



From Awareness to Action

BRIEF

ISSUE #30 | MARCH 2024

Contextualizing the UN Special Report on custody, violence against women and children, and parental alienation: What does it mean for Canada?



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SUGGESTED CITATION

Contextualizing the UN Special Report on custody, violence against women and children, and parental alienation: What does it mean for Canada? Family Violence & Family Law Brief, 30. Vancouver, BC: The FREDA Centre for Research on Violence Against Women and Children, Simon Fraser University.

TRANSLATION

Kristina Tarnovskaya (MCIS)

DESIGN

Diana Corredor, Communications Coordinator at the Centre for Research & Education on Violence Against Women & Children (CREVAWC)

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Contextualizing the UN Special Report on custody, violence against women and children, and parental alienation: What does it mean for Canada?

INTRODUCTION

In April 2023, the United Nations' (UN) Special Rapporteur on violence against women and girls, its causes and consequences, Ms. Reem Alsalem, released a report entitled *Custody, violence against women and children*^{1 2} (hereafter, the report). The report (2023) is based on concerns raised by the Special Rapporteur and members of [the Platform of Independent Expert Mechanisms on the Elimination of Discrimination and Violence Against Women](#) related to “the pattern of ignoring intimate partner violence against women in determining child custody cases across jurisdictions” (p. 2).

BRIEF OVERVIEW OF THE REPORT

Situated within the understanding that domestic violence (DV) is highly gendered and a human rights violation, the report examines the connections among custody/guardianship disputes and violence against women and/or children, with emphasis on the role of claims and applications of parental alienation and “similar pseudo-concepts” within family law (Alsalem, 2023, p. 2).

Reem Alsalem

Special Rapporteur on violence against women and girls, and its causes and consequences

“Ms. Reem Alsalem was appointed United Nations Special Rapporteur on violence against women and girls, its causes and consequences in July 2021 by the UN Human Rights Council for a three-year tenure. She started her tenure on 1 August 2021.

Reem Alsalem is an independent consultant on gender issues, the rights of refugees and migrants, transitional justice and humanitarian response. She has consulted extensively for United Nations departments, agencies and programmes such as UN-Women, OHCHR, UNICEF and IOM, as well as for non-governmental organizations, think tanks and academia. Previously, she worked as an international civil servant, serving with the UNHCR in thirteen countries. During her service, she has planned, implemented, and monitored programs that served to protect persons that were survivors of gender-based violence, particularly women and girls” (UNHROHC n.d., paras. 1-2)

¹ The report was put forth to the UN Human Rights Council in accordance with *Resolution 50/7*, which renewed *Resolution 1994/45* and sets out the mandate of the Special Rapporteur's position. *Resolution 50/7* is available in [English](#) and [French](#), among [other languages](#).

² As noted in the report, during preparation “the Special Rapporteur sought contributions from Member States, international and regional organizations, non-governmental organizations, academia and victims, and held a series of online consultations with stakeholders and experts. The Special Rapporteur has received over a thousand submissions, of which a large number were duplicated individual submissions, particularly from fathers' organizations. Most submissions were received from the Western European and others group, followed by the Latin America and the Caribbean group, and the majority addressed systemic issues and the impact of parental alienation” (p. 2).

Specifically, within the report, Ms. Alsalem (2023) challenges and debunks clinically and scientifically unfounded notions of parental alienation, which are tactics used by abusers in family law proceedings as on-going forms of abuse, control, and coercion. Such tactics are intended to subvert and discredit claims of DV made by women/mothers in custody/guardianship proceedings.

Of note, the analysis presented in the report (2023) includes:

- 1) Instances of ignoring violence and/or in which mothers have been “penalized” by those with decision-making power in family law cases, such as “law enforcement and/or the judiciary,” for reporting experiences of DV; and
- 2) Disregard for and/or dismissal of credible claims of a history of DV and/or child abuse in cases regarding custody/guardianship matters (p. 2).

The Special Rapporteur (2023) further provides a regional analysis of how family courts engage with the notion of parental alienation and comparable pseudo-concepts during custody/guardianship disputes, which often results in disregarding past incidents of DV/abuse and have a disproportionate impact on women and, more specifically, women who experience compounding intersectional discriminations (e.g., sexual orientation, migration, race, class, culture) (see also UN News, 2023). These dynamics can result in revictimization of victims/survivors going through custody/guardianship-related family law processes.

The report (2023) concludes with recommendations for governments and other parties to address these misconceptions and their impacts in custody/guardianship-related matters, including:

- 1) enacting legislation that prohibits the use of parental alienation, as well as other related concepts, in family law and custody/guardianship proceedings;
- 2) establishing mechanisms that monitor the effectiveness of family law processes and systems for victims/survivors of DV and their children;
- 3) mandating training for legal professionals including, but not limited to, judges; and
- 4) requiring the consideration of additional relevant matters (e.g., criminal, child protection) in family law proceedings.³

³ These recommendations are discussed in more detail in the conclusion of this brief.

