

Dear Paul Givan MLA, Justice Committee Chair,

My name is Rachel Powell and I am the Women's Sector Lobbyist with the Women's Resource and Development Agency and the Chair of the Women's Policy Group Northern Ireland.

I am writing on behalf of the Women's Policy Group with a briefing for both you, and the Justice Minister, in relation to a potential amendment to include Parental Alienation in the Domestic Abuse and Family Proceedings Bill. We submitted evidence to the Justice Committee recently on the bill, and as parental alienation was absent from the call for evidence, we felt it was necessary to highlight our strong opposition to the inclusion of parental alienation in the Domestic Abuse and Family Proceedings Bill.

We appreciate that the committee stage on the bill is due to end on 15<sup>th</sup> October 2020, and would therefore kindly request that you respond to this briefing statement by **Wednesday 7<sup>th</sup> October 2020**. If you have any further questions or queries regarding our briefing, please do not hesitate to get in touch with me.

Kind regards,

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# Women's Policy Group NI

## **The Domestic Abuse and Family Proceedings Bill and Parental Alienation**

### **The Women's Policy Group Briefing**

Members of the Women's Policy Group are compelled to share our concerns around the concept of parental alienation given the increasingly frequent mention of the term in relation to the Domestic Abuse and Family Proceedings Bill. It is our position that parental alienation should not be included in the Domestic Abuse and Family Proceedings Bill. We are raising these concerns in our capacity as representatives of the Women's sector who submitted evidence on the legislation to the Department.

#### **1. Parental Alienation is not robustly supported by scientific evidence**

Parental alienation as a concept posits that a child's rejection of one parent and strong bond with the other parent is due to the manipulation of the child by the preferred parent. It was first coined by child psychologist Richard Gardner, who stated that the alienating parent was almost always the mother. The concept has been contested by many academics who note that the model does not account for other reasons why children may refuse visitation with one parent<sup>1</sup>. As of 15<sup>th</sup> February 2020, the World Health Organisation has removed parental alienation from its classification index.

#### **2. Parental Alienation as a concept negatively impacts on women experiencing domestic abuse.**

Women's Aid organisations across the UK have reported that women in their services have lost custody of their children when their abusive partners have used parental alienation against them in court<sup>2</sup>. Women's Aid in Northern Ireland have observed cases where women have seen full custody of their children given to their abuser. We know that women who accuse partners of domestic abuse

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<sup>1</sup> MB Pepiton 'Is Parental Alienation Disorder a Valid Concept? Not According to Scientific Evidence. A Review of Parental Alienation, DSM-5 and ICD-11 by William Bernet' [2012] Journal of Child Sexual Abuse 244-253

<sup>2</sup> Women's Aid Federation England 'What About my Right Not to be Abused?' [2018] <

<https://www.womensaid.org.uk/wp-content/uploads/2018/05/Domestic-abuse-human-rights-and-the-family-courts-report.pdf> >

are more likely to face negative custody outcomes<sup>3</sup>. Gardner accepted that parental alienation should not be used in situations where abuse has been present. However, the separate courts in Northern Ireland often mean that domestic abuse proceedings are happening in criminal court while decisions regarding child custody are being made in family courts, meaning decisions are being made without all the facts. The term also favours men over women. A study into 40 family law judgements in the UK found that mothers who claimed parental alienation had 'little to no success' despite evidence that fathers were controlling and abusive<sup>4</sup>. The view that parental alienation exacerbates gender bias and negatively impacts female survivors of domestic abuse is echoed by the international community. the Platform of United Nations and regional independent mechanisms on violence against women and women's rights, who discouraged the use of parental alienation in family proceedings as it 'denied child custody to the mother and granted it to a father accused of domestic violence in a manner that totally disregards the possible risks for the child'<sup>5</sup>.

### **3. Parental Alienation must be viewed through a children's rights lens**

We appreciate that children have the right to maintain direct contact with both parents, but this must not be to the detriment of their safety and welfare. Child contact can be an opportunity for perpetrators of domestic abuse to further exert power and control over women and children. Nineteen Child Homicides, a report by Women's Aid Federation England, tells the story of 19 children who were killed by a parent who was also a perpetrator of domestic abuse. In 7 out of 12 of these cases, contact with the abusive parent was ordered by the courts<sup>6</sup>. In all child custody hearings the safety and welfare of the child must be paramount.

