



# Essay Series

Parental Alienation vs. Disinformation

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## II.

Parental Alienation,  
An Unfathomable Mystery *or* The Scream

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# I. Introduction

Parental alienation (PA), let's put it bluntly, has become a controversial figure in professional family circles. Its name only makes one uncomfortable, one avoids pronouncing it, or simply provokes fear and rejection. In addition to the lack of knowledge about its background, these are not the most suitable companions if one sets out on a scientific journey towards such a figure - let alone wanting to change its basement reality.

As a result, you can imagine that you cannot exactly win friends when one lets it be known that one wants to deal with this topic professionally. And yet, on the face of it, the question should be: is there really an alternative to doing so if one wants to be consistent in achieving the broadest possible protection of minors in family proceedings?

On occasion I have described the phenomenon of parental alienation as an intentional and unjustified severance of the parental bond (IUSPB). In the first essay of this series I tried to explain as logically as possible that this phenomenon is - unfortunately - an everyday reality in our family courts. This can or could be confirmed by anyone.

Basically, this form of child abuse cannot be surprising, because the abuse of power over children is inherent in the fact that adults take responsibility for children: There are those who fulfil this protective function as expected - fortunately, they are in the majority. There will be others who may go too far. And then there are those who abuse this power and use it against children. Why should these child abusers avoid the PA, when they are capable of much worse?

With one difference: parental alienation is probably *the only case of child maltreatment whose existence is disputed*, thus causing its continuity and impunity, and, of course, the neglect of alienated children and parents.

With the first essay in this series but also with my research I have tried to show the depth of the damage caused by this abuse of power both for the children concerned and for the parent who has now been unjustifiably removed from his or her children.

Of course, it is sometimes necessary to deliberately sever parental ties for the benefit of the children, for example in the case of forced foster care. The proportionality of the measure will be the key factor in examining whether this intervention is justified. For the mere severance of parental ties is in itself a considerable harm to the children. If the harm from which we wish to protect the child is greater than the harm caused by severing the parental bond, then this measure would be proportionate and therefore also justified. It would hence also be acceptable from the point of view of the child's welfare.

In the case of PA it must be assumed that this deliberate severance of the parental bond is unjustified, i.e. arbitrary from the perspective of the child's welfare. It would serve purposes which are not compatible with the child's best interests. In fact it can be scientifically assumed that the PA *multiplies* the harm to the children. We are not only talking about the harm directly due to IUSPB, but also through interference with their healthy development, self-esteem, self-confidence or the development of their personality and psychological maturity.

One can also mention the overflowing dams/dikes of the first contribution to the series, or what my 2023 study found, or other earlier or later studies. The damage caused to children by PA can be immense.



Isn't it sad that such a clear, understandable and "logical" phenomenon like IUSPB, which should actually be banned, is ignored if not vilified or denied? That we are wasting our time with these pointless discussions instead of trying to prevent its emergence?<sup>1</sup>

Seeing is believing how we got here. Because this phenomenon is, as I said, daily reality for any professional in the field. And yet the strategy of disinformation has the upper hand. Mind-boggling. Therefore, because this cannot be, I propose in these lines to show the most important disinformation arguments as well as their counter-arguments.

## II. Disinformation - and its challenge

### A. Invention

According to some, the PA, that phenomenon as radioactive as it is elusive, simply does not exist. It was invented by a few gentlemen one fine day. See Richard Gardner and domestic violence (below).

### B. PA v. domestic violence

In prominent places (e.g. in official UN circles) it is doubted that PA exists. This would be nothing more than an excuse or strategy of violent men in the domestic sphere to divert attention from their misdeeds so that they can continue to use their victims unmolested<sup>2,3</sup>. This is more or less what the report of the Special Rapporteur on violence against women and girls, Jordanian expert Reem Alsalem, says. For Ms. Alsalem, "*research and allegations show that perpetrators of domestic violence may also misuse family law procedures to further perpetrate violence against their victims, leading to secondary traumatisation. In this context, alienation between parents and children can be used as a useful tactic*".<sup>4</sup> (S. 4). PA would not exist, it would be pure tactics without content, "pseudo-science", in short (p. 3).

