



**UNITED NATIONS HUMAN RIGHTS OFFICE OF THE HIGH COMMISSIONER
CALL FOR INPUTS “CUSTODY CASES, VIOLENCE AGAINST WOMEN AND
VIOLENCE AGAINST CHILDREN – DECEMBER 2022**

BY ALIENATED CHILDREN FIRST (ACF) IRELAND

“ACF is a peer to peer support NGO helping parents and child victims of parental alienation through lobbying on their behalf and producing and promoting support materials for child care, legal, health, education and other professionals and families to assist with awareness to tackle this form of child abuse and intimate partner violence. We are gender neutral, supporting mothers and fathers, girls and boys, grandmothers, aunts, cousins as well as male and female siblings and extended family members and against all forms of domestic violence and child abuse.

Our objectives are that the policy, principles and supports will be put in place to address this form of child abuse and give it the importance it requires and that the victims deserve.

Professionals and policy makers need to be properly informed and qualified to recognize and deal with this form of abuse and to support courts in ensuring the genuine and unmanipulated ‘voice of the child’ and true best interests of the child should be central to all family law proceedings and related matters, including policy and procedures of courts, statutory bodies and NGOs.

The children of Ireland deserve their rights be protected to the best of our abilities. The European Court of Human Rights has reminded states of their “positive obligations” to protect rights in cases of parental alienation. The jurisprudence of the ECtHR is incorporated in Irish Law under the European Convention of Human Rights Act 2003 and particular attention of the Department is drawn to ss 3 and 4 of said Act:

3.—(1) Subject to any statutory provision (other than this Act) or rule of law, every organ of the State shall perform its functions in a manner compatible with the State’s obligations under the Convention provisions.

4.—Judicial notice shall be taken of the Convention provisions and of (a) any declaration, decision, advisory opinion or judgment of the European Court of Human Rights established under the Convention on any question in respect of which that Court has jurisdiction...

This submission asks that we take this opportunity to protect children’s welfare and rights and focuses particularly on how to address the plight of child and parent victims of parental alienation.”

DECEMBER 2022

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1. Overview

1.1. ACF make this representation as the NGO victims support organisation and on behalf of parents who are constrained from making their own submissions due to the chilling effect of the in camera rule in Irish courts. We note that the Department of Justice's request for submissions on parental alienation reminded individuals that:

“the law does not allow reporting of information likely to identify the parties to the proceedings or any children to whom the proceedings relate The publication of reports of family law cases is allowed under these Acts on the strict condition that no names, addresses or any other details which might identify the parties can be used”

Effectively any parent affected by parental alienation is prevented from identifying themselves if the matter has been related to family law proceedings, which most child custody and access conflicts would have been.

Parental alienation cases in particular have usually been before the courts multiple times and the court proceedings and the orders issued from them are usually ignored multiple times. Thus the court proceedings, which cannot be discussed due to the in camera rule, are an integral part of the issues and problems that many victims have experienced. This is an absurdity that must be addressed to allow victims to relate the nature and scale of the problem with the Department and other parties involved if effective solutions are to be developed.

ACF note that the Special Rapporteur has previously referred to parental alienation as

“express their concern about the illegitimate use of the figure of parental alienation syndrome in legal proceedings in various States Parties to the Belém do Pará Convention.... resulting in denying the mother custody of her children, thereby awarding it to the father accused of family violence or insisting on shared custody with the

violent father even in cases where the children and the mother are at serious risk”

ACF are gender neutral, support fathers and mothers and boys and girls, grandmothers and others involved in parental alienation case. Irish case law on the topic clearly shows that the issue is not gender specific as the Special Rapporteur implies, and that it affects all genders in significant numbers. ACF has a specific mother’s group to support alienated mothers, has a majority female representation on our board of directors, and does not exclude male or female victims. ACF note with concern that the gendered language of the Special Rapporteur specifically excludes fathers and male family victims and focuses on “girls”, i.e. female children rather than all children. We note that parental alienation affects extended family members if the child is alienated and excluded from grandparents, siblings, cousins, aunts, uncles and others. Even if the Special Rapporteur wishes to exclude brothers, grandfathers, uncles and all male members, there is still a significant number of female extended family members, both women and children, affected and this submission should be considered on that basis.

ACF will comply with the gendered requests of the call for inputs in order to ensure that our submission is not excluded. However we note that the experience of victims of parental alienation is not exclusively female either adult or child.

ACF recognize that some bodies have objections to the use of “syndrome” in parental alienation cases. We choose to exclude the “syndrome” and we refer to the behaviours that constitute parental alienation and refer to the abuse without the “syndrome” affixed.

We note that victims of coercive control or domestic violence do not have to prove they suffer from “coercive control syndrome” or “domestic violence syndrome” in order to prove their case or access support. Similarly the adult and child victims of parental alienation should be addressed by the

behaviours that they have suffered as their situation is emotional abuse and coercive control.

- 1.2. There are many attempts at defining parental alienation in Irish law, from Abbot J in AB v CD in 2011¹ and Binchy J in the High Court in 2019² to definition in April 2020 by Judge Larkin in Family Law Court in Ennis citing Parental Alienation in a relatively straight forward access denial case which was widely reported in many sources including the Irish Law Society Gazette³.
- 1.3. ACF notes that children do not just wake up one day and reject a formerly loving parent without any valid justification. Parental alienation is a process that starts often from denigration of the targeted parent by the alienating parent and if allowed to progress unchecked can become the more high profile headline cases of total rejection. As with all cases of child abuse, the earlier and more effective the intervention, the better the outcome for the child. Thus any attempt to define parental alienation in Irish law must take cognisance of mild, medium and severe presentations as discussed by Blotcky and Bernet.⁴ ACF also note that false allegations of domestic violence and child abuse in order to frustrate orders of the court are also present and not exclusively with female victims, from AB v CD [2011] IEHC to the 2022 Ennis District Family Court case⁵.
- 1.4. ACF in particular note the number of European Court of Human Rights cases citing parental alienation and reminding states of their “positive obligations” regarding protection of family rights under the convention and the number of cases in Irish courts citing parental alienation (see below). ACF notes that the lack of formal reporting of cases in Circuit and District Courts means that only a very few cases which arrive in the superior courts are reported. Thus court reporting in Ireland is only recording the “tip of the iceberg”. ACF have cited

¹ AV v CD [2011] IEHC

² CG v BG [2019] IEHC 15

³ Law Society Gazette “Judge describes case as ‘parental alienation’” April 2020

<https://www.lawsociety.ie/gazette/top-stories/judge-describes-case-as-parental-alienation/>

⁴ Alan D. Blotcky, PhD, and William Bernet, MD, A Case of Parental Alienation, Social Work Today Vol. 22 No. 1 P. 18 <https://www.socialworktoday.com/archive/Winter22p18.shtml>

⁵

previously the research of Drs O'Shea and Conneely on observing in the Circuit and District Court and their observation of a significant percentage of cases with "contact failure" both "justified" which they described as "estrangement" and "unjustified" which they identified with parental alienation⁶. The non-gendered nature of parental alienation is also documented by McCartan including evidence based interventions for children so abused.⁷

1.5. ACF draws the Special Rapporteur's attention to the very significant and under addressed issues of children in separation "being used as pawns" and the damaging long term societal impact of the heartache, trauma, mental health⁸ and financial distress caused by breaches of contact, custody and access orders which reportedly affects over 300,000 persons in Ireland.⁹

1.6. Some groups claim that Parental Alienation may be used by abusers to gain access to children but the vast majority of Parental Alienation is of children of loving parents with no such issues and this concern can be addressed by policies, procedures and training for those dealing with the all allegations of domestic violence and child abuse. In response we would highlight the greater abuse for the larger number of child victims from Parental Alienation that is not being addressed and the abusers who are protected and facilitated by the lack of progress in Ireland and lack of consequences for false allegations.

1.7. The goal of ACF is for the greatest number of children to experience the best or optimal experience of shared parenting and minimizing their exposure to parental alienation abuse despite the regrettable situation of their family life.

⁶ Conneely and O'Shea, 'Custody and Access in the District Court' (2021) 24 Irish Journal of Family Law 84.

⁷ McCartan, "Parental Alienation: An Evidence-Based Approach", 2022 Routledge.

⁸ (by way of example from over 1,000 research papers) New England Psychologist "Long term results of parental alienation to the alienated child" October 2020

<https://www.nepsy.com/articles/general/long-term-results-of-parental-alienation-to-the-alienated-child/>

⁹ O'Sullivan, Parental Alienation Europe "Estimated Prevalence of Parental Alienation"
<https://parentalalienation.eu/>

The contents are the opinions and experiences of the ACF authors and reviewers. Information has been condensed as much as possible and while as always we could use more time and space, we ask readers to appreciate the seriousness and enormity of the suffering of our children and that we do not even have a tiny fraction of the resources and none of the funding of the organisations we are dealing with.

