**PARENTAL ALIENATION SYNDROME, A PERVERSE FALLACY**[[1]](#footnote-1)

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**Abstract**

*The terms "parental alienation" (PA) and "parental alienation syndrome" (PAS) have become part of the national legal vocabulary being used by Courts throughout the country only recently, in cases involving troubled divorces. The matter was positively valued in Brazil exactly four years ago from the enactment of Law n. 12.318, August 2010, having received almost unanimous applause, which seemed to occur in a ludicrously uncritical way, considering no other country has enacted a law on the subject and the Courts and societies of psychiatry of the traditional Western Countries consistently reject it. The already vast national literature on the subject, in its absolute majority, shows itself very favorable to law enforcement and to the position of the creator of the term PAS, the American Richard Gardner. The new law, says a silent minority, having been approved by a markedly masculine Parliament, expresses strong prejudice gender, shows antinomy and is full of vague concepts and penalties (to be applied logically, in the vast majority of cases, to women) at least reckless since these penalties have as final recipients, perversely, not the ex-wife, but precisely the children who all say they want to preserve. In Brazil, unlike that which has long taken place in Europe and the United States, denser and responsible scholarly discussion about the PA and PAS is nonexistent; this weakness is then reflected in judicial decisions.*

***Keywords:***parental alienation; syndrome; gender prejudice; maternal vulnerability; backlash.

**Resumo**

As locuções "alienação parental" (AP) e "síndrome da alienação parental" (SAP) passaram, há pouco, a fazer parte do vocabulário jurídico nacional, sendo utilizadas pelos Tribunais de todo o país só muito recentemente, em casos envolvendo divórcios conturbados. A matéria se viu positivada no Brasil há exatos quatro anos, a partir da edição da Lei n. 12.318, de agosto de 2010, tendo aqui recebido aplausos quase unânimes, o que parece ocorrer de forma burlescamente acrítica, até porque nenhum outro país editou lei acerca do tema e os Tribunais e sociedades de psiquiatria dos mais tradicionais países ocidentais a rechaçam consistentemente. A já vasta literatura nacional sobre o tema, em sua maioria absoluta, mostra-se francamente favorável à aplicação da lei e à posição do idealizador do termo SAP, o norte-americano Richard Gardner. A nova lei, diz silenciosa minoria, por ter sido aprovada por um Parlamento marcadamente masculino (os homens configuram 91,23% da Câmara dos Deputados e 85,2% o Senado da República, o que é objeto de perplexidade internacional, conforme revela o Comitê Cedaw, da ONU[[4]](#footnote-4)) – em que boa parte de seus membros se vê ali espelhada e "na pele" do devedor de alimentos aos filhos e à ex-mulher –, exprime forte preconceito de gênero, mostra-se antinômica e se encontra repleta de conceitos vagos e sanções (a serem aplicadas logicamente, na imensa maioria dos casos, às mulheres) no mínimo temerárias, por terem estas como destinatários finais, perversamente, não a ex-mulher, mas justamente os filhos que todos dizem querer preservar. No Brasil, ao contrário do que há muito se dá em Europa e nos Estados Unidos, inexiste discussão acadêmica mais densa e responsável acerca da AP e da SAP, fragilidade essa que se vê, então, refletida nas decisões judiciais.

**Palavras-chave:** alienação parental; síndrome; preconceito de gênero; adultismo; vulnerabilidade materna; *backlash*

**1.** {0>**Alienação Parental (AP).**<}0{>**Parental Alienation (PA).**<0}{0>**A popularização do conceito por Richard Gardner.**<}0{>**The popularization of Richard Gardner’s concept.**<0}{0>**A "*síndrome*" da alienação parental (SAP)**<}0{>**The Parental Alienation “Syndrome” (PAS)**<0}

{0>O fenômeno descrito como alienação parental (AP) ocorre quando, na definição de Stahl, "*uma criança imotivadamente rejeita um dos pais devido à influência do outro genitor, o que se verifica com a contribuição da própria criança*".<}0{>The phenomenon described as parental alienation (PA) occurs, according to Stahl's definition, *"as a child unreasonable rejection of one parent due to the influence of the other parent combined with the child´s own contributions.”* [[5]](#footnote-5).<0}

{0>Nominado por alguns como "*Medea syndrome*", "*divorce related malicious mother syndrome*", "*parental alignments*", "*programmed and brainwashed children*", "*overburdened children*" *parental alienation disorder* (PAD)", ou "*parental alienation relational problem* (PARP)"*,* o termoganhou notoriedade no ano de 1985, com a publicação de trabalho seminal de Richard Gardner, médico e perito norte-americano.<}0{>Called by some as "Medea syndrome"[[6]](#footnote-6), "divorce related malicious mother syndrome", "parental alignments", "programmed and brainwashed children", "overburdened children"[[7]](#footnote-7), "parental alienation disorder (PAD)", or "relational parental alienation problem[[8]](#footnote-8) (PARP)", the term`s notoriety came in 1985, with the publication of a seminal work by Richard Gardner, an American physician and expert[[9]](#footnote-9).<0}

{0>Gardner é tido como responsável por cunhar o termo inglês PAS, entre nós conhecido como SAP – Síndrome de Alienação Parental –, "*expressão que se refere à "programação" ou à "lavagem cerebral" promovida por um dos pais da criança a fim de denegrir e vilipendiar o outro genitor, acrescentando elaborações "construídas" pelo próprio infante, e assim justificar sua resistência a manter uma relação com tal genitor, que é definido como alienado*".<}0{>Gardner coined the English term PAS[[10]](#footnote-10), in Brazil known as SAP – Síndrome de Alienação Parental -, “an expression that refers to "programming" or "brainwashing" done by one of the child’s parents to denigrate and vilify the other parent, adding constructed elaborations by the child himself, thus justifying its resistance to maintain a relationship with the parent defined as alienated[[11]](#footnote-11).” <0}

{0>De acordo com Gardner, oito pontos compõem tal "síndrome":<}0{>According to Gardner, eight factors constitute this “syndrome”:<0}

{0>1º. uma campanha de difamação contra o genitor-alvo;<}0{>1º a slander campaign against the targeted parent;<0}

{0>2º. racionalizações frívolas para a crítica da criança em relação ao genitor-alvo;<}0{>2º frivolous rationalizations for the child's criticism towards the targeted parent;<0}

{0>3º. ausência de ambivalência (valores iguais);<}0{>3º absence of ambivalence (same values);<0}

{0>4º. o fenômeno do pensador independente, isto é, afirmações contundentes de que a decisão de rejeitar o genitor é só dela (a criança);<}0{>4º the phenomenon of the independent thinker, that is, blunt assertions that the decision to reject the parent is theirs alone (a child's decision);<0}

{0>5º. apoio reflexivo do genitor alienador contra o genitor-alvo;<}0{>5º reflective support of the alienating parent against the targeted parent;<0}

{0>6º. ausência de culpa do genitor-alvo acerca dos alegados maus-tratos ou exploração (sexual) supostamente sofridos pela criança;<}0{>6º absence of guilt on the part of the targeted parent about the alleged maltreatment or (sexual) abuse allegedly suffered by the child;<0}

{0>7º. cenários, frases e situações emprestadas do genitor alienante e;<}0{>7º scenarios, phrases and situations borrowed from the alienating parent and;<0}

{0>8º. espraiamento da animosidade da criança em direção à família estendida do genitor-alvo[[12]](#footnote-12).<}0{>8º spreading of the child's animosity toward the targeted parent's extended family[[13]](#footnote-13).<0}

**2. Divergences pointed out by international science: is there a syndrome[[14]](#footnote-14)? The lack of scientificity of the PAS theory**

Contrary to the apparent unanimity enjoyed by PA and PAS in the Brazilian legal environment (academy and courts), its real existence as a syndrome, categorization, concept and possible treatments have been the subject of intense, serious and heated discussion in countries with a long scientific tradition, such as the United States, England, Spain, Portugal etc.

According to Rand[[15]](#footnote-15), there are two main groups to which the critics of PAS (and the concept of parental alienation) affiliate with: (1) the first group is mainly composed of mental health professionals, divorce researchers and other people who work with family law, for which all matters involving custody and visitation [of children] are difficult. (...) According to these critics, the two most controversial issues in the PAS debate are Gardner's emphasis on the causal role of the alienating parent and the seemingly radical interventions that follow, such as the shift of guard in favor of the parent who is said to be alienated (supposedly "hated" by the child). (2) The second group identifies themselves as advocates for abused women and children. (...) For these critics, Gardner mistakenly equates issues involving false allegations of sexual abuse with the definition of PAS. According to this line of thought, the Courts have uncritically accepted the link promoted by Gardner between PAS and allegations of sexual abuse. In the reading of the defenders of this line, the Courts, when using the Gardner doctrine, end up acquitting the aggressor of the crime of sexual abuse committed against the child and penalizing the protective mother, giving custody, precisely, to the transgressor, thus placing the child in danger[[16]](#footnote-16).

Some authors present a frontal divergence from Gardner's "theory", revealing its shortcomings. Thus, e.g., Bruch presents five points of SAP inconsistency. First, he points out, Gardner confuses the child's reactions to divorce (and the high conflict surrounding the parents) with psychosis. In doing so, he is unaware of the anger of parents and children, a sign of behaviour that is totally predictable after separation/divorce. Second, as a result of this initial error of perspective, he exaggerates Gardner's hypotheses in which false allegations occur or in which alienating children and parents unite against the alienated parent to destroy the parent-child relationship. For Gardner, in the context of divorce, allegations of sexual abuse are generally false, which is without any scientific foundation and, on the contrary, it has been shown that such accusations, in general, are pertinent. Thirdly, by completely withdrawing attention from the alleged sexual abuse committed by the aggressor, PAS promotes a new exposure of the child, as it ends up leading to the assumption that the protective parent is lying in order to sabotage the child's feelings towards the aggressor (alienated). Next, Gardner believes that in the most serious cases a child's relationship with the alienated/rejected parent will be irreparably damaged, probably forever, unless immediate, drastic measures (transfer of custody, isolation of the parent and deprogramming/reverse brainwashing) are taken. Here, too, reliable sources reveal that his theory is at least exaggerated, as the bonds, even in families with a history of violence, remain together and tend to come up in terms when children grow old. Finally, the extreme solutions proposed by Gardner proved inadequate for putting children at risk. Investigative reports, for example, confirmed the occurrence of numerous cases in which the Courts decided to transfer the custody of the child to known or probable abusers, denying the protective parents any contact with the children[[17]](#footnote-17).

Gardner was not concerned about the serious psychological damage inflicted on the mother and children in the face of aggression by the father. It seems absurd, but the creator of the expression PAS would have advised parents (men) to beat their own children if they complained about "the rejected father", say his opponents[[18]](#footnote-18).

