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Should Failure to Protect Laws Include Physical and Emotional Sibling Violence?

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Title: Should Failure to Protect Laws Include Physical and Emotional Sibling Violence?

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Abstract:

Physical and emotional sibling violence is a problematic occurrence for many children, adults, and families, yet this form of violence rarely falls within the purview of state laws and policies. Failure to protect laws offer one avenue through which sibling violence can be addressed by holding parents and caregivers accountable for harm that occurs to a child in their custody. This article provides background information on physical and emotional sibling violence as well as a general overview of failure to protect laws in the context of intimate partner violence with particular consideration of these laws in addressing sibling violence. In addition, the role social work practitioners can play in intervening and addressing sibling violence through psychoeducation leading to policy (i.e. failure to act laws) is presented.

Keywords: sibling violence, intimate partner violence, family violence, failure to protect laws, family adversity

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Should Failure to Protect Laws Include Physical and Emotional Sibling Violence?

Introduction

Despite increased attention in the literature on physical and emotional violence between siblings, there remains a lack of policy specifically addressing this form of family violence (Perkins, Coles, & O'Connor, 2017; Perkins & O'Connor, 2015). While there are policies that address other forms of violence within the family system (Perkins & Grossman, 2018), currently the only "laws" indirectly addressing sibling violence are failure to protect laws, that implicate parents for neglect. The following sections briefly highlight physical and emotional sibling violence as problematic occurrences for children, adults, and families, failure to protect laws in the context of family violence, and the potential implications for social workers to enforce this law to address violence between siblings.

Physical and Emotional Sibling Violence

Sibling violence is more common than any other type of family violence (Straus, Gelles, Steinmetz, 1980;2006). Given national estimates, roughly 33% of children aged 0-17 will experience sibling assault at some time in their childhood (Finkelhor, Turner, Ormrod, & Hamby, 2009; Finkelhor, Turner, Shattuck, & Hamby, 2015). Experiencing physical and emotional sibling violence during childhood often results in a variety of unfavorable repercussions, including family adversity (Tucker, Finkelhor, & Turner, 2018), negative health consequences for perpetrators (Tucker, Gundy, Sharp, & Rebellon, 2015), and mental health problems (Patalay & Fitzsimons, 2016; Phillips, Bowie, Wan, & Yukevich, 2018; van Berkel, Tucker, & Finkelhor, 2018). Buist and Vermande (2014) found that children who experienced sibling conflict reported struggling with academics, externalizing and internalizing problems, and diminished self-worth and social competence compared to those in amicable sibling

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relationships. In adulthood, the occurrence of sibling violence has been associated with low self-esteem and decreased life satisfaction (Plamondon, Bouchard, & Lachance-Grzela, 2018), symptoms of conduct disorder and physically aggressive acts (King, Ballantyne, Ratzak, Knutson, Russell, Pogalz, & Breen, 2018), and criminal behaviors, substance use, and antisocial behaviors (Dantchev & Wolke, 2019). Sibling conflict in childhood has even been connected to conflict in committed relationships in adulthood (Shalah, Wood, & Parker, 2013). Given the prevalence of sibling violence and the considerable impact it can have in the lives of both children and adults, laws directly addressing this form of family violence are warranted. A potential avenue through which to address sibling violence may be through failure to protect laws.

Failure to Protect Laws in the Context of Family Violence

Inherently, failure to protect laws are designed to hold parents and caregivers responsible for protecting children from harm (physical, emotional, psychological, sexual) (Johnson, 1987; Kantor & Little, 2003; Stanziani & Cox, 2017). Fugate (2001) noted that each state in the US has a law or statute through which caregivers have “criminal liability for passive child abuse” where: “liability for failure to protect usually requires that (1) the defendant had a legal duty to protect the child, (2) the defendant had actual or constructive notice of the foreseeability of abuse, (3) the child was exposed to such abuse, and (4) the defendant failed to prevent such abuse” (p.278-279). Currently, when a child experiences violence at the hands of any person, including a sibling, parents are responsible for acting to ensure that violence ceases and does not continue.

Should parents be held accountable for instances where violence is directed toward their children when it is from a sibling? The Institute of Medicine and National Research Council (2014) assert that “instances of abuse committed by a non-family member, a sibling, or another

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person regularly present in the household are classified as neglect if it is determined that the caregiver failed to protect the child victim from that individual” (p. 34). However, in this context, sibling on sibling violence is typically not considered, potentially due to familial and societal normalization of rivalry and violence within the context of sibling relationships (Gelles & Cornell, 1990).

As previously mentioned, children and adults experience impactful consequences as a result of physical and emotional sibling violence. Situations where a sibling is physically or emotionally violent with another sibling is a scenario deserving protection/intervention from parents and potentially intervention from the state in order to protect children from violence. However, there are currently no state laws specifically protecting children from violence at the hands and mouths of siblings and furthermore, when confronted with physical and emotional sibling violence, parents may ignore and dismiss the violence (Meyers, 2014, 2016; Wiehe 1997). Failure to protect laws in the context of addressing sibling violence may be one potential way to address this pervasive and impactful form of family violence.

