



An Roinn Dlí agus Cirt
Department of Justice

Parental Alienation:

A Review of Understandings, Assessment and Interventions

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1. Overview

1.1 Introduction

In 2019, the Oireachtas Joint Committee on Justice and Equality held hearings on the family law system in Ireland. The subsequent report (1) observed that parental alienation (PA) is now recognised as a serious problem, and contained the following recommendation: "...that consideration be given as to whether laws should be amended to take into account situations where one parent is wrongfully influencing their child or children against the other parent, thereby creating unfair and unwarranted alienation that can be destructive and life lasting" (p. 50). In response to this recommendation, the Minister for Justice committed in her Justice Plan 2021 to undertake research into the concept of parental alienation and subsequently conduct a public consultation on the matter. This report now presents an analysis of the literature on parental alienation in part fulfilment of that recommendation.

Irish courts, similar to other courts internationally, are encountering claims of parental alienation by parties in family law proceedings, evident, for example, in custody and access disputes and child abduction cases. The subject has garnered attention in articles in publications such as the Irish Journal of Family Law, The Bar Review and the Law Society Gazette (2-9). Fitzpatrick (4) notes that "[o]ver the last couple of years, there has been an increase in commentary on what has been described as the phenomenon of parental alienation" (p. 64) while Conneely et al (2) state that there is "a real willingness to raise issues of parental alienation before the courts" in Ireland (p. 88). This concept has also been gaining support in the political arena in Ireland.

Internationally, PA is commonly cited in courts in many jurisdictions and is also visible in cases before the European Court of Human Rights. Lapierre et al (10), for example, highlight that in Canada it is "commonly used by researchers and professionals such as lawyers, social workers and psychologists". This is also noted by US-based authors Johnston and Sullivan (11) who write that despite ongoing disagreements and disparities in the acceptance of PA across and within disciplines, professions and organisations, the concept of PA continues to be embraced by a widening public and professional audience. An increase in usage among parental groups has also been identified and Sanders et al (12) state that the concept has been both "vehemently supported and opposed by rival parental special interest groups and organizations" (p. 206).

1.1.1. Origins of PA

There is agreement that the concept of PA emerged from the work of US-based Richard Gardner, variously described as a psychologist (13), a psychiatrist (14, 15), and a "clinical professor of child psychiatry at Columbia University Medical School for 39 years" (16). Gardner is credited with first coining the term parental alienation and

providing a description of “Parental Alienation Syndrome” (PAS) (17-19), although there is some disagreement about the timing of this with Bernet (20) writing that the term PAS was introduced by Richard Gardner in 1985, Parsloe (19) suggesting PAS was first identified by Gardner in 1987 and others (15, 21) writing that it was first identified in 1998.

Irrespective of the timing of the inception of the terms PA and PAS it is clear from the literature that Gardner’s writings form the basis for this concept. It is also evident that irrespective of whether authors agree or disagree with the concept, Gardner’s work forms the basis for their research or commentary.

1.1.2. Definitions of PA

Two definitions by Gardner form the basis for almost all classifications relating to PA and, as highlighted later in the report, this includes definitions of PA and PAS, characterisations, behaviours and actions of the child, alienated parent and alienating parent. Harman et al (22), for example, reports that Gardner defined PA as:

“...a damaged or severed relationship between a child and a targeted parent, caused by the alienating parent”.

Several authors (14, 23, 24) have presented Gardner’s definition of PAS as:

“...a disorder that arises primarily in the context of child-custody disputes. Its primary manifestation is the child’s campaign of denigration against the parent, a campaign that has no justification. The disorder results from the combination of indoctrination by the alienating parent and the child’s own contributions to the vilification of the alienated parent.” (Referenced to: Gardner, 1985; p. 61).

While there is a lack of consensus around the definition of PA, it is generally understood to refer to the negative influence of one parent over a child’s perception of the other parent (25), usually in the context of custody and access or contact disputes (26) and has been used as a mechanism for explaining a child’s extreme rejection of one parent and acceptance of the other in divorce and separation cases (27).

Despite reference to some, or all, parts of these definitions, there is not a consensus on a definition of PA or PAS and this is reflected in the associated nomenclature which includes, amongst others, terms such as parental alienation disorder (PAD), parental alienation behaviours (PAB), “implacable hostility” and “post-separation rejection”. A more comprehensive discussion of definitional issues arising is presented in Chapter 3.

1.1.3. Controversial nature of the discourse on PA

While references to PA are common, the concept has, almost since inception, been controversial (17). Various authors have drawn attention to this describing the concept and associated literature as “combative and divided” (28), subject to “impassioned

debate” (29), “mired in controversy” (11) and “a magnet for both criticism and praise” (24).

In 2006, Blank and Ney (30) wrote that PA had become “a dualistic, oppositional good/bad, win/lose, right/wrong model where one party is pitted against the other” and this dichotomy has also been identified by others (18, 30). Around the same time, Bond (31) noted that PA has dominated the discourse in family courts in the United States and has created deep divisions between lawyers and psychologists who work with parents and children in contested custody. Such divisions continue to arise today and are evident in the literature.

While there are many proponents of PA, some authors have challenged the authenticity of the concept itself (11, 18, 27, 32) and it has been noted that perspectives range from complete acceptance of the concept through to total denial of its existence (33). There is even disagreement about the extent to which there is a consensus, with proponents of PA (34, 35) stating that there is strong consensus, while opponents of PA challenge this, asserting there are “distorted” claims of consensus (11, 36).

Controversies to be considered in PA

There are four main areas of dispute to be considered in respect of PA and while these permeate all elements of the report, key issues arising in respect of each are considered in greater detail in Chapter 5.

First, the gendered nature of the debate has been observed from inception. There is agreement that Gardner’s work on PAS emerged as a response to his perceptions of an “epidemic” of false accusations about sexual abuse being made mainly by mothers against fathers in custody proceedings (13, 16, 37). Since that time, there has been a gender divide, where a mother is most likely to be subject to claims of alienating the father who is more likely to be identified as the alienated parent. In Ireland, as elsewhere, the non-residential parent is most likely to be the father (38) and most authors agree that the parent with sole or most access to the child is more likely (although not always) to be identified as the alienating parent because they have a monopoly on the child’s physical, mental and emotional attention, whereas the non-residential parent may have limited or no contact with the child (15, 31). Farkas (15), for example, writes that time and distance away from the “targeted” parent are “effective weapons in the alienator’s arsenal” allowing the relationship between the alienating parent-child to solidify.

Second, the scientific basis for PA has been subject to considerable debate. Those who support PA claim there is a strong and prolific scientific evidence to prove its existence, pointing to hundreds of articles in peer-review journals in support of this view (39). Those who call the scientific basis for PA into question offer three main critiques. These are that: a) the scientific basis for PA/PAS/PAD does not meet the legal standards for evidence in the United States; b) that there are significant methodological limitations in the existing literature; and c) that despite a number of attempts PAS/PAD has not been

included in the World Health Organization's internationally agreed disease classifications (the International Classification of Disease (ICD)) or the Diagnostic and Statistical Manual of Mental Disorders (DSM) authorised by the American Psychiatric Association and accepted worldwide.

Third, the issue of domestic violence and abuse repeatedly emerges in literature examining PA (11, 27, 28, 40-43). Feresin (44), in respect of the situation in Italy, writes that "this concept is frequently cited in courtrooms, particularly when women leave their abusive partners, report the violence or try to protect their children" (p. 56). It has been argued that a lack of understanding of domestic violence or child abuse can lead to mothers and children being disbelieved and discredited, and mothers being accused of PA and presented as being psychologically abusive towards their child (28, 37, 42, 43, 45, 46). It has also been suggested that perpetrators of domestic violence use PA as a tactic to discredit reports of abuse by mothers and children (41).

Fourth, from a children's rights perspective, courts have many obligations in respect of children, ensuring that their best interests are of paramount consideration, while balancing their right to contact with their parents as well as their right to be protected from harm. These competing requirements are highly complex and challenging to establish where claims and counterclaims are made. It has been highlighted that there may be multiple reasons for the child's rejection of one parent. Further, many academics in Ireland and internationally have raised concerns about children's rights to be heard in cases where claims of PA are made (4, 47-50).

1.1.4. Assessment and interventions

These four areas of controversy permeate all elements of this report and different understandings strongly influence how PA is assessed and the types of interventions that are proposed and implemented. In this report, a consideration of how PA has been assessed by the courts and an evaluation of assessment tools identified in the literature have been considered in respect of reliability and validity. A similar type of approach has been adopted in respect of interventions for PA, and considerations of the validity and reliability of the findings arising from the evaluation of programmes relevant to PA are presented.

1.2. Questions to be addressed in this report

This review takes place in the context of a literature that is contested and divided where, despite a substantial and growing presence in the literature and in legal cases, there continues to be very fundamental disagreements between authors. It is not the intention of this report to either propose or oppose the concept of PA but rather to set out the arguments that have been identified in the literature, and from that to highlight the complexities arising. The following questions are addressed throughout the report in the analysis of both case law and literature and for convenience a summary of conclusions and areas for consideration are presented in the final chapter of the report. The questions are:

How has parental alienation been defined within a European and international context? Is there an agreed definition of parental alienation used internationally? How is it defined legislatively? These questions are addressed in Chapter 3.

What attempts, if any, have been made to establish what parental alienation is understood as in Ireland? What is the nature and extent of parental alienation in Ireland? How has that nature and extent been measured? Has the nature and occurrence levels changed over time? What are the main social and economic factors that underpin parental alienation? These questions are addressed in Chapter 4.

What is understood by parental alienation in Europe, particularly within the EU/EEA and internationally, with particular emphasis on common law jurisdictions? Has this understanding changed over time? What is known about its extent and nature in Europe and how has this changed over time? These questions are addressed in Chapter 5.

What can be learned from an international context that can help us understand and deal with the issue of parental alienation in Ireland? These questions are addressed in Chapter 6 which focuses on assessment in the legal context and, in addition, presents a description and evaluation tools used in the assessment of PA. Chapter 7 presents interventions that have been evaluated in other jurisdictions and provides a detailed analysis of the reliability and validity of these evaluations.

The final chapter, Chapter 8, responds to each of the questions addressed in this report and identifies a number of areas for consideration by the funders of this report.

2. Methodology

Two broad approaches were adopted in the search strategies that inform this report. One approach focused on the identification of scientific peer-reviewed literature and the second on the identification of case law and legal commentary.

2.1. Identification of the literature

The following chapter describes the approach adopted for the identification of the scientific literature and this is followed by a description of the identification of the legal literature and case law. Two separate approaches were required due to differences in the structure of the databases accessed. The literature searches were conducted in 2021 and do not include references beyond that time.

2.1.1 Identification of the scientific literature

A systematic literature search was conducted following the Preferred Reporting Items for Systematic Reviews and Meta-Analyses for Protocols (PRISMA-P) (51). These guidelines are appropriate for the conduct of a systematic literature review to include evaluations of interventions (52). The following steps were adopted:

Formulating the review questions: This step was guided by the tender and there was a focus on addressing:

How is parental alienation conceptualised?

How is parental alienation assessed?

What interventions, legislative and otherwise, have been implemented?

What is the evidence relating to the impact of these various interventions?

Search strategy for locating and selecting material for review: The focus in locating and selecting the material for review was to achieve sensitivity of the literature. This is a particular strength of this approach since it aims to identify all research literature relating to PA which has the potential to be relevant.

A facet analysis which involves identifying all the commonly used terminology was developed using terms in the literature for each of these areas (conceptualisation, assessment, and interventions) and was followed by the development of a search strategy and search of key databases. Controlled vocabulary (where available), adjacency operators and title/abstract searching using truncation and optional wildcards were employed to ensure a comprehensive approach. The search strategy

built on previous systematic reviews in this area (53, 54); this led to the following search strategy that was adapted as required for each database:

((parental AND (alienat* OR estrange* OR denigrat* OR separat* OR conflict*)) OR "induced psychotic disorder") AND (access OR abduct* OR concept* OR understand* OR disorder* OR theor* OR construct* OR dimension* OR (child* AND protection) OR assess* OR measure* OR tool* OR checklist* OR scale* OR judg* OR diagnos* OR treat* OR therap* OR interven* OR program* OR train* OR court* OR custody OR contact* OR guideline* OR voice* OR mediat* OR (alternative AND resolution)) AND (child* OR son OR sons OR daughter*).

Databases: Academic databases were searched from 2005 to 2021. CINAHL (Ebsco), Embase (Elsevier), MEDLINE (Ebsco), PsycInfo (Ebsco) and Web of Science (Clarivate) were all searched from 1 January 2005 until 6 July 2021. An initial search carried out in MEDLINE was replicated in each of the other databases as appropriate. In addition, reference lists of full text literature were hand searched in order to locate any additional studies that may have been missed by the database searches.

Inclusion criteria: English language documents referencing a main focus on “parental alienation” and specific terminology identified in the facet analysis were included. The time period for inclusion was documents published between 2005 and 2021. All research-based studies, irrespective of methodology, were considered eligible for inclusion in the review with issues relating to study quality dealt with in the analysis and interpretation section.

Exclusion criteria: Exclusion criteria were based on timeline (outside the 2005–2021 period) and language (only papers written in the English language were included). The initial review of documents/papers also provided guidance and a number of exclusion criteria, and based on the findings from the initial review additional criteria were developed.

An example of one search carried out in Medline (Ebsco) is presented in Appendix 1.

Study selection: Studies were selected for inclusion by the following process:

- Merging search results using reference management software (EndNote) and removing duplicate records.
- Examining titles and abstracts to remove obviously irrelevant records, being over-inclusive at this stage to ensure relevant papers were not accidentally removed.
- The remaining abstracts (or an extract) was examined by two reviewers and independently screened for applicability against the inclusion criteria.
- A third reviewer was used to resolve any disagreements regarding selection of relevant studies.
- Full text documents of the potentially relevant papers were retrieved.

- Full text reports were reviewed for compliance with eligibility criteria and two reviewers made the final decisions on study inclusion and procession to data extraction.
- Disagreements were resolved in discussions with the third reviewer.

While the grey literature did not form part of this approach, a small number of relevant reports relating to the Irish context were included for review (38, 55-59).

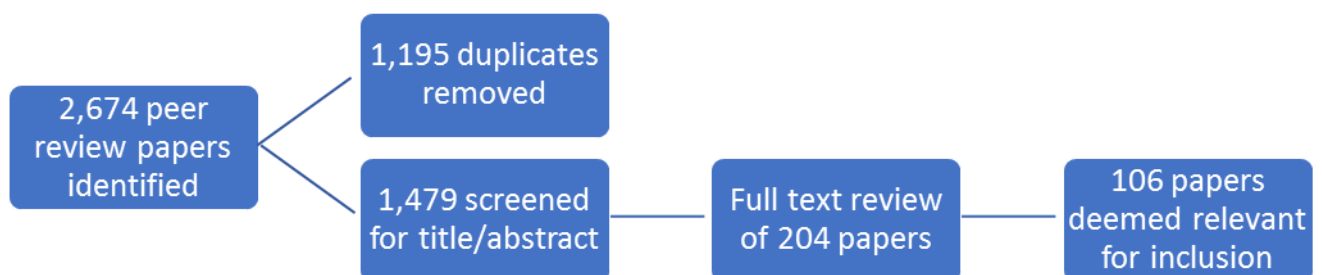
Data extraction: The data extraction tool included key features of the studies to be included in the review (for example, author and year; source, study design, methodological approach; authors' institution or organisation); characteristics of the participants and intervention (e.g. types of intervention, comparison group and outcome measures); analysis (e.g. unit of analysis, type and method of analysis); and conclusions (authors' conclusions, relevance to other studies).

Results of the literature search

A total of 2,674 studies were identified, and these were downloaded into EndNote (bibliographic management software). The studies were then uploaded into Covidence (systematic review software) for screening; after deduplication, a total of 1,479 were screened at title/abstract level for relevance by two members of the team and any conflicts resolved. This led to 204 studies being screened at full text level. Of these, 96 were deemed relevant after reading the full text (Figure 1). The main reasons why papers were excluded at this stage were that the focus of the paper was on:

- the impact of PA on an adult population
- court decisions
- not about PA specifically

Figure 1 Results of the search



Throughout the report we differentiate between literature identified using the search strategy above which we refer to as the scientific literature, and that identified in the searches of the case law and legal commentary below which is referred to as the legal literature.

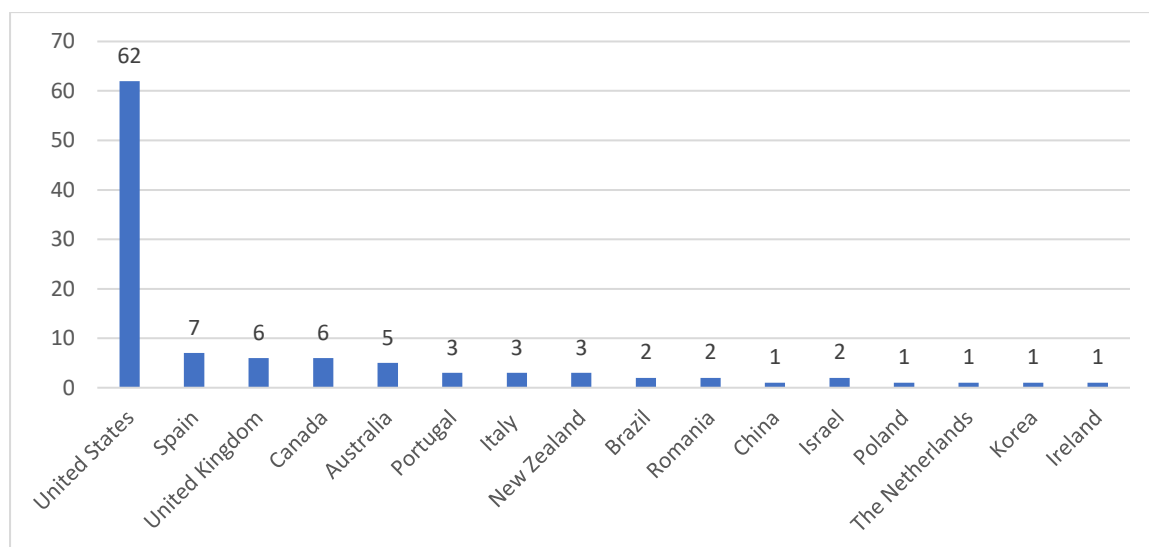
Analysis of the scientific literature

A systematic approach was taken to the analysis of literature and three broad areas identified. Following identification of the literature three broad categories were identified. These were:

1. Concepts of PA
2. Assessment of PA
3. Interventions used

Seventy-four papers identified in the search of the scientific literature formed the focus of the concept analysis, and the approach adopted was informed by the work of Rodgers (60) which allows for an evolutionary concept analysis that adopts “a rigorous, dynamic, systematic and inductive approach to knowledge development” (61) (p. 46). This approach allows for the identification of definitions, antecedents, attributes and consequences of the concept. The screening of the studies resulted in a total of 17 studies on assessment and 15 studies on interventions. Papers referring to interventions included in Appendix 2 are also included in Figure 2 which highlights that the vast majority of papers included in this review involved the first author based in the United States (n = 62).

Figure 2 Country of author according to focus of paper



A search of specific government websites in Canada, Australia and the UK for the purpose of identifying responses to PA in these jurisdictions was also carried out and where these are referenced in the text, this is highlighted. In addition, recommendations made in the report of the Houses of the Oireachtas Joint Committee of Justice and Equality in Ireland were also considered.

2.1.2 Searches for case law and legal commentary

While the approach adopted for searching multidisciplinary and psychological databases involved complex search strings and the use of scoping review

methodology as employed in the health and some social sciences, such an approach is not widespread in the humanities and for technical reasons did not prove possible to deploy in legal-specific databases. For the sake of completeness, our researchers *did* attempt to translate the more complex searches and use scoping review methods within the chosen law databases but met with only very limited success.

Legal databases tend to be highly restrictive in the length of the search strategy they will accept and do not allow the export of the entire set of search results. Instead, a less complex search that captures the heart of the research question was used, and the results were then “screened in place” in the database by a subject expert in law rather than being exported in their entirety for later screening as in a scoping review.

Identification of case law in Ireland

Custody and access matters are dealt with at the District Court, or they can be dealt with at the Circuit Court in conjunction with judicial separation and divorce applications, or on appeal. Judgments are not normally available from these courts so it was not possible, for the purpose of this research, to consider how parental alienation is treated in those courts. Conneely et al (2), however, recently published findings from their attendance at family law cases in the District Court from 2017–2019, which includes some references to PA. Some of these findings are referenced throughout this report.

Focus was placed on the treatment of parental alienation in judgments from the Superior Courts in this report. A search of the case law section of vLexJustis for the phrase “parental alienation” in quotation marks yielded 10 judgments in Ireland, all of which were from the High Court.¹ These were screened for relevance to the research questions, and this resulted in seven judgments which are considered in this report. Reports available on the website of the Child Care Law Reporting Project were also searched for the term “parental alienation” and no results were identified.

¹ The 10 cases were: *AB v. CD* [2012] IEHC 543; *LD v. CD* [2012] IEHC 582; *CJ v. Judge Hughes* [2016] IEHC 157; *AMQ v. KJ* [2017] IEHC 342; *ES v. Judge Teehan and MS* [2017] IEHC 10; *SS v. KA* [2018] IEHC 795; *BB v. ZS* [2018] IEHC 15; *CG v. BG* [2019] IEHC 15; *SH v. JC* [2020] IEHC 686; *A McN v. M McN* [2021] IEHC 556. See also, media reports concerning a pending case where no judgment appears to be available yet, in 62. Carolan M. Judge appoints guardian to represent two children. Irish Times. 2021 20 July 2021.

Table 1 Irish High Court cases where PA has arisen

AB v. CD [2012] IEHC 543	
LD v. CD [2012] IEHC 582	
SS v. KA [2018] IEHC 795	
AMQ v. KJ [2017] IEHC 342	
BB v. ZS [2018] IEHC 15	
CG v. BG [2019] IEHC 15	
SH v. JC [2020] IEHC 686	

Identification of case law in other jurisdictions

Case law in England and Wales

For case law in England and Wales, a search of the British and Irish Legal Information Institute database from 1 January 2005 to present (30 October 2021) for the term “parental alienation” was limited to case law from the Supreme Court and the Court of Appeal and this search yielded 15 cases.² These cases were screened for relevance to the research questions and this resulted in three cases.³ It is important to note that while there are many relevant High Court decisions which discuss parental alienation, the focus here is on decisions of the Supreme Court and Court of Appeal due to resource constraints. A relatively recent study discusses many of these High Court cases, and that study was considered in this report (63). Other cases which were referenced in academic articles and reports which were not identified in the case law search are also considered in this report.⁴

² The 15 cases were: *O’Connell & Ors (Children) Rev 2* [2005] EWCA Civ 759; *S (Children)* [2006] EWCA Civ 1190; *Re B (A Child) O (Children)* [2006] EWCA Civ 1199; *H (Children)* [2006] EWCA Civ 1206; *W (Children)* [2007] EWCA Civ 786; *A (A Child)* [2007] EWCA Civ 899; *W (A Child)* [2008] EWCA Civ 1181; *Re L-W (Children)* [2010] EWCA Civ 1253; *A (A Child)* [2013] EWCA Civ 1104; *PM v. MB & Anor* [2013] EWCA Civ 969; *Re D (A Child)* [2015] EWCA Civ 829; *Makhlouf v. Secretary of State for the Home Department* [2016] UKSC 59; *L (A Child)* [2018] EWCA Civ 238; *G (Children: Intractable Dispute)* [2019] EWCA Civ 548; *Re S (Parental Alienation: Cult)* [2020] EWCA Civ 568.

³ *A (A Child)* [2007] EWCA Civ 899; *A (A Child)* [2013] EWCA Civ 1104; *Re S (Parental Alienation: Cult)* [2020] EWCA Civ 568.

⁴ *Re L-W* [2010] EWCA Civ 1253; *Re S (A Child)* [2010] EWHC 3721 (Fam); *Re M (Children) (Ultra-Orthodox Judaism: Transgender parent)* [2017] EWCA Civ 2164; *Re J (Children)* [2018] EWCA Civ 115.

Case law in the European Court of Human Rights

A search of the HUDOC database for the term “parental alienation” from 1 January 2005 to 30 October 2021 yielded eight possible cases of relevance.⁵ These cases were screened for relevance to the research questions and four cases were deemed not relevant.⁶ A search of Bailii, applying the same limitations, yielded 18 cases, but just one additional case was identified as relevant.⁷ One additional case was identified in a search using Google Scholar.⁸

Case law in other European and common law jurisdictions

A search of the CommonLII database for the term “parental alienation” in New Zealand yielded 47 cases, from 2005 to present (30 October 2021).⁹ These cases were screened for relevance to the research questions, and it was also necessary to limit

⁵ The eight cases were: *Sanchez Cardenas v. Norway* (Application No. 12148/03), 04/01/2008; *G.B. v. Lithuania* (Application No.: 36137/13), 19/04/2016; *Aneva and Others v. Bulgaria* (Application No.: 66997/13) 06/07/2017; *Diamante and Pelliccioni v. San Marino* (Application No.: 32250/08) 08/03/2012; *Süss v. Germany* (Application No. 40324/98) 12/04/2006; *Ilya Lyapin v. Russia* (Application No.: 70879/11) 16/11/2020; *Pisica v. The Republic of Moldova* (Application No.: 23641/17) 29/01/2020; *Gobec v. Slovenia* (Application No.: 7233/04) 03/01/2014.