In sum, Ms. Alsalem’s report problematizes parental alienation and similar concepts through highlighting the absence of clinical support and lack of scientific validity behind such claims (see also International Expert Academic Consortium, 2023). Attention is also drawn to the concerns, both internationally and within specific regional contexts such as Canada, regarding the harmful impacts of such pseudoscience on the safety and rights of women and children within family law processes involving DV and custody/guardianship issues.

Additional Resource

Ms. Alsalem provided an overview of the *Custody, violence against women and children* report and the recommendations listed here, as well as additional important considerations (e.g., parental alienation versus estrangement), in an Awareness to Action: Moving from screening and assessment to developing appropriate parenting plans after family violence in the family justice system project webinar entitled *UN special report on parental alienation and implications for Canada* hosted by the Centre for Research on Education on Violence Against Women and Children. A recording of this webinar is available [here](#).

PARENTAL ALIENATION

To fully appreciate the report and its implications, it is helpful to have an understanding of parental alienation, including what this phenomenon is, its history/development, and the problems inherent within this and similar concepts based in pseudoscience.

The Special Rapporteur acknowledges that there is no single or universally accepted definition for the concept parental alienation, either clinically or scientifically. However, within a broader frame, the report (2023) describes parental alienation as “deliberate or intentional acts that cause unwarranted rejection by the child toward one of the parents, usually the father” (p. 3). Similar definitions exist among other scholars, legal professionals, and advocates who examine parental alienation, such as:

- 1) “a parental figure engaging in the long-term use of a variety of aggressive behaviors to harm the relationship between their child and another parental figure” (Harman et al., 2018, p. 1275);
- 2) “the presumption that a child’s fear or rejection of one parent (typically the non-custodial parent) stems from the malevolent influence of the preferred (typically custodial) parent” (the Amici brief to the Court of Appeals for the State of New York as cited in Neilson et al., 2019, p. 2); and
- 3) “the theory that children in divorcing families may be turned against one parent by the other favored parent” (Meier, 2009, p. 233).

Richard Gardner “invented” parental alienation syndrome in the 1980s, which he “based solely on his interpretation of his own clinical experience” (Meier, 2009, p. 235; see also Alsalem, 2023). Parental alienation syndrome was created to minimize or discredit claims of abuse aimed at fathers in family court proceedings, which Gardner alleged were fabricated by mothers with

“vendettas” that were a product of a mother’s “mental illness” or “intentional malice” (Meier, 2009, p. 236). Gardner’s work on parental alienation syndrome is intended to provide support for men/fathers who claim false allegations of abuse have been made against them and, problematically, also situate such claims “as false tools for alienation” (p. 236). The remedies recommended by Gardner to address parental alienation syndrome were “draconian” and included “complete cut-off from the mother in order to ‘deprogramme’ the child” (Alsalem, 2023, p. 3).

Gardner’s work on parental alienation syndrome has largely been discredited as a result of the absence of any clinical or scientific backing (e.g., research) (Adams, 2006, pp. 1-8), as well being based in Gardner’s own “bizarre beliefs about human sexuality” and sexual abuse (Meier, 2009, p. 236; see also Alsalem, 2023).

Gardner’s theory has been criticized for its lack of empirical basis, for its problematic assertions about sexual abuse and for recasting abuse claims as false tools for alienation, which, in some cases, has dissuaded evaluators and courts from assessing whether abuse has actually occurred. It has been dismissed by medical, psychiatric and psychological associations, and in 2020 it was removed from the International Classification of Diseases by the World Health Organization. (Alsalem, 2023, p. 3)

Nevertheless, in Canada and around the world, parental alienation claims are still used as a tactic in family law and custody/guardianship matters (Alsalem, 2023). Notably, the use of parental alienation is often a response to a child voicing fear of, or a desire not to be in contact with, a parent – usually a father.

Parents may demonstrate negative feelings toward one another both pre- and post-separation, but research consistently shows that children are generally not easily manipulated by these attitudes. To illustrate, Rowen and Emery (2014) suggest that a parent expressing harmful attitudes toward the other parental figure results in a *boomerang effect*. That is, a child reacts negatively toward the allegedly alienating parent and does not reject the other parent (see also Silverberg Koerner et al., 2004). Alternatively, these attitudes may compound a child’s existing negative feelings and/or desires to distance themselves from a parent (for example, see Huff, 2015). Of their own volition and in the absence of supposedly alienating behaviours, children may still resist or reject parental contact (Johnston et al., 2005; see also Neilson et al., 2019).