This thesis, as surreal as it is repeated, has been adopted by other high instances. For example, the German Constitutional Court last year (17.11.2023, BVerfGE - 1 BvR 1076/23); a judgement on which I would like to comment in due course. It was introduced by the Spanish

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<sup>1</sup> Cfr. Guerra González, Jorge (2021). La alienación parental. Llamémosla X, pero parémosma. La Ley 2021, núm. 9835. <https://dialnet.unirioja.es/servlet/articulo?codigo=7862012>

<sup>2</sup> Custody, violence against women and violence against children. Report of the Special Rapporteur on violence against women and girls, its causes and consequences, Reem Alsalem, 13.04.2023, /HRC/53/36.

<sup>3</sup> <https://www.ohchr.org/en/press-releases/2023/06/urgent-reforms-needed-protect-women-and-children-violence-custody-battles-un>

<sup>4</sup> Research and submissions received show that perpetrators of domestic violence can also misuse family law procedures to further perpetrate violence against their victims, resulting in secondary traumatisation. In this context, parental alienation can be used as a useful tactic.

Parliament even earlier. Spain had gone even further with its LO 8/21<sup>5</sup> which goes so far as to prohibit courts and authorities from using the term "Parental Alienation Syndrome". A remarkable case of censorship reminiscent of other times and contexts.

It is almost inexplicable how these and similar PA-denying theses can receive any attention at all, let alone at such a socio-political level. It is even more so that such theses have attained mainstream status, in contrast to reality itself. A real mystery. Or perhaps, pure nonsense.

One would think that the denialist arguments, for example those of Ms. Alsalem, would be strong. Or her evidence particularly solid. Nothing could be further from the truth - literally: the "facts" provided have very little to do with objective reality. It seems that PA denial has become a matter of faith. It is not necessary to understand it, it is enough to believe in it - like the Trinitarian mystery. The reality of the senses, the more earthly, everyday reality, can be quietly set aside, seems to be the message of Ms. Alsalem and her acolytes.

In order to accept the PA's denialist theses, Ms. Alsalem had to deliberately activate and deactivate reality. A peculiar procedure if one pursues the slightest scientific decorum. And the fact is that Science pretends to build its walls on the basis of objective empirical data, and to try to fill spaces in hypotheses open to any result. That report, as it seems, does the contrary it begins by predetermined results, that has to be "confirmed" - whatever it takes. Take a look:

- Ms. Alsalem's report holds on to one part of reality. Quid when it is the mothers who are alienated by the fathers - with or without additional domestic violence? With her PA-denying report these women and their children are left at the mercy of the power and violence of an alienating father. This is exactly what Ms. Alsalem wants to avoid

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<sup>5</sup> Ley Orgánica 8/2021, de 4 de junio, de protección integral a la infancia y la adolescencia frente a la violencia: Art 11: Artículo 11. Derecho de las víctimas a ser escuchadas.

1. Los poderes públicos garantizarán que las niñas, niños y adolescentes sean oídos y escuchados con todas las garantías y sin límite de edad, asegurando, en todo caso, que este proceso sea universalmente accesible en todos los procedimientos administrativos, judiciales o de otra índole relacionados con la acreditación de la violencia y la reparación de las víctimas. El derecho a ser oídos de los niños, niñas y adolescentes solo podrá restringirse, de manera motivada, cuando sea contrario a su interés superior.

2. Se asegurará la adecuada preparación y especialización de profesionales, metodologías y espacios para garantizar que la obtención del testimonio de las víctimas menores de edad sea realizada con rigor, tacto y respeto. Se prestará especial atención a la formación profesional, las metodologías y la adaptación del entorno para la escucha a las víctimas en edad temprana.

3. Los poderes públicos tomarán las medidas necesarias para impedir que planteamientos teóricos o criterios sin aval científico que presuman interferencia o manipulación adulta, como el llamado síndrome de alienación parental, puedan ser tomados en consideración.

Organic Law 8/2021 of 4 June on the comprehensive protection of children and young people against violence.

Article 11 Right of victims to be heard.

1. public authorities shall guarantee that children and young persons are heard and listened to without age restriction and with all guarantees, ensuring in any case that this procedure is universally accessible in all administrative, judicial or other procedures related to the recognition of violence and reparation of victims. The right of children and adolescents to be heard can only be restricted when it is contrary to their best interests and justified.

2. Ensure that professionals, methods and spaces are adequately prepared and specialised so that the testimonies of child victims are taken with care, tact and respect. Particular attention will be paid to the training of professionals, methodologies and the adaptation of the environment to listen to the youngest victims.

3. the public authorities shall adopt the necessary measures to avoid taking into account theoretical approaches or unscientific criteria suggesting influence or manipulation by adults, such as the so-called Parental Alienation Syndrome.

with her report to protect women from violence. Why protect some women and not others?