⁶ The following judgments do not appear to contain a significant discussion of parental alienation, relevant to the research questions: *Süss v. Germany* (Application No. 40324/98) 12/04/2006; *Gobec v. Slovenia* (Application No.: 7233/04) 03/01/2014; *GB v. Lithuania* (Application No.: 36137/13), 19/04/2016; *Sanchez Cardenas v. Norway* (Application No. 12148/03), 04/01/2008.

⁷ The relevant case which was found was *I.S. and others v. Malta* (Application No. 9410/20), 18/03/2021. Other cases which were found: *Elsholz v. Germany* (Application No.: 25735/94), 13/07/2000; *Kutzner v. Germany* (Application No.: 46544/99, 26/02/2002; *Sommerfeld v. Germany* (Application No.: 31871/96), 08/07/2003; *Sanchez Cardenas v. Norway* (Application No. 12148/03), 04/01/2008; *Heidemann v. Germany* (Application No.: 9732/10), 17/05/2011; *Dobrzynska v. Poland* (Application No.: 34931/08) 03/04/2012; *Diamante and Pelliccioni v. San Marino* (Application No.: 32250/08) 08/03/2012; *Gobec v. Slovenia* (Application No.: 7233/04) 03/01/2014; *G.B. v. Lithuania* (Application No.: 36137/13), 19/04/2016; *Aneva and Others v. Bulgaria* (Application No.: 66997/13) 06/07/2017; *Ilya Lyapin v. Russia* (Application No.: 70879/11) 16/11/2020; *Pedersen and Others v. Norway* (Application No. 39710/15), 10/03/2020; *Pisica v. The Republic of Moldova* (Application No.: 23641/17) 29/01/2020; *X and Y v. Bulgaria* (Application No.: 23763/18), 06/02/2020; *Vykhovanok v. Ukraine* (Application No.: 12962/19), 07/10/2021.

⁸ *Schrader v. Austria* (Application No.: 15437/19) 12/10/2021.

⁹ The 47 cases were: *SH v. RH* [2005] NZFC 44; *MR v. GR* [2005] NZFC 18; *Jones v. Skelton* [2005] NZFC 2; *IB v. GR* [2005] NZFC 26; *GO v. CS* [*Custody and Relocation: Ireland*] [2005] NZFC 1; *SM v. SD* [2006] NZFC 59; *OE v. TZ* [2006] NZFC 43; *TF v. TO* [2006] NZFC 23; *MJL and N By their Litigation Guardian Vanessa Jane Vette V L and Anor* [2007] NZHC 1058; *L-CH v. W-LC* [2007] NZFC 99; *RJS v. DWF* [2008] NZFC 159; *BPF v. LTF* [2009] NZFC 136; *K v. B* [2009] NZHC 1664; *JML v. DHD* [2009] NZFC 146; *ER v. FR and another* [2009] NZHC 1611; *JMC v. AJHB* [2010] NZFC 121; *GPF v. FMF* [2010] NZFC 141; *JD v. PJM* [2011] NZFC 71; *R v. Motuliki* [2011] NZHC 1580; *DNP v. LCM* [2012] NZFC 2613; *PASD v. MMB* [2012] NZFC 3825; *KEF v. CFE* [2012] NZFC 3945; *IJL* [2012] NZFC 9551; *TPS v. SMP* [2012] NZFC 4872; *AO v. HMS* [2012] NZFC 2219; *Blair v. Blair* [2012] NZHC 2957; *CSM v. DRM* [2012] NZFC 10117; *GEH v. AJH* [2013] NZHC 1699; *Quick v. Quick* [2013] NZFC 5910; *Garrett v. Garrett* [2013] NZFC 6314; *Fetter v. Perry* [2013] NZFC 9021; *Secrest v. Axley* [2014] NZFC 493; *Nelson v. Bourke* [2014] NZFC 5336; *TWA v. HC* [2016] NZCA 459; *KM v. TL* [2016] NZHC 1327; *Spark NZ Ltd, Television* [2017] NZASA 316; *GL v. BL* [2017] NZFC 8441; *TWA v. HC* [2017] NZHC 1345; *Burnett v. Burnett* [2017] NZHC 417; *ACE v. BDF* [2018] NZLCRO 87; *RAI v. EYR* [2018] NZLCRO 121; *Allen v. Wade* [2018] NZHC 1880; *Wade v. Police* [2019] NZHC 40; *Armstrong v. Mann* [2020] NZFC 1319; *Bush v. Johnson* [2020] NZHC 186; *KP as litigation guardian for the child v. AZ* [2020] NZHC 1340; *Travis v. Travis* [2021] NZFC 1815.

the focus to judgments of the Court of Appeal and the High Court, due to resource constraints. This yielded six cases.¹⁰ Due to language limitations in other European countries and due to the volume of cases in Australia, Canada and the United States, it was decided that it would be more constructive to primarily draw on academic commentary which discusses case law in these jurisdictions, where available. Fortunately, “[t]here is also a growing body of research that systematically analyzes how the courts are responding to these cases (Bala, Hunt, & McCarney, 2010; Lorandos, 2020; Meier, 2019; Meier & Dickson, 2017; Neilson, 2018)” (64).

Referencing

In order to complement the referencing style used in the scientific literature in this report, all quotations from judgments are referenced with locations in square brackets in the text of the report rather than in footnotes.

Search for and identification of relevant articles published in legal journals

A search of the journals section of Westlaw UK for the term “parental alienation” was carried out and yielded 84 results. This was carried out following a preliminary scoping search which identified the phrase “parental alienation” without any additional search terms, this being considered the most appropriate approach to be adopted for legal databases such as HeinOnline, due to their structure and coverage. These results were screened at title/abstract level for relevance to the research questions and 16 of these were identified as particularly relevant. A search of the journals section of Westlaw IE for the term “parental alienation” yielded 20 results. These results were also screened for relevance at title/abstract level and for duplicates and this resulted in eight articles. This search was supplemented by a hand search of the website of the *Law Society Gazette* for the term “parental alienation” and two further articles were identified. A search of the journals section of Lexis Library from 1 January 2005 to present (20 August 2021) for the term “parental alienation” yielded 51 articles. These were screened at title/abstract level for relevance and for duplicates and seven articles were identified. A search of the Law Journal Library of HeinOnline for the term “parental alienation” from 2005 to present (30 October 2021) for “peer-edited” and “refereed” articles in the English language with full text availability yielded 245 results. These were screened at title/abstract level for relevance to the research questions and for duplicates and this resulted in 29 articles. All articles identified as relevant at title/abstract level in Westlaw UK, Westlaw IE, Lexis Library and HeinOnline were further screened for relevance to the research questions at full text level. This resulted in 38 relevant articles.

A search of grey literature relating to government reports using the Google Scholar search engine identified two reports — one from the United Kingdom and the other from Australia. Findings from these documents are also considered in this report.

¹⁰ *MJL and N By their Litigation Guardian Vanessa Jane Vette V L and Anor* [2007] NZHC 1058; *K v. B* [2009] NZHC 1664; *Blair v. Blair* [2012] NZHC 2957; *Burnett v. Burnett* [2017] NZHC 417; *Allen v. Wade* [2018] NZHC 1880; *KP as litigation guardian for the child v. AZ* [2020] NZHC 1340.

2.1.3. Summary of methodology

In summary, a systematic and comprehensive approach that followed best practices in this area was taken to the identification of literature for inclusion in this review and two broad approaches were adopted. The first approach sought to identify the peer-reviewed scientific literature in the area of PA and the focus was on achieving sensitivity of the literature. The steps in the process included a facet analysis, identification of inclusion and exclusion criteria and a search of key academic databases using a study selection based on title and abstract and following screening, based on full text review.

In total, 2,674 peer-reviewed scientific papers were identified and following deduplication and screening of title and abstract, the full text of 204 papers were reviewed and considered for inclusion. This process allowed for the exclusion of other papers and the final number of papers included in the peer-review was 106.

The vast majority of these scientific peer-review papers (n = 62; 58%) were written by a first author based in the United States, and Spain (n = 7) had the next highest number of citations. Only one paper identified in the scientific literature was written by authors based in Ireland (2).

The search term “parental alienation” was used for all of the case law databases (vLexJustis, Bailii, HUDOC and CommonLII) and the legal databases for academic articles (Westlaw UK, Westlaw IE, Lexis Library and HeinOnline). Where possible, the search was also limited to the date range of 1 January 2005 to present (30 October 2021) and English language results. All cases and academic articles were screened for relevance to the research questions and for duplicates. This resulted in seven relevant judgments from the High Court in Ireland, three relevant judgments from the Court of Appeal in England and Wales and three other judgments from the Court of Appeal and one from the High Court in England and Wales, as identified in academic articles and reports. Six judgments were identified from the European Court of Human Rights and six judgments were identified from the High Court in New Zealand. For case law from other European countries as well as from Australia, Canada and the United States, reference is made, where available, to academic commentary which systematically analyses judgments in those jurisdictions. The search of the legal databases for academic articles in Ireland as well as internationally resulted in 38 articles. Two additional documents were identified in a search of grey literature using Google Scholar and findings from these are also included in this report.

2.1.4 Assessment of the quality of the scientific literature included in this review and limitations arising

The overall quality of the scientific literature presented in this report is weak, and while authors have asserted that there is a sufficient evidence base (34, 35), others have identified significant limitations in the literature around PA (16, 24, 27, 65). There are a high number of papers in this review (n = 30) that are based on commentary where

authors either propose or oppose the concept of PA. While the commentaries generally include reference to literature (13, 30, 66, 67) and sometimes to personal (68), clinical (15, 19) or legal cases (69) encountered by authors in their professional work-life (70), the approach adopted is non-systematic, does not identify inclusion or exclusion criteria or databases searched. Indeed, in many of these papers, the authors overtly position their understanding of either supporting or opposing the concept of PA. This is particularly evident in papers written around the question for the inclusion of PAS/PAD in internationally recognised classifications of disease (e.g. DSM-5 or ICD). There have been a number of iterations in the literature between authors who promote its inclusion and those who oppose it, with each critiquing and rebutting the arguments put forward by the other (36, 65, 69, 71-73).

A number of qualitative and quantitative studies have been carried out. Similar to those who author commentary papers, however, many of the studies have recruited from populations that are specific to the particular standpoint on PA. For example, for those who support the concept of PA, the participants/respondents are often recruited through websites of organisations that provide support for alienated parents (74, 75) while those who do not support the concept, recruit from refugees or networks supporting parents (predominantly women) who have been subject to domestic violence or coercive control (28, 44, 76, 77). Samples are often based on convenience sampling for surveys or “snowball sampling” for qualitative studies resulting in populations that are evidently either in agreement with, or opposed to PA. Many of the surveys are carried out using online methodologies with its attendant limitations such as the absence of a sampling frame, non-random responses, sampling biases due to the population circulated with the questionnaire and literacy and language difficulties (22, 45, 74, 78).

The numbers of participants in many of these surveys are small (21, 79), often too small to make generalisations, and this is also the case in respect of qualitative studies where transferability of the findings to broader populations is limited (43, 80).

The terminology used in some papers can be immoderate and generally positions the particular viewpoint in an emotive way. Titles of papers include words such as “ideology and rhetoric” (65), “misogynistic cultural arguments” (81), “destructive divorce” (18), “pseudoscience” (67), “myths of PAS” (37), “poisoning parent-child relationships” (82), “battered mothers” (70), and “unadulterated arrogance” (83).

Finally, it is worth highlighting that the literature on PA emerges from the work of one author, Richard Gardner, who identified this concept in the 1980s, and little conceptual or theoretical development has taken place in the intervening years. In the identification of the literature for this report, no significant national or international study with a robust methodology such as cohort studies or randomised controlled trials, where findings can be generalised to the Irish population was identified. This is a significant limitation in both the literature and in drawing meaningful conclusions about PA.

3. Definitions and characteristics of PA

This chapter considers questions about how parental alienation has been defined within a European and international context, whether there is an agreed definition of parental alienation and how it is defined legislatively. The key points arising in response to these questions are presented below.

3.1. Key points

- Internationally there is not an agreed definition of parental alienation in law, legal commentary or the broader literature.
- The Children and Family Court Advisory Support Service (Cafcass) developed a working definition of the term which was recently cited, and further elaborated on by the Court of Appeal in England and Wales.
- The European Court of Human Rights has taken on board expert evidence from domestic courts which have identified PA and proceeded to find violations of the right to respect for family life under Article 8 of the European Convention on Human Rights.
- The contested nature of PA has been recognised and acknowledged in the legal system across a number of jurisdictions including England and Wales, Canada, Australia, and the United States.
- Similarities in definitions include the unjustified rejection of one parent by the child, caused by the negative influences of the other parent on the child usually in the context of child custody disputes. Areas of difference include the use of multiple terms for the same or similar concepts, whether PA is a process and/or an outcome and whether the alienation is intentional or unintentional.
- Despite the absence of an agreed definition almost all authors base their definitions on the work of a single author, Richard Gardner, who coined the term.
- The characteristics and behaviours of the child and alienating parent were also first described by Gardner, and these continue to form the basis for how these are described.

3.2. Overview

The first chapter of this report highlighted that while there are many proponents of PA (20, 34, 74, 75, 84, 85), there are also many that oppose the concept (11, 18, 27, 67). The following section presents an analysis of definitional issues arising in respect of PA drawing on the legal context including illustrative cases, and on an analysis of definitions identified in the literature. While it is clear there are commonalities in how

PA is understood, it is also evident that there are differences reflecting the contested nature of the concept.

The chapter commences with a review of Gardner’s definitions of PA and PAS as this is the basis for all other understandings. Definitions and challenges to these definitions presented by both proponents and opponents are considered. This is then followed by a description of the characteristics of PA according to the key stakeholders — child, alienating parent, and alienated parent. Similar to definitions presented, these are as described by Gardner, and expanded, challenged and elaborated on by others.

3.2.1. Gardner’s definitions of PA and PAS

The identification of 27 definitions of PA/PAS/PAD from papers included in this literature review clearly points to a lack of a common agreed definition (Appendix 1). It is clear, however, that with the exception of a small number of authors, almost all definitions, irrespective of whether the author is in agreement with the concept or not, are drawn from the work of Gardner (13, 21, 24), although a number of authors reinterpret, extend and expand Gardner’s work to reflect their understanding and/or belief in the concept. For convenience, the two definitions by Gardner commonly referred to in the literature and already presented in Chapter 1 are now restated.

- According to Gardner the term PA is: “...a damaged or severed relationship between a child and a targeted parent, caused by the alienating parent” (22).
- Gardner’s definition of parental alienation syndrome (PAS) is:

“...a disorder that arises primarily in the context of child-custody disputes. Its primary manifestation is the child’s campaign of denigration against the parent, a campaign that has no justification. The disorder results from the combination of indoctrination by the alienating parent and the child’s own contributions to the vilification of the alienated parent. (Referenced to Gardner, 1985; p. 61; described by (14, 23, 24)).

As noted above, in the definition of PA Gardner focuses on the outcome of the relationship (a damaged or severed relationship between the child and targeted parent) and the cause (the alienating parent). In the definition of PAS, Gardner focuses on the context (child custody disputes), the role of the child (the child’s unjustified campaign against the parent) and the contribution of the alienating parent (the indoctrination by the alienating parent). Although there are a number of common elements, the contested nature of the concept along with the multiplicity of definitions has resulted in a lack of agreement about what PA is and this is also evident in judicial rulings as now discussed.

3.2.2. Recognition of the contested nature of the definition

The contested nature of PA is evident and has been recognised and acknowledged in the legal system across a range of jurisdictions.

In England, the Children and Family Court Advisory Support Service (Cafcass) has observed that “there is no single definition” of parental alienation, noting that “[t]he definition of parental alienation itself as a concept in family court cases, its surrounding terminology and its scale remain under debate” (86). A similar issue is noted in Australia where Rathus (87) observed that while “[i]t is impossible to provide a concise definition of ‘parental alienation’ ... because of its contested position in scientific and legal literature ... It is employed by some professionals to describe parental conduct in separated families where the children are, apparently without good reason, reluctant or resistant to spending time with one parent” (p. 6).

According to Godbout et al (88) who conducted research in Canada with judges from the Québec Superior Court as well as custody evaluators, “parental alienation ... is seen as being a highly complex issue, interpreted in many different ways by mental health and welfare professionals alike and exploited every which way possible in court hearings” (p. 281). The lack of consensus and complexity of PA has also been considered by other Canadian researchers, Fidler and Bala (64), who reflected on the concept of parental alienation and commented that “[n]ot all resistance is alienation (an unjustified rejection). All cases of alienation involve high-conflict parenting circumstances, yet not all cases of high-conflict parenting result in a child resisting or rejecting one parent” (p. 578). The authors also observed that “[w]hile we believe that alienation is an important concept, and it can, for example, be used to help parents understand the importance of not engaging in ‘parental alienating behaviors’ (PABs), viewing cases as ‘alienation or not alienation’ is also simplistic, reinforces polarity, and creates obstacles to effecting change” (p. 579).

It was also asserted by some authors that while the term PA was not explicitly or implicitly referenced, key stakeholders identified the inclusion of “psychological ill-treatment” as a form of abuse in legislation as a formal recognition of PA (10). Baker et al (89) reported that no statutes specifically mention PA in the United States but again, some authors in the US have argued that the “Best Interests of the Child Standard” included in 70% of states included elements that were relevant for PA. These understandings about the implicit inclusion of PA in the legislation adds a further layer of complexity to the issue compounded by the lack of a common definition (89).

The absence of a common definition despite common usage and some common elements has also been observed by researchers in the United States. Meier (90), for example, notes that PA, “while lacking any universal definition, embodies the notion that when a child (or the primary parent) resists contact with the non-custodial parent without ‘legitimate’ reason, the preferred parent is ‘alienating’ the child, due to her own anger, hostility or pathology” (p. 93). Meier stated that while “PAS itself — which Gardner defined as a mother’s false claim of child sexual abuse to ‘alienate’ the child from the father — has been largely rejected by most credible professionals ... alienation theory writ large continues to be the subject of a growing body of literature, and is frequently relied on in U.S. family court cases” (p. 93). Lorandos (91), meanwhile, comments that “arguments that PA does not exist or cannot be the proper

subject of expert testimony, often came from legal professionals writing about social science or social science professionals writing about the law” (p. 325). In Italy, Lavadera et al (92), outline various definitions and criteria for parental alienation syndrome, parental alienation and an alienated child (pp. 334-337). They cite Gardner, Kelly and Johnston, Friedlander and Walters as well as Warshak, noting the difference in opinions expressed by these authors in defining the term and concept.

Confusion about the core concepts of PA has arisen in the courts. In *MJL and N By their Litigation Guardian Vanessa Jane Vette V L and Anor* [2007] NZHC 1058, one of the grounds put forward for appeal was based on an argument that the judge in the family court had incorrectly interpreted the term “alienation” as the judge stated that “alignment ... is just another term for alienation” [29]. The High Court found, however, that the judge did not carry “any confusion through to his judgment and the determinations he made in it” [35] noting that the judge identified two separate issues.

Multiple terms for the same or similar concepts

Some differences are identified in terminology across jurisdictions and in the literature. In the legal system in England and Wales, for example, the term “implacable hostility” is sometimes used; in New Zealand, the term “post-separation parental rejection” is visible and is also used in conjunction with “parental alienation”. This is evident in *Allen v. Wade* [2018] NZHC 1880, for example. Differences in terminology along with understandings identified are now presented.

PA/PAS/PAD

As highlighted above, Gardner differentiated between the terms PA and PAS and this is also highlighted by other authors who identify differences between PAS, PA and more recently Parental Alienation Disorder (PAD) (12, 18, 31). Sanders et al (12), for example, in an analysis of the views of child custody evaluators, report that evaluators defined “PA” as a separate construct from “PAS”. de Alcântara Mendes and Bucher-Maluschke (18) also suggest differences between these based on a review of literature and argue that PA is the estrangement of the child from one of the parents, carried out by the other, while PAS is the emotional and behavioural consequences instilled by the re-establishment of PA, which the child will suffer from. Bond (31) notes that most mental health professionals adopt PA as a terminology in preference to PAS as a broad notion, suggesting that it can be used to incorporate all negative behaviours regardless of their origin (i.e. from either the parent or the child or whether one influences the other). Milchman et al (65) discriminate between the term “alienation” which they report is “a behavioural description of a parent-child relationship problem” and the terminology of “upper case PAS/PAD/PA” which they write is indicative of a categorical diagnosis. Siracusano et al (24) (p. 232) set out below the following differentiations between these three concepts (Table 2).

Table 2 Differentiation between PA, PAS and PAD**Parental alienation (PA)**

- The essential feature of parental alienation is that the child – usually during or following a very contentious separation or divorce – stipulates an alliance with one of the parents (the preferred parent) and rejects the relationship with the other parent (the rejected parent) without legitimate justification.

Parental alienation syndrome (PAS)

- PAS is a subset of parental alienation, which occurs when the rejection actuated by the child towards one of the parents is actively influenced by the other parent.

Parental alienation disorder (PAD)

- PAD indicates the relational situation of the dysfunctional child who experiences the parental alienation regardless of the context, that is, with or without the intervention of a manipulative parent on the child against the other parent.

Bernet (34), however, states that PAS and PA are meant to be synonymous, noting that while PAS was identified by Richard Gardner in 1985, subsequent authors generally refer to PA rather than PAS. This is also noted by Milchman (27) who states that most current researchers do not refer to a “syndrome” but refer to “PA” and, in challenging the concept, suggests that irrespective of whether it is called PAS, PAD or PA it is problematic. Milchman et al (36) further argue that these name changes have not been accompanied by changes in behavioural criteria for PAS/PAD/PA and there is no difference in how PA and PAS are discussed, differentiated or remedied in legal contexts. Vilalta and Nodal (73) suggest the term “PA” is the more “currently used” terminology. This is also supported by Tavares et al (93) who state that while discussion on parental alienation as a syndrome is still ongoing, the term PA is evident in therapeutic and judicial contexts.

Sanders et al (12) suggest that since the rebuttal of PAS, some professionals currently speak of PA or child alienation as “valid concepts that refer to a real phenomenon experienced by some families undergoing custody disputes”. Some authors suggest that the term PAS was replaced by the term PA when PAS was criticised as not being “scientific” and it was not credible to speak of a “syndrome” (12, 44).

Parental alienating behaviours

Johnston and Sullivan (11) propose the use of the term “parental alienating behaviours” (PAB) as the most defensible position when asserting PA. They define PAB as:

“an ongoing pattern of observable negative attitudes, beliefs and behaviours of one parent (or agent) that denigrate, demean, vilify, malign, ridicule, or dismiss the child’s other parent. It includes conveying false beliefs or stories to, and withholding positive information from, the child about the other parent together with the relative absence of observable positive attitudes and behaviours (affirming the other parent’s love/concern

for the child, and the potential to develop and maintain the child's safe, supportive and affectionate relationship with the other parent).”

The authors argue that this definition is defensible because it allows for observable behaviours, whether the behaviours are verbal or gestural, intentional or non-intentional, as well as for valid and reliable ways to measure them, thus enabling the development of standardised measures and the early identification of this issue.

Implacable hostility

A number of authors note that the term PA is not generally used in the legal system within the United Kingdom. Parsloe (19), for example, writes that in the UK legal system, judges and other professionals often prefer to use the term “implacable hostility” rather than PA, although the author notes that this term does not cover precisely the same phenomenon. Whitcombe (23) also draws attention to this noting that while the term PA is used to debate and identify issues around the reason for a child's rejection of their parent, this term has rarely been openly or formally discussed in the UK.

An example of this is present in *Re A (A child) [2013] EWCA Civ 1104*, wherein the father claimed that the court failed to adequately take on board expert evidence regarding “parental alienation and intractable hostility” [69]. Lord Justice McFarlane, in the Court of Appeal, refrained from using the term parental alienation and instead referenced “implacable hostility” as follows: “[w]here, as in the present case, there is an intractable contact dispute, the authorities indicate that the court should be very reluctant to allow the implacable hostility of one parent to deter it from making a contact order where the child's welfare otherwise requires it” [39].¹¹

Estrangement vs. alienation

Scharp et al (80) highlight differences between the terms “estrangement” and “alienation”, noting that while both might look the same (i.e. children and parents who are distanced), differences in the attitudes and reasons for estrangement are different. Specifically, the authors suggest that while estrangement is often the result of problems with the parent-child relationship, alienation is a result of influence outside of the relationship. Clemente and Padilla-Racero (67) agree that other authors have used the term “estrangement” to describe situations where a child does not wish to have contact with a parent for “legitimate reasons” (e.g. where there is a history of abuse or neglect) but they argue that where this differentiation is made, there are no bibliographical references to support it.

Parental denigration

¹¹ 94. Lowenstein LF. Implacable hostility leading to parental alienation. *Justice of the Peace*. 2008;172(12):185. This author has commented that “[w]hile the courts are eager to accept the term ‘implacable hostility’ they are less inclined to consider ‘parental alienation’ or ‘parental alienation syndrome’ as this, as yet, has not been accepted as a ‘condition’ or ‘syndrome’ by the American Psychological Association, or indeed the British Psychological Society”.

Although a number of authors (13, 14, 33, 66) use the term “denigration” (generally relating to an alienating parent’s campaign against the alienated parent) in their definitions of PA, Rowen and Emery (95) suggest this terminology can be used to provide an alternative perspective on PA.