The Canadian Context

Alsalem (2023) notes that “[a]n empirical analysis of parental alienation cases in Canada conducted in 2018 found that of 357 cases, 41.5 per cent involved assertions of domestic or child abuse, of which 76.8 per cent included alienation claims advanced by the alleged perpetrator” (p. 4)

Child and Mother Sabotage

Recent work in opposition of parental alienation has resulted in the development of a new concept, *Child and Mother Sabotage* (CAMS). CAMS describes how abusers' actions intentionally and directly harm/sabotage mother-child relationships through manipulative tactics, such as allegations of parental alienation (Dalgarno et al., 2023).

Allegations of DV and child abuse are very rarely found to be false (for example, see Saini et al., 2020). Yet, even though there is little to no scientific evidence to support parental alienation syndrome and like concepts based in pseudoscience (Adams, 2006; Meier, 2009; Neilson et al., 2019), parental alienation is nevertheless argued to be a prevalent form of *emotional child abuse* (Kruk, 2018) and violence perpetrated by mothers (see Harman et al., 2018).

Parental alienation remains a problematic strategy used in family law processes to undermine and/or counter *legitimate* allegations of abuse made by mothers and/or children (Alsalem, 2023; Elrod, 2016; Neilson et al., 2019). For instance, Sheehy and Boyd (2014) contend that “judges are more likely to focus on alienating behaviours than [DV]

when determining custody and access” (as cited in Hrymak & Hawkins, 2021a, p. 45). Neilson's (2018) research further illustrates this issue in cases where both custody/guardianship determinations and DV and/or child abuse are present (i.e., cross claim cases):

... courts accepting parental alienation theory in cross claim cases are placing protective parents (primarily mothers) in a horrifying double bind: if the parent insists on presenting evidence of domestic violence or child abuse in order to protect the children she risks her efforts being categorized as attempts to alienate the children from the other parent. (p. 35)

Similarly, Hrymak and Hawkins (2021b) found that in some cases, at the advice of their lawyers, women have not voiced their victimization and/or instances of child abuse (see also Alsalem, 2023). These dynamics impact women's willingness to: 1) raise the violence perpetrated against them or their children in court; and/or 2) try to put any limitations on their (ex)partner's access to their children (Alsalem, 2023; Hrymak & Hawkins, 2021a; Hrymak & Hawkins, 2021b). These findings suggest that the on-going use of parental alienation as a strategy in family court puts women and children at risk (Neilson, 2018), and silences women/mothers and survivors of violence.

Parental alienation is a highly gendered phenomenon and, as Alsalem (2023) and Neilson (2018) both suggest, reflective of gender bias in family court proceedings. For example, claims of parental alienation made by fathers are being understood

What is Justified Estrangement?

Justified estrangement takes place when the estrangement between a child and parent, or a child's rejection of a parent, is caused by the parent's own actions including, but not limited to, emotional/physical abuse, the presence of violence within the home, and/or the existing absence of attachment between a parent and child prior to separation (Government of Canada, 2022; Johnston & Sullivan, 2020). Some scholars have also referred to forms of estrangement resulting from a parent's own actions as *realistic estrangement* (for example, see Eddy, 2023; Harbor Mental Health, 2021; Zeiderman, 2021).

within the framework of “children’s rights to maximum contact with both parents” (Neilson, 2018, p. 16). In contrast, children who voice a desire to remain within the care of their mothers are seen negatively and “as the result of ‘unusual’ parent-child closeness, enmeshment, or the mother’s over-protection” (pp. 16-17).

Neilson (2018) also examined cases that were interpreted in line with the father’s rights discourse (i.e., fathers’ entitlement to their children being paramount) (p. 17). These findings exist in contrast to fathers’ claims of gender-based disadvantage in family court, because primarily mothers are subject to this gender bias (see also Alsalem, 2023; Hrymak & Hawkins, 2021a; Neilson, 2018; Yercich, 2021).

RESPONSES FROM PARENTAL ALIENATION ADVOCATES

Within Canada⁴ and internationally, the report has received some backlash related to allegations of spreading “extensive misinformation” and misrepresenting existing research⁵ on parental alienation (Aichenbaum et al., 2023, p. 9). Of note, however, such backlash by supporters of parental alienation is not new (for example, see Mendoza-Amaro & Bernet, 2020⁶) and, instead, remains a staple within fathers’ rights-based advocacy in Canada and many other nations (for example, see Yercich, 2021; Yercich & Jackson, 2023). The critiques of the Special Rapporteur’s report are yet another example of an on-going pattern of activism and scholarship aimed to “undermine and silence anyone who

Estrangement is not Parental Alienation

In a recent [webinar](#), Ms. Alsalem acknowledged that a fulsome discussion of when children resist/refuse contact with a parent following separation resulting in estrangement was absent from the report. Criticisms of the report related to this limitation are raised by parents who are estranged from their children and parental alienation advocates, such as fathers’ rights groups. Nevertheless, while parents may suffer from experiences with estrangement from their child(ren) post-separation, these are not instances of parental alienation.