- In her report, Ms. Alsalem cites a scientific study that is itself cited in a Canadian report<sup>6</sup>. The report is from 2001, but it is curiously based on a *later* study, carried out in 2018. It is also striking that the paragraph of the study referred to *does not* support the report's central assertion of the report on the non-existence of the PA.
- A whole UN report based on a single study, and in this way? It might look like a trick to you. Starting hypothesis.

Or that there are other reliable sources on PA from which it would be possible to draw conclusions. But this is not the case. There are no such thing as statistics on the PA phenomenon - how, if it supposedly does not exist, if, as Ms. Alsalem herself admits, there is no generally accepted definition of PA?

This is not surprising, moreover: PA or IUSPB is a complex and multifaceted phenomenon that requires separate and specific attention for each case. Its definition must be precise, inclusive and not serve to simplify reality. Simplifications are often of little use to victims.

- Ms. Alsalem cites another study as evidence for her conclusions on the PA<sup>7</sup>. With one caveat, as she herself acknowledges: the 20 cases on which she relies *do not* mention the PA.
- The fact that the entire report and its assertions are based on these two studies alone, without further statistics or other official data, is at the very least striking - if not outright scandalous.

But that's not all: Ms. Alsalem ignores the science of the "other side" (for her, obviously, the dark or apostate side). The one that confirms the existence of the PA - through hundreds of studies in various countries and over many years<sup>8</sup>. Such studies are easily accessible, they are no secret to anyone who wants to find them.

For the sake of scientific rigour, it would have been essential to consider all the contrasted information on PA in order to be able to draw conclusions about it. At least it would have been the right thing to do and to explain why some sources - doubtful, minority ones - were taken into account, while others - solid, contrasted ones - were not.

- In my experience in various functions - court expert, children's lawyer, visit "tutor" or mediator, etc. I have never been confronted with the constellation described by Ms. Alsalem: Mother, about the father: He is a violent abuser! And the father, about the mother: And you just want to take the children away from me!

My experience is that PA and domestic violence are two distinct phenomena, independent of each other – unless you consider PA itself as domestic violence (against the alienated parent and children, manipulating the State against itself (abuse of Law)). Domestic violence can occur without PA, PA can occur without domestic violence.

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<sup>6</sup> An empirical analysis of parental alienation cases in Canada conducted in 2018 found that of 357 cases, 41.5% involved claims of domestic or child abuse, of which 76.8% involved alienation. (Neilson, Linda C. (2001) Spousal Abuse, Children and the Legal System. Final Report; For Canadian Bar Association, Law for the Futures Fund, March, 2001, Presented on behalf of the members of the Spousal Abuse, Children and the Legal System research team.

From the Muriel McQueen Fergusson Centre for Research on Family Violence, University of New Brunswick

<sup>7</sup> "In another study, parental alienation was mentioned in all 20 cases studied in the context of coercive control and child sexual abuse, and even when it was not explicitly used, the underlying ideas were still present" (Pierre-Guillaume-Prigent and Gwénola Sueur, "À qui profite la pseudo-théorie de l'aliénation parentale?", *Délibérée*, vol. 9 (2020), pp. 57-62).

<sup>8</sup> Anyone can read them. If necessary, I can make them available to everyone.

Both could even be present in the alienating person: he or she could practice domestic violence against the other parent and their children, and manipulate their children against the other parent, whose “opinion” is accepted by the authorities as the “will” of the children. The other parent would then be officially “expelled” from the family.

- If domestic violence and PA actually occur in the same case, but in different persons, the sequence of events is rather as follows: One parent interrupts the children's contact with the other parent *on the grounds of domestic violence* or the children's statements to that effect (or both). The parent, now excluded, would constitute a danger to the children, which in their opinion would entitle the first parent to break such a parental link temporarily with the children. It would now be up to the court to ascertain whether the ISPB motu proprio was justified or not.
- It seems that the information on the Block case<sup>9</sup> would be along these lines. *It would then not be that the PA would become an instrument to whitewash domestic violence, but precisely the other way around.*
- Another professional experience: Complaints of domestic violence are always investigated and taken very seriously. If the accusation of domestic violence is considered insufficient to interrupt the contact and/or if this contact is still deemed beneficial for the children, the court will try to minimise the risk for the children - because you never know. For example through the presence of a person during the entire parental visit (visiting guardian).

In my professional experience in such a role I must point out that all these visits that started out accompanied turned into unaccompanied visits, although in retrospect, it is difficult to know for sure why this was always the case.