Any errors are our own and we make no apologies that we are all volunteers and most of us are parents and victims so please make allowances. Thank you.

2. Custody and Access and breaches of Court Orders

- 2.1. Despite children's Irish constitutional, and legislative UNCRC and ECHR rights to family life and custody from both parents and access to both parents and extended family being supported by significant case law, constitution protection and Children and Family Relationships Act 2015¹⁰, O'Shea and Conneely report empirical data on the significant issues on protecting these rights in "high conflict"¹¹ Irish court cases including the issue of parental alienation.
- 2.2. The in-camera rule and the lack of collection and collation of reliable and accessible empirical data by statutory bodies makes for a worrying over reliance on anecdotal or contradictory data claims. The need for reliable data for all parties, statutory, legal and parents was identified in the 2019 Oireachtas Report.¹²
- 2.3. The current Irish court based approach is a "winner takes all"¹³ adversarial contest over joint custody and residency and access and has changed little in over 20 years¹⁴. If this was not detrimental enough for the "best interests of

¹⁰ Part V – Section 63 Determination by court of best interests of child inserting Section 31 in the Guardianship of Infants Act 1964 (as amended)

¹¹ (as per the ACF 2020 submission to the UNCRC) Drs Conneely and O'Shea carried out research observing family law cases in the District Court in 2017-2019 with consent from the Minister for Justice and Equality under regulation 2 (b) S.I. 337 of 2005. The researchers presented interim findings at a conference in May 2019, where they found that 37% of cases before the court where the dispute was in relation to access, involved parental estrangement or parental alienation. The researchers defined parental estrangement as "where there is conflict between the parents and the family law system contributes to the breakdown of the relationship between one parent and a child" and this presented in 13% of the cases where access was an issue. The researchers defined parental alienation as "where there is significant conflict between parents and the child is encouraged by one parent to align to that parent and reject the other" which presented in 24% of the cases where access was an issue. The researchers intend to publish their full findings 'Access in the District Court' early 2021 in the Irish Journal of Family Law including two important Irish High Court cases where parental alienation was discussed by Abbott J in A.B. v C.D. [2011] and Binchy J in C.G. v B.G. [2019]

¹² Report on Reform of the Family Law System "The Family Court Services process on average 11,600 cases involving guardianship, custody and access matters. Many of these cases will carry allegations of sexual and domestic violence; however, currently there is no gathering of data and no statistics regarding the number of cases that include such allegations, due to the in camera rule. Aside from the Law Reporting Projects and Special Rapporteur, there is little data available to discern patterns and outcomes. The Committee agreed there is a need to make it possible for the Courts Service to gather and release statistics in the public interest so as to give an indication of the percentage of cases involving allegations of sexual and domestic violence in the family courts." p27 Oireachtas Joint Committee on Justice and Equality 2019

¹³ The Journal.ie "Parents' focus on 'winning' custody battles is harming Irish children" March 2019 <https://www.thejournal.ie/children-custody-4536415-Mar2019/>

¹⁴ Irish Times "Playing dirty in custody battles" November 1998 <https://www.irishtimes.com/news/health/playing-dirty-in-custody-battles-1.215058> and Irish Times "Mother tells court she is denying ex-partner access to son over Covid-19 fears" April 2020

the child”, it is reinforced by the financial implications associated with the “winner” as the non-resident or non-primary carer usually has to leave the family home and then maintain the children and potentially the other partner in addition to providing for themselves, hopefully in accommodation which will not be deemed insufficient to allow child access, all at a time when the family “experience” considerable legal costs introduced by this approach. Dr. O’Shea¹⁵ highlighted that this results in an enormous gender imbalance in outcomes for children when one gender becomes non-residential parent in 97% cases and that children are given “default access orders” of “every second weekend and one night during the week”¹⁶.

2.4. Dr. O’Shea highlighted the “negative impact” on children and families of the “imbalance in rights” from this default approach of the adversarial system. She noted the efficacy of involvement in “competent mediation”.¹⁷

2.5. The report quoted “members of the Committee” raising concerns about “lack of sanctions regarding breaches of access”¹⁸ despite the provision introduced in the 2015 Act.

2.6. It is the experience of members of ACF that

- (i) The lack of sanctions for repeated breaches of access orders encourages further repeat behavior and further contempt for the court and its orders
- (ii) The lack of sanction for false accusations of abuse in order to remove or frustrate custody and access ,and other excuses for breaches of access orders, encourages repeat behavior and further contempt for the court and its orders and further the making of damaging false accusations and the abhorrent coaching of children to make the same.
- (iii) While the Law Society’s Family Law Code of Practice¹⁹ also stresses the “best interests of the child” and the need to consider the family as a whole and the longer term outcome for the children and family, it is ACF’s

<https://www.irishtimes.com/news/crime-and-law/mother-tells-court-she-is-denying-ex-partner-access-to-son-over-covid-19-fears-1.4220233>

¹⁵ Oireachtas Joint Committee on Justice and Equality “Report on Reform of the Family Law System” 2019 p39

¹⁶ Ibid

¹⁷ Ibid

¹⁸ Ibid p40

¹⁹ Family Law Code of Practice Law Society of Ireland 2017

<https://www.lawsociety.ie/News/News/Stories/new-family-law-handbook/#.YC42Omj7SUk>

experience that some solicitor's take an over adversarial approach including breaching of court orders and statutory offences.²⁰.

- (iv) While statutory bodies such as Tusla *The Child and Family Agency) will engage on such accusations of abuse, the target/victim parent does not get the presumption of innocence and often faces a reverse burden of proof in the face of removal of access while a statutory body in effect enforces a sanction on a targeted parent for potentially criminal offences without any reference to ECHR Article 6 rights to fair process. If and when access is restored there is rarely an acknowledgment of innocence or the stigma faced by the target parent who has often had enquiries made by Tusla and/or Gardai (police) from schools, medical and even other family members. On the return scenario from the targeted parent, Tusla dismiss false allegations and resulting parental alienation with a form letter "does not meet the criteria for intervention"²¹ despite the Minister writing to several ACF members that Tusla is the relevant statutory body for such abuse (see later in the document). ACF have yet to have one single case where Tusla have engaged beyond the standard dismissal form letter. This lack of model for early engagement can result in situations developing in complex cases such as the High Court 2021 case where legal teams were in court for the father, the mother, the children (through Guardian ad Litem) and Tusla²². The enormous cost to all parties, including the state could have been avoided
- (v) Legal practitioners frequently advise against requesting Enforcement Orders or equivalent replacement access because the particular judge will

²⁰ Reference Law Society Gazette April 2019 – Solicitors Disciplinary Tribunal "In the matter of Sandra Mahon [2018/ DT32]" "On 6 December 2018, the Solicitors Disciplinary Tribunal found the respondent solicitor guilty of misconduct in respect of the following complaint as set out in the applicant's affidavit: 1) That she acted in an unprofessional manner and ignored a court order, in the absence of any evidence, which denied the applicant access to his children, 2) That she did not provide any evidence to justify her actions. The tribunal ordered that the respondent solicitor stand advised and admonished." <https://www.lawsociety.ie/globalassets/documents/gazette/gazette-pdfs/gazette-2019/april-2019-gazette.pdf>

²¹ O'Sullivan and Guildea "Clinical and Legal Aspects of Parental Alienation" Irish Journal of Family Law (2020) 23(4) 101-108 "Tusla....complaint....file has been closed on intake"

²² "High Court will have to intervene in dispute between father and Tusla, says judge" Irish Times Dublin, July 2021 <https://www.irishtimes.com/news/crime-and-law/courts/high-court/high-court-will-have-to-intervene-in-dispute-between-father-and-tusla-says-judge-1.4621595>

take a negative view of such application as echoed in the Committee's statement "However, stakeholders stated that little information is readily available regarding such procedures, and thus sanctions or compensatory access time are rarely imposed by judges."²³

- (vi) As access breaches are usually associated with the residential parent and the issues raised above on maintenance and costs, the financial burden of legal and other costs associated with repeated access breaches adds to the negative stress of the situation and often leads to parents abandoning further attempts to overcome the frustration of access issues associated with parental alienation. The in camera rule frustrates reporting of empirical data on this topic but one member's experience of a Circuit Court judge's comments on their fifth application for breach of court ordered access on an application for costs "Your client should have been made aware that I don't award costs in family law cases" (in this case the barrister had already removed requests for enforcement orders and replacement access in advance due to prior knowledge of the judge's negative position on such applications).
- (vii) Despite legislation and language used in Section 47 and Section 32 reports and access orders, passports and holidays are also a frequent issue in cases of parental alienation. Language such as "Passports will be readily supplied for holidays and not used for duress" are ignored and passports are withheld disrupting holidays, in breach of the rights of the child, the extended family and to deliberately cause unnecessary distress and cost. On the other side the residential parent in possession of the passport can take the child out of the jurisdiction without consent or notice, in breach of access orders and a statutory offence²⁴ but without fear of sanction from the court or the DPP²⁵.