Ms. Alsalem expressed that it in high conflict cases both parents may try to have their children side with them, which may not be directly related to a child’s rejection of a parent. Rather, estrangement must be understood within the specific contexts of the separation itself, as it is not possible to understand how a child will react to the actions or attitudes of any parent. For instance, in line with understandings of justified/realistic estrangement, a child resisting or refusing contact with a parent can be the result of experiencing emotional/physical abuse and/or neglect at the hands of the estranged parent.

⁴ For example, see groups such as *Parental Alienation Canada* and *Against Parental Alienation Canada*.

⁵ To support claims of misinformation, parental alienation advocates refer to research that is “not longitudinal research studies of children, lack control groups, [are comprised of] self-selected populations, and are mostly retroactive, self-diagnostic reflections of adults and/or opinion surveys” (International Expert Academic Consortium, 2023, para. 2).

⁶ Additional examples of reports by proponents of parental alienation are available in the International Expert Academic Consortium’s (2023) response: <https://rackmancenter.com/en/collective-expert-academic-response-to-attempts-to-undermine-the-special-rapporteur-on-violence-against-women-and-girls-report-dated-13-april-2023-titled-custody-violence-against-women-and-violence-a/>

questions the scientific legitimacy of parental alienation concepts and/or who has documented the negative human rights effects of use of the concept in the legal system” (International Expert Academic Consortium, 2023, para. 4).

ESTRANGEMENT

The Government of Canada (2022) highlights a distinct difference between forms of pseudoscience, such as parental alienation, and estrangement between a child and their parent that may take place post-separation or in family law proceedings.

In cases of high conflict separations, both parents may consciously or subconsciously engage in behaviours that could be seen as alienating, such as voicing anger or frustration about the other parent to/around their child(ren) (Government of Canada, 2022).

... an important characteristic of some high-conflict separation cases is that one or both parents fail to support the child’s relationship with the other parent, and indeed continually attempt (consciously or unconsciously) to undermine the child’s relationship to the other parent. In some of these cases, children manage to maintain a good relationship with each parent, despite stress caused by one or both parents being unsupportive or even highly negative about the other. However, in a significant portion of high-conflict cases children become resistant to having contact with one of their parents (Government of Canada, 2022, para. 12).

The Government of Canada (2022) argue that cases in which children become distant from/reject a parent is a form of “justified rejection” or, what may be referred to as, justified or realistic estrangement (para. 15; see also Eddy, 2023; Harbor Mental Health, 2021; Johnston & Sullivan, 2020). Estrangement cannot be conflated or confused with parental alienation, which is a tactic used by abusers, “usually the father,” to undermine *legitimate* allegations of DV and abuse made against them by the other parent (Government of Canada, 2022, para. 15; see also Elrod, 2016; Neilson et al., 2019; Zeiderman, 2021).

THE GENDERED NATURE OF DV AND PARENTAL ALIENATION

On national and international levels, DV is a highly gendered issue and “one of the most serious and pervasive human rights violations” (Alsalem, 2023, p. 3; see also UN Women, n.d.). Accordingly, within the human rights frame, central to the Special Rapporteur’s report is the reality that DV is a highly gendered phenomenon that impacts women disproportionately.⁷

⁷ In addition to the contents of the report, many examples of the gendered nature of DV provided in this list were discussed in more depth by Ms. Alsalem in her recent webinar, [UN special report on parental alienation and implications for Canada](#).

- 1) The majority of victims/survivors of DV and victims of domestic homicide are women;
- 2) Women are far more likely than their counterparts to experience high risk, lethal, and nearly lethal violence perpetrated by their intimate partner, with a prior history of DV as a primary risk factor; and
- 3) Most women who are victims/survivors of DV do not report the abuse, and those who do face many barriers such as their own report not being taken seriously, not receiving sufficient attention, or being dismissed altogether.

Gendered experiences of violence are complex in nature and compounded by power dynamics and intersecting inequalities. The dynamics of men’s violence against women, including DV, also pose a much greater risk of substantial harm and, in severe cases, lethality.

Failure to take women’s reports of violence seriously compromises the safety and well-being of women and their children, which heightens their risk of experiencing lethal violence. Framed within the Canadian context, Alsalem (2023) highlights Martinson and Jackson’s (2017) work to emphasize that “[t]he consequences of domestic violence and its effects on children are also misunderstood and underestimated by judges” (p. 4). Accordingly, it is important to address problematic assumptions within justice and family law systems, such as the belief that separation stops DV and histories of DV in relationships do not impact the present safety/security of women and their children.

Canadian Department of Justice

“After extensive investigation, the Canadian Department of Justice concluded that the use of labels and terminology such as parental alienation syndrome raises the stakes in the confrontation between parents and usually fails to take into account the child’s needs and wishes. The Department also noted that all those involved in such cases tended to explain anything that transpires as in high-conflict separations by these labels” (Alsalem, 2023, p. 15).

