



# Submission to the Department of Justice on Parental Alienation

June 2022

Women's  Aid



## 1. About Women's Aid

Women's Aid is a national, feminist organisation working to prevent and address the impact of domestic violence and abuse (henceforth DVA) including coercive control, in Ireland since 1974. We do this by advocating, influencing, training, and campaigning for effective responses to reduce the scale and impacts of domestic abuse on women and children in Ireland and providing high quality, specialised, integrated, support services.

More information on Women's Aid is available on our website [www.womensaid.ie](http://www.womensaid.ie).

## 2. Introduction

Women's Aid is pleased to provide a submission to the Justice Department on the very concerning construct of Parental Alienation, focusing on its impact on women and children subjected to domestic abuse and coercive control, as per our remit.

## 3. The Context

### a. Domestic abuse against women and children in Ireland

Domestic abuse is very common as shown by the EU Fundamental Rights Agency<sup>1</sup> survey on violence against women, which has found that in Ireland:

- 14% of women have experienced physical violence by a partner (current or ex)
- 6% of women have experienced sexual violence by a partner (current or ex)
- 31% of women have experienced psychological violence by a partner (current or ex).

---

<sup>1</sup> European Union Agency for Fundamental Rights, 2014, Violence Against Women: an EU-wide survey Main results

Many women experiencing domestic abuse have children. These children are affected by the violence because the perpetrator directly targets them. There can also witness the abuse of their mother, which is in itself a recognised form of child emotional abuse<sup>2</sup>.

National and international research confirms that:

- the effects of domestic abuse on children are pervasive and long lasting
- domestic abuse against the mother increases the risk of direct child abuse
- separation is a dangerous time for women and children separating from an abuser.
- often abuse continues and even escalates during and after separation and that Court proceedings in the Family Law Courts are used by the abuser to continue to harass, monitor and control women after separation<sup>3</sup>.

Our own day-to-day frontline work confirms the above. In 2021<sup>4</sup>

- Women's Aid received 28,096 disclosures of abuse against women
- Women's Aid received 5,735 disclosures of abuse against children
- 25% of women contacting Women's Aid National Free Phone Helpline and 35% of women accessing our Face-to-Face services, were abused by **ex**-male partners/spouses, showing that abuse continues **after separation**.

---

<sup>2</sup> The FRA research mentioned above found that in Europe 73% of women who have experienced physical or sexual violence by a current or a previous partner indicated that their children were aware of the violence. (This data is not available at member state level).

<sup>3</sup> For discussion of the above see: S. Holt et al, "The impact of exposure to domestic violence on children and young people: A review of the literature", Child Abuse and Neglect 32 (2008) 797–810); S. Holt, A Case of Laying Down the Law: Post-Separation Child Contact and Domestic Abuse" Irish Journal of Family Law Vol. 14 No.4 Winter 2011;

Brunel University, Domestic abuse and private law children cases A literature review, UK Ministry of Justice, 2020

<https://consult.justice.gov.uk/digital-communications/assessing-harm-private-family-law-proceedings/results/domestic-abuse-private-law-children-cases-literature-review.pdf>

<sup>4</sup> Women's Aid Annual Impact report 2021 available at

<https://www.womensaid.ie/about/policy/publications.html#statisticsreports>

- Of the **5,383 disclosures of abuse against children** made to the 24hr National Freephone Helpline 5,056 were emotional abuse, 242 physical abuse and 85 sexual abuse against children. The child abuse disclosures included:
  - Emotional abuse including verbal abuse, name-calling and being threatened with violence.
  - Physical abuse including slapping, hair pulling, assault with weapons.
  - Children, including infants, hurt by the abuser as they attacked the mother.
  - Sexual assault and molestation.
  - Witnessing domestic violence against their mother.
  - Children forced to go on access visits with an abusive father.
  - Mother-Child bond deliberately damaged by abuser.
  - Older children abused by fathers through the use of technology.
  - Abusers targeting the mother-child bond by manipulating and encouraging the children to join in on the abuse of their mother.
- **There were 788 disclosures to the Helpline team where the abuser continued his abuse during access visits.** This included:
  - 605 disclosures of abuse against the woman during access handover.
  - 183 disclosures of children abused while on access visits.

#### **b. Family Law Courts and survivors of domestic abuse**

International and national research show that the Family Courts often fail women and children escaping domestic abuse<sup>5</sup>, which is confirmed in our daily contacts with women.

---

<sup>5</sup> For further discussion and references see:  
Women's Aid Submission to the Court Bill General Scheme 2021

Women regularly tell us that Custody and Access arrangements are made which are not safe for children and their mothers, and which allow the abuse to continue post separation.

They report that proceedings are biased against them, that they are not believed, that their experience of domestic abuse and their reports of children being abused are dismissed and ignored. Many professionals, including judges and child welfare report experts, do not understand the issues faced by women separating from an abuser nor the impact of domestic abuse, including coercive control, on children.