- Ms Alsalem's report not only appears to be biased and ill-informed, it is also irresponsibly simplistic. It is certainly easier to orient oneself in a simplified reality. But the potential for injustice or arbitrary or counterproductive actions would be correspondingly high.
- We note then that Ms. Alsalem starts from the following premises, far from any scientific contrast, close to being matters of faith for her:
  - o Mothers would only act in the best interests of the children, they would only tell the truth.  
A good example of synecdoche, but nothing more. Fathers and mothers are sometimes liars or sincere. There is everything in the Lord's vineyard. The important thing is to look behind without preconceived ideas.  
Trying to whitewash (or censor) behaviour by looking at the gender/sex of the person is not only deeply discriminatory. It is scientifically absurd.
  - o Mothers would not influence sons to reject fathers.  
Another good example of synecdoche. In order to not to repeat myself, s. above.
  - o There is no such thing as PA. Neither mothers nor fathers would think of influencing their children against the other parent.  
I wish it were so. But it is not, unfortunately.
  - o Domestic violence could only come from the father.  
Another example of synecdoche. We are not going to repeat ourselves either. We cannot function with generalised suspicions or canonisations on the ground of sex/gender. Out of respect for the real victims, whom we are going to abandon with ideas like this.

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<https://www.abendblatt.de/hamburg/article242190040/Sorgerechtsstreit-um-Block-Kinder-Prozess-gegen-Vater.html>, 14.06.2024.



The thing is: most parents are not violent. But some are.

- o Mothers cannot be victims of a PA (which does not exist anyway). Sad to want to whitewash bad mothers at the expense of good ones. And very unfair.
- o Children cannot be victims of parental manipulation, they can easily resist the will of their parents, distinguish right from wrong and always recognise the consequences of their actions and desires.

I wish it were so. But let us children be children... and let us protect them during the process

- The fact that each of these assumptions is wrong can be observed in the daily life of the courts. Better not to do so and to refer to remote and otherwise dubious studies? Why?
- Mothers or fathers do not always act in the best interests of their children. Both are capable, in the worst cases, of killing their own children in order to harm the other parent.  
A maiore ad minus. Mothers and fathers deliberately influence their children to make contact with the other parent difficult, because they know that professionals will talk to the children and that their opinion will be taken into account.
- The same applies to the will of the child. Children are... children. There is no doubt, as I explained in my first essay, that they should be respected. But children must also be protected, as is the case in the rest of the legal system.  
Therefore, the more we treat the will of the child in a simple and undifferentiated way, the more we want to contemplate it without a filter, as it seems that Ms. Alsalem would prefer, the easier it is to instrumentalise it... for objectives akin to PA, or for other child-damaging objectives.
- Because... can children decide freely, orient themselves in a conflictive parental environment, impose themselves on the adults on whom they depend? They hardly can.
- PA and domestic violence are two different things, as I said. One does not justify or compensate for the other. In a criminal court, for example, no robbery (§§ 242 et seq. German CC) would justify or compensate for a physical assault (§ 223 German CC). Criminal law would examine both offences, treat them separately and impose the corresponding penalties, in one case, in both cases... or in neither case. This is also how the family court should deal with domestic violence and PA.
- There is indeed a general awareness against domestic violence, which is absolutely right - but not against PA. The confusion surrounding the term PA - which Ms. Alsalem, among others, propagates - does not help much that this form of abuse is still not properly prevented or, as the case may be, sanctioned.
- Perpetrators of domestic violence are treated consistently, both in criminal courts and in family courts. They are excluded from visiting rights to their children, to have contact at all with them, from exerting parental rights. If necessary children in their care are taken into custody. The most serious cases may result in imprisonment, etc.
- None of this happens with the PA. To begin with, even the awareness of the unfairness of such actions is lacking. And it goes no further. Such serious threats to children's well-being, with potentially very serious consequences for them and for so many others, are not sanctioned in any way - or the penalties are minimal, so that they are neither effective nor consistent, nor can they have a general preventive effect.
- Our reality is complex, and so are our families and their eventualities. Domestic violence or PA are two avoidable misfortunes, without clear and definitive demarcations. There are fathers and mothers who are victims or perpetrators of both, in the same family or in others. At the same time or at another time.





Therefore, there are no general rules to follow - apart from trying to avoid both by all means - so that a prior assessment on a case-by-case basis without conditioning is always necessary to obtain an adequate basis for decision-making. To recognise victims and perpetrators, protect the former and punish the latter.