They define parental denigration as “a phenomenon characterized by disparaging comments made by one parent about the other parent in front of their children” and recommend that further research be conducted to reach better understandings of this “controversial construct”. In this definition, however, there is no reference to the child’s rejection of their parent.

PA as an emotional action

Parsloe (19) presents the concept “emotional action” as an alternative to the use of PA and PAS and defines this as “action in the emotional realm which arises from the conscious or unconscious, which may be manifested physically or verbally, or which may be non-verbal and ‘sensed’, but which has an impact on another person ... when one parent uses their power over a child to excommunicate the other parent”. The author notes that this concept of emotional action is sometimes called parental alienation.

Contested areas in relation to how PA is defined

While acknowledging the disputed nature of PA, Cafcass in England has developed a working definition which focuses on the child’s unjustified hostility or resistance to one parent which is as the result of the behaviours of the other parent. The definition has been cited in the Court of Appeal in the case of *Re S (Parental Alienation: Cult)* [2020] EWCA Civ 568 and it reads as follows: “when a child’s resistance or hostility towards one parent is not justified and is the result of psychological manipulation by the other parent” [8].

This case concerned a father’s appeal to vary a child’s arrangements order in circumstances where the child was found to be alienated from her father. Lord Jackson expanded on the Cafcass definition, and stated that “[t]o that may be added that the manipulation of the child by the other parent need not be malicious or even deliberate. It is the process that matters, not the motive” [8].

This definition used by Lord Jackson highlights two issues, one relating to PA as a process and the second in respect of the intentional or unintentional nature of the behaviours. The contested nature of both these issues is now considered.

PA as a process and/or outcome

Some authors refer to PA as the process of alienation and other descriptions adopted include “a distancing process”, “SAID syndrome” (Sexual Allegations In Divorce) (71), “Stockholm syndrome” (73) and parentectomy (96). Several authors have highlighted that PA takes place over time and is not a once-off discrete event (18, 27, 73).

Some authors such as Harman et al (22) and Milchman et al (65) assert PA is both a process and an outcome, and identify PA as “a damaged or severed relationship between a child and a targeted parent” (outcome), caused by the actions of the alienating parent (process). This is also evident in the definition by Poustie et al (74) who state that PA is a consequence of behaviours (process) resulting in a child aligning with one parent and partaking in a campaign of unjustified denigration against the other, once-loved parent (outcome). Others focus only on the process element of PA noting it is “a process” (24), “an emotional action” (19), “a form of family violence” (97) and “a type of emotional child abuse” (23).

Specific processes referred to by various authors include the implementation of an unjustified campaign (24), a campaign of denigration against the parent that has no justification (23), a campaign of disenfranchisement from children on the part of one parent (98), the programming and brainwashing of children to distance themselves emotionally and to learn to despise the targeted parent (13, 14, 21), the processes by which a child comes to hold an unreasonably negative view of a parent (82) and any group of behaviours (conscious or unconscious) that might evoke trouble in the relationship between a parent and child (31).

Outcomes identified in terms of the child’s rejection include the child’s perceptions of a parent (“a child’s belief that the alienated parent is a dangerous person and must be avoided” (71)), behaviours towards the alienated parent (“child’s unreasonable rejection of a parent” (27)), “a rejection of the parent where the rejection is not typically due to the actions of the targeted parent” (80), a vilification of the alienated parent (23), a child showing unwarranted fear, disrespect or hostility towards a parent and/or other family members (11), and the child’s behaviours towards the alienating parent (a situation where the child allies himself or herself strongly with an alienating parent (34)).

Intentional/unintentional nature of the alienation

The intent underpinning the child’s alienating behaviours has also been considered and as highlighted earlier was included in Lord Jackson’s expansion on the Cafcass definition. In that case, the judge further added, at [9], that:

“Where a child’s relationship with one parent is not working for no apparent good reason, signs of alienation may be found on the part of the other parent. These may include portraying the other parent in an unduly negative light to the child, suggesting that the other parent does not love the child, providing unnecessary reassurance to the child about time with the other parent, contacting the child excessively when with the other parent, and making unfounded allegations or insinuations, particularly of sexual abuse”.

In making these additions, Lord Jackson tables the issue about whether PA is a deliberate process by one parent against the other or whether it can take place in an unintentional way.

PA as a form of psychological abuse

In the European Court of Human Rights, *Diamante and Pelliccioni v. San Marino* (Application No.: 32250/08) 08/03/12, the Court appeared to accept that parental alienation can contribute to psychological abuse of a child, noting that “there could have been a risk of psychological abuse as evidenced by the suggestions that the child might develop Parent Alienation Syndrome” [185].

This is also evident in England and Wales in the case of *Re A (A child)* [2007] EWCA Civ 899, where a court report by a chartered psychologist stated that “the mother suffered a personality disorder which rendered her incapable of controlling her emotions when confronted, directly or indirectly, by the father on occasions of contact” and while the child, “S”, aged eight years old, “had not yet been harmed by the level of conflict generated by the mother, such would not remain the case; and that the continued parental alienation likely to be visited by the mother upon him and the attendant emotional pressure upon him would lead to significant psychological difficulties for him” [3]. This opinion was supported by a second expert witness, and it was concluded that “as a result of her personality disorder, the mother was incapable of reforming her behaviour” [3]. The recorder ordered the transfer of the child’s residence to her father and this was not overturned by the Court of Appeal.

In New Zealand, in *K v. B* [2009] NZHC 1664 which concerned a relocation dispute, Courtney J. considered claims of parental alienation and identified two aspects of it: first, “a distorted perception of the other parent”; and second, “conflict” between the parents which “will be severely detrimental to the children and there is a significant risk that it will result in their alienation” from their father [53].

This issue is also considered in Chapter 5 in respect of the inclusion of PAS/PAB in international classifications of disease, namely, the ICD and DCM.

3.2.3. Analysis of findings in respect of definitions of PA and implications for the Irish context

This chapter has reviewed the literature and legal cases arising across multiple jurisdictions to consider questions about how parental alienation has been defined within a European and international context, whether there is an agreed definition of parental alienation and how it is defined legislatively. Our analysis in respect of these questions is presented below.

The findings from this analysis conclude that while there is not an agreed definition of PA, the work of Gardner forms the basis for how it is understood. The absence of an agreed definition, the different terminology used to describe the same or similar concepts, and the contested nature of PA all have implications for the courts in Ireland and other jurisdictions in their decision-making about issues relating to custody and access. While it is evident from the literature that behaviours as described by Gardner and others are reported, it is also clear that there are other areas of challenge that need to be considered. In informing the Irish context, it is important to note that there

is an acknowledgement in the literature in other jurisdictions that the concept of PA is complex, and contested, and that a cautious approach needs to be adopted to its entry into legal cases.

The specific areas of contention, particularly those relating to whether PA is a process or outcome and whether it is intentional, malicious and deliberate, or unintentional as highlighted above, are important in a legal context. Making decisions about custody and access and the best interests of the child is a difficult and complex task, and all the more challenging where there is family conflict over a protracted period of time. The introduction of the concept of PA into this context creates an added layer of complexity and can lead to misunderstandings, over-simplification of what are known to be complex situations, and implicit beliefs about the undisputed nature of PA that are clearly not held by all relevant stakeholders.

3.3. Context and characteristics of PA

The following analysis of the context and characteristics of PA highlights the ubiquitous nature of Gardner's work on PA which forms the basis for all aspects of the context and characteristics of PA. In presenting these findings, common elements arising are identified and analysed.

3.3.1. Custody and access cases

Gardner's definition of parental alienation syndrome clearly positions the context for the alienation as taking place "almost exclusively in the context of child custody disputes". This is also noted by others. In Sweden, Burman (99), for example, observes that the "discourse on parental alienation syndrome (PAS) draws on the idea that a parent can influence a child to reject the other parent and that such behaviour is common in custody disputes".

It is also clear from the literature that most authors agree that the parent with sole or most access to the child is most likely to be identified as the alienating parent because they have a monopoly on the child's physical, mental and emotional attention, whereas the non-residential parent may have limited or no contact with the child. Farkas (15), for example, highlights the impact of relocation which can take place following divorce, suggesting that this physical distancing can result in the child being isolated from the targeted parent and extended family and as a consequence become more emotionally dependent on the alienating parent. While Warshak (35) agrees that the non-custodial parent is more likely to be alienated, his conclusion from a review of literature is that in about 16% of cases the alienated parent has joint physical custody.

Other reviewers note, however, that while allegations of PA usually take place in high-conflict custody situations, rejection of a parent can also occur in intact families (16, 97), and others agree with this. Bond (31) argues, based on a selection of literature, that the process of alienation can happen over time and it can occur in intact marriages, during adolescence or childhood, in stepfamilies between a stepparent and a stepchild and even with grandparents, especially if the grandparent has custody of

the child. Warshak (35) highlights that it can also take place between any parental figure in a child's life (including stepparent, co-parent, grandparent).

High-conflict cases

Farkas (15) comments that PA arises primarily in child-custody disputes where the alienating parent perceives divorce "as a war to be won at all costs and the main strategy is on severing the targeted parent-child bond" (p. 22). Blank and Ney (30) also draw attention to this, noting that PA behaviours are likely to take place in high-conflict situations where parties are unresponsive to formal and alternative dispute resolution measures and can be characterised by strong hostility manifesting in legal conflict, which, they suggest, takes place in about 15% of cases. Jaffe et al (98) explain the use of PA as a parental response to a time when tension and conflict between them is at its highest in an effort to control and hinder the emotional relationship the children would otherwise forge with the other parent. Others refer to PA as taking place "during a destructive divorce" (18), a contentious divorce (73) or a tumultuous divorce between embattled parents (15). Examples of high-conflict cases in Ireland are described in Chapter 4.

Stakeholders and their characteristics and behaviours

Stakeholders referred to in definitions of PA/PAS include the child, parent, parent and child and both parents and child. Siracusano et al (24), for example, focus on the child, writing that the primary manifestation of PA is the unjustified campaign of denigration by the child towards one parent, and this is similar to Bernet (34) who states that "the child allies himself or herself strongly with an alienating parent and rejects a relationship with the target parent". Others focus on the combination of both the alienating parent and the child and this is coherent with Gardner's work where both were considered to have a role and where PA was identified as a combination of indoctrination by the alienating parent and the child's own contributions (13, 21, 23). Scharp et al (80) focus on the role of the alienating parent (but do not include the role of the child) who, it is noted, persuades his or her children to reject the other parent. This is similar to Jaffe et al (98) who attribute the behaviours arising to "one parent" against the other. Some authors (27, 71) exclude the need for one parent to cause PA, noting that the word alienation refers to the child's "false belief" about the parent or "a child's unreasonable rejection of a parent" irrespective of whether the false belief was brought about by the alienating parent or by other circumstances.

As highlighted, while there are differences about the stakeholders included in definitions of PA/PAS, it is clear that the concept of PA is predicated on the characteristics and behaviours of three stakeholders. These are the child, the alienated parent and the alienating parent. Some consideration is given to each stakeholder in terms of how the concept is understood and enacted in practice.

Characteristics and behaviours of the child

Blank and Ney (30) in a discursive critique of PAS write that access disputes are considered one of the more difficult and complex issues to arise in legal situations. They further note that in this, the child, who has the least capacity, is the only person

who is expected to straddle the conflict and remain neutral, a point supported by others (100). The literature generally refers to the term “alienated child” (100), although other terminology, such as “programmed and brainwashed children” has also been used. Blank and Ney (30) recommend the definition by Kelly and Johnston (2001) which defines the alienated child as:

“one who expresses freely and persistently unreasonable negative feelings and beliefs (such as anger, hatred, rejection, and/or fear) towards a parent that are significantly disproportionate to the child’s actual experience with that parent.”

Jaffe et al (98), however, write that research shows that alienation is prevalent in both boys and girls and that while the most common age range for parental alienation is between nine and 15 years old, adolescents, due to their developmental stage, are more likely to be alienated from a parent than a younger child.

Characteristics of the child as identified by Gardner

While several authors have used a sub-set, extended, modified, or reworked these definitions, there is agreement that the eight characteristics initially set out by Gardner in 2004 (Table 3) are reflective of current understanding of children who are alienated from a parent (24, 34, 101). Appendix 1 presents multiple examples of characteristics presented by different authors.

Table 3 Gardner’s 2004 behavioural characteristics of the child

Campaign of denigration:

- This involves the active participation of the child to the disparaging campaign against the target spouse, without scolding or punishment by the alienated parent.

Weak, frivolous, and absurd rationalisations for the child’s criticism of the targeted parent:

- When the child is asked to report specific incidences or explicit examples which support their accusations, they are unable to document credible, significant, or factual examples.

Lack of ambivalence:

- PAS children will report a long list of deficits about their targeted parent while minimising or refuting any positive attribute or redeeming quality of that parent.

The independent thinker phenomenon:

- The child claims to be independent in making decisions and judgments about the alienated parent, rejecting accusations of being a weak and passive person.

Reflexive support of the alienating parent:

- The phenomenon of the “identification with the aggressor” can be connected to this. The child being weak supports the alienating parent because of his/her power.

Absence of guilt over cruelty to or exploitation of the alienated parent:

- Child victims of the alienating parent’s campaign of denigration do not feel guilt or empathy towards the victim parent.

Presence of borrowed scenarios:

- Children use phrases and expressions learned from the adults’ vocabulary and relate events they have never lived or cannot know about, but that are part of the smear campaign.

Spread of the child’s animosity to the extended family of the alienated parent:

- PAS children also inexplicably reject those relatives they had previously had a loving relationship with and turn hostile to them.

A number of issues have been described in greater detail in respect of the characteristics of the child and these relate to the unjustified nature of the child’s rejection of a relationship with one parent, the lack of ambivalence and the “emmeshed parent-child dyad”. These issues are now presented.

Unjustified nature of the child’s rejection of a relationship with one parent

The unjustified nature of the child’s rejection of a relationship with one parent is a common element identified in respect of PA in the literature. Harman et al (79) cite proponents of PA as identifying the child’s rejection of the parent as being due to “untrue, illogical, or exaggerated reasons”. Whitcombe (33) focuses on the “strong alignment” of the child with one parent whilst “rejecting a relationship with the other, despite a prior normal, loving, warm relationship” and Siracusano et al (24) note the rejection takes place without “legitimate justification”. This rejection or “irrational refusal” to have contact with the other parent is identified as a symptomatic behaviour of the child in PA and according to Baker (102) is indicative of underlying psychological processes in an alienated child. Others also draw attention to the irrational nature of the rejection in the context of PA. Scharp et al (80) note that the alienation is “not typically due to the actions of the targeted parent” or if it is then it is “grossly exaggerated and out of proportion to his or her actual experience with the parent” (p. 2). Rand (16), however, suggests that there is an expressed view that parents who are rejected by their child have contributed in some way to this, although the rejected parent’s behaviour does not by itself warrant the disproportionately angry response of the child. This “disproportionately angry response of the child” is considered to be a serious pathology.

Adams (13) writes that while being exposed by the alienating parent to a “barrage of defamatory messages regarding the alienated parent”, the child also contributes his or her own negative assessment in an attempt to please the loved/alienating parent

and this is also highlighted by Vilalta and Nodal (73) who note that the children speak of the “hated” parent in derogatory terms, without feeling embarrassed or guilty for doing so. Lowenstein (100) writes that both parents, as well as the child, play a role in the alienation.

Lack of ambivalence

A lack of ambivalence by children in the context of PA has been identified as one of Gardner’s eight characteristics. It has been suggested that this arises when the child thinks in black and white patterns about their parents, where one parent is idolised and the other is rejected and where past experiences are not taken into account (98). This is also highlighted by Siracusano et al (24) who note that in respect of the alienated parent the child only identifies deficits and any positive characteristics of that parent are minimised. Jaffe et al (98) refer to this as having “a high probability diagnostic indicator of the presence of parental alienation process” noting that ambivalence is a normal experience and children would be expected to hold both positive and negative perceptions and feelings about their parents. They also suggest that the construct of ambivalence is too subtle for children to be able to misrepresent during a clinical assessment, thus making it a particularly reliable clinical indicator. There is no empirical evidence presented for this in their paper, however, which is based on a consideration of the concept of ambivalence and a small number of clinical cases.

Enmeshed parent-child dyad

Garber (103) suggests the term “enmeshed parent-child dyad” be used to understand the concomitants of the child’s rejection of the other parent. The author suggests that additional concepts such as “adultification”, “parentification” and “infantilization” are used to explain and illustrate the dynamics of the enmeshed parent-child dyad. Farkas (15) also focuses on the enmeshed relationship with one parent and suggests that the language used (e.g. “us”, “we”, and “our”) can be used to exclude the alienated parent. The use of language is also highlighted by others. Vilalta and Nodal (73), for example, note that in the context of PA the lexicon of the child becomes very similar to that of the alienating parent.

Characteristics of the alienating parent

The discourse around the parent who is believed to be alienating a child from the other can be unusually intemperate for scientific literature and this is particularly the case in terms of the nomenclature for that parent. Summers and Summers (83), for example, refer to the alienating parent as a “narcissist parental alienator” (NPA) noting similar type characteristics or “trademarks” in both which, according to the authors, “include shamelessness, magical thinking, arrogance, envy, entitlement, exploitation and bad boundaries”. Other terminology used to describe the alienating parent includes “Medea syndrome”, “divorce related malicious mother syndrome”, “programming parent”, “parental alignments”, “Malicious Parent Syndrome” (67, 73, 104), the “child’s

favoured parent” (79) and the “preferred parent” (11) who, it is noted, engages in denigrating attitudes, beliefs and sabotaging behaviours.

A number of attempts have been made to categorise parents who are considered to be the alienating parent. Bond (31), drawing on the work of Darnell, presents three types of alienators and these are *naïve* (means well, understands the child needs a healthy relationship with the non-custodial parent and facilitates visits), *active* (means well, understands the child needs a healthy relationship with the non-custodial parent but is unable manage their own emotions of frustration, bitterness and hurt) and *obsessed* (considered to be the most pathological and sets out to destroy the relationship between the child and the targeted parent).

Behaviours and experiences of the alienating parent

Behaviours related to the alienating parent are sometimes referred to as “programming” (15), “poisoning the child against the other parent” (45), “brainwashing” (15) and “indoctrination” (16, 18). Farkas (15) asserts that a range of tactics can be compared to cult-like thinking and notes that these behaviours may also continue throughout the period of alienation. Farkas (15) further notes that the “alienator spins a web of twisted truths” and “it becomes an insurmountable task in trying to decipher the truth”.

Baker et al (89) state that “[p]arental alienation begins as a set of actions and attitudes exhibited by a parent which in and of themselves are harmful to children ... and can in some cases result in a child’s rejection of the other parent, also harmful to children” (p. 1012). They found that in the US “no state statutes specifically mentioned the term ‘parental alienation’” or “the 17 primary parental alienation strategies” such as “denigrating the other parent” (pp. 1012-1013). They state “[h]owever, there were three factors that captured some element of parental alienation: not supporting the child’s relationship with the other parent, knowingly making false allegations, and involving the child in parental conflict” (p. 1014). According to Baker and colleagues, “while not mentioned by name, the concept of parental alienation could be considered a BICS (best interest of the child standard) factor in the majority of States” (p. 1014). On this point, the authors note that “35 states (70%) have one or more BICS factor that is in some way relevant for parental alienation, whereas 15 states have none” (p. 1015).

Harman et al (97) in a review of literature suggests that parental alienating behaviours are quite common depending on the type of behaviour that is under examination, with one study reported by the authors having identified that 5% and 42% of parents from an online survey in the US reported being engaged in at least one alienating behaviour. The authors further conclude that while parental alienating behaviours are perceived negatively, they are more acceptable when mothers do them than when fathers do them, arguing that cultural differences impact on how abusive behaviours are understood and on how the culpability of the perpetrator is perceived. Findings from an online survey of parents (n = 228) by Harman et al (22) on gender biases in the perception of parental alienation noted that while both direct and indirect

approaches can be used, mothers use significantly more indirect aggression in their alienating strategies while fathers tended to use similar levels of both direct and indirect aggression in their approach. Examples of these types of behaviours are presented in Appendix 1.

Meier (26) suggests that parenting behaviours that are presented as producing PA in children have not changed since they were first described by Gardner:

- Brainwashing/programming
- Pervasive denigration and vilification of the target parent
- Seeking revenge
- Interference with visitation and communication
- Lying to the children and others
- Violating the law
- Absence of other contributing psychopathology

According to Jaffe et al (98) the most common parental alienation strategy is when the alienating parent uses the child to constantly express negativity towards the target parent. Negativity by one parent towards the other has been highlighted in the courts in England and Wales, as seen for example in *Re S (Parental Alienation: Cult)* [2020] EWCA Civ 568, at [9], as outlined earlier:

“Where a child's relationship with one parent is not working for no apparent good reason, signs of alienation may be found on the part of the other parent. These may include portraying the other parent in an unduly negative light to the child, suggesting that the other parent does not love the child, providing unnecessary reassurance to the child about time with the other parent, contacting the child excessively when with the other parent, and making unfounded allegations or insinuations, particularly of sexual abuse”.

This is also cited in a case reported in the New Zealand courts, *Burnett v. Burnett* [2017] NZHC 417, which involved claims of parental alienation in circumstances where the parents had two children and were separated. Munro J. in the family court addressed the risk of parental alienation, stating that, “[i]t is clear from the evidence of the Parties and ... psychologist, that there is still negativity by Ms Burnett and her family towards Mr Burnett” [54]. Heath J. in the High Court further addressed “the risk of alienation”, stating that “it remains a factor to be taken into account in making the ultimate decision about care arrangements. I am concerned that Ms Burnett continues to exhibit a lack of understanding of the need to promote a good relationship between the children and their father” [86]. In making a decision, Heath J. stated that it was necessary to “take account ... of the risk that Ms Burnett might attempt to alienate

Alice from her father” [87]. Heath J. remitted the matter to the family court, directing that “generous contact of various types must be ordered” [88]. It is evident from this case that the court has considered “negativity” by one of the parents towards the other as forming part of parental alienation. In addition, failure “to promote a good relationship” between the children means their other parent is also considered as part of alienation. This is also evident in the case of *BB v. ZS* [2018] IEHC 15 in Ireland, as illustrated in Chapter 4.

Some authors contest the court’s requirement on parents, especially mothers, to promote good relationships and this is discussed in greater detail in Chapter 6.

In describing the behaviours of the alienating parent, Sher (105), a proponent of Gardner’s work, writes that:

“(T)he alienating parents recruit children as allies in a fight against the other parent. Through continuing bad-mouthing, lies, exaggerations, overlooking positives, and drum-beating negatives, they manipulate their children to reject the other parent. Parental alienation comes about when one parent puts her or his own needs and emotions above the best interest of the child” (p. 1).

Warshak (82) focuses on behaviours such as the use of pejorative labels to refer to the target parent, encouraging the child to refer to the target parent by their first name or referring to the children by new names that mask their relationship to the other parent. Rowen and Emery (95) argue, however, that the findings of their two studies with over 1,500 young adults suggest that where parental denigration takes place in the context of PA, the denigration results in the child being distanced from both parents, particularly the parent who denigrates the other more. They suggest that this “boomerang effect” calls into question the impact of one parent’s influence on the children’s response to the other parent (78). Harman et al (79) highlight that some behaviours occur more frequently than others (e.g. yelling at the other parental figure in front of a child compared with moving the child out of state) because there are greater opportunities for these arising.

Differences in strategies employed according to custodial status

López et al (66) write that there is a qualitative difference in the type of alienation strategies employed by alienating parents who have custody (such as: interrupting the child’s contact with the rejected parent; substituting the parental figure with someone new; seeking support from external sources including medical, psychological or school reports; and keeping the child away from the extended family) and non-custody parents (e.g. encouraging disobedience in the children and blaming their bad behaviour on the other parent; disparaging the child’s image of the other parent; sharing excessive information with the child and encouraging role reversal of the parent-child relationship).

Characteristics and experiences of the alienated parent

In contrast, with both the alienating parent and the child, Gardner does not provide a basis for characterisation of the alienated parent and consequently, considerably less information is available about the characteristics and behaviours of this parent.

The parent with whom the child refuses contact is referred to as “the alienated parent” (23, 72), “the target” (106), “targeted parent” (14, 22, 80, 98, 107), “targeted individual” (103), “target parent” (24), “hated parent” (16) and “the rejected parent” (41). Vilalta and Nodal (73) highlight the term “Friendly Parent” (FP) noting that it was proposed by Gardner to refer to the parent “who does not denounce or complain and therefore who does not hinder the relationship of the child with the other parent”.

Reported experiences of PA

The experiences of parents who self-reported as having children who are severely alienated from them using Gardner’s criteria have been considered in a number of small surveys. Baker and Darnall’s (21) survey (n = 68) reports that between 70% and 90% of respondents indicated that the characteristics identified by Gardner took place with, for example, 59% of the targeted parents reporting their child “always” denigrated, rejected or belittled them with a further 29% reporting this happened “often”. Torun et al (108) present findings of an online survey of “targeted parents” (n = 84) of which 94% were alienated fathers reporting that they had not seen their child despite the existence of court-ordered visitation. Balmer et al (75) in an online survey received a response from 225 “targeted parents” of whom 120 were women and 105 were men. The parents were recruited through support groups, including an online support group’s Facebook page, for targeted parents, private practices and non-government organisations providing assistance for parents experiencing parental alienation to advertise the research on the researchers’ behalf.