There is a lack of understanding among Family Law professionals that separation often does not end the abuse, in fact the risk of domestic violence increases with separation<sup>6</sup>.

Women report to us a pro-contact assumption that often trumps considerations regarding the risk to the children and their mothers, as well as sometimes the stated wishes of children not to be forced to go on access visits. As a result, Custody and Access orders are made which are dangerous and/or detrimental to the safety and the well-being of children and their mothers.

Moreover, children still are often not heard in proceedings that have huge impact on their lives in the short, medium and long term. In Ireland research by Holt found that they are listened to selectively: *“they are listened to if they want contact and overruled if they do not want it.”*<sup>7</sup>

It is worth noting that while unfortunately there is no data in Ireland on the prevalence of domestic abuse in Family Law cases, evidence from other countries suggest a **high prevalence of such cases in the Family Court**. For example:

---

Women’s Aid Submission to the Family Justice Oversight Group 2021  
Women’s Aid Submission to the Child Maintenance Review Group 2021  
The Children and Domestic Violence Group Submission to the Family Justice Oversight Group Consultation February 2021

All available on <https://www.womensaid.ie/about/policy/publications/category/submissions/>

<sup>6</sup> This is correctly understood in many risk assessment tools, where separation is included as a risk factor

<sup>7</sup> Stephanie Holt (2018) A voice or a choice? Children’s views on participating in decisions about post-separation contact with domestically abusive fathers, *Journal of Social Welfare and Family Law*, 40:4, 459-476

- A recent UK study found that allegations or findings of domestic abuse in samples of child arrangements/contact cases range from 49% to 62% indicating a much higher prevalence of domestic abuse than in the general population<sup>8</sup>
- A 2019 Australian Law Reform Commission Report states that the majority of parents using the courts to resolve parenting arrangements report emotional and/or physical violence, **with 46% reporting safety concerns for themselves or their children** (or both) as a result of ongoing contact with the other parent.<sup>9</sup> (emphasis added)

It is also worth noting that while there is plenty of evidence that women and children **do not report** domestic and child abuse<sup>10</sup>, the persistent myth that women commonly make malicious/false allegation of abuse to achieve an advantage in Family Law proceedings continue to be promoted in the absence of any evidence.<sup>11</sup>

In this already fraught context, Women's Aid finds the introduction of a Parental Alienation (PA) construct in Family Courts extremely worrying.

#### **4. Parental Alienation and Domestic Abuse and /or Child Abuse**

According to the PA construct, when a child does not want to engage with /rejects a parent, it is assumed that the other parent has caused the alienation and that alienation is a form of child abuse. The recommended remedy is increased contact with the "alienated" parent, up to and including the removal of the child from the "preferred" and "alienating" parent.<sup>12</sup>

---

<sup>8</sup> Minister of Justice, 2020, Assessing Risk of Harm to Children and Parents in Private Law Children Cases

<sup>9</sup> Australian Law Reform Commission, March 2019, Family Law for the Future — An Inquiry into the Family Law System Final report

<sup>10</sup>In the FRA report mentioned above only 28% of women in Ireland indicated that the most serious incident of violence by a partner came to the attention of the Police

<sup>11</sup>See Brunel University, Domestic abuse and private law children cases A literature review, UK Ministry of Justice, 2020

<https://consult.justice.gov.uk/digital-communications/assessing-harm-private-family-law-proceedings/results/domestic-abuse-private-law-children-cases-literature-review.pdf>

<sup>12</sup>While we use this terminology for clarity, its use **does not** signify that Women's Aid accepts PA constructs

In practice, the application of PA in many Custody and Access cases in other jurisdictions has resulted in children **being removed, against their wishes from the parent they want to live with, and placed to live with the “rejected parent”**. This removal is not only carried out against the wishes of the child, but in some cases by force, with traumatic involvement of Law Enforcement Agencies<sup>13</sup>.

Often contact with the “preferred parent” is severely limited or even completely cut off. In many cases the children are forced to attend treatment/reunification programs against their will, in order to re-establish a relationship with the rejected parent. The “alienating parent” may also be compelled to attend a counselling program and usually has to pay the cost of both their own and the children’s “treatments”.

They are often also forced by the courts or the programs to coerce the children into building a relationship with the “rejected parent” as a condition of increasing their contact with the children.

Legal parental responsibility as well as residency is also at times transferred solely to the “rejected” parent.<sup>14</sup>

In other cases, such extreme actions as reversal of custody may not be ordered, but PA allegations against the mother lead nonetheless to negative outcomes for women and children as discussed below.

