-separation matters (Saunders et al. 2013; Silberg & Dallam, 2019).

Intimate Partner Violence and the Impact on Children

In South African laws and protective legislation, the presence of domestic violence is a factor in determining the “best interests of the child” with indications that domestic violence against women affects children directly and indirectly (Sheehy & Boyd, 2020). Research has further shown the detrimental effects of domestic violence on children, including the negative effects of witnessing or experiencing the same abuse, as in cases of economic abuse (Douglas & Walsh, 2010; Namy et al., 2017; UK Centre for Research on Violence Against Women, 2011; Zeoli et al., 2013). However, this study found that Family Courts often

disregard abuse of mothers and deem it irrelevant to child-related matters. It was noted that the courts also failed to recognise how domestic violence can manifest in indirect forms, such as economic abuse, which directly impact children (Stark et al., 2019).

Gender Roles, Mothering and Family Court

The study found that court processes are often marred by gender biases that undermine mothers' value as capable, nurturing caregivers (Enaifoghe et al., 2021). It was observed that even though the courts claim neutrality, gender bias significantly impacts Family Court proceedings (Miller & Smolter, 2011). Consistent with research, the study confirmed how systemic barriers, such as Family Court procedures, reinforce the inequities experienced by mothers navigating these spaces, especially in cases involving domestic abuse (Khaw et al., 2021; Smye et al., 2021; Spearman et al., 2023; Stark & Hester, 2019). While most mothers believe that men are equally capable parents, the question of gender equality in parenting often becomes more complex after separation, particularly in situations involving domestic and family violence (Sheehy & Boyd, 2020). Mothers observed that their natural maternal traits, and traditional feminine attributes were frequently used against them in child-related matters, as is evident in the extract where Participant 7 explains how the traits and concerns she would describe as representing a mother's natural and protective nature were instead used against her in Children's Court:

“So, if I'm feeling anxious, so as part of the parent plan, the parent plan I was ordered to hand the child over for seven days to the father over Christmas, the Christmas period by one of the magistrates. The child had never previously been in the father's care on his own ever. He'd never, and (the man) had never changed a nappy, the father; and the magistrate ordered as an interim order that the child spend 7 nights consecutively with the father, and my response was obviously I'm going to exhibit anxiety or emotions of um being unsure, because firstly you are dealing with the trauma of a betrayal; you are, you are compromised. You 've had HIV tests, you've been betrayed, you've been in a sexually abusive relationship...with somebody who

is your life partner who's betrayed you and that in itself creates an anxiety within you from that and on top of that for a woman to be anxious about your child, because your child-mother bond is a primary. It's an instinctive and a healthy bond, and now for somebody to break that unnaturally is um, is going against your mother's instincts, so obviously that's going to make you feel anxious, but overnight I mean, I don't I don't agree that that is what's best for a new-born baby to be without its mother for 7 nights. It's madness. Yes, and you know "why you're so anxious?" (P7:262)

The discourse of Participant 7's experience illustrates a gendered bias in Family Court proceedings, where a mother's natural instinct to protect her new-born from an abusive partner is misconstrued as a character flaw and used to undermine her fitness as a caregiver. She explains that any mother would feel a sense of anxiety about handing over their new-born baby, even temporarily, to someone who had previously abused them. Rather than seeing these qualities as positive attributes in a parent, the court system misrepresented these attributes into character flaws and as reasonable grounds to have her child removed from her care. Her experience points to "the pathologizing of mothers" with Silberg and Dallam (2019) noting that in Family Court "two-thirds (67%) of the mothers were pathologized for advocating for the safety of their children" (p. 159). The experience illustrates how mothers' natural maternal instincts and protective concern for their child's well-being can be used against them by various players in the Family Court system.

Such examples reveal how gender discrimination within the Family Court system extended beyond care and contact matters, and seemed to be a pervasive overarching issue evident in all social tiers and structures (Enaifoghe et al., 2021). By failing to recognise the inherent value and importance of mothers, the Family Court system undermines the very foundation of the societal framework that purports to prioritise and uphold the value of the family unit. This systemic disregard for the essential role of mothers in nurturing and caring for children contradicts the proclaimed commitment of supporting and preserving family structures (Hall & Richter, 2018; Department of Social Development, 2021).

Gender, Economic Abuse and Maintenance

The study revealed that a lack of institutional understanding of economic abuse, perpetuates the marginalisation of its victims, undermining and failing in the very purpose of the legal system to protect vulnerable members of society. This aligns with Jamieson et al's (2018) call to transform social norms that condone violence against women and children and advance gender equality (p.83). The study found that economic abuse, a type of domestic violence, is often overlooked by courts, legal systems, and police who focus solely on physical violence, failing to consider patterns of behaviour that exert control over, take advantage of, or undermine an individual's financial resources (Postmus et al., 2020). Mothers reported that economic abuse was not adequately addressed, as they were referred to maintenance courts instead of having it treated as domestic abuse, even with Protection Orders listing economic abuse. Participants, like Participant 6, felt that their reports of economic abuse were dismissed, with police telling them that they are not "debt collectors." This lack of recognition for economic abuse perpetuates the marginalisation of victims and fails to protect vulnerable women and children:

"because it was economic abuse. Not physical abuse, but the one, she was a very high-ranking woman, and she said to me "We're not debt collectors. Like what do you want us to go and collect your money for? We're not debt collectors." I stormed out of the detective's office, slammed the door and went back to the charge office. Collectively they did not know what to do with my protection order because it was not for physical abuse." (P6:121)

The prosecutor's dismissive attitude and failure to address economic abuse reveal systemic biases against mothers and a lack of support for victims of domestic violence. This reflects patriarchal views that prioritise physical forms of abuse over other forms of equally damaging abuse. The narrative visibly demonstrate the disconnect between various services such as police, child protection, and women's services, which in turn has serious implications for women and children (Douglas & Walsh, 2010; Proudlock & Rohrs, 2018).

The analysis highlights how victims of economic abuse are further marginalised by broader systems, pointing to the systemic failure to address gendered power imbalances that do not protect mothers and their children.

Gender, Court Process and Patriarchy

Another contradictory and gendered dynamic observed in the study was that in maintenance court proceedings, mothers were required to prove the father did not need a reduction in child maintenance, rather than the onus being on him to demonstrate his need for a reduction. This revealed systemic issues and concerns for mothers, as Participant 5 highlights below:

“...and “that’s for the Prosecutor to deal with”, and then she said to me, and this was also, I was like “Excuse me? What? How does this work?” [SIGH] She said to him [pause]. He’s moaning about not having the documents blah blah blah, and she said “If she [the participant] doesn’t bring the documents to court, you have applied for the reduction, the onus is on her to prove that you don’t need a reduction.” So, if she doesn’t have the correct documents, she can’t prove that you don’t need a deduction, in which case the re-deduction, [Tongue tied] the reduction will be granted,” and I said “On what...?” I said to her “How is the onus on me to prove that he needs a reduction, that he doesn’t need a reduction? How does it fall ON ME to prove that? Surely the onus is on HIM to prove that [Child’s name removed by researcher] expenses are lower than what I say they are, and that HE needs a reduction?” How is the onus on me? The onus is on me to prove that he can afford it? It’s not on him?” There’s an existing court order in place. We’ve been through the process, but the onus is on you THE MOTHER, the person paying for everything to prove that he shouldn’t get a reduction, and that for me just summed up the entire system. You can make these claims that you can’t afford to care for your child which are bullshit. You can say that and then it’s up to you MOM to prove it, to prove otherwise.... It just doesn’t make any sense, and that just sums up the entire system. They don’t care

*about the mother, and they DON'T care about the child. THEY DON'T. It is so patriarchal it is [hands over face] That for me just sums the whole thing up. I'm just like "You have got to be kidding me. [Pause] Like he's like he's 6 months in contempt of court of an existing order and that's okay, but YOU didn't bring all the documents printed today so I will have **You** arrested, and I was like [Mumbles] "Oh my! How does this ...?" (P5:632)*

The extract reveals how the court system applied different social rules and justified differential treatment of men and women, creating a hierarchy which is the core of sexism (Becker, 1993). As MacKinnon (1979) points out, the different treatment of men to women is not the main issue of discrimination, rather, "the core of discrimination is not treating similarly situated men and women differently" (as cited in Becker, 1993, p. 304). Additionally, these examples show that the court system lacks understanding of financial abuse, economic deprivation, and coercive control and how these tactics are utilised post-separation, allowing abusive former partners to manipulate the system against mothers.

Competing Discourses

There are competing and conflicting discourses surrounding the nature of domestic violence and the impact that it has on the post-separation experiences of mothers and children. There seems to be a significant divide between the fundamental beliefs of father's rights groups and those of domestic violence advocates (Jaffe, 2005; Saunders et al., 2013; Stark et al., 2019). These are most prevalent in the discourse of children's rights, parental rights and responsibilities, and allegations of parental alienation.

Father's Rights Trump Children's Rights

The research findings suggest that the 'best interests of the child' principle (Children's Act 38 of 2005) pertaining to children's rights may not be neutral. Within legislature, while domestic violence is a legal consideration, in practice the father's right to a relationship with the child was seen to be prioritised over the safety and wellbeing of the children and their protective parent (Hunter et al., 2018; Sheehy & Boyd, 2020). The

literature has noted that contact with the father is often implicitly assumed to be in 'the best interests of the child' (Ridgeway & Correll, 2004), even though this may not be the case in situations involving domestic abuse and family violence, where the study found that mothers felt that their safety concerns were not adequately considered.

The study found that mothers perceived a gender bias, where fathers were often awarded parental rights simply by virtue of being named on the birth certificate, while the caregiving contributions of mothers were often undervalued. The account from Participant 2 points to how the law can prioritise fathers' rights over children's rights, even when this compromises their wellbeing and safety:

"The whole birth certificate thing. I'm... ek is soo kwaad. [I am so mad]. I wish he wasn't on there, but he's the dad. So that whole unabridged birth certificate I think it's the worst thing that this country could ever have brought in. It gives him so much power. So, if she wants to go on a school trip, I need to get his consent first."

(P2:265)

Mothers also noted how the principle of maintaining contact with both parents, seemed to trump safety concerns and how the "best interest of the child" was often undermined by the rights of the father. Mothers felt that there was an implicit expectation for the need to encourage shared parenting and felt the courts did not adequately consider factors such as a parent's relationship with the child, the relationship between the parents, or the caregiving roles played by each parent. This points to a significant gender bias in Family Courts, which fails to not only adequately protect mothers but also their children from ongoing abuse.

'The Friendly Parent' Standard: The study observed that the Family Court frequently applied the "friendly parent" standard (Laing, 2010, p.10) when deciding the child's best interests (Dragiewicz, 2014; Fontes, 2004; Hans et al., 2014; Hardesty & Ganong, 2006; Jaffe, 2005; Rivera et al., 2012b; Saunders et al., 2013; Slote et al., 2005). This standard requires the court to consider the extent to which parents promote

relationships between the child and the other parent (Wilcox, 2012). As a result, mothers were expected to encourage and facilitate relationships with abusive parents, despite valid safety concerns (Saunders et al., 2013). Additionally, the court upheld a father's right to contact even when the father had failed in his duty of financial support, neither of which are in the child's best interest.

Understanding of Domestic Violence by Service Providers: The study found that the interpretation of the 'best interest of the child' was not only gendered, but was also influenced by the values and biases of decision-makers (Boyd et al., 2019). Mothers noted that certain gendered value factors were particularly relevant to judicial assessments, favouring the rights of fathers and negatively impacting mothers who resisted paternal contact (Robertson & Broadhurst, 2019). Mothers observed that certain gender-based values significantly influenced judicial assessments, which prioritised fathers' rights and adversely affecting mothers who resisted paternal contact. The study's findings align with literature showing that the recommendations made by legal and social service professionals were frequently biased and rooted in personal views and socially constructed notions, rather than a comprehensive understanding of the complex issues faced by families navigating abusive dynamics after separation (Birnbaum & Bala, 2010; Polak & Saini, 2019; Robertson & Broadhurst, 2019).

The study found that Family Court personnel, including judges, lawyers, and service providers, often failed to properly consider the impact of domestic violence when making care and contact decisions, or determinations that affect the family. It was also found that the impacts and effects of domestic violence on children were frequently underestimated and misunderstood by the court and other professionals attending to family and family violence matters. The findings are aligned with other studies (Martinson & Jackson, 2017; Robertson & Broadhurst, 2019; Sheehy & Boyd, 2020). Mothers found that judicial and service providers, when formulating recommendations for care and contact matters, believed that past abuse had no bearing on the present situation, and particularly that of the child (Sheehy

& Boyd, 2020), and that past abuse should remain in the past (Sheehy & Boyd, 2020).

Mothers felt that their concerns about their children's safety were frequently dismissed, as the court system assumed that past abuse was no longer relevant once the parents separated (Stark et al., 2019). This reflects a fundamental misunderstanding of the effects of domestic violence on children's well-being (Silberg & Dallam, 2019).

Rights But No Responsibility

The findings of the study revealed that court process often failed to prioritise the best interests of the child, and instead focused on the father's parental rights, while failing to consider his responsibilities towards the child. This disconnect between the father's obligations and the child's well-being draw attention to the many imbalances and competing discourses that were observed within the Family Court system. Parental rights and responsibilities are specified in The Children's Act 38 of 2005; which includes the parental responsibility of contributing to the maintenance of one's child (Children's Act 38 of 2005; Jamieson et al., 2018). When one parent fails to contribute towards the care of their child by deliberately or maliciously choosing not to, it places a tremendous strain and burden on the other parent "reducing their already strained capacity to provide for children's basic nutritional, health and education needs" (Proudlock & Rohrs, 2018, p. 19); as the extracts from participants show:

"because now the lawyer asked me" How do you know he's got money?" I said, "It's not about the money. He can at least contribute something. I mean why should I carry all the costs? I live on a small salary....When I'm done, I've got fifty left. Now I said, "How's that fair?"" (P2:95)

"but I feel why does the father get away with it. I must still provide. Why am I the only one that has to provide? Where's his money? Come on. Bring. I mean you have to bring it." (P3:462)

"It's hard, but it's hard when you are not staying with your child. You visit where the child stay. You can see that your child doesn't have even the proper clothes to go to

the school. You leave him, you're going to leave her like that., where, without having the school uniform, without those shoes, without the buckles. I'm going to leave her in that kind of situation. It's a very painful for the mother. It's very painful for myself. He didn't care." (P9:27)

According to Stats SA, 42% of children nationally, live with their mothers only (Stats SA, 2020). Mothers descriptions shows how the financial stresses in single-parent households put mothers leaving abusive relationships at a higher risk of poverty, further marginalising women in the context of domestic violence (Dekel & Andipatin, 2016; Guedes et al., 2016; Kaur & Garg, 2008; Kelly & Johnson, 2008; Mahon & Moore, 2011). The study shows that for mothers, parenting during times of trauma, especially when undertaken alone and with additional financial burdens, legal stresses and parenting concerns can be very stressful (Saltmarsh et al., 2021). The White Paper on Families in South Africa, developed by the Department of Social Development, (2021, p. 180) which defines a well-functioning family as that which "provides members with emotional, social, spiritual and material support that is sustained throughout life and it also represents the cradle from which the values and norms of a society are transmitted and preserved, and is therefore a key institution for transforming values and norms" (South African Government, 2020, p. 10). However, for many mothers, this duty is carried alone. This gender issue is not adequately considered by Family Courts, and the disproportionate financial burden placed on mothers in these situations is not fully accounted for.