As previously established, parental alienation is a tactic used by abusers and, is in and of itself, a form of DV (Alsalem, 2023). Parental alienation is also an extremely gendered tactic that is most often used against women/mothers (Alsalem, 2023; Sheehy & Boyd, 2020). As Alsalem (2023) notes:

A study in Brazil found that women were accused of parental alienation in 66 per cent of cases, as opposed to 17 per cent of cases where a man was accused, and men made more unfounded accusations than women. In Italy, the accusation was also overwhelmingly used against mothers. (p. 4)

Concerningly, the gendered application of parental alienation and subsequent tactical framing of mothers as “vengeful and delusional” often pathologizes women/mothers and leads to their allegations of abuse and/or concerns about safety being taken less seriously or outright dismissed (p. 5).

ADDITIONAL KEY CONSIDERATIONS FROM THE REPORT

The report (2023) raises a significant number of important issues that contextualize DV and parental alienation as global human rights issues, as well as provides insight into how to understand and address such harms. These include but are not limited to:

- 1) Valuing a child's rights-based approach to custody/guardianship arrangements is of paramount importance to ensuring the child(ren)'s best interests are safeguarded, but the use of parental alienation undermines and contravenes the principles of the best interest of the child(ren) (see also Jackson et al., 2020; Martinson, 2023; Martinson & Jackson, 2017; Martinson & Jackson, 2021; Martinson & Raven, 2021).
- 2) Children's voices are often not considered, or are at most "selectively integrated," in custody/guardianship cases which endangers children by risking on-going contact with an abusive parent (Alsalem, 2023, p. 7). Of note, Alsalem (2023) contends that children witnessing and/or experiencing abuse and subsequently having their views ignored in family law proceedings is a form of double victimization.
- 3) Gender bias in judicial decision-making in family law cases and custody/guardianship determinations, such as patriarchy underpinning in legal processes and the underestimation of the frequency, severity, and impacts of DV, results in the "denial of effective justice to women and other victims of violence," which is in contravention to a state's international obligations (Alsalem, 2023, p. 7). Of note, in line with international law, states and legal systems are obligated to ensure that prejudices, including gender bias, are addressed and eradicated.
- 4) Gender bias is visible in family law processes through the perception that men are more credible than women. Parental alienation claims are also one of the many examples of gender bias in family law/guardianship cases. Such biases highlight how women victims/survivors are failed by the family law and justice systems.
- 5) Despite claims of bias against men/fathers in family law proceedings, mothers lose custody/guardianship rights at much higher rates than fathers when allegations of child abuse are raised these cases.
- 6) When allegations of abuse are made in custody/guardianship cases, women/mothers can be framed as villains who are maliciously attempting to alienate fathers and children. This has resulted in lawyers advising women/mothers to remain silent about DV and/or child abuse because "it would work against them," such as through losing custody/guardianship or visitation rights entirely (Alsalem, 2023, p. 17). An alternative result is women taking their children and leaving their homes/countries in the hope that crossing international

borders may provide some protections, but they risk being accused of international abduction under the Hague Convention.

7) Experts, such as evaluators, psychiatrists, and social workers, are frequently relied upon as independent advisers to aid in determinations of the best interest of the child(ren). However, experts may be proponents of parental alienation, as are other public officials and institutions who “may be trained or lobbied by promoters of parental alienation” (p. 15).

8) Limited-to-no access to legal aid/representation “is a structural disadvantage,” which greatly impacts victims/survivors of DV and can result in revictimization within family law processes and pressure to settle/mediate cases (p. 18).

9) Intersectional discrimination on the grounds of race, ethnicity, class, culture, legal status, and sexual orientation, among others, as well as the presence of children, amplifies gendered experiences of abuse and the family law/justice system’s response to such violence.

Among the numerous impacts of the issues and shortcomings within family law listed above, of paramount importance is how these dynamics not only revictimize victims/survivors through family court processes but also create additional barriers to safety for mothers and children.

RECOMMENDATIONS

The Special Rapporteur concludes the report with many impactful recommendations to address the use of parental alienation and similar concepts grounded in pseudoscience in family law proceedings, as well as other issues raised in the report (e.g., violations of the best interest of the children provisions, disregard for a history of DV, gender bias, and lack of sufficient legal support/aid).

Using the human rights of women, children, and those facing intersectional discrimination as a guiding force, Alsalem’s (2023) recommendations include⁸, but are not limited to:

⁸ Many of the recommendations within the report are synthesized below. The full list of recommendations is available on pp. 19-20 of the original report.

The Hague Convention

“Around three-quarters of all cases filed under the Hague Convention are against mothers, most of whom are fleeing domestic violence or seeking to protect their children from abuse. Article 13 of the Convention states that an order for the return of a child can be rejected if there is a ‘grave risk’ of harm. However, courts have been reluctant to accept exposure to domestic violence as a reason not to return a child to another State party. In some cases, courts have returned children to their country of habitual residence even where they have found that violence has occurred against children, frequently compelling women and children to return to abusive and life threatening situations” (Alsalem, 2023, p. 10).