---

<sup>13</sup> Neilson, L. (2018) Parental Alienation Empirical Analysis: Child Best Interests or Parental Rights? Fredericton and Vancouver, Canada: Muriel McQueen Fergusson Centre for Family Violence Research and The FREDA Centre for Research on Violence Against Women and Children. Cites a number of cases involving law enforcement removing children (pp12-15). Cases have been also documented in Italy including the case below, where an 8 year old child was forcibly removed by 11 police (yes 11: this not a typo!).The Court of Cassation (highest court in Italy) has recently condemned the use of force in such cases. <https://www.archyworldys.com/the-supreme-court-against-the-parental-alienation-syndrome/>

<sup>14</sup>For example of such cases see Neilson, L. (2018) Parental Alienation Empirical Analysis: Child Best Interests or Parental Rights? Fredericton and Vancouver, Canada: Muriel McQueen Fergusson Centre for Family Violence Research and The FREDA Centre for Research on Violence Against Women and Children.



International research as well as the on the ground experience of domestic abuse services, including Women's Aid, show that PA is used as a **legal strategy by abusive parents** to respond and undermine allegations of domestic and child abuse and continue controlling the mother and children.<sup>15</sup> When successful, this strategy can result in traumatized children **being placed with an abusive parent** and re-traumatized while losing contact with the protective parent.

An empirical study of PA claims as a counter of DV/Child Abuse allegations in US courts, find that **this strategy is extremely successful**: mothers' claims of abuse, especially child physical or sexual abuse, increase mothers' risk of **losing custody, and fathers' counter-claims of alienation virtually double that risk.**<sup>16</sup>

International research in other jurisdictions where Parental Alienation is commonly used in Family Law disputes consistently report that claims of Parental Alienation in cases where there are allegations of domestic or child abuse result in:<sup>17</sup>

- allegations (or even evidence) of paternal abuse of women and children being ignored, minimised or dismissed by courts as Parental Alienation without proper fact-finding processes

---

<sup>15</sup>See for example Adrienne Barnett (2020) A genealogy of hostility: parental alienation in England and Wales, *Journal of Social Welfare and Family Law*, 42:1, 18-29, DOI: 10.1080/09649069.2019.1701921 : Zoe Rathus (2020) A history of the use of the concept of parental alienation in the Australian family law system: contradictions, collisions and their consequences, *Journal of Social Welfare and Family Law*, 42:1, 5-17

<sup>16</sup>Joan S. Meier (2020) U.S. child custody outcomes in cases involving parental alienation and abuse allegations: what do the data show?, *Journal of Social Welfare and Family Law*, 42:1, 92-105, DOI: 10.1080/09649069.2020.1701941 Available at: <https://doi.org/10.1080/09649069.2020.1701941> (accessed 18/06/22)

<sup>17</sup>See for example Meir in note 15 supra, Neilson in note 13 supra as well as Brunel University 'Playing the Parental Alienation Card: Abusive Parents use the System to Gain Access to Children' [2020] <https://www.brunel.ac.uk/news-and-events/news/articles/Playing-the-Parental-Alienation-card-Abusive-parents-use-the-system-to-gain-access-to-children>



- reversal of custody: children being removed from the protective parent (usually the mother) and placed to live with the abuser, thus allowing the abuse to continue and possibly to escalate
- contact between the children and the protective parent being severely limited, depriving children of their most important support for healing and recovery
- loss of parental responsibility for the protective parent
- in other cases, custody may not be reversed, but increased or unsupervised access is granted as the mother's well-founded concerns are dismissed as Parental Alienation.

Note that these outcomes not only occur where domestic and child abuse allegations have been ignored or dismissed, but also in a number of cases where the courts made **positive findings** of intimate partner or child abuse, but considered this abuse and the risk it entails for mother and children less harmful for the child than parental alienation.<sup>18</sup>

Therefore, mothers trying to protect their children are placed in an awful double bind:

- if they report the abuse they risk being accused of Parental Alienation, having the children removed and placed to live with the abuser.
- if they do not report the abuse, the Family Law court will lack essential information to make safe decisions. Women may also risk being accused of not protecting the children by Child Protection agencies. This also places their children at risk of further abuse.

Moreover, the fear of being characterised as “alienating mothers” has a chilling effect on reporting abuse to the criminal justice system or applying for Protective Orders.

---

<sup>18</sup>See for example: Meir note 15 supra; Deborah Mackenzie, Ruth Herbert & Neville Robertson (2020) ‘It’s Not OK’, but ‘It’ never happened: parental alienation accusations undermine children’s safety in the New Zealand Family Court, *Journal of Social Welfare and Family Law*, 42:1, 106-117; Elizabeth Sheehy & Susan B. Boyd (2020) Penalizing women’s fear: intimate partner violence and parental alienation in Canadian child custody cases, *Journal of Social Welfare and Family Law*, 42:1, 80-91

The difficulties of proving domestic and child abuse – both crimes often occurring in the home and without external witnesses - in a court of law are well documented. The PA discourse in these cases is built on an existing, and historic culture of disbelief of mothers reporting violence against themselves and their children and on the myth of the “revengeful mother” making false allegations.