The debate on the subject really became fiercer when the attempt of some to include PA as a "syndrome" in the DSM-5 (Diagnostic and Statistical Manual of Mental Diseases, Fifth Edition)[[19]](#footnote-19) and ICD-11 (International Classification of Diseases, Eleventh Edition)[[20]](#footnote-20).

There was, in particular, a reaction from the international scientific community (notably psychiatric) regarding the inclusion of PA (or PAS) as a mental disorder with the DSM-5, and this was due to two main reasons: first, as a result of the possible stigmatization suffered by children whose parents face a troubled divorce and, second, because of the likely malicious use of their diagnosis in lawsuits that have a high degree of litigation between the parties.

The American Psychological Association was one of the many and important medical entities that vehemently expressed opposition to the inclusion of PA in the DSM, highlighting the unequivocal antagonism of the medical-scientific circle to its adoption as a diagnosis/syndrome, due to the lack of research and evidence (empirical, scientific or clinical) about the issue (PA and PAS):

*"One of the criticisms presented to our purpose was the argument that there is not enough research for PA, PAS, parental alienation disorder (PAD), or parental alienation as a relational problem (PARP), to be considered a diagnosis in the DSM or ICD. This criticism is reflected in the statement published by the American Psychological Association: "The American Psychological Association has no official position on "parental alienation syndrome"...there is no evidence in the psychological literature of a diagnosable parental alienation syndrome. ... In the three articles under review, Walker and Shapiro wrote: "There is no ... body of scientific, empirical, or clinical literature to support the construction of PAD" (Ref. 5, p. 279). Likewise, Houchin et al. said: "There continues to be a paucity of scientific evidence that PAS (or PAD) should be a psychiatric diagnosis" (6 Ref., p 128). Pepiton et al. stated: "This book is composed of mostly unsubstantiated anecdotal opinion and reports... The book completely fails to provide any documentation concerning empirical research supporting such a condition or diagnosis and instead proves to be a person's long diatribe which promotes its own agenda only with anecdotes and unscientific references (7 Ref., p 252)".*

In the same sense - and equally forceful and contrary to the clinical and legal use of PAS - the Spanish Association of Neuropsychiatry was positioned:

*"In recent years, in Spain, as in other neighboring countries, court decisions have infiltrated, under the supposedly scientific guise of PAS, arguments for a change of guard or other legal actions with enormous repercussions in the life of the child and their family, arguments these, however, which are not accepted by the vast majority of professionals in the field of mental health. We believe that the success of the term (PAS) in the judicial field is due to the fact that it allows a simple (and simplistic) answer to a serious problem that concerns us and it saturates family courts by providing pseudo psychological or pseudoscientific arguments (Escuero, Aguilar, and Cruz, 2008a, b) to lawyers for those parents who discuss custody of their children. This explanation may help us to understand why the expression (PAS) has been accepted, despite the lack of rigor, without any questioning. The current risk that such a "construction of reality" also infiltrates in international diagnostic systems, such as the DSM V, has made associations and professionals from different countries to be against this hypothesis. (...)PAS, as Gardner invented it, has no scientific basis and its application by the Courts entails serious risks"[[21]](#footnote-21).*

In fact, contrary to what those who believe in Gardner say, the inclusion of PA in the DSM (as a "syndrome", which is now considered PAS), will not facilitate the research on the subject, as there are no scientific studies (truly scientific, with follow-up protocols, hypothesis testing, inquiry, debate with the scientific community, etc.) that prove or suggest that the imposition on the child of living with the rejected father improves their mental health[[22]](#footnote-22).

Opponents of the "theory" also say that the motivation of those who advocate for the recognition of the existence of SAP is often due to hidden personal interests (promotion, money, resolution of personal situations) and, finally, that Richard Gardner has spent his life pursuing self-promotion by self-publishing his own work. They argue, for example, that PAD (parental alienation disorder) was "designed" for use in high-conflict divorce cases and that possible financial motivations that might influence the positions taken by those engaged in the debate should be examined (coming to point of stating, acidly, that in relation to PAS, one should "just follow the money trail")[[23]](#footnote-23).

Gardner's countless divergent points that discredit the testimonies and reports produced by him in court, and it is common for Magistrates to disregard his work (and the theses that support the PAS), when they state Paul J. Fink (one of the former presidents of the Association Psychiatry), for example, that PAS, as a scientific theory, has been decried by serious researchers across the United States, concluding that "judged on his merits alone, Dr. Gardner must be a pathetic footnote or an example of poor scientific standards"[[24]](#footnote-24).

Also in Argentina, the "theory" of Gardner (PAS) has been resolutely and intransigently repudiated, since his work, permanently questioned by the scientific community, is not based on standardized investigation methods (and therefore they cannot be inquired), nor it was submitted to empirical validation studies. And this is proved by the fact that his works were not accepted for publication in qualified scientific journals. In addition, all of his books were issued by a publisher owned by him[[25]](#footnote-25).

PAS, says the *Revista de la Asociación Española de Neuropsiquiatria*, is devoid of any scientific content, corresponding to Gardner's own description based on his personal opinions and self-citations. Thus, for example, in one of his articles considered "seminal", of the 16 bibliographical references, 15 corresponded to self-citations of the author's own works[[26]](#footnote-26).

Respected scholars have gained, however, that despite all the evidence about the fragility of Gardner's "theory" (the World Psychiatric Association even says it is an unscientific "invention" intended to mask child sexual abuse, to the point of many medical associations claim that PAS is nothing more than a myth), it is commonly used by lawyers as an argument in the dispute involving the custody of children, even when revealed by technical reports that the father is sexually abusing the child[[27]](#footnote-27).

And this phenomenon, it is noteworthy, is also occurring in Brazil, as will be seen in a specific topic.

At the international level, however, the condemnation of what has been called Gardner's pseudoscience has gone so far as to qualify as unethical the use, in reports and expertise by health professionals, of the expressions PAS and PAD (parental alienation disorder), despite the modification of the PAS concept over the years, once it kept its central premises in the PAD, its euphemistic successor. It is important to note that Gardner himself, before committing suicide, proposed the removal of the term "syndrome", which seems ignored by his minions[[28]](#footnote-28).

**3. Questions about gender prejudice, adultism and vulnerability of the custodial mother. Backlash?**

International bodies for the defense of women and children have long warned about the practice of gender bias (generally against women), evidenced in cases involving accusations of domestic violence and parental alienation. They denounce that the Courts of Justice (including the North American ones), even today, tend to minimize accusations of violence, whether physical, sexual or psychological, to the detriment of women and children, favoring aggressor fathers and husbands. They alert to the still fragile position of women, usually at a financial and emotional disadvantage towards their ex-husbands and partners, which ends up being decisive in discussions involving divorce, custody and alimony.

Thus, the literature lists the numerous advantages that the aggressor has in the legal dispute about the custody and alimony of children, as he will use, if necessary, arguments related to parental alienation, highlighting (1) its normally greater economic-financial capacity to pay for a lawsuit (while, paradoxically, he claims not to be able to pay adequate child support), (2) the marked advantage over his’ victim in psychological tests, since they (the child/children) and/or the mother) is the only one who has been traumatized by the abuse, (3) the ability to manipulate legal experts (usually, given the scarcity of human and financial resources, the staff of court assistants is restricted, at best hypotheses, to social workers and psychologists, overwhelmed with urgent demands), who thus become sympathetic to the aggressor, and (4) his ability to manipulate and intimidate children regarding statements made to experts (like social workers, psychologists)[[29]](#footnote-29). Many of the aggressors, it is said, are skilled manipulators, presenting themselves as caring, cooperative parents, pointing to the other parent (the victim) as a conflict inciter, impulsive or overly protective[[30]](#footnote-30).

Indeed, one of the main arguments used by aggressor fathers, when faced with "protective" mothers, is that they are alienating their children. The National Organization for Women Foundation denounces that the accusations of parental alienation disorder made by abusive parents (ex-husbands) are clearly intended for the Courts to disregard the maternal complaint of sexual or physical abuse committed against the child and, with this, they seek to "negotiate" alimony and shared custody of children[[31]](#footnote-31).

Gardner's shrewd critics note that, in recent years, the use of the term PAS has been dramatically extended to include all cases in which the child refuses to visit the noncustodial parent, even if the child’s refusal or resistance has as an origin a suspected case of sexual abuse. None of this apparently mattered to Gardner, however, as his goal was to verify that the alienating parent (?) and the child were lying, not whether the other alienated parent (?) was mendacious or had a behaviour that could explain the aversion to the child. The "treatment" prescribed by Gardner for this case consisted of transferring custody of the child - from the "alienating" parent to the rejected parent - in order to "deprogram" the infant (he also used the expression "reverse brainwashing")*[[32]](#footnote-32)*.

In fact, victims of domestic violence (women and children) more often show themselves as less emotionally stable, since they are precisely the ones who suffer the psychological effects of the trauma of abuse, having, in most cases, even less financial capacity (specially regarding to housing)[[33]](#footnote-33).

Gardner's writings, including on PAS, say that nominated authors are clearly discriminatory and prejudiced against women. This gender bias infects the syndrome, proving to be a powerful tool to discredit the credibility of women who denounce child sexual abuse. This is because PAS perpetuates and exacerbates gender discrimination against women, overclouding rather than enlightening this difficult topic[[34]](#footnote-34), since it ideologizes the concept, separating the right to coexist from the will of children. That is, there is a strong emphasis on the rights of the father, at the expense of the child protection rights that may be exercised by the mother[[35]](#footnote-35).

In this context, authoritative scientific research reveals that litigation can itself become a vehicle for expanding and maintaining the control and authority practiced by aggressors and child abusers in the face of their victims. Although there is no evidence of a higher incidence of false accusations of child abuse and domestic violence in the custody/visit dispute, there is, on the part of the justice system operators (judges, lawyers, prosecutors, civil servants, experts), excessive distrust about the veracity of such accusations made by the victims (perhaps even due to the unimaginable brutality of the acts), which revictimizes them again, with the approval or connivance of the justice system itself[[36]](#footnote-36).

According to specialized literature, 97% of mothers claim to ignore or minimize the Courts allegations of sexual abuse committed by the parent-aggressor against the child, being they (the mothers) punished for trying to protect their children, while significant 45 % of mothers say they are labeled as having PAS. And more and more frighteningly: although false allegations of sexual abuse by mothers in the course of child custody lawsuits are not common, lawyers tend to advise women not to raise allegations of sexual abuse, even if real ones, in order not to jeopardize their chances of remaining in child custody. Thus, mothers are advised by their lawyers and by the judge not to oppose the visitation of their fathers, even when they feel insecure about it or even in the face of their children's protest[[37]](#footnote-37).