- 1) Create and enforce legislation that fully bans the use of parental alienation, as well as like pseudoscience, in family law and prohibit “so-called experts” who are parental alienation supporters (p. 19).
- 2) In accordance with international human rights law, put in place the necessary mechanisms for monitoring and oversight to ensure “the effectiveness of family justice” for victims/survivors of DV and child abuse (p. 19), as well as to “assess the specific impact of policies and procedures relating to family justice on marginalized women” (p. 20).
- 3) Enforce mandatory training for justice system and family professionals, including judges, on DV/abuse, gender bias, parental alienation, and related dynamics, as well as ensuring mandatory on-going training is provided “for all family justice professionals on the relationship between allegations of parental alienation and domestic violence and sexual abuse” (p. 19).
- 4) Ensure that DV and sexual abuse are taken into account in all proceedings and custody/guardianship determinations and, additionally, “relevant criminal law and/or child protection proceedings” are considered (p. 19).
- 5) Preserve the best interest of the child(ren) through measures such as banning “reunification camps,” guaranteeing that independent legal representation is available for children in “contested” cases, and ensuring the child(ren)’s views and desires are sufficiently considered in custody/guardianship determinations (p. 19).
- 6) Institute important safeguards within family law processes to promote safety for victims/survivors and ensure the best interest of the child(ren), including dismantling silos that exist among the courts (e.g., criminal, family), improving legal aid supports, establishing a formal complaint mechanism, and providing state funded experts who are trained on DV and parental alienation.
- 7) Make the necessary revisions to *the Hague Convention on the Civil Aspects of Child Abduction* to better protect victims/survivors of DV and their children, such as creating stronger defences against legally mandated or otherwise compelled returns.

CONCLUDING THOUGHTS: THE CANADIAN CONTEXT

Some recent Canadian scholarship and advocacy address the concerns raised in the Special Rapporteur’s report. For instance, in line with Ms. Alsalem’s recommendation to completely ban the use of parental alienation and like pseudo-concepts within family law, a Canadian coalition comprised of over 250 feminist organizations, as well as scholars, practitioners, those with lived experience, and others, are advocating for reform to the Canadian federal *Divorce Act* that would prohibit the use of parental alienation in all cases (Jones, 2024; Ramzy, 2024).

In *Risk of future harm: Family violence and information sharing between family and criminal courts*, Martinson and Jackson (2016) emphasize the harms caused by the siloed nature of family and criminal courts in British Columbia and provide concrete examples of how to reduce and, ideally, fully break down these silos to promote the best interest of the children and safety for victims/survivors (e.g., the Toronto Integrated Domestic Violence Court).

Within British Columbian and, more broadly, Canadian contexts, legal scholars associated with *the FREDA Centre for Research on Violence Against Women and Children* are engaging in on-going work that promotes a progressive child rights-based approach to family law, including treating children as full rights bearers, ensuring independent legal representation for children, and implementing frameworks that guarantee children’s participation rights. These free resources are available below:

- *The 2021 Divorce Act: Using statutory interpretation principles to support substantive equality for women and children in family violence cases* by the Honourable Donna J. Martinson, K.C. and Professor Emerita Margaret Jackson
- *Implementing children’s participation rights in all family court cases* by the Honourable Donna J. Martinson, K.C., and the Honourable Judge Rose Raven
- *Treating children as full rights bearers: Independent legal representation for children in family violence and/or resist-refuse contact cases* by the Honourable Donna J. Martinson, K.C.

Of note, following a 60% cut to legal aid in British Columbia over two decades ago, “three out of every five applications for family law legal aid representation were denied” (West Coast LEAF, 2024, para. 8). However, on February 15, 2024, a settlement between West Coast LEAF⁹ and the Province of BC and Legal Aid BC which increased legal aid funds and services for single parents/guardians in provincial family law processes.

⁹ In this case, West Coast LEAF represented the Centre for Family Equity (plaintiff).