The study found that in all participants' accounts, the other parent did not prioritise their child's socio-economic rights and deliberately disregarded their constitutional obligation towards their child, which according to section 28 (1) (c) of the Constitution of the Republic of South Africa (No. 108 of 1996), they are expected to do (McCarthy et al., 2018). The study further revealed that the court failed to intervene and uphold these rights. Mothers felt that the courts' decisions should be guided primarily by the best interest of the child, rather than

the competing demands of the rights of a parent who does not fulfil their responsibilities towards the child. As Participant 7 stated:

“It’s ridiculous. You should, if if you’re not paying for the child’s shelter and his school fees and helping and fulfilling on your obligations how are you even equipped because of biology to now say “Oh the child must live in Cape Town or the child must live in Joburg like you went through. How does that work? So, the basic needs of the child are not even being met by you and yet you still have a voting right. That’s nonsense.” (P7:177)

Mothers found that even when fathers deliberately defaulted on their financial obligations to support their children, they were still granted decision-making power over the child's welfare as the extract from Participant 2 reveals:

“I said to them “But how’s that fair that he gets to make decisions for her as he’s on the birth certificate. He doesn’t have to pay because you say “Ooh sorry, we can’t help you. He can just do what he does”, and for me struggling every month, having to look into my parent eyes and tell them “I’m struggling please help.” It’s not fair.” (P2:52)

Mothers raised concerns that the court failed to uphold its duty as the protector of children's rights when one parent neglects their responsibilities, with Maintenance Court allowing the deprivation of children's rights to continue unchecked. This represents a systemic failure within the justice system to safeguard vulnerable members of society, with Participant 7 noting a discrepancy between children’s rights and how they are implemented on a daily basis:

“I didn’t find I didn’t find the system user friendly or practical at all and I think like the mismatch between the children’s rights and what the Children’s Act states versus how they implement that on a daily basis is a big gap. So yeah, I think that’s it could be so many, much easier ways to manage, and also, I mean how can you say parental like rights around caring for children and your contact is not related to your

commitment to fulfilling your maintenance obligations? The fact that those two are not linked for me is totally illogical you know, and I think that if you're defaulting in paying your child's maintenance, and you think that you're gonna still have a say around what's best for the child." (P7:173)

Participant 7 felt that a parent who fails to support their child should not have the same rights over the child's welfare as a responsible, involved parent, and should have reduced rights and decision-making authority. This view was shared by other participants. Participant 5 expressed the opinion that the child's best interests should be the top priority, pointing to an unfairness and lack of logic in the courts allowing parents to continue influencing a child's life and future when they have failed to properly care for the child:

"Yes, so if you are defaulting, so ultimately ensuring your child is living in a safe place, that they're clothed, that they have food, they need money to do that, so you have maintenance obligations as the parents. Both parents need to contribute to the maintenance, the day-to-day care of the child, so if one party is defaulting on that or not making that contribution, they should forego their voting rights in terms of determining what's best for the child. So, just because they biologically are a father, they shouldn't be able to decide, determine where the child lives or have some examples you can't travel abroad or over the border without the consent of the biological father. Now the reason being why, because this person supposedly knows what's best for the child, but if they are if they want to carry the care or want to have the responsibility of caring for the child, then they must take, then they must forgo that right. That's what I'm trying to say. I don't know your right words for it, but you know the point I'm trying to make....Yes responsibility, yes you lose the rights and responsibility." (P7:185)

Participant 7 advocated for a more nuanced approach between Maintenance and Children's Courts. She believed that when a parent fails to fulfil their financial obligations to support their child, they should not have the same decision-making power and authority as

the responsible and involved parent. Participant 7 felt that only by holding all parents accountable, regardless of gender, can the judicial system truly serve the best interests of children.

Allegations of Parental Alienation

Another gendered paradigm in Family Court is the impact of parental alienation allegations (Birnbaum & Bala, 2010; Polak & Saini, 2019). Research shows that mothers accused of parental alienation are more likely to lose custody than fathers (Meier & Sankaran, 2021), with judiciary and service providers implicitly assuming that mothers are the 'gatekeepers' of fathers' relationships with their children (Austin, Fieldstone, et al., 2013; Epstein & Goodman, 2018; Spearman et al., 2023).

The mothers in the study emphasised the importance for the judiciary and service providers to be able to differentiate allegations of parental alienation from domestic abuse tactics that are often present. It is crucial for those working in Children's Court and handling such matters to have a thorough understanding of domestic violence and associated tactics of coercion and control. This knowledge is essential to be able to identify toxic levels of conflict and make more informed adjudications or recommendations in such cases (Birnbaum & Bala, 2010; Polak & Saini, 2019).

Laying Down the Law – Systemic Failure and the Aftermath

In the final *Laying Down the Law* Phase; mothers described how through the process there was betrayal and loss of faith in the system, leaving them to confront the impact and consequences on their lives in the aftermath of their traumatic experience. Mothers had initially approached the court *trusting the system* that justice would prevail, and how they would be both heard and protected (Khaw et al., 2021).

On entering the system, they had adapted and tried to work within the system in search of positive outcomes. Yet, despite their trust and belief in the system's ability to provide justice, safety, and stability, the mothers found that the system fell far short of their expectations, resulting in discourses of betrayal, loss, and defeat for the mothers.

Fighting a Losing Battle - Systemic Abuse and Betrayal

The findings revealed how Family Court contained deeply entrenched and hidden systems of dominance and control that were insidious in nature. These oppressive systems were embedded within the very institutions meant to protect them (Francia et al., 2019; Orr et al., 2023). This left the mothers feeling frustrated, betrayed, and disempowered as they navigated a biased and oppressive system, as is evident in the following excerpts:

“It’s always just negative. Negative.” (P3:90)

*“but um [Pause] the whole maintenance thing was just so deeply frustrating.”
(P5:550)*

“and um so that ja was quite frustrating. On the whole, I must be honest, there was no, there was no final um legal um judgement made in the end.” (P1:75)

“Hmmm, [Pause], I wouldn’t say helpful to be honest with you /... / Like I would say the court just goes round and round in circles.” (P7:173)

In line with research, the findings confirmed that there are alarming levels of anger, frustration, and cynicism regarding their personal experiences with the Family Court and associated professionals with whom they had dealings (Austin et al., 2013; Johnston, 2000; Monk, 2017; Turner et al., 2017), with Participant 4 noting:

“No disgusting! Absolutely disgusting people. Disgusting people, so that [name of the Court] Maintenance Court, oh my god, no, it’s a terrible place!” (P4:653)

Consistent with Khaw et al (2021), mothers had initially approached the court “trusting the system”, believing that that justice would prevail, and that they would be both heard and protected. Once in the system they had adapted and tried to work within the system in their search for positive outcomes. However, the failure within the Family Court system to adequately address and prevent such ongoing abuse resulted in a devastating breakdown:

“Anyway I thought I can’t do this, I can’t do this in the Maintenance Court because its having such a profound impact on me, the Maintenance Court is dysfunctional, so I

applied for a protection order for economic abuse, for emotional and psychological and um um um verbal abuse and he granted me an interim order because I'd just been evicted okay and I listed [child's name] as a child who was impacted by domestic violence but it was an African magistrate, and ja, she saw it and she granted an interim order. So, I thought at least this way I can get an immediate reaction because the Maintenance Courts are dysfunctional.” (P6:109)

The study revealed how the Family Court system became complicit in this abuse, creating what Alstott (2009, p. 3) termed a "private tragedy" for the mothers and their children. Within the Family Court system participants' accounts illustrate the significant imbalance of power, where the courts themselves economically and legally abuse and intimidate mothers. Such actions of coercion and control oppressed mothers both within and outside the system.

Mothers found the betrayal by the court system difficult to understand and overwhelming to manage. This was because the systemic abuse that they were experiencing was often invisible, yet was entrenched in structures of power that perpetuated gender-based inequities and power imbalances (Bishop & Bettinson, 2018; Boonzaier & van Niekerk, 2018; Elizabeth et al., 2012a; Epstein & Goodman, 2018; Mathews et al., 2015a; Meier & Dickson, 2017). This left mother feeling traumatised, unsupported and disillusioned with the failure of the systems in place that claimed to support women and children:

“because then you just, then the court system is just failing (Laughs) completely.”

(P2:150)

“The whole system is so dysfunctional the maintenance system.” (P5:514).

“Anyway, so I phoned my attorney, and he said, “I told you the justice system is corrupt,” and this was back in 2011.” (P6:43)

Mothers were confronted with the distressing realisation that the systems they had trusted to protect their rights, and well-being had instead betrayed and abandoned them in the most devastating manner, with Participant 2 saying:

“(Laughs) It’s bad. So, you actually feel like you don’t want to do anything, and I actually can understand why people just give up, because what’s the point. There’s no help there. Nothing! You sit there for hours just to be told “Sorry we can’t help you.” (P2:80)

Participant 2’s comment captures the deep injustice and disillusionment that is felt by many mothers, as they confront the reality that the very institutions meant to protect women and children failed in this duty. She laughs in disbelief expressing that *“it’s bad”* in reference to Family Court processes, explaining that *“many people just give up”*, because there is no meaningful help or support available from the court system and that mothers must endure months and months of harrowing trauma only to be told *“sorry, we can’t help you.”*

Participant 1 expressed similar feelings, explaining that many mothers give up the *fight* because they cannot endure the ongoing onslaught and stress of *“waiting for the next fight”*:

“So, um Ja, eventually you get to a point where you just can’t anymore. You know and um um I went from month from month waiting for the next fight and you get to a point where you just can’t.” (P1:77)

Smye et al. (2021) found that the state's involvement played a critical role in shaping women's experiences of violence, with safe, appropriate, and responsive services and support having a positive impact. This underscores the pivotal role that the Family Court system plays in determining women's experiences as they navigate the court process after separating from abusive partners. However, the mothers in this study reported a disappointing and ineffective response from the Family Court system, which failed to adequately protect and assist them:

“So, you have to drain yourself just to get something done and I think that’s why I gave up the first time because it was just so draining.” (P2:148)

The abandonment of them by the court left mothers feeling completely hopeless, powerless, and alone, in which they were often forced to navigate the legal landscape without adequate support, as described by Participant 8 and 3 below:

“There was no ... um support system whatsoever. Nothing! No support system ... AT ALL, and I find that very difficult. They should have social workers there. They should have um people there who are prepared to ... fight on your behalf...” (P8:332)

Mothers described being retraumatized by the court process itself (Katirai, 2020):

“We went through hell. but I’m still here!” (P3:330).

Participant 1 explains that she eventually obtained relief, but only after enduring month upon month of *“agonising trauma.”* The specific choice of words *“agonising trauma”* conveys the immense pain and suffering she experienced. Her repetition of the word *“month”* underscores the torturous duration of the process and its profound effect on her and her children. Participant 1 struggles to find the right words to describe this traumatic experience, as it is not easily encapsulated in a single term:

“Um, you know I can. It’s difficult to say because I eventually got, sorry, I eventually got relief, but it was only after months and months of agonising um I don’t know what to call it. It was trauma, because you literally go from one month to the next waiting for an answer and you hope that the answer will come next month and then they say we will postpone until two months’ time and then there is still no answer. Still no judgement. There is, still postponed for further further investigation, and then the other thing was which I also forgot to mention is that I wasn’t able to, I wasn’t able to afford proper legal advice.” (1:70)

Participant 3 describes how she has been engaged with court process for over a decade:

“So ja that’s the whole time going on and still I’m waiting now 10 years for the court to sort out the maintenance.” (P3:260)

Other participants spoke of similar lengthy delays in court process, with Participant 4 noting *“I know, and it’s been half a decade now.” (P4:709).*

Despite the state's obligation to prioritise the socio-economic rights of children, the courts fell short in upholding these rights, leaving mothers and their children vulnerable and unsupported, as noted by Participant 2:

“They said to me “I can’t claim back on arrears as I don’t have an existing Maintenance Order in place. It’s because you don’t help people [Laughs] That’s why there is nothing in place. So, the last six years I have to write off.” (P2:158)

The study also highlighted the courts' failure to address children's safety concerns, further jeopardising the well-being of the most vulnerable members of society. This systemic failure to protect the rights, safety, and well-being of survivors of domestic abuse and their children, resulted in a deeply entrenched system of institutionalised oppression, as

Participant 3 stated:

“The thing is to me, the government, the media, everybody speaks out about a system supporting you. Where is that system? I’m still looking for the system. Ja. I’m still looking for; I want to know where is that system for abused women and children.” (P3:544)

The study found that the courts failed to safeguard mothers from continued abuse in their post-separation lives, compounding the challenges they already faced and exposing them and their children to ongoing risk. Participant 6 describes the institutional betrayal, re-victimisation, and re-traumatisation that mothers face through the court process itself (Katirai, 2020), resulting in a lasting, and seriously negative impact that permeate all aspects of their lives:

“...because it was blatantly obvious by then that there was nobody else really, seeing the compounded trauma, really being consistent and highlighting the impacts of the impacts of the dysfunctionality of the Maintenance Courts, but more so the intersectionality with domestic violence, so, so I started doing copious amounts of research and then I started focussing on post relationship abuse.” (P6:296)

This study sheds light on the systemic shortcomings in the Family Court system, which often falls short in fulfilling its duty to protect and support mothers and children, particularly in the context of domestic violence. As Participant 7 observes, *"It's global crisis. It's not just a South African, it's a global crisis. /.../ I mean it's happening all over you know the world and I think it's a global crisis that needs to be dealt with."* (P7:131).

Battle Scars – The Impact

Navigating the Family Court system proved to be a complex and daunting challenge for mothers, as they encountered a multifaceted web of post-separation abuse, systemic abuses, financial exploitation, institutional barriers, and deeply entrenched patriarchal power dynamics. These compounding factors exacerbated their already immense difficulties, leaving them feeling inextricably tethered to both their former partners and the court system itself.

The examples provided illustrate the intricate intersections of financial abuse, systemic inequalities, and patriarchal power structures within domestic violence situations. These intersecting forces further jeopardised the well-being of already vulnerable parents and children, particularly in cases involving family violence (Francia et al., 2019). This is evident in the extract below where Participant 5 described the considerable pressure that she felt to fulfil the many roles that she held as a woman, to *"be a good mother," "a good partner,"* and *"a good daughter"*, while still trying to deal with the complexities of separation and divorce, the post-separation abuse and navigate the complexities of Family Court in her efforts to seek recourse through the legal system:

"All I was trying to do was be a good mother, do my job, be a good partner, be a good daughter and just like live a normal not very exciting life. That's all I was trying to do, and he was just... [Pause] at me all the time. Like he'd send message after message after message and then you know he'd be sending my messages to the school, and you know like recording me and (Interviewer: hmm mm) And not telling me where [Child's name removed by researcher] was. He'd remove him from

the province without telling me and refuse to give him back to me and all that kind of stuff. It was just constant. /... / So, it was just a lot.” (P5:736)

Mothers engaged in court proceedings were often dealing with the physical and psychological effects of past and present abuse (Fulu et al., 2013a; 2013b; Hannah & Goldstein, 2010; Postmus et al., 2020; Rivera et al., 2012b). Participant 3’s account highlights the multi-faceted challenges faced by mothers in the aftermath of separation, emphasising that the lack of protection for mothers has a pervasive impact, affecting all aspects and interactions within their lives (Jaffe et al., 2010; Saunders, 2008).