Moreover, according to the position of the American Psychological Association:

“In this context, the nonviolent parent may be a disadvantage, and behaviour that would seem reasonable as a protection from abuse may be misinterpreted as a sign of instability. Psychological evaluators not trained in domestic violence may contribute to this process by ignoring os minimizing the violence and by giving inappropriate pathological labels to women´s responses to chronic victimization. Terms such as ´parental alienation´ may be use to blame the women for the children´s reasonable fear or anger toward their violent father (p. 100)" [[38]](#footnote-38).

The gender prejudice that exists there has been strongly criticized by the Spanish Association of Neuropsychiatry, which clearly and vociferously manifests itself against the clinical and legal adoption of PAS. Indeed, the "gender bias" shows itself wide open in the origin of PAS. Spouses "alienating mothers" are, in the view of their advocates, women who hate men, and any attempt by women to rebel involves the risk of withdrawing custody of their children, which constitutes eventual maternal resistance in yet another proof of alienation and to the "brainwashing" which the child is submitted to. Any protest characterizes the diagnosis invented by Gardner, as it constitutes (the protest) a sample of the symptoms of the "brainwashing" used by the mother to distance the child from the father. As conceived, PAS can never be refuted, because any refutation movement alone confirms the diagnosis, "the truth". This is a perverse gear, as any action aimed at protecting the other parent's child becomes a lie of the mother and a new attempt at "brainwashing"[[39]](#footnote-39).

Indeed, numerous institutions have denounced the filing of litigation aimed at changing the custody, filed under the allegation of PA or PAS but which, in fact, seek to force agreements regarding assets, visitation and alimony.

Mothers, in general, have among their greatest fears the loss of custody of their children. On the other hand, those parents who require them as a bargaining tactic (goods, food, visits) have nothing to fear or lose. In fact, contrary to public perception, men are very successful when they seek the Judiciary with the sincere intention of obtaining custody of the couple's children, namely when the mother does not have the conditions to do so. On the other hand, research reveals that the uncritical and widespread adoption of the PAS has implied the systematic violation of human rights by the Courts themselves, including the failure to protect women victims of violence and children who are victims of abuse, giving them discriminatory and degrading treatment and denying them the "due legal process"*[[40]](#footnote-40)*.

Another important topic regarding the disregard/mitigation of manifestations of opposition by children to visitation - taking as a rule the unfounded denial - as a result that parental alienation enlightens, in the academia, in addition to discussions about gender prejudice and the greater vulnerability of custodial mothers, is the debate about two other phenomena: adultism and what is known as backlash.

About adultism:

"The system of beliefs that, introducing a rigid structure of hierarchies between adults and children, understands these (children) as an object of training, and not as subjects of rights. The 'parental alienation syndrome' presupposes boys and girls as passive entities susceptible to being shaped in their thoughts and feelings by malicious adults who 'introduce' ideas to them without telling their own perception of reality. This childhood image does not just go in the opposite direction of all scientifically validated studies within evolutionary psychology, but it profoundly contradicts the spirit of the International Convention on the Rights of the Child"*[[41]](#footnote-41).*

Corsi also denounces a strong tendency to backlash[[42]](#footnote-42), the well-known conservative movement, driven by mummified church factions and right-wing politicians, intolerant of the advance of the rights claims of traditionally marginalized sectors, such as women, boys and girls.

In fact, it is a political movement that was born as a response to the achievements of feminism in the recognition of women's rights and in the visibility and public sanction of gender-based violence. In other words, it stands out as a reaction to maintain the status quo promoted by the patriarchal ideology, using for this the questioning of the guarantees granted to the female gender. This is an extreme reaction, a product of the dissatisfaction of certain groups of men with the changes produced by feminism; not only regarding the traditional role of women but also the discussion concerning child sexual abuse.

In these cases (of child sexual abuse), the literature says that in the 1990s, especially in the United States, reactionary ideological positions in defense of children's human rights were consolidated, with two distinct groups: (1) the first group that integrates backlash includes parents who have been accused of committing sexual abuse against their children, some experts (especially in the private arena), and divorced parents. In this group there are also some lawyers who receive large sums of money to gather bibliography to support their arguments and allow them to defend the abusers; (2) the second group that integrates the backlash is composed of some experts who gather some non-scientific literature (standard arguments) but see these arguments as scientific[[43]](#footnote-43).

The backlash has expanded through several derivations, such as the emergence of associations of separated parents, PAS and the false memory syndrome (FMS). The latter incurs in the judicial sphere of many countries and generates enormous confusion in cases of sexual abuse, thus culminating, on many occasions, in the acquittal of sexual offenders.

While it was a question of hypotheses involving excluded socioeconomic sectors, the reaction was not felt. But it begins to acquire virulence when the reported cases start to involve people close to the center of power (church hierarchy, businessmen, politicians). And it is to these sectors that Gardner's pseudoscientific theories have fit like a glove. It allows them to justify their abuses, counterattacking with allegations of false allegations, insisting on the concept of "parental alienation" (which in reality is limited to a "maternal alienation") disqualifying the testimony of boys and girls about violations in which they are victims. Neither more nor less than a reaction tends to conserve a power that they perceive as waning. And this unspeakable setback is also in full force in our legal system with regard to "protective parents", those who act to preserve their children from abuse, whether physical or sexual. Around this, and to demoralize them, the myth was built that mothers present false allegations of sexual or physical abuse (or domestic violence), which would happen, curiously, in millions of cases, and only with the intention to deprive parents of living with their children, alienating them[[44]](#footnote-44).

**4. Reversal of custody: punishment for the "alienator" or for the child?**

Walker, Brantley and Rigsbee[[45]](#footnote-45) warn that the unconditional acceptance of PAS and the desire for "severe punishment" to alleged alienators, including the reversal of guard, end up disregarding the impact ("serious damage", they say) of such measures, to long-term, in the development of children, with no scientific evidence that in cases of cross accusations (sexual abuse vs. alienation) of the alleged alienator's position is the cause of the child's disinterested behaviour in relation to the other parent.

The Spanish Association of Neuropsychiatry denounces what Gardner himself called "threat therapy": *"The therapy that Gardner proposes to end the supposed 'programming' and which he himself called 'threat therapy' closes any way out for the victim child of abuses of escaping the feared situation. Threatening to prohibit or deny visits to the other parent (usually the mother) with whom the child has the closest bond forces the child to accept the relationship with the litigious parent"[[46]](#footnote-46).*

Even the most ardent defenders of Gardner's theses advocate that further study (quantitative research) is needed in order to reach a consensus on the diagnosis of PAS. They recognize that the issue is too delicate and, therefore, only based on strict criteria and on the existence of a body of professionals trained in its identification, it is possible to avoid/identify its malicious use. The consensus on the diagnosis is the correct way to prevent the misuse of PA allegations, also because it is relatively easy for parent-offenders to state that their children have been manipulated by the other parent since there is no uniform definition of PA. In addition to this is the fact that mental health professionals do not have sufficient experience and knowledge regarding the diagnosis of PA[[47]](#footnote-47).

Against the transfer of custody of the child to the parent accused of abuse and the cessation of visits to the parent appointed as the promoter of alienation (pillars of Gardner's therapy) even those who defend the "theories" of PAS are positioned, and some emphatically, call the whole of Gardner's work *junk science* (*pseudoscience*)[[48]](#footnote-48).

There is no one who doubts that the preponderant interest must always be that of the child, which should not be confused with the need for affection of the parents themselves[[49]](#footnote-49).

Therefore, in cases of a troubled divorce involving children (visiting, alimony), it is absolutely essential and necessary to carry out a social study and psychological evaluation. Also, in some cases, psychiatric evaluation should be performed for all parts involved, seeking to determine the real reasons to support the accusation of parental alienation, that is, whether one is faced with a true PA or the child's legitimate and momentary lack of interest in living more closely with the non-guardian parent.

Hence the distressing warning proposed by the AEN – Asociación Española de Neuropsiquiatria[[50]](#footnote-50):

1. The complex and often violent, or at least highly conflictive, family dynamics that arise in judicial litigation where custody of a minor is discussed must be studied specifically, that is, on a case-by-case basis.

2. The mental health professional cannot occupy the role of telling the truth or falsehood of a matter, as this corresponds to the judge. But, at the same time, let us not forget the enormous potential for damage caused to children and adults deprived of any possibility of defense (since being "diagnosed" with PAS, every attempt at defense becomes self-confirmation of the diagnosis attributed to it).

3. The arguments that mental health professionals bring to the court records must be based on scientifically contrasted literature and not on mere repetitions of simplistic recipes from one case extrapolated to another.

4. There is a dissemination in professional circles of mental health and justice about how this supposed "syndrome" (PAS) was constructed, the serious consequences of its application and the recommendations for coordinated work between mental health professionals and of justice.

**5. The need for inquiry about the real motivation to justify the lack of closer coexistence between the child and the non-custodial parent.**

According to Corsi's list[[51]](#footnote-51), the child's refusal to have a relationship with one of the parents acquires authentic transcendence at the moment they express themselves in a Court because then the legal and judicial mechanisms come into operation. That's when the "I don't want" is interpreted as unfounded and absurd. Simply because it expresses a feeling of rejection and does not translate into a well-founded list of reasons that are not typical of the psychological functioning of children and adolescents. Again, for the doctrine of "parental alienation", children are not to be believed, but it is fair to assume that there is "something behind" their decisions.

In particular, that is, regarding the natural preferences shown by children in relation to parents (affinities, gender, personality), it should be remembered that there is a wide variety of explanations that need to be correctly explored, including the very real possibility that the children are responding to the non-custodial parent based on their own experiences*[[52]](#footnote-52)*.

Furthermore, one cannot lose sight of the fact that the fundamental claim of Gardner's theory (that the maternal accusations of sexual abuse committed by the father are, for the most part, false) is not supported by any scientific evidence. On the contrary, as Jones & McGraw demonstrate, false reports of sexual abuse occur in no more than 2% of cases[[53]](#footnote-53).

It cannot be ignored, finally, that other factors - other than the "alienation" promoted by the "alienating" parent - should be taken into account in the "mental" evaluation of the child, especially when during the parents' divorce, whether it is more or less troubled. The problem, it seems, is mistakenly posed by those who believe in Gardner’s theories, who seek to treat/diagnose a child as having a mental illness (PAS) due to the behaviour of their parents[[54]](#footnote-54).

**6. False allegations of parental alienation**

While much is said about parental alienation (PA) – terminology, concepts, diagnosis and treatments – little or nothing is mentioned about the false accusations of parental alienation and the terrible consequences of this practice.