- Closing our eyes to such complexity is neither convenient nor fair. It would just be... too simple and therefore irresponsible. As well as: incoherent or contradictory.

It is inexcusable, as I said, why this disinformation at the highest level has reached such an echo - and not, for example, decisions of the European Court of Human Rights, that has decidedly positioned itself against the PA, whose jurisprudence reflects that what I have written in these pages corresponds to reality, at least with that of the cases dealt with<sup>10</sup>. It is also incomprehensible why such high-level personalities and institutions produce unacceptably biased reports, casting doubt on the indisputable reality of the PA, or why these unacceptable reports are not rectified in time.

Nobody has anything to gain from these pointless debates. We are wasting our time. While we argue we are failing to prevent good fathers and mothers and their sons and daughters from entering this terrible loop.

So far, I have been content in this section to highlight the unacceptable shortcomings of Ms Alsalem's report as a simple appeal for sanity and good science. But I believe that we can and must go further. Such a report is an irresponsible call for the abuse of the law at the expense of the concrete pain and suffering of thousands and millions of children, fathers and mothers. This is the unequivocal and unavoidable conclusion if the following facts are anything to go by:

- The role of the UN as a platform for influence and imitation at the highest global level;
- The effort to actively and passively deny verifiable evidence, thus whitewashing so many wrongdoers in the easiest possible way. Claiming that their alienating behaviour does not exist precludes the possibility of such conduct being criminalised or sanctioned;
- The scientific malpractice in the report goes far beyond simple negligence on the facts. The report is a gross ode to arbitrariness in the effort to consider or disregard evidence at the author's discretion in order to reach a result that she has previously determined;
- The study is ultimately an effort to sacrifice children for the sake of interests that are alien to them. In trying to make the mantra of "respecting the will of minors" be assumed, the only purpose of such an assumption, given the intrinsic vulnerability of minors, cannot be other than to guarantee more easily the impunity of alienating behaviours.

The conclusion cannot be other than to force Ms. Alsalem and all those who assume her peculiar thesis to assume civil and even criminal responsibility for the suffering and pain caused to so many thousands of minors, mothers and fathers all over the world. Criminal culpability should reach at least the level of *dolus eventualis*, comparable to direct malice. For the lack of scientific scruples will force others to pay a very high price for which she should be held responsible.

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<sup>10</sup> In *Pisică v. The Republic of Moldova* (Application no. 23641/17) the ECtHR explicitly mentioned PA (Parental Alienation) child abuse and condemned Moldova (as well as meanwhile also Germany, Italy, Ukraine, etc.). According to the Court, these states have a *positive obligation* arising from the fundamental right to private and family life). According to the Court, these states did not defend against the PA or did not do enough to protect the right to family life of the respective alienated parents who successfully appealed.

## C. Richard Gardner, the "inventor" of Parental Alienation

Richard Gardner is both a central and a highly controversial figure in the field of PA. Some sources of information describe him very negatively, if not outright demonise him. According to such sources, Mr. Gardner should go down in history as a paedophile and as the "inventor" of the PAS.

But his portrait for the future should at least be based on verified data. Respect for truthfulness and memory is the least that anyone who is no longer with us (he committed suicide at the age of 72 on 25.05.2003) or who can no longer speak for himself deserves. A word to the wise: the following facts do not pretend to be of any scientific depth, but simply to be true. The author is not and does not want to be an expert on the person or the work of Gardner, but in his case, on the IUSPB phenomenon:

- The US-American child psychologist and researcher Richard Gardner *was never reported for* paedophilia during his lifetime, let alone convicted of it. Therefore, his designation as a "paedophile" is at the very least questionable if not outright untenable.
- Gardner is not an inventor. In the 1980s, he described a phenomenon that other researchers had previously recognised, although they mentioned it in a different way, or attributed a different scope to it.
- Gardner's great merit is that he coined the term by which this phenomenon is now known internationally: parental alienation. This is the process of progressive "estrangement", "alienation" or "estrangement" of children from one parent, often actively instigated by the other parent. An intentional and unjustified severance of the parental bond (IUSPB).
- Mr. Gardner also deduced that such a phenomenon should leave traces on the affected children. For him, such negative consequences in the form of symptoms would form a syndrome. Such as every illness, whether physical or psychological, is a "syndrome": a recognisable pattern of symptoms that appear simultaneously. Gardner thought that this was the case with the process of alienation in children. Consequently, he called this clinical picture "Parental Alienation Syndrome" (PAS).