References

- Adams, M. A. (2006). Framing contests in child custody disputes: Paternal Alienation Syndrome, child abuse, gender, and fathers' rights. *Family Law Quarterly*, 40(2), 1-17.
- Aichenbaum, R. Y., Bernet, W., Brzosowski, B., Cedervall, B., Hellstern, B., Korosi, S., Ludmer, B., Marcus, P., & Mendoza-Amaro, A. (2023). An analysis of the Report by the Special Rapporteur on Violence Against Women and Girls, its causes and consequences to the United Nations Human Rights Council. *Parental Alienation Study Group and Global Action for Research Integrity in Parental Alienation*. <https://www.wir-vaeter.at/wp-content/uploads/2023/06/20230602-Analysis-Report-Special-Rapporteur.pdf>
- Alsalem, R. (2023). A/HRC/53/36: Custody, violence against women and violence against children – Report of the Special Rapporteur on Violence Against Women and Girls, and its causes and consequences. *United Nations Human Rights Office of the High Commissioner*. <https://www.ohchr.org/en/documents/thematic-reports/ahrc5336-custody-violence-against-women-and-violence-against-children>
- Dalgarno, E., Meier, J., Ayeb-Karlsson, S., Pollack, D., & Katz, E. (2023). From 'parental alienation' to (abusers') child and mother sabotage (CAMS) as a preferable term for how perpetrator fathers intentionally sabotage the child-mother connection. <https://dremmakatz.substack.com/p/from-parental-alienation-to-abusers>
- Eddy, B. (2023). Principles of treating parental alienation and estrangement: If a child resists contact with a parent in divorce, what's the best treatment? *Psychology Today*. <https://www.psychologytoday.com/ca/blog/5-types-of-people-who-can-ruin-your-life/202306/principles-for-treating-parental-alienation#:~:text=Realistic%20estrangement%20occurs%20when%20it,of%20that%20parent%27s%20own%20behavior.&text=In%20cases%20of%20domestic%20violence,will%20certainly%20know%20about%20it.>
- Elrod, L. (2016). The best interests of the child when there is conflict about contact. In E. Sutherland & L. Barnes Macfarlane (Eds.), *Implementing Article 3 of the United Nations Convention on the Rights of the Child: Best Interests, Welfare and Well-being* (265-279). Cambridge University Press.
- Government of Canada, The (2022). *Concurrent legal proceedings in cases of family violence: The child protection perspective*. <https://www.justice.gc.ca/eng/rp-pr/fl-lf/famil/fv-vf/p3.html>
- Harbor Mental Health (2021). *Parental alienation versus realistic estrangement*. <https://harbormentalhealth.com/2021/11/27/parental-alienation-versus-realistic-estrangement/>
- Harman, J. J., Kruk, E., & Hines, D. A. (2018). Parental alienating behaviors: An unacknowledged form of family violence. *Psychological Bulletin*, 144(12), 1275-1299.

- Hrymak, H., & Hawkins, K. (2021a). Why can't everyone just get along? How BC's family law system puts survivors in danger. *RISE Women's Legal Centre*.
<https://womenslegalcentre.ca/wp-content/uploads/2021/01/Why-Cant-Everyone-Just-Get-Along-Rise-Womens-Legal-January2021.pdf>
- Hrymak, H., & Hawkins, K. (2021b). Section 211 Toolkit. *RISE Women's Legal Centre*.
<https://womenslegalcentre.ca/wp-content/uploads/2021/04/Rise-Womens-Legal-Centre-Section-211-Toolkit-1.pdf>
- Huff, S. C. (2015). *Expanding the relationship between parental alienating behaviors and children's contact refusal following divorce: Testing additional factors and long-term outcomes* [doctoral dissertation]. University of Connecticut.
<https://opencommons.uconn.edu/cgi/viewcontent.cgi?referer=&httpsredir=1&article=7007&context=dissertations>
- International Expert Academic Consortium (2023). *Response to attempts to undermine the Special Rapporteur on Violence Against Women and Girls report dated 13 April 2023 titled Custody, violence against women and violence against children*.
<https://rackmancenter.com/en/collective-expert-academic-response-to-attempts-to-undermine-the-special-rapporteur-on-violence-against-women-and-girls-report-dated-13-april-2023-titled-custody-violence-against-women-and-violence-a/>
- Jackson, M., Martinson, D., Gregg, M., Pang, C., & Yercich, S. (2020). Implementing children's participation rights in family law and child welfare proceedings. *The Office of the Representative for Children and Youth*. https://baseline.bchumanrights.ca/wp-content/uploads/2022/10/Corrected_RCYFREDAFinalLiteratureReview26112020.pdf
- Johnston, J. R., Lee, S., Olesen, N., & Walters, M. (2005) Allegations and substantiations of abuse in custody-disputing families. *Family Court Review*, 43, 283-294.
- Johnston, J. R. & Sullivan, M. J. (2020). Parental alienation: In search for common ground for a more differentiated theory. *Family Court Review*, 58(2).
- Jones, A. M. (2024). Ban 'parental alienation' arguments in family law cases, feminist coalition urges federal government. *CTV News*. <https://www.ctvnews.ca/canada/ban-parental-alienation-arguments-in-family-law-cases-feminist-coalition-urges-federal-government-1.6738592>
- Kruk, E. (2018). Parental alienation as a form of emotional child abuse: Current state of knowledge and future directions for research. *Family Science Review*, 22(4), 141-164.
- Martinson, D. (2023). Treating children as full rights bearers: Independent legal representation for children in family violence and/or resist-refuse contact cases. *Family Violence Family Law Brief* (20).
- Martinson, D. & Jackson, M. (2016). Risk of future harm: Family violence and information sharing between family and criminal courts. *Canadian Observatory on the Justice System's Response to Intimate Partner Violence*. <https://www.fredacentre.com/wp-content/uploads/Observatory-Martinson-Jackson-Risk-Report-FINAL-January-14-2016.pdf>