False allegations of parental alienation, according to Turkat[[55]](#footnote-55), can be defined as the persistent and false (mendacious) statement made by one parent (the father, as a rule), accusing the other (the mother, usually) of "gambling" the children "against" the one (the father). The author presents important considerations regarding the clinical description and reasons that normally support FAPAs (false allegations of parental alienation)[[56]](#footnote-56). First, says Turkat, false claims of parental alienation (FAPAS) can come in many forms, but in the end, the result will always be the same, as the father tells the mother that she is "poisoning" the children, causing them to children reject him, through the imposition, for example, of "false memories". Thus, one must have great concern with the FAPAS practitioner, since it is not normal to affirm that the mother, falsely and irresponsibly, affirms that the father committed sexual abuse against her children. Secondly, he notes that the motivations that generate FAPAs are yet to be scientifically studied, but finds it useful to divide the accusations into two categories: (1) the first, formed by those who believe that alienation has occurred, regardless of what the other does (the author says that it is an illusion, a delusion) and (2) the second, formed by those who know that the accusation is unfounded. The latter, he points out, are malicious and seek to achieve, with the false accusation, some hidden objectives such as offending the other parent, modifying the rules for visiting children, depriving children of contact with the parent falsely accused of causing alienation, taking advantage in litigation (property, pension, visitation), concealing their own inappropriate behaviour and increasing the sense of control over the ex-wife's life through the children.

And, in fact, the consequences of FAPAs are enormously negative, as they imply imposing conflicts of loyalty on children, exposing them to unnecessary and irreparable damage in their relationship with their parents, forcing them to endure painful separations from a loving parent, from whom they actually like it, all based on an evil lie. The falsely accused parent may not bear the immeasurable emotional pain, thereby compromising the quality of the relationship with the estranged child. Furthermore, he will have the accused falsely of proving his innocence[[57]](#footnote-57).

In addition, serious and recent research reveals that[[58]](#footnote-58), often, it is not the mother accused of alienating, but the opposite, that is, the abuser-father is the one who seeks to sabotage the mother's relationship with the children. And a situation such as the one described above can constitute a true legal strategy, that is, when the child resists visits, the mother is accused of promoting parental alienation[[59]](#footnote-59), forcing her to reach an agreement.

**7. PAS in Brazil: law and justice**

As already indicated in the preamble of this article, very few countries have affirmed the use of PAS by law or densified in their jurisprudence, either because of its lack of scientific credibility, or because of the serious consequences that its uncritical and malicious use can generate in families and, above all, in children.

So much so that the Courts of England and Wales, for example, expressly rejected it, while the Canadian Department of Justice, after some initial enthusiasm and hesitation, finally advised against its use. Medical-scientific and mental health societies throughout the civilized Western world, including the WHO – World Health Organization, the APA – American Psychological Association, the American Psychiatric Association and the combative AEN – Asociación Española de Neuropsiquiatria, strongly condemn it.

Brazil, however, rushing to go against the grain of the history of world science and, thus, justifying its stubborn, proud and boastful backwardness, had a law issued on something that does not exist (this syndrome); since then, PAS has become an irrefutable truth, proving to be necessary, to rule out any possibility of harm to the mainstream, to spoil and disqualify those who question it for lack of minimal scientificity and seriousness.

The Brazilian law does not use the term PAS in its text, euphemistically giving the impression of scientific neutrality (as associations of psychiatry and psychology around the world deny, due to the absence of evidence and inquiry, that it is a "syndrome").

In the justification of the bill[[60]](#footnote-60), the legal non-distinction between AP and SAP is evidenced, incorporating a distorted view about the "tyranny" of the guardian (or was it supposed to be guardian?), thus revealing the bibliography invoked therein (in all texts the expression is used "syndrome" (*sic*)) an unmistakable scientific mistake. They also show the informal sources indicated blatant gender prejudice, which is enough to observe the individual suggestions that helped in the formatting of the law: Associations “Parents forever”, “Pai Legal”, “Parents for Justice”, among others.

The law that deals with PA (Law n. 12.318/2010) in the country strictly follows the Gardnerian booklet, masterfully applying the "threat theory" (change in custody of the child, prohibition of contact with the alienating parent (?), obligation to live with the non-custodial/alienated parent (?) even against the child's will, in order to "brainwash" them. However, it did not miss the opportunity to improve the perversity inflicted against women and children, thus practicing evident discrimination of genre, when it unquestionably deals with "maternal alienation", lightly allowing that evidence (?) – Articles 4 and 5 – base very fearful judicial decisions already in the injunction, as eg. STJ, when applying to the "alienating" parent (?) (the woman) an extensive list of "punishments", ranging from a warning to suspension of parental authority, passing through the expansion of the family coexistence regime in favor of the alienated parent (?), by the stipulation of a fine, psychological monitoring, change of custody and precautionary fixation (!) of the child's domicile.

The intimidating character of the precept is evident and serves as the bargain denounced by good science, as we have abundantly illustrated here. Moreover, in extreme cases, the protection of parents who sexually abuse their children is one of the cardinal points of the Gardnerian "theory".

Brazilian regulations irrefutably threw open the doors to savagery, to the backlash, that social countermovement that seeks to legitimize manifestations of violence against women and children[[61]](#footnote-61), by allowing the summary disqualification of the victims' discourse (mother and children) as a result of the ease promoted by the “legal” clues. As mentioned by the scientific literature, any protective-maternal reaction against abuse (sexual or moral) practiced by the father embodies the paternal counterargument of parental alienation devised by the ex-wife, an indelible and stigmatizing mark that will accompany her forever and, thus, it will discredit any accusation made by her against the aggressor.

The legal text also institutes adultism by considering only the desires and emotional needs of the parent, without worrying about the sincere feelings expressed by the children amidst the conflicts experienced by the parents, treating children as "passive entities", susceptible of all kinds of maternal manipulation, as if they did not have their own perception of reality.

The Brazilian first instance judges, notably, despite the known and regrettable lack of qualified physical and human structure to assist them, have shown prudence and caution in applying the new law, not least because they are the ones who experience the real dramas in the forums (and non-fictional, documentary) involving families in conflict. And it is their role to carefully reflect (and decide) when discussing the custody of the couple's children, especially in the face of "advanced theories" devoid of any scientific support, such as PAS. Expert evidence (psychological, psychiatric, social studies, etc.) is often useful to judges, but they must "do their homework", not relinquishing their primary responsibility, relying uncritically on the expert's view, since in areas such as psychology and psychiatry, for example, there is (and is accepted) a wide range of points of view, approach techniques, understanding of the problems and therapeutics. That is why it is said that the judges are responsible for asking the "hard questions", and that this skill should be used in the resolution of family conflicts[[62]](#footnote-62).

When checking the website of STJ[[63]](#footnote-63) one can see that there are only three judgments involving the expression "parental alienation" (PA), but none of them address the core, which is limited to deciding two issues: the appropriate appeal to the Court and the conflicts of the jurisdiction (one in motion for clarification).

However, in terms of monocratic decisions, we found 58 occurrences involving PA and five episodes in which the expression PAS was used. In chronological terms, the first decision in which the PA was cited dates from 2009, before the enactment of Brazilian law n. 12318/2010. The year 2014 (until the end of August) suggests an exponential increase in cases where PA is discussed, with 28 records of the term.

A qualitative analysis of such monocratic decisions seems to indicate that the fears voiced by the countless and prominent opponents of the Gardnerian PAS are being unambiguously confirmed, including by the application of the "threat theory". Thus, for example, in 11 monocratic decisions, PA is raised as a matter of criminal defense (child abusers claim to have implanted "false memories" - crimes committed against sexual dignity, especially in the face of vulnerable people - by mothers with the sole purpose of to harm them). Almost all of the decisions corroborate the gender discrimination practiced against women, including the granting of the extension of visits to the father as a precautionary measure, without any study or technical report to support it, being enough to justify such a drastic change to the father's claim and the "indications" mentioned in the law. In some cases, the mother's family power was suspended and the child's custody was handed over to the parent, with a 30-day ban on maternal visitation. In other cases, the mother was warned about the "possible" (*sic*) installation of PAS. Sometimes, the STJ is dismissed from analyzing the issue by invoking the Precedent n. 7 of the docket (proof of re-examination of evidence), which seems correct. In other cases, however, the judge immerses themselves in the evidence, without having any contact with the parties, especially with the children who will be strongly affected by the decision, disregarding the principle of "trust in the judge of the case". In several cases, the matter underlying the PA discussion is the setting of the amount of child support for children, which is in accordance with the complaints presented by the most highly regarded medical-psychiatric associations. Adultism is also present in the decisions, because although "the best interest" of the child is mentioned, on rare occasions their sincere desire was taken into account.

**8. Conclusions**

1. Separations and divorces, regardless of whether they are more or less conflicting, sometimes involve contradictory feelings such as resentment, anger, hurt, grief, pity, fear, relief, and others.

2. In many of these conflicts, the children are voluntarily or involuntarily involved by their parents, who are human beings, then, they are weakened, due to the rupture of the family bonding.

3. The consequences derived therefrom cannot be reduced to simplistic models, based on a pseudoscience that, on many occasions, covers up ignoble feelings and even sexual abuse committed against children.

4. Both PA (parental alienation) and especially PAS (parental alienation syndrome) do not enjoy any prestige in the courts and medical societies and of psychology professionals in countries with a long tradition, such as the United States, England, Spain and Portugal, for example. This is precisely because of the scarcity of scientific evidence to support their unconvincing conclusions, which is why they are labeled as pseudo-scientific. Renowned professionals from countless countries linked to the mental health area (doctors, researchers, psychiatrists, psychologists) and international organizations such as the WHO – World Health Organization, the APA – American Psychological Association, the American Psychiatric Association and the combative AEN – Asociación Española de Neuropsychiatry condemn its existence, vehemently refuting PA as a syndrome.

5. Contrary to what those who follow Gardner’s theories affirm, there are no scientific studies that prove or even suggest that the imposition of living with the rejected father improves the child's mental health.

6. Opponents of Gardner's theories point out that PAS is, in particular, an unscientific invention created to allow fathers to bargain goods, visits and food allowance with mothers, making them hostage to their desires and masking them, in the worst-case scenario, crimes of child sexual abuse carried out by the parents themselves; qualified scientific studies show that false reports of sexual abuse are very rare (no more than 2% of cases).

7. The application of the Gardnerian "theories" of PA and PAS based on "threat therapy" exposes evident gender prejudice against women, being more honest and transparent to speak of "maternal alienation" and not "parental". In addition, the accusations of parental alienation are linked in the literature to adultism and the unilateral supply of the father's affective needs, without taking into account the sincere desires that children and adolescents already have in relation to visiting and living with their parents. It is also affirmed that such "theories" are part of an authentic backlash, a well-known reactionary movement sponsored by mummified sectors of the church and politics troubled by the emancipatory achievements of women and marginalized minorities.

8. The perversity of PAS lies in the impossibility of denying it. Any protective behaviour of the mother towards her children is interpreted as a sign of instability, and any maternal resistance to paternal raptures (such as untimely visiting hours) constitutes irrefutable proof of the alienation sponsored by her and the "programming" (against the father) to which submitted to the child. Any movement of annoyance alone confirms the diagnosis.

9. Two groups of false accusers of parental alienation must be considered: the delusional, who believe they are being alienated, and the malicious, who use the argument, knowing it to be false, just to gain an advantage in the litigation.