So there should be no confusion. PA would be a process or strategy of "making strangers" children and generally one of their parents, while SAP would be or pretend to be a clinical diagnosis of those affected children, as a consequence of such a process of "estrangement".

There is no doubt that PA exists, as it is logical - unfortunately - as well as a daily reality in our family courts. The phenomenon was investigated by the author of these lines in 2023<sup>11</sup> (Guerra 2023a), and its dangerousness for minors is beyond doubt (Guerra 2023b)<sup>12</sup>.

It is worth mentioning that this process of alienation is the basis of the profession of the "visit tutors" (Umgangspfleger) in Germany. These professionals would have the task of ensuring that family visiting orders are observed by all those to whom they are addressed - especially

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<sup>11</sup> Guerra González, J. (2023a). Ursachen und langfristige Folgen von Trennungs- und Entfremdungserfahrungen in der Kindheit. Eine quantitative/qualitative Studie. Leuphana Schriftenreihe Nachhaltigkeit und Recht, 28.

<sup>12</sup> Guerra González, J. (2023b). Eltern-Kind-Entfremdung als Kindeswohlgefährdung: Ursachen, Folgen, Auswege. in: Recht für soziale Berufe 23-24. Schmidt, Christoph. Nomos

by those who refuse such visits. The reason for his or her existence would be precisely the fact that there are certain parents (alienators!) who act in this way.

If there is no doubt as to the phenomenon of PA, there is doubt as to whether this process of alienation gives rise to a syndrome. There is no clear answer. The author of these lines could not find one in his study of 2023a. Possibly because the variables with a relevant effect on the outcome that may intervene in the alienation process are very diverse - length of exposure, degree of depth of alienation, age of the child at the beginning and at the end of the process, personal resilience, availability of emotional resources during the alienation process (other family members, siblings or other figures as emotional resource, etc.). What this study did find is terrible harm to the victims. The life satisfaction and the mental and physical health of the affected children plummets compared to children who grew up on intact family relationships (without parental separation) or even when their parents separated during their minority (Guerra 2023a).

So there is NO doubt that the PA will produce considerable harm to the child, which would be detrimental to the child's best interests (Guerra 2023b), even though the symptoms may vary considerably or not appear simultaneously. That is, they are too diverse to be recognisable and thus diagnosable. This can never be a reason to deny protection to such a child or even to deny the causative phenomenon ("SAP is not recognised, then PA does not exist"). Such really absurd statements are not uncommon in this field.

It should be recalled that the World Health Organisation initially accepted SAP. However, it subsequently rejected its inclusion in the ICD 11 (international register of diseases). The reason would be that for the WHO SAP would be a legal rather than a health term. For the WHO<sup>13</sup>, the phenomenon of PA would exist and have health relevance, but would be better covered in their view under the broader category of "caregiver-child relationship problem" (problem of the relationship between caregiver/guardian/parent and child). For the WHO, PA would then not be an "invention" or "pseudo-science", its non-inclusion would be due to taxonomic, systematic or organisational/distributional reasons.

I said earlier that Mr. Gardner has neither "invented" nor "discovered" anything. The former does not refer to having described the phenomenon of PA that would exist without his contribution. It is a "reality" that people who have power over children use it against them, unfortunately. And the harm to children to which Mr. Gardner referred is also logical from

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<sup>13</sup> The purpose of ICD-11 is to provide an internationally standardised classification for health diagnoses, to account for health events and health care contact episodes for statistical purposes. Chapter 24 "Factors influencing health status or contact with health services" allows the recording of circumstances or problems that influence a person's health status, but do not in themselves constitute an illness or injury. This chapter includes the category 'problem in the caregiver-child relationship'. During the development of ICD-11, a decision was taken not to include the concept and terminology of "parental alienation" in the classification, because it is not a health term. The term is rather used in legal contexts, usually in the context of custody disputes in divorces or other couple dissolutions. The broader category of "caregiver-child relationship problem" was considered to adequately encompass the aspects of this phenomenon on which health services could focus. More recently, proposals to include the terms "parental alienation" and "parental estrangement" as index terms for "caregiver-child relationship problem" were initially submitted and approved. Following online comments, the WHO-ICF Medical and Scientific Advisory Committee recommended clarifying that the inclusion of a term for search purposes does not mean that WHO endorses the term or its use. Following this clarification, comments and questions have persisted about the misuse of the term to undermine the credibility of a parent who alleges abuse as a reason to deny contact and even to criminalise their behaviour.  
<https://www.who.int/standards/classifications/frequently-asked-questions/parental-alienation>, 13.06.2024.



the perspective of developmental psychology (attachment disorder, attachment breakdown, loss of attachment figures, parental conflict, involvement of children in such parental conflict, etc.).

