

**Testimony of Monica Ghosh Driggers, director, Gender and Justice Program
Wellesley Centers for Women, before the Massachusetts Joint Judiciary Committee
Hearing on the *Human Rights for All* Bill (HB706), June 7, 2005**

Esteemed members of the committee and ladies and gentlemen:

My name is Monica Ghosh Driggers and I am the Director of the Gender and Justice Project at the Wellesley Centers for Women. My project conducts research on court reform and criminal justice reform. Prior to coming to Massachusetts, I was a senior analyst for the Supreme Court of California Administrative Office of the Courts where I developed court reform projects.

I am here to give you my perspective, as a researcher, on the value of using human rights principles to investigate problems in government, advance the quality and accountability of government institutions, and improve the welfare of our citizens.

Between 1999 and 2002 my colleagues and I used human rights principles in conducting a research project that came to be known as the Battered Mothers' Testimony Project. My colleagues, Carrie Cuthbert and Kim Slote, were inspired to start this research because, as they traveled around the state talking to women's advocacy groups, they started hearing overlapping complaints; complaints about:

- (a) Judges granting batterers (and in some cases child abusers) custody of and unsupervised or otherwise unsafe visitation with children;
- (b) Probate probation officers/Family service officers pressuring battered women to mediate face-to-face with their abusers even when there was an active restraining order; and
- (c) Guardians ad litem conducting incomplete and biased or discriminatory investigations, and making possibly dangerous recommendations re: custody and visitation.

It's important to note that these complaints echoed findings detailed in a 1989 Massachusetts Supreme Judicial Court study on gender bias.

For three years we researched the women's complaints. With very limited funding, we did detailed interviews with 40 women across the state as well as 14 state employees connected with either the courts, DSS, the Division of Professional Licensure, or the Commission on Judicial Conduct. We also collected 31 responses to a survey instrument and conducted 5 focus groups.

In 2002 we released a report (www.wcwonline.org/wrn/batteredreport.html) that verified the women's complaints *and* the Supreme Judicial Court's 13-year old findings. Perhaps more importantly, we found that battered women's rights-their human rights-are violated by the Massachusetts Probate and Family Courts. We found that the courts:

- Fail to protect battered women and children from abuse

- Discriminate and show bias against battered women
- Engage in degrading treatment of women
- Deny due process to battered women
- Allow the batterer to continue abuse through the family court system; and
- Fail to respect the economic rights of battered women and children.

Up until now I've described a study to you that may seem pretty run-of-the-mill in methodological terms—interviews—surveys—data collection. But the use of human rights as a tool made a big difference in gathering and analyzing this evidence. In fact, this study and the positive influence it has had so far on abuse victims and the court system could not have happened without using human rights.

Battered women, like most citizens, believe that their government exists to support them in their time of need. They go to a government institution, in this instance the courts, to have their wrongs redressed. When that institution discriminates against them, treats them badly, or dismisses their claims out of hand, they lose the precious trust that they had in the government. Their vulnerability doubles as they feel wronged by their abuser and by their government. They feel alone and helpless and ashamed of their involvement in such a bad situation.. They become reluctant to speak.

Simply *knowing* that one has the right to be protected by one's government, and to be treated with dignity by that government, and to have one's economic rights respected by that government can be the difference between speaking out and remaining silent. That supportive power of human rights is what we witnessed during our research.

I must emphasize that most of the changes we recommended in our report have no ongoing costs associated with them. And to the extent that human rights-oriented changes may require funding, I am confident that that investment would stand up to a rigorous cost-benefit analysis.

I'd like to end with an excerpt from the testimony of one of our study participants. This woman's ex-husband had abused her and had sexually abused her daughter. As she struggled to get custody of her children and protect them, her efforts were repeatedly blocked by her husband's legal maneuvers and by the inefficiency and inherent ignorance of bureaucracy.

“When I went to court to ask for a sexual abuse evaluation, the judge denied my request. When my ex-husband heard that my daughter had disclosed sexual abuse, he went to court to ask for custody without any notice to me so I wasn't present at the hearing. The judge temporarily granted custody to him because of my supposed risk of flight. Eventually a Guardian Ad Litem From Mass. General's Children and the Law program who had already conducted an investigation because my daughter was upset about going on visits, only two months earlier was reappointed. This was the same GAL who, despite my daughters pleas to not go on any more overnight visits and the fact that she was crying about going on visits, had recommended more time with her father

because, he said, **quote** 'they need to bond.' **End quote**. I regained custody with the implied threat from the judge that I would lose custody if I did not cooperate. Despite the fact that I had sole physical and legal custody, the judge forbade me to take my daughter for a sexual abuse evaluation and forbade me to take my daughter to see her therapist because my ex-husband accused her therapist of brainwashing my daughter. This left me with no safety net. I was the only person my daughter could make disclosures to and yet no-one would believe what I was telling them.