10. In Brazil, both the PA and the PAS found fertile ground for quick and easy propagation, with a law being edited (and applied) about something that does not exist (such as a syndrome). The teachings embodied in the Gardnerian booklet (theory of threat, change of custody, obligation of the child with a non-custodial parent, "brainwashing" etc.) embraced the Brazilian law, with refinements of perversity typical of an intellectually miserable and morally disintegrated country; for that, "indications" of parental alienation were just enough, which then opened a space for an extensive punitive list, from warning (including fine) to suspension of parental authority.

11. Brazilian law not only does not hide but boasts of its intimidating nature, serving to a large extent bargains and negotiations regarding pension, goods and visitation, not to mention the weakening of mothers regarding the protection of children who are victims of sexual abuse. Gender prejudice, adultism, encouragement of maternal vulnerability and backlash are conspicuously stamped in the regulations.

12. The Brazilian Court of First Instance, even though it does not have any or almost no physical and human structure of qualified support, has been consciously prudent and cautious in applying the PA law, certainly because they, the judges, are the ones who experience in the forums of the real (and non-fictional) dramas of Brazilian families.

13. Quantitative and qualitative analysis of decisions. STJ on PA reveals the uncritical way in which the superior jurisprudence has decided the issues raised there, serving the PA and the PAS as a matter of criminal defense in cases involving the practice of acts against sexual dignity, namely in the face of vulnerable people. There was also evidence of gender discrimination in precautional matters decided without any study or technical report to support them, with visits and custody being modified in favor of the parents, all under the insipid "indicative" argument. Mothers received the judicial warning penalty for "possible (*sic*) installation of PAS", when it is known that the "syndrome" is not accepted in any part of the world. In several judgments, the real matter that underlies the discussion of PA or PAS was related to alimony or the facilities for visitation desired by the father.

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WIKIPEDIA, a enciclopédia livre. Disponível em: http://pt.wikipedia.org/wiki/ Wikip%C3%A9dia:P%C3%A1gina\_principal. Acesso em 11/8/2014.