Nor was Gardner the first or the only one to "discover" or "describe" this process of alienation: other researchers and scientists had apparently done it before (e.g. Willhelm Reich, Wilfrid von Boch-Galhau; W. A. Friedlander, Paul J. Rosenthal, etc.).

The undoubted merit of Mr. Gardner, which no one can or should take away from him, is to have coined the term with which the phenomenon became internationally known (parental alienation), for Science and for Law, as well as to have put the focus on minors, on their harm by PA and, therefore, on their protection, by referring to a SAP.

In any case, it is essential to distinguish between person and work, if one wants to judge people retrospectively. Not only are they different things, but it would be unfair to conflate the two. Apart from the fact that the parameters of judgement would have to be different. Gardner as a person: was he exemplary in terms of humanity, or was he not exemplary at all? As for his work: is it true and verifiable what he contributed? Has humanity become wiser, better, more advanced as a result of his contribution?

On the other hand, if it were the case, as some believe, that Richard Gardner had been an object being - which is by no means clear - this would have no bearing on the validity of his work.

There is no denying that Gardner's work has left a lasting impression - one that we are still talking about, 50 years later. Moreover, Gardner was a child of his time. He deserves no different treatment than other people. Let's take some of the greats of humanity, not for the sake of comparing the effect of their works, but because with these examples it might be better understandable what I mean. I do not know what kind of people Albert Einstein, Isaac Newton or Christopher Columbus were, nor what they did in their lives apart from what they went down in history for, nor do I care much about them at the moment. Because this would be irrelevant for the validity of the theories of relativity, of the laws of physics (law of inertia / law of momentum / principle of reaction) or for the existence of America, although probably other researchers or adventurers would have discovered them even before them, or even after them.

People and their work should be valued differently. This is only fair. History must have the last word, on as objective a basis as possible, without distortion of any kind. In relation to both facets, although independent of each other.

Anyway: It would be strange if someone were to say: Einstein was a... misogynist (?), therefore Relativity does not exist.

## **D. Parental bond Intolerance, mothers losing custody, conspiracy theory, contempt for legal system**

In Germany, the idea circulates, even at the highest levels of the scientific community, but also in the judiciary and in the telecommunications sector, that the PA is a "phantom theory". That its only purpose, under this or other names (e.g. Bindungsintoleranz, intolerance of the bond (of the child with the other parent), is to harm caring mothers who are protective of

their children (comp: see above). According to such sources the family courts in Germany would act in this suspiciously discriminatory way against such mothers.

To corroborate these claims, in addition to the reputations of the names that mention them, some individual mothers give first-hand accounts of their experience.<sup>14</sup>

The image is disturbing because, at least in my modest experience of many years in the profession, it does not correspond at all to reality. That is why I find this image extremely close to certain conspiracy theories that can do so much damage to our democracies. They usually aim to make citizens believe that they live in an unpredictable and abusive dictatorship from which they cannot escape and which is fed by an entire State system.

This would give the impression that a whole system of family law would be blind, and that it would aim, for some obscure reason, to harm good protective mothers. There is no doubt that this image is a little or a lot sensationalist, but is it justified? On the face of it, not at all:

- On the one hand, it is striking that the reports mentioned above are based not only on more or less reputable opinions but also on facts based on the words of only one of the parties. Only the mothers allegedly involved have a voice or are spoken of in general terms. And what they say is taken at face value. The other parties in these cases (children, fathers, grandparents, etc.) have no voice and their opinions are not taken into account.

It is not clear why such an exclusion is necessary, but such an approach is in itself scientifically suspect.

It is logical that the information provided by only one of the parties cannot be weighted or balanced, but is necessarily biased. And this is at least from a subjective point of view (we can hardly get out of our own subjectivity when reporting something, i.e.: see it from another perspective); if not, in the worst case, from an objective point of view (the information could be deliberately false because it is intentionally misrepresented).

The extent to which we are in the grip of such a problem can only be ascertained by cross-checking facts and opinions with other sources, not just one.

Imagine if one wanted to deduce the existence of domestic violence by asking only the convicted person(s).