My daughter's symptoms became severe as the court required me to keep sending her to her father's or I would be in contempt. As I mentioned earlier, being in contempt meant possibly that I could lose custody. She wet herself consistently (she never had accidents before this), she had night terrors almost every single night, she complained of body aches daily, she masturbated constantly, she became preoccupied with her genitals and played sexualized games that often included licking, she clung to me and refused to play with her friends and most frightening of all she started to take on a different personality and insisted on calling herself "Erin". The visits continued and so did the disclosures.

Since the court was preventing me from protecting my daughter I turned to DSS and asked them to investigate. They called my ex-husband and followed up with a 51 A report that stated that **quote** 'Mr. L had denied the accusations and his denial sounded credible.' **End quote**. They never made a home visit to interview him and the district supervisor later told me that **quote** 'DSS was not in the business of prevention' **end quote**.

After two months of graphic explicit disclosures of sexual abuse, and still no word from the reappointed GAL, I was finally granted a sexual abuse evaluation by Children's Hospital in Boston. After a thorough 3 month investigation, they concluded in their final report that **quote** 'there is a quite high likelihood that P was sexually abused by her father.' **end quote**. They also stated that my ex-husband's new girlfriend, currently his wife, may have also abused her. I believed I was finally going to get my daughter safe.

Finally we heard from the previous GAL who denied the appointment but recommended a peer of his, also from the Mass. General's Children & the Law program. She was appointed with the role of making recommendations based on the findings of Children's Hospital's sexual abuse evaluation. What happened next was shocking. This Guardian ad Litem not only failed to take seriously the sexual abuse disclosures of my daughter, but she blamed her behaviors on me. She conducted no evaluation herself and never even bothered to interview me, my new husband who was also present for some of the disclosures, or my daughter's previous therapist who had some very serious concerns. I will read you just a few of the things that her report claims. And this is just the tip of the iceberg.

Quote 'P does not have the hallmark symptoms of sexual abuse including sexualized play or preoccupation with sexuality to the exclusion of other activities. Ms M became preoccupied with the notion that P was sexually abused by her father and was

*not able to entertain other hypothesis.’ **End Quote.** So, my appropriate reactions of concern when my daughter gives me graphic details of sexual abuse and then acts them out, means that the GAL characterizes me as preoccupied with sexual abuse. The report continues, and I again I **quote**, ‘It is probably fair to say that P was living in an environment where the concern about sexual abuse was alive and provided a context for P’s behaviors and statements. She is at risk of age inappropriate sexualization based on mother’s preoccupation with sexual abuse.’ **End Quote.** So, because I was concerned about my daughter, the GAL concludes that it is I who am the sexual risk to her. The report goes on, **Quote** ‘with regard to the “secret licking game, it is unclear if P considered that game bad and secret before she noted her mother’s and partner’s reactions to that disclosure.’ **End Quote.** I already described that game to you, can you tell? In fact my normal concerned reactions to the abuse of my daughter was viewed by the family court judges and GAL’s as evidence that the abuse never occurred! This GAL also explained in her report that P’s behaviours were due to the fact that she had been a witness to her baby brother’s birth, even though my son was born over one full year after her disclosures.*

*The most recent GAL – my third - was clearly frustrated with me because I refused to drop the restraining order that I hold against my ex-husband. She asked me **Quote** ‘What, do you think he’s going to do, shoot you or something?’ **End Quote.** She then admitted that she knew nothing about the history of domestic violence. Ironically, it was only a week later when a woman was shot and murdered by her husband, right outside of this GAL’s office.*

My daughter is nine years old now. Last year she began overnights again. After several visits she refused to go, locked herself in her room, screaming at me ‘I hate you. You don’t care about me. You don’t understand.’

...This is not a witch hunt. It is a cry for justice, a cry for accountability, a cry for safety. This is a cry for our children. What has happened to our rights? We have the right to competent legal representation. We have the right to no forced contact with an abuser. We have the right to not have custody changed as a punishment. We have the right to protect our children from sexual abuse. We have the right to have all probative evidence considered. We have the right to a judicial branch that honors its end of the social contract. And have no doubt, we will continue to fight for those rights. And we will not give up until we have them and our children are safe.”

Thomas Jefferson once said that, “The care of human life and happiness, and not their destruction, is the first and only object of good government.” I urge you, in the interest of creating good government, to support HB706.

Thank you for the opportunity to speak today.