1. This text is dedicated to the Judge of Law Edson Luiz de Oliveira, a human being of rare qualities and who so ennobles the Magistracy, present supporter and, in many ways, co-responsible for the result of our research. The final version of this essay had the generous reading and insightful observations of the Judge of Law Hélio do Valle Pereira, surely one of the most brilliant and spectacular minds that exists in the Brazilian Judiciary. [↑](#footnote-ref-1)
2. Lawyer. Postgraduate in Civil Procedural Law at CESUSC/Florianópolis-SC. Author of several articles and books published in Brazil. Co-founder of the *Summum Iuris legal* website. [↑](#footnote-ref-2)
3. Judge of Law in Florianópolis/SC. Doctor in Law from Univali/SC and from the University of Alicante, Spain. Post-doctorate at the same universities. Co-founder of the *Summum Iuris legal* website. [↑](#footnote-ref-3)
4. http://memoria.ebc.com.br/agenciabrasil/noticia/2012-02-17/pequena-proporcao-de-mulheres-no-congresso-nacional-brasileiro-e-motivo-de-preocupacao-para-onu. Accessed on 4/9/2014. [↑](#footnote-ref-4)
5. STAHL, Philip M. Understanding and Evaluating Alienation in High-Conflict Custody Cases, p. 1. [↑](#footnote-ref-5)
6. "Medea” in Portuguese, a well-known mythological character, which refers to the existence of contradictory and deeply cruel feelings. *In* BULFINCH, Thomas. O livro de ouro da mitologia: histórias de deuses e heróis. Tradução de David Jardim Júnior. 8 ed. rev. e ilustrada. Rio de Janeiro: Ediouro, 1999, p. 164. [↑](#footnote-ref-6)
7. RAND, Deirdre C. Parental Alienation Critics and the Politics of Science, p. 48. [↑](#footnote-ref-7)
8. "Parental alienation as a relational problem". [↑](#footnote-ref-8)
9. Gardner worked most of his life as a court expert in pedophilia cases, i.e., sexual abuse in which parents (men), teachers and members of religious congregations (priests, pastors, bishops) were accused. In his reports and texts, he recommended to the Court the removal of the children from the home of the "alienators" to put them under the custody of the parents pointed out as the authors of the sexual abuse. His theory provoked understandable and vehement opposition among mental health professionals around the world. Thus, in fact, Gardner's theory of parental alienation started from lawsuits involving child sexual abuse (pedophilia), which he considered the product of a kind of national hysteria. Gardner committed suicide in 2003. [↑](#footnote-ref-9)
10. PAS – PAS - Parental alienation syndrome. Gardner's linear model, in which there is a single cause (alienator) and an obvious effect (alienation), suggests that when there is a child who refuses visitation and a parent who supports such a decision, we are facing a case of parental alienation. STHAL, Philip M., Understanding and Evaluating Alienation in High-Conflict Custody Cases, p. 1. [↑](#footnote-ref-10)
11. As the original states: "Según el autor que lo inventó y le dio el estatus de síndrome "médico" (Gardner, 1985), se refiere a la "programación" o "lavado de cérebro" hecho por un progenitor sobre el niño, con el fin de "denigrar" y "vilipendiar" al otro progenitor (añadiéndose elaboraciones "construidas" por el proprio menor) y así justificar la resistencia del niño/a a mantener una relación con dicho progenitor, al cual se define como alienado". Revista de la Asociación Española de Neuropsiquiatria, vol. 30, núm. 107, septiembre 2001, p. 535-49, Asociación Española de Neuropsiquiatria, España. [↑](#footnote-ref-11)
12. BERNET, William; BAKER, Amy J. L. Parental Alienation, DSM-5, and ICD-11: Response to Critics, p. 2. [↑](#footnote-ref-12)
13. BERNET, William; BAKER, Amy J. L. Parental Alienation, DSM-5, and ICD-11: Response to Critics, p. 2. [↑](#footnote-ref-13)
14. “Syndrome” we consider here as the " set of symptoms that present themselves in a disease and that characterize it” (Translated from Portuguese, in the original) *In* Dicionário eletrônico Michaelis, *in* http://michaelis.uol.com.br/. [↑](#footnote-ref-14)
15. RAND, Deidre C., Parental Alienation Critics and the Politics of Science, p. 48. [↑](#footnote-ref-15)
16. As the original states: "The first group is comprised primarily of mental health professionals, divorce researchers, and others who work in the family law arena, where contested custody and visitation matters are heard. Critics in this group include contributors such as Wallerstein, Lewis, and Blakeslee (2000), Johnston, Kelly, and the other contributors to the special issue of Family Court Review (Schepard et al. (Eds.), 2001) and Emery, Otto and O´Donohue (2005). I refer to this group collectively as the Johnston/Kelly critics. According to these critics, the two most contentious issues in the PAS debate are Gardner´s emphasis on the causal role of the alienating parent, and the seemingly radical interventions which flow from that, such as changing custody to the hated parent. PAS critics in the second group identify themselves as advocates for abused women and children. Critics in this group include professionals such as Bruch (2001), Faller (1998), Myers (1997), and Walker, Brantley, and Rigsbee (2004), as well as grassroots activities such as Isman (1996) and California NOW (Heim, Grieco, Di Paola & Allen, 2002). I refer to this group as the feminist and child advocates. Critics in this group object to Gardner´s views on child abuse and frequently equate false allegations of sex abuse with his definition of PAS, which is a misunderstanding. According to these critics, courts have uncritically accepted Gardner´s views on PAS and allegations of sex abuse. In their view, courts are quick to dismiss allegations of sex abuse by the father and to penalize protective mothers by giving the abusive father custody, thus putting the child in danger". RAND, Deidre C., Parental Alienation Critics and the Politics of Science, p. 49. [↑](#footnote-ref-16)
17. As the original states: "First, Gardner confounds a child´s developmentally related reaction to divorce and high parental conflict (including violence) with psychosis. In doing so, he fails to recognise parents’ and children´s angry, often inappropriate and totally predictable behaviour following separation. Second, possibly as a consequence of these errors and his tail-of-the-elephant view, Gardner vastly overstates the frequency of cases in which children and custodial parents manufacture false allegations or collude to destroy the parent-child relationship. Taken together, these assertions have the practical effect of impugning all abuse allegations, allegations which Gardner asserts are usually false in the divorce context. Here, too, Gardner, cites no evidence in support of his personal view, ant the relevant literature reports the contrary-that such allegations are usually well founded. Third, in this fashion, PAS shifts attention away from the perhaps dangerous behaviour of the parent seeking custody to that of the custodial parent. This person, who may be attempting to protect the child, is instead presumed to be lying and poisoning the child. Fourth, Gardner believes that, particularly in serious cases, the relationship of an alienated child with the rejected parent will be irreparably damaged, probably ending for all time, unless immediate, drastic measures (custody transfer, isolation from the loved parent, and deprogramming) are taken. Here, too, reliable sources reveal that his theory is exaggerated, with all but unusual cases (for example, those appearing in violent families) resolving themselves as the children mature". BRUCH, Carol S., Parental Alienation Syndrome and Alienated Children – getting it wrong in child custody cases, p. 383/385. [↑](#footnote-ref-17)
18. As the original states: *"Neither did Gardner (1992) pay sufficient attention to the psychological harm that could be caused by removing the child´s psychological parent who has provided security and developmental growth for the child. Gardner´s writings advocate breaking the parent-child bond on the identified alienator, who is treated as a mean, vicious, and hateful person without taking into account the detrimental effects on the child or parent. In a particularly compelling documentary, Gardner´s own words advise parents to "beat" the child who complains about a rejected parent (Waller, 2008)".*  [↑](#footnote-ref-18)
19. The 5th Edition Mental Health Dictionary or DSM-5 is a diagnostic and statistical manual made by the American Psychiatric Association to define how mental disorders are diagnosed. Used by psychologists, physicians and occupational therapists. The updated version came out in May 2013 and replaces the DSM-IV created in 2000. Since the DSM-I was created in 1952, this manual has been one of the most used foundations of mental health diagnoses in the world. *From* Wikipedia, on 11/8/2014. [↑](#footnote-ref-19)
20. The International Statistical Classification of Diseases and Related Health Problems, often referred to by the acronym CID or ICD (International Statistical Classification of Diseases and Related Health Problems) provides codes relating to the classification of diseases and a wide variety of signs, symptoms, abnormal aspects, complaints, social circumstances and external causes for injuries or illnesses. Each health status is assigned a unique category to which a code, containing up to six characters, corresponds. Such categories can include a set of similar illnesses. [↑](#footnote-ref-20)
21. As the original states: "En los últimos años em España, lo mismo que en otros países de nuestro entorno, se ha ido infiltrado em las sentencias judiciales bajo la supuesta rúbrica científica del SAP argumentos para cambios de custodia u otras acciones legales de enorme repercúsion para el niño e la familia; argumentos sin embargo no aceptados por una amplia mayoria de profesionales de salud mental. Creemos que el éxito que ha tenido el término en el campo judicial se debe a que da una respuesta simple (y simplista) a un grave problema que preocupa y satura los juzgados de familia, facilitando argumentos pseudo-psicológicos o pseudo-científicos (Escuero, Aguilar y de la Cruz, 2008 a,b) a los abogados de aquellos progenitores litigantes por la custodia de sus hijos. Esta explicación puede ayudar a entender por qué ha sido aceptado, pese a sua falta de rigurosidad, sin apenas cuestionamentos. El riesgo actual de que tal "construcción de la realidad" se infiltre también en los sistemas diagnósticos internacionales, como el DSM V, ha hecho que muchas asociaciones y profesionales de diferentes países se pronunciem en contra de este supuesto. (...) Que el SAP tal y cómo lo inventó Gardner no tiene ningún fundamento científico y si entraña graves riesgos su aplicación en la corte judicial". Revista de la Asociación Española de Neuropsiquiatria, p. 535-7. [↑](#footnote-ref-21)
22. As the original states: "As discussed, alienation is almost alleged when the child does not want to be with a parent when there does not appear to be any ´rational´ reason for these feelings. Of course, the definition of "rational" in these cases remains totally subjective to the person making the evaluation. Although proponents of labeling these children with PAD claim that using this label will assist in treatment goals and techniques, there are no empirical data to support this position (Bernet, 2010). Using the definition put forward by the American Psychological Association (APA) which requires two scientific studies replicating each other, there are no empirically validated interventions that support evidence that forcing a child to be with an unwanted parent will promote mental health". [↑](#footnote-ref-22)
23. As the original states: "Walker and Shapiro attributed an ulterior motive to the mental health professionals who developed the proposal that PA should be included in DSM-5. They said, "The proposed category of PAD is specifically designed for use during high-conflict divorce cases" (Ref.5, p. 278). Along the same lines, Houchin et al. opined, "As with any heated controversy, one must examine the possible financial motivations that may influence the positions of those engaged in debate. Unfortunately, to get a good sense of PAS´s support, one has only to follow the money trail" (Ref. 6, p. 129). They also said, "One has to wonder if some of the interest on the part of mental health practitioners supporting the inclusion of PAS or PAD in DSM-5 has more to do with economic self-interest than with any belief that it would lead to improved clinical practice" (Ref.6, p. 130)." BERNET, Willian; BAKER, Amy J.L., Parental Alienation, DSM:5, and ICD-11: Response to Critics, p. 5-6. [↑](#footnote-ref-23)
24. According to Bruch, "in the few reported cases in which Gardner´s proffered testimony was challenged or the validity of PAS was otherwise questioned, courts usually exclude his testimony and reliance on PAS" (p. 388). Furthermore, "Dr. Paul J. Fink, past president of the American Psychiatric Association and president of the Leadership Council on Mental Health, Justice, and the Media, for example, has stated quite bluntly, ´PAS as a scientific theory has been excoriated by legitimate researchers across the nation. Judged solely on his merits, Dr. Gardner should be a rather pathetic footnote or an example of poor scientific standards" (p. 399). BRUCH, Carol S., Parental Alienation Syndrome and Alienated Children – getting it wrong in child custody cases. [↑](#footnote-ref-24)
25. As the original states: "(...) sus trabajos han sido permanentemente cuestionados por la comunidad científica, dado que sus teorías no se basan en métodos de investigación estandardizados, ni han sido sometidos a estudios empíricos de validación. La prueba de ello es que ningún trabajo de Gardner ha sido aceptado para su publicación en una revista científica. Habría que agregar que todos sus libros han sido publicados por una editorial de su propriedad: Creative Therapeutics". CORSI, Jorge. El "síndrome de alienación parental", o el peligro que entrãnan las teorias pseudocientíficas como base de las decisiones judiciales, p. 2. [↑](#footnote-ref-25)
26. As the original states: "Las bases sobre las que se construye el " castillo en el aire" del SAP corresponden a la descripción que hace R. Gardner en 1985 basándose en sus opininones personales y en autocitas. En uno de sus artículos considerados "seminales", de 16 referencias bibliográficas, 15 corresponden a auto-citas de trabajos del proprio Gardner (2004)". Revista de la Associación Española de Neuropsiquiatria, p. 536. [↑](#footnote-ref-26)
27. As the original states: "Although many medical associations say parental alienation syndrome is a myth, it is commonly used to help gain custody of a child, even when evaluators say the parent is abusing the child. It´s such a powerful legal tool that lawyers attend seminars on how best to use it". KEATING, G. (February 11, 2001). Group seeks reform for family court Bias against women alleged. San Gabriel Valley News (Pasadena, CA) in DALLAM, Stephanie. [↑](#footnote-ref-27)