### **4. Istanbul Convention and parental alienation**

Article 31 of the Istanbul Convention States:

*Custody, visitation rights and safety*

- 1. Parties shall take the necessary legislative or other measures to ensure that, in the determination of custody and visitation rights of children, incidents of violence covered by the scope of this Convention are taken into account.*
- 2. Parties shall take the necessary legislative or other measures to ensure that the exercise of any visitation or custody rights does not jeopardise the rights and safety of the victim or children.<sup>7</sup>*

This is the most explicit statement on child contact in international human rights frameworks. GREVIO is the expert monitoring body overseeing the implementation of the Istanbul Convention, Feride Acar, the President of GREVIO, identified concerns on the use of parental alienation in child custody cases. Acar suggested that parental alienation is often used 'to further discriminate against women who were

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<sup>3</sup> The Platform of United Nations and regional independent mechanisms on violence against women and women's rights [2019] 'Intimate Partner Violence against Women is an Essential Factor in the Determination of Child Custody, Say Women's Rights Experts'.

<sup>4</sup> Brunel University 'Playing the Parental Alienation Card: Abusive Parents use the System to Gain Access to Children' [2020] < <https://www.brunel.ac.uk/news-and-events/news/articles/Playing-the-Parental-Alienation-card-Abusive-parents-use-the-system-to-gain-access-to-children> >

<sup>5</sup> The Platform of United Nations and regional independent mechanisms on violence against women and women's rights [2019] 'Intimate Partner Violence against Women is an Essential Factor in the Determination of Child Custody, Say Women's Rights Experts'

<sup>6</sup> Women's Aid, Nineteen Child Homicides, Bristol: Women's Aid, 2016

<sup>7</sup> Council of Europe, *The Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence*, November 2014, ISBN 978-92-871-7990-6 art 31

subjected to domestic violence and were seeking a divorce<sup>8</sup>. The United Kingdom has signed the Istanbul Convention but not yet ratified it. We would argue that the inclusion of parental alienation in legislation meant to protect victims of domestic abuse would not bring us into line with our obligations under the Convention.

#### **5. Legislation already exists to ensure safe child contact with non-abusive parents**

There are already provisions in place in Northern Ireland, namely the Children (Northern Ireland) Order 1995, to secure child contact for non-abusive parents. It is our position that resources would be better placed ensuring that the existing mechanisms in place to protect child contact are being utilised efficiently to ensure child contact for both parents where it is in the best interests of the child.

#### **6. Parental Alienation was not consulted on during the evidence gathering stage for the Domestic Abuse and Family Proceedings Bill**

At no point during the consultation process for the Domestic Abuse and Family Proceedings Bill was parental alienation brought up. Had this term been mentioned it would have fed into the response submitted by the Women's Policy Group and we would have been given the opportunity to voice our considerable concerns over this concept at that early stage. As we have explained above, parental alienation is a concept that negatively impacts on women and children who have experienced abuse and should not be included in legislation that is meant to protect them.

The Women's Policy Group reiterates its strong opposition to the inclusion of parental alienation in the Domestic Abuse and Family Proceedings Bill and any subsequent guidance on the operation of the legislation. Women's Aid in Scotland and Wales have successfully argued against the inclusion of parental alienation in legislation and it is our hope that the Government in Northern Ireland draws the same conclusion.

Signed,

Women's Policy Group NI  
Women's Resource and Development Agency  
Women's Aid Federation Northern Ireland  
Women's Support Network  
Northern Ireland Rural Women's Network  
Reclaim the Agenda  
Raise Your Voice  
Here NI  
Committee on the Administration of Justice  
Alliance for Choice  
Irish Congress of Trade Unions  
Migrant Centre NI  
Northern Ireland Public Service Alliance

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<sup>8</sup> Meeting of the International and Regional Women's Rights Mechanisms on Violence Against Women and Women's Rights, 23 May 2019, Council of Europe, Strasbourg