The findings identified a gender difference where targeted mothers reported significantly greater severity, and more aggressive, exposure to parental alienation tactics than fathers. A significant proportion of targeted parents felt their wellbeing was threatened by their exposure to the parental alienation tactics and while more than three-quarters (77%) of respondents indicated they had been referred to mental health professionals, they viewed these professionals as not having sufficient knowledge about PA. Similar findings were identified in respect of legal professionals with 91.5% indicating they did not believe them to have sufficient knowledge about PAS.

Poustie et al (74), in an analysis of an open-ended survey question also completed by targeted parents (n = 126), report on a number of alienating behaviours that impacted on the psychosocial wellbeing of both the targeted child and targeted children. These included emotional manipulation, physical distancing of the child through relocation or abduction, limited assistance through official legal, child and mental health systems, mental health symptoms, family violence, and difficulties coping.

3.3.2. Analysis of findings in respect of the characteristics of PA and implications for the Irish context

A substantial literature has been analysed in respect of how parental alienation has been understood and recognised within a European and international context.

The findings show that Gardner's work is again instrumental in describing the characteristics and behaviours of the child and alienating parent and most authors referred to in this section base their own commentary or research around this. This is also evident in the legal cases, based on judgments in a number of jurisdictions, where attention is drawn to the behaviours and characteristics as originally described by Gardner.

In considering the implications of this for the Irish context, it is important to note that, as with all areas of PA, while a large body of information has been analysed, much of the commentary in respect to the characteristics of PA is a restatement of Gardner's work in this area. In addition, as highlighted earlier, the overall quality of the scientific research is weak with convenience samples, small sample sizes and online surveys commonly used to collect the information.

It is important to recognise that almost without exception research relating to the targeted parent and the characteristics and behaviours of the alienated child is undertaken by authors who start from a position that the concept of PA arises and is uncontested. Examples of this can be seen in the work of authors such as Baker and Darnall (21) and Torun et al (108), where the focus is on how often specific behaviours identified by Gardner occur; and in the work of Balmer et al (75) where the focus is on gender differences in strategies used and the work of Poustie et al (74) where the focus is on factors relating to PA that impacted on their psychosocial wellbeing. Consequently, these researchers de facto consider PA to be an uncontested concept that has validity. Others, however, disagree with this and this will be illustrated in Chapter 5, where authors who oppose the concept focus on a different area of research relating to domestic abuse, child safety, gender biases arising in the legal system and children's rights to be heard.

Also of note for the Irish context is the observation of some authors that PA behaviours are likely to take place in high-conflict legal cases where parties are unresponsive to formal and alternative dispute resolution measures.

4. PA in the Irish context

This chapter sets out to answer questions about whether attempts have been made to establish how parental alienation is understood and measured as in Ireland. In answering these questions, an analysis of how PA has been considered in the legal literature and in legal cases is examined and key issues arising identified. This section also considers ways in which PA has been assessed in the Irish courts and identifies interventions adopted by the courts. The chapter closes with an analysis of issues arising and considers key areas in the context of the international situation on PA.

4.1. Key points

- Similar to other jurisdictions, different authors have defined the concept of PA differently, although each identify the rejection of a parent by the child and the role of the other parent in this. Differentiation has been made between parental alienation and parental estrangement.
- No attempt has been made to measure the prevalence of PA in Ireland and neither has any attempt been made to identify socio-demographic characteristics associated with it.
- There is a lack of consensus in understandings of PA in Irish court cases, highlighting the complexities of assessment, the use of expert evidence and issues around the child's right to be heard.
- Similar to elsewhere, some cases wherein PA claims are made are high-conflict protracted cases.
- Interventions include orders for therapy for parents and children, directions to parents to promote good relationships and considerations relating to transfer of custody.

4.2. Understandings of PA in the Irish context

As with other jurisdictions, while the term PA has arisen in family law cases in Ireland there is not a commonly used definition although it is clear that core elements identified by Gardner have been incorporated to a varying degree. This is highlighted in definitions presented in the Irish legal literature where authors such as Conneely et al (2), Fitzpatrick (4), and O'Sullivan (3) have each presented different definitions of PA.

4.2.1. Definitional differences

O'Sullivan (3) describes parental alienation "as a phenomenon where a child aligns themselves strongly with one parent and rejects the relationship with the other previously-loved parent without legitimate justification in the context of a high-conflict separation or divorce" (p. 3) This differs from Fitzpatrick (4) who, while defining PA as involving "one parent causing their child to reject and be unjustifiably angry at their

other parent in the context of a separation” (p. 64), does not identify the alignment of the child with one parent. Conneely et al (2), in defining parental alienation as a situation where there is significant conflict between parents, and the child is encouraged by one parent to align to that parent and reject the other (p. 87), acknowledge the alignment between the child and one parent similar to O’Sullivan (3) but make no reference to being “unjustifiably angry” with the other parent, a point noted by Fitzpatrick (4) . Both O’Sullivan (3) and Fitzpatrick (4) highlight the context of separation or divorce and the unjustifiable nature of the child’s rejection of the parent but Conneely et al (2) make no reference to either of these.

Conneely et al (2), however, differentiate between the terms parental alienation and parental estrangement, noting that parental estrangement is defined as:

“a situation where there is conflict between the parents and the family law system contributes to the breakdown of the relationship between one parent and a child, or estrangement has occurred for a good reason” (p. 88).

4.2.2. Consideration of PA in District Court applications for custody and access

There has not been any systematic attempt to measure the extent of PA in Ireland and neither has there been any attempt to quantify the demographic or other characteristics of families where allegations of PA have been raised. The absence of such data for the Irish population understandably limits our understandings of PA although this gap in understanding is not unusual, as no nationally or internationally representative studies around this area were identified in this review.

Extent to which parental estrangement and parental alienation featured in this study

Findings from a recently published study of custody and access cases in the District Courts between 2017 and 2019 by Conneely et al (2) are based on the observation of a total of 360 cases across five districts over a period of 14 days between 6 March 2017 and 9 April 2019.

As highlighted earlier, Conneely et al (2) differentiate between PA and parental estrangement and in doing so report that in 13 out of 77 cases (about 17%), evidence was heard of parental estrangement and in 25 out of 77 cases (32.5%) evidence was heard of PA. The authors further report that in “40.3% (n = 31) of the cases, a father alleged child abuse where the mother undermined their role as a parent by deliberately interfering with access while noting that the same proportion (40.3%) of cases, fathers, and one mother, alleged emotional abuse involving a child by the other parent” (although it is not clear whether these were the same parents).

The authors further suggest that fathers and one mother alleged that deliberately alienating a child from the other parent was emotional abuse, although they further

note that Section 32 reports¹² were only ordered in 5% of cases overall and suggest that this may be due to the costs involved.

4.2.3. Understandings of PA in family law cases in the High Court

In Ireland, section 31 of the Guardianship of Infants Act 1964, as inserted by s. 63 of the Children and Family Relationships Act 2015, contains multiple factors for the court to consider when determining the best interests of the child. Section 31(2)(a) provides that the court must consider “the benefit to the child of having a meaningful relationship with each of his or her parents and with the other relatives and persons who are involved in the child’s upbringing and, except where such contact is not in the child’s best interests, of having sufficient contact with them to maintain such relationships”. Further, s. 31(2)(j) provides that the court must consider “the willingness and ability of each of the child’s parents to facilitate and encourage a close and continuing relationship between the child and the other parent, and to maintain and foster relationships between the child and his or her relatives”.

While the term PA has been discussed in numerous family law cases in Ireland, there does not appear to be an agreed definition. The following analysis presents cases arising in the High Court in Ireland. In this first illustration, *LD v. CD* [2012] IEHC 582, White J. draws attention to the link between actions of one parent in undermining the parental role of the other, elements commonly identified in PA, by stating at [27] that:

“This Court’s major concern is the undermining of the respondent in her parental role by the appellant. He consciously and unconsciously criticises her in the presence of the children. He has engaged in parental alienation of the children from their mother which is not in the best interests of the children”.

In stating that the criticism may occur consciously or unconsciously, or in an intentional or unintentional way, White J. raises an issue that has been contested around PA in the international context. Internationally, some authors have argued that PA takes place in a conscious way. Interestingly, in the following case, in *CG v. BG* [2019] IEHC 15, Binchy J. makes reference to “a deliberate campaign of parental alienation”, suggesting that in this case, the deliberate nature of the behaviours was understood to be part of PA.

Behaviours identified by the courts as being associated with PA

Binchy J. also identifies several behaviours associated with PA that are similar to those identified in the literature where he stated at [41] that:

“The applicant is convinced that the respondent has engaged in a campaign of parental alienation, which has brought about A.’s negative view of the applicant. This is a very serious allegation to make. If it were true, it would mean that the respondent

¹² Section 32 provides that the court can direct that an expert report be obtained on any question affecting the welfare of the child. It also allows for the appointment of an expert to determine and convey the views of the child.

was deliberately undermining any relationship that A. might have with the applicant, which could only be to the detriment of A.'s welfare.”

The judge observed that “one can readily see why the applicant considers that there may be a deliberate campaign of parental alienation underway on the part of the respondent” [42]. Reasons for this included unfounded allegations of sexual abuse, obstacles to obtaining the child’s passport, the respondent seeking a protection order following “no more than a very unpleasant, if also very intense, family row in a public place” and emails sent by the child that “are quite adult in character and expression” [42]. The Judge also noted that “on the other hand, the applicant accepted that the respondent had given him an iPhone for the purpose of facetime communications with A. Even though he was unable to use the device, this is hardly the action of someone intent on parental alienation. Furthermore, the applicant did not deny that the respondent had accepted him previously into her own home, notwithstanding the difficulties between the parties, for the purpose of facilitating access by the applicant to A. Also, A. reported to the Assessors that the respondent is always nice to the applicant when he visits [43]. Arising from this the Judge stated that: “it is very difficult for this Court, at this stage, to form a definitive view on this issue, one way or another’ [44].

Behaviours and characteristics associated with PA are also seen in *SS v. KA* [2018] IEHC 795, where the court ordered a report from Michael de Villiers, a chartered psychologist, in response to the father claiming that there was parental alienation. de Villiers explained to the court that he used specific criteria when considering whether there was parental alienation in a given case, at [47]:

“first, that the child engages in a campaign of denigration; second, that the child may offer weak, frivolous or absurd rationalisations for the deprecation; third, that the child shows a lack of ambivalence in their relationships with their parents, viewing one as “all good” and the other as “all bad”; fourth, the child shows reflexive support for the alienating parents in the conflict; fifth, the child shows an absence of guilt over the exploitation of the alienated parent”.¹³

These criteria are those set out by Gardner as characteristics of the alienating child.

In *BB v. ZS* [2018] IEHC 15, it appears from the written judgment that it is the judge, Reynolds J., rather than a party to the proceedings, who raised the issue of parental alienation. The judge described the behaviour of both parents with regard to facilitating access to the child and noted that the applicant had previously facilitated regular access while “the respondent appears to be supportive of a position whereby the child is effectively alienated from the applicant” [26].

¹³ For consideration of the treatment of social science research in private family law disputes, including parental alienation cases, see 111. Robertson L, Broadhurst K. Introducing social science evidence in family court decision-making and adjudication: Evidence from England and Wales. *International Journal of Law, Policy and the Family*. 2019;33(2):181.

In another case, the behaviours of both the child and parent were identified in the context of PA. In *SH v. JC* [2020] IEHC 686, a psychological report carried out by Dr. McIntee in England concluded that both parents “are emotionally invested in their own negative relationship and that the children are exposed to parental alienation” [4.5]. Dr. McIntee stated that “parental alienation constitutes emotional abuse”, and as summarised by Gearty J. in this case, “[t]he parental alienation was evident ... in the girls’ portrayal of their family relationships, their probable exposure to the family law proceedings, the problematic parenting relationship, and the controlling, dismissing attachment style of their mother and the preoccupied attachment style of their father” [4.5]. Gearty J. summarised other findings from Dr. McIntee’s report in respect to parental alienation as follows, at [4.6]: “... the ‘Mother’s extreme reaction to the father’s presence and oppositional attitude towards professionals are negatively influencing her children. M in particular was seen to replicate the attitude of her mother with eye rolling and sighing in response to questions”.

Contact between parent and child

The child’s right to contact with their parents is provided in both international and domestic law. Article 9(3) of the UN Convention on the Rights of the Child states that children who are “separated from one or both parents” have a right “to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child’s best interests”. Further, the European Court of Human Rights has interpreted the right to family life provided in Article 8(1) of the European Convention on Human Rights as encompassing parents’ and children’s rights to have contact with one another.

In Ireland, Section 31 of the Guardianship of Infants Act 1964, as inserted by s. 63 of the Children and Family Relationships Act 2015, contains multiple factors for the court to consider when determining the best interests of the child. Section 31(2)(a) provides that the court must consider “the benefit to the child of having a meaningful relationship with each of his or her parents and with the other relatives and persons who are involved in the child’s upbringing and, except where such contact is not in the child’s best interests, of having sufficient contact with them to maintain such relationships”. Further, s. 31(2)(j) provides that the court must consider “the willingness and ability of each of the child’s parents to facilitate and encourage a close and continuing relationship between the child and the other parent, and to maintain and foster relationships between the child and his or her relatives”.

In cases where claims of parental alienation have been raised, Irish courts have emphasised the importance of the child’s right to contact with their parents. In *BB v. ZS* [2018] IEHC 15, the judge stated at [26] that “it is clearly in the child’s best interests that she enjoys a good relationship with her mother and father”. In the case of *CG v. BG* [2019] IEHC, Binchy J. highlights the importance of contact between parent and child, stating at [46] that:

“It hardly needs to be said that it is in the best interests of all children to have the best possible relationship that they can have with their parents. Where circumstances make good relations difficult, there is a duty on both parents to put their differences aside and to promote good relations between the child and the other parent. This can only be in the best interests of all parties, but most especially the child”.

In *LD v. CD* [2012] IEHC 582, White J. states at [27] that: It is essential that he stops it and begins to communicate a positive image of the respondent to the children ... the children are deeply aware of the conflict between their parents”.

Contact and domestic abuse

While Irish legislation underlines the importance of children maintaining contact with their parents and families, this can be extremely complex to balance in practice, especially where there are allegations of domestic abuse. Section 31(2)(h) of the Guardianship of Infants Act 1964, as inserted by s. 63 of the Children and Family Relationships Act 2015, expressly states that the court must also consider “any harm which the child has suffered or is at risk of suffering, including harm as a result of household violence, and the protection of the child’s safety and psychological well-being”. Section 31(3) provides further considerations for the court with regard to household violence.

Similar to the findings from other jurisdictions, an intersection between PA and domestic abuse has been identified in the Irish legal system. Domestic violence and abuse allegations, in the context of cases where there are also claims of parental alienation, have been discussed by some authors in Ireland (2-4, 9). Conneely et al (2) comment that “cases involving allegations of parental alienation and domestic violence are likely to be highly confrontational, complex and involve expert testimony and multiple court applications” (p. 90).

These allegations have arisen in some of the Irish cases referenced previously in this report. For example, in *CG v. BG* [2019] IEHC 15, the mother issued a motion to limit access to indirect means such as Skype/Facetime, emails and letters as she claimed that both she and the child were afraid of the respondent due to his “violent and abusive behaviour” [5]. She was also previously granted a protection order by a court in another European country. The father, meanwhile, claimed that there was parental alienation and that the mother is “motivated by a desire to deprive him ... and his family” of a relationship with the child. In that case, the judge stated that the respondent sought a protection order following “no more than a very unpleasant, if also very intense, family row in a public place” [42]. As outlined in the preceding section, when discussing parental alienation, Binchy J. listed a number of possible aspects of the term, including unfounded allegations of sexual abuse and efforts to seek protection orders where they may not be warranted. This case illustrates the complexities involved in balancing children’s rights to contact with their parents as against their rights to be protected from abuse, and potential abuse of one of the parents. It is

essential that in any case which presents allegations of abuse, these allegations must be thoroughly investigated.

In *SS v. KA* [2018] IEHC 795, the children alleged that their father was violent towards them, and they objected to a return to France in a child abduction case. The father meanwhile claimed that there was parental alienation. The judge held that she was unable to make a finding of fact as to whether there was physical abuse of the children by the father. The judge adjourned the case and ordered French social services be made aware of the affidavits and her judgment. She also required the mother to commence relocation proceedings in a French court. These orders were made in an effort to protect the children from possible physical abuse and to also take account of their views.

In *LD v. CD* [2012] IEHC 582, White J. commented that he had “no doubt that the respondent was in fear of the appellant during the latter part of their marriage in 2004 and 2005” [16] and detailed an incident where the appellant hit the youngest child with a wooden spoon causing a bruise [23]. In that case, the judge stated that the father had engaged in parental alienation of the children from their mother. In *AMQ v. KJ* [2017] IEHC 342, the applicant father claimed that there was parental alienation and that the mother beat the children and was suicidal, but O’Hanlon J. found no merit in this. Meanwhile, the respondent mother in that case claimed that the applicant and his brothers were violent towards her, and she had a protection order in place against the applicant. While the court found her evidence to be consistent and stated that she was a credible witness, it did not determine whether this violence occurred. Parental alienation was not found in this case.

4.3. Assessment of PA in the Irish context

Judges in Irish courts have commented on the need for expert evidence when considering claims of PA. In *CG v. BG* [2019] IEHC 15, Binchy J. emphasised that the court would need a professional opinion on the matter, and having considered all of the facts in that case, concluded at [44] and [45] that:

“It is very difficult for this Court, at this stage, to form a definitive view on this issue, one way or another. The Court certainly could not do so without a professional opinion, and this is something that would require specific investigation by the Assessors, or by others with appropriate qualifications ... For now, my conclusion on the issue is that the evidence falls short of establishing that the respondent has been engaging in parental alienation”.

The assessors identified in this case, who prepared a s. 47 report for the court, were Dr. Mairéad Ní Eidhin, a chartered psychologist, and Ms. Carmel Jennings, both of Caidreamh, Family and Practitioner Assessment and Therapeutic Services [33]. Further, as shown above, in *SS v. KA* [2018] IEHC 795, where the father claimed that there was PA, the court ordered a report from Michael de Villiers, a chartered psychologist, while in *SH v. JC* [2020] IEHC 686, which also featured PA, a psychological report was carried out by Dr. McIntee in England.

4.3.1. Model of assessment of PA

The assessment of PA is complex, challenging and fraught with difficulties. O'Sullivan and Guildea (112) writing about the Irish situation refer to Baker's research and propose the use of an "evidence-based, five-factor assessment model" in order to "conceptualise and understand the presence and indicators of parental alienation" (p. 101). The authors set out the "basic pillars" as follows (p. 101):

1. Contact refusal (is the child refusing contact with a parent?).
2. Positive relationship prior to contact refusal (was there a previous positive relationship between the child and now rejected parent?).
3. Absence of abuse or neglect on the part of the alienated parent (is there a finding of fact to say the parent has been abusive or neglectful?).
4. Alienating behaviours of the preferred parent (Baker Strategy Questionnaire, there are 20 domains to be explored and ruled in or out).
5. Child manifesting symptoms of parental alienation (are the symptoms of parental alienation in a child observable/present?).

No published evaluation of this model was identified in the literature.

4.3.2. Assessment of children's views

It is well established in both domestic and international law that children's views should be ascertained in court proceedings affecting their lives. Conneely et al (2) in their paper on custody and access in the District Courts noted that "judges are very much aware of the legal obligation to hear the voice of the child" (although the judge has spoken directly to a child in only 3.9% of cases observed). In Irish family law proceedings, where claims of parental alienation have been raised, courts have ascertained children's views through the use of reports under s. 47 of the Family Law Act 1995, s. 20 of the Child Care Act 1991 and s. 32 of the Guardianship of Infants Act 1964, as inserted by the Children and Family Relationships Act 2015. In some cases, judges have also spoken with children directly.

The case *AB v. CD* [2012] IEHC 543 is a high-conflict custody and access case with a major focus on the subject of parental alienation and the use of expert reports to ascertain children's views within this context. This case involved a huge number of expert evidence reports from nine different experts and the judge, Mr. Justice Abbott, also spoke directly with the children involved. One expert report found that the two older children were "significantly alienated" from their father while the youngest child's relationship had "remained relatively intact" [18], while another report found that all three children were alienated from their father [35]. The judge, having also spoken with the children, concluded that he was "satisfied that they continue to be alienated by the mother and hence, consider that their views should not be allowed to change the fundamental approach of the Court" [103]. It is important to note, therefore, that Abbott

J. took account of the children's views being influenced by their mother when considering what weight to attach to them.

In *BB v. ZS* [2018] IEHC 15, a child abduction case where the respondent father wrongfully retained his nine-year-old child in Ireland following summer holidays, Ms. Justice Reynolds appointed an assessor to interview the child, but the judge was critical of the assessor's findings that the child "has no wish to see her mother; nor does she wish her to come to Ireland for access purposes" [23] and [24]. Ms. Justice Reynolds stated that there was an "absence of any objective evidence of any difficulty in the relationship between the applicant and the child prior to her visit to Ireland in July 2017", meaning that, at [25]:

"[t]here is simply no plausible explanation for the fact that the child, who appears to have been previously content with her life in Hungary with the applicant and where there were no welfare issues in relation to her care, now finds herself in a situation whereby she no longer wishes to have any contact whatsoever with the applicant. Nor is there any mention of the child being effectively isolated in a country where she does not speak the language and where she has been cut off from all her extended family and friends in Hungary".

The judge continued to scrutinise the assessor's report about the child's objections, noting that "there appears to have been very little probing during the course of the assessment to establish how it is that the child has come to the position whereby she now has "nothing positive" to say about the applicant" [25]. According to the judge, "[t]he evidence simply does not stack up. Whilst it is clear that the child is of an age and degree of maturity that the court must take account of her views, the court has very considerable concerns about whether these views are authentically the child's own" [25].

Similarly, in *SS v. KA* [2018] IEHC 795, where the children objected to a return to France to live with their father claiming that there was physical abuse, while the father claimed that there was parental alienation, the judge stated that: "... the boys may have been influenced by their mother in "talking up" the allegations of physical abuse" [55]. In considering what weight to attach to the children's views, the judge said at [58]:

"I would not go so far as to refuse a return order outright, based upon their views, because of my impression that there has been some influence from the mother ... However, I am prepared to factor their views in to the extent of not ordering an immediate return but rather adjourning the case so that further steps can take place in the country of their habitual residence, without disrupting their daily lives by ordering a return just yet".

In *LD v. CD* [2012] IEHC 582, a guardian *ad litem* stated at [21] that "it is extremely difficult to elicit the children's true wishes and feeling in relation to their future care and access arrangements" in circumstances where the children appeared to be "guarded in their responses and seemingly cautious not to say anything that could potentially upset their father or give rise to changes in his access arrangements". White J. stated

at [31] that “the court is concerned that the appellant has seriously undermined the relationship between” the two older children and their mother.

In *SH v. JC* [2020] IEHC 686, which concerned an application to return two children to their state of habitual residence in England, Gearty J. noted at [7.8] that the children’s objections “while strongly stated, may stem from the parental conflict that they have witnessed”. The judge commented that while an expert report by “Mr. Van Aswegen concludes that the question of influence as regards M is unclear and that S may be mirroring what she has heard”, the judge “must accord them less weight than they might attract otherwise” [7.8]. Gearty J. also commented that “the stated objections are at odds with the important consideration that the welfare of both children in this case depends, according to the evidence of the psychological report, on their having a relationship with both parents” [7.8].

4.4. Interventions identified in the Irish courts

There is evidence that courts have intervened in cases where a parent engages in behaviours associated with PA and Binchy J., for example, in the case of *CG v. BG* [2019] IEHC 15, stated at [41] that “If a court were to conclude that a parent was engaging in such conduct (parental alienation), a court would have a duty, in the interests of the child, to take all such steps as might be appropriate to redress the alienation”.

Two main interventions have been identified as having been used in the Irish context and these are referrals for therapy and directions to parent/s to promote good relationships. The transfer of custody to the alienated parent is also discussed.

4.4.1. Therapy

In general, the interventions identified in relevant cases relate mainly to therapy for parents, for the children and/or for parents and children together. In *LD v. CD* [2012] IEHC 582, White J. noted at [30] and [31] that he must look at each child within the family individually and not treat them “as a unit”. Accordingly, the court may be required to make different orders in respect of individual children within the family unit. In this case, where there were four children, the judge expressed concern that the relationship between the mother and the two older children “may be irretrievable”, while the mother’s relationship with the third child was “improved” [32]. With regard to the youngest child, White J. stated at [33] that this relationship “should be fostered on a phased basis over a period of time”. With this in mind, White J. requested at [34] that “the child and family services of the H.S.E. continue to be involved with” the youngest child. Further, “[i]t is essential that ... all 4 children be offered individual therapy, without interference by either parent” [34]. With regard to one of the parents, the judge stated that while he did “not consider it appropriate to order the appellant to undertake a forensic psychological assessment”, he “would strongly recommend that he does” [34].

Other cases identify a need for therapy for parents, children and the family as a whole. This is highlighted in the case of *AB v. CD* [2012] IEHC 543, where Abbott J. ordered the parents to attend family therapy, with all three children required to join them in due course and individual therapy was proposed for the youngest child.