28. As the original states: *"In 1994, the American Psychological Association´s Council of Representatives found that there were no empirical data to support PAS as a diagnosis and cautioned psychologists that it was unethical to use any diagnosis without supporting data. This pronouncement occurred after the Presidential Task Force on Violence and the Family, chaired by Walker, reviewed the available literature and took testimony from psychologists around the United States (c.f. APA, 1996). The concept of PAS has been modified during the past 20 years, and the idea of a syndrome has been dropped while the mostly untested clinical details originally proposed by Gardner remain as the core of PAD (Bernet, 2010). In fact, prior to Gardner´s death, he, too, proposed dropping the "syndrome" requirement and only recommended introduction of parental alienation in the courts (Gardner, 2002)". (p. 276) "First and foremost, psychologists are required to base findings on empirically, scientifically, or clinically validated assessments. Since there is no such body of scientific, empirical, or clinical literature to support the construct of PAD, a psychologist who renders such a conclusion is immediately involved in ethically questionable behaviour (APA, 2002)". (p. 279) " Finally, and perhaps most important, is the harm that can come from forcing a child to have contact with an abusive or violent parent, following a finding that the other parent has alienated the child. Ethically, all mental health professionals are required to take reasonable steps to prevent harm where is reasonably foreseeable. Making a recommendation that a child spend time with a parent whom he or she fears based on a questionable finding of PAD clearly violates this ethical standard".* [↑](#footnote-ref-28)
29. As the original states: "A batterer who does file for custody will frequently win, as he has numerous advantages over his partner in custody litigation. These include, 1) his typical ability to afford better representation (often while simultaneously insisting that he has no money with which to pay child support), 2) his marked advantage over his victim in psychological testing, since she is the one who has been traumatized by the abuse, 3) his ability to manipulate custody evaluators to be sympathetic to him, and 4) his ability to manipulate and intimidate the children regarding their statements to the custody evaluator (p.5)". CANCROFT, L.R. (1998). Understanding the batterer in custody and visitation disputes. In DALLAM, Stephanie. [↑](#footnote-ref-29)
30. DALLAM, Stephanie, quoting Goelman, D.M., Lehrman, F.L., & Valent, R.L. (Eds.). (1996) The impact of domestic violence on your legal practice: A lawyer´s handbook. Washington D.C.: ABA Commission on Domestic Violence. In the original: *"be aware that* *many perpetrators of domestic violence are facile manipulators, presenting themselves as caring, cooperative parents and casting the abused parent as a diminished, conflict-inciting, impulsive or over-protective parent*". [↑](#footnote-ref-30)
31. As the original states: *"This accusation (of parental alienation disorder) is made by abusive ex-husbands and is intended to cause the courts to disregard mothers ´claims of fathers´ physical or sexual abuse in an effort to gain the fathers´ full of joint custody".* BERNET, William; BAKER, Amy J.L. Parental Alienation, DSM-5 and ICD-11: Response to Critics, p. 5. [↑](#footnote-ref-31)
32. As the original states: "In recent years, use of term PAS has been extended dramatically to include cases of all types in which a child refuses to visit the noncustodial parent, whether or not the child´s objections entail abuse allegations. Although Dr Gardner sometimes states that his analysis does not apply to cases of actual abuse, the focus of his attention is directed at discerning whether the beloved parent and child are lying, not whether the target parent is untruthful or has behaved in a way that might explain the child´s aversion. His recommended treatment for serious case is to transfer custody of the child from the beloved custodial parent to the rejected parent for deprogramming. This may entail institutional care for a transitional period, and all contact, even telephone calls, with the primary caregiver must be terminated for `at least a few weeks`. Only after reverse- brainwashing may the child slowly be reintroduced to the earlier custodian through supervised visitation". BRUCH, Carol S., Parental Alienation Syndrome and Alienated Children – getting it wrong in child custody cases, p. 381. [↑](#footnote-ref-32)
33. As the original states: "victims of domestic violence often appear much less stable, suffering the psychological effects from the trauma of the abuse, and are often "less likely to have adequate financial resources and stable housing, and (are) more likely to remove the children from their current educational environment, home, and community". JACK, Jennifer, Child custody and domestic violence allegations: New York´s approach to custody proceedings involving intimate partner abuse, p. 904. [↑](#footnote-ref-33)
34. In the original: "...en mi opinión, muchos de los escritos de Gardner, incluyendo su Parental Alienation Syndrome, son discriminatorios y perjuiciosos contra la mujer. Esta parcialidad de género "infecta" el síndrome, y logra una poderosa herramienta para menoscabar la credibilidad de las mujeres que denunciam abuso sexual infantil. Porque el PAS perpetúa y exarceba la discriminación de género contra la mujer, yo considero que el síndrome arroja mucha más sombra que luz sobre este difícil tema...". MYERS, E.B., apud CORSI, Jorge. El "síndrome de alienación parental", o el peligro que entrañan las teorias pseudocientificas como base de las decisiones judiciales, p. 4. [↑](#footnote-ref-34)
35. In the original: "En la aplicación ideologizada del concepto, la responsabilidad por el impedimento es adjudicada en la casi totalidad de los casos a la madre, pasando por alto las decisiones judiciales fundamentadas em la conducta abusiva del padre, y desvinculando el derecho de convivencia de la voluntad de los hijos e hijas. Es decir, hay un fuerte énfasis en los derechos del padre, en detrimento de los derechos a la protección de sus hijos/as que pueda ejercer la madre". CORSI, Jorge. El "síndrome de alienación parental", o el peligro que entrañan las teorias pseudocientificas como base de las decisiones judiciales, p. 2-3 [↑](#footnote-ref-35)
36. No original: "Research indicates that custody litigation can become a vehicle whereby batterers and child abusers attempt to extend or maintain their control and authority over their victims after separation. Although, research has not found a higher incidence of false allegations of child abuse and domestic violence in the context of custody/visitation, officers of the court tend to be unreasonably suspicious of such claims and that too often custody decisions are based on ban science, misinterpretation of fact, and evaluator bias. As a result, many abused women and their children find themselves revictimized by the justice system after separation". DALLAM, Stephanie (research director - The Leadership Council on Child Abuse & Interpersonal Violence, Baltimore, USA), Are "good enough" parents losing custody to abusive ex-partners? [↑](#footnote-ref-36)
37. In the original: "mothers are told by their lawyer, the law guardian or the judge not to oppose visitation, even when they felt it was unsafe or when their children protested". The Voices of Women Organizing Project (VOW) 2008 Justice Denied: How Family Courts in NYC Endanger Battered Women and Children. Brooklyn, NY: Battered Women´s Resource Center in Stephanie Dallam, Are "good enough" parents losing custody to abusive ex-partners? [↑](#footnote-ref-37)
38. Washington, DC in DALLAM, Stephanie. Are "good enough" parents losing custody to abusive ex-partners? [↑](#footnote-ref-38)
39. In the original: "El sesgo de género en las descripciones del SAP es innegable. La mayoria de los cónyuges "alienadores" son en su opinión "mujeres que odian a los hombres". Cualquier intento de estar por rebelarse ante el riesgo de retirada de custodia de su hijo, se convierte en nuevas pruebas de la alienación y de la programación a que someten al hijo. Por otra parte cualquier intento de protesta del niño o niña se convierte, por mor de los criterios diagnósticos que Gardner inventó, en nuevos síntomas de su programación. Incluso los terapeutas que argumentan en contra del SAP se convierten también, según Gardner, en sujetos vulnerables a la programación que entram a formar parte de sua especie de "folie à trois", en palabras, del proprio Gardner (1999). Es decir, en contra de cualquier planteamento científico, el SAP se construye de modo que nunca pueda ser refutado porque cualquier intento de refutación lo convierten, por si mismo en verdadero. Se desoyen con base al SAP las protestas o acusaciones del niño (y de la madre) de maltrato o abuso. Aunque Gardner especifica que en caso de abuso no se debe de diagnosticar de SAP, el riesgo de dejar a un niño cuyas quejas son descalificadas y no escuchadas por considerarlas producto de una programación, en manos de un progenitor maltratador es muy alto. A ello se suma el que los intentos de proteger al niño por parte del otro progenitor se convertien en mentiras y nuevos intentos de "programación". Se deja en manos de un potencial maltratador a un niño aislándolo de su único vínculo de protección". Revista de la Asociación Española de Neuropsiquiatria, p.536-7. [↑](#footnote-ref-39)
40. In the original: "The research found widespread adoption of "parental alienation syndrome", and found "a consistent pattern of human rights abuses" by family courts, including failure to protect battered women and children from abuse, discriminating against and inflicting degrading treatment on battered women, and denying battered women due process. Histories of abuse of mother and children are routinely ignored or discounted". Human Rights Tribunal on Domestic and Child Custody sponsored by Battered Mothers´Testimony. Project based at the Wellesley Centers for Women in Massachusetts (2002) In DALLAM, Stephanie. Are "good enough" parents losing custody to abusive ex-partners? [↑](#footnote-ref-40)
41. In the original: "al sistema de creencias que, introduciendo una estructura rígida de jerarquias entra adultos Y niños/as, entiende a estos/as últimos/as como objetos de adiestramento y no como sujeitos de derechos. El "síndrome de de alienación parental" presupone a los niños y a las niñas como entidades passivas susceptibles de ser moldeadas en sus pensamientos y sentimientos por adultos malévolos que les "introducen" ideas sin que cuente su propia percepción de realidad. Esta imagem de la niñez no solamente va en la dirección oposta de todos los estudios cientificamente validados dentros de la psicologia evolutiva, sino que contradice profundamente el espiritu mismo de la Convención Internacional por los Derechos de la Niñez". CORSI, Jorge. El "síndrome de alienación parental", o el peligro que entrañan las teorias pseudocientíficas como base de las decisiones judiciales, p. 5. [↑](#footnote-ref-41)
42. In the original: "El backlash es un movimiento conservador que intenta retroater el conocimiento logrado acerca del problema del abuso sexual infantil a la etapia previa del ocultamiento y el secreto. Es impulsado por sectores tales como la iglesia y los sectores políticos de derechas, intolerantes con el avance en las reivindicaciones de los derechos de los sectores tradicionalmente marginados, como las mujeres, los niños e las niñas. Mientras se trate de casos que involucren a sectores socioeconómicamente excluidos, la reacción no se hace sentir. Pero comienza a adquirir virulencia quando los casos denunciados involucran a personas cercanas a ámbitos de poder (jerarcas de la iglesia, empresarios, políticos). Y es a estos sectores que las teorías pseudocientíficas de Gardner les han venido como anillo al dedo. Ler permiten justificar sus abusos, contraatacando con denuncias de falsas denuncias, con insistencia en el concepto de "alienación parental" (que en realidad lo limitan a una "alienación marental") y descalificando los testimonios de los ninõs e las niñas. Ni más ni menos que una reacción tendiente a conservar un poder que perciben minguante". CORSI, Jorge. El "síndrome de alienación parental", o el peligro que entrañan las teorias pseudocientíficas como base de las decisiones judiciales, p. 5-6. Tradução livre e adaptada. [↑](#footnote-ref-42)
43. No original: "De acordo con Faludi (1991) Backlash es un término utilizado para describir un movimiento político que nace como respuesta a los logros alcanzados por el feminismo en el reconocimiento de los derechos de las mujeres y en la visibilización y sanción pública de la violencia baseada en género. En otras palbras, sobresale como una reacción tendiente a mantener el status quo promovido por la ideologia patriarcal empleando para ello el cuestionamento de las garantías otorgadas al género femenino". "Para Faludi (1991), el Backlash constituye una reacción extrema, un contra-movimiento que nace alrededor de los años 1980, producto del descontento de ciertos grupos de hombres ante los cambios producidos por el feminismo en torno al rol tradicional de las mujeres". De esta manera, debe comprenderse el Backlash como una forme de resistencia ante el reconocimiento social de los derechos de las mujeres, ya que nace frente a las luchas por la emancipación femenina y en respuesta al problema, tanto de la violencia basada en género, como del abuso sexual infantil." " El caso particular del abuso sexual infantil, Finkellor (citado por Batres, 2010), también comparte la apreciación de que en la década de los años 1990, en Estados Unidos se consolidaron una serie de posicionamientos ideológicos reaccionarios a la defensa de los derechos humanos de los niños/niñas (Backlash), cuya presentación y cualidades divide en dos grupos: (1) el primer grupo que integra el backlash incluye a padres que han sido acusados de abuso sexual, a algunos peritos expertos, especialmente del área privada y a padres divorciados. También se encuentran aquí algunos abogados que reciben altas sumas de dinero por reunir literatura y argumentos que apoyen sus razionamentos y les permitan defender a los abusadores (...) (2) El segundo grupo que integra el backlash está compuesto por algunos "expertos" que han reunido alguna literatura no científica (argumentos estandarizados) pero ven esos razionamentos como científicos (Batres, 2010, 2-9)". "Así, el Backlash se ha expandido por medio de diversas derivaciones, algunas de ellas son: el surgimiento de las asociaciones de padres separados, el síndrome de alienación parental (SAP) y el síndrome de falsas memorias (SFM); estas dos últimas variantes han incursionado en la esfera judicial de muchos países (Batres: 2010), originando gran confusión en los casos de abuso sexual y culminando en muchas ocasiones tanto en la desestimación, como en la absolución de los ofensores sexuales (Bruch, 2002; Rivera & Fields, 2003; Pauluzzi, 2007; Ministerio Público de Costa Rica, 2008; Paz, 2008; Claramunt, 2009)". VARGAS, Andrés Castillo; BADILLA, Ivannia Chinchilla. Bachlash y Abuso Sexual Infantil: la emergencia de nuevas amenazas a la protección de los derechos humanos de las personas menores de edad. [↑](#footnote-ref-43)
44. In the original: "There is a backlash in full force in our legal system against protective parents. "Protective parents" are those acting to protect their children from abuse, be it physical or sexual. Protective parents are, much more often than not, mothers. The Fathers Rights Movement has been built on the myth that evil mothers lodged false allegations of sexual or physical abuse or domestic violence against millions of fathers just to deprive and alienate them from their children". ROCKEY, Arlaine. (2003). Custody Cases: Protecting Children from Sexual Abuse. in DALLAM, Stephanie. Are "good enough" parents losing custody to abusive ex-partners? [↑](#footnote-ref-44)
