

THE LACK OF A UNIFORM POLICY AROUND SCHOOL TRANSFERS CREATES DIFFICULTIES FOR DV SURVIVORS AND THEIR CHILDREN

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SUMMARY

Problem:

While trying to recover from the trauma of domestic violence (DV) and rebuild their lives, survivors of DV face additional difficulties related to their children's education and safety. Currently, there is no uniform policy around the transfer of a child's school in the event of DV. The lack of such a policy to mandate the responsibilities of key stakeholders causes uncertainty, particularly on the part of schools, as to what measures they should take. This has led to individual discretion being applied in DV cases, with the outcomes tending to favour the perpetrator of the abuse and causing harm to survivors of DV, including children.

- **Issue 1:** Children are placed at risk of harm when forced to continue attending school in the same location where they previously resided with their perpetrator-father.
- **Issue 2:** The current ad-hoc approach places an undue burden on the survivor-mother to navigate unclear administrative procedures in order to ensure the safety of her children, and may also pose a risk to her physical, emotional, and financial well-being.
- **Issue 3:** There is an additional negative impact on children, who have already undergone the trauma of experiencing or witnessing DV, when they are also forced to be kept out of school for a prolonged period due to concerns over their safety.
- **Issue 4:** The lack of a clear policy imposes an unfair burden on school administrators, who may feel constrained when deciding whether to grant a school transfer for fear of legal repercussions against the school, and may be ill-prepared to handle the unplanned admission of a new student mid-school-year as a result of a DV situation.

Solution:

A uniform policy that is in accordance with a *best interests of the child* approach and Section 5 of the Guardianship of Infants Act 1961—which demands equal guardianship rights over the children for both parents—and that also takes into account the safety and well-being of the survivor-mother should be adopted and implemented.

Having such a policy would provide an effective and transparent administrative process for completing school transfers of children who have been in DV situations and would help ensure the safety and wellbeing of DV survivors and their children.

INTRODUCTION

Women's Aid Organisation (WAO) assists women survivors of DV to gain access to justice and protection, guaranteed to them under the law. Many survivors of DV are mothers, for whom their children are an important factor in motivating them to seek help and escape their abusive situations.

After the initial challenges survivors of DV face, there are other issues that a survivor must deal with as she works to rebuild her life. In some ways, dealing with the issues that arise in the aftermath of the crisis can be more challenging, as there is less emphasis placed on policies and procedures related to these issues. Such challenges include transferring a child's school from the location where the child previously resided with her mother (the survivor) and her father (the perpetrator) to a new location where she is residing with her mother or being cared for by another party.

Due to the lack of a standardised policy around school transfers in DV situations, such transfers are left to the discretion of school authorities, and the rejection of such transfers may put both the survivor-mother and her children at risk of harm.

Issue 1: Children are placed at risk of harm when forced to continue attending school in the location where the DV occurred

If a child is forced to continue attending school in the same location where she previously resided with the perpetrator-father, she is at risk of kidnapping and further exposure to the abusive situation. Due to the fixed schedules of the school, the perpetrator knows where the child will be at any given time.

Furthermore, the arbitrary discretion which school authorities currently exercise (in the absence of a uniform policy) to decide whether to grant transfers often favour the father, perpetuating the unequal power dynamic of DV and putting the child at risk of further harm.

WAO Case Study: Sofia is a foreign citizen who has been married to her Malaysian husband for ten years. Throughout their marriage Sofia endured physical, psychological, and financial abuse, and she left multiple times to seek shelter. One day, after Sofia had sought refuge at WAO, she went with two of her children to meet her husband to discuss their divorce. After the discussion, Sofia's husband sent her and the two children to the train station. While Sofia walked in front with the younger child, her husband walked behind with the older child. Suddenly, Sofia realised that the husband and older child were no longer behind her. She looked everywhere, but could not find them. When she went to lodge a police report, the police told her that the child was not missing since she was with her father. The next day, when the younger child finished school, the husband showed up at the school with the older child and abducted the younger child from school.

Issue 2: Ad-hoc approach and lack of clear procedure for DV situations places burden on the survivor-mother

It is difficult for a survivor-mother to ensure the effective transition of her children and herself into their new life after escaping an abusive situation. The uncertainty surrounding transferring schools increases the substantial psychological burden already placed on the survivor-mother.

Survivors may already be dealing with conflicting emotions, including guilt over disrupting their child's lives by leaving the abusive situation and removing the child from her home. The current ad-hoc approach to school transfers places an additional undue burden on the survivor-mother to navigate unclear administrative procedures in order to ensure the safety of her child. If a transfer is

rejected, the survivor-mother is forced to choose between two undesirable options: keeping the child in her current school and putting both the child and the survivor-mother's safety at risk; or keeping the child out of school for a prolonged period until the transfer is approved or the start of a new school year, which is disruptive not only to the child's education, but also potentially to her emotional and psychological wellbeing.

There are additional burdens imposed by the lack of a uniform policy around school transfers in DV cases. For example, retrieving paperwork that might be required to complete a transfer or to enroll a child in a new school, such as a marriage certificate or birth certificate, may be difficult for the survivor-mother, as it may require returning to the abusive home or contacting the perpetrator in order to obtain the documents. Failure to have the necessary documentation may lead to rejections by multiple schools, gaps in the child's education, and further exposure to abuse if the mother is forced to resume contact with the perpetrator for consent or paperwork.

Furthermore, there may also be difficulties in getting school textbooks for the child. If a child transfers schools in the middle of the school year, the new school may have run out of textbooks for the child, and buying new textbooks may pose an insurmountable financial obstacle for the survivor-mother, who may have limited financial resources. Additionally, the old school sometimes asks students to return the textbooks the child had borrowed at the beginning of the year. This can present a difficulty if the textbooks are in the home where the perpetrator resides. A uniform policy could remedy these issues by taking into account not only the best interests of the child, but also the physical and emotional wellbeing of the mother-survivor.