However, the fact that an allegation of domestic or child abuse is not **proven** in a criminal court does not equal false / malicious allegation from an “alienating mother”. In fact, the Rape Crisis Network Ireland (RCNI) has suggested during the Joint Oireachtas Committee (JOC) Inquiry that a **significant proportion** of family separation and child custody cases going through family courts in Ireland involve the rape and sexual abuse of children by family members in the absence of a parallel criminal conviction.<sup>19</sup>

As mentioned above, the real issue in relation to both domestic and child abuse is a **lack** of reporting, not so-called false allegations.

## 5. Parental Alienation and the Istanbul Convention

Article 31 of the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention) which Ireland has ratified, addresses the issue of custody and access in the context of domestic violence thus:

*1 Parties shall take the necessary legislative or other measures to ensure that, in the determination of custody and visitation rights of children, incidents of violence covered by the scope of this Convention are taken into account.*

*2 Parties shall take the necessary legislative or other measures to ensure that the exercise of any visitation or custody rights does not jeopardise the rights and safety of the victim or children.*

---

<sup>19</sup>RCNI, Submission to the Joint Oireachtas Committee on Justice and Equality, February 20th 2019

GREVIO (the expert body monitoring the implementation of the Convention) has found in many states evaluated so far evidence of gender bias against women in custody decisions, and has expressed grave concerns in relation to the role of PA in deflecting attention from domestic abuse and has clearly requested that states **refrain** from using this concept.

For example, GREVIO urged the Italian authorities

*“to **ban** the use of concepts related to ‘parental alienation’ by court appointed experts and social workers, as well as any other approach or principle, (... ) which tend to consider mothers who invoke the violence as ‘uncooperative’ and ‘unfit’ as a parent, and to blame them for the poor relationship between a violent partner parent and his children”.*<sup>20</sup>

(emphasis added)

More generally, it has called state parties to

*“ensure that relevant professionals are informed of the absence of scientific grounds for “parental alienation syndrome” and the use of the notion of “parental alienation” in the context of domestic violence against women to overshadow the violence and control exerted by abusive men over women and their children, and their perpetuation through child contact”.*<sup>21</sup>

The **Platform of United Nations** and regional independent mechanisms on violence against women and women’s rights similar calls for rejection of Parental Alienation Syndrome (PAS).<sup>22</sup>

---

<sup>20</sup>GREVIO baseline evaluation report Italy, published 13701/2020, page 62, paragraph 188f, [www.coe.int/conventionviolence](http://www.coe.int/conventionviolence)

<sup>21</sup>GREVIO, Third general report on GREVIO activities, Council of Europe, June 2022, page 54

<sup>22</sup>The Platform of United Nations and regional independent mechanisms on violence against women and women’s rights [2019] ‘Intimate Partner Violence against Women is an Essential Factor in the Determination of Child Custody, Say Women’s Rights Experts’

[https://previous.ohchr.org/Documents/Issues/Women/SR/StatementVAW\\_Custody.pdf](https://previous.ohchr.org/Documents/Issues/Women/SR/StatementVAW_Custody.pdf), Accessed 19/06/22

The **European Parliament** has also recently called for Member States “not to recognise parental alienation syndrome in their judicial practice and law and to discourage or even to prohibit its use in court proceedings, particularly during investigations to determine the existence of violence;”<sup>23</sup>

## 6. Women's Aid Frontline Experiences

In Women's Aid experiences many mothers support the continuation of the relationship between the child and the father, despite the abuse the mothers have suffered or continue to suffer. It is only when they think the welfare and safety of the children are at risk, or their own safety is severely compromised, that they act to limit contact or ask for supervised Access, in order to protect their child(ren).

Our Direct Services report that:

- Women tell us that their children become extremely distressed- crying, screaming, vomiting, and hiding- when being forced to go on Access.
- Women are regularly blamed by judges and solicitors if the children do not want to attend Access with their father. Moreover, they are threatened with **prison** if they do not **make** their children go on Access, (including by their own solicitors who should be their advocates)
- Abusers threaten to bring Parental Alienation claims if the children do not to want to engage with them in a manner that they expect or demand
- Abusers make (or threaten to make) false allegations of Parental Alienation in Custody and Access proceedings
- Abusers use Parental Alienation claims as a response to Domestic Violence orders applications

---

<sup>23</sup>EP REPORT on the impact of intimate partner violence and custody rights on women and children (2019/2166(INI))

- Frequently, as soon as the woman applies to the court for Maintenance- the father will apply for Access and accuse the woman of Parental Alienation
- Our Direct Services Team believe that the Section 32 process is not fit for purpose and is causing real harm to children and to women. **Section 32 assessors are naming Parental Alienation when there is domestic violence/coercive control that they do not identify.** Assessors do not appear to have appropriate training, lack understanding of Coercive Control and the dynamics of abuse, and there is no mechanism in place to make a report or complaint around their practice.
- Mothers also report to us their children aligning themselves with their father who is an abuser. They feel that the children have been ‘alienated’ from them, but recognize that this is as a result of a pattern of **Coercive Control** (a defined and legally recognized concept) and manipulation of both her and the children in this context, rather than ‘Parental Alienation’
- Our current system simply does not acknowledge that children have a right to have their own agency and their own free will. Children should be recognised as having an ability to have an opinion and for that opinion to be listened to. The trauma being caused to these children is not being recognized.