45. In the original: "Although some mental health professionals and child custody evaluators, attorneys, and judges have been quick to accept and admit PAS as evidence in these disputes, especially in those that have cross-complaint alleging family violence, there has been no consistent empirical or clinical evidence that PAS exists or that the alienator´s behaviour is the actual cause of the alienated child´s behaviour towards the target parent. It is argued here that the PAS construct itself is flawed and its use by custody evaluators to justify placement with the rejected parent may result in more serious damage to the child who is taken away from the parent to whom the child has bonded. These authors suggest that the PAS argument has been accepted by some courts that seem almost eager to punish the so-called alienating parent without regard for the immediate or long-term impact on the child". WALKER, L.E.; BRANTLEY, K.L.; RIGSBEE, J.A.; (2005). A Critical Analysis of Parental Alienation Syndrome and its Admissibility in the Family Court. Journal of Child Custody, 1(2), 47-74 in DALLAM, Stephanie. Are "good enough" parents losing custody to abusive ex-partners? [↑](#footnote-ref-45)
46. In the original: "La ‘terapia’ que propone Gardner para acabar con la supuesta ‘programación’ y que él mismo denominó ‘terapia de amenaza’ cierra cualquier salida a un niño/a víctima de abusos de escapar de la situación temida. Amenazar con encarcelar o quitar las visitas al cònyuge (usualmente la madre) con quien el niño tiene el vínculo más estrecho, fuerza a la niña/o a aceptar la relación con el progenitor litigante". Revista de la Asociación Española de Neuropsiquiatria, p. 537. [↑](#footnote-ref-46)
47. In the original: "One way to prevent the misuse of PA by abusive (men or women) is to have consensus regarding the diagnosis. An abusive parent claiming that a child refusing visitation was alienated would find it difficult to show that the child manifested the behavioral symptoms required for the diagnosis of PA. However, it is relatively easy for abusive parents to claim that their children have been manipulated if there is no uniform definition of PA, and mental health professionals remain untrained regarding the identification and differential diagnosis of PA". BERNET, William; BAKER, Amy J.L.. Parental Alienation: DSM-5, and ICD-11: Response to Critics, p.5. [↑](#footnote-ref-47)
48. In the original: "Even therapists who accept PAS theory have advised against custody transfers to no avail in some reported cases in which seems judges have implemented Gardner´s views on their own initiative. An electronic search for all reported US cases between 1985 and February 2001 employing the term "parental alienation syndrome" revealed that PAS was present, although far fewer were willing to recommend that custody be transferred and that contact with the primary custodian be terminated." (...) "High conflict families are disproportionately represented, of course, among the population of those contesting custody and visitation. These cases commonly involve domestic violence, child abuse, and substance abuse. Many parents are angry, and a broad range of visitation problems occurs. Dr. Gardner´s description of PAS may well remind parents, therapists, lawyers, mediators, and judges of these frequently encountered emotions, and this may help to explain why his audience has often accepted PAS without question. The overwhelming absence of careful analysis and attention to scientific rigor these professionals demonstrate, however, is deeply troubling. As the following discussion reveals, this carelessness has permitted what is popularly termed junk science (pseudo science) to influence custody cases in ways that are likely to harm children". BRUCH, Carol S. Bruch, Parental Alienation Syndrome and Alienated Children – getting it wrong in child custody cases, p. 383. [↑](#footnote-ref-48)
49. Yussef Said Cahali *in* Divórcio e Separação. 10ª ed. São Paulo: Revista dos Tribunais, 2002, p. 930-1. [↑](#footnote-ref-49)
50. In the original: "Que las complejas y con frecuencia violentas, o cuanto menos altamente conflictivas dinámicas familiares que abocan en un litigio por la custodia de un menor, tienen que ser estudiadas específicamente es decir, caso por caso. Que el profesional de salud mental no puede ocupar el papel de dictar la verdad ou falsedad de un asunto, aspecto que corresponde al juzgado. Pero que a un tiempo, en los juzgados no deben emplearse por los equipos técnicos adscritos, y si son requeridos, por profesionales de salud mental, constructos tales como los contenidos en el SAP (ya sea bajo esta rubrica terminológica u otra) por su origen conceptual retórico más en ningún caso científico, y por ello con un enorme potencial de daño sobre menores y adultos privados de toda possibilidad de defensa (pues siendo "diagnosticados" todo intento de defensa se convierte en autoconfirmación del diagnóstico asignado). Que los argumentos que los profesionales de salud mental les aportemos a los profesionales de justicia deben basarse en literatura científicamente contrastada y no en meras repeticiones de recetas simplistas de un caso extrapolado a otro. Que se haga una difusión en círculos profesionales de salud mental y de justicia sobre cómo se llegó a la construcción de este supuesto síndrome de las graves consecuencias de su aplicacción y de las recomendaciones de trabajo coordinado entre campos profesionales de la salud mental y de la justicia. Que se haga una difusión en círculos profesionales de salud mental y de justicia sobre cómo se llegó a la construcción de este supuesto síndrome de las graves consecuencias de su aplicacción y de las recomendaciones de trabajo coordinado entre campos profesionales de la salud mental y de la justicia". Revista de la Asociación Española de Neuropsiquiatria, p. 537-8. Tradução livre e adaptada. [↑](#footnote-ref-50)
51. In the original: "La negativa de los/las hijos/as para relacionarse con uno de sus progenitores adquiere auténtica trascendencia en el momento en que se expresa en un juzgado y los mecanismos jurídicos y judiciales entram en funcionamento. Es entonces cuando el "no quiero" es interpretado como infundado o absurdo. Simplesmente porque expresa un sentimento de rechazo y no se traduce en una fundamentada lista de razones que no son proprias del modo de funcionamento psicólogico de niños/as y adolescentes. Nuevamente, para la doctrina de la "alienación parental" no hay que creerle a los/las niños/as, sino suponer que hay "algo detrás" de sus decisiones".CORSI, Jorge. El "síndrome de alienación parental", o el peligro que entrañan las teorias pseudocientíficas como base de las decisiones judiciales. [↑](#footnote-ref-51)
52. In the original: "On the other hand, there are a variety of competing explanations that need to be explored-including the very real possibility that the children are responding to concerns based in their own experience with the parent from whom they feel estranged". National Council of Juvenile and Family Court Judges. (2006) Navigating Custody & Visitation Evaluations in Cases with Domestic Violence: A Judge´s Guide (2nd edition). Reno, NV: NCJFCJ. In DALLAM, Stephanie. Are "good enough" parents losing custody to abusive ex-partners? [↑](#footnote-ref-52)
53. In the original: "Gardner´s assertion that the vast majority of allegations of sexual abuse in divorce are false is not supported by the research. According to Jones & McGraw (1987), false reports of sexual abuse occur in no more than 2% of cases. False reports in general, which include allegations fabricated by adults as well as false reports by children, are thought to total up to 8% of cases. This particular study is cited repeatedly in the literature because of is comprehensive nature and sound methodology (Corwin et al., 1987; Parkinson, 1990; Myers, 1989-90; Faller, 1998)". JENKINS, Suzanne. Are children protected in the family court? A perspective from Western Australia, p. 7. [↑](#footnote-ref-53)
54. In the original: "It is not appropriate to diagnose a child with a mental illness based on the parent´s behaviour. In many cases known to the authors, both in practice and in supervision of other forensic evaluators, the child´s behaviour could have been diagnosed as an adjustment disorder with anxiety or depression. Separation and divorce often mean a new home or even two homes, new schools, new friends, and new schedules. Some may have symptoms associated with neurological immaturity or dysfunction. Some may have a severe case of PSTD from what they experienced as a trauma while others in the same home observing the same behaviour regarded the situation as inescapable. The factor called ´resilience´, a hardiness that some children have and others do not, was not even listed as a consideration by the proposers of the PAD diagnosis" (p. 277) "Further, the danger of having a child receive a mental health diagnosis based on the behaviour of a parent during a high conflict or abusive custody battle is potentially more harmful than permitting the child to take a hiatus from parenting time with that parent and restoring contact at a later date, when hostilities have been reduced and fear and trauma triggers reduced. Finally, there are insufficient data to determine that rejection of a parent is harmful to the child or that the child and parent will remain disconnected over time if the child is permitted to reestablish a new safe and secure environment. What is being termed as alienation may well be a normal variant of family structure based on many variables in that particular family system and that forcing reunification may itself be more detrimental to the parent-child relationship over a period of time". [↑](#footnote-ref-54)
55. In the original: "an enduring erroneous claim by one parent that the other parent has engaged in behaviour designed to turn their mutual offspring against the parent making the charge". TURKAT, Ira Daniel. False Allegations of Parental Alienation, p.15. [↑](#footnote-ref-55)
56. TURKAT, Ira Daniel. False Allegations of Parental Alienation, p.16. [↑](#footnote-ref-56)
57. In the original: "False allegations of parental alienation (FAPAs) may emerge in a variety of shapes and forms, but the end result is the same. As enduring erroneous charge that the other parent is poisoning the children against the claimant. A person making a FAPA must be viewed with serious concern given that it is not normal to promulgate untrue assertions that someone has committed child abuse. The motivations generating FAPAs have yet to be studied scientifically but it would seem useful to divide the allegations into two pertinent categories: (1) those made by persons who fully believe the FAPA; and (2) those made by individuals who know the allegations are baseless. A parent who sincerely believes the other parent is turning their mutual offspring against them when it is clearly untrue, would appear to be suffering from a delusion. A delusion is a fixed belief that does not change in the face of contradictory data. This means that the individual interprets information in the environment idiosyncratically which fits the delusional content. In other words, it almost doesn´t matter what the other parent actually says or does – the accuser has his or her interpretation and the delusional FAPA remains intact. A parent who makes a FAPA while knowing it to be counterfactual, is acting in a malicious manner. Such an individual makes the false allegations with a conscious determination to generate certain consequences. These may include trying to: 1. Hurt the other parent; 2. Modify access; 3. Isolate the children; 4. Gain a litigation-based advantage; 5. Elicit other's support; 6. Provide cover for his/her own misbehaviour; 7. Eliminate perceived threat from the other parent; 8. Elevate one´s feeling of control and/or; 9. Obtain other benefits. The negative consequences for asserting a FAPA can be serious. Children may be ripped apart in loyalty conflicts, experience unnecessary damage to parental relationships, be forced to endure painful separations from a loving parent, and suffer behaviorally and emotionally. The parent falsely accused may not only bear immeasurable emotional pain and loss of relationship quality, he or she is placed on the defensive and may be forced to incur significant financial obligations in order to try to establish his or her innocence. Finally, the accuser also may face negative consequences, some of which may not have been anticipated". TURKAT, Ira Daniel. False Allegations of Parental Alienation, p.17. [↑](#footnote-ref-57)
58. In the original: "This issue has critical importance when reviewing Johnston, Olesen et al. (2005a, 2005b) and Johnston, Lee et al. (2005) research finding that the alienator in many of the cases they studied was not the mother, as was the court finding, but rather the father, who was an abuser alienator and who attempted to or actually sabotaged the mother´s relationship with the children" (p. 270). [↑](#footnote-ref-58)
59. SOUSA, Maria Inês Costa. Regulação das responsabilidades parentais e resistência às visitas: Caracterização de processos de avaliação periciais, p. 9. [↑](#footnote-ref-59)
60. "It should be noted that this justification is based on an article by Rosana Barbosa Ciprião Simão, published in the book "Syndrome of Parental Alienation and the Tyranny of the Guardian - Psychological, Social and Legal Aspects" (Editora Equilíbrio, 2007), in information from website of the association “SOS – Dad and Mom” and in the article “Syndrome of Parental Alienation”, by François Podevyn, translated by the “Association of Separated Fathers and Mothers” – APASE, with the collaboration of the association “Pais para Semper”. With individual suggestions, members of the associations "Pais para Semper", "Pai Legal", "Parents for Justice" and civil society. (...) To conclude, I allow myself to reproduce, due to its importance and richness, an article published in the year of 2006 by Judge Maria Berenice Dias, of the Court of Justice of Rio Grande do Sul, entitled "Syndrome of parental alienation, what is this?" In http://www.camara.gov.br/sileg/integras/601514.pdf Accessed on 9/4/2014. [↑](#footnote-ref-60)
61. VARGAS, Andrés Castillo. BADILLA, Ivannia Chinchilla. *Backlash* y abuso sexual infantil: la emergencia de nuevas amenazas a la protección de los derechos humanos de las personas menores de edad. Revista Latinoamericana de Derechos Humanos, v. 22, enero-junio 2011, p. 105-25. [↑](#footnote-ref-61)
62. In the original: "Lawyers, judges, and mental health professionals who deal with child custody issues should think carefully and respond judiciously when claims based on either theory are advanced." (...) "Although the use of expert testimony is often useful, decision-makers need to their homework rather than rely uncritically on experts´ views. This is particularly true in fields such as psychology and psychiatry, where even experts have a wide range of differing views, and professionals, whether by accident or design, sometimes offer opinions beyond their expertise. Lawyers and judges are trained to ask hard questions, and that skill should be employed here". BRUCH, Carol S. Bruch, Parental Alienation Syndrome and Alienated Children – getting it wrong in child custody cases, p. 399. [↑](#footnote-ref-62)
63. Accessed on 2/9/2014. [↑](#footnote-ref-63)