“Failure to protect” is a charge frequently leveled at women victims of IPV relationships, either because they fail to recognize the abuse experienced by children or due to their failure to leave the violent relationship (Farmer & Owen, 1995). However, the ending of a violent relationship does not equate to a cessation of children’s exposure to violence: “separation is not a vaccination against [IPV]” (Jaffe et al., 2003, p. 29). IPV relationships are characterized by chaos, and mothers are often too preoccupied with their own self-preservation to devote attention to how her children may also be adversely impacted. Their emotional attachment to their children is often compromised, with maternal stress and depression resulting in emotionally distant mothers (Buchbinder, 2004).

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Intimate partner violence (IPV) is an endemic social problem evident in more than 5 million American families (Sylaska & Edwards, 2014). Acknowledging the increasing breadth and complexity of the issue, the definition of IPV has expanded in recent years and now distinguishes —physical violence (i.e., the threat of or use of force on one’s partner to cause harm or death, sexual violence (i.e., the threat of or use of force to engage partner in sexual activity without their consent), and psychological violence (i.e., using threats, actions, or coercive tactics which cause trauma or emotional harm to a partner; Centers for Disease Control and Prevention, 2002).

Apart from the damaging repercussions such violence has on adult survivors, ranging from psychological disorders to substance abuse, children are also at-risk. Children exposed to IPV are likely to suffer whether they indirectly witness acts of violence (i.e., hearing, seeing, or being told of violence by a caregiver), are directly abused, or if they mirror violent behavior of parents toward siblings; sibling violence being an area receiving less attention than other areas of family violence. Empirical evidence suggests that the fraught parent-child connection resulting from IPV stems from a mother’s inability to develop authority over her children and enable normal developmental transitions (Holt, Buckley, & Whelan, 2008). Often, this results in increased child aggression and behavioral problems that manifest in psychopathologies such as antisocial personality disorder (Greene et al., 2018).

An unfortunate byproduct of personality disorders and violent behaviors engendered early in the lifespan is sibling violence (Holt, Buckley, & Whelan, 2008). Whether children develop behavioral aggression due to an emotionally or physically distant mother, or via social learning, sibling violence is noted to occur in 1 in 4 IPV homes (Button & Gealt, 2010). Thus, while further attention to the inequity of failure to protect laws in terms of their propensity to

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propagate the patriarchal, victim-blaming culture, exploration as to how IPV confounds parenting ability in multiple ways, including failure to mitigate sibling violence, must be undertaken. Failure to protect laws by design are intended to thwart rates of child abuse, but as they stand in each of the United States, there is a marked lack of attention to how IPV interrupts parenting ability to the extent that not only children may be neglected and abused, but that they may also begin to abuse one another.

Increasing awareness of the deleterious effects of IPV and sibling violence within these laws is essential. While failure to protect ordinances are in place in all the United States, there is a decided lack of consistency in language and inclusion criteria that is inherently problematic. Not only are IPV and sibling violence not considered, but this also means that in one state what warrants a mother's implication is different across state lines. Insidious repercussions such as abusers moving families from one state to another to avoid sanctions are just another unfortunate byproduct.

Implications for Social Work

It is the responsibility of social workers to protect marginalized populations such as children whose voices remain unheard due to societal and familial dismissal of the violence they experience. Expanding the scope of failure to protect laws may be one way in which to push forward addressing physical and emotional sibling violence by holding parents responsible for failing to act on violence directed toward their children even when the violence occurs from a sibling. Education of lawmakers, policy advocates, and parents regarding failure to protect laws and what this could mean in the context of sibling violence may not only elucidate sibling violence as a problematic occurrence for many children and adults, but also begin the discussion of state level mechanisms for addressing this neglected form of family violence.

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Holding all parents and caregivers accountable for the occurrence of physical and emotional sibling violence is not beyond the scope of failure to protect laws. If parents and caregivers are responsible for the emotional and physical well-being of the children in their care and acts of violence directed from one sibling to another affect the well-being of children, then parents and caregivers have a duty to protect children from sibling violence given the known negative consequences associated with this form of family violence.

Psychoeducation for parents, caregivers, and communities/organizations working with children and families is essential while interventions aimed at helping parents and caregivers to learn intervention techniques when violence between siblings occurs may help circumvent long-term consequences. While directing attention to psychoeducation is sometimes considered an ineffectual way to contribute to policy change, research suggests that in fact, psychoeducation is now considered evidence-based practice that can have far-reaching applications for entire systems if implemented carefully (Lukens & McFarlane, 2004; Watts, Abdul-Adil, & Pratt, 2002). That said, too often interventions state that they will begin through the development of knowledge, but then lack of follow-through ultimately stymies the best-intended efforts. Thus, it is incumbent upon social workers to educate themselves on physical and emotional sibling violence while also educating parents on the negative implications this form of family violence can have for children and throughout the lifespan.

Furthermore, social workers need to take a more active role in assessing for parental attitudes toward violence, aggression, and conflict between children in order to better intervene based on age and development of children (Tucker & Finkelhor, 2017). The goal of social workers should not necessarily be striving to enact failure to protect laws for parents, but to help parents, caregivers, and communities to recognize, address, and prevent physical and emotional

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sibling violence. However, when this form of family violence is neglected by those tasked to care for children, failure to protect laws may be one mechanism to hold parents accountable for the safety and well-being of their children.

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