²³ Ibid p 39

²⁴ Section 16 Non-Fatal Offences Against the Person Act, 1997 -

²⁵ Section 16(5) "Any proceedings under this section shall not be instituted except by or with the consent of the Director of Public Prosecutions." ACF is not aware of any instance of the DPP consenting in the case of a Garda complaint of parental alienation access breach and removing the child from the jurisdiction without consent.

3. Parental Alienation and Professionals dealing with Children

3.1. O' Sullivan and Guildea highlight that "there is no accreditation body to provide certainty regarding the expertise of the parental alienation practitioner they are dealing with"²⁶. Their findings mirror the experiences of ACF members that many Section 47 writers, HSE psychologists, and other child care professionals do not have specific experience but will insist that that they can make recommendations or treatments without such specialist training. As there is currently little training for judges in these matters they usually follow the recommendations, leading to what O'Sullivan and Guildea term "sub-optimal outcomes in alienation cases"²⁷ which ACF would consider a serious understatement.

3.2. It is noted that Caidreamh in Cork proactively organized in March 2020 parental alienation training for legal practitioners²⁸. While this is to be welcomed as an example of better practice, the lack of formal standards and any accredited training or certification requirement for professionals is reflected in O'Sullivan and Guildea's findings. Furthermore, in the experience of ACF members, is that most such professionals are usually self-employed or fee based and the financial incentive to take on a case involving parental alienation without relevant experience is strong. Often a targeted parent asking about the professional's experience of parental alienation will be dismissed as disruptive questioning of an intervention that is supposed to help their child. Section 47 and Section 32 reports incur costs of several thousand Euros with questionable benefit and legal fees of high conflict cases case be in excess of €100,000. Such dissipation of family assets at a difficult time can hardly be "in the best interests of the child".

3.3. Baker et al are clear that intervention in a parental alienation scenario without the prerequisite training can lead to counter intuitive results and further alienation and reinforcing the alienator.

²⁶ O'Sullivan and Guildea "Clinical and Legal Aspects of Parental Alienation" Irish Journal of Family Law (2020) 23(4) 101-108

²⁷ Ibid

²⁸ Caidreamh "Understanding and Working with Children and Families Affected by Parental Alienation – Practitioner Training" International Experts and Authors, Karen Woodall and Nick Woodall, Family Separation Clinic, UK Basic and Advanced Training – MARCH 2020 <http://caidreamh.ie/upcoming-training-2019/>

3.4. The Minister for Justice and the Minister for Children, Equality, Disability, Integration and Youth have both referred victims to Tusla on this matter.²⁹ However, Tusla do not have any reference to Parental Alienation in their current Child Protection and Welfare Practice Handbook although it does refer to the behaviours and circumstances associated with parental alienation under the category of “Emotional Abuse”.³⁰ Although they have different statutory functions, ACF would draw the Rapporteur’s attention to the approach taken by Cafcass³¹ to dealing with Parental Alienation in Family Law situations in the UK and similar approaches in other jurisdictions.

²⁹ See example letters in Section 10 of this document

³⁰ Tusla Child and Family Agency “Child Protection and Welfare Practice Handbook” https://www.tusla.ie/uploads/content/Tusla_Child_Protection_Handbook2.pdf

³¹ Cafcass: “Parental alienation - Cases where children are resisting or refusing spending time with a parent” <https://www.cafcass.gov.uk/grown-ups/parents-and-carers/divorce-and-separation/parental-alienation/>

4. Additional Reporting / International Comparison

4.1. Parental Alienation in Case Law

4.1.1. ACF would like to gratefully acknowledge the great work of the Irish academics researchers who produced a research briefing which identified and cited case law on parental alienation as follows:

4.1.1.1. Ireland – 11 High Court cases

AMcN v MMcN [2021] IEHC 556

SH v JC [2020] IEHC 686

RR v SR [2019] IEHC 925

CG v BG [2019] IEHC 15

BB v ZS [2018] IHEC 15

SS v KA [2018] IEHC 795

UU v DOE [2017] IEHC 770

AMQ v KJ [2017] IEHC 342 (aka Q v J)

CJ v Judge Seamus Hughes [2016] IEHC 157

LD v CD [2012] IEHC 582

AB v CD [2011] IEHC 543 and follow up AB v CD [2014] IEHC 450

4.1.1.2. England and Wales – 6 cases - including

Re S (Parental Alienation: Cult) [2020] EWCA Civ 568³²

Re H (Parental Alienation) [2019] EWHC 2723 (Fam)³³

Re (A Child -Termination of Contact) [2019] EWHC 132 (Fam)³⁴

Re A & B (Parental Alienation by the Non-Resident Parent) [2022]

EWFC B8

4.1.1.3. European Court of Human Rights – 20 cases notably

I.S. and Others v. Malta Application no. 9410/20

(<https://laweuro.com/?p=14231>)

Vykhovanok v. Ukraine Application no. 12962/19

(<https://laweuro.com/?p=16937>)

Gen and others v. Ukraine ([Committee], nos. 41596/19 and

42767/19 (<https://laweuro.com/?p=15237>)

³² <https://www.familylawweek.co.uk/site.aspx?i=ed210729>

³³ <https://www.familylawweek.co.uk/site.aspx?i=ed203996>

³⁴ <https://www.familylawweek.co.uk/site.aspx?i=ed199338>

C v. Croatia 2020 Application No.80117/17
Ilya Lyapin v. Russia 2020 (Application no. 70879/11)
Piscă v Republic of Moldova 2019 (Application no. 23641/17)
A.V. v. Slovenia 2019 (Application no. 878/13)
G.B. v. Lithuania 2016 (Application no. 36137/13)
Mamic v. Lithuania 2015 (Application no. 46600/11)
Gobec v. Slovenia 2013 (Application no. 7233/04)
X v. Slovenia 2012 (Application no. 40245/10)
Glesman v. Germany 2008 (Application no. 25706/03)
Aneva and Others v. Bulgaria 2017 Applications nos. 66997/13
SÜss v. Germany 2005 (Application no. 40324/98)
Sahin v. Germany 2003 (Application no. 30943/96)
Sommerfeld v. Germany 2003 (Application no. 31871/96)
Kutzner v. Germany 2002 (Application no. 46544/99)
Elsholz v. Germany 2000 (Application no. 25735/94)

4.1.1.4. United States – 19 cases

4.1.1.5. Canada – 29 cases

Including notably

Bouchard v. Sgovio, 2021 ONCA 709³⁵

4.1.1.6. South Africa – 3 cases

4.1.1.7. Australia – 9 cases

4.1.2. Ennis Family Law “Parental Alienation” case referred at opening of this document and the Tusla intervention in a case where an alienating mother refused to comply with court orders where a father had been awarded custody³⁶.

4.1.3. Doughty et al of Cardiff University reviewed research and case law³⁷ commissioned by Cafcass was published in 2018 (before the Irish

³⁵ <https://www.ontariocourts.ca/decisions/2021/2021ONCA0709.htm>

³⁶ Carolan, “High Court will have to intervene in dispute between father and Tusla, says judge Children told school they did not want to return to father after short term foster care”, Irish Times, Dublin 15 July 2021, <https://www.irishtimes.com/news/crime-and-law/courts/high-court/high-court-will-have-to-intervene-in-dispute-between-father-and-tusla-says-judge-1.4621595>.

³⁷ Review of research and case law on parental alienation - Julie Doughty, School of Law and Politics Nina Maxwell and Tom Slater, School of Social Sciences Cardiff University <https://gov.wales/sites/default/files/publications/2018-05/review-of-research-and-case-law-on-parental-alienation.pdf>

Conneely and O'Shea research) reviewing family law cases involving Parental Alienation and resulted in updated procedures by Cafcass for dealing with such cases.³⁸

4.1.4. In January 2018 in BB v ZS Reynolds J. cited parental alienation and noted with concern the harm caused to the child.³⁹

4.1.5. In the UK in-camera rules have been selectively relaxed to allow for awareness of Parental Alienation in particular cases (such as in the S case⁴⁰ and the H case⁴¹ and the A case⁴² and others)

³⁸ Cafcass: Parental alienation - Cases where children are resisting or refusing spending time with a parent <https://www.cafcass.gov.uk/grown-ups/parents-and-carers/divorce-and-separation/parental-alienation/>

³⁹ B.B. v Z.S. [2018] IEHC 15, paragraph 27. Reynolds J “The retention of the child in this jurisdiction has now resulted in considerable parental alienation for the applicant, a position which simply cannot be endorsed by this Court”.