#### **CASE STUDY 1 : Joyce<sup>24</sup>**

Joyce has two young children. Their father has never been in their lives. The children do not know this man- he is verbally abusive to their mother any time they have been in his presence. There have been a number of Section 32 assessments done and Joyce has been accused of alienating the children against him. Her two children were removed from her care and told they had to go and live with their father- whose accommodation is not suitable and who lives a significant distance away. The needs of the two children were completely ignored and dismissed including specific health care needs. Joyce immediately

---

<sup>24</sup> In all case studies names and some identifying details have been changed to protect confidentiality.

appealed and got the children back. However, she is again being made to go through this process. She is being painted as the villain who is keeping her two children away from the father, with no acknowledgement of his abusive behavior and complete lack of previous child contact or support. There is regular court appointed access. The two children point blank refuse to go to their father- they scream and cry and become very upset. Joyce tries to coax, bribe, beg them to go in but they will not go. She is accused of causing this- of making them behave like this.

### **CASE STUDY 2: Angela**

Angela has engaged with Women's Aid for several months. She has three children who live with her. She reported that the father of her children has been in and out of their lives and has never been a stable figure in their lives. There have been various court dates, regarding Access and Custody over the past several years, including two Section 32 reports, which she reported were stressful and distressing processes for her and her children and which have also resulted in very significant financial hardship.

Angela reported that her children tell her that they do not want to go on access with their father. She added that when they are at handover, the children become very distressed, hide and try to run away. She reported that the father verbally berates her in front of the children, at Access handover. He has accused her of 'brainwashing' the children and has used the term Parental Alienation. She reported that she always brings the children to access meetings and tries to persuade them to go with their father as well as updating him on school and important events.

Despite trying to adhere to the conditions of the current Access Order, Angela faces the possibility of a court removing her children from her care with the accusation of parental alienation being levelled against her.



In short, the use of Parental Alienation accusations in families where there is domestic and / or child abuse causes domestic violence and child abuse allegations to be minimised, ignored or dismissed, with huge repercussions on the safety and wellbeing of children and mothers.

The **possibility** of such accusations in itself acts as a chilling factor to reporting abuse.

## 7. Impacts of the Parental Alienation construct

A number of harmful impacts of the Parental Alienation construct and consequent **forced removal** of children and forced placement and/or engagement with the “alienated” parent have been documented. Some are specific to situations where there is abuse, many apply whether there is domestic and child abuse or not.

### Impacts on children

- When there is abuse, children are exposed to continue abuse by their father, without the protective parent being able to do anything about it
- Children’s experiences of abuse (direct and indirect) are silenced, with long term repercussions (for instance, no counseling provided to deal with the abuse)
- The bond between mother and child is broken and undermined, as children may not understand why the mother allows or compels them to follow Parental Alienation “treatments” or simply as they are not allowed to see her because of the court orders
- Children may run away from the “rejected” parent they are forced to live with and are at times returned forcibly
- The child is not listened to or heard. Their sense of agency and control over their life is undermined
- Change of custody usually entails change of residence, and therefore impact on children’s schooling, social life and other supports
- Children are potentially stigmatised with psychiatric label as “alienated”.





### Impacts on “preferred” parent

- Being separated from their children
- Reversal of custody and/or losing parental responsibility
- Mothers’ experiences of abuse silenced, fear that reporting abuse will be constructed as alienating behaviour, distrust of any further court proceedings (including reporting further abuse to the criminal justice system)
- Mothers coerced into enforcing contacts that the children do want and/ or that they know is not safe, with consequent negative impact on the mother-child relationship (fail to protect)
- Risk contempt of court is continuing the efforts to protect their children
- Increased, protracted and costly legal proceedings
- Financial harm by having to pay for extremely expensive “treatment” for the children and at times themselves.

### 8. Further Issues in Relation to Parental Alienation

International research in jurisdictions where Parental Alienation is commonly used highlights the following additional issues, which while not specific to families where abuse is present, also apply to them.

#### a. Parental Alienation is a contested concept with no scientific evidence

A number of international reviews conclude that Parental Alienation is still a very contested concept, not based on scientific evidence. Parental Alienation promoters studies on prevalence, assessment models, indicators and “treatments” suffer from methodological errors, such as limited samples, retrospective studies, lack of control groups, and lack of peer review.

