

Frankfurt/Berlin, 08.12.2022

Statement on the request of the United Nations Special Rapporteur on Violence against Women and Girls on violence against women and violence against children in custody cases.

As a national non-governmental organization whose sphere of activity has been in the area of separated parents and children since 1988, we are pleased to provide our input on the Special Rapporteur's inquiry.

At the outset, however, this requires some preliminary remarks.

In the Call for Input, the narrative "violence against women and children" is used throughout. This inadmissibly attributes perpetrators to victims. Children can unfortunately experience violence in different ways and by different people - including their mothers, which seems to be omitted here. Therefore, we consider mothers and children as separate groups in this paper.

Furthermore, it is inaccurate to say that there is no scientific definition for Parental Alienation. It has been around for decades and is experiencing further refinements in its details. There is no need for a clinical definition as it is not a disease but a behavioral issue.

The following have been defined and are generally accepted in the scientific literature for decades to classify Parental Alienation:

- Unfounded rejection and denigration campaigns.
- Absurd rationalizations
- Absence of normal ambivalence.
- Reflexive partisanship on behalf of the programming parent
- Extension of hostility to the entire family and environment of the rejected parent
- The phenomenon of "own opinion"
- Denial of feelings of guilt about cruelty toward the alienated parent
- Adoption of "borrowed scenarios".

A refining classification based on this was made, for example, by Dr. Amy Baker in her 5-factor model, which includes the previously mentioned

Adresse:
Bundesgeschäftsstelle
Herzogstr. 1a
60528 Frankfurt/M.

Kontakt:
Tel.: 069 - 13 39 62 90

info@vafk.de
vaeteraufbruch.de

Registergericht:
AG Frankfurt/M. VR 14886

eight characteristics and clearly points out that in cases of proven violence or abuse, we cannot speak of Parental Alienation¹.

This brings us directly to the next point, which is misrepresented in the Call for Inputs: Already since the beginning of the description of alienating behaviors it was pointed out that in cases of proven violence or abuse one cannot speak of Parental Alienation. In this respect, the inquiry as a whole is already subject to several gross misconceptions. It also completely ignores the fact that Parental Alienation is based on an extensive scientific foundation of about 1,300 studies, articles and publications². Publications, most of which have undergone a scientific peer review process.

As explained, Parental Alienation is about behaviors. Behaviors that are independent of gender. Parental Alienation did not include gender specificity at any point. However, the Special Rapporteur's inquiry improperly suggests this.

Rather, the inquiry gives the impression that the Special Rapporteur wants to anticipate the outcome with this inquiry. This impression is strengthened by the fact that the Special Rapporteur already made a corresponding publication on this topic on December 9, 2021, shortly after taking office, which was based on only about ten reports from women in Spain per year, and wanted to infer from this a general failure of the Spanish justice system in connection with parental alienation and the protection of women from violence³. It should be noted that these were only reports from women, without any validation or evidence to support these claims.

On November 4, 2022, the Special Rapporteur, along with others, called on the Brazilian government to repeal a law on parental alienation⁴, in connection with the same false allegations that have been presented here before. Here, the Special Rapporteur is actively engaging in politics and lobbying, which is likely to far exceed her mission and jurisdiction. It is therefore strongly recommended that the actions of the Special Rapporteur be investigated by the United Nations itself to determine the permissibility of her actions.

In the context of parental alienation, it has also been observed that some women's and mothers' organizations are attempting to prevent or prohibit the consideration of parental alienation in judicial decisions, and there is reason to believe that the Special Rapporteur is seeking to do the same. As previously stated, Parental Alienation is behavior

¹ Bernet, William (2020) The Five-Factor-Model for the Diagnosis of Parental Alienation, https://www.familyaccessfightingforchildrensrights.com/uploads/2/6/5/0/26505602/bernet_2020_five-factor_model_feedback_1_.pdf

² E.g. Vanderbilt University Medical Center, Parental Alienation Data Base, <https://ckm.vumc.org/pasg/>; Cedervall, Björn, Parental Alienation in Peer Reviewed Journals

³ Spanish courts must protect children from domestic violence and sexual abuse, say UN experts <https://www.ohchr.org/en/press-releases/2022/01/spanish-courts-must-protect-children-domestic-violence-and-sexual-abuse-say>

⁴ Brazil: UN experts urge new government to target violence against woman and girls, repeal parental alienation law <https://www.ohchr.org/en/statements/2022/11/brazil-un-experts-urge-new-government-target-violence-against-women-and-girls>

exhibited by children who are estranged from a parent and who suffer serious psychological harm. . It would therefore be incompatible with the best interests of the child, r, if such behavior, directed against children, could no longer be taken into account.

On the contrary, there is a suspicion that the motivation behind these efforts of a few is to make the abuse of children by mothers invisible, abusing the more than justified desire to protect women, e.g. in the sense of the Istanbul Convention. Such efforts must be opposed with all vehemence and the United Nations should be aware of its responsibility here to protect people of all genders and not to allow itself to be instrumentalized.

Parental Alienation is committed against children by both mothers and fathers. Just as with violence and abuse, there are both legitimate accusations and false ones. The only way to achieve better education and higher quality judicial decisions here is to qualify courts and agencies in the States and provide them with the resources they need to do their work.

Another important point is to deliberately and demonstrably punish false accusations, regardless of gender, and thus ensure greater honesty in such proceedings. This would also relieve victims and lead to a faster clarification and conviction of actual violent crimes. We are repeatedly made aware of cases in which it has been proven that children have been given false memories of violence and abuse and that the children in such cases have been unjustly alienated from a parent. Only through lengthy clarification could clarity be achieved here. A time in which the children were mostly unprotected against psychological abuse (decisions can be named on request).