⁴⁰ Re S (Parental Alienation: Cult) [2020] EWCA Civ 568
<https://www.familylawweek.co.uk/site.aspx?i=ed210729>

⁴¹ Re H (Parental Alienation) [2019] EWHC 2723 (Fam)
<https://www.familylawweek.co.uk/site.aspx?i=ed203996>

⁴² Re (A Child -Termination of Contact) [2019] EWHC 132 (Fam)
www.familylawweek.co.uk/site.aspx?i=ed199338

5. In conclusion:

- 5.1. ACF and victims are very concerned at organisations who attempt to summarily dismiss the serious issue of this form of child abuse and coercive control. Using dismissive terms such as “pseudo-science” and “abuse of the concept” is selective victim blaming and victim shaming. If false allegations of parental alienation are to be taken serious then similar treatment and attention should be given to forms of false domestic violence and child abuse allegation particularly when they are used to prevent access and contrary to court orders.
- 5.2. ACF are concerned at the gendered nature of language which excludes male victims of domestic violence, men and boys and language should take care to include all victims of domestic violence, adult and child regardless of gender.
- 5.3. ACF accepts that there is still some discussion around the details and definitions of Parental Alienation but that should not prevent the State and the UN Special Rapporteur engaging with the issue constructively in order to support the considerable number of children and families affected, male and female, adult and child, whose rights and safety are affected. False allegations of parental alienation can be as destructive as false allegations of other forms of domestic violence and child abuse and it is important to have due process for all forms of abuse.
- 5.4. There is long established anecdotal evidence and despite the strictures of the in-camera rule, emerging empirical evidence that “contact failure” or Parental Alienation is a substantial problem for a significant number of children in Ireland.
- 5.5. The effects on children “weaponised” or “used as pawns” in these situations is traumatic and long term not just personal negative psychological consequences and also are significant for society in not breaking this cycle of learned negative behaviours and domestic violence.
- 5.6. Despite positive recent developments in the Constitution and legislation the State is lagging considerably behind international best practice on follow through policy and implementation in this area.
- 5.7. ACF recommends urgent and significant attention to address the issue of authentic and not manipulated “best interests of the child” in circumstances or

Parental Alienation and request further engagement with the UNCRC, UN Special Rapporteur and statutory bodies to assist

5.8. ACF thanks the Office of the High Commissioner and the Special Rapporteur for the opportunity to have this submission considered. We trust that the information contained herein has been illuminating for all concerned in highlighting the scale of the issue, the level of parental alienation abuse in Ireland and the individual and societal and ongoing cost of not addressing the issue. We trust that our input has been of assistance to the Special Rapporteur and trust that we can be part of the solution with the government departments and statutory bodies within this process and the UNCRC Reporting on Ireland.

6. Bibliography

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7. ACF Webinars for Professionals and Parents and Q&A

The below is a series of webinars facilitated by ACF by experts in parental alienation from Ireland and around the world, many of them cited authors in the bibliography and some who have been involved with submissions to the ICD and DSM and commissioned to provide judicial CDP training on parental alienation and provided expert testimony in court. ACF is grateful to note that their time was given pro-bono to our Irish victims' support organisation and we gratefully acknowledge their generous support.

In addition there is a summary of some of the questions which have been submitted to these experts on Q&A sessions around the webinars. This gives good insight into the issues affecting Irish parents and victims. ACF do not exclude questions from males and the questions sourcing is gender neutral respecting all victims.

All webinars and submissions can be accessed through the Webinar menu option at the ACF website <https://alienated.ie/>

Dr. Craig Childress, Clinical Psychologist website is at <https://drcachildress.org/>
Webinar can be viewed at <https://alienated.ie/parental-alienation-family-courts-childress-pruter-2webinar-for-professionals/>

Dorcy Pruter, Reunification Expert website is at <https://www.consciouscoparentinginstitute.com/> The webinar can be viewed at <https://youtu.be/fd2czeetNWQ>

Dr. William Bernet [Solutions for Parental Alienation – ACF Webinar Series 3](#)

Dr. Jennifer Harman To see webinar [Solutions for Parental Alienation – Professionals Webinar Series 4](#)

Dr. Amy Baker, Child Psychologist

Diagnosis of Parental Alienation. Her website is at <https://www.amyjbaker.com/> and some of her research papers can be viewed here

<https://pasg.info/members/member-documents/> To see webinar [Solutions for Parental Alienation – Professionals Webinar Series 5](#)

Richard Hogan, systemically trained Family Psychotherapist To see webinar [Solutions for Parental Alienation – Professionals Webinar Series 6](#)

Retired Judge Philip Marcus To see webinar [Judge Philip Marcus – How do we prevent parental alienation](#)

Karen Woodall, Family Psychotherapist, To see webinar https://www.youtube.com/watch?v=3Hcsod_o5yA

Erin Pizzey veteran Human Rights and anti Domestic Violence campaigner

To see webinar <https://www.youtube.com/watch?v=P4vKMzNZAQ>

Dr Denise McCartan Clinical Psychologist To see webinar <https://youtu.be/x4mow7MVTeU>

Questions for Webinar Parental Alienation Experts

- 1. Accessibility to information to identify PA. 2. How can schools help children secure support.
- A child cannot understand parental alienation. How can they understand the courts approach Re changing custody and ignoring their views and feelings? How do we help a child separate a their feelings from the parents emotions they're absorbing?
- Are there any subtle red flags/signs that indicate parental alienation and which a lawyer should be live to?
- As an alienated parent at the hands of a narcissistic Co parent, my children have been constantly told to keep things from me, in particular, my eldest (17) at one point wanted to leave home and move in with me as she was becoming a target for the abuse I used to receive before I moved out, since then she has totally changed her attitude and now she doesn't have much time for me. I suspect that my ex has brought her to counselling and instructed the therapist that I in fact am the narcissist, as she likes to tell everyone on social media. How does one deal with this level of subterfuge and is there any way to find out about whether your child has seen a therapist without actually asking the child and bringing them into the middle of what's happening?
- Could early education on putting children's interests first assist in reducing the number of children rejecting their parents through alienating behaviours?
- Do you believe Parental Alienation is a Hate Crime?
- Have you ever encountered "parental alienation" without lies and false allegations?
- How best can targeted parents and legal professionals address the issue of "inauthentic attachments" between triangulated children and aligned parents when there are court-ordered mental health professionals involved?
- How can family courts be restructured to ensure that they recognise the reality and extent and the damaging effects of parental alienation in separation and divorce cases and deal effectively with these cases?
- How can he help Ireland to rid us of these toxic & abusive dynamics
- How can healthcare professionals help sick children in hospital and or communicate with parents demonstrating this behaviour while their child is in hospital?
- How can we diagnose PA if there is no DSM-V and ICD-11 classification?
- How can we mandate better application of the appropriate mental health knowledge and established science, in such an unprofessional environment, still causing more harm than good?
- How can we repair and heal as a family
- How do we get mental health professionals to diagnose this problem to use in court?

- How do you recover your child if they are displaying multiple attributes of being on the BPD spectrum Like the parent they have become attached to
- "How does the death of alienating parent during recovery impact the alienating child; more specifically, when the child has been blamed for the terminal illness by the alienating parent and grandmother. How can this best be addressed during recover?"
- If a child is mirroring the violence of the alienating parent and is place by the system in foster care and/or Juvenile Correction Centre without contact with Target Parent, how does recovery occur? (Psychiatrist and Family therapist recommend contact, but the system says it goes against protocol) Is this counterproductive and how do we best help target parent regain contact so recovery can continue (significant progress was being made)"
- How does the safe, targeted parent stop the psychological child abuse and systems (judicial and financial) perpetrated by the narcissistic parent?
- How to articulate the child manipulation affectively to the Court, Judge, Children's Attorney & Social Workers that is heard..?
- How to treat parental alienation
- How/why can the same parent succeed in alienating one child but not the other?
- I am interested in children whose mothers cohesively abuse the child's father.
- I want to understand the mechanisms of my children's choices to set aside their own needs to help their mother.
- If a child is rejecting a parent why should judge's order an attachment assessment of the family i.e. why shouldn't they ignore it and what are the likely outcomes for the child if they do ignore it?
- If so can you recommend which therapy or therapists/psych you can recommend over here in the UK or Ireland?
- In your experience, what proportion of alienating parents have had adverse childhood experiences of their own or not have had good relationships with both parents?
- Is a scientific study planned to demonstrate the validity of AB-PA, including the diagnostic criteria?
- Prevention is better than cure, what could cuts do to prevent PA?
- The family court only seem to recognise alienation when it is complete. Although whilst it is in progress/being attempted, what action should the court take to intercept it?
- What are challenges in reunion of a child with Alienated parent once reunion is awarded?
- what currently is working and what needs to change
- What good questions can social workers ask parents to help them understand the impact on their children of the alienating behaviour.
- what if contact is re-established... but alienator keep the campaign to cut out the other parent? Restless.