The risks in using such an unvalidated construct in making life-changing decisions are huge. For example Milchman et al<sup>25</sup> find that Parental Alienation is not a scientific, evidence based concept and that to date **there is no scientifically validated instrument to assess for** Parental Alienation and discriminate it from other caused of rejection. They state that not enough attention is given to alternative possible causes of rejection, including coercive control and other forms of domestic abuse on the part of the parent claiming to have been 'alienated', and that (paradoxically) Parental Alienation is too readily accepted in Family Courts as counter to domestic violence and abuse allegations. Moreover, they conclude that "to date there has not been one methodologically sound research study on the prevalence rates of alienation in child custody cases."<sup>26</sup>

Similarly, a literature review by Cardiff University Children's Social Care Research and Development Centre commissioned by Cafcass Cymru<sup>27</sup> found that **there are no reliable mechanisms to identify PAS nor reliable evaluation of treatments**, and that "The tools that do exist are unhelpful, poorly validated and serve to undermine the focus on the child. There is a risk that the assessments, and debates about them, might serve to mislead the court and practice generally".<sup>28</sup>

Note that as of 15<sup>th</sup> February 2020 the World Health Organisation has removed Parental Alienation from its classification index<sup>29</sup> after grave concerns had been voiced regarding its previous inclusion, saying "There are no evidence-based healthcare interventions specifically for parental alienation."<sup>30</sup>

---

<sup>25</sup>Milchman et al, IDEOLOGY AND RHETORIC REPLACE SCIENCE AND REASON, FAMILY COURT REVIEW, Vol. 58 No. 2, April 2020 340–361

<sup>26</sup> Milchman (ibid) page 353

<sup>27</sup>Children and Family Court Advisory and Support Service in Wales

<sup>28</sup>Julie Doughtya, Nina Maxwellb and Tom Slaterb, Professional responses to 'parental alienation': research-informed practice, JOURNAL OF SOCIAL WELFARE AND FAMILY LAW 2020, VOL. 42, NO. 1, 68–79 <https://doi.org/10.1080/09649069.2020.1701938>

<sup>29</sup><https://reseauiml.wordpress.com/2020/02/23/world-health-organization-removes-parental-alienation-from-its-classification-index/>

<sup>30</sup><https://www.theguardian.com/global-development/2022/jun/12/parental-alienation-and-the-unregulated-experts-shattering-childrens-lives>



## **b. Unregulated “Parental Alienation experts” and harmful treatments**

Concerns have been voiced in relation to the “experts” that diagnose Parental Alienation and provide PAT (Parental Alienation Treatments) also sometimes called reunification therapy.

These programs can be extremely costly, for example Family Bridges is estimated to cost \$20,000 in the US.<sup>31</sup>

A recent Guardian investigation evidences the lack of regulation of Parental Alienation experts on whose advice Family Courts forcibly remove children from the “alienating” parent and highlights the conflict of interest for many of “Parental Alienation experts” as they have financial incentives in diagnosing and then treating parental alienation.<sup>32</sup>

The chair of the Association of Clinical Psychologists UK board of directors quoted in the above investigation says:

*“The organisation is aware of unregulated experts making findings of so-called parental alienation and doing tremendous harm. I’ve seen children taken away by the force of the state on the basis of PA.”*

*“But what the public needs to know is that there is an international consensus that the evidence-base on parental alienation is not sufficiently robust to be making decisions about child-contact arrangements.”*

While no scientific evaluation has been provided on the effectiveness claims of Parental

---

<sup>31</sup>Jean Mercer, Examining Parental Alienation Treatments: Problems of Principles and Practices, Child and Adolescent Social Work Journal (2019) 36:351–363

<sup>32</sup><https://www.theguardian.com/global-development/2022/jun/12/questions-over-use-of-psychological-experts-in-parental-alienation-cases>  
<https://www.theguardian.com/global-development/2022/jun/12/parental-alienation-and-the-unregulated-experts-shattering-childrens-lives>

Alienation /reunification therapy<sup>33</sup>, emerging research on children subjected to it show that it is potentially very damaging<sup>34</sup> and that “removing children from preferred primary-care parents is contrary to **research and established practice on child resilience, recovery from trauma and accepted child development principles**”.<sup>35</sup>

### **c. Lack of focus on the best interest of the child**

Another important criticism of the Parental Alienation construct is that it provides a single factor explanation as to why a child rejects a parent, without proper investigation or even consideration of plausible alternatives.

The rejection of a parent is in most cases to do **with the rejected parent’s behaviour** and not with the behaviour of the other parent. A child may reject a parent for a number of reasons including having been abused, having witnessed abused targeting the other parent/ family member, inadequate, erratic or poor parenting practices, parental neglect, reaction to stress and to family breakdown, developmental and other factors.