“My self-confidence was out the door. I had, like I said, a panic disorder. He was just this horrible, horrible person and it’s not that I’m scared of him I’m scared of the situation that he’ll put me in, because I don’t want to go back. I don’t want to live in fear that if I open my phone, there’s going to be an email or there’s going to be this or its going to be that. You don’t want that part of your life because you obviously you want to move forward but they are keeping you back and that’s controlling...”
(P2:366)

The examples illustrate the significant challenges and burdens that mothers face as they work to rebuild their lives and protect their children following separation from domestic violence during Family Court proceedings. Not only did mothers have to deal with the negative impacts of the abuse from their former partners both in and out of court, and the numerous challenges stemming from such abuse (Ford-Gilboe et al., 2009; Schepard, 2004; Tuon, 2021), but the court system itself further victimised them.

These mothers often contend with several compounding issues, such as domestic violence, substance abuse, child neglect, unemployment, poverty, mental illness, and disability. Participant 9 notes that these compounding issues are frequently exacerbated by the ongoing legal battle in the Family Court system. The court process can lead to depression, negatively impact on the children, and increase the risk of substance abuse as these mothers struggle to navigate a complex and often unsupportive system:

“So, this kind of thing is a very big challenge to the mothers of the children, because if you're not lucky, you can, it can cause depression. It can affect the kids. Others, they can end up going to smoke the dagga, the drugs. It will be easy to them to end up to things like substance abuse.” (P9:76)

Some researchers have described family violence as the core business of Family Courts, a deeply concerning observation that is clearly apparent in this study (Easteal et al., 2018), where Family Court processes were experienced as abusive. The Family Court system's treatment of mothers, its conservative judicial interpretations, and unsupportive responses to family violence by professionals, all served to compound the harm and trauma already associated with the abuse (Francia et al., 2019; Orr et al., 2023). Smye et al. (2021), found that negative experiences with support services and interventions were linked to increased trauma, stigmatisation, and discrimination, which compounded the complex trauma resulting from the abusive experience. Participant 6's account powerfully depicts how the systemic abuse inflicted irrevocable harm and trauma:

“I still believe that when you have suffered complex PTSD it never leaves you. It's as simple as that. It scars you for the rest of your life. You learn incredible coping skills /.../ but it scares you for the rest of your life, and for me that's sad because society doesn't see that.” (P6:11)

For many of the mothers, carrying the financial stress of having to make ends meet stresses with the economic abuse, as well as the psychological responsibility of being a single-parent caused added stresses and worries (Muliolino, 2021), including increased stress levels, anxiety and depression. The mothers accounts showed that because of their compounded problems, they experienced insomnia, weight-loss, nervous system problems, and other stress related symptoms. An example is provided by Participant 4 below:

“I don't sleep. To this day I don't sleep. I go to sleep maybe at two in the morning. I wake up at four. I don't exercise. I don't eat properly. I stress every single DAY where

the next cent is going to come from to feed my children (pause), and I work like a dog.” (P4:253)

Participants pointed out the impact that financial stressors had on all aspects of their lives, with Participant 8 explaining:

Participant 8: I’m wearing second hand clothes. I was never like that I never used to have second hand clothes. Now I wear second hand clothes.... If I’m lucky.

Researcher: Yes, and then does that affect you like emotionally? Like you’re your health, like your mental health, like you feel not good and....

Participant 8: 100%. 100%, I mean there are months that I can’t even get my medication. I can’t afford it. I’ve got to think um pay the electricity or pay for medication. What’s more important. Electricity. You know, emotionally I was distraught, you have no idea. Physically I’ve gone, [big breath] [Becomes tearful] I’ve gone to shit. I’ve just picked up weight. I can’t even afford to colour my hair. You know, um I’ve had to let my hair grow out. So, I’m grey. [Tearful] You know, and a lot of people aren’t like that... You know, so, its things like that. You don’t feel... you don’t feel good. You don’t look good, so your whole self-esteem goes out the window.” (P8:458)

Participant 9 describes how the impacts of the stress can compound and manifest in other problems:

“Yes, and sometimes as a mother you can end up drinking, trying to reduce, trying to reduce the stress. You you can end up being a, a drinker, because when you're supposed to sleep, you can't sleep. You're thinking, you're thinking too much at night. When you say, "What can I drink to drug myself so that I can sleep a little bit?" because to get the sleeping pills is money. When you go to the chemist, they gonna say "I want the sleeping pills?" They gonna say, "Why, you want it? Doctors' prescriptions?" If you don't have the doctor's prescription, you end up saying "Let me drug myself using alcohol". You'll end up buying two bottles before you sleep. You'll

end up buying three four. More and more, because of what you think at night.”

(P9:81)

Furthermore, mothers noted the emotional drain as well as the amount of time that the legal battle consumed. Participant 5 explains below:

“and mentally the time that it takes. So, I’m, I turn 40 in two months’ time, I’m busy looking for a new job, like I want to start next year, and it sounds silly, but you might understand that, but I just want to start next year fresh, because now I’m also now known at work as the person who’s at Family Court all the time. It’s very embarrassing. You know like “Where’s (Name)”” No she’s in Court again today” “I’m sorry I can’t be in [a meeting]”, like we have monthly management meetings, and they change, and they are always on the day I am in court [Laughs], and you can’t not be in court because sometimes work things are very important ...Yes, and it’s constant like [Pause], and it’s exhausting, and I think that’s why I just wanted to settle so I can just have a breather.” (P5:930)

As Alstott (2009, p. 7) observed, the family court experience can become a "zero-sum struggle" that destabilises families, as the narratives confirm. The study indicates that the Family Court system has systemically failed mothers, especially as primary caregivers, and by not supporting and protecting them, it also fails to safeguard their children's wellbeing. The accounts highlight the profound gender and power dynamics, where mothers as family providers are forced to choose between employment and attending postponed court proceedings, with Participant 2 speaking of the compounding effects below:

“You take time off from work, you sit there, for nothing to happen. So, this is, this is my last try honestly. If I don’t get it right, I’m just going to.... “Hy kan just maar aangan” [He can just carry on], because then you just, then the court system is just failing [Laughs] completely.” (P2:148)

The discourses reveal how mothers' vulnerability as survivors of intimate partner violence is compounded by intersecting inequalities based on gender, race, class, disability,

and geography (Anitha, 2019; Boonzaier & van Niekerk, 2018; Gottzén et al., 2020; Nnoli et al., 2023). These were further compounded by ‘patriarchal social structures’ (Fulu et al., 2013b; Mshweshwe, 2020; Namy et al., 2017; Saunders et al., 2023; Spearman et al., 2023; Vyas & Jansen, 2018), that limited the mothers’ economic opportunities, resulting in what scholars identify as ‘the feminization of poverty’ (Crenshaw, 1991; Easteal et al., 2018; Muliolino, 2021).

Such issues show how the actions and decisions made in Family Court have far-reaching effects on families, their households, schools, workplaces, and communities. While Family Court has the potential to offer a positive impact on the lives of those affected, particularly those impacted by domestic abuse, the reality is quite different. Mothers' experiences reveal that Family Courts often "undermine gender equality and respect for children's rights within the traditional court setting," (Proudlock & Rohrs, 2018, p. 19), especially in cases with a history of domestic violence. These systemic failures leave lasting *battle scars*, akin to the wounds of war, that continue to impact families long after the legal proceedings have concluded.

Mother’s Recommendations

Despite the immense challenges that the mothers faced, they expressed a profound sense of determination to enact positive change, advocating for reforms that would create a more just and supportive framework for families in similar circumstances. During the interviews, mothers shared the following key recommendations for the Family Court system:

1. **Urgent Reform:** Mothers recommended urgently reforming the system to safeguard vulnerable mothers and their children from the devastating impacts of abuse as well as the shortcomings of the current Family Court system. As one mother stated: *“It’s only if they can find a way to get the system going for the women that really needs it. I’ll be glad. Then I did something” (P3:576).*
2. **Comprehensive risk assessments:** Mothers urgently recommended that the courts conduct thorough risk assessments to evaluate the dangers of domestic violence and

financial hardship stemming from poverty, such as the risk of eviction or destitution.

These assessments should be a core component of the judicial process to ensure the safety and wellbeing of mothers and their children. As Participant 6 noted:

"When we go to Maintenance Court, they need to do a risk assessment okay because they are completely oblivious if somebody has been beaten to death by the person, they are now required to sit next to. They need to do a risk assessment, one to protect people who have a protection order for physical abuse or whenever kind of abuse okay and also like me where I was being evicted. That is high risk so there should be protocol in place for somebody who arrived in court who is high risk" (P6:362).

3. **Targeted education programmes:** Mothers recommended that schools and educational institutions provide comprehensive programmes to inform and educate all girls and women about the responsibilities and implications of having children, both before marriage and following a potential separation. This training should cover critical topics such as children's rights, the responsibilities of marriage and co-parenting, as well as the potential impact on one's career and income when becoming the primary caregiver. Equipping women with this knowledge before major life decisions would help them navigate the challenges more effectively, rather than learning these lessons after the fact. Importantly, this education should start at a young age, so that by the time women reach adulthood, they are well-informed about the realities of parenthood and can make more informed choices.
4. **Financial support and assistance during Maintenance Processes:** Mothers urgently recommend that the Family Court assists in providing the necessary financial support and assistance to help stabilise their households and protect children from the adverse impacts of economic insecurity during the lengthy waiting period for Maintenance Court resolutions. As one mother, Participant 9 pleaded, *"hmm, so my wish, I was wish the courts can help you to get those funding"* (P9:56).

She deemed this necessary to better support vulnerable families, especially *“the mothers and the children, those who suffer for the maintenance /... / Yes. I wish they can realise this thing in Maintenance Court, but mothers and the children they carry hard” (P9:107).*

5. **Procedural Changes:** Mothers recommended that in maintenance matters the burden of proof should be shifted, requiring the respondents to demonstrate that they have fulfilled maintenance obligations, rather than placing this on the mothers. As one mother, Participant 6 stated, *“Put the labour and the responsibility on the respondent to prove he has paid the money, instead of the burden on mothers” (P6:362).*

In Retrospect

When looking back over their situation and experiences, mothers made various observations regarding their former partners, themselves, and the Family Court system. The study’s findings revealed the complex dynamics inherent in relationships involving intimate partner violence and Family Court processes (Dekel & Andipatin, 2016; Stark & Hester, 2019).

In retrospect, many mothers observed that they had initially failed to recognise the behaviours they experienced as abusive. This may be due to the societal belief that domestic violence only includes physical violence or sexual assault resulting in physical injury (Ashraf et al., 2017; Postmus et al., 2020; Spiwak & Brownridge, 2005; Stratemeyer, 2021). Furthermore, the findings suggest that women may have initially failed to recognise the behaviour as abusive due to the normalisation of such conduct within society (Jackson, 2001; Shefer, 1999; Towns & Adams, 2000), and due to societal attitudes that downplay or rationalise violence against women (Houston, 2014; Sardinha & Catalán, 2018). Such attitudes foster a culture that blames and shames victims, often discouraging them from seeking support. As Campbell and Wasco (2000) observed, the stories women tell often “reflects the social values and concerns of dominant societal groups” (p. 777).

A postmodern feminist perspective underscores how deeply entrenched systems of patriarchal power, rooted in sexism, racism, heteronormativity, and class-based oppression, function to severely constrain and limit the lived-experiences and opportunities of those individuals situated at the intersections of these constructed sociocultural categories (Baber, 2009). This critical lens illuminates the ways in which marginalised and vulnerable populations are disproportionately disadvantaged and denied access to resources, support, and equitable outcomes due to the pervasive and interlocking nature of these interlocking systems of domination and control.

The intricate relational dynamics present in intimate partner violence, and a complex pattern of societal beliefs and power structures frequently obscured the abuse experienced by the mothers, both within the intimate partner relationship and the systemic abuse experienced within the Family Court setting. As a result, mothers often minimised or justified abusive behaviour both within intimate partner relationship and within Family Court system or even blamed themselves for the abuse and/or traumatic experiences, failing to recognise its pervasive and systemic nature.

With regards to their interpersonal relationships, for many mothers, it was only after leaving their intimate partner relationships that they were able to recognise the unhealthy, dysfunctional, and abusive nature of those dynamics. As the extracts from Participants 2 and 8 show:

“He’s the worst person I’ve ever, EVER allowed into my life. I would never do that again. [Chuckles].” (P2:230)

*“I will never never ever, God forbid I ever get back together with this man. EVER! NEVER! I’ll never trust him again. Not at all. I’ve seen what, I’ve seen his true colours. I’ll never trust him again. You know when you get married, you don’t think you’re going to get divorced, so you put your entire life and soul into the marriage, just to be kicked out after... 22 years. Ja, and well, **22 years**, and you think “What the hell?” (P8:222)*

Reflecting on the traumatic impact of the abusive relationship and the ensuing Family Court process, Participant 7 expresses how it has been a devastating ordeal that has ruined a significant portion of her life. However, from a place of healing, she recognises that she would never tolerate such conduct now:

“Like what I have done, because its traumatising and I mean I've fucking fucked up a large portion of my life but I'm definitely not going to go down. Like I'm going to use this and make the world a better place, and make my life better, and look after my son; but I could have saved myself a lot of trauma had I known better [chuckles], but I didn't know better you know, and I think that the one of the things that I've definitely learned is about boundaries.” (P7:133)

The mothers' personal stories show profound transformation, as they have grown stronger and more resilient from the vulnerable young women they once were when experiencing the abuse. For example, Participant 5 explains that while her former partner still attempts to bully and intimidate her, and does still occasionally affect her, she has become more empowered in confronting these challenges:

“I said “You know what, Stop it! This is financial abuse, and I'm not interested.” Like unfortunately for him as time has gone on, I've learnt that the things that he threatens me with there is nothing to them, so there is nothing much he can do. So, I'm a lot stronger than I was since separating.” (P5:366)

The mothers' narratives reflect a shift in the power dynamics, where they have transitioned from being controlled and submissive to reclaiming their autonomy and a sense of empowerment. Participant 8 observes that despite her former husband's financial advantages and support, she has emerged stronger despite this:

“and when I think about this and look back and I think of where he is now, I mean he's sobbing, crying to. in the car /... / but he becomes so manipulative, so sorry for himself, and if I think about it, I know this may sound weird but, in a way I'm actually

far stronger than what he is. YES, financially he is...but I'm way ahead of him.