- what information online or otherwise could social workers direct parents to review to gain an understanding of the effect of the alienating behaviour or what the alienating behaviour is.
- What initiatives are needed to get peers' support / recognition of the use of F.24 in connection with AB-PA
- What is a deciding factor in influencing a judge to place the child with the non-alienating parent? In another country how does the alienated parent get their voice heard.?
- What is the best way to present the issue to a judge without using the word parental alienation, but to make it clear to the issue judge
- What is the case when the Court System is corrupt?
- What is the earliest age the child to be alienated ? What are the initial signs and how to recognise them
- What is the most well-defined reason you could give for why some mothers do not want their child to have a father in their child's life?
- What is your experience around being back in contact... but ex keep alienating behaviour? Flying under the radar. 1000 paper cut style
- What resources are available for the now adult children of parental alienation?
- As a lay magistrate in family court in NI and also a family mediator, I hear so many parents and children's court officers saying, "the child won't go and we can't make them" and legally the child's "wishes and feelings" are fundamental. We know how important it is for children to have a good relationship with both parents. Even when both parents are encouraging, how can the logjam with the child be cracked? What practical solutions are there?
- Can Reunification work if the Alienating Parent is against it?
- Could early education on putting children's interests first assist in reducing the number of children rejecting their parents through alienating behaviours?
- Do you see any future in developing degree programs for Family Coaches that could be offered by accredited higher education institutions and, therefore, eligible for funding through available funding programs like Pell Grants, scholarships, student loans, etc?
- Has a study been prepared that examines the long-term psychological effects of a child / adolescent's participation in a High Road to Reunification course
- How can friends and relatives of the alienated parent support the child to know that they are not being forgotten? The advice is to not make things worse by aggravating the alienating parent.
- How can health professionals help a sick child in hospital with this issue?
- how can the alienated parent address the negative talk by the other parent especially if they have reached the stage of no contact?
- How can we get train the training for your courses training
- How do professionals recognise the voice of child and not the voice of the parent through the child.

- How do you recover your child if they are displaying multiple attributes of being on the BPD spectrum
- How long does take Family Reunification process? In what paradigm do you work?
- How might we get TUSLA to take child psychological abuse (and other child abuses) more seriously? Often, it takes weeks or months or never for claims to be investigated.
- How she can help to establish genuine child recue systems to rescue children & parents from this scourge
- How to prove pa in court and reverse it with children
- How to restore contact with children after their rejection in the past?
- How to treat parental alienation?
- How/why can the same parent succeed in alienating one child but not the other?
- I am interested in children whose mothers cohesively abuse the child's father.
- I have lost all access because of parental alienation, what can I do
- If at fact finding hearing the judge finds coercive control based on the latest court of appeal ruling, what would be the best course of action if you do not agree with judge
- "I'm working on a case where the child is 14 yo and has been separated from the alienated parent for nearly 3 years. Although the UK courts recognise PA they do not believe cases of this nature can be treated & will not allow such cases to proceed.
- Are you of the same mind or do you believe these cases are treatable? "
- In your experience, what proportion of alienation cases do you think could avoided children's rejection of a parent through early restoration of direct contact with 'non-resident parents'? Does anywhere in the world do this well?
- Is scientific study of the High Road Protocol and the long-term benefits planned for participants planned?
- Is there a reunification approach for alienated children who are adult Dorcy? What is specific about it?
- Is there a way for alienating parent to reform ?
- The impact on the child of changing custody when concerns are raised about parental alienation.
- What advice do you have for children who may be being put under pressure to emotionally cut-off from a parent?
- what can we do better to prevent this from happening
- What good questions can social workers ask parents to help them understand the impact on their children of the alienating behaviour.
- What groups are, in your experience, the main opponents of measures to recognise the reality and damaging effects of parental alienation?
- what if contact is re-established... but alienator keep the campaign to cut out the other parent? Restless.

- what information online or otherwise could social workers direct parents to review to gain an understanding of the effect of the alienating behaviour or what the alienating behaviour is.
- What is the best way to present the issue to a judge without using the word parental alienation, but to make it clear to the issue judge
- What is the most important thing I can do/say/show my 4 children who are being actively alienated from me by my former wife?
- What is the most well-defined reason you could give for why some mothers do not want their child to have a father in their child's life?
- What is the research saying about perpetrator of domestic abuse alleging other parent is using parental alienation?
- What is the threshold when shared custody is not in the best interests of the child, and the child should be removed from the alienating parent- the child abuser.?
- What is your experience around being back in contact... but ex keep alienating behaviour? Flying under the radar. 1000 paper cut style
- What resources are available for the now adult children of parental alienation?
- Where is the balance in conforming with the alienating parent to still have connection/access with your child but yet not hide from the truth of letting your child or that parent know the truth of the extent of damage/trauma that is taking place?
- Any suggestions on what to write to alienated children where the parent has no contact
- Are there any questionnaires that are useful in screening an offending parent
- Are there any support services based in Athlone for an alienated Dad
- "Are there signs and symptoms in an order until the child rejects the TP?
- As an alienated father, is there a way to convince the court to transfer residence?
- As I work with youth and adolescents, how can I work with this in the room and support the children in their feel torn between two parents?
- Assessment of PA ?
- Can you give a clear definition of an alienated child
- Define PA ?
- Do children who were alienated from their fathers later do this to their children themselves?
- Does a parent realise the damage they are causing or is their behaviour linked with narcissism
- How can I reconnect with my daughter.?
- How can targeted parents learn to behave appropriately when they see their kids?
- How can the alienated parent best prove the extent of the actions by the custodial parent, in impacting the children's perception of them?

- How can the alienating parent be persuaded of the negative impact of this on the child?
- How can the audience work together to approach psychological professional associations to increase recognition of parental alienation in the DSM et al?
- How can we approach this in court with judges who don't recognize parental alienation
- How can we best support children to share their voice when there are concerns of parental alienation given the complexity of the issue?
- How can we ensure that parental estrangement and the valid reasons for children avoiding contact are not categorised as parental alienation.
- How do I approach my 15 years old who is severely alienated?
- How do I approach my alienated child in a way that does not trigger the pathogenic parent, so as not to put further stress on my child.
- How do you create a family court system where this does not happen and parents are not waiting, months for a court hearing to see their children.
- How do you overcome the not seeing your children as much as you deserve
- How do you represent yourself and what advice can you give a solicitor representing you in an adversarial Court system that does not have the patience to deal with a complex issue like PA? I have not seen my children in two years and hold no hope of seeing them despite the outcome of an upcoming court date next week.
- How much info on this subject have Irish judges
- How much of a problem is this issue in terms of percentages
- how should mediators navigate issues of parental alienation
- How to behave towards 2 kids (13 and 9 yr) who totally refuse contact? Should I keep trying contacting them despite their reactions?
- I would like to learn more about Solution Focused Outcomes
- Is it possible to parent in this situation from only seeing the child every few weeks. Thank you for your time
- Is there a timeframe or an age after which, trying to reconnect the child with the alienated parent becomes too difficult?
- "My case involves Ireland and Estonia; how would I go about hiring an international expert for the Hague/Brussels II Child Abduction case?"
- The psychological abuse on the children is not being recognized & the system seems to be supporting the abuser/manipulator...is this because the behaviour mirrors the system it's dealing with?"
- My cousin is so alone in her fight, and I fear for her life
- On a shoestring budget due to legal fees.... Would you ever consider reviewing evidence, videos, texts and providing your expertise in a brief affidavit that could assist in court?
- PA and older children. My youngest child was 16 when this started. Now she's 17. It's now just a year since I last met my youngest daughter. Also, PA and Parentification. My oldest daughter is now in effect the 'mother'. My

husband has said I'm abusive to children to alienate me. My son 23 is the only child I have some contact with and even that is strained.