Individual and joint therapy interventions, while the children have continued contact with both parents, was highlighted in another case, that of *SH v. JC* [2020] IEHC 686, where an expert psychological report carried out by Dr. McIntee in England found that there was parental alienation. In this case, it was recommended at [4.6] that the family “engage in a mixture of individual and joint therapy with the children having continued contact with both parents ... essential that both parents work in joint sessions to ensure that they addressed conscious and unconscious issues that may be affecting progress and to develop parenting skills”. A second expert report in that case, by Mike Van Aswegen, who met with the children in October and December 2020 also concluded that the children “will require therapeutic supports particularly in the context of the re-establishment of a relationship with their father and paternal extended family. Mr. Aswegen confirms that both children will require long term therapeutic intervention into the future” [7.5].

4.4.2. Directions to parents to promote good relationships

An example of the court directing parents to promote good relationships between children and parents is highlighted in *CG v. BG* [2019] IEHC 15, where although the judge did not make a finding in relation to parental alienation, he stated at [45] that his priorities under Irish law are the child’s welfare and best interests:

“I think it is better that the focus of the court should be on the future, and giving such directions and making such orders as may help A. to build an enduring and loving relationship with the applicant. It is clear from the report of the Assessors that this will require considerable effort and co-operation between the Parties. The focus of this Court, and of the Parties, must be on the welfare of A. and what is in her best interests. This is a statutory imperative, imposed pursuant to s. 45 of the Child and Family Relationships Act 2015, although it would have been the approach taken by the courts prior to that act in any case”.

The judge emphasised at [47] the importance “of establishing or re-establishing a loving and enduring relationship between A. and her father”, and held at [52] that “[a]ccess ... should be on such basis as may be recommended by the professionals engaged to assist in the restoration of the relationship between the applicant and A”. In addition, it was reiterated at [55] “that there is a very heavy onus on the respondent to cooperate fully into the future with whatever measures may be put in place to re-establish and nurture a good relationship between the applicant and A”. Also finding fault with some of the applicant’s actions, the judge confirmed at [56] that “[c]ourts cannot stand idly by when Parties flout their orders, and both Parties now stand warned that this court will not do so should deliberate breaches of its orders occur in the future”.

Parental conflict and interventions which are focused on reducing court applications

Several cases in Ireland wherein parental alienation claims were made also involved a protracted history of court applications (*AB v. CD* [2012] IEHC 543, *LD v. CD* [2012] IEHC 582, *CG v. BG* [2019] IEHC 15). The impact of parental conflict and repeated court applications on children was commented upon by both judges and experts alike in Irish case law. In *AB v. CD* [2012] IEHC 543, which involved “an extraordinary number of court appearances” [5], an expert proposed that the parties not be allowed to litigate matters regarding their children for two years. Abbott J. noted that this would “not be justified by the law” but instead ordered the parties to attend mediation first in the event of further issues, rather than immediately resorting to court. In *LD v. CD* [2012] IEHC 582, the judge noted at [6] that the case involved “a long history of applications to the District Court”, including a number of orders for access, maintenance and a barring order which was subsequently vacated. White J. was critical of the “ongoing conflict” and its effect on the children [26]. In *SH v. JC* [2020] IEHC 686, where the Court had one expert report from England and one report from Ireland, Gearty J. stated at [7.4] that “both psychologists conclude that parental conflict has caused emotional damage to the children and suggest that the parties to this case must work together to avoid further risk to them”. An expert report by Mike Van Aswegen in that case, which was summarised by Gearty J., at [7.5] stated that:

“... adjustment problems are maintained in the medium to long term by poor parental co-operation and on-going chronic parental conflict ... long-term consequences can include attachment difficulties and poor ability to make and sustain relationships in adulthood. He lists protective factors for children, including good parental communication post separation, consistency in parenting, a supportive friendship network and a supportive extended family network.”

The judge further stated at [7.8] that the children’s “emotional wellbeing is being damaged by the acrimony which has been noted by all the social workers and psychologists who have had contact with the family”.

4.4.3. Transfer of custody

Fitzpatrick (4) observes that “[a] number of texts have been published in recent years by Irish authors recommending the transfer of custody to what they describe as the alienated parent” (p. 65). Fitzpatrick notes that a transfer of custody has been recommended in conjunction with therapy by “Professor Sheehan”¹⁴ who “summarises some of the key findings from a systemic review of the literature pertaining to parental alienation undertaken by Templer et al (2017) ... with a view to identifying best practice for therapists and legal practitioners”:

¹⁴ 113. Sheehan J. *Family conflict after separation and divorce: Mental health professional interventions in changing societies*. London: Palgrave; 2018.

“In his summary Sheehan notes ... “Firstly, Parental alienation requires Legal and therapeutic management to enhance family functioning. Secondly, awarding primary parental responsibility to the targeted parent and providing specialist family therapy is effective in ameliorating parental alienation. And finally, a specialised form of family therapy ... for parental alienation can improve family functioning and prevent further parental alienation”.

According to Fitzpatrick, however, in some cases there is a “real risk of custody of a child being granted to an abusive parent” and where custody is transferred despite a child’s objections to this, “serious questions arise in respect of the weight that the views of the child are afforded and the weight to be afforded to expert reports” (p. 66). Indeed, Fitzpatrick notes that “to question the child’s views would be a severe affront to the right of the child to be heard in both Irish and international law” (p. 66). The subject of transferring custody or residence of the child is discussed further in the international context in Chapter 7.

4.5. Analysis of findings arising in respect of understandings, assessment and interventions relating to PA in the Irish context

The preceding section considered questions of whether there is a common understanding of the nature and extent of PA in Ireland, and the findings clearly show that there is not. Three papers written by legal authors in Ireland present three different definitions of PA, although it is evident that, as with elsewhere, the child’s rejection of one parent and the influence of another parent are core to all three.

Conneely et al (2) suggest that the Irish courts have demonstrated an awareness of the concept of alienation and focus their understanding on the “alienated child”. The authors note that by focusing on the child, rather than on Parental Alienation Syndrome, problems identified in the United States around the evidence requirements of expert evidence have been avoided. While there is no specific definition guiding practice in the courts in Ireland, it is clear that behaviours associated with PA have been raised in the courts. The cases illustrate a number of different aspects of how PA has presented in the courts and demonstrate a focus on the behaviour of the alienating parent (*LD v. CD* [2012] IEHC 582), the behaviours of the child (*SS v. KA* [2018] IEHC 795), and the behaviours of both parents (*BB v. ZS* [2018] IEHC 15).

What is clear from the analysis of both the legal literature and legal cases is that PA as understood in Ireland reflects understandings in other jurisdictions and is based around the work of Gardner.

The issue of PA was raised in cases where there were also allegations of domestic abuse in a number of cases in the Irish courts and the complexity of making judgments about contact between child and parent in situations where the child’s safety might be at risk is identified as very challenging. This is an important issue for the Irish context

since the intersection between PA and domestic abuse is an area of concern identified both in the literature and also in other jurisdictions.

Similar to other jurisdictions, the assessment of PA in Ireland is complex and has involved the use of expert evidence. A number of cases include the use of expert evidence, by experts including psychologists and guardians *ad litem*. In some of the cases presented, judges visibly interrogate this evidence and having considered all the issues, disagreed with the findings of the expert. Expert evidence has been identified as an issue to be mindful of in respect of PA, particularly in the importance of ensuring the expert has a broad knowledge and understanding of all potential reasons to be considered and assessed where a child rejects a parent.

Some of the cases outlined in the preceding section also demonstrate that judges in Irish courts have attached less weight to children's views in circumstances where they believe that the children are being influenced by one of the parties. This was evident in *AB v. CD* [2012] IEHC 543, where Abbott J. stated at [103] that the children were "alienated by the mother and ... their views should not be allowed to change the fundamental approach of the Court". This was also evident in *BB v. ZS* [2018] IEHC 15, where Reynolds J. stated at [25] that "the court has very considerable concerns about whether these views are authentically the child's own". Similarly, in *SS v. KA* [2018] IEHC 795, O'Hanlon J. had the "impression that there has been some influence from the mother" and accordingly, the judge appeared to give the views less weight although she did "factor their views in". Further, in *SH v. JC* [2020] IEHC 686, Gearty J. stated at [7.8] that she must accord "less weight" to the children's objections to a return to France "than they might attract otherwise".

Two main interventions were identified as taking place in the Irish courts and these are the use of therapy and directions to parents to promote good relationships. Some consideration was also given to changes in custody arrangements although in the absence of an empirical base, it is not clear about how often this might arise in the Irish context.

The findings also identify two corresponding issues arising in the Irish legal system in respect of PA and these are issues relating to domestic abuse and those relating to the voice of the child. These issues are replicated in other jurisdictions and a consideration of these and other issues arising are presented in the next chapter.

5. The wider nature of PA and its relevance to the Irish context

This chapter considers the wider nature of PA in the international context. Specifically, the chapter examines what is known about the extent of PA, how it has emerged and changed over time and crucially identifies issues that have been controversial in other jurisdictions and the international literature. Consequently, while much of what is presented in this chapter is based on the experiences of authors based in, or referring to, the United States, authors in other jurisdictions, including Australia, Canada and European countries such as England and Wales, Spain and Italy identify the same issues and thus these issues are likely to be relevant to the Irish situation.

5.1. Key points

- There is no robust study on either the prevalence or the nature of PA and widely varying estimates have been suggested.
- There is evidence of an increasing awareness and presence of PA in the European courts and in the scientific and legal literature.
- There is substantial commentary around the sociocultural context for PA, particularly in its inception.
- It is clear that PA is a contested concept and four main areas of controversy arise. These areas are the gendered nature of PA, the intersection between allegations of PA and domestic abuse, the voice of the child, and the scientific basis for the PA including attempts for inclusion in international classifications of disease such as the ICD and DSM.

5.2. The extent and nature of PA

As with Ireland, no nationally or internationally representative studies on the prevalence or extent of PA have been carried out elsewhere although attempts have been made to estimate how frequently it arises.

5.2.1. Frequency and nature of PA in the United States

In the US Clemente and Diaz (114) state that while initially Gardner identified that PAS is experienced in 95% of high-conflict divorces, this was reduced to 40% in a later publication by Gardner. A study in the United States by Harman et al (22) reports on a “representative poll” of 610 adults in one US state (North Carolina), carried out by student interviewers using computer-assisted telephone interviewing systems. The authors reported that 55 parents (13.4%) who took part in this poll reported “that they feel they have been alienated from one or more of their children by the other parent” (p. 63) although they further noted that 21% (n = 11) of those were unaware of the term parental alienation before the poll. Socio-demographic differences such as

gender (fathers were “marginally” more likely to report alienation) and marital status (married parents were more likely to be alienated — but the authors note it was not clear if they were still married to the parent of the alienated child or children) and education differences were identified as statistically significant. While the use of a probability sample is a strength of this study there are many limitations arising — not least, the small numbers included, the use of students to carry out interviews and as with all studies around this topic, the absence of a consensus around the definition.

In a substantial research study carried out in the United States, Lorandos (91) in the Westlaw ALLSTATES database identified 1,181 cases “in which the construct PA was determined to be material, probative, relevant, admissible, and discussed” in US courts from 1985–2018 (p. 328). The author, however, highlights in the paper that this was considered to be an underestimate of the number of cases and other cases that had not been identified in the search were identified by colleagues. Other studies carried out with parents in the United States who report having children who are alienated from them are unable by virtue of their sample (all alienated parents) to provide a prevalence of PA (21, 75, 108).

5.2.2. Emergence and frequency of PA in other jurisdictions

European jurisdictions

While no prevalence studies were identified in respect of the European population, some consideration has been given to this issue by authors in the UK and Spain. Vila (28) states that “the theory of PAS developed in the early 2000s” in Spain and that the “notion of PAS has gained increased currency in the context of rising levels of marital separation” (p. 46). However, “only a small number of studies ... have been carried out on the extent of PAS in Spain” (p. 53). Vila reports that the Special Government Delegation on Violence against Women and the State Observatory on Violence against Women in Spain “have produced several reports opposing the concept of PAS as having no foundation in fact. However, despite this formal opposition, PAS continues to be used in the legal system — particularly in family courts that rule on child custody cases” (p. 46).

Barnett (50) reviewed a “total of 40 cases (comprised in 54 judgments) ... in which PA/PAS was raised or referred to. These were identified in Family Law Reports and on BAILII, and a few unreported judgments were identified in Casemine”. Barnett acknowledges that the “reported cases cannot provide a representative sample of all such cases”.

Barnett described the historical development of PA in England and Wales and found that from 2006–2007, parental alienation claims had “little success” in the courts while there was “greater acceptance” from 2008–2010, largely due to “a new ‘credible’ expert”, Dr. Weir, whose research was cited with approval by some courts (pp. 21-22). Barnett described 2010–2013 as a “fallow period” in which no cases referencing parental alienation were identified while 2013–2016 saw a “re-emergence” of parental alienation claims. Barnett found nine cases referencing parental alienation during this

period, but parental alienation “succeeded” in only two of these “and the courts were generally dubious about it” (p. 22). One of the cases where parental alienation was identified is described elsewhere in this report: *Re A (A Child)* [2013] EWCA Civ 1104. Barnett noted that in that case, the new expert also cited above, Dr. Weir, “‘diagnosed’ PA but the other expert, Dr. Hall, refuted this” (p. 22).

Barnett has described parental alienation as being “in the spotlight” from 2016–2019 due to multiple factors, including the publication by Women’s Aid of *Nineteen Child Homicides* which detailed children killed by their fathers during contact arrangements from 2005–2015, as well as publications by Cafcass on the subject, a debate in the House of Commons in 2017 and increased media and legal interest. According to Barnett, as a result of this, “(u)nsurprisingly, there was a notable resurgence of claims of PA in the case law from 2017, a growing acceptance of such claims, and an increase in the number of PA ‘experts’. Twelve cases involving PA were identified between January 2017 and 31 March 2019” (p. 24). Parental alienation was “accepted and/or ‘proved’” in eight of these cases (p. 24) which is a significant increase on earlier case law. Barnett found several noteworthy trends in these recent cases: first, an “increasing number of PA ‘experts’ emerging on the scene”; second, “an increasing number of family lawyer PA ‘specialists’ who advanced PA on behalf of their clients”; and third, “an increasing enthusiasm for transferring residence of children from ‘alienating’ mothers to fathers” (pp. 24-25).

Emergence and frequency of PA in Australia, Canada and New Zealand

Similar to Barnett’s (50) research in the UK, Rathus (87) identified the emergence of expert evidence provided by an influential psychologist, Kenneth Byrne, in the late 1990s, in two early Australian cases referencing parental alienation (p. 7).

Research by Bala et al (115) found the first reported case referencing the term “alienation” in Canada in 1989 (p. 165). Both Fidler and Bala (64) (p. 577) as well as Lapierre et al (10) (p. 31) noted a significant increase in the number of cases referencing parental alienation in recent years in Canada. Indeed, Lapierre et al (10) remarked that “within the last ten years, what was previously a latent discourse has now become legitimized and institutionalized” and attributed this to the “development of academic research, modifications to child protection policies, and growing media coverage” (p. 35). Again, however, no prevalence studies have been conducted in Canada. Mackenzie et al (45) stated that parental alienation “or similar terms (e.g. ‘alienating behaviour’, ‘poisoning’ the child against the other parent) are still commonly used in the New Zealand Family Court” (p. 107) but no attempts have been made to quantify the extent of PA in New Zealand.

5.2.3. Analysis of the extent of PA in other jurisdictions and its relevance to the Irish context

As highlighted there does not appear to be any reported national or international prevalence studies on the extent of PA and while authors based in the UK, Spain and Canada have reported on the emergence of PA in their jurisdiction, there has not been

any quantification of the concept. In the US, widely varying estimates of PA have been presented by authors, some of which have been based on opinion or clinical practice and others on studies with small sample sizes and flawed methodological approaches.

The role of expert evidence provided by psychologists and guardians *ad litem* in the Irish context has already been highlighted in Chapter 4 of this report. Equally, in the UK and Australia, authors have highlighted the role which experts have played in identifying PA in legal cases. It is notable in Harman's study that some respondents (n = 11; 21%) were unaware of the term PA prior to taking part in the research.

Some consideration needs to be given to these findings in the Irish context. In the study of the Irish District Courts by Conneely and colleagues (2), it is clear that PA is being raised as an issue where one parent's behaviour fits the profile of alienating behaviours presented by Gardner. Following the trends of other countries, references to PA may increase and be used more frequently in custody and access cases, particularly in high-conflict cases. The identification of behaviours associated with PA is not sufficient to make a determination of PA and many other considerations need to be taken into account, an issue around which there is agreement.

5.3. Sociocultural context around the emergence of PA

While little empirical work has taken place on the extent of PA, there is a substantial literature around the sociocultural context for the emergence of PA and a consideration of this literature is now presented. Whitcombe (23) reports that the history of PA has been evident in legal documentation since the early 19th century where concerns arising in court cases about one parent "poisoning" the mind of a child against the other were raised. Other authors also support this with Meier (26) indicating that the concept that a parent might encourage their children to choose sides against one parent when involved in a custody battle while divorcing, or even a parent in intact families, has been around for many years. Bernet (20) argues that the notion of PA has been described for at least 60 years.

A number of authors have considered the sociocultural context for the emergence of PA in the 1980s and four key areas arise. These are changes arising from the women's rights movement, and the men's rights countermovement, stereotypes of women, shifts in understandings about children and parenting, and increased prevalence and reporting of child abuse, including child sexual abuse. An analysis of the literature in respect of these four areas is now presented.

5.3.1. Analysis of key sociocultural changes on the emergence of PA

Changes arising from the women's rights movement are described by a number of authors as preceding and influencing the initiation of the term PA (13, 27, 41, 42). Milchman (27) identified a number of legislative changes relating to economic (e.g. the Equal Pay Act 1963), political (e.g. the Equal Rights Act, Affirmative Action), reproductive (e.g. Roe vs Wade) and sexual (Rape Law reform) areas that she suggests challenged "men's traditional cultural superiority". She states that the

consequent feminist advocacy from the 1960s and the 25 years preceding Gardner's introduction of PAS was a period "marked by intense, contentious and overtly angry cultural ferment in the middle and upper classes, the social classes most likely to become involved in custody litigation" (pp. 214-215). Vilalta and Nodal (73) report that similar type influences, particularly feminist grassroots struggles against gender violence, are driving the current context for the spread of the idea of PAS in Spain.

Authors such as Adams (13), Meier (26) and Milchman (81) make reference to negative stereotypes of women and the nomenclature around this as both preceding and informing the emergence of PA. Adams (13), for example, suggests that the stereotype of the "vengeful woman" underpins the "invention" of PA, while Milchman (81) argues that feminist advances in the public and private spheres did not eliminate long-standing historically entrenched cultural beliefs about "malevolent women" and the dangers they posed to innocent men. O'Donohue et al (17) suggest that Gardner's purpose in coining the terms PA and PAS was an attempt to explain the outcomes of high-conflict divorce on children and to deal with what was viewed as an epidemic of false allegations of child sexual abuse. Other authors, however, suggest a less benign genesis of this "syndrome" with Meier (26), for example, referencing additional publications by Gardner in 1992 to suggest that Gardner was describing a "syndrome" where "vengeful mothers employ child abuse allegations as a powerful weapon to punish the ex and ensure custody to themselves". Meier (26), in a historical account of parental alienation, suggests that these negative stereotypes of women continue to underpin several assumptions made by "abuse lawyers" and their clients in custody litigation. More recently, Barnett (50) in the UK context reported that "[t]he fathers' rights movement (FRM), and in particular Families Need Fathers (FNF), has played a key role in promoting PA in England and Wales and the 'hostile mother' discourses that underpin it", particularly in the context of the courts being "reluctant to enforce contact orders on resistant children" and the courts' recognition that contact should not be ordered where there are findings of domestic violence (p. 19).

Shifts in the sociocultural context have led to an increased involvement of fathers in parenting over the last 30 years (27). In custody cases, a number of authors (11, 13) assert that these changes resulted in a corresponding judicial shift where, in the 1970s, there was a move from the "Tender Years Doctrine", described by Johnston and Sullivan (11) as a presumption that children are best raised by mothers, to the "best interests of the child", which Adams (13) notes is understood to be a gender-neutral term. Both Walker (41) and Vila (28) draw attention to family law reforms based on the "best interests of the child" that significantly increased the implementation of joint custody of children after divorce. In a parallel shift, there was increasing recognition of the importance of the "voice of the child" in matters that concern them, including legal proceedings, and Milchman (27) notes that societal norms have come a long way from the era in which children were "to be seen but not heard."

The fourth sociocultural shift, and one that is believed to have directly influenced the work of Gardner, drew attention to an increase in the prevalence and reporting of child

abuse in the 1980s and 1990s (11, 13). Johnston and Sullivan (11) write that as a result of the increase in prevalence and reporting there was a growing public awareness that child sexual abuse was more common than was previously assumed; was hard to detect; was usually perpetrated by a trusted person known to the child; and it had harmful and destructive consequences. Johnston and Sullivan (11) also suggest that while most reports of child sexual abuse were well founded there was a “surge” in unfounded allegations in high-conflict separations which was compounded by beliefs by mental health professionals that children don’t lie about sexual abuse. Johnston suggests that when there were better investigative protocols the number of unfounded allegations abated.

Influence of allegations of child sexual abuse (CSA) on the emergence of PA

A number of authors have highlighted that Gardner’s work on PAS emerged as a response to his perceptions of an “epidemic” of false accusations about sexual abuse being made mainly by mothers against fathers in custody proceedings (13, 16, 37). Meier (26) reports that Gardner’s discovery of PAS was in response to two purported phenomena:

- a widespread use of child sexual abuse allegations in custody cases; and
- b his belief that allegations in that context have a “high likelihood of being false”.

According to Adams (13), Gardner believed that allegations of sexual (or other) abuse were “routinely” made by “the alienating mother” or child against “the hated parent” in high-conflict custody cases and this formed the basis for PA. Feresin (44) further argues that despite evidence to the contrary, according to the “theory” of false accusations of abuse during custody disputes, these accusations arise “from the resentment of frustrated mothers seeking revenge against their ex-partner”. Bernet (34), a strong proponent of PA, however, argues that false allegations do arise in custody cases and their denial arises because there is a conflict between domestic violence theory and PA/PAS where people “generally believe the children” and do not accept that “sometimes children are manipulated to make false allegations”.

There is some evidence that this view of false allegations continues to be held among mental health and legal professionals in the US (68) as well as alienated parents (33). Saunders and Oglesby (68), for example, write that false allegations of abuse are perceived to be common in child custody cases, noting that in their study, court evaluators estimated that about one-quarter to one-third of child abuse allegations are false. Whitcombe (33) reported that 81% (n = 44) have experienced false allegations of child abuse. It has also been noted that in the UK, allegations of child abuse result in the immediate cessation of contact with that child during the period of investigation which Whitcombe (33) highlights makes the resumption of relationships very difficult.

Other authors, however, have highlighted difficulties in respect of child sexual abuse arising when allegations of PAS are made (11, 13, 81). Adams (13) for example, states that an accepted allegation of PAS has three (negative) consequences: it can nullify allegations of child sexual abuse thus freeing the allegedly abusive partner from

scrutiny; it can result in mothers who make these allegations being punished through restricting or eliminating access to their children; and it can act as a deterrent to mothers who contemplate making allegations of child sex abuse against their spouse (whether she believes those allegations to be true or not). This has also been highlighted more recently by Milchman (81) who writes that if PA seems in any way plausible, the court is likely to suspect the parent of making a false claim of child sexual abuse.

5.3.2. Analysis of sociocultural context and its relevance to the Irish context

The sociocultural context for PA is generally written by opponents of the concept of PA and this is an important factor to consider in its interpretation.

There are some facts, however, that are indisputable. Women's place in society has undergone significant change since the 1960s in the US, and more recently in Ireland. These changes have been supported in legislation and policy resulting in a shift in the balance of rights between men and women. Second, there is no disagreement that PA emerged in the 1980s from a belief by Gardner that mothers were making false claims of child sexual abuse against fathers in conflicted-custody cases. Evidence presented in the previous section highlights that these beliefs continue to be held by professionals involved in custody disputes. For example, a case *CG v. BB* [2019] IEHC 15, at [42] identified "unfounded allegations of sexual abuse".

It is important to note, however, that in parallel to the emergence of PA, there was an increase in knowledge about, and reported prevalence of child abuse. There is now an acceptance in Ireland, as elsewhere, that child sexual abuse does take place and in 2020, for example, the State of the Nation's Children Report (116) records 1,072 child sexual abuse referrals to Tusla accounting for 7.3% of all child abuse referrals. It is not possible to identify what proportion of these cases are subsequently confirmed or, what proportion are considered to be false allegations. Neither is it possible to determine which, if any, of these cases were raised in the context of conflicted-custody cases. It is, however, imperative that any allegations of child sexual abuse are thoroughly investigated.

5.4. Contested nature of PA

As highlighted in this report the sociocultural context for PA is generally written by opponents of the concept of PA and this is an important factor to consider. PA itself is a contested concept and the areas of conflict and controversy arise in respect of four key areas. These are the gendered nature of PA, the intersection between PA and domestic violence, the scientific basis for PA and finally, the voice of the child. An analysis of the findings arising from the literature in respect of each of these four areas is now presented. It is important to note that, in general, those who write about the gendered nature of PA, the intersection between PA and domestic violence and the

voice of the child generally oppose the concept of PA. The scientific basis for PA is presented and argued by those who agree and those who disagree with the concept.