Without a doubt! He's had; he's had ALL the support in the world." (P8:480)

Mothers also showed a heightened sense of caution and wariness, determined to avoid repeating the same damaging patterns and to protect themselves and their children from further harm. Participant 7 explained how she has become incredibly discerning about who she shares information with, saying:

"Look I would say Sharon, I'm incredibly private I would say I've become incredibly discerning around who I share information with, um especially with regards to the internet, social media. I don't want them to know what I'm doing because here was a predator who literally modelled and created a persona to make me fall in love with him, to the degree that I would actually have a child with him', and I'm not blaming him because I obviously had my weaknesses and and whatever, but these people are very very clever, and um the movie "The Tinder Swindler" also kind of highlights on that personality, so it's definitely had an impact on me. I'm less trusting." (P7:125)

Participant 8 expressed hesitancy and fear in the prospect of having to "start your life again" (P8:230), after such a harrowing ordeal, saying:

"So here we're sitting and they're after, getting all the youngsters, you know, and we stood behind them making them, helping them make the money in more ways than one, made more than one sacrifice in many different ways, and they walk off with everything." (P8:230)

Participants shared their reflections of their experiences navigating the Family Court system. Mothers felt that the court system had such a profoundly negative impact that they would avoid it at all costs, with Participant 7 advising others to stay away, as the extract indicates:

"Um I would say also incredibly cynical around the Family Court system. I would advise people to absolutely stay away and try to deal with things in a different way, because I would say you're gonna get, you're gonna get drained emotionally, you're

gonna get drained financially, and you're not gonna get results unless you've got like a serious like advocates like who's got your back and is like fighting your your case and that's gonna cost you like serious cash. Um like don't even go there.” (P7:125)

Reflecting on the impact that Family Court had on their family, Participant 1 says:

“Looking back at it today um I often think that it would have been better to not put my children through that just for a couple of hundred rand, and at the time you don't know if you are doing the right thing or not. You do what you think is right for your child but in retrospect I probably wouldn't have done it. I probably would have just left it and if he had wanted to pay for something for the kids then that was it, but um, um ja my kids are a lot bigger now and unfortunately don't have a great relationship with their dad. Um but that, like I say, I don't feel bad about that anymore.” (P1:64)

Participant 1 shared that the process often forced her to choose between continuing to *fight* or settling, which would end the legal battle. Her narrative highlights how many women accept unfavourable settlements just to stop the fight. Participant 1 further noted that mothers may give up due to running out of money, energy, or from the overwhelming anxiety. She acknowledges that while she previously felt she *“didn't fight hard enough”* and may have given up, in retrospect, she no longer feels this way:

“Um, so ja I did I felt as though I did. It took me long time. I don't feel like that anymore, but I did. I did feel for a very long time that I didn't fight hard enough and that I just gave up.” (P1:117)

The participants' experiences reveal the profound and lasting impact of the court system on their families. Their accounts powerfully convey the severe trauma and hardship they endured, highlighting the systemic failures that prolonged their suffering. Participant 3's story illustrates the devastating personal toll of a legal system that often fails to protect vulnerable families from further abuse and injustice. As she says: *“No one cared. As I say only a struggle.” (P3:660)*

Some participants like Participant 6, were “*still stuck in the system*” (P6:15), which meant continued exposure to Family Court. She expresses having to be very aware not to be triggered and by the experiences of others navigating similar legal battles. Nonetheless, Participant 6 maintains a steadfast optimism, describing herself as a “*hopeful visionary*” who envisions a better, and more just system:

“I’m still stuck in the system, um and still being hopeful visionary of what things should be like.” (P6:13)

In Hope and Healing

The discourses shared by mothers reveal how abuse can continue affecting various aspects of their lives even after separation, including interactions with systems like the Family Court that they had approached for help. However, it is equally important to recognise the strength and courage that these mothers displayed in facing such adversity, as well as the perseverance and grit that they have shown both in parenting and rebuilding their lives in the aftermath of such adversity. Their determination and pursuit of a better life for themselves and their children can be appreciated to a far greater extent when considered in the context of the substantial efforts they had to expend to overcome the obstacles created by the post-separation web of abuse. As Participant 1 acknowledges:

“[Laughs]. It takes a long time. Healing takes a long time, but it is a decision that one must make and eventually you just make the decision and move forward. Moving on is a lot harder but moving forward is a lot more important.” (P1:140)

Chapter Summary

This chapter noted that mothers faced a new battleground in Family Court, where the court system failed to promote justice and protect them and their children from domestic violence, and victimised them further. This left mothers and their children unprotected, trapped in a cycle of systemic failure marked by gender and power imbalances. Patriarchal structures were used to abuse mothers, with gender inequality underlying both the legal

system and broader culture (Easteal et al., 2018; McKinnon, 1989; Meier & Dickson, 2017). These gendered issues were often implicit, underlying the struggles that the mothers faced in navigating legal and social systems that reflected and perpetuated patriarchal structures and biases (Fulu et al., 2013b; Mshweshwe, 2020; Namy et al., 2017; Saunders et al., 2023; Spearman et al., 2023; Vyas & Jansen, 2018).

Mothers' accounts revealed power dynamics evident in Family Court, which were rooted in socially constructed gendered hierarchies (Jamieson et al., 2018), that are perpetuated through societal norms that justify abuse against women and children (Boonzaier, 2008; Dekel, 2013; Dekel & Andipatin, 2016; Fulu et al., 2017). Gender dynamics were deeply embedded in discourses around financial matters, shaping mothers' experiences regarding financial resources and security (Anitha, 2019; Elizabeth et al., 2012b; Postmus et al., 2020; Sharp-Jeffs, 2021; Spearman et al., 2023).

Additionally, significant issues in the Family Court system were noted, including its failure to address maternal abuse, recognise indirect domestic violence, and gender biases that undermine mothers' value as caregivers (Enaifoghe et al., 2021). It was noted that the court system applied differential treatment of men and women, creating a sexist hierarchy (Becker, 1993), with a divide between father's rights groups and domestic violence advocates regarding children's rights and parental responsibilities. Gender biases in the Family Court system undermined mothers' efforts to protect themselves and their children, leading to betrayal, loss of faith, and further victimisation. The court system itself compounded the negative impacts experienced by mothers.

In conclusion, the chapter found that the Family Court system's gender-based biases and patriarchal structures failed to assist or protect mothers and their children. Instead, the court system utilised and manipulated gender-based power dynamics and patriarchal control that compounded the abuse they had already experienced. Intimate partner violence and mothers' experiences in Family Court were found to be deeply rooted in systemic failures and the ongoing perpetuation of gender-based violence. This failure on the part of the legal

system is a significant issue in the perpetuation of gender-based violence (Duffy, 2015; Smye et al., 2021; Tuon, 2021; Wuest et al., 2003; Zeoli et al., 2013).

CHAPTER 8: CONCLUSION AND RECOMMENDATIONS

This chapter is the final chapter that concludes the dissertation, summarising and integrating the key findings within the broader theoretical context. By exploring the wider implications and significance, it answers the research questions underpinning this study. In this chapter the discussion of the findings moves to reframing the research questions into points for discussion, to identify areas that need further investigation and that can promote better proficiency in the handling of such matters in Family Court. The interpretation of the findings presented in the two preceding chapters is done using a Social Constructionist paradigmatic framework and a Critical Postmodern Feminist theoretical approach as described in Chapter 4. Additionally, the strengths and limitations of the study are discussed, and recommendations are offered to guide future research in this area.

Synopsis of the Findings

This study examined women's accounts and experiences of intimate partner violence and navigating the Family Court system in the context of intimate partner violence. The study explored the meanings women ascribed to their abusive relationships, the effects it had on them, and how the situation evolved after separation. They shared their experiences navigating the Family Court system and the strategies and resistance in navigating Family Court processes to end the abuse and manage proceedings.

The study found parallels between mothers' pre-separation experiences of their personal relationships and their encounters within the Family Court system. The study found that the mothers' pre-separation relationship unfolded in a particular way with an idealised beginning, a breakdown phase where domestic violence, coercive control, and other compounding issues resulting in the dissolution of the relationship. A comparable pattern emerged when these mothers engaged with the Family Court system, with an initial hope and trust in the system, only to be confronted by various systemic barriers, that left them disillusioned and betrayed by the very system they had turned to for assistance.

Within the Family Court system, mothers had various experiences, on a micro/interpersonal level, a meso-level within the system with officials and service providers and on a macro/societal level. The study found further similarities in that abuse and control were present at both the interpersonal and systemic level, with the former partner and the Family Court system itself employing tactics of legal abuse, economic abuse, and emotional abuse. Issues of power, control, and gender hierarchies were evident at both levels. Mothers were negatively impacted by the patriarchal nature of the Family Court system, facing systemic barriers, economic abuse in maintenance matters, and emotional abuse through relational tactics in Children's Court proceedings.

Mothers' narratives offered valuable insight into their experiences of abuse and Family Court processes, by drawing on resources embedded in their social and cultural contexts. By centring the accounts and perspectives of women who experienced domestic violence, this study sheds light on the complex web of social, cultural, and institutional factors that shape mothers' experiences during Family Court proceedings, after leaving abusive relationships.

The study revealed how abuse continued post-separation with abusers using various tactics in and out of court, manipulating and utilising the legal system, economics and children to continue to control and coerce mothers' post-separation. The study revealed how coercive control persisted after separation, with the legal system being exploited to inflict further family violence, alongside ongoing economic abuse and the weaponisation of the children.

Additionally, it was found that the Family Court system failed to provide safety and resolution, instead subjecting these families to increased risk, trauma, financial burdens, lack of justice, and prolonged disputes. Court officials and service providers frequently failed to recognise post-separation abuse and coercive control, leading to decisions that jeopardised the safety of children and their protective parent (Meier & Dickson, 2017; Meier, 2009). Mothers faced severe consequences from the Family Court's failure to address post-

separation abuse and coercive control, jeopardising the safety of children and their protective parent (Meier & Dickson, 2017; Meier, 2009; Stark et al., 2019).

The findings from the analysis of mothers' experiences of intimate partner violence and Family Court proceedings revealed how institutions reflect and perpetuate the same gendered power structures that enable domestic violence to occur in the first place. The study showed how these mothers either challenged or perpetuated constructions of gender and power, where their subjective experiences were negotiated within a specific social and cultural context, which encompassed their experiences of abuse before and after separation, as well as their encounters within the Family Court setting.

The Linguistic Practices Used Within the Texts

This study analysed how language was used to create and reproduce power dynamics and social order. The mothers' personal accounts were influenced by their own experiences, as well as broader social and cultural discourses about gender and power. Participants employed various linguistic devices to discursively construct these positions of dominance and power. Participants utilised rhetorical strategies, participant positioning, and other discursive devices to shape, assert, and reveal power relations within the relationship, which in turn revealed broader societal meanings. Their experiences of intimate partner violence showed that societal factors like race, gender, class, culture, and economics shaped their individual realities (Campbell & Wasco, 2000). The research further examined how mothers' language and discourses used to describe the abuse, revealed different forms of femininity which were influenced by the subordination of women, as well as the social construct of hegemonic masculinity.

The study identified the interpretative repertoires that the mothers used in the construction of power and gender identity. By examining these linguistic and textual elements, one arrives at a more nuanced understanding of how power is conceptualised, negotiated and reproduced within the context of intimate partner violence and the Family Court system. The specific techniques and constructions used by participants to shape

power and gender dynamics within the individual/micro level which includes their pre and post-separation relationship and their interpersonal interactions within Family Court, was enabled and sustained by factors at the community/meso level and at the societal/macro level, where power imbalances are evident between intimate partners, as well as within the community, legal, and court system responses. Relevant to the research, De Reus et al. (2005) noted that critical race feminist theories, originating from legal studies, can guide studies in the direction to analyse families critically from a wider socio-political context and observe intersectionality taking place at "intrapersonal, interpersonal, and community" levels (p. 455). As research shows, examining mothers' perceptions of their full experience of intimate partner violence and the Family Court system, provides insight of what women deem beneficial or detrimental (Laing, 2010; Rice et al., 2019).

The discourses of the mothers, explored in Chapter 5, Chapter 6, and Chapter 7 provide a socially constructed network of meaning, which were used to understand the discursive constructions employed by mothers and others within the cultural system. Similarly, the discussion of women's experiences cannot be fully understood without reflecting on men, and the social constructions of masculinity. The analysis of the texts revealed that the societal constructions of gender and power relations underpinning the experience of domestic violence, which shaped the mothers' subsequent interactions within the Family Court system.

Social Constructions of Gender

The study found that societal and cultural constructs about love, gender, and power dynamics significantly influenced the participants' experiences of intimate partner violence. Mothers often described the early stages of their relationships using romanticised, fairy tale-like discourses (Boonzaier, 2008; Dekel, 2013; Dekel & Andipatin, 2016), which were shaped by broader social and cultural conceptions of gender and power, which were inseparable from the language used to describe them (Dekel, 2013; Tolmie et al., 2010). These ingrained notions of love, romance, and gender roles led women to minimise the

abuse and remain in the relationship, hoping their partner would change. Similarly, the men in these relationships drew on cultural constructions to portray themselves as victims, blurring traditional concepts of masculinity to exert dominance and control (Anderson et al., 2012; Boonzaier, 2008).

Cultural constructs around gender roles and power dynamics within families significantly shaped the participants' experiences of intimate partner violence, with traditional gender ideologies, which position women as submissive and men as dominant, constraining women's autonomy and decision-making (Boonzaier & Gadd, 2015). This reveals the broader social cognitions and patriarchal hierarchies that constrain women's ability to speak for themselves or make independent decisions (Boonzaier & Gadd, 2015).

The finding showed that societal and cultural constructions of gender, marriage, and the *ideal wife* or as *self-sacrificing* (Alstott, 2009; Boyd et al., 2019; G'sell, 2018), can undermine women's autonomy and agency, and that with women's caregiving roles stemming from entrenched gender norms, also reflecting power imbalances and their lack of power (Mortelmans, 2021). Similar to observations by Hochschild and Machung (1989), the findings indicate that families experiencing abuse often develop "family myths", with distorted versions of reality used to manage tensions and rationalise abusive dynamics (Elizabeth et al., 2012a; Jamieson et al., 2018). The study further revealed that gender roles are not only reinforced by men, but also by women, with religious narratives used to reinforce gender roles and uphold hegemonic constructions of gender and patriarchal masculinities.

The study showed that gender roles often intersect with systemic barriers, such as Family Court processes, that reinforce inequities faced by mothers navigating these spaces, where seeking help to address abuse challenges societal norms about family and gender. The study found that the Family Court system was heavily influenced by socially constructed ideas about normative femininity, where mothers were often judged based on stereotypical expectations regarding their speech, expressions, employment status, and the way they dressed or carried themselves. These biased evaluations reflected underlying power

dynamics, leading to biased evaluations that disadvantaged women, especially those from marginalised communities. The pressure on women to be cooperative and compromise was seen to disadvantage them legally and financially, with social constructs of "good womanhood" and "good motherhood" that emphasise self-sacrifice and cooperation often silencing women's voices, leading to harmful outcomes for them and their children in the divorce settlement and in court proceedings.

The study highlighted how the complex intersections of gender, disability, race, and class shape the experiences and constraints facing mothers in marginalised communities, particularly in South Africa, where income inequality, unemployment, housing shortages and poor living conditions compound the relational issues that they faced within the abusive relationship and post-separation. The study revealed how minoritised women, particularly Black women and those with disabilities, experienced compounded effects from the intersections of their identities, as well as institutional racism, implicit and explicit biases, and other forms of discrimination encountered within the Family Court system and other institutional settings (Humphreys & Thiara, 2003b).

Social Constructions of Power

Domestic violence is a multifaceted issue, rooted in power imbalances, systemic inequalities, and coercive control. Unequal power relation often exists within the dynamics of abusive relationship with discourses of gender suggesting that women should remain in a submissive and subordinate social role, and men in a dominant position. The literature speaks of *male control* (Dekel, 2013; Laubscher, 2013; Salo & Gqola, 2006; Van den Berg & Makusha, 2018), to illustrate patriarchal structures that sustain gender-based disparities and normalise violence against women (Lund, 2015). The study illustrates how certain men exploited traditional gender norms using a system of "male control" (Houston, 2014, p. 270), to maintain power and control over their partners through various strategies and tactics, including threats and acts of violence. Furthermore, research suggests that domestic abuse is fundamentally an expression of male power and control over women (Jewkes et al., 2001).