- Strategies/ procedures to implement as a local counselling centre to help overcome alienation
 - The line between older children's feelings of betrayal by parent who chooses to leave the family unit due to an affair. This grey area of their own feelings of hurt and betrayal and alienation.
-
- What are the risks to children of misdiagnoses of parental alienation and how are these counter-balanced or addressed?
 - What are the signs of parental alienation in smaller children?
 - What is the best way to communicate with alienated kids. When do they start to think for themselves. What is the long-term damage?
 - what is the judicial approach to parental alienation?
 - What is your opinion of children being removed from their mam of over 11 years care without any issue to be made stay with them up until now absent dad, kids having no contact with mam for the 5 weeks due to false accusations of P.A. against mam in a section 47? So that's 5 weeks with no contact with their mam to spend time with a stranger.
 - What therapy, what Intervention, what program is needed for de-Programming the kids? Thanks
 - When a couple is getting separated or divorced one party often feels powerless and consequently bring their children into their situation by denigrating the children' other parent. Any suggestions for how to stem this behaviour early on?
 - When will it change
 - Would Dr Bennett like to overview how Parental Alienation typically may manifest in adult therapy. Clients may be unaware. And what helps?
 - Would you be able to direct me to statistical or empirical evidence that proves that custody reversals are successful and beneficial in most cases?
 - Would you recommend seeking more than one opinion when it comes to assessing for parental alienation syndrome in children

8. Sample Victims Experiences (short versions)

(ACF has collated the stories of victims who have contacted us but may be concerned about being identified or the issues surrounding the strictures of the in camera rule. ACF setup an email address mystory@alienated.ie to receive these and have also received some stories to info@alienated.ie.

They are redacted here to protect the individuals for any potential issues with the in camera rule)

[Note –

These stories and experiences of victims are supplied in a separate document sent with this document. If this document is published by the Special Rapporteur it should be published without the attached document in order to protect the victims both from the perpetrators , the privacy of the victims and from potential issues from the in-camera rule that allows victims to be prosecuted for contempt of court if they tell their stories.

ACF note the absurdity that victims are asked to speak out to protect children from abuse but that they can be held in contempt of court or jailed for doing so.

The court rules apparently put more emphasis on protecting the abusers than protecting child and parent abuse victims.

The change required should be obvious to any thinking person.]

9. Government Ministers' Letters Exhibit [author's note – these were all to mothers]

From: Ministers Office <no-reply@cloud.gov.ie>

Date: Thu 21 Jan 2021, 10:33 a.m.

Subject: DJE-MO-[Redacted for Privacy],

To: [Redacted for Privacy]

Minister's Reference: DJE-MO-[Redacted for Privacy],

Dear [Redacted for Privacy],

Thank you for correspondence to the Minister for Justice, Ms. Helen McEntee T.D regarding parental alienation. The Minister has asked me to reply on her behalf. I would like to apologise for the delay in issuing this reply.

The Minister is aware of the concerns that have been raised in relation to parental alienation as an issue. This is a complex area and in order to better inform further discussion, the Minister intends to arrange for research to be carried out by the Department next year.

In the meantime, there have been a number of recent actions by the Department across the area of family justice.

A Family Justice Oversight Group has been established by the Department, and this group will agree a high-level vision and key medium and longer-term objectives for the development of a national family justice system in parallel with the establishment of a dedicated Family Court structure as envisaged by the forthcoming Family Court Bill.

A Family Court Bill is currently being drafted following approval of the General Scheme of the Bill by Government. The Family Court Bill, the enactment of which is a commitment in the Programme for Government, will be a key element in the development of a more efficient and user-friendly family court system that puts families at the centre of its activities, provides access to specialist supports and encourages the use of alternative dispute resolution in family law proceedings. The development of sensible, comprehensive and sensitive family law procedures, particularly for vulnerable families, will be central to the new system. In the preparation of the General Scheme of the Family Court Bill, account has been taken of the Report of the Joint Oireachtas Committee on Justice and Equality which published its Report on Reform of the Family Law System just a year ago.

While there is no specific legislative provision regarding parental alienation in Irish family law, section 246 of the Children Act 2001 does provide for an offence of frightening, bullying or threatening a child in a manner likely to cause unnecessary suffering or injury to the child's physical, mental or emotional health or wellbeing. There are also legislative provisions in place to deal with child welfare particularly regarding the relationship between a child and his/her parents or guardians, providing the framework for a legal response to a wide spectrum of child welfare issues.

The Children and Family Relationships Act 2015 inserted a new Part V into the Guardianship of Infants Act 1964 which sets down the factors and circumstances that the court shall have regard to when determining what is in the best interests of the child. These factors include the benefit to the child of having a meaningful relationship with each of his or her parents. Section 11D of the 1964 Act obliges the court in proceedings under section 11 to consider whether the child's best interests would be served by maintaining personal relations and direct contact with each of his or her parents on a regular basis. Section 25 of the 1964 Act also requires the court, as it thinks appropriate and practicable, to take into account the child's wishes in custody and access matters, having regard to the age and understanding of the child.

Section 12A of the 1964 Act (inserted by section 58 of the Children and Family Relationships Act 2015) provides that in making any order under the Act, the court may impose such conditions as it considers to be necessary in the best interests of the child. It is a matter for the courts when making orders under the 1964 Act in relation to matters such as the guardianship, custody or upbringing of, or access to, a child to consider whether or not any conditions should be attached to such orders.

There has also been an amendment to family law legislation to assist parents who need to return to court because the other parent has breached a court order in relation to custody of or access to a child. Section 56 of the Children and Family Relationships Act 2015 inserted a new section 18A into the Guardianship of Infants Act 1964 and this provides that where a parent or guardian of a child has been granted custody of or access to the child under the 1964 Act, but he or she has been unreasonably denied such custody or access by another guardian or parent, that person may apply to court for an enforcement order.

I wish you well and hope the above information is of some assistance.

Yours sincerely,

Patrick McCabe
Private Secretary to the Minister for Justice

An Roinn Dlí agus Cirt Department of Justice

51 Faiche Stiabhna, Baile Átha Cliath 2, D02 HK52 51 St Stephen's Green, Dublin 2, D02
HK52

From: Minister Rabbitte Office <minister_rabbitte@health.gov.ie>

Date: 16/02/2021 11:49 (GMT+00:00)

To: [redacted for privacy]

Subject: FW: DJE-MO-[Redacted for Privacy], Ref: LD5[Redacted for Privacy],

16 February 2021

[redacted for privacy]

Dear [redacted for privacy]

Anne Rabbitte T.D., Minister for Disabilities has asked me to refer to your recent letter concerning Parental Alienation.

Minister Rabbitte had enquiries made with her colleague, Ms Helen McEntee TD, Minister for Justice and a reply has been received. I attach below a copy of this reply for your attention.

I hope that this information will be of some assistance to you.

Yours sincerely

Adrian McLaughlin

Private Secretary

Lavinia Davis

Minister Anne Rabbitte's Office

Minister for Disabilities

An Roinn Sláinte Department of Health

Bloc 1, Plaza Miesach, 50 - 58 Sráid Bhagóid Íochtarach, Baile Átha Cliath, D02
XW14

Block 1, Miesian Plaza, 50 - 58 Lower Baggot Street, Dublin, D02 XW14

From: Ministers Office <no-reply@cloud.gov.ie>

Sent: Friday 12 February 2021 18:20

To: Minister Rabbitte Office <minister_rabbitte@health.gov.ie>

Subject: DJE-MO-[Redacted for Privacy],

Minister Anne Rabbitte T.D.
minister_rabbitte@health.gov.ie

12th February 2021

Minister's Reference: DJE-MO-[Redacted for Privacy],

Dear Minister Rabbitte,

I am writing to you concerning your correspondence on behalf of your constituent, [redacted for privacy], regarding Parental Alienation.

First and foremost, I appreciate the significant distress that family separation and those engaged in family court proceedings can experience - such as the traumatic and stressful situation that the constituent describes.

I am aware of the concerns that have been raised in relation to parental alienation as an issue. This is a complex area and in order to better inform further discussion, I intend to arrange for research to be carried out by my Department this year.

Changing the legislation is not the only option. There may be appropriate interventions that need to be done at an earlier stage to deal with behaviours. The best interests of the child will of course be paramount in any considerations.

In the meantime, there have been a number of recent actions by my Department across the area of family justice.

A Family Justice Oversight Group has been established by my Department, and this group will agree a high-level vision and key medium and longer-term objectives for the development of a national family justice system in parallel with the establishment of a dedicated Family Court structure as envisaged by the forthcoming Family Court Bill. The Group comprises officials from my Department, the Department of Children and Youth Affairs, the Courts Service, the Legal Aid Board as well as nominees of the Chief Justice from the High Court, Circuit Court and District Court.