5.4.1. Gendered nature of PA

As highlighted in the previous section, there is a strong gendered context for PA. In an article considering the reform of Swedish family law, Burman (99) identifies “parental alienation syndrome” as a “dominant discourse” by fathers’ rights groups and activists (FGAs) (p. 164). Burman observes that the “discourse on parental alienation syndrome (PAS) draws on the idea that a parent can influence a child to reject the other parent and that such behaviour is common in custody disputes. In particular, residential parents, who most often are mothers, are described as behaving in this way” (p. 169).

The gendered nature of PA can be attributed, in part, to the writings of Gardner as reported by a number of authors. Adams (13), for example, writes that PAS is underpinned by:

“underlying gendered stereotypes of scorned women as vindictive hussies abets an assumption that wives bent on vengeance would attempt to alienate their children from the (rejecting) husband in the context of divorce and custody disputes” (p. 336).

de Alcântara Mendes and Bucher-Maluschke (18) also cite work by Gardner published in 2001 which they report stated that PA arises as a result of a combination of indoctrinations and mind programming — brainwashing — “by the mother in order to defame the non-custodial father”. Siracusano et al (24) note that Gardner’s initial writings positioned the mother as the alienating parent “75-95%” of the time although, since that time, research carried out has led to an understanding that either fathers or mothers can alienate their children (24, 79, 117).

Others, such as Lapierre and Côté (40), for example, state that mothers are disproportionately labelled as the alienating parent while Elizabeth (118) comments that the “[t]he interpretive frame provided by PA(S) ... creates a new object of maternal blame — the alienating, hostile and no-contact mother — who is ostensibly recognisable through her display of a number of characteristic negative affects: possessiveness, suffocation, excessive intimacy, hysterical imagination and selfishness” (p. 121).

5.4.2. Intersection between domestic abuse and parental alienation

Where claims of domestic abuse are made, difficulties are reported (11, 27, 28, 40-43) and research in respect of several jurisdictions has shown that “there is a clear intersection between domestic abuse and parental alienation” (48) (p. 71) and this is evident across several jurisdictions.

In the Neilson (119) study, for example, of 357 Canadian court cases “in which parental alienation was claimed or found by a court”, almost half of these “also involved claims of domestic violence and or child abuse” (p. 3). She states her research “indicates a pattern of implicit judicial bias against mothers/primary care givers and against

domestic violence evidence in the cases that endorse parental alienation theory” (p. 46). Also referring to the Canadian context, Sheehy and Boyd (120), state that “violence against women and its effects on children’s health and development, social facts for which there is abundant evidence, have a negligible impact in many of these cases” (p. 80). They believe their research shows that “[j]udges are more likely to focus on alienating behaviours than IPV (intimate partner violence) when determining custody and access. IPV is rarely condemned or related to children’s best interests in the way that alienation is” (p. 88). Lapierre et al (10) comment that “it seems necessary to challenge the main components of ‘parental alienation’ discourse, including the double standards for mothers and fathers, the idea that father-child contact should be maintained in all circumstances, and the idea that false allegations constitute a widespread problem” (p. 42).

Silberg and Dallam (121) highlight this in the US, commenting that “PAS ... provides a ready-made defense for parents accused of abuse and is frequently introduced in custody cases in order to discredit allegations of family violence or abuse” (2019, p. 143). Meier (90) concludes “that no matter what term is used — ‘alienation’ alone or PAS, the outcome is the same: Both are used to discredit and criticize a mother who is reporting domestic violence and/or child abuse in the custody context, and to ignore children’s expressions of distress about a parent” (p. 93).

A recent review of more than 4,000 US judicial opinions relating to PA and custody by Meier (90) showed that while mothers and fathers fare equally in several cases, mothers can be treated less favourably than fathers in some circumstances where allegations of abuse are made. Key findings relating to the extent to which allegations of abuse are credited in the context of custody are presented in Table 4.

Table 4 Custody outcomes by gender where claims of abuse and alienation are made (Meier, 2020)

Mothers and fathers fared equally in several circumstances

- When a parent's claim of alienation was credited (across abuse and non-abuse cases) mothers and fathers lost custody at identical rates (71%).
- Win rates were also identical (89%) for mothers and fathers when the other parent was found to have committed alienation.
- Virtual parity is apparent in the non-abuse alienation cases, where win rates are 58% (fathers) and 56% (mothers). In contrast, when abuse and alienation are cross-alleged, this parity disappears and fathers win 66%; mothers 52%.

Fathers' and mothers' rates of custody losses differ significantly when one or the other alleges alienation

- Across all alienation cases (both with and without abuse claims), when a father alleged a mother was alienating they took custody from her 44% of the time (166/380). When the genders were reversed, mothers took custody from fathers only 28% of the time (19/67).
- This means that when accused of alienation, mothers have twice the odds of losing custody compared to fathers.

Where one party alleged abuse and the other defended with alienation

- Mothers accused of alienation lost custody to the fathers they accused of abuse 50% (81/163) of the time.
- Fathers who were accused of alienation by the mother they accused of abuse lost custody 29% (5/17) of the time, but this is not a statistically significant result due to the relatively low numbers.

Meier (90) observes at p. 101 that:

“[t]he continued influence of PAS in alienation discussions is evident in several findings from this study: First, the bias against women but not men in abuse/alienation cases is consistent with the stereotypical roots of the PAS theory, which framed the problem as a pathology of vengeful ex-wives falsely alleging abuse ... Second, given that PAS characterized mothers as falsely or pathologically accusing an innocent father of child sexual abuse, it is not surprising that alienation allegations continue to be particularly powerful in application to precisely those cases, and by extension, to child physical abuse ... in only one out of 51 cases where a mother reported child sexual abuse and a father claimed alienation was the mother's allegation considered valid by the court. Virtually the same finding appears in Canadian research ... While it is possible that some courts were right to reject a child sexual abuse claim, there is objective reason to suspect they were wrong more often than not. Outside research undertaken by impartial researchers indicates that child sexual abuse claims in custody litigation are considered valid — even by conservative evaluators — 50-72% of the time ... Intentionally false allegations are even rarer The study's findings, therefore, support women's widespread complaints that custody courts are punishing them for raising child abuse by refusing to protect — and thereby endangering — genuinely at-risk children. We should all be able to agree that where abuse is real, children must be protected. This finding alone should mobilize courts and other personnel involved in assessing, at minimum, child sexual abuse claims, to revisit their approaches”.

Recognition and understanding of domestic abuse

Stahly (46) suggests that perpetrators of Intimate Partner Violence (IPV) appear to use PA in the legal system and ongoing litigation to engage with, maintain control of, and harass their ex-partners and this contention is supported by others (44, 68). Sir James Munby in the UK called for research into parental alienation as well as “domestic abuse in all its forms” in both international literature and English language case law in February 2020 (122). This call for research came in the context of criticism levied at the family courts in the UK, as identified by Sir James, including complaints that “judges are not sufficiently alert to and understanding of the very serious problem of domestic abuse in all its forms”, “that judges are too accepting of some supposedly expert evidence in support of allegations of parental alienation”, “that judges are not conducting fact-finding hearings when they should”, and “that judges are not doing enough to prevent the process itself becoming abusive”.

This view is supported by Barnett’s review of 40 cases involving references to parental alienation in England and Wales from 2000 to the end of March 2019 where “high level of domestic abuse (over 50%)” in these cases was identified (50) (p. 26). Also in the UK, Hunter et al (47) report that “many of the submissions by mothers alleging domestic abuse or child sexual abuse referred to the fact that counter-allegations of parental alienation had been made against them” (p. 97, [7.5.2]). One example presented highlights the confluence of domestic abuse, the gendered nature of PA and also identifies challenges arising in taking children’s views into account. The following excerpts illustrate this:

“My daughter told Cafcass recently how her father had been abusing her and she told her advocate too — and social services won’t investigate because they say it’s a family court matter. By the way — she told them and the following week they tried to force her into a room with him. She was screaming, crying in the car park, she saw his car and that was it, she was crying and shaking and didn’t want to go in there. ... Cafcass are still going down the parental alienation route, that I’m somehow doing this, despite clear evidence and a disclosure from a child” (p. 50).

Hunter et al (47) further stated (p. 159, [10.3.2]) that:

“[w]hile the panel accepts that some resident parents may be opposed to their children’s contact with the non-resident parent, the strong association between claims of alienation and domestic abuse allegations ... and the weight of the research evidence ... and submissions suggest that accusations of parental alienation are often used to threaten and blame victims of domestic abuse who are attempting to protect their children and achieve safer contact arrangements. A substantial number of mothers referred to the threat of children being transferred to live with the father if they did not promote contact, which they experienced as a further form of abuse”.

Similarly in Sweden, Burman (99) notes a “problem arises from custody law in practice”:

“Courts often underline the mother’s responsibility to promote a more positive and nuanced image of the father, who may be a person that both she and the children perceive as a perpetrator of violence ... There is also some evidence of parental alienation syndrome being accepted in some courts as an explanation for mothers’ and children’s resistance to contact with fathers, instead of their violent experiences with fathers” (p. 181).

According to Elizabeth et al (77), “accusations of mothers’ hostility by some fathers and family law professionals are seldom likely to be in keeping with a much more complex reality” (p. 269). Indeed, research by Elizabeth and colleagues aims to “enable family law professionals to become more cognisant of the norms that govern contemporary motherhood, the tensions between these norms and the role of fathers’ actions in causing mothers to review their adherence to the norm of support for father involvement in children’s lives” (p. 271).

Saunders and Oglesby (68) report that many child abuse professionals continue to believe that mothers coach their children to assert false allegations in contested custody disputes. This is supported by Shaw (37) who states that a small sub-set of child custody and other professionals are still “explicitly pushing the concept of PAS” and a larger set of researchers and practitioners are continuing to use the same problematic core concepts and recommendations laid out by Gardner. This point has also been made about the Italian context by Feresin (44) who stated ‘the belief that mothers invented or exaggerated abuse because they were frustrated and resentful was widespread among professionals’ (p. 64). Feresin further notes that “professionals often fail to recognize and understand domestic violence, and this focus on ‘high-conflict situations’ and ‘PA’ tends to obscure even more the presence of domestic violence”. Further, Morrison et al (43) report that a child who raises “adult concerns” such as domestic abuse may be thought by custody evaluators of being manipulated and “overly involved”.

Allegations of child sexual abuse

As noted earlier, Gardner’s beliefs about PA emerged from a perceived epidemic of false allegations of child sexual abuse by mothers against fathers in high conflict custody cases. The perception of false allegations of child sexual abuse in family law cases has endured and continues to be observed in court cases.

Death et al (123) considered 357 judgments in Australia available on Austlii from 2010–2015, focusing on allegations of child sexual abuse, and of these, 44 cases referenced “alienation” (pp. 4-5). This research led the authors to conclude (at p. 9) that:

“[t]he cases analysed here present a picture of parental alienation as gendered and relying on constructions of mothers as coaching children in allegations of CSA, vindictive, highly manipulative, and mentally ill. These themes align with parental alienation literature which relies on these constructions of mothers in determining

whether parental alienation is occurring. Parental alienation also relies on allegations of abuse being false”.

The authors concluded that “[t]here is evidence to support the notion that in relying on parental alienation as an explanation for allegations of CSA (child sexual abuse), the FCA (Family Court of Australia) also relies on the gendered discourses of hysterical, vindictive and manipulative women that have historically been used to discredit women and children” (p. 8). The authors found that “[a]llegations of coaching and alienation in this study ... appeared to be a readily accepted alternative explanations for disclosure of sexual abuse” (p. 9). Rathus (87) also commented that where claims of parental alienation are made, “efforts to protect are interpreted as obstructive — colliding with the narrative of shared parenting” (p. 7). Instead, Rathus states that “when one parent makes a claim of alienation against the other”, the relevant parties should “carefully consider all of the reasons why the children may be resistant to spending time with the rejected parent” (p. 14).

Other research reported in Milchman (81) involving 24 court decisions concerning claims of parental alienation and child sexual abuse allegations in New York between 2001 and 2017 led to the conclusion that “[j]udges overwhelmingly believed PA allegations over CSA allegations, even when there was no evidence to disprove CSA. Few judges recognized the difference between unfounded and false allegations. Moreover, few judges recognized causes of false allegations other than a deliberate and malicious intent to alienate a child from a parent” (p. 239). The research found that “[i]n general, PA allegations were more often confirmed by findings that CSA allegations were unfounded, equated with false, [rather] than by direct evidence of PA” (p. 254). Milchman noted that there was “affirmative evidence” of parental alienation in some cases which consisted of: “interfering with the fathers’ visitation; ‘bad-mouthing’ the father; obstruction of the fathers’ access to information about the child; excluding him from decision-making; devaluing him; being hostile; threatening him with legal action; making false allegations of physical abuse and neglect; and not revealing court orders that protected his rights” (p. 237).

In Vila’s research in Spain involving “20 in-depth interviews with victims of gender violence with children”, “over a quarter of interviewed women were concerned by the deployment of alleged PAS as a threat in the process of separation from a violent ex-partner” (28) (p. 50 and p. 53). Whitcombe (33), however, in a study of the experiences of alienated parents in the UK reported that just over two thirds (n = 54; 67%) of parents in their study reported to have experienced false allegations of domestic violence.

Pro-contact culture

While courts must carefully consider children’s rights to contact with their parents following relationship breakdown, some researchers have criticised a “pro-contact culture” (47, 124). Hunter et al (47) observed, for example, that the “pro-contact culture” within family law courts in the UK can be a “barrier” to the court’s “ability to respond consistently and effectively to domestic abuse and other serious offences” including in circumstances where claims of parental alienation are made (p. 9, [1] and

p. 78, [6.9.2]). Hunter et al (47), (p. 160, [10.3.2]) state that “[t]he evidence also suggests that within the pro-contact culture, courts are too ready to minimise or disregard domestic abuse and accept the stereotype of the “implacably hostile” or “alienating’ mother”. This was also emphasised by Feresin (44) who wrote that “even though joint custody and co-parenting are often unrealistic and unsafe when there is a history of domestic violence, courts seem to be reluctant to restrict custody” (p. 65).

Mackenzie et al (45) found that counter allegations of parental alienation are “likely to follow if a mother raises concerns about the safety of her child(ren) in the care of her abusive ex-partner and/or if a child resists contact with that parent” (p. 107). Research by the Backbone Collective (125) found that there was a “high number of women who said they were wrongly accused of ... deliberately preventing the child’s relationship with the other parent (58%) ... or ... alienat(ing) the child (55%)” (Mackenzie et al (45) p. 108). Where claims of parental alienation are made in New Zealand courts, Mackenzie et al (45) found that women “are framed as the abuser, one who is psychologically abusing their children by allegedly turning them against the other parent” (p. 115). According to the authors, “[t]he more they seek to protect their children from abuse by sharing evidence of abuse towards the children, the stronger is the case made against them that they are alienating their children” (p. 115). This point is also made by Feresin (44) in the Italian context where it was reported that “actions of mothers to protect their children, (e.g. by instigating separation and complaining about violence), were considered acts of revenge against their ex-partners.

Where domestic violence arises it can result in a number of dilemmas and these have been described by Saunders and Oglesby (68) who describe a number of “traps” that can be faced by women as they leave violent relationships. They argue that women are in a no-win situation because of dilemmas arising due to negative consequences for both staying and leaving; cooperating, and being reluctant to cooperate, with an ex-partner; and seeking or not seeking mental health counselling. The authors provide brief first-person accounts of these issues and these are presented in Table 5.

Table 5 Traps identified by Saunders and Oglesby (68) (p. 156)**Staying or leaving**

- If I stay, I could be accused of failing to protect my child from violence and face the likelihood of more abuse to myself and my children BUT
If I leave quickly out of fear and do not bring my children, I may be accused of abandoning my children AND
- If I leave with my children there is a good chance my ex-partner will stalk, harass, or abuse me and my children and my ex-partner will find ways to use the legal system to harass me.

Cooperating with and being reluctant to cooperate with an ex-partner

- If I leave and I am reluctant to co-parent out of fear of past, present or future harm to myself or my children (e.g. if I want or need to relocate, keep my location confidential, insist on supervised visitation, am traumatised by the sight or voice of my ex-partner) AND/OR
- If I report his threats or violence toward myself or my children, the friendly parent standard present in most state laws may be used against me, with the increased chance I will lose my children to the custody of an abuser, AND/OR
- I will be accused of making false allegations of abuse, AND/OR
- I will be labelled as a parental alienator with the increased chance that I will lose my children to the custody of an abuser.

Seeking mental health counselling

- If I seek mental health counselling to overcome depression, PTSD and related problems, that information could be used against me if it is not viewed in a trauma framework, BUT
- If I don't seek counselling it is less likely I will overcome mental health symptoms caused by the abuse and less likely I will return to being a nurturing parent.

5.4.3. Analysis of contested issues arising in respect of the gendered nature of PA and their implications for the Irish context

The preceding analysis of literature and legal cases highlights two inter-linked areas around which PA is polarised, and these are the gendered nature of PA and claims and counterclaims around domestic and child sexual abuse. Similar to other areas relating to PA, including the definition and characteristics of the concept, authors who support or oppose PA as a concept focus on different issues and research different areas. Generally, those authors who write about gender and domestic abuse in the context of PA are highly critical of Gardner's work and argue that mothers are disproportionately labelled as the alienating parent, that PA is used as a counterclaim to allegations of domestic abuse against women, that a lack of understanding about domestic abuse leads to claims of PA by women and that the courts treat women in a less favourable way if they raise claims of abuse alongside PA.

The complexity of weighing up these issues has been acknowledged and highlighted in the research literature. Having considered 40 cases in England and Wales, Barnett (50) concluded (p. 27) that parental alienation "is a concept that is proving more powerful than any other in silencing the voices of women and children resisting contact with abusive men. PA is not an 'equal' counterpart to domestic abuse, it is a means of obscuring domestic abuse, and should be recognised as such". Hunter et al (47) called

for further research regarding the “coincidence of domestic abuse allegations with allegations of parental alienation, and the outcomes in such cases” (p. 186, [11.14]).

A pro-contact culture has been criticised by some authors in the context of PA (47, 124). This is an area that also needs to be considered in the Irish context.

While there does not appear to be research in the Irish context on domestic abuse and PA, some examples of cases from the High Court in Ireland involving allegations of PA as well as allegations of domestic abuse are outlined in Chapter 4. Consequently, allegations of PA made simultaneously or in response to claims of domestic abuse, or allegations of domestic abuse made simultaneously or in response to claims of PA, require meaningful deliberation and assessment. This issue is further addressed in the next chapter on assessment.

5.4.4. The child’s views

Some consideration is now given to the views of the child where PA has been raised as an issue. In 2006, Blank and Ney (30) posited that in areas of high-conflict divorce there are two exclusive positions where there is non-visitation of a child. There are those who are in denial that a child could develop an irrational alienation from a parent, and those who always blame the parent.

The child’s views are core to the concept of PA and in the UK, research by multiple authors (47-50) all expressed concerns about the treatment of children’s views in these cases. A report by Hunter et al (47) that PA is “based on an idea that children’s wishes and feelings have been influenced by the ‘alienating’ parent, and therefore should be discounted”. The authors further state that “the increasing use of the term ‘parental alienation’ ... could silence children. If children have been alienated, then their wishes and feelings are seen as contaminated” (Hunter et al (47) p. 78, [6.9.2]). Barnett (50), meanwhile, comments that “(o)ne of the most worrying aspects of PA is its refusal to accept children’s views as their own, unless, of course, children want contact with their fathers, in which case their views are readily accepted” (p. 27). Equally in Sweden, Burman (99) expressed concern as to how children’s views “are critiqued in an indirect manner by questioning the general trustworthiness of children’s expressed wishes”. Burman (99) states that:

“it is argued that the increased practice of ‘asking children’ has increased the extent to which bloody-minded parents influence children in order to make them express repulsion towards the other parent or reject the other parent’ and that ‘children’s views ... must be critically reviewed since children easily can be influenced by one of the Parties.’ Thus, the steps that have been taken to fulfil the child’s rights to have an opportunity to be heard in the judicial proceedings that are affecting them, which are enshrined in the Convention on the Rights of the Child, are critiqued in an indirect manner by questioning the general trustworthiness of children’s expressed wishes” (p. 169).

It is important to emphasise the point made by Doughty et al (48) “that before a court takes the draconian step of overriding a child’s wishes, the underlying cause of resistance should be very carefully explored to ensure that important information about the child’s relationship with the non-resident parent is not overlooked (p. 74). According to Doughty et al (48) “[t]he literature and cases indicate that the majority of alienation claims relate to children who are old enough to express a view” (p. 70).

Macdonald (49) (p. 9) found that “(c)hildren’s divergences from the preferred contact ideal were viewed and treated as disruptive and in need of repair”. Indeed, MacDonald’s research of Cafcass “Section 7 (Children Act 1989) reports prepared for the family courts in child arrangement disputes in domestic violence cases” found that “children’s voiced experiences of violence did not routinely feature in reports. Where children’s accounts of violence were included they were usually brief and had little to no impact on recommendations, meaning that children’s voiced experiences of violence were disregarded, even in the most extreme and serious cases of domestic violence” (pp. 1 and 9).

Analysis of findings relating to the voice of the child and their implications for the Irish context

The rejection of a parent by a child as a consequence of the attitudes or behaviours of the other parent are at the core of the concept of PA. Researchers have highlighted how this can have a knock-on effect on the weight which is afforded to children’s views in family law cases. Article 12 of the UN Convention on the Rights of the Child (UNCRC) forms the cornerstone of the principle that children’s views should be ascertained in court proceedings affecting their lives. Case law from the European Court of Human Rights (ECtHR) is increasingly interpreting Article 8 of the European Convention on Human Rights in the light of Article 12 UNCRC.

As highlighted in Chapter 4 on the Irish context, judges in several cases in the High Court in Ireland commented on affording less weight to children’s views in cases where they believed that they were influenced (*AB v. CD* [2012] IEHC 543; *BB v. ZS* [2018] IEHC 15; *LD v. CD* [2012] IEHC 582). It is clear, therefore that, in the Irish courts there is an awareness of the potential negative influence by a parent on children’s views of the other parent. It continues, however, to be a contested area internationally in respect of PA.

Research findings in other jurisdictions regarding the weight which is attached to children’s views in cases where claims of parental alienation are made suggest this is a very problematic area around which there is not much agreement. Research by Barnett (50), Macdonald (49), Hunter et al (47), Doughty et al (48) and Burman (99) all expressed concerns about the treatment of children’s views in these cases. It is important to emphasise the point made by Doughty et al (48) “that before a court takes the draconian step of overriding a child’s wishes, the underlying cause of resistance should be very carefully explored to ensure that important information about the child’s relationship with the non-resident parent is not overlooked (p. 74).

5.4.5. Scientific basis for PA/PAS/PAD

This section considers the scientific basis for PA, an issue that has been, and continues to be a clear point of variance, between those who support the concept of PA and those who oppose it. This conflict can be traced back almost to the inception of PA and it is particularly acute in respect of attempts made to have PAS included in international classifications of disease such as the DSM manual and ICD classification hosted by the World Health Organisation.

In 2008, Bond (31) wrote that those who support parental alienation claim there is scientific evidence to prove its existence and Siracusano et al (24) state that those who favour the term “believe it helps in understanding and treating a well-recognised phenomenon”. Those who oppose the term, however, argue that it is a “pseudoscience” that should not be relied on by courts to make judgments about access, visitation and custody rights (27, 67, 80). Commentary by authors such as Milchman et al (65) question the validity of the concept of PA and write that advocates of PA create an ideology that replaces science, while Clemente and Padilla-Racero (67), also in a commentary, argue that PAS has no scientific basis, raises many ethical issues and concerns and its use in the legal system is “a travesty of justice” (p. 183). Milchman et al (65) also highlight that there are distorted claims of consensus by proponents of PA which do not acknowledge the controversy and this claim is achieved by ignoring, dismissal or trivialising significant opposition.

Bernet (34), however, states that over the course of the last 35 years there are hundreds of articles in peer-reviewed journals, chapters, and books that relate qualitative, descriptive research regarding PAS/PA while conceding that there are a smaller number of published quantitative research studies. Clemente and Padilla-Racero (67), however, argue that most of the publications on PAS are reference books, reviews, summaries, entries and translations that explain Gardner's theory of PAS, but do not provide any empirical data. Finally, these authors also state that the *Journal of Family Therapy* (which has published a large number of articles on PAS, including articles from Gardner until his death and other strong proponents of PA such as Bernet and Warshak) has included them on their editorial board. Adams (13) highlights that much of Gardner's own work was self-published including a number of books authored by him.

Criticisms of the scientific basis for PAS

There are three main criticisms of the scientific basis for PA/PAS/PAD (Table 6).

Table 6 Criticisms of the scientific basis for PA/PAS/PAD

Does not meet legal standards in the US for evidence	Methodological limitations in existing literature	It has not been included in internationally recognised classifications of disease (ICD/DSM)
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Legal standards for evidence in the United States

Walker and Shapiro (42) note that while proponents of PAD state that peer-reviewed publications are sufficient to demonstrate the standard necessary for legal evidence, this is not the case. A number of authors have reported that the evidence base for PA does not meet the formal rules of evidence (the Federal Rules of Evidence) in the US which are required to meet the legal standards of scientific validity as required. Cases specifically mentioned in this regard are the *Daubert v. Merrell Dow Pharmaceuticals Inc.*, *Frye v. United States* and *Kumho Tire v. Carmichael* rulings (42, 44, 70, 126). As noted earlier, Conneely et al (2) suggest that a focus on the “alienated child” in the Irish context rather than on “parental alienation syndrome” has avoided the evidence requirements of expert evidence required in the United States.