Domestic abuse involves a pattern of controlling behaviours and tactics used to dominate, subdue, and exploit the victim. While not all experienced physical abuse, all mothers describe a complex pattern of controlling behaviours and tactics, used to establish dominance subdue, and exploit the victim (Dichter et al., 2018; Humphreys & Thiara, 2003b: Orr et al., 2023), which was seen within the relationship and post-separation.

The research revealed how abusive acts and coercive, controlling tactics can effectively establish domination only when they exploit the power imbalances within relationships, that are reinforced by established social structures (Anderson & Saunders, 2003; Dutton & Goodman, 2005; Stark et al., 2019). For instance, in the research we see how in heterosexual relationships, the prevailing patriarchal social structures, gender-based role expectations, and stereotypical perceptions of women facilitate men's ability to establish a controlling dynamic, rather than the reverse scenario.

The study showed that the role that social power plays within the court system is critical yet often goes unrecognised. The study found that gender bias was enacted by the court, where power differentials between the mothers and court officials, as well as other influential professionals such as legal representatives, psychologists, social workers, and judiciary, were evident in the mothers' fears about the power these individuals held over their own and their children's futures.

The Findings Obtained from The Analysis Process

As mentioned above and in previous chapters, the study aimed to explore South African mothers' experiences of Family Court processes in the context of intimate partner violence, and how gender and power dynamics are constructed in the context of Family Court, and intimate partner violence, post separation. The study looked at the significant consequences of domestic violence for women, particularly as they deal with Family Court after leaving abusive partners. Due to the gaps in the literature and the prevalence of domestic violence both in South Africa, within a local context and globally, there was an interest in the lived experience of mothers after leaving abusive partners particularly their

post-separation experiences of Family Court. A discussion of mothers' experiences of Family Court processes could not effectively take place without first discussing their experience of domestic violence, within the relationship and post-separation, as well as its underpinning to hegemonic constructions of gender and social constructions of power and gender that give it meaning.

Mothers' Experiences of Intimate Partner Violence, Pre-Separation

The study revealed that mothers' pre-separation relationship ran in a linear way, with a beginning consisting of a *Happily Ever After* phase with discourses of hope and trust in the relationship, with their partner viewed in idealised and romantic ways (Boonzaier, 2008; Wood, 2001). However, this soon changed with mothers experiencing *Trouble in Paradise* where various issues contributed to the breakdown of the relationship. Of these intimate partner violence and coercive controlling behaviour was a significant factor, often accompanied by other compounding issues, such as drugs, alcohol and financial issues.

All mothers interviewed disclosed intimate partner violence during the relationship. Domestic abuse manifested not solely through physical violence, but also through diverse non-physical methods. When discussing specific acts of domestic violence and subsequent interactions, power relations within the relationship became apparent. Domestic abuse was intricately linked to issues of power, control, and gender dynamics within the relationship that were reflected in the broader social system. The research also showed how mothers utilised various methods of agency, negotiation and resistance to gain control in the cycle of abuse, such as applying for Protection Orders, going to counselling, trying to find employment if unemployed, asking others for help, and using legal avenues and/or social services. While leaving is the societal expectation of the logical solution, many mothers faced barriers that prevented them from doing so. These barriers included: 1) financial concerns, 2) fear, 3) secrecy and shame, and 4) denial. Economic dependence was shown to be the prime inhibitor of women's options for leaving abusive situations. The research showed that

although relationships dissolve for several reasons, domestic violence was a major factor in the decision to end relationships.

Mothers' Experience of Intimate Partner Violence, Post-Separation

The research demonstrated how abuse and control persisted even after separation, with mothers describing how the abuse remained ever-present, but took on different forms, with former partners employing various tactics and methods to maintain power and control. Following separation, all mothers experienced continued abuse including emotional, verbal and psychological methods, citing frequent unwanted contact, 'intrusion' and interference, on-going harassment and stalking used by ex-partners (Ford-Gilboe et al., 2009, p. 1022), as well as the use of third parties, with Family Court appearances, and care and contact arrangements used as opportunities to harass and intimidate (Spearman et al., 2023; Wuest et al., 2006). The study confirmed that post-separation, ex-partners economically deprived and controlled mothers by withholding access to economic resources that they required and were legally entitled to (Spearman et al., 2023); such as creating housing instability, withholding assets or possessions to which they were by law entitled; refusing to contribute to the maintenance of the children, interfering with their child's education or their employment and generating economic costs such as incurring legal costs for the mothers; all of which had an adverse effect, on their autonomy, and their ability to move forward and prosper (Boyd, 2010; Elizabeth et al., 2012a; Friedman, 2017; Maclean & Richards, 1999). It also kept them tied to and dependent to former partners (Sharp-Jeffs, 2015, 2021; Vyas & Jansen, 2018). Coercive control was the dominant method used post-separation. This concurs with research which states that coercive control often occur simultaneously in families affected by domestic violence and abuse (Callaghan et al., 2018). It further aligns with research showing that in the context of intimate partner violence, there are behavioural patterns of emotional abuse and other coercive measures used to establish dominance, control and power (Bishop & Bettinson, 2018; Dichter et al., 2018; Douglas, 2018; Johnston, 2006; Katz et al., 2020; Stark & Hester, 2019; Tolmie, 2018). The research highlighted how

after separation abusers utilised three preferable methods, namely 1) economic deprivation and control, 2) the children, and 3) the court system, which were used with intent to dominate, exploit and continue abusing the mothers. The study revealed that all mothers had sought help from various sources, including Family Court, to protect themselves and their children, but all described the outcomes as negative.

Mothers' Interpersonal Experiences of Family Court Processes

Having separated from their abusive partners, the mothers in the study described experiencing another form of abuse, whereby ex-partners utilised the court system to continue to victimise and exert control over them (Douglas, 2018; Hardesty & Ogolsky, 2020; Mathews et al., 2015; Miller & Smolter, 2011; Orr et al., 2023). For all mothers in this study, the abuse became especially problematic when entering the Family Court system where they described facing significant and severe Family Court issues, with regard to maintenance matters and care and contact disputes (Ford-Gilboe et al., 2009; Smye et al., 2021; Varcoe & Irwin, 2004; Wuest et al., 2003; Zeoli et al., 2013). Once in the system the mothers described facing a myriad of additional challenges and barriers. First, on a micro/interpersonal level with their former partners; second, on a meso/community level, including court officials, service providers, and legal representatives; and third, on a macro level consisting of the broader Family Court system and social structure.

Findings confirm that post-separation abuse is often centred around court issues with ex-partners using and misusing the Family Court system to exert power and control (Elizabeth et al., 2012b; Khaw et al., 2021). This study identified several tactics and abuses that were utilised by abusive ex-partners following separation, both in and out of Family Court processes; 1) domestic violence and coercive control, 2) legal abuse and litigation tactics, 3) economic abuse and financial tactics; and 4) emotional abuse and relational tactics.

The study found that coercive tactics were used in and out of Family Court processes, where behavioural patterns were used to establish dominance and control.

These concurred with research showing that with intimate partner violence, there are behavioural patterns of emotional abuse and other coercive measures used to establish dominance, control and power (Bishop & Bettinson, 2018; Dichter et al., 2018; Douglas, 2018; Johnston, 2006; Katz et al., 2020; Stark & Hester, 2019; Tolmie, 2018).

Legal and litigation tactics used within the Maintenance Court and Children's Court matters included 1) abusing the legal system through delay tactics such as postponements, not providing documents, or not arriving at court, moving matters from one part of the system to another; 2) non-compliance with court orders, and 3) using their legal team to bully and harass the mothers. As seen in the literature litigation tactics were used to misuse the legal system to cause difficulties for the mothers (Douglas, 2018; Spearman et al., 2023; Watson & Ancis, 2013), and to shift blame and reduce the mother's credibility. The study concurred with studies showing that former partners were often vexatious litigants who utilised their legal teams to further bully and intimidate the mothers. This meant that litigating alone or with pro bono assistance put them at a disadvantage, where their right to seek redress through the court system was diminished. According to the mothers interviewed in this study, the court system was unsympathetic to their struggles.

The study revealed how within the court system abusive ex-partners utilised financial tactics in the following manner; 1) causing financial difficulties by withholding the payment of maintenance; apply for a reduction to zero, inconsistent payment, or only paying when faced with severe consequences such as jail time; 2) hiding funds and assets to which mothers were entitled; 3) incurring legal costs for the mother, and; 4) using money as a method of control. The issue of power and control over money was a significant theme throughout the mothers' description of the process in and out of court.

Relational tactics were used in the form of 1) using the child, 2) using the mother, and 3) using the system. The study found that children were often weaponised against the mother or used as a pawn, or a commodity. In care and contact processes ex-partners often devalued and attacked the women's contributions and roles as mothers (Elizabeth et al.,

2012a; Khaw et al., 2021), often making accusations of parental alienation, claims of mental instability and through intimidation and threats of taking their children away from them. In many cases, mothers' strong emotional bond with their children were leveraged against them, with threats and attempts to have children removed from their care. Participants felt that such actions were often done with the purpose of remaining present in the mothers' life (Elizabeth, 2017; Elizabeth et al., 2012b; Khaw et al., 2021; Rivera et al., 2012b), or with the purpose of retaliation, for the mother leaving the relationship, obtaining a protective order, being successful in a maintenance claim, or some other reason that diminished the father's sense of power (Miller & Smolter, 2011).

The research showed that the use of such insidious tactics in and out of court allowed for the continuation of the abuse. More troublingly, was that this abuse often remained unseen by others in the Family Court system, as it often occurred disguised as standard legal procedures (Miller & Smolter, 2011). Even though in all cases mothers had Protection Orders against their ex-partner, mothers were legally required to participate in these proceedings, and to have contact with their abusers (Khaw et al., 2021), when dealing with matters in Family Court; even in cases where the matter brought about in a frivolous basis or without merit. The study noted the gendered nature, with mothers often having fewer resources for protecting themselves in such proceedings (Miller & Smolter, 2011). Such interactions also reduced mothers' financial resources, emotional reserves and physical stamina and health; capturing what Dutton and Goodman (2005, 749) describe as 'wearing down resistance' through 'resource depletion'. These resources were personal (such as physical stamina and determination), social (such as emotional support) and tangible/economic (such as transportation and a place to stay) (Sharp-Jeffs, 2021). Furthermore, such continued abuse created co-dependency on the abuser and deprived mothers "of the means needed for 'independence, resistance and escape'" (Dutton and Goodman; 2005, as cited in Sharps-Jeff, 2021, p.164).

The research findings were consistent with previous studies, which have demonstrated that abusive former partners often exploit various system structures to exert dominance, enforce continued interaction, impose financial difficulties, and impede efforts of obtaining formal assistance (Spearman et al., 2023). The study showed that the mothers became trapped in a cycle of systemic failure, including gender and power imbalances, leading to feelings of giving up or eventual loss and defeat. This correlates with research highlighting how the cycle of violence is perpetuated by a lack of a functional justice system and insufficient available resources (Enaifoghe., et al., 2021).

The research revealed that while mothers described tactics that were particularly noticeable within the Family Court system, their discourses spoke of broader issues that were used both in and out of court, post-separation. These discourses highlight broader elements of power, control and gender dynamics both within the post-separation relationship and the court system.

Mothers' Experiences of the Family Court System

In exploring mothers' experiences of Family Court processes in the context of intimate partner violence, mothers' narratives included their experience within Family Court, in maintenance matters and children's court matters. This included dealings with court personnel, legal representatives, and service providers. The study revealed a similarity between the phases of mothers' pre-separation experiences within their relationships and their encounters with the Family Court system. In line with Khaw et al (2021) the study observed that mothers initially approached Family Court, *trusting the system* that justice would prevail, and with a belief that they would be heard and protected. Once entering the system, they had adapted and tried to work within the system in search of positive outcomes. However, as mothers navigated and adapted to complex judicial and legal processes, in the hopes of positive outcomes, they described a frustrating process, marred by systemic barriers.

The research uncovered further challenges that mothers faced, which went beyond the negative impact of abuse from their former partners both in and out of court, and the numerous difficulties that came from such abuse or following the separation from their abusive partners for themselves and their children (Ford-Gilboe et al., 2009; Schepard, 2004; Tuon, 2021), such as legal issues, maintenance issues, or care and contact disputes; but mothers found that the court system itself victimised them further.

In this study, of the issues that women face after ending abusive relationships, that was of particular significance and impacted the women significantly, was the re-victimisation by the Family Court system (Duffy, 2015; Smye et al., 2021; Wuest et al., 2003; Zeoli et al., 2013). The research uncovered the complex interplay where domestic abuse, parental rights, and children's rights created a web of challenges for mothers seeking recourse and protection through the Family Court system. These were further compounded by issues of gender and power dynamics. The study showed that within the Family Court system mothers were negatively affected by patriarchal power, and gender inequality, with legal abuse in the form of systemic barriers, economic abuse within Maintenance Court matters and emotional abuse in the form of relational tactics used within Children's Court.

Systemic Barriers

The research showed the difficulties that mothers faced navigating the Family Court system, because of process delays, incompetent or poorly trained staff, non-existent or poorly implemented policy and procedures and ineffective judicial decisions, and other systemic barriers. As Themistocleous (2017) observes, the response to short-term demands and resource challenges found within the court system often results in "a patchwork of piecemeal measures" (p. vi). This has led to an unstructured, fragmented court system that is confusing and burdensome for users, costly to operate, and fails to meet the needs of many entering the system.

In the study, participants described systemic barriers within Family Court processes, hindered the process, created several compounding problems, such as difficulties with the

legal system, procedural and distributive justice, unsympathetic court staff, and a lack of understanding about domestic violence and its impacts. The research found the Family Court seemed to intentionally exploit policies and procedures, which exacerbated the mothers' challenges related to financial matters, child custody, and other difficulties they faced. There was little understanding of coercive control and how these tactics were utilised, or of financial abuse and economic deprivation and how this impacted mothers and their children. The study indicates that by not holding abusers' accountable mothers experienced institutional oppression, which further constrained their help-seeking options.

The research found that the Family Court system misused or exploited policies, procedures, and systemic barriers, which exacerbated the mothers' difficulties with regards to maintenance matters and care and contact issues and compounded other difficulties that the mothers were experiencing such as with regards to financial challenges.

The study revealed a disconnect between the court's understanding of the mothers' desperate individual circumstances and the lack of meaningful progress in addressing their issues in Children's and Maintenance Courts. As seen in other research studies, the failure to properly implement available policies and practices significantly compromised the safety and well-being of the mothers and their children (Araji & Bosek, 2010; Douglas, 2018; Katz et al., 2020; Laing, 2010; Saltmarsh et al., 2021; Spearman et al., 2023). Mothers reported experiencing re-victimisation during court processes and being pathologized in care and contact disputes, with their parental fitness challenged by allegations of parental alienation or neglect, which has been corroborated by other research (Khaw et al., 2021; Laing, 2016; Von Boch-Galhau, 2018; Watson & Ancis, 2013). Additionally, Family Court proceedings often failed to adequately address gender biases and the best interests of the child, including parental rights and responsibilities, as well as concerns over child safety, where the court tended to overlook or downplay such issues.