The Parental Alienation label deflects attention from all these factors, from the child’s needs and the child best interests, in favour or apportioning blame to the primary care parent, usually the mother.

---

<sup>33</sup>See CAFCASS Cymbru review in note 25 supra

Note that the European Association for Psychotherapy (EAP) considers that PA and PAS are unsuitable concepts for use in any psychotherapeutic practice. See [https://www.europsyche.org/app/uploads/2019/05/EAP-position-statement-PAS\\_voted-Board\\_24Feb2018\\_officia.pdf](https://www.europsyche.org/app/uploads/2019/05/EAP-position-statement-PAS_voted-Board_24Feb2018_officia.pdf)

<sup>34</sup>Jean Mercer, Examining Parental Alienation Treatments: Problems of Principles and Practices, *Child and Adolescent Social Work Journal* (2019) 36:351–363 available at <https://doi.org/10.1007/s10560-019-00625-8>

<sup>35</sup>See discussion on page 6 of the Collective Memo of Concern to: World Health Organization RE: Inclusion of “Parental Alienation” as a “Caregiver-child relationship problem” Code QE52.0 in the International Classification of Diseases 11th Revision (ICD-11) From: Concerned Family Law Academics, Family Violence Experts, Family Violence Research Institutes, Child Development and Child Abuse Experts, Children’s Rights Networks and Associations

In short, “Parental alienation theory, when accepted and applied, seems to be causing family courts to be losing sight of the children, their experiences and perspectives, in favor of enforcing parental (often father’s) rights”.<sup>36</sup>

Under the **UN Convention on the rights of the child**, children have a right to:

- Having the best interest of the child as a primary consideration in all actions concerning them (Article 3)
- Retain contact with both parents **unless doing so would cause them further harm** (Article 9, emphasis added),
- Be heard in any proceeding affecting them (Article 12)
- Be protected from abuse (Article 19)

Women’s Aid believes that application of Parental Alienation in Family Courts goes against all of the above articles:

- The Best Interest of the Child is not considered, in favour of a simplistic concept
- The child is unjustly deprived of contact with their preferred parent, usually the primary carer, against all accepted evidence on child’s development and wellbeing on the basis of a discredited construct
- The voice of the child is discounted and in fact silenced. The more the child voices their opinion that they may not want to engage with the “alienated parent” the more this is taken as “proof” of parental alienation, regardless of the lack of scientific evidence for this construct
- Where there is abuse, the child is not protected from the abuser, on the contrary the child is forcibly placed with them.

---

<sup>36</sup>Neilson, L. (2018) Parental Alienation Empirical Analysis: Child Best Interests or Parental Rights? Fredericton and Vancouver, Canada: Muriel McQueen Fergusson Centre for Family Violence Research and The FREDA Centre for Research on Violence Against Women and Children, Page 31

Finally, Women's Aid believes that regardless of the cause of rejection of one parent by a child, even in cases where it is not due to abuse by the rejected parent, it is unreasonable to **force** a child to have contact with someone they do not wish to see, whether by physical force as it happens in some countries or by coercion.

### 9. Manipulating Children as a Tactic of Domestic Abuse

While Women's Aid does not agree with the construct of Parental Alienation for all the reasons outlined above, we regularly hear from women experiencing domestic abuse that the perpetrator actively undermines the bond between the mother and the children both before, during and after separation.

In Women's Aid Direct Services experience most women with children, particularly from age 7/8+, report attempts by fathers to 'turn the kids against her'. Women have reported to us throughout the years that the abuser often tells children lies about their mothers; denigrates her to the children, undermines her authority and manipulates the children against her. For example, by using children to spy on the mother and report to him or by encouraging them to join in the verbal or even physical abuse of the mother.

Children end up **blaming her** for **his** abusive behaviour and align themselves with the father against her.

Women feel deeply upset by the weaponisation of their children, and while these tactics are by no means always successful many women can be really undermined.

In some cases, women told us that the relationship with their children has broken down completely and has not resumed even when the children are adults. In other cases women felt they had to cut off contact with one or more of their older children because their father had 'poisoned them' so much that their own mental health was being seriously compromised by contact with their children.

**This common emotional abusive tactic is often commonly employed as an integral part of an abuser's overall coercive control pattern and** has long been recognised by domestic violence services and described in Domestic Violence literature.<sup>37</sup>

In our experience this form of abuse against mothers, and children, is usually ignored in the Family Courts.

Women's Aid believes that in both scenarios where women are falsely accused of Parental Alienation and where children are manipulated to ally with an abusive parent, the broader context of a power imbalance, Coercive Control and complex abusive tactics need to be taken into account to provide adequate and safe responses.