WAO Case Study: Christina endured physical, psychological, sexual, and financial abuse by her husband during the three years of their marriage. When she finally left the abusive house, Christina faced difficulties when trying to transfer her child's school. The school administrators refused to send the school transfer documents to the WAO office, despite knowing that Christina was a survivor of DV and was no longer living in the abusive home. As a result, Christina and her WAO social worker were forced to travel to another state to retrieve the documents from the school. The school administration then requested Christina to return all the textbooks in order to get the school documents, despite Christina informing the school that the textbooks were at the perpetrator's house.

Issue 3. Children who are forced into a prolonged absence from school suffer additional emotional and psychological harm

Challenges may discourage survivor-mothers from seeking a transfer, leaving their children without education for long periods of time. Even if the transfer is initiated, the approval process can take up to 14 days for a District Education Officer to approve, forcing the child to remain out of school for this duration. Alternatively, if a transfer is rejected, the survivor-mother may be forced to wait until the start of the new school year to enrol the child in a new school, either because she does not want to jeopardise the child's safety by keeping her enrolled in the old school, or because the survivor-mother and child are now residing a substantial distance away from where the old school was located.

Gaps in education can be disruptive to a child's development, as well as to the social integration of the child. Moreover, school is a 'constant' in a child's life, and can provide critical stability and normalcy, especially in a time of crisis where a child has endured or witnessed DV and is dealing with the emotional trauma.

WAO Case Study: Yasmin is a survivor of DV who was unsuccessful in transferring her children's school due to the objection of the perpetrator-father, meaning her children were unable to attend school for a prolonged period of time. This example shows the disparity between the school

practices and the *best interest of the child* principle outlined in Article 2 of the UN Convention on the Rights of the Child (CRC). By ignoring this principle, schools award more power to the abuser, and violate the child's right to education and protection under the CRC.

Issue 4. Without a uniform policy, an unreasonable burden is placed on School administrators, who may be concerned over legal consequences, resource constraints, and performance indicators

Without a uniform policy in place articulating the duties of school officials, and what steps they must take when a student's mother is requesting a transfer in a DV situation, schools are often reluctant to take steps to facilitate the transfer.

There are several reasons for this, including the reason cited by some schools that they are concerned about the legal repercussions if they were to accept a child without the father's consent. In the event that a school receives conflicting instructions from the mother and father, the lack of a policy leads to uncertainty over whose instructions the school should follow. Some school officials have even shared with WAO clients their understanding that a father's guardianship rights supersede those of the mother, which is contrary to the Guardianship of Infants Act 1961.

Furthermore, schools may be ill-prepared or not equipped to accept a transfer student mid-year, and as a result may be reluctant to do so. However, with a clear mandate from the Ministry of Education, schools will be aware of the necessity to plan for such a situation (e.g. by accounting for spare sets of textbooks) and can facilitate a smoother transfer that will ease the burden on the school, the survivor-mother, and the child.

Finally, schools are sometimes reluctant to accept a child because this may affect the school's performance indicators. Some schools are particularly concerned about student performance, and are thus reluctant to accept children who may have poor records, as this may reflect poorly on the school. However, if performance indicators are amended to take into account the responsibility of schools as community stakeholders to uphold the best interests of children—and particularly those children who are coming from DV situations—schools will not be inclined to reject a student for fear of how their performance will reflect on the school, and will instead focus on providing the necessary resources to the child to ensure her success.

WAO Case Study: Hanif is a principal who shared the difficulties his school faces when accepting a child under DV circumstances. In one case, Hanif shared that the father came to the school before the mother could initiate the transfer and told the school not to transfer the children. When the mother subsequently applied for the transfer, Hanif told her that he could not approve it. The mother brought this up to the District Education Officer and they said that the school should proceed with the transfer, but Hanif informed the mother that, at the end of the day, if he approved the transfer, the school was at risk of being sued.

RECOMMENDATION

The Ministry of Education should adopt and implement a comprehensive and uniform policy with accompanying SOPs for schools and District Education Officers. This policy should:

- Mandate the unilateral rights of the survivor-mother over the transfer of her children, which will clarify any uncertainty on the part of schools and address concerns over potential liability from granting a school transfer without the consent of the perpetrator-father;
- Outline clearly the steps that a school must follow if a school transfer is requested as a result of DV, including stipulating that the documents required from the survivor-mother to complete the transfer must not be overly burdensome (e.g. a copy of a recent police report or (Interim) Protection Order should suffice)
- Mitigate the risk of harm to the survivor-mother, including by not making the school transfer contingent on the return of textbooks, as in some cases these may not be retrieved without contacting the perpetrator-father or returning to the abusive home.
- Mitigate the risk of harm to the child, including by expediting the school transfer so that the child is kept out of school for a minimal amount of time, and equipping the child with any additional resources that might be needed for her adjustment to the new school, including textbooks and extra help as needed.
- Adjust school performance indicators so that schools are not disincentivised from accepting a transfer student as a result of a DV situation.

CONCLUSION

Adoption and implementation of a standardised policy around school transfers in DV cases would ease the burden on survivor-mothers, ensure the physical safety and reduce the risk of additional harm to children in DV situations from prolonged periods of absence from school, and resolve uncertainty and mitigate any risk on the part of school administrators who currently may be reluctant to grant transfers without permission from both parents, even in DV situations. Such a policy would prioritise the best interests of the child and also support survivors of DV in escaping abusive situations and rebuilding the lives of themselves and their children without fear of jeopardising their children's welfare.

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