In Maintenance Court, economic abuse against mothers was perpetuated not only by non-paying fathers, but also by the Family Court's failure to properly implement policies and

resolve maintenance matters. The study observed that power dynamics that had been evident within their family dynamics were replicated the Family Court system, where gendered issues such as the mothers' lack of financial standing, their motherly bond with their children, the system, and their gender were used against them. In care and contact matters, the research identified a complex pattern of abuse and betrayal by court personnel and service providers, in which children and safety issues were used against mothers. It was further found that court and service providers 1) colluded in attempts to have the mothers rendered unfit parents (Gutowski & Goodman, 2020; Watson & Ancis, 2013), 2) used their concern for their child's safety against them; 3) weaponised the mothers' emotional bonds with their children and their maternal instincts against them, with threats or court ordered actions to have the children removed from the mother's care, and 4) various systemic barriers and abuses that limited a mothers influence and control.

Within Family Court and institutional settings, mothers' accounts of the abuse were discounted not only by the perpetrator, but by the lawyers, legal agencies and the justice and social services that they had approached for help (Epstein & Goodman, 2018). Despite confirmation of an established interlink between domestic abuse against women and abuse against within numerous studies (Callaghan et al., 2018; Fry & Elliott, 2017; Guedes et al., 2016; Hamby et al., 2010; Laing, 2010; Turner et al., 2017; Zeoli et al., 2013), there were often disconnects between services, with domestic violence having no bearing on Family Court matters.

Another notable finding was that the high costs of private legal representation posed a significant barrier for mothers affected by family violence (Sharp-Jeffs, 2021). Legal representation was unaffordable for most mothers, which either pushed financially distressed mothers deeper into debt and poverty, or forced them to represent themselves in court, which frequently lead to unjust outcomes, including the trauma of being cross-examined by their abuser. Furthermore, the study found that service provider reports heavily influence decisions made in care and contact matters, which is concerning, as 1) families frequently

pay substantial amounts for these reports, and 2) they are often written by practitioners lacking formal training or understanding of family violence and its impact on children. The study's findings are consistent with research indicating that recommendations made by legal and social service professionals often reflect biases and personal perspectives rooted in societal constructs, rather than a nuanced understanding of the complex challenges faced by families navigating abusive dynamics post-separation (Birnbaum & Bala, 2010; Boyd et al., 2019; Polak & Saini, 2019; Robertson & Broadhurst, 2019). Therefore, it is imperative that only formally trained, licensed, and accredited individuals be eligible to submit reports that are so heavily regarded in court proceedings, given their potentially devastating impact on the lives of families affected by domestic violence (Hans et al., 2014; Rivera et al., 2012b; Stark et al., 2019).

Systemic Abuse

The findings reveal systemic failure and institutional abuse within the Family Court system. The narratives showed that when mothers approached the Family Court with maintenance matters or concerns about their children's safety, they felt that the court did not respond appropriately. The study revealed parallels between the abusive behaviours exhibited by the former partner and the Family Court system. The study noted how within the Family Court system, the father's abusive history did not impact court processes, how there was continued abuse of them in and out of court, and how abusive ex-partners used the court system to perpetuate more abuse. The mothers experienced various systemic abuses, similar to the dynamics within their intimate partner relationships, perpetrated by the abuser, their associates, legal counsel, the judiciary, court personnel, as well as service providers and institutions connected to the Family Court and justice system.

For all the mothers in this study, this is where they describe the beginning of another type or form of abuse or a secondary tier of abuse. Of concern was that the Family Court system took no responsibility or accountability for the legal manipulations or abuses from the father. This led to a secondary victimisation where mothers felt that not only did the court

system collude in the abuse of their ex/partner, but that the system abused them. Negative encounters within the system, with support services, interventions and processes were associated with heightened trauma, stigmatisation, and discrimination, which further exacerbated the complex trauma stemming from the abusive experience. This aligns with the literature showing that mothers felt that the court did not respond accordingly (Dragiewicz, 2014; Jamieson et al., 2018; Proudlock & Rohrs, 2018; Rivera et al., 2012a; Smye et al., 2021; Zeoli et al., 2013). leading to re-traumatisation (Katirai, 202, and secondary victimisation (Douglas, 2018; Khaw et al., 2021; Laing, 2016; Rivera et al., 2012a). This research highlights the intricate dynamics underlying the systemic abuse experienced within the Family Court system (Dekel & Andipatin, 2016; Stark & Hester, 2019).

Alarmingly, the study found that within Family Court processes there were similar abuses by the court's failure to utilise laws and policies available, bullying and harassing through the system and service providers, abuse of court processes, process delays, systemic barriers and other system-related manipulations discussed in literature (Bancroft et al., 2002; Galántai et al., 2019; Gutowski & Goodman, 2020; Hines et al., 2014; Miller & Smolter, 2011; Silverman et al., 2004; Spearman et al., 2023). The study showed how the court extensively delayed proceedings, failing to resolve issues which further jeopardised the child's safety and the mothers' ability to care for their children.

The study found that court processes mirrored the abuse, power, and control found within the abusive relationship. Mothers uniformly described the court proceedings and interactions within Family Court as abusive, trauma-inducing, and shocking. They perceived court officials, personnel, judiciary, legal representatives, and service providers as colluding in the abuse and, as perpetrators of abuse in their own right. Through their abusive actions or lack of appropriate action in both Maintenance Court and Children's Court, these authorities caused serious emotional, financial, and well-being issues for the mothers and their children. The study found that mothers described the abuse they experienced within the

Family Court system as more impinging and damaging than the original abuse they had endured. This stemmed from the fact that the abuse was often perpetrated by a collective of individuals or the system itself, which the mothers had trusted to protect them. As a result, the mothers felt that the professional response was abusive and constituted criminal and human rights violations. This finding was not found in the literature where often only the level of domestic violence and the actions of abusive former partners were examined.

Participants vividly described the ongoing, relentless and adversarial nature of the legal proceedings, with delays and incompetencies entrapping them and exerting an all-encompassing influence on the mother's health, their well-being, employment, parenting capabilities and lives more generally. This process significantly compromised the mothers' capacity to achieve psychological healing and safeguard the well-being of themselves and their children (Khaw et al., 2021). These findings align with research on this issue (Hunter et al., 2018; Katz et al., 2020; Spearman et al., 2023; Stark & Hester, 2019), confirming that mothers were essentially re-victimised by the very systems and professionals tasked with upholding justice and protecting the vulnerable, compounding the trauma that they had already experienced.

Systemic Failure

While help-seeking and supportive responses have been shown to have a positive impact on mothers' recovery from abuse (Khaw et al., 2021); the research found a notable negative impact from help-seeking within the Family Court system. The findings showed that during court processes mothers either resisted or accepted outcomes that were often not in their or their children's best interest. All mothers described the court processes as being abusive (Douglas, 2018; Khaw et al., 2021; Laing, 2016; Orr et al., 2023; Rivera et al., 2012a). The study found that mothers described their overall experience of the court process and dealings with service providers linked to court processes as having negative outcomes. For all mothers the experience left them with a sense of betrayal and loss of faith in the system.

In the research study mothers noted how the justice system, policies and services negatively influenced the outcomes for mothers and their children having left abusive partners. Mothers described the maintenance procedure and children's court processes that often resulted in negative outcomes and left mothers and children with unsafe care and contact arrangements, severe financial challenges and a reduced capacity to cope.

Mothers also noted the negative effects that Family Court proceedings had on them, having to be in close proximity during court processes and child exchanges, the financial, emotional and professional impact of having to take time off work, spending money on transport, legal documents and legal representation, leading to negative financial, psychological and emotional outcomes causing additional stress and compound trauma (Francia et al., 2019; Orr et al., 2023). Judiciary, court officials, service providers and legal representatives that minimise or ignore intimate partner violence as not being a relevant factor post-separation, or not having an influence over care and contact arrangements and parental rights decisions pose a continued risks to the health and safety of mothers and children (Elizabeth et al., 2012b; Khaw et al., 2021; Saunders et al., 2013, 2023).

The study's findings, as observed by Rivera and colleagues (2012a), confirmed that the secondary victimisation experienced by mothers at the hands of the Family Court system and associated service providers diminished their willingness to engage with the court or seek assistance from legal professionals in the future. This victimisation restricted the mothers' options for legal recourse, limiting their ability to seek help and reducing safety measures for themselves and their children. Additionally, the study found that the systemic abuse within the Family Court system also affected the mothers' ability to recover from abuse and affected the overall health and wellness of both them and their children. Furthermore, the systemic abuse experienced within the Family Court system highlights the unacceptable forms of gender-based violence that are exacerbated by societal inequalities between men and women.

The research found that mothers experienced the South African Family Court system as inadequate and unsupportive in dealing with maintenance matters and care and contact disputes in the context of Intimate partner violence.

Personal Reflection

The findings are based on my own interpretation of the data. Although I analysed data from several women with diverse backgrounds, I focused on aspects that I deemed important for my research. As a result, it is possible that another researcher may arrive at different conclusions, even if the perspective is similar.

Finally I want to come back to the focus of my research, which was borne out of my own experience of domestic violence, post-separation abuse, including economic deprivation and control, coercive and controlling behaviours and legal abuses, to name a few, as well as the dismal failure of the Family Court system, including service providers to support me and my children, resulting in me losing my children, and ending up in a domestic violence shelter, and later to my children being removed from my ex as children deemed in need of care and placed into foster care. My personal experience gave me a direct inside view of the problem at both a micro and macro level. Furthermore, the experience allowed me to have a thorough understanding of the participants' experiences, and ability to build rapport. At all times I had to be aware and mindful of how my previous experience continually shaped the decisions I made through the research process. To contain significant bias, a co-coder was employed, and I had extensive discussions with my supervisor about the research.

Significance of the study

The current study contributes to this literature in several ways. First, it sought to understand mothers' experiences of Family Court processes in the context of intimate partner violence, in South Africa. Second, the research builds on past descriptive studies that have primarily focused on specific aspects of domestic violence or roles within Family Courts, such as mediation or custody evaluations. By examining the broader social and cultural context, which includes issues of power, control, and gender, the study offers a more

comprehensive understanding of these complex situations. The research's exploration of these issues has uncovered areas for further investigation, with the goal of improving the effectiveness in handling intimate partner violence cases within Family Court addressing the systemic failings of the Family Court system.

Strengths and Limitations of the Study

The following strengths and limitations of the study were noted:

Strengths of the Study

The study identified complexities found in mothers' lived experiences of intimate partner violence, and Family Court processes post-separation, which is a research issue that had not been adequately addressed, particularly within a South African context. Considering this, the research provides fresh insights from a South African perspective, where assumptions about domestic violence and Family Court were explored within a context of feminism, and a colonial and post-apartheid history.

This research adds to the small but growing body of research, providing valuable insights into the experiences of mothers navigating the post-divorce Family Court system, especially in the context of intimate partner violence. A strength is that by incorporating the perspectives of mothers as advisors, the study gains legitimacy and credibility. By looking at the lived experiences of mothers, this study identifies the systems of support and discriminatory practices that hinder women's ability to navigate Family Court and abusive relationships effectively. Considering survivors' own evaluations of their experiences is crucial for developing policies and programmes that can effectively support or address their specific needs.

Although the sample was small, the research offers a comprehensive understanding of how gendered forms of domestic abuse intersect and arise within the context of Family Court to shape mothers' experiences of leaving a relationship and the subsequent interactions in Family Court.

This research provides valuable insights into domestic violence, mothers' post-separation experiences, and Family Court issues, having the potential to influence professionals, organisations, and institutions and to guide and inform policy, strategies and programmes concerning domestic violence, gender equality, and children's rights.

The research can also advance safe and supportive services for those living with past, current or on-going histories of domestic violence, which is important for enhancing women's autonomy, safety, and well-being (Bertelsen, 2021; Smye et al., 2021).

Limitations of the Study

Although qualitative studies are not disadvantageous, the small sample size could be considered a limitation, as results cannot be generalised (Kelly & Johnson, 2008). A further limitation may be that the study looks largely at heterosexual relationships and further studies may wish to investigate the influence of domestic violence within queer theory/homosexual and other types of relationship structures, and its effect on Family Court interactions. An additional limitation exists in that specific intersectional factors including interracial partnerships, socioeconomic status and cultural influences were under represented.

Recommendations for Future Research

Further research might employ longitudinal techniques to examine how women's meanings shift over time. Multiple interviews with the same participants will therefore provide in-depth and comprehensive data in this regard.

Exploring the socio-cultural context in greater depth may strengthen further research in this area. Interviews with community workers, social service employees, judiciary and others who work in the area of domestic violence may offer richer data and a more encompassing view of the socio-cultural context of domestic violence and Family Court processes.

This study's findings underscore the need for future research to examine the complex and multifaceted relationship between fathers and their involvement with the Family Court

system. This can provide further understanding of intimate partner violence and Family Court, as well as provide insight into issues of gender and power. This line of inquiry is essential for promoting more equitable and effective outcomes in Family Court proceedings.

Empirical research on this topic is scarce in the South African context. In this area, research should also focus on constructions of masculinity and its relation to violence against women. Attention should also be accorded to the oppressive system of apartheid and the roles of masculinity, powerlessness, and violence. Research in this area would inform programmes for perpetrators of woman abuse, which are sorely lacking in South Africa. Research initiatives should aim to focus on the specifics of the South African situation and should not look abroad to provide theories on woman abuse.

Practical Implications and Suggestions

The experiences of mothers navigating the Family Court system in the context of intimate partner violence highlight the urgent need for systemic reform and a deeper understanding of the complex challenges that they face. Firstly, it is crucial to confront the deeply ingrained problems of gender and power imbalances that pervade the family court system. As Crenshaw (1991) notes, “Feminist academics and activists play a central role in forwarding an ideological and institutional challenge to the practices that condone and perpetuate violence against women” (p. 1241). However, the institutional setting must also be proactive in effecting such changes and not condoning such practices (Crenshaw, 1991).

Furthermore, the media can serve as a powerful force in confronting and dismantling the harmful gender stereotypes and biases that persist in public discourse.

Secondly, the media can serve as a powerful force in confronting and challenging harmful gender stereotypes and biases that persist in public discourse, which in turn influence the culture and norms of institutions like the Family Courts. Thirdly, by prioritising the safety and well-being of mothers, implementing trauma-informed practices, amplifying mothers’ Voices and experiences, bridging the gap between intimate partner violence and Family Court, and addressing biases and discriminatory practices, can the Family Court

system can be transformed to better serve and support those who have experienced abuse and seek to rebuild their lives.

Transforming the Family Court System

Addressing the social and institutional response to violence against women is a mammoth undertaking. Most importantly, there is an urgent need to address the deeply entrenched issues of gender and power dynamics within the Family Court system. This is essential to transform the system from one that is oppressive, gender-biased, and complicit in human rights violations, to one where court processes are no longer experienced as inherently traumatic, victimising and abusive. Achieving this will require an extensive, multi-faceted reform that prioritises the safety, well-being, and fundamental rights of survivors of intimate partner violence and their children.

As highlighted in the research systemic abuse is a two-fold problem: firstly, with perpetrators manipulating the system, and with gatekeepers failing to recognise it. There is a need for meaningful change within the Family Court system, that requires a comprehensive, multi-faceted approach.

Prioritising the Safety and Well-Being of Mothers and their Children

At the heart of this issue is the urgent need to prioritise the safety and well-being of mothers, therefore addressing the systemic biases and failures within the Family Court system requires a multifaceted approach that includes training for court personnel, policy reform, and the development of targeted resources and support services for mothers navigating the legal process.