Bow et al (29) reported that the vast majority of the 1,172 professionals who responded to their online survey of Mental Health and Legal Professionals indicated their awareness of the controversies surrounding the term PA and perceived a lack of empirical research to support the concept.

Methodological issues in existing literature

It is evident from this review that the concepts relating to PA have emerged from the work of one author, Gardner, and over the years, a clear focus has remained on this work, and its defence. Several authors have highlighted flaws in empirical base for the concept of PAS/PAD and even strong proponents of PAS (72) argue that it is important “to broaden and deepen both the qualitative and quantitative research regarding PA”. A number of authors (27, 97) draw on the work of Saini et al (127) who reviewed empirical studies relating to alienation in a book chapter. Saini et al (127), according to Harman et al (97), concluded that while more than 1,000 books, book chapters, and articles were published in the mental health or legal literature on the subject of parental alienation, a majority of this documentation was drawn from legal case reviews, expert opinions, clinical case studies, and qualitative research-based accounts. According to Milchman (27), Saini et al (127) further concluded that, in respect of PA, the design of studies to date have been shown to have serious, even fatal, methodological flaws. These include inadequate assessment instruments, biased selection of subjects, lack of adequate comparison groups, inadequate statistical analyses, and circular reasoning all of which undermine construct validity. It has been suggested that the funding to undertake methodologically appropriate studies on the aetiology, diagnosis and assessment, and treatment outcomes of PA has not, to date, been made available. A number of authors (27, 72, 108) argue that

its inclusion in DSM and ICD would facilitate this research to take place which would, in turn, lead to better understandings of the concept.

Attempts to have PA/PAS/PAD included in internationally recognised classifications of disease (ICD/DSM)

It has been reported that there is significant opposition by scientific and professional associations with a number of authors highlighting that the concept is not recognised by any major professional organisation in the field of psychology such as the American Psychological Association or the American Psychiatric Association (23, 29, 69, 73, 128).

While Whitcombe (23) highlights the use of PAS as a “de facto” clinical diagnosis in family court cases and notes there is a “general consensus that alienation exists within a distinct population”, several authors have highlighted that it has failed to be included in the World Health Organization’s internationally agreed disease classifications (the International Classification of Disease (ICD)) or the Diagnostic and Statistical Manual of Mental Disorders (DSM) authorised by the American Psychiatric Association and accepted worldwide.

The attempts to include PA in these international disease classifications has been noted by several authors who propose (20, 34, 35, 71-73) and oppose (23, 27, 36, 65, 69) its inclusion. Vilalta and Nodal (73), for example, state that “PAS is widely recognized by the professional and scientific community and may be described and classified in the DSM-5 as a ‘Parent-Child Relational Problem V61.20 (Z62.820)’”. Houchin et al (69), however, write that the PA debate belongs in the courtroom and not in DSM-5 and suggest that groups for and against PAD’s inclusion in the DSM have been gearing up for a battle that should have been over before it even began (p. 127).

Arguments for inclusion in DSM

Attempts to have PAS included in the ICD or DSM have been underway for several years. In 2006, Summers and Summers (96) wrote that while both PA and PAS are “well recognised within the mental health field” the reasons it was not included in the DSM-IV was because the term was not introduced in time to be included. These authors further noted that because of the extensive literature and clinical findings, it “appears promising that the DSM-V scheduled for publication around 2011 will acknowledge PAS”. Whitcombe (23) writes that a formal proposal was made in 2008 by 70 mental health practitioners and legal professionals, supporting its inclusion in the DSM-5 under the heading of Disorders In Childhood And Adolescence, and Bernet (20) set out the reasons why “Parental Alienation Disorder” should be included as follows:

1. Relational disorders are being considered for DSM-5, and PAD is an exemplar of this type of mental disorder.
2. Despite controversies regarding terminology and aetiology, the phenomenon of PAD is almost universally accepted by mental health and legal professionals.

3. Research indicates that PAD is a valid and reliable construct.
4. Establishing diagnostic criteria will make it possible to study PAD in a more systematic manner.
5. Establishing diagnostic criteria will reduce the opportunities for abusive
6. parents and unethical attorneys to misuse the concept of PAD in child custody disputes.
7. Establishing diagnostic criteria will be helpful for: clinicians who work with divorced families; divorced parents, who are trying to do what is best for their children; and children of divorce, who desperately need appropriate treatment that is based on a correct diagnosis.

Arguments against inclusion in DSM

The 2008 proposal was unsuccessful and Walker and Shapiro (42) identify three main reasons why the proposal was rejected at that time. These are:

1. insufficient empirical data to support the benefits of adding a new childhood disorder;
2. insufficient data to differentiate the symptoms from trauma, specifically child abuse and domestic violence from PAD; and
3. insufficient data to demonstrate the necessity of the courts using PAD to force reunification of children with an alienated parent in order for them to grow up healthy.

A more detailed proposal to both the DSM-5 Task Force and the ICD-11 International Advisory Group was submitted in 2010 suggesting that PAS be included as a “Behaviour And Emotional Disorder With Onset Usually Occurring in Childhood And Adolescence” or under relational problems (42). Walker and Shapiro (42) write that this set of proposals were based on a “newer form” of PAS titled Parental Alienation Disorder (PAD) in an attempt to get it accepted, although this attempt was also rejected. In response to critics who were opposed to its inclusion in ICD or DSM, Bernet and Baker (72) suggested their opposition arose from a number of common misunderstandings about parental alienation, specifically, that there was insufficient research to support it as a diagnosis; that adopting parental alienation as a diagnosis would lead to serious adverse consequences; that the advocates of parental alienation are driven by self-serving or malevolent motives; and that Richard Gardner should be subject to criticism for self-publishing about this area. Bernet and Baker (72) rebut these misunderstandings suggesting that “there are powerful reasons” for PA to be included and that there is almost no dispute among mental health professionals on its existence. Milchman et al (65) argue that despite the scientific evidence to the contrary those who support the inclusion of PAD:

- a. assert that anecdotes are evidence despite much of the research being methodologically flawed;

- b. assert that agreement is evidence because so many people and organisations accept their view of PAS/PAD/PA despite it not being accepted by several professional organisations;
- c. assert that attention is evidence by using numerous references to research, mental health and legal professionals who have “considered” PA despite its rejection following consideration;
- d. misrepresent endorsement by authorities despite “no association representing the professions of law, psychology, psychiatry, or paediatrics in the U.S. recognizes PAS/PAD/PA, though some associations in European countries might” (p. 351). Clemente and Padilla-Racero (67) further argue that claims of recognition by supporters of PA is a strategy to legitimise the concept by misleading readers.

Potential for harm through labelling a child with a mental disorder

It has been noted that the identification of PAS and an acknowledgement that it is an identifiable mental disorder will lead to improvements in understandings of PA along with better outcomes and interventions for those affected (20, 71, 72, 95, 96). Milchman et al (65), however, highlight that being diagnosed with a specific mental disorder carries legal considerations, while others argue that labelling a child with a mental illness to explain their rejection of a parent is inappropriate, unnecessary and damaging (24, 69). Houchin et al (69) argue that labelling a child with a mental illness to explain their rejection of a parent should not be required by the courts and argues that to do so would further complicate many high-conflict custody disputes.

Blank and Ney (30) suggest that the problem is not one of pathology, but rather is a problem of the legal context and argue that in any other context, the “unreasonable behaviour” by the child would be considered as the child’s way of dealing with anxiety. They further state that by labelling the child’s behaviour as “unreasonable”, the child’s narrative “has been co-opted and silenced by the dominant legal and medical discourse where the child is constructed within a medical paradigm and needs to be ‘cured’”. The authors argue that within this discourse the child is rendered powerless and is not allowed to have ownership of his/her experiences or feelings. Finally, the authors ask (a rhetorical question) that “if the legal system dealing with high-conflict divorce were different would the ‘syndromes’ or ‘disorders’ of parental and child alienation have been postulated in the first place?”.

Current situation regarding inclusion in ICD/DSM

In 2020, Parsloe (19) reported that PA outcomes are now classified in the DSM-5 of mental disorders under the diagnosis “Child Affected By Parental Relationship Distress”. This is contradicted by Rao (128), however, who notes that the drafters of the most recent versions of the DSM and the ICD-11 declined to include parental alienation syndrome in either of these “highly respected and highly-utilized diagnostic tools”. Fischel-Wolovick (70) writes that the inclusion of parental alienation in ICD-11 has been opposed by many children's advocacy and trauma victims.

5.4.6. Analysis of findings relating to the scientific basis for PA and their implications for the Irish context

Nowhere is the polarisation around the concept of PA more manifest than in the arguments put forward and against its scientific basis and there is a large volume of literature on both sides. The three main critiques against PA/PAS relate to a failure of the evidence to meet the legal standards for evidence in the United States, the methodological limitations in existing literature and the failure, specifically of PAS and PAD, to have it recognised in international classifications of disease. In respect of failing to meet the legal standards for evidence in the United States, in considering the conceptualisation of PA, Conneely et al (2) suggest that the Irish courts have focused their understanding on the “alienated child”. The authors assert that by focusing on the child, rather than on Parental Alienation Syndrome, problems identified in the United States around the evidence requirements of expert evidence have been avoided.

While it is true that there is a substantial literature, there are significant methodological deficits in the research that has been conducted to date which arises in both the literature supporting PA and the literature opposing it. The section in this report on the quality of the literature concludes a weak evidence base and this reflects the findings of other authors. Many of the papers are based on commentary or non-systematic and non-rigorous review of the literature. In many of the papers there is a presentation of only one side of the concept with no recognition of the other. There are no nationally representative studies on any aspect of the issue including prevalence or aetiology making it difficult to ascertain the extent and nature of the issue.

The weak methodological base for the concept of PA is also reflected in the third critique where despite a number of attempts, and claims that it will be, or has been included in recognised international classifications of disease manuals, this has not materialised to date. A search of the main two manuals referenced, The Diagnostic and Statistical Manual of Mental Disorders (DSM), the official reference manual used to accurately diagnose mental health conditions (<https://psychcentral.com/disorders/dsm-iv-diagnostic-codes>) and the International Classification of Diseases 11th Revision, the global standard for diagnostic health information (<https://icd.who.int/en/>) failed to identify any mention of the concept of PA (including Parental Alienation Syndrome, Parental Alienation Disorder). The classification “Child Affected By Parental Relationship Distress” referred to by Parsloe (19) is similar to that set out in the DSM-5 “Child affected by parental relationship distress”. This DSM-5 classification, however, does not make reference the two core concepts of PA *viz* the rejection of a parent by a child and this rejection arising as a result of the behaviour or actions of the other parent.

6. A comparative understanding of assessment of PA and what can be learnt from other jurisdictions

This chapter considers issues relating to the assessment of PA and draws on the international context to examine the lessons to be learnt that can help deal with this issue in Ireland.

This chapter is presented in two parts. Part 1 commences with a consideration of the challenges arising in the assessment of PA and this is followed by a consideration of guidance or guidelines from other jurisdictions (including the UK, Canada and Australia). Three further areas are considered here — the need for early fact finding and intervention, the involvement of experts in cases and the financial consequences of this, and finally, the use of checklists.

Part 2 presents a rigorous analysis of assessment tools that have been evaluated and proposed for use. In each part lessons learned and their implications for the Irish context are considered.

6.1. Key points

- PA is a contested concept and this is reflected in the complexities that need to be taken into account in assessment.
- Any assessment needs to consider the range of potential reasons for the child's rejection of a parent, differentiate between alienating behaviours and parental alienation, take account of the intersection between domestic abuse and PA and the impact of the friendly parent.
- The use of expert evidence is evident although the economic cost of such evidence may be problematic.
- Due to the complexity of PA caution has been urged in the use of assessment 'checklists'.
- There is currently no "gold standard" for measuring parental alienation as the evidence on assessment of PA is very limited and weak.
- Many of the assessment tools are based on the behavioural factors identified in Gardner's (1998) parental alienation syndrome (PAS).
- Psychometric measures to identify the personality profiles of alienating parents are based on the assumption that parents engaging in alienating behaviours are more likely to use the psychological defences of denial and projection or splitting, which is not supported by strong evidence.

- With an absence of reliable and validated tools, there is a need for a standardised assessment tool that will form only one component of a comprehensive evaluation.
- Individualised assessment combining interview, observation, clinical experience and taking individual family dynamics, history, and context into consideration is essential in the assessment of PA.

6.2. Complexity of assessment of PA

The previous chapters in this report have drawn attention to, described, and analysed a range of controversies and conflicts identified in both the literature and in the court judgments nationally and internationally. These are relevant to the assessment of PA in the legal context.

6.2.1. Consideration of the range of potential reasons for the child's rejection of a parent

It is evident that the rejection of a parent by a child is an emotive and complex area and the reasons why a child reaches that position can be equally complex. This is noted by Silberg and Dallam (121) who state that "Gardner's theory of PAS ... offered courts a simple approach for complex cases" (p. 143). They note that "[i]n actuality, when a child rejects a parent there is a wide range of possible explanations including normal developmental conflicts with a parent, separation anxiety with the preferred parent, abuse or neglect, and so forth ..." (p. 143). Other authors have also highlighted this and have criticised the notion that one parent can be blamed as the sole reason for the rejection of one parent by a child (11, 18, 27, 32). Several other authors also note this (11, 103), and suggest other reasons such as developmental phase and predisposition of the child (11), mental health problems (42) and abuse (90).

This point is also made by Cafcass who add to their definition cited earlier, that parental alienation "is one of a number of reasons why a child may reject or resist spending time with one parent post-separation", and notes "all potential risk factors, such as domestic abuse, must be adequately and safely considered, reduced or resolved before assessing the other case factors or reasons".

6.2.2. Differentiation between alienating behaviours and PA

Fidler and Bala (64), however, commented that "there is a growing consensus among those who use the concept of alienation about typical behaviors and perceptions exhibited by an alienated child, favored parent, and rejected parent" and lengthy examples of these are presented at pp. 581-582 of their article, and also included in two appendices to that work. Research by Lapierre et al (10) also found that "the term 'alienating behaviours' was recurrent in the documents and in the key informants' accounts" that they considered but also noted a "dichotomic approach" which "requires a determination of the presence (or absence) of a dynamic of 'parental alienation'" (p. 37).

This is also highlighted by Lorandos (91), who in a “[r]eview of the thousands of opinions ... reveals that courts understand that there is a distinction between ‘[w]hen one parent says negative and disparaging things about the other parent to the child,’ ... and when an aggressor parent ‘engage[s] in behavior designed to sabotage the child’s relationship with the victim parent’” (p. 330). The research by Lorandos (91) identified “[h]undreds of opinions illustrating courts confronting ‘unreasonable negative feelings and beliefs (such as anger, hatred, rejection, and/or fear) toward a parent that are significantly disproportionate to the child’s actual experience with that parent’” (p. 330).

This is relevant to the Irish context where Conneely et al (2) identify examples from the “following cases involving parental alienation” (e.g. lies being told about a father to his child, breaches of access orders, mother blocking access, children being encouraged not to have contact with the other parent, the mother refusing overnight access which had previously been ordered by the court). Within these examples, however, they report a case where a father who had no access to his 12-year-old daughter for over a year told the court that the child has “called him and wanted to speak to the judge to let her see her father” and in response to this, the judge granted telephone access as an interim order (p. 89). In the context of one of the core elements of PA (the rejection of the parent by the child), this would not be considered PA since the child has not rejected the father. It is clear, therefore that in the assessment of PA, consideration needs to be given, not only to whether there are behaviours that are negative, but also to whether the child is alienated from the parent.

6.2.3. Assessment of the intersection between domestic abuse and PA

As highlighted through this report, there is an intersection between domestic abuse. The assessment of this, however, is in itself complex, and as highlighted by Johnston and Sullivan (11) there is “no bright line” between abuse and non-abuse in cases where there are custody-disputes in the family courts. According to Meier (90), p. 102:

“if a child is frightened or hostile due to a parent’s conduct, regardless of potentially sub-optimal contributions from the preferred parent, the priority should be on curing the original reasons for the child’s fear or hostility, i.e. the parent who has frightened or angered the child should be responsible for addressing it. Indeed, if enraged or traumatized protective parents — who may behave inappropriately in their fight to keep their child safe — see a court holding the abuser accountable by asking him to remedy the relationship consequences of his abuse, such protective parents are likely to become less enraged and traumatized — and so, less ‘alienating.’”

Milchman (27) highlights that while advocates of PA assume that these “supposedly alienating parental behaviours” can be assessed in a straightforward manner, they are difficult to differentiate from protective parental behaviours, a point also made by Saunders and Oglesby (68).

Hybrid cases

Two issues arise to be considered in the assessment of PA and domestic abuse. First, Meier (90) suggests that “leading alienation experts are now touting ‘hybrid’ cases, suggesting that even where one parent is abusive, the other may also be alienating ... The clear implication is that, in these cases, a parent’s abuse should be balanced against a protective parent’s supposed alienation” (p. 101). Meier is critical of “hybrid” cases, stating that “[i]nviting courts to criticize protective parents for ‘alienating’ behavior inevitably undermines focus on the abuser, while maintaining pressure even on parents who were abused or legitimately seek to protect a child, to remedy the abuser-child breach” (p. 101). Baker et al (89) are also critical of hybrid cases, which they describe differently as “regardless of the alienating behaviors of the favored parent, the rejected parent has significantly contributed to his or her own rejection by the child” (p. 1015). Lorandos (91), in reviewing Meier’s paper, highlighted that these cases represented 5% of the 4,338-case dataset and concludes that is consistent with past research “which found that less than thirty percent of cases involving parental alienation have child or spousal abuse allegations” (p. 331).

6.2.4. Consideration of the impact of the “friendly parent”

Fischel-Wolovick (70) notes that there is a conflict between the Morella Resolution (where evidence of IPV raises issues around child custody with the abusive spouse) in the US, and the “Friendly Parent” laws which are underpinned by presumptions that joint legal custody is in the best interests of the child.

This issue has also been raised in the UK where Silberg and Dallam (121) explain that a “friendly parent concept is codified in child custody statutes” and this means that courts consider the extent to which a parent will facilitate and encourage contact with the other parent when determining custody disputes (p. 145). The authors comment that this concept can inhibit a parent from protecting their children and indeed themselves from harm, stating that “[p]rotective mothers often object vigorously to their children spending unsupervised time with a violent or pedophilic father ... Courts punish parents engaging in “unfriendly behavior” by denying them custody or time with their children” (p. 145). Meier (90) comments that “courts’ persistent focus on mothers’ responsibility for fathers’ relationships with their children smacks of patriarchy, and the beliefs that fathers should not be criticized and that mothers and children must respect their paternal rights regardless of their behavior” (p. 102).

6.2.5. Guidance and guidelines relating to assessment from other jurisdictions

A focused search of government websites identified relevant guidance or recommendations on the assessment of PA from three jurisdictions and a summary of each is now presented.

Guidance on assessment of PA in the UK

In the UK, the *Cafcass Child Impact Assessment Framework* (CIAF), was developed for the purpose of supporting practitioners in the assessment of the “harmful impact of a range of complex case factors on the children we work with in private law cases” (129). A briefing document to the UK House of Commons (130) noted that the framework brings together existing guidance and tools, along with a small number of new tools, into four guides which Cafcass private law practitioners can use to assess different case factors, including:

- Domestic abuse where children have been harmed directly or indirectly, for example from the impact of coercive control.
- Conflict which is harmful to the child such as a long-running court case or mutual hostility between parents which can become intolerable for the child.
- Child refusal or resistance to spending time with one of their parents or carers which may be due to a range of justified reasons or could be an indicator of the harm caused when a child has been alienated by one parent against the other for no good reason.
- Other forms of harmful parenting due to factors like substance misuse or parental mental health difficulties where these are assessed as harmful to the child.

Additional tools and guidance focused specifically on PA have also been developed and the House of Commons (130) report identifies additional sources of assistance in assessment of PA (131 — see under “tools and guidance”). These tools refer to:

- Children’s resistance or refusal to spend time with a parent: a structured guide (especially pp. 7-11);
- Guidance on recommendations for the child when alienation is a factor;
- Typical behaviours exhibited where alienation may be a factor tool;
- Children’s beliefs about parental divorce tool.

Guidance on assessment of PA in Australia

No specific guidance on assessment of PA was identified in respect of Australia. The second interim report issued by the Joint Select Committee on Australia’s Family Law System (132) in March 2021, however, includes a section on PA and makes reference to it in two of the recommendations. The Committee states:

- As highlighted in the first interim report, the committee heard a diverse range of views on the extent to which a parent can be alienated from their children by another parent or family member. The committee acknowledges that parental alienation syndrome is not a recognised psychiatric disorder within the scientific community.

- The committee has heard evidence of a number of instances where a parent has denied the other parent access to their children, for no apparent reason other than spite or to achieve greater financial outcomes. In contrast, the committee has also heard that there can be a perception that parental alienation is occurring when there are actually other factors in play, such as family violence.

The committee further stated that:

“The committee were also told by the Australian Institute of Family Studies that parental alienation was not something that was apparent in their research ... I would say that it's not an issue that's emerged in the context of our very extensive research in the family law and family violence space.”

Recommendation 15 of the interim report focuses on training in a number of areas, “including family violence, complex trauma, family systems and the dynamics of parental alienation” for family law professionals.

Guidance on assessment of PA in Canada

The Department of Justice in Canada have issued the *HELP Toolkit: Identifying and Responding to Family Violence for Family Law Legal Advisers* (133) which provides guidance on the assessment and interventions in situations where family violence arises and includes supplemental material on PA. This supplemental material is titled: *Tab #15: Rejection of a Parent by a Child* (134). In this toolkit, the rejection of contact with a parent by a child is positioned in the context of family violence and in that it is stated that allegations of alienation can:

- be used as a means to try to control and harass a former partner through the family justice process;
- shift the focus of professionals preparing parenting assessments and of judges away from family violence and related safety risks for children;
- limit consideration of a child's needs, their relationships with each parent, each parent's ability and willingness to care for the child, and other factors that are relevant to the child's best interests;
- lead to findings that a parent who does not support a child's relationship with an ex-partner due to safety concerns is deliberately trying to undermine the child's relationship with that parent; or
- result in a discounting of the views and preferences of a child, including fear or anxiety expressed by the child, based on erroneous assumptions (pp. 103-4).

It is also stated that:

“...in cases where a child is resisting contact with one parent, it is necessary to assess the conduct and attitudes of both parents, and to understand the views and experiences of the child” (p. 103).

6.2.6. The use of expert evidence

Previous chapters described the use of expert evidence in cases where there are claims of PA in the Irish courts and other jurisdictions. The use of expert evidence pertaining to PA in the courts has been identified as an influence on the degree to which PA is raised in courts in England and Wales (50) and in Australia (87).

The European Court of Human Rights has taken on board expert evidence from domestic courts. In *Aneva and Others v. Bulgaria* (Application No.: 66997/13) 06/07/13, for example, which involved three separate applications where parents claimed they were “unable to have contact with their children ... for a prolonged period, despite final domestic judgments awarding ... custody or visiting rights” [3], the Court found that there was a violation of Article 8 (the child’s right to have contact with parents). Expert evidence in the domestic courts detailed that one of the children was “suffering from parental alienation syndrome” as their parent would not facilitate contact while another child was also affected by their other parent’s opposition to “all attempts to re-establish contact” [109]. The Court described the expert evidence as “unambiguous”.

Some authors have highlighted challenges and limitations in the use of expert evidence. Sheehy and Boyd (120), for example, concluded that the benefits of relying on expert evidence in cases where there are claims of parental alienation “are contingent on such experts being sufficiently knowledgeable about IPV (intimate partner violence)” (p. 90). As outlined earlier in this report, Sir James Munby also highlighted a range of criticisms levied at the family courts in the UK, including about the use of expert evidence.

Economic impact of allegations of PA

A number of authors have highlighted the costs associated with claims of PA with Walker (41) writing that in the US several sets of professionals from different disciplines have become involved in child custody cases and that this in turn is likely to result in a significant financial outlay for parents. Houchin et al (69) has also raised this in the context of the US and argued that a diagnosis of PAS results in an increase in the time and money required to evaluate these already complicated situations and would “line the pockets of attorneys and expert witnesses”. The authors suggest that the addition of a range of professionals into an already difficult situation, could lower the likelihood of an amicable settlement without a full hearing or trial.

In the Irish context, Conneely et al (2) (p. 88) report that a Section 32 report was ordered in only 9.7% of the cases that they observed and hypothesised that cost of such reports and the ability of the parents to pay may have been a consideration for the court.

The use of parental alienation checklists

Some authors have cautioned about the use of “parental alienation checklists” in court settings. In Canada, Neilson (119) expressed reservations, stating that parental

alienation checklists should not be used in the legal system for several reasons (p. 46):

“(1) many of the ‘typical behaviors’ listed in the checklists (exhibited by children, by favored or by rejected parents) can equally be associated with child adversities other than parental alienation (such as negative parenting practices, toxic levels of child stress, domestic violence, extensive parental conflict, excessive litigation, children’s negative experiences with ‘draconian’ court orders or police powers, mental health issues, children’s realistic fear, lingering adult and/or child trauma from past experiences, lack of parent-child warmth, strong positive parental attachments with the preferred parent, or weak parental attachments with the other parent)

(2) the checklists create presumptions that preferred, primary care parents, most of whom are mothers, are to blame for child behavior, and

(3) use of the checklists results in systemic gender bias in the legal system”.