- On the other hand, it would be risky to accuse family courts in Germany of ruling against mothers as a matter of principle. German family courts still base their decisions today for the most part on a traditional division of roles in family matters - even when parents insist on a more “modern” division of roles. The courts are of the opinion that mothers should play the main role in their children's lives and not the fathers, even if the fathers dispute this principle<sup>15</sup>. This is a fact for everyone to see, and because it affects thousands, millions of people, it must have a sensitive and directly appreciable effect on any self-respecting policy measure on Equality, spoiling any effect of lesser measures to implement equality.
- It is not astonishing that some mothers can be held responsible for having alienated their children, but that someone, whether father or mother, is held responsible. Unfortunately, this is not the case at all.

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<sup>14</sup> Details are also omitted here in order not to limit the situation to a few names. The information is also readily available on an individual basis (kontakt@jorgeguerra.de).

<sup>15</sup> Based on official statistics from Statista (German Statistical Office)

<https://www.ihre-vorsorge.de/soziales/nachrichten/bei-sorgerechtsstreit-meist-gewinnen-die-muetter>





I mentioned earlier that a major problem, as yet unresolved, is that our society does not pursue alienating behaviours; it lacks even an awareness of the injustice of parental alienation. As a result, the PA-phenomenon is de facto tolerated.

This form of psychological child abuse is not systematically sanctioned, unlike all other forms of child abuse. This is as incomprehensible as it is unjust.

In other words: alienating parents "play" the "alienation game" without taking any risk on their part. They influence the children against the other parent, or prevent their contact with the children, knowing that the worst thing that could happen to them is that they would be prevented from doing so, i.e. that they would get away with their stratagem of removing the other parent from the children's lives.

For example, I have heard this sentence on a few occasions from judges competent in family matters: "Mr Guerra, do you know what I mean? If one of the parents really does not want the children to see the other parent, there is nothing to be done".

- So what these sources refer to is good news, at least in part. This potentially very serious form of child abuse would be punished for real - and rightly so, I would like to think.

So I am happy to be wrong and to rectify my former words, if there is indeed a reason to do so. And, of course, if the alienating fathers were also "sanctioned", as the mothers seem to have been.

There is virtually no evidence of either, but the winds of change are blowing, which is undeniable and very welcome.

The Block case shows a father who apparently wanted to take the children away from the mother - alleging violence towards them by the mother. The prosecution considers that this act of the father would be criminally relevant (on the basis of §§ 171 and 235 of the German Criminal Code). If this tendency prevails, the family courts will also have to get involved in this form of child abuse and would be indirectly induced to do so by the criminal courts. This is because the criminal courts would not be able to consider an act as a criminally reprehensible offence and the family courts would consider such an action to be justifiable and in the best interests of the child.

- In this context, it is paramount to approach the question scientifically. In order to really understand the cases of the mothers mentioned above, it would not only be necessary to know the voice of the other members of the family (at least of the fathers and the children) but also that of the professionals involved (court, guardian-ad-litem, youth welfare office, etc.). Because only then will it be possible to judge neutrally and objectively whether these mothers were rightly deprived of custody over their children. Or even if this happened as it was told.

These changes of perspective (within the family, family/professional), are extremely useful and instructive in this area, where finding firm bases for decision making is not easy, but simplifying reality would not be the best solution either.

- The way of proceeding more than announced, denounced by the mentioned authorities and instances leaves other questions open. Why sanction only the mothers but not the fathers if they also practise PA? And if so, why are they not mentioned for being deprived of rights over their children, or if they were they deprived of rights over their children due to alienating behaviour, why is it assumed that in their case it was just? On what basis would this judgement, or the comparison, be based?

I can personally corroborate with facts, of course - and always respecting the data protection inherent to my functions - that both mothers and fathers practice PA. And that sanctions for this are very rare and insufficient at the moment. The same could be deduced from the Block case, mentioned - with the difference that here there could be a sanction in the making - for the first time.



### III. Perspective: The cry

The aim of the present series of essays, including this second one, is to draw attention to the phenomenon of IUSPB as objectively as possible so that it can be considered as a feasible option worthy of analysis and research.

On this basis, it is necessary to advocate a coherent, careful but also differentiated treatment of each individual case, adjusted to the complexity of the reality to be considered - without simplifications of any kind.

The end of the road should be to acknowledge the existence of this psychological child abuse beyond useless discussions, with the aim of eradicating it.

It is as outrageous as it is ridiculous to note that we still have to engage in these kinds of discussions instead of talking to each other, trying to understand each other, and then together, each from our own concerns and areas of competence, protect such children and, if possible, their parents as well. To avoid as far as possible that PA will continue to exist in the future.