When domestic violence is non-physical, such as in post-separation separations involving legal abuse, economic deprivation and control, the manipulation of children, and other coercive controlling methods, the system and laws often fail to adequately safeguard victims, leaving them vulnerable to ongoing abuse, and often without consequences for the abuser. This may involve implementing more thorough and consistent risk assessments of

domestic violence, enhancing training for legal professionals, and prioritising the safety and well-being of mothers and children.

Increased education on post-separation abuse within the court system, particularly in Family Court, is crucial. This would empower judiciary, court personnel, and service providers to recognise patterns of abusive behaviour, tactics, and abuser profiles (Campbell et al., 2002). By identifying red flag behaviours and abusive tactics, Family Court can subject perpetrators to increased scrutiny and assessment of victims. This comprehensive approach is important in prioritising the safety and wellbeing of victims of such abuses which often fall through the cracks of the current legal system. With enhanced awareness and a victim-centred focus, Family Court and other systems can work towards addressing this social ill and provide the necessary support

Amplifying Mothers' Voices and Experiences

The transformation of Family Court must be guided by the lived-experiences and perspectives of mothers who have navigated these challenges. Empowering mothers to share their stories, advocate for their rights, and participate in the development of solutions can help to address the systemic issues that have long plagued this domain. There is a need to understand women's agency, their response to abuse, and their efforts used to maintain and gain control. By acknowledging women's strengths and potential, as well as resisting gendered biases and stereotypes will prevent assumptions about the actions taken by women in such situations. This will ensure a full understanding of their experiences and responses. and prevent exposing them to secondary victimisation within Family Court processes.

Addressing Biases and Discrimination in Family Court

There is a need for the Family Court system to confront and address the biases and discriminatory practices that disadvantage women, mothers, and particularly those from marginalised communities. Efforts to improve cultural competency, increase access to

resources and support services, as well as addressing systemic biases within the legal system are crucial to creating a more just and inclusive environment for all.

Issues of gender and power need to be addressed. Gender plays an important role in the systemic failure and needs to be understood as existing. Gender disparities within family court proceedings must be addressed, including considerations of the best interests of the child, parental rights and responsibilities, and issues of child safety, where courts often disregard such concerns or pathologize mothers.

There is a further need for a better understanding that power differentials exist both in the relationship with the former partner, as well as within the court system. Such power relations need to be addressed from the context of the social system, with the justice system and the legal and service providers all having a hierarchical position of power that are often both explicit and implicit. Legal and professionals working with such cases in the Family Court system should familiarise themselves with the interacting systems that frame and exacerbate power differentials.

Concluding Comments

The practical and specific objectives that met the aims of the study were to interview mothers', who are involved in court processes in South Africa, in order to 1) ascertain their experiences of Family Court in the context of intimate partner violence; 2) establish how they construct intimate partner violence and gendered power dynamics post-separation; 3) to identify areas that need further investigation and that can promote better proficiency in the handling of such matters in Family Court. Given the above, the research has 1) explored how mothers' experience Family Court processes in the context of intimate partner violence, in South Africa; and 2) explored the social constructions of gender and power dynamics in the context of Family Court and intimate partner violence, post-separation. In so doing it has answered the research questions underpinning this study and identified areas requiring further investigation, to promote better proficiency in the handling of such matters in Family Court.

This concluding perspective underscores the importance of addressing the interconnections between gender, power, and violence within the social system to drive lasting transformation:

About Abusive Men

As the preceding discussion suggests, addressing the gendered power structures and inequalities within social systems is crucial for promoting meaningful change (Fulu et al., 2013a; McCarthy et al., 2018). Recognising that masculinity, like femininity, is a socially constructed and multifaceted concept opens the door to redefining and envisioning alternative modes of masculinity. Just as the characters and storylines in a fairy-tale are authored, re-written or reimagined, so too can the narratives of abusive men be altered by redefining and envisioning alternative modes of masculinity and facilitating social change.

About the System

A system cannot claim to be gender-neutral while perpetuating oppressive acts aligned with a dominant patriarchal system. For a system to truly be gender-neutral, it must confront and eliminate any oppressive practices. As Crenshaw (1991) emphasises, a crucial step in transforming the underlying conditions that perpetuate violence against women is to deeply examine the interconnections between gender, power, and violence within the social system. This means that agencies and institutions should recognise and address the ways that they transmit and maintain power in perpetuating such oppressive practices. One way for society to work towards these goals is by documenting how socialisation agencies, including families, media, and institutions such as Family Courts, convey new gendered expectations and power relations. If gender and power is constructed through social interactions, and social role norms can be changed through social processes, then meaningful change will occur when socialisation agencies such as Family Courts transmit new expectations.

About The Mothers

In conclusion, the discourses of the mothers in this study demonstrate how they have transformed the traditional fairy tale construct to empower themselves and others. By reframing the notion of "happily ever after" as a series of dynamic, recurring moments, the mothers have found ways to cope with life's challenges and work towards their own versions of fulfilment, even in the face of adversity. Ultimately, the mothers' "fairy tales" offer hope and model resilience, and their reclaimed discourses hold the transformative power to reshape societal constructs and pave the way for a more equitable future, particularly in the realm of gender equality.

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Appendices

Appendix A: Ethical Clearance Certificate



COLLEGE OF HUMAN SCIENCES RESEARCH ETHICS REVIEW COMMITTEE

27 June 2022

Dear Ms Sharon Harvey

Decision:
Ethics Approval from 27 June 2022
to 27 June 2025

NHREC Registration # :
Rec-240816-052
CREC Reference # :
31423531_CREC_CHS_2022

Researcher(s): Name: Ms Sharon Harvey
Contact details: 31423531@mylife.unisa.ac.za
Supervisor(s): Name: Dr N Themistocleous
Contact details: themn@unisa.ac.za

Title: Till Death Do Us Part: South African Mothers' Construction of Gender and Power in the Context of Intimate Partner Violence and Family Court

Degree Purpose: MA

Thank you for the application for research ethics clearance by the Unisa College of Human Science Ethics Committee. Ethics approval is granted for three years.

The low risk application was reviewed and approved by the College of Human Sciences Research Ethics Committee, in compliance with the Unisa Policy on Research Ethics and the Standard Operating Procedure on Research Ethics Risk Assessment.

The proposed research may now commence with the provisions that:

1. The researcher(s) will ensure that the research project adheres to the values and principles expressed in the UNISA Policy on Research Ethics.
2. Any adverse circumstance arising in the undertaking of the research project that is relevant to the ethicality of the study should be communicated in writing to the College Ethics Review Committee.
3. The researcher(s) will conduct the study according to the methods and procedures set out in the approved application.
4. Any changes that can affect the study-related risks for the research participants, particularly in terms of assurances made with regards to the protection of participants' privacy and the




confidentiality of the data, should be reported to the Committee in writing, accompanied by a progress report.

5. The researcher will ensure that the research project adheres to any applicable national legislation, professional codes of conduct, institutional guidelines and scientific standards relevant to the specific field of study. Adherence to the following South African legislation is important, if applicable: Protection of Personal Information Act, no 4 of 2013; Children's Act no 38 of 2005 and the National Health Act, no 61 of 2003.
6. Only de-identified research data may be used for secondary research purposes in future on condition that the research objectives are similar to those of the original research. Secondary use of identifiable human research data requires additional ethics clearance.
7. No fieldwork activities may continue after the expiry date (27 June 2025). Submission of a completed research ethics progress report will constitute an application for renewal of Ethics Research Committee approval.

Note:

The reference number 31423531_CREC_CHS_2022 should be clearly indicated on all forms of communication with the intended research participants, as well as with the Committee.

Yours sincerely,

Signature 

Prof. KB Khan
CHS Research Ethics Committee Chairperson
Email: khankb@unisa.ac.za
Tel: (012) 429 8210

Signature: PF 

Prof. K. Masemola
Executive Dean: CHS
E-mail: masemk@unisa.ac.za
Tel: (012) 429 2298



Appendix B: Information Brochure Distribution Request

19 September 2022

Dear

Re: Request to Distribute Information Brochure for Masters Research

My name is Sharon Harvey, a Master's in Psychology student at the University of South Africa. I am doing research with Dr Nikki Themistocleous, a Senior Lecturer and Programme Coordinator for the Masters in Clinical Psychology Programme in the Department of Psychology at the University of South Africa, towards a Masters in Psychology Degree.

We are requesting permission to distribute the Information Brochures/pamphlets in order to invite participation in the research. The research is entitled: *Constructions of Gender and Power: South African Mothers' Experiences of Intimate Partner Violence and Family Court*.

This study has received written approval from the Research Ethics Review Committee in the Department of Psychology, UNISA. The ethical clearance number is: 31423531_CREC_CHS_2022.

The research aims are 1) to explore South African mothers' experiences of Family Court processes in the context of intimate partner violence; and 2), to explore the social constructions of gender and power in the context of Family Court and intimate partner violence, post-separation.

In order to conduct this research, we would like to interview mothers who have experienced Domestic Violence and have been part of Family Court processes, either in Children's Court in Care and Contact or Maintenance Court matters in South Africa.

To participate in the research, we are inviting mothers who meet the following criteria:

- Mothers who are aged 18 years and older, who were in a heterosexual relationship with their alleged abusive ex-partner.
- Mothers who have experienced domestic violence by the other parent (whether previously married or cohabiting) with a Protection order granted by a South African Court for acts of domestic violence
- Mothers who were or currently are involved in Family Court processes (Care and Contact or Maintenance matters) concerning the child or children.
- Mothers who live in South Africa.
- Mothers who are currently separated or divorced from their ex-partner (and parent of their child/children) who perpetrated acts of domestic violence against them or their children.

The participants will be asked to describe their experience of interacting in Family Court in matters concerning maintenance, custody, or care of the minor children; with an ex-spouse or partner with whom they have a history of domestic abuse; which is the phenomenon under study.

We are hoping that the findings can contribute to a better understanding of domestic violence and the post-separation experiences of mothers, which will, in turn, have the potential to influence professionals, organisations, and institutions and to inform policies, strategies, and programmes concerning domestic violence, gender equality, and children's rights; and guide decision making, policy, and programmes.




If you would like to be informed of the final research findings, please contact 31423531@mylife.unisa.ac.za. The information will be published in the form of a dissertation which can be accessed through the Unisa library, and academic articles which will be submitted for publication in academic journals. You can also contact me for a summary of the findings once the degree has been conferred. Should you require any further information or want to contact the researcher about any aspect of this study, please email me at 31423531@mylife.unisa.ac.za

Should you have concerns about how the research has been conducted, you may contact the supervisor, Dr Nikki Themistocleous on 012 429 8277 or email themini@unisa.ac.za.

Thank you for your assistance in the call for participation.

Sincerely,



Sharon Harvey



Appendix C: Invitation to Participate



INVITATION TO PARTICIPATE IN RESEARCH

WHO IS INVITED TO PARTICIPATE?

We would like to interview mothers who have experienced Domestic Violence and have been part of Family Court processes, either in Children's Court in Care and Contact or Maintenance matters in South Africa.

To participate in the research, we are inviting mothers who meet the following criteria:

- Mothers who are aged 18 years and older, who were in a heterosexual relationship with their alleged abusive ex-partner.
- Mothers who have experienced domestic violence by the other parent (whether previously married or cohabiting) with a Protection order granted by a South African Court for acts of domestic violence
- Mothers who were, or currently are involved in Family Court processes (Care and Contact or Maintenance matters) concerning the child or children.
- Mothers who live in South Africa.
- Mothers who are currently separated or divorced from their ex-partner (and parent of their child/children) who perpetrated acts of domestic violence against them or their children.

WHAT IS THE NATURE OF MY PARTICIPATION IN THIS STUDY?

The study involves face-to-face interviews that will be conducted at an agreed time that is convenient to you, and at an agreed-upon place that will be conducive to conduct the interview. All information that is collected about you during this research study will be kept strictly confidential.

You will be asked to describe your experience of interacting in Family Court in matters concerning maintenance, custody, or care; with an ex-spouse or partner with whom you have a history of domestic abuse; which is the phenomenon under study.

WHAT ARE THE POTENTIAL BENEFITS OF TAKING PART IN THIS STUDY?

You will not be remunerated for your participation in this study. However, the findings can contribute to a better understanding of domestic violence and the post-separation experiences of mothers, which will, in turn, have the potential to influence professionals, organisations, and institutions and to inform policies, strategies, and programmes concerning domestic violence, gender equality, and children's rights; and guide decision making, policy, and programmes.

WHO TO CONTACT?

If you would like to assist in this research, please send an email to Sharon on 31423531@mylife.unisa.ac.za.



Appendix D: Participant Information Sheet



PARTICIPANT INFORMATION SHEET

Ethics clearance number: 31423531_CREC_CHS_2022

Research permission reference number: Rec-240816-052

Title: Constructions of Gender and Power: South African Mothers' Experiences of Intimate Partner Violence and Family Court

Dear Prospective Participant

My name is Sharon Harvey (Ex-Marital Surname: Jory), a Master's in Psychology student at the University of South Africa. I am doing research with Dr Nikki Themistocleous, a Senior Lecturer and Programme Coordinator for the Masters in Clinical Psychology Programme in the Department of Psychology at the University of South Africa, towards a Masters in Forensic Psychology Degree. We are inviting you to participate in a study entitled: *Constructions of Gender and Power: South African Mothers' Experiences of Intimate Partner Violence and Family Court*.

WHAT IS THE PURPOSE OF THE STUDY?

This study first aims to explore mothers' experiences of Family Court processes in the context of intimate partner violence, and second, explore the social constructions of gender and power in the context of Family Court and intimate partner violence, post-separation.

WHY AM I BEING INVITED TO PARTICIPATE?

Thank you for responding to the call for participation. In order to conduct this research, we would like to interview mothers who have experienced Domestic Violence and have been part of Family Court processes, either in Children's Court in Care and Contact or Maintenance matters in South Africa.



University of South Africa
Preller Street, Muckleneuk Ridge, City of Tshwane
PO Box 392 UNISA 0003 South Africa
Telephone: +27 12 429 3111 Facsimile: +27 12 429 4150
www.unisa.ac.za

To participate in the research, we are inviting mothers who meet the following criteria:

- Mothers who are aged 18 years and older, who were in a heterosexual relationship with their alleged abusive ex-partner.
- Mothers who have experienced domestic violence by the other parent (whether previously married or cohabiting) with a Protection order granted by a South African Court for acts of domestic violence
- Mothers who were, or currently are involved in Family Court processes (Care and Contact or Maintenance matters) concerning the child or children.
- Mothers who live in South Africa.
- Mothers who are currently separated or divorced from their ex-partner (and parent of their child/children) who perpetrated acts of domestic violence against them or their children.

As you meet the inclusion criteria required, we would like to invite you to participate in this research study.

Before you decide to participate in this research study, it is important that you understand why the research is being done and what it will involve. Please take the time to read this information sheet carefully. Ask us if there is anything that is not clear or if you would like more information.

WHAT IS THE NATURE OF MY PARTICIPATION IN THIS STUDY?

The study involves face-to-face interviews that will be conducted by me, the researcher, at an agreed time that is convenient to you, and at an agreed-upon place that will be conducive to conduct the interview.