## **10. Possible Responses**

The Best interest of the child is already the overarching criteria regarding any decision made in relation to the child, particularly in relation to Custody and Access.<sup>38</sup> Moreover, existing legislation already deals with Enforcement of orders<sup>39</sup>

Women's Aid believes that improving the Family Courts understanding and recognition of domestic and child abuse, including Coercive Control, would provide the best response for the issues highlighted in this submission. A number of recent Recommendations in this regards (including on training and data collection) can be found in:

- Women's Aid Submission to the Court Bill General Scheme 2021
- Women's Aid Submission to the Family Justice Oversight Group 2021
- Women's Aid Submission to the Child Maintenance Review Group 2021

---

<sup>37</sup>See for example Bancroft, L. & Silverman, J.G. & Ritchie, D.. (2012). The Batterer as Parent: Addressing the Impact of Domestic Violence on Family Dynamics. 10.4135/9781452240480.

<sup>38</sup>Children and Family Relationships Act 2015 Section 45

<sup>39</sup>Guardianship of Infants Act 1964 Section 18A



- The Children and Domestic Violence Group Submission to the Family Justice Oversight Group Consultation February 2021.

All of which are available on

<https://www.womensaid.ie/about/policy/publications/category/submissions/>

It is also important that listening to children in proceedings about them becomes a **reality** in Ireland and that children's voices are not discounted, but amplified.<sup>40</sup>

Finally, research from other jurisdictions points at the key role played by child welfare professionals in the Family Law Courts and note that many are too ready to uncritically accept discredited Parental Alienation theories, even against the official position of relevant professional associations.<sup>41</sup>

This is possibly due to a lack of understanding on domestic violence and abuse, particularly Coercive Control, and how it affects children.

This experience is reflected in Ireland where child welfare assessors do not have a good understanding on the dynamics of domestic violence. This needs to be remedied through a systemic review of the assessments under both Sections 32 and 43, establishing clear and consistent regulation and oversight and systematic training for all qualified assessors.

---

<sup>40</sup> Stephanie Holt (2018) A voice or a choice? Children's views on participating in decisions about post-separation contact with domestically abusive fathers, *Journal of Social Welfare and Family Law*, 40:4, 459-476

<sup>41</sup> Deborah Mackenzie, Ruth Herbert & Neville Robertson (2020) 'It's Not OK', but 'It' never happened: parental alienation accusations undermine children's safety in the New Zealand Family Court, *Journal of Social Welfare and Family Law*, 42:1, 106-117; Glòria Casas Vila (2020) Parental Alienation Syndrome in Spain: opposed by the Government but accepted in the Courts, *Journal of Social Welfare and Family Law*, 42:1, 45-55; Mariachiara Feresin (2020) Parental alienation (syndrome) in child custody cases: survivors' experiences and the logic of psychosocial and legal services in Italy, *Journal of Social Welfare and Family Law*, 42:1, 56-67,



## 11. Conclusions

Women's Aid believes that Parental Alienation is an extremely dangerous and damaging concept, which should have no place whatsoever in the Irish Family Court or Child Protection systems.

The use of Parental Allegations in family law disputes deflects the focus from domestic and child abuse allegations. Successful Parental Alienation claims by an abuser place children in their custody and remove or severely limit the presence of the protective parent, strongly increasing the risk of harm.

Evidence from other countries where this concept is unfortunately widely in use clearly shows that it works against the best interest of the child, and against several rights that children should enjoy under the Convention of the rights of the Child, the Istanbul Convention and national legislation.

The term 'Parental Alienation' silences both women and child victim/survivors of domestic and child abuse. It forces children into **unsafe** and **detrimental** Access and Custody arrangements. It is commonly used by abusers to continue controlling and harming the family after separation, with the help of the Courts, with long term negative impacts.

Moreover, notwithstanding a recent recasting of Parental Alienation as a gender-neutral concept, its history and its application clearly show that it is based on harmful gender stereotypes of women as not credible and "revengeful" mothers and that in the majority of cases is used by fathers against mothers.

Outcomes in Parental Alienation cases are also gendered, with mothers who are deemed to be alienator suffering worse outcomes (for example reversal of custody or severe limitations on contact with their children), than fathers who are found to be alternators in Parental Alienation cases brought by mothers.<sup>42</sup>

---

<sup>42</sup>See Neilson's (2018) op cit, Meier's (2020) op cit, Elizabeth Sheehy & Susan B. Boyd (2020) Penalizing women's fear: intimate partner violence and parental alienation in Canadian child custody cases, Journal of Social Welfare and Family Law, 42:1, 80-91,



Women's Aid believes that the use of the Parental Alienation construct worsens the already well-documented issues facing women and children victims of domestic and child abuse in the Family Court and calls on the Department of Justice to heed the call of GREVIO and the European Parliament among others and to deny this harmful concept any legitimacy in Ireland.

Thank you for the opportunity to submit our views on this important consultation. Women's Aid would be very pleased to discuss this submission in person should the opportunity arise to do so.