A Family Court Bill is currently being drafted following approval of the General Scheme of the Bill by Government. The Family Court Bill, the enactment of which is a commitment in the Programme for Government, will be a key element in the development of a more efficient and user-friendly family court system that puts families at the centre of its activities, provides access to specialist supports and encourages the use of alternative dispute resolution in family law proceedings. The development of sensible, comprehensive and sensitive family law

procedures, particularly for vulnerable families, will be central to the new system. In the preparation of the General Scheme of the Family Court Bill, account has been taken of the Report of the Joint Oireachtas Committee on Justice and Equality which published its Report on Reform of the Family Law System just a year ago.

While there is no specific legislative provision regarding parental alienation in Irish family law, section 246 of the Children Act 2001 does provide for an offence of frightening, bullying or threatening a child in a manner likely to cause unnecessary suffering or injury to the child's physical, mental or emotional health or wellbeing. There are also legislative provisions in place to deal with child welfare particularly regarding the relationship between a child and his/her parents or guardians, providing the framework for a legal response to a wide spectrum of child welfare issues.

However, as I have said, further research is to be carried out by my Department. The Department's Research and Data Analytics Unit is in the process of planning a research project, to be undertaken this year, which will examine the international approaches to parental alienation in order to inform thinking on whether any new policy or legislative responses are required in this jurisdiction.

The Children and Family Relationships Act 2015 inserted a new Part V into the Guardianship of Infants Act 1964 which sets down the factors and circumstances that the court shall have regard to when determining what is in the best interests of the child. These factors include the benefit to the child of having a meaningful relationship with each of his or her parents. Section 11D of the 1964 Act obliges the court in proceedings under section 11 to consider whether the child's best interests would be served by maintaining personal relations and direct contact with each of his or her parents on a regular basis. Section 25 of the 1964 Act also requires the court, as it thinks appropriate and practicable, to take into account the child's wishes in custody and access matters, having regard to the age and understanding of the child.

Section 12A of the 1964 Act (inserted by section 58 of the Children and Family Relationships Act 2015) provides that in making any order under the Act, the court may impose such conditions as it considers to be necessary in the best interests of the child. It is a matter for the courts when making orders under the 1964 Act in relation to matters such as the guardianship, custody or upbringing of, or access to, a child to consider whether or not any conditions should be attached to such orders.

There has also been an amendment to family law legislation to assist parents who need to return to court because the other parent has breached a court order in relation to custody of or access to a child. Section 56 of the Children and Family Relationships Act 2015 inserted a new section 18A into the Guardianship of Infants Act 1964 and this provides that where a parent or guardian of a child has been granted custody of or access to the child under the 1964 Act, but he or she has been unreasonably denied such custody or access by another guardian or parent, that person may apply to court for an enforcement order.

As Minister I have no role in the making of court orders in relation to custody, access or maintenance. This is a function of the courts, which are, subject to the Constitution and the law, independent in the performance of their functions.

I trust the above information is of some assistance.

Yours sincerely,

Helen McEntee T.D.

Minister for Justice

An Roinn Dlí agus Cirt

Department of Justice

51 Faiche Stiabhna, Baile Átha Cliath 2, D02 HK52

51 St Stephen's Green, Dublin 2, D02 HK52

From: Bernard Durkan <Bernard.Durkan@oireachtas.ie>

Date: 12/01/2021 14:44 (GMT+00:00)

To: [Redacted for Privacy]

Subject: Representation for [Redacted for Privacy]

Dear [Redacted for Privacy],

I enclose herewith correspondence received in response to representations made on your behalf.

If and when further information is to hand I shall be in touch with you again. But failing further response within a reasonable period, you might remind me so that a satisfactory conclusion can be reached.

Yours sincerely,

Bernard J. Durkan T.D.

4th January 2021

Deputy Bernard Durkan T.D.

Bernard.Durkan@oireachtas.ie

Dear Deputy Durkan,

Thank you for your email concerning parental alienation on behalf of Ms [Redacted for Privacy].

Under the Child Care Act 1991, the Child and Family Agency, Tusla, is the statutory body with responsibility to promote the welfare of children who are not receiving

adequate care and protection. Tusla assesses all child welfare and protection concerns that are reported to it.

The Children First Act 2015, which was fully commenced in December 2017, provides for a number of key child protection measures. These include awareness raising, providing for mandatory reporting of child protection concerns by certain categories of persons and improving safeguarding arrangements in organisations providing services to children. The Act operates alongside the non-statutory obligations provided for in Children First: National Guidance for the Protection and Welfare of Children 2017, which sets out how all reasonable concerns about a child should be reported to Tusla. The Act recognises that a child's welfare includes their emotional welfare while the Guidance sets out definitions of abuse, including emotional abuse, and signs for its recognition.

Referrals to Tusla regarding the possible harm to a child from a parent are assessed in line with Tusla's policies, procedures and best practice. Tusla has advised that its child protection and welfare assessment considers any past harm and any future danger to a child as a result of complicating factors in a child's environment. These factors include any parental behaviour that is deemed to have a negative impact on a child resulting in them being seriously harmed, including the behaviours that would indicate emotional abuse. Tusla also considers any strengths and existing safety present for the child in the context of the harm and then works collaboratively with parents, professionals and others to create effective safety for the child into the future.

However, parental alienation is a very challenging and complex issue. It generally arises in situations of extreme inter-parental conflict, which can result in children withdrawing from one parent without the other parent deliberately directing them to do so, but as a response to the conflict. Mediation can sometimes offer parents an opportunity to work through issues arising.

Tusla social work staff are supported in their professional and evidence informed assessments by access to an online evidence informed toolkit that provides detailed up-to-date research and recommended interventions on key areas such as

attachment, critical analysis and thinking, child development, the impact of abuse, separation and loss and parenting capacity. Tusla also provides all staff with access to an entire research centre <https://www.tusla.ie/research/> with relevant current research and publications relevant to child protection and welfare practice. In addition to regular professional supervision, this ensures staff are supported in maintaining their expertise in an ongoing and supportive learning environment.

Tusla works collaboratively with child and adult mental health services, the Courts and other therapeutic services in respect of any relevant matters referred to it, including in relation to necessary interventions to support the safety and wellbeing of a child.

As you are aware, the Programme for Government contains a commitment to enact a Family Court Bill. The Family Court Bill will be a key element in the development of a more efficient and user-friendly family court system that puts families at the centre of its activities, provides access to specialist supports and encourages the use of alternative dispute resolution in family law proceedings. The Department of Justice has recently established the Family Justice Oversight Group. This Group will agree a high-level vision and key medium and longer-term objectives for the development of a national family justice system, in parallel with the establishment of a dedicated Family Court structure, as envisaged by the forthcoming Family Court Bill. The Department of Children, Equality, Disability, Integration and Youth is represented on the Oversight Group.

I hope that this information is helpful to you.

Yours sincerely

Roderic O’Gorman TD

Minister for Children, Equality Disability, Integration & Youth

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Oireachtas email policy and disclaimer. oireachtas.ie/en/email-policy/

From Tusla to [Name redacted for privacy]

Further to your representations to Minister Roderic O’Gorman TD, the Department has requested that Tusla respond directly to you on the issues of parental alienation, psychological manipulation of children and coercive control of children.

These issues are complex areas and are encompassed in the Tusla child protection assessment in the understanding of emotional abuse. Emotional abuse is the systematic emotional or psychological ill-treatment of a child as part of the overall relationship between a caregiver and a child. Once-off and occasional difficulties between a parent/carer and child are not considered emotional abuse. Abuse occurs when a child’s basic need for attention, affection, approval, consistency and security are not met, due to incapacity or indifference from their parent or caregiver. Emotional abuse can also occur when adults responsible for taking care of children are unaware of and unable (for a range of reasons) to meet their children’s emotional and developmental needs. Emotional abuse is not easy to recognise because the effects are not easily seen.

A reasonable concern for the child’s welfare would exist when the behaviour becomes typical of the relationship between the child and the parent or carer. Emotional abuse may be seen in some of the following ways:

- Rejection
 - Lack of comfort and love
 - Lack of attachment
 - Lack of proper stimulation (e.g. fun and play)
 - Lack of continuity of care (e.g. frequent moves, particularly unplanned)
- Continuous lack of praise and encouragement

- Persistent criticism, sarcasm, hostility or blaming of the child
 - Bullying
 - Conditional parenting in which care or affection of a child depends on his or her behaviours or actions
 - Extreme overprotectiveness
 - Inappropriate non-physical punishment (e.g. locking child in bedroom)
- Ongoing family conflicts and family violence
- Seriously inappropriate expectations of a child relative to his/her age and stage of development

When a report is made to Tusla child protection services, an assessment is made regarding whether this report reaches the threshold for harm based on the evidence available and the impact on the child. Where harm due to emotional abuse or other abuse is suspected, the child protection and welfare services engage with the child and family subject to the report and provide for the safety of this child through working with the child and family. Where harm is not established a referral may be made to an agency suitable to deal with significant welfare issues that arise or a referral may be made to a Meitheal response through the local Child and Family Support Network.