Regarding the individual questions of the Special Rapporteur:

1. if there is an allegation of violence of any kind, courts shall investigate it. The result is then incorporated into appropriate decisions. Parental Alienation is so far rarely recognized and named as such, but influenced alienation is recognized in some cases - regardless of gender. Basically, it can be stated that women and mothers who commit violence tend to be judged more mildly^{5, 6, 7}. There is a frequent assumption in Germany that women could not be perpetrators, as for example in the also internationally known abuse case Staufen even the courts stated⁸.
A recent survey on the subject has shown that in almost all cases after allegations of domestic violence, the right of access was restricted or excluded⁹. The concern here is that the accusation alone is often given precedence over the evidence, and thus

⁵ Rogers, Paul; Davies, Michelle (2007) Perceptions of victims and perpetrators in a depicted child sexual abuse case: Gender and age factors. Journal of Interpersonal Violence, 22(5), 566-584.
<https://doi.org/10.1177/0886260506298827>

⁶ Mellor, David; Deering, Rebecca (2010) Professional response and attitudes toward female-perpetrated child sexual abuse: a study of psychologists, psychiatrists, probationary psychologists and child protection workers, Psychology, Crime & Law Volume 16/2010, <https://doi.org/10.1080/10683160902776850>

⁷ Bundesverein zur Prävention sexuellen Missbrauch, 2/2004, Themenschwerpunkt „Mädchen und Frauen als Täterinnen, www.dgfpf.de/files/presse-medien/bundesverein/2004_02.pdf

⁸ https://de.wikipedia.org/wiki/Staufener_Missbrauchsfall

⁹ Meysen, Thomas (2021) Kindschaftssachen und häusliche Gewalt - Umgang, elterliche Sorge, Kindeswohlgefährdung, Familienverfahrensrecht; SOCLES International Centre for Socio-Legal Studies

false accusations are too often helped to succeed to the detriment of the children and the other parent.

2. We suspect that the increasing number of cases of parental alienation is due to the increasing networking of mothers' organizations, which exchange experiences of how children are alienated in corresponding networks. In this context, we are also dealing with an increase in abduction cases. Family courts are often not sufficiently qualified to counter such abuse of the legal system and to protect children effectively. In Germany, too, it has been increasingly noticeable for about two years that some radical organizations are increasingly trying to deny the existence of Parental Alienation and that they are trying to justify this with elaborations that do not meet any scientific standards.
3. no elaboration on this question
4. youth welfare offices are legitimated as legal child protection authorities. In recent years, legal quality requirements have been established for guardians ad litem and experts, but in our experience, these are not yet applied across the board in practice and are still significantly too low. The same applies to the training and continuing education of family court judges.
5. If the history of domestic violence were not taken into account, this would have fatal, often traumatic, consequences for every legitimate victim, regardless of gender. As stated earlier, however, there is no valid evidence that this is systematically the case in Germany.
6. There is no detailed data collection on custody and access proceedings in Germany. There have been corresponding demands on policymakers for a long time, but these have not been implemented.
7. In Germany, there is an extensive support network for women threatened by violence, with help lines, women's shelters, counseling centers, etc. The support of women in need of help is also available in Germany. There is a high level of awareness of violence against women due to intensive public relations work. There is a Violence Protection Act, which allows immediate judicial measures to be taken in cases of suspected violence to protect those affected by violence. There are also independent commissioners for child sexual abuse (UBSKM). State support services for men affected by violence are almost non-existent.
8. The only thing that can be recommended here is better training. Systematic deficiencies in the area are not present.

To the extent that the special rapporteur raises the question of whether gender stereotypes may also play a role in custody cases, this cannot be dismissed, at least in the German-speaking world, where there is a pronounced image of mothers. Often, an accusation of violence is enough to permanently remove a father from the life of his child or to alienate him.

Adresse:
Herzogstr. 1a
60528 Frankfurt/M.

Kontakt:
Tel.: 069 - 13 39 62 90

info@vafk.de
vaeteraufbruch.de

Internationally, the issue of possible gender stereotypes in case law has also already been studied scientifically. Harman and Lorandos¹⁰ found no significant gender differences in the same number of cases considered in which allegations of violence or parental alienation were made. They found only minor differences in that fathers were judged more harshly.

In addition, it should be noted that the European Court of Justice for Human Rights recognized Parental Alienation as emotional abuse of and violence against children in its decision *Pisica v. Moldova* (23641/17 of 29.10.2019). In the case to be decided, a mother was alienated from her children by the father and the authorities did not address the father's alienating behavior with the necessary consequence, which is why a violation of the mother's human rights was recognized. This position has meanwhile been confirmed in further decisions of the Court (ECtHR v. Italy 40910/19 of 24.06.2021; ECtHR v. Ukraine 12962/19 of 07.10.2021; ECtHR v. Bulgaria 72059/16 of 01.02.2022).

Please do not hesitate to contact us if you have any questions or additional comments.

Adresse:
Herzogstr. 1a
60528 Frankfurt/M.

Kontakt:
Tel.: 069 - 13 39 62 90

info@vafk.de
vaeteraufbruch.de

¹⁰ Harman, Jennifer; Lorandos, Demosthenes (2020) Allegations of Family Violence in Court: How Parental Alienation Affects judicial Outcomes, American Psychology Association, <http://dx.doi.org/10.1037/law0000301>