You will be asked to describe your experience of interacting in Family Court in matters concerning maintenance, custody, or care; with an ex-spouse or partner with whom you have a history of domestic abuse; which is the phenomenon under study. The interview will be audio-recorded, and later transcribed verbatim, and should not take longer than approximately 90 minutes. Your identifying and personal information will be removed from the transcriptions for confidentiality reasons. The information gathered from the interviews will be published in the form of a research dissertation, and academic articles.



CAN I WITHDRAW FROM THIS STUDY EVEN AFTER HAVING AGREED TO PARTICIPATE?

Participation in this research study is voluntary and there is no penalty or negative consequence for non-participation, or for withdrawing from participating at any time during the study. In addition, you are under no obligation to consent to participate. If you do decide to take part, you will be given this information sheet to keep and you will be asked to sign a written consent form. You may choose to withdraw from the study at any time, without giving a reason, and there will be no negative consequences rising pertaining to your withdrawal. If you withdraw, the information that you have provided will not be used in the study.

WHAT ARE THE POTENTIAL BENEFITS OF TAKING PART IN THIS STUDY?

You will not be remunerated for your participation in this study and there will be no direct benefits to participating in this study. You will also not incur any costs for participating in this research study. The potential benefits for participating, and for the study as a whole are:

- The findings can contribute to a better understanding of domestic violence and the post-separation experiences of mothers, which will, in turn, have the potential to influence professionals, organisations, and institutions and to inform policies, strategies, and programmes concerning domestic violence, gender equality, and children's rights; and guide decision making, policy, and programmes.
- Furthermore, tremendous healing can be found in telling your story and reclaiming ownership over these stories (Smye et al., 2021) as well as the knowledge that comes from realising that we are not the "only one" and that others are walking a difficult path. A further benefit is an importance of creating change for other mothers that come after (Smye et al., 2021).

ARE THERE ANY NEGATIVE CONSEQUENCES FOR ME IF I PARTICIPATE IN THE RESEARCH PROJECT?

There are no identifiable negative consequences or risks involved in participating. However, if questions appear to cause you, the participant, any distress or discomfort, you will be allowed to exit the interview and you will be referred to appropriate counselling services, at no cost to you; at

- 1) Unisa Psychotherapy Clinic (at Muckleneuk Campus, Pretoria);
- 2) Lifeline South Africa.

If you find any question personal and confronting, you can refuse to answer that particular question. The research will be conducted by the ethical and professional guidelines as specified by the Research Ethics Committee at UNISA.



WILL THE INFORMATION THAT I CONVEY TO THE RESEARCHER AND MY IDENTITY BE KEPT CONFIDENTIAL?

All information that is collected about you during this research study will be kept strictly confidential. Your answers may be reviewed by people responsible for making sure that the research is done ethically, including the supervisor, the transcriber, external coder, and members of the Research Ethics Review Committee, however, your answers will be given a code number or a pseudonym, and you will be referred to in this way in the data, publications, and other research reporting methods such as conference proceedings. All service providers (e.g. transcribers, co-coders, and editors) will be subject to a confidentiality contract to ensure that all information is protected and kept confidential. Access to the interview material will be restricted to myself and my supervisor and will be processed and analysed only by me. For the duration of all hard copies of the study, the audio-recorded interview, the transcript of the interview, and your signed consent form will be stored safely in a locked cupboard/filing cabinet in a secure/locked office at the University of South Africa with restricted access. In addition, or electronic copies of data will be secured on a password-protected device, and all documents will be encrypted with a password. The transcript of interviews in which all identifying information has been removed will be retained in a locked cupboard/filing cabinet in a secure/locked office at the University of South Africa for a further six years after the researcher's degree has been conferred.

HOW WILL THE RESEARCHER(S) PROTECT THE SECURITY OF DATA?

Hard copies of your interviews will be stored by the researcher for a minimum period of six years in a locked cupboard/filing cabinet in a secure/locked office at the University of South Africa for future research or academic purposes. Electronic information will be stored on a password-protected computer. Future use of the stored data will be subject to further Research Ethics Review and approval if applicable. Hard copies will be shredded, and electronic copies will be permanently deleted from the hard drive of the computer through the use of a relevant software programme after six years.

WILL I RECEIVE PAYMENT OR ANY INCENTIVES FOR PARTICIPATING IN THIS STUDY?

You will not be remunerated for your participation in the study and there will be no compensation for participating in this study. There are no incentives linked to your participation in this study.

HAS THE STUDY RECEIVED ETHICS APPROVAL?

This study has received written approval from the Research Ethics Review Committee in the Department of Psychology, UNISA. A copy of the approval letter can be obtained from the researcher if you so wish. The ethical clearance number is: 31423531_CREK_CHS_2022



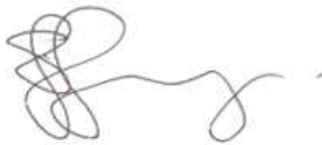
HOW WILL I BE INFORMED OF THE FINDINGS/RESULTS OF THE RESEARCH?

If you would like to be informed of the final research findings, please contact 31423531@mylife.unisa.ac.za. The information will be published in the form of a dissertation and academic article and can be accessed through the library at Unisa. You can also contact me for a summary of the findings once the degree has been conferred. Should you require any further information or want to contact the researcher about any aspect of this study, please contact Sharon on 31423531@mylife.unisa.ac.za

Should you have concerns about how the research has been conducted, you may contact Dr Nikki Themistocleous on 012 429 8277 or email themini@unisa.ac.za.

Thank you for taking the time to read this information sheet and for participating in this study.

Thank you,



Sharon Harvey



Appendix E: Informed Consent Form



INFORMATION AND INFORMED CONSENT FORM

Dear Participant

Thank you for agreeing to be part of the research project on mothers' lived experiences of Family Court processes, in the context of domestic violence. The researcher, Sharon Harvey 3142 3531 is currently a MA Psychology student at the University of South Africa embarking on a study titled: *Constructions of Gender and Power: South African Mothers' Experiences of Intimate Partner Violence and Family Court*.

The current study aims to:

- 1) explore mothers' experiences of Family Court Processes in the context of intimate partner violence, in South Africa and,
- 2) explore the social constructions of gender and power in the context of Family Court and intimate partner violence, post-separation.

You have been identified as a prospective participant for this project and are thus invited to participate in the above-mentioned study. Your experience in this field will be highly beneficial and may work towards new insights and ultimately answer the research questions of the study.

Your participation in the study is voluntary and you are free to withdraw at any time without prejudice or consequence. Data collection will be in the form of open-ended unstructured, face-to-face interviews or online due to Covid restrictions. The interviews will be audio-recorded and later transcribed to ensure the trustworthiness of the study, however, the researcher will ensure that all personal and identifying information will be secured during, and after the study is completed. Parts of the transcriptions may be included in the study, or as appendices, however, all identifying information will be absent. The findings of the study will be used as part of the final mini-dissertation to be submitted for examination as part of the MA Psychology Programme.



The potential benefit of participating in:

- Participants will have the opportunity to reflect and gain insights into their experiences, by sharing their experiences.
- It can contribute to a richer and meaningful understanding of what the mothers' experiences are and contribute to the ever-growing body of knowledge regarding intimate partner violence and family matters.
- This understanding will, in turn, have the potential to influence professionals, organisations, and institutions and to inform policies, strategies, and programmes concerning domestic violence, gender equality, and children's rights; and guide decision making, policy, and programmes.
- Furthermore, tremendous healing can be found in telling your story and reclaiming ownership over these stories (Smye et al., 2021) as well as the knowledge that comes from realising that we are not the "only one" and that others are walking a difficult path. A further benefit is an importance of creating change for other mothers that come after you.

There are no foreseeable or expected negative consequences for participating in the research.

If, however, the interview causes you any discomfort, you can be referred to the following psychological services to provide psychological counselling:

1. Unisa Psychotherapy Clinic (at Muckleneuk Campus, Pretoria) - (012) 429 8930
2. Lifeline South Africa – 011 715 2000

Should you require any debriefing, counselling, or feedback during or after your interview, such will be arranged and provided to you free of charge.

All information that is collected about you during this research study will be kept strictly confidential. The researcher, supervisors, examiners, transcribers, and co-coders may have access to your data, but all personal and identifying information will be removed. Additionally, confidentiality agreements will be required. You will not be remunerated for your participation in the study and there will be no direct benefits to participating in this study. There are no incentives linked to your participation in this study.



I _____ (name of participant) agree to take part in the above-mentioned study, and acknowledge the following conditions:

1. I participate voluntarily in the above-mentioned study and have not been convinced or coerced in any way.
2. I understand the aims of the study and the procedures that will be followed.
3. I understand that no compensation will be afforded to me for my participation, nor will there be any cost to me.
4. I understand and acknowledge that information I share will be used as part of a dissertation for examination as part of the MA Psychology Degree, at the University of South Africa.
5. I understand that I may withdraw from the study at any time, without any negative consequences. In such a case I therefore acknowledge that any information shared by myself will not be used as part of the study.
6. All identifying information shared by myself will be kept in a safe and secured location by the researcher, and the only individuals who will have access to such information will be the said researcher and the promoters of the study.
7. I have been explained, and therefore understand, the conditions of anonymity and confidentiality.
8. I have read the information brochure, and have had the purpose, process and expectations of the research explained to me by the researcher.
9. I consent to the interviews being audio recorded and transcribed.

My participation is voluntary

<input type="checkbox"/>	YES	<input type="checkbox"/>	NO
--------------------------	-----	--------------------------	----

I was not pressured or convinced to participate

<input type="checkbox"/>	YES	<input type="checkbox"/>	NO
--------------------------	-----	--------------------------	----

I was given the opportunity to ask questions and clarify any information, which was clearly and satisfactorily answered

<input type="checkbox"/>	YES	<input type="checkbox"/>	NO
--------------------------	-----	--------------------------	----

I understand and accept all the above conditions

<input type="checkbox"/>	YES	<input type="checkbox"/>	NO
--------------------------	-----	--------------------------	----

Signed at:		On		20
Full Name:				
Signature:				

Researcher

Supervisor

Name of Researcher

Name of Supervisor

Appendix F: Demographic information Sheet

RESEARCH STUDY: Constructions of Gender and Power: South African Mothers' Experiences of Intimate Partner Violence and Family Court			
RESEARCH NUMBER		DATE OF INTERVIEW	
NAME OF PARTICIPANT		PSEUDONYM	
AGE		AGE	
CHILDREN			
RELATIONSHIP STATUS	SEPARATED	DIVORCED	YEARS
SEPARATION TO DIVIRCE	MONTHS/YEARS	POST DIVORCE	MONTHS/YEARS
DV INTERDICT			
COURTS	CRIMINAL COURT	CHILDREN'S COURT	MAINTENANCE
	HIGH COURT		
LEGAL ASSISTNACE	OWN	PROBONO	ATTORNEY
COURT INTERVENTION	SOCIAL WORKER	FAMILY ADVOCATE	MEDIATION
	SOCIAL WELFARE	PSYCHOLOGIST	OTHER
EMPLOYMENT STATUS MARRIED	STAY AT HOME	PART-TIME	FULL-TIME
EMPLOYMENT STATUS CURRENT	UNEMPLOYED	PART-TIME	FULL-TIME
MEDICAL ISSUES			
PRE		POST	
NOTES:			

Appendix G: Interview Topic Guide

RESEARCH STUDY: Constructions of Gender and Power: South African Mothers' Experiences of Intimate Partner Violence and Family Court	
INTERVIEW QUESTION GUIDE	
1	What are some relevant factors prior to Family Court intervention?
2	What factors contributed to you ending up in the Family Court system?
3	How did the past or ongoing abuse affect the court process?
4	How would you describe your experience of interacting in Family Court in matters concerning maintenance, custody, or care; with an ex-spouse or partner with whom you have a history of domestic abuse?
5	What were the challenges you faced whilst going through this process?
6	What were your experiences of the benefits or shortcomings of Family Court?
7	At the time of family court process, what were your concerns about your own and your children's safety?
8	How did these concerns about the fathers' abusive history affect the Court process?
9	What impact did family Court have on your family?
10	What are some relevant factors post intervention of the Family Court?
11	What has changed post Family Court intervention?

Appendix H: Transcribing Code

Transcribing Code

...	A pause of less than 4 seconds
(long pause)	A pause longer than 4 seconds
/.../	Talk omitted from the context
(text)	Additional or replaced word/word to make the excerpt read better or to make grammatical sense
[text]	Transcriber's explanatory comments
<u>Text</u> Text TEXT	Vocal emphasis

Appendix I: Outline of Post-Separation Issues, Court Challenges and Impact

Table 10 below outlines the post-separation issues, court challenges and their impacts faced by participants.

Table 10

Post-Separation Issues, Court Challenges and Impact

POST-SEPARATION ISSUES AND CHALLENGES		
Participant	Post-Separation Issues	Challenges and Impact
Participant 1	Father failing to comply with Maintenance Order. Continued bullying behaviour in and out of court. Claims of parental neglect against her in Children's Court, when held accountable for maintenance.	Lack of support from court in Maintenance and Care and Contact. Lack of adequate legal support. Financial stress, fatigue, frustrating
Participant 2	Father not paying any Maintenance towards child since separated. Continued abuse post-separation. Attempts to remove him from parental rights met with allegations of her inability to parent.	Lack of support from court in Maintenance and Care and Contact. Lack of legal support. Institutional abuse and betrayal. Challenges making ends meet, concerns about child safety and renewed contact with father.
Participant 3	Father not paying any Maintenance, leading to destitution and homelessness. Continued abuse post-separation.	Lack of support from Family Court and other institutional settings. Institutional abuse and betrayal. Severe financial issues, lack of support compounding issues due to disability. Emotional stress, lack of empowerment in safeguarding children and fears of children's safety.
Participant 4	Father failing to comply with Maintenance Order. Continued abuse post-separation. Legal bullying from counter-side.	Lack of support from court in maintenance matters. Institutional abuse and betrayal. Financial challenges, stress
Participant 5	Father failing to comply with Maintenance Order. Continued abuse post-separation. Claims of parental alienation following maintenance application and DV interdict.	Lack of support from court in Maintenance and Care and Contact. Institutional Abuse within the Family Court system. No assistance left her facing further abuse from partner. Court behaviour not in her or child's best interest. Concerns about Service Providers bias and lack of knowledge of domestic violence issues. Financial stress, safety issues, childcare concerns.

Participant 6	Father failing to comply with Maintenance Order. Continued abuse post-separation.	Lack of support from Family Court and other institutional settings, in securing maintenance leading to economic abuse and institutional betrayal from the system. Extended time and severe financial challenges, not in her or child's best interest. Trauma and financial stress.
Participant 7	Care and contact issues regarding safety concerns of child. Claims of parental alienation following her application. Continued abuse post-separation.	Lack of support from court in care and contact matters. Concerns about Service Providers bias and lack of knowledge of domestic violence issues. Emotional stress, lack of empowerment in safeguarding child and fears of child's safety.
Participant 8	Maintenance Issues. Continued bullying behaviour in and out of court.	Lack of support from court in maintenance and care and contact matters. Lack of legal support. Lack of community support. Systemic barriers, institutional abuse and betrayal. Emotional stress and financial insecurity.
Participant 9	Father failing to comply with Maintenance Order. Continued bullying behaviour out of court.	Lack of support from court in securing maintenance for her children. Continued trips to court impacting employment. Compounding financial difficulties leading to poverty and safety concerns for children.

Appendix J: Similarity Index

Similarity Report	
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PAGE COUNT 386 Pages	FILE SIZE 3.0MB
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