I note that other responses point to mediation and, in this scenario, there is a mediation service in the courts where many of these disputes arise and are heard. There is no 'mediation' service in Tusla but many of our responses include elements of mediation. In other international responses, separate agencies have been established that have been very effective in addressing issues using approaches such as mediation combined with the power of the court. Such responses have made it clear to parents that a recommendation of the mediator will be given significant weight in any future court process. One such example is CAFCAS in

Wales and they have a very useful website. I'm aware that future family law proposals in this country do not at this stage include this important step.

There is significant information available online on Tusla.ie regarding emotional abuse and how we deal with these issues. The child protection and welfare handbook also addresses these issues. We are also renewing again with the current evidence how we may need to reflect this fully and evidence can be mixed on this issue.

[Redacted for Privacy],

Chief Social Worker Tusla

In the interests of full disclosure: Our suggested reply for members receiving such letters

Re Minister's Reference []

Dear Minister and [Deputy / Secretary]

I thank you for your letter of ... last and the information and advice contained therein.

In summary:

Myself and other targeted parents trying to assist our targeted in children suffering the abuse of parental Alienation have become all too painfully aware of the legislation and the statutory bodies that you mention in your letter.

Unfortunately, these statutory provisions have proved ineffective and of little use to victims due to shortcomings or a complete lack of policy and procedures to give effect to these as outlined below.

Currently we see little movement on policy or procedures or current or proposed legislation changes to address the issue.

Therefore we ask that the Minister reconsider the answer in light of the points made below.

How are the Department of Justice and the Department of Children going to protect and give effective access to justice to adult and child victims of Parental Alienation particularly in regards to the obligations of children's rights under Article 42A of the Constitution, under the UNCRC and the Rights to Family Life under the ECHR?

In particular regarding the legislative provisions raised in your letter:

I would draw your attention to the judge made law in the Ennis Family Law Court where Judge Larkin

lifted reporting restriction to enable her finding of "this being a case of parental alienation" in March and April 2020 as reported in the Law Gazette of Ireland on 20th April 2020. Compared to many situations discussed with the Alienated Children First (formerly APS) group (APS/ACF), this appeared a relatively low bar of disrupted Alienated Children First – Ireland – December 2022

access by a reluctant or aggrieved parent which was “nipped in the bud” by a proactive judge who is a beacon of hope for parents and children who are victims of parental alienation. As we now have case law on Parental Alienation which shone a light on the obvious legislative and policy and procure short comings in dealing with it.

Regarding your reference to the statutory obligations of Tusla, and referrals to Tusla and Tusla policies and guidelines,: I am supported by APS/ACF group who are engaged with the office of the COO of Tusla following a number of complaints as a result of referrals as your letter suggest.

Currently Tusla’s Handbook does not refer to Parental Alienation and their social workers are therefore not trained in it and not qualified to assess it. APS/ACF has referred Tusla to policies of organisations in other jurisdictions such as Cafcass in the UK who include Parental Alienation in their guidelines, policies and procedures and therefore their training. Currently in this jurisdiction no such policies, procedures, training or qualification exist and therefore the statutory obligations you refer to have no effect and victims trying to access them as you suggest are rebuffed and frustrated.

The offences you refer to in the Child Care Act 1991 (as amended) are a high bar for any victim to prove and to access. APS/ACF have cases where not just a parent making a referral to Tusla under the Act but referrals for the same child by An Gardaí, HSE Psychologists, other health personnel and the child’s school principal have all met with a standard form Tusla letter “does not meet the criteria for intervention”. This is not surprising given the previous paragraph outlining that Tusla’s policies, procedures, handbook and training provide no such criteria for them to even assess such intervention. This is a clear failing of such policy and procedure which could be addressed with the urgency it deserves short of the need for additional legislation.

I am advised by APS/ACF that courts, and solicitors and barristers in family law situations are reluctant to put forward allegations that might criminalise a parent for such abuse as not being in

the child's best interest. In the absence of more empirical evidence, I would agree with that approach. As with most targeted parents, I just want the behaviour to stop and the resumption of a more regular shared parenting approach in the best interests of the children. The offences in the Act are an inappropriate sledgehammer to attack this and in stark comparison with the more practical approach of Judge Larkin.

I draw the Minister's attention to the more appropriate Section 19 Supervision Orders that could be used as more appropriate "light touch" early intervention. APS/ACF have received advice that Tusla could use such orders for early intervention in such cases to address parental behaviours which are damaging children and denying them their rights to family life and court ordered parental access.

This has the potential to be a very constructive approach which could also provide independent evidence for a judge to consider if necessary. However, in the absence of a Tusla policy on Parental Alienation this does not occur.

In addition, APS/ACF inform me that Tusla considers that courts will only apply Section 19 Supervision Orders which meet the criteria for section 19(1)(a) AND where the child needs to be taken to a place for assessment. This is clearly at odds with the primary legislation which permits

Tusla to visit a child's home for assessment and parental advice and in addition allows for sections 19(1)(b) and (c) criteria to apply which would appear a more appropriate intervention in the best interests of the child. It is unclear where this policy of not applying sections 19(1)(b) and (c) and the procedural implied insertion of the "need to take the child to a place of assessment" rather than what is stated in the primary legislation has come from. But Tusla have advised that this is the case and that it is their opinion that courts will only consider section 19(1)(a) whereas parental alienation would more naturally be considered under sections 19(1)(b) and (c) which they consider will not be regarded by the court.

Thus, the apparent statutory obligations of Tulsa and the apparent legislation protections you list are effectively frustrated by policy, produce and lack of judicial guidelines or procedures in this case. The very reasonable approach taken to Judge Larkin is not available to all and not followed elsewhere.

We ask the Minister to reconsider and address the above points through the lens of the Judge Larkin's case law on parental alienation as reported.

With regards to the amendment of the Guardianship of Infants Act 1964 by the Children and Family Relationships Act 2015 and in particular Section 60 of the latter I would bring the following to the attention of the Minister 2 .

"The best interests of the child" is a fine concept that is oft repeated but similarly missing from effective implementation in policy and procedure particularly when it comes to child victims of parental alienation. Despite the case law example of Judge Larkin above, APS/ACF report that 2 The Minister for Justice's letter referred to Section 56 of the Children and Family Relationships Act 2015 inserting section 18A into the Guardianship of Infants Act 1964 with regards to applying for enforcement orders. We would point out the Section 56 of the former inserts Section 11D in the latter and that it is Section 60 of the former which inserts "enforcement orders" into Section 18A of the latter. Parents are strongly advised by their legal teams against requesting Enforcement Orders with certain judges because it is viewed as seeking to criminalise the other parent in cases of denial of access and that this will be viewed as against the best interests of the child.

Thus applications for Enforcement Orders are rarely requested and in the experience of APS/ACF rarely granted (though the in camera rule makes reporting of empirical data difficult). The preliminary results of O Shea and Conneely (who were enabled by ministerial protocol to collect such data) shows that 24% to 37% of access cases involve breaches of access and breakdown of contact. This suggests that the anecdotal evidence of APS/ACF will be reflected in the empirical data that is in the course of being published and that there is a significant issue that should be addressed by enforcement Orders. Yet the structure of the legislation and the legal advice with regards to the judicial approach means that this solution is not applied or available as it will reflect negatively on applicants and make the situation for the targeted child even worse.

The situation is similar with regards to replacement access for cancelled access. Breaches of access without Enforcement Orders are a civil matter and APS/ACF report cases where schools have called An Gardaí because an alienating parent is

preventing court ordered access at the school gates but An Gardaí can witness the event but not intervene in the absence of an Enforcement Order. Thus an alienating parent is effectively able to thumb their nose at Gardaí and school principals at school gates with no recourse for the alienated parent on behalf of the child.

The outcome of this is that alienating parents suffer no consequences of their actions and are effectively encouraged or/and emboldened to repeat the behaviour until the targeted parent is exhausted physically, emotionally and/or financially and has to abandon the child to parental alienation.

Would the Minister consider a policy or judicial guidelines where Enforcement Orders and Replacement access are the default position on access once a breach has been reported with the option for the court to not grant these if they are not in the best interests of the child?. I would draw your attention to the issues about the voice of the child in a Parental Alienation position where it he or she may be considerably manipulated consciously or unconsciously by the situation. What is the Minister's response to the UNCRC November 2020 "List of issues prior to submission of the combined fifth and sixth reports of Ireland" in particular "Respect for the views of the child" and the submission to the UNCRC on the matter?.

I respectfully await your considered response.