- Martinson, D. & Jackson, M. (2017). Family violence and evolving judicial roles: Judges as equality guardians in family law cases. *Canadian Journal of Family Law*, 30(1).
- Martinson, D. & Jackson, M. (2021). The 2021 Divorce Act: Using statutory interpretation principles to support substantive equality for women and children in family violence cases. *Family Violence Family Law Brief* (5).
- Martinson, D. & Raven, R. (2021). Implementing children's participation rights in all family court cases. *Family Violence Family Law Brief* (9).
- Meier, J. S. (2009). A historical perspective on Parental Alienation Syndrome and parental alienation. *Journal of Child Custody*, 6(3-4), 232-257.
- Mendoza-Amaro, A. & Bernet, W. (2020). Statement of the Global Action for Research Integrity in Parental Alienation. *Research Gate* (preprint).
https://www.researchgate.net/publication/344210817_Statement_of_the_Global_Action_for_Research_Integrity_in_Parental_Alienation?channel=doi&linkId=5f67fcf092851c14bc8bc6f0&showFulltext=true#fullTextFileContent
- Neilson, L. C. (2018). *Parental alienation empirical analysis: Child best interest of parental rights? The FRED Centre for Research on Violence Against Women and Children*.
<https://www.fredcentre.com/report-parental-alienation-empirical-analysis-neilson-2018/>
- Neilson, L. C., Meier, J., Sheehy, E., Jackson, M., Halperin-Kaddari, R., Boyd, S., Jaffee, P., & Lapierre, S. (2019). Collective memo of concern to: World Health Organization.
<http://learningtoendabuse.ca/docs/WHO-June-2019.pdf>
- Ramzy, M. (2024). What's 'parental alienation'? Why so many feminist groups are urging Justin Trudeau to ban its use. *Toronto Star*. https://www.thestar.com/politics/federal/whats-parental-alienation-why-so-many-feminist-groups-are-urging-justin-trudeau-to-ban-its/article_959e3db2-b955-11ee-be7d-23e2258524a1.html
- Rowen, J., & Emery, R. (2014). Examining parental denigration behaviors of co-parents as reported by young adults and their association with parent-child closeness. *Couple and Family Psychology: Research and Practice*, 3(3), 165-177.
- Saini, M., Laajasalo, T., & Platt, S. (2020). Gatekeeping by allegations: An examination of verified, unfounded, and fabricated allegations of child maltreatment within the context of resist and refusal dynamics. *Family Court Review*, 58(2), 417-431.
- Sheehy, E. & Boyd, S. B. (2020). Penalizing women's fear: Intimate partner violence in Canadian child custody cases. *Journal of Social Welfare and Family Law*, 42(1).
- Silverberg Koerner, S., Wallace, S., Jacobs Lehman, S., Lee, S. A., & Escalante, K. A. (2004). Sensitive mother-to-adolescent disclosures after divorce: Is the experience of sons different from that of daughters? *Journal of Family Psychology*, 18(1), 46-57.
- UN Human Rights Office of the High Commissioner (UNHROHC) (n.d.). *Reem Alsalem: Special Rapporteur on Violence Against Women and Girls, its causes and consequences*.
<https://www.ohchr.org/en/special-procedures/sr-violence-against-women/reem-alsalem>

- UN Women (n.d.). *Ending violence against women*. <https://www.unwomen.org/en/what-we-do/ending-violence-against-women#:~:text=Violence%20against%20women%20and%20girls,from%20fully%20participating%20in%20society>
- West Coast LEAF (2024). *Single Mothers' Alliance v. BC: Taking the fight for family law legal aid to court [2017]*. <https://westcoastleaf.org/work/single-mothers-alliance-v-bc-taking-the-fight-for-family-law-legal-aid-to-court/>
- Yercich, S. (2021). *Fathers investing in fatherhood: A qualitative examination of contemporary fathering in fatherhood groups in Canada [doctoral thesis]*. *Simon Fraser University*. <https://summit.sfu.ca/item/34712>
- Yercich, S. & Jackson, M. (2023). *Fathering and fathers' rights groups: The Canadian landscape. Family Violence Family Law Brief (21)*. https://fvfl-vfdf.ca/briefs/Briefs%20PDF/Family_Violence_Family_Law_Brief-21-EN.pdf
- Zeiderman, L. (2021). *Parental alienation vs. realistic estrangement: Which is it?* <https://lisazeiderman.com/parental-alienation-vs-realistic-estrangement-which-is-it/>