According to Neilson, instead of relying on checklists, courts must carefully scrutinise “the scientific reliability of PA concepts prior to admission of expert evidence ... to assess the reasons children resist contact without resorting to assumptions” (p. 46).

6.2.7. Analysis of issues relating to assessment and their relevance to the Irish situation

A consideration of issues arising in respect of the complexity of claims about PA has been highlighted here and there are three key areas to be taken into account. First, alienating behaviours are not the same as PA and as highlighted in the example presented by Conneely et al (2), negative behaviours by one parent can occur independently of the rejection of a parent by the child.

Second, in one of the few uncontested areas relating to PA, there is agreement that PA does not exist where there are legitimate reasons for the rejection. This means that there is a need to adopt a comprehensive and detailed assessment to ascertain the reasons for rejection. Within this, claims of abuse where raised, need to be considered in the context of what is known about the challenges of assessing domestic abuse. Particular care is required where there are counter or parallel claims of PA to allegations of domestic abuse. Finally, while the ‘friendly parent’ is codified in child custody situations, there is a need to recognise that protective actions by one parent can sometimes be interpreted as alienating actions. This is also of relevance to the Irish context where judges have directed parents to promote good relationships, as illustrated in Chapter 4.

An insight into guidance and recommendations from the UK, Canada and Australia in respect of PA show that in all cases, there is a recognition that PA is a complex area and assessment has to take account of that. Further, there are varying degrees of support for PA. While Cafass in the UK acknowledge the need to take account of multiple areas arising where claims of PA are made, the Canadian guidance positions

PA in the context of family violence and in doing so, presents reasons given for why allegations of PA might be raised in a way that is clearly not supportive of the concept. The Joint Select Committee on Australia's Family Law System highlights the contested nature of PA noting submissions highlighting PA and those countering that.

Each of the three approaches, however, identify the importance of recognising the contested nature of PA and the need for assessments of claims of PA, and within that the rejection of a parent by a child to be dealt with in a holistic and comprehensive way. Each of these three approaches can provide insights in the Irish context to the development of guidance to support assessment of PA.

In acknowledging the complex nature of allegations of PA, there is evidence of the use of experts in both the Irish and international legal system. Some consideration, however, needs to be given to ensuring that expertise brought to bear on PA also incorporates a clear assessment and understanding of the range of potential reasons for the child's rejection of the parent and also of the complexity of assessing domestic abuse where claims are made. The cost of expert reports can be prohibitive and this was identified as a problem in other jurisdictions as well as Ireland and while this is flagged as an issue, no solutions to this were identified.

Finally, the use of checklists in the assessment of claims of PA has been considered and despite criticisms these clearly feature in other jurisdictions. The following section now considers the reliability and validity of assessment tools for use where claims of PA are made.

6.3. Reliability and validity of assessment tools

The following section presents a systematic analysis of the reliability and validity of assessment tools for PA.

6.3.1. Overview

There have been a number of efforts by a range of authors over the last 30 years to identify and agree a range of behaviours that characterise parental alienation using Gardner's (1998) eight behavioural factors of Parental Alienation Syndrome (PAS). The methodology section provides a detailed description of the approach adopted to the identification of literature and highlights the systematic approach used.

The screening of the studies resulted in a total of 17 studies on assessment. The papers were from: the United States (n = 11), Brazil (n = 1), Spain (n = 1), Romania (n = 1), Italy (n = 1), the United Kingdom (n = 1), and Korea (n = 1). The studies consisted of models, scales, questionnaires, psychometric tests, and general advice and guidelines. Some tools were based on an acceptance of existing PA and did not assess whether there were legitimate reasons for the child's rejection of the parent; whilst other tools were aimed at distinguishing possible reasons for the child's behaviour in the assessment process.

Table 7 Overview of models of assessment tools and questionnaires reviewed**Models to assess PA**

- Four-factor model of parental alienation (Baker, 2020)
- Rowlands Parental Alienation Scale (Rowlands, 2018)
- Parental Alienation Scale (Cunha Gomide et al, 2016)
- A Stepwise Model (Ellis, 2008)

Questionnaires to assess PA

- Parental Alienation Questionnaire (Sirbu et al, 2021)
- The Parental Acceptance-Rejection Questionnaire (PARQ) (Bernet et al, 2018)

Psychological tools to assess PA

- The Bene-Anthony Family Relations Test (BAFRT) (Blagg and Godfrey, 2018)
- Machiavellian Manipulation Scale (Clemente and Diaz, 2021)
- Minnesota Multiphasic Personality Inventory-2 (Gordon et al, 2008)

General advice and guidelines on evaluating PA

- Milchman's (2015) Step-Down Schema
- Lubit's (2019) Method of assessing PA
- Moon et al's (2020) Guidelines for assessment of PA
- O'Donoghue et al's (2008) Guidelines for assessment of PA
- Warshak (2020) Guidelines to assess false positive identification of PA

6.3.2. Models of assessment

Four studies reported on the development of a model tool to assess parental alienation, three from the US and one from Brazil (135-138).

Four-factor model of parental alienation (Baker, 2020)

In the United States, Baker (135) developed a model of parental alienation (PA) referred to as the four-factor model. In the four-factor model, in order for alienation to be present there must be: (1) a prior positive relationship between the child and the now rejected parent; (2) absence of maltreatment by the rejected parent; (3) use of multiple alienating behaviours by the favoured parent; and (4) presence of behavioural manifestations of alienation in the child. In factor 3 of the four-factor model, further research by Baker identified 17 primary behaviours displayed by the alienating parent. In factor 4, Gardner's (1998) eight behaviours are used to assess the presence of behavioural manifestations of alienation in the child. The four-factor model and associated behaviours outlined by Baker (135) are illustrated in Table 8:

Table 8 Baker's four-factor model of parental alienation**Description of factors**

Factor 1: A prior positive relationship between the child and the now rejected parent; this factor precludes parents who were habitually absent, uninvolved or uncaring.

Factor 2: An absence of maltreatment by the rejected parent; abuse or neglect of the child negates the claim of parental alienation.

Factor 3: Use of multiple alienating behaviours by the favoured parent;
1) denigrating the other parent to the child to create the impression that the other parent is unsafe, unloving, and unavailable; (2) limiting the child's contact with the other parent such that the parent and child cannot share meaningfully in each other's lives; (3) interfering with the child's communication with the other parent such that the parent and child cannot emotionally connect during periods of separation; (4) making it difficult for the child to think about, talk about, and look at photos of the other parent and thereby attenuating the attachment between them; (5) withholding love and affection when the child exhibits interest and affection towards the other parent; (6) allowing the child to choose to spend time with the other parent and creating the impression that time with the other parent is optional and undesirable; (7) forcing the child to reject the other parent; (8) telling the child that the other parent does not love him/her; (9) creating the impression that the other parent is dangerous; (10) confiding in the child about personal and legal matters in order to induce the child to be hurt and angry at the other parent; (11) asking the child to spy on the other parent; (12) asking the child to keep secrets from the other parent; (13) referring to the other parent by first name rather than "mom" or "dad"; (14) referring to a new significant other as "mom" or "dad"; (15) changing the child's name to remove the association with the other parent; (16) withholding information from the other parent; and (17) undermining the other parent's authority (Baker and Chambers, 2011).

Factor 4: Presence of behavioural manifestations of alienation in the child; assessed using Gardner's (1998) eight behavioural characteristics.

In this model, the behaviours of both the parents and the child are taken into account when determining whether a child is rejecting a parent because he/she is alienated by the other parent.

Reliability and validity

Baker (135) sought to determine the reliability and validity of the four-factor model as a model of parental alienation. In Baker's study, mental health professionals ($n = 68$) from 13 countries were given 16 vignettes representing a combination of presence and absence of the factors and asked to code these vignettes independently. For all of the vignettes across all of the coders there was 75% exact agreement (that is the two coders agreed on the exact codes) and there was 94% agreement defined as the two ratings being no more than one point different. In relation to validity: the correlation was $r = .80$, $p < .001$. A one-way ANOVA was also conducted with the number of factors present as the independent variable and the likelihood of alienation present as the dependent variable and this was statistically significant, $F(4, 63) = 30.7$, $p < .001$. There was agreement that when all four factors are present the case is alienation and when one or no factors are present it is not alienation. So Baker concluded that the four-factor model was found to be both reliable and valid and that all four factors must be present before one can conclude that the child is alienated. It appears that the four-factor model is a useful framework for practitioners because it ensures that information

from all parties is included in custody assessments. The sample of mental health professionals were all members of a Parental Alienation International Study Group, therefore quite knowledgeable which may have influenced the high agreement in the coding of the vignettes. Arguably practitioners less versed in the four-factor model could struggle to apply the four-factor criteria.

Rowlands Parental Alienation Scale (RPAS) (Rowlands, 2018)

In the US, Rowlands (136) validated a self-report measure called the Rowlands Parental Alienation Scale (RPAS), which is designed for use with targeted parents to detect the presence and severity of PA in children. The RPAS was designed to capture the eight manifestations posited by Gardner as distinct domains. It had 42 items with a Likert scale response format. Using a convenience sample obtained from multiple parental alienation online parent forums, the RPAS (and three additional questionnaires) were administered via an online survey to a sample of parents. The sample was 592 participants: 299 fathers (50.4%), 291 mothers (49.2%), and two transgender persons, all of whom identified themselves as alienated from their children. But a sample of 589 completed the RPAS and demographic breakdown is not detailed in the paper. An exploratory factor analysis was conducted to develop subscales for the RPAS resulting in six factors from the eight original factors: lack of positive affect towards the parent, campaign of denigration, unconditional reflexive support, presence of borrowed scenarios, spread of animosity towards extended family, and independent thinker phenomenon. Rowlands notes that one extracted factor was not included in the original eight factors which was: lack of positive affect towards the alienated parent and three factors from the original eight factors were not extracted as factor loadings as they were below .50. These were: weak, absurd, or frivolous rationalisations; lack of ambivalence; and absence of guilt. These findings contrast with previous studies that include a lack of ambivalence as a key factor in the assessment of PA (39, 139, 140). Rowlands claimed that parents who reported either that a court evaluation or court findings had confirmed the presence of PA scored significantly higher on all six RPAS factors as well as on the overall RPAS score which indicates potential response bias.

Reliability and validity

The findings challenge the assumption that the eight factors posited by Gardner as distinct domains are always present in case of PA. Apart from this, there are several limitations that indicate caution with these study findings. The sample was drawn from a group of parents who were members of parental alienation online parent fora and as such could have answered the questions on the survey to fit with their understanding of PA. Secondly the sample being part of a forum could be very knowledgeable about the criteria for PA compared to the general population. The participants self-reported on the RPAS tool and the accuracy of their self-reports was not independently verified. While Rowlands suggests that this measure shows promise for identifying the presence of PA, it draws on only one information source, parents' reports of children's

behaviour, and does not account for children's own self-reports. The findings could have been strengthened by the inclusion of a sample of non-alienated parents.

Parental Alienation Scale (PAS) (Cunha Gomide et al, 2016)

In Brazil, Cunha Gomide et al (137) aimed to develop a scale that could be used by a forensic evaluator to assess the behaviours of the alienator (the person doing the alienating), the target parent (the one being alienated) and the child who is victim of the alienation. The focus was on the triad so that parent-child-parent relationships were included. The Parental Alienation Scale was composed of 96 items divided into five categories: (1) denying access to the child (13 items); (2) derogatory comparisons (12 items); (3) emotional manipulation (17 items); (4) parent's behaviour during assessment (12 items); and (5) child's behaviour during assessment (15 items). To explore the psychometric properties of this parental alienation scale (PAS), three evaluators (all psychologists) completed each item using a three-point Likert scale (always, sometimes, never, which were equivalent to 2, 1, and 0 respectively) where *Always* was checked when the behaviour occurred more than 80% of the time, *Sometimes* when it occurred between 30% and 70% of the time, and *Never* when the behaviour occurred less than 20% of the time. Scores were obtained by totalling the points from each item and ranged from zero to 138 points. The sample was 193 families who were subject to court custody proceedings in Brazil: Group A were made up of 48 families (96 parents) where one of the parents was accused of being an alienator. The parents in Group A were assigned to two groups: those indicated by the legal system as alienators and those considered being targets. Of the 96 parents in Group A, 26.4% were considered alienators (5.6% were men and 20.8% were women) and 23.3% were considered to be target parents (17% men and 6.3% women). Group B was composed of 97 parents (23.3% men and 26.9% women) from 48 families without any accusation of parental alienation. It is important to note, however, that the description of the sample provided by Cunha Gomide et al (137) in their paper is incomplete and total figures relating to the sample characteristics do not add up to 100%.

Each evaluator completed the PAS after interviewing the target family using data collected from reports, processes and interviews held with other people (technicians, family members or teachers) who had contact with the individual under assessment. In most cases, the mothers had custody of the children (80.3%), while fathers had custody in 10.9% of cases and grandmothers in 5.7% of the cases. Although the distribution of data was not normal, the results showed statistically significant differences in the comparison between groups A and B ($U = 1896.500$; $p < .001$) and between alienator and target parent ($U = 142.000$; $p < .001$). The analysis of psychometric properties resulted in a revised PAS with 59 items (rather than 96) grouped into five factors that assessed PA: (1) denying access to the child (13 items), (2) derogatory comparisons (8 items), (3) emotional manipulation (14 items), (4) parent's behaviour during assessment (10 items) and (5) child's behaviour during assessment (14 items). Factor 1 grouped the strategies (13 items) that alienators used to prevent their children from relating with the target parent. The authors claimed that

the results showed significant and consistent standards in the instrument's psychometric characteristics.

Reliability and validity

Although Cunha Gomide et al (137) claimed that the PAS appeared to demonstrate adequate properties in its first study, they recommended that further research should analyse its criterion and ecological validity in assessing PA in legal settings. The findings need to be treated with caution as there are several limitations to this study. It was unclear what type of training that the three evaluators received prior to scoring the documentation. The evaluators reviewed documentation that had been compiled by "experts in PA" from child custody disputes so an assumption of PA had already been made and noted in the documentation. Furthermore, it was unclear whether the evaluators knew which group were labelled as parental alienators as that would introduce a risk of bias in the scoring. The assessment tool did not include items to assess parents' personality features, which has been suggested as potentially affecting behaviour e.g. personality disorders, narcissism, and antisocial disorders.

A Stepwise Model (Ellis, 2008)

In relation to Gardner's delineation of parental alienation syndrome (PAS), Ellis (138) makes the point that the schema was based almost entirely on the characteristics of the alienating parent. Hence, she argues that the focus should be on the alienated child rather than on parental behaviours and also makes the point that not all children who refuse contact with a parent are necessarily alienated children. Taking this approach, Ellis suggests a focus on the child's behaviour, and proceeding through a three-step process:

1. Is there a readily identifiable reason for the alienation?
2. Or do the allegations appear to be false and/or highly exaggerated?
3. Is the child's rejection of the other parent severe and does the child acknowledge no love, affection, or positive feelings for that parent at all?

Therefore, when the child's behaviour is assessed and the answer is no to the first question, and yes to the second and third questions, then the child is most likely an alienated child, according to Ellis. Then the child's behaviour needs to be assessed to determine if the child *meets at least 10 of the 15 criteria* that are outlined in Table 9 below.

Table 9 Stepwise model (Ellis, 2008), 15 criteria to assess child's behaviour in PAS

1. The child maintains a delusion of being persecuted by a parent who is viewed in exceptionally negative terms.
2. The child uses the mechanism of splitting to reduce ambiguity.
3. The child's behaviour towards the targeted parent is incongruent from one situation to another.

4. The child denies any positive feelings for the targeted parent.
5. The attribution of negative qualities to the targeted parent may take on a quality of distortion or bizarreness that borders on loss of touch with reality.
6. The child offers as evidence of the targeted parent's bad character recollections of events that occurred out of the child's presence so that the child could not have witnessed it; or before the child would have been old enough to remember them; or are highly implausible.
7. When the children's story is not internally logical, the child alters the story or the explanations in an attempt to make them consistent.
8. The child's hatred and sense of persecution by the targeted parent have the quality of a litany.
9. The child, when faced with contact with the targeted parent, displays a reaction of extreme anxiety, including panic attacks, stomach aches, vomiting, hysterical crying, falling to the floor, clinging, hyperventilating, clutching transitional objects, and wailing.
10. The child has a dependent and enmeshed relationship with the alienating parent.
11. The child is highly compliant, cooperative, and adaptable with all adults other than the targeted parent.
12. The child views the alienating parent as a victim — as having been persecuted by the targeted parent and having suffered greatly as a result of that parent's actions.
13. The child maintains a complete lack of concern about or compassion for the targeted parent but instead holds an attitude of exploitation towards the targeted parent.
14. The significance of the targeted parent in the child's life is minimised. The children insist on calling the targeted parent by his first name, referring to their stepfather as "dad." They may insist they should be the ones to decide whether they see the targeted parent.
15. The child's belief system is particularly rigid, fixed and resistant to traditional methods of intervention.

Reliability and validity

Ellis (138) provides useful examples of questions that evaluators can use to ask children (in an interview situation) to determine if they meet any of the 15 criteria listed above. However, Ellis states that she specialises in child and family forensic evaluations and devised the criteria from a "variety of early sources on what constitutes features of parental alienation syndrome in children" (p. 58) — so not based on empirical studies. It is unclear what the sources were and furthermore there is no empirical data supplied to support the 15 criteria that are outlined.

6.3.3. Questionnaires to assess parental alienation

Three studies developed a questionnaire to assess PA using Gardner's eight behavioural factors of PAS, one from Romania, and two from the US (39, 139, 141). Two studies used the same dataset to report on the Parental Acceptance-Rejection Questionnaire (PARQ) as a tool for assisting in the diagnosis of parental alienation (39, 139).

Parental Alienation Questionnaire (PAQ)

In Romania, Sirbu et al (141) developed a parental alienation questionnaire using Gardner's eight behavioural factors of PAS. The eight criteria were: campaign of denigration; frivolous, weak, or absurd rationale for the alienation; lack of ambivalence towards the alienating parent; lack of guilt or remorse about the alienation; borrowed scenarios; independent thinker phenomenon; taking the alienating parent's side in the conflict; and spread of alienation to the extended family of the targeted parent. Sirbu et al conducted four studies. In studies 1 & 2 the questionnaire was defined, and the inter-rater reliability was verified with five specialists who were all senior clinical psychologists. In study 2 the five specialists individually assessed the same 10 cases involving children (both boys and girls) who were subject to the psychological assessment procedure ordered by a court of law in relation to custody proceedings. The results indicated the existence of adequate inter-rater reliability. The minimum value was 0.84 in two cases (20%), with most of the cases having an inter-rater reliability coefficient of 0.94 (70%). Study 3 sought to establish the construct validity by applying Exploratory Factor Analysis and Confirmatory Factor Analysis and included 267 participants of Romanian origin, 157 boys (58.80%) and 110 girls (41.20%), aged from three to 18 years old who came from divorced/separated families and/or families undergoing divorce/separation proceedings. Their cases were analysed using PAQ by clinical psychologists specialised in assessing the child and the divorce circumstances, as well as by clinical psychologists/psychotherapists specialised in psychological interventions in children. It is unclear how many experts were involved in analysing the cases. The purpose of study 4 was to analyse the psychometric qualities of the PAQ, it considered predictive validity as well as test-retest reliability and included 200 participants of Romanian origin, boys (51.50%) and girls (48.50%) aged eight to 18 years who came from divorced/separated families and/or families pending divorce/separation proceedings. Ten expert clinical psychologists (seven female) completed the testing and retesting of the PAQ for 40 cases (boys (57.5%) and girls (42.5%)), with a general average age of 11.37 years. The test-retest reliability at two weeks on 40 cases rated by the same clinicians indicated that the PAQ as an assessment tool was consistent over time. Sirbu et al (141) suggest that this PAQ tool could be used in conjunction with the Rowlands Parental Alienation Scale (RPAS) (136) to assess PA in children and parents respectively. They argue that the PAQ tool is a standardised tool that may be very useful for evaluators involved in custody cases.

Reliability and validity

However, the Sirbu et al (141) parental alienation questionnaire is based on the criteria identified by Gardner for PAS which was not developed from empirical research. It is unclear how the expert clinical psychologists were selected, and some may have been biased because they were specialising in the area of PA. Further testing of the PAQ with psychologists and children in other countries would be important.

The Parental Acceptance-Rejection Questionnaire (PARQ)

As seen earlier in Gardner's (1998) framework, he proposed that there were eight behavioural factors observable in the child who manifests parental alienation, with factor 3 being a lack of ambivalence in the child's views such that one parent is seen as all good and the other is seen as all bad. A lack of ambivalence towards a rejected parent is sometimes referred to as "splitting" according to Bernet et al (139), who describe splitting as when a child idealises the alienating parent and devalues the target parent without any ambivalence. This splitting mechanism is considered to be a maladaptive response that children exhibit in order to protect themselves from feelings of cognitive dissonance and anxiety resulting from parental conflict and hostility. The premise is that this splitting is not demonstrated by maltreated children and they often maintain ambivalence towards neglectful or abusive parents. Hence the mechanism of splitting to reduce ambiguity is seen as a defining characteristic of parental alienation.

Taking this view, Bernet et al (139) reported on the usefulness of the Parental Acceptance-Rejection Questionnaire (PARQ) in identifying and quantifying the degree of splitting, which may assist in diagnosing parental alienation. They included participants (n = 116, M age = 13.1 years, SD = 2.64, range = nine through 17 years) from four cohorts. They included neglected children (n = 16) whose parents were divorced or separated, but the children did not see both parents on a regular basis; and alienated children (n = 45) whose parents were divorced or separated, and the children strongly rejected a relationship with one of their parents. The two control groups were children from intact families (n = 35) who lived together with both parents in one household; and children of divorced parents (n = 20) whose parents were divorced or separated, but the children continued to see both parents on a regular basis.

The Parental Acceptance-Rejection Questionnaire (PARQ) is a quantitative measure of children's perceptions of their mothers' and fathers' accepting-rejecting behaviours. Children respond to 60 statements regarding each parent — for example, "My father says nice things about me" — by choosing Almost Always True, Sometimes True, Rarely True, or Almost Never True. The responses are scored 1 through 4, with the lower values reflecting a more positive perception of that parent, and the higher values reflecting a more negative perception of that parent. The hypothesis of the study was that the Parental Acceptance-Rejection Questionnaire (PARQ) would help to distinguish severely alienated from non-alienated children (139). The authors reported that the results showed that severely alienated children engaged in a high level of splitting, by perceiving the preferred parent in extremely positive terms and the rejected parent in extremely negative terms. Splitting was not manifested by the children in other family groups. In 2020, they extended the analysis of the data from the data reported in 2018 with the purpose of measuring the difference between parental alienation and parental estrangement, which they called the PARQ-Gap score. The PARQ-Gap score is the difference between the PARQ-Mother versus the PARQ-Father questionnaire. Using a PARQ-Gap score of 90 as a cut point, Bernet et

al (39) reported that the test was 99% accurate in distinguishing severely alienated from non-alienated children. They found that children in intact or divorced families had low PARQ-Gap scores, those in neglected families had moderate PARQ-Gap scores, and those in alienated families had extremely high PARQ-Gap scores.

Reliability and validity

Thus Bernet and colleagues concluded that the PARQ may be useful for both clinicians and forensic practitioners in evaluating children of divorced parents when there is a concern about the possible diagnosis of parental alienation. In Bernet et al (139), the researchers note that practitioners using the PARQ should remember that it is only one component of a comprehensive evaluation in cases of alleged PA. Although the PARQ appeared to distinguish alienated children from the three other groups, it is a limitation that the PARQ could not distinguish alienated children from estranged children (maltreated children). Despite this Bernet and colleagues consider it a strength that the PARQ was not developed specifically for use in child custody disputes or for identifying PA as it originated from an independent line of research and is widely used. The PARQ is derived from parental acceptance-rejection theory and its reliability and validity is well established (27). However, Milchman (27) argues that the PARQ is not a test of splitting in parental alienation (PA), that the relationship between the PARQ test and PA has been misinterpreted by Bernet and other authors, and that there is no item on the PARQ that assesses any of the behavioural criteria for PA. Milchman notes that PARQ is based on a theory which is about the children's *rational* perception of their parents' rejection of them whilst PA concerns children's *irrational* rejection of their parents. Thus, Milchman argues that the PARQ cannot ever be a test for PA because the two concepts are dissimilar.

6.3.4. Psychological tools to assess parental alienation

Three studies reported on the use of existing tools used by psychologists to assess relationships (140) and parents' personality characteristics (114, 142). One study was from the United Kingdom, one from Spain and one from the United States.

The Bene-Anthony Family Relations Test (BAFRT)

Taking a similar approach to Bernet's studies by focusing on a child's lack of ambivalence, Blagg and Godfrey (140) used the Bene-Anthony Family Relations Test (BAFRT) to explore the parent-child relationships in alienated versus neglected/emotionally abused children in the UK. The premise was that children who experience parental alienation often present with psychological splitting and a lack of ambivalence towards their parents, whilst children who are emotionally abused or neglected will not display ambivalence. The Bene-Anthony Family Relations Test (BAFRT) (143) was developed as a projective test that professionals can use to explore a child and adolescent's perception of their relationships within their family by assessing their feelings (both positive and negative) towards each person and how they feel others regard them. The sample of participants (n = 33, M age = 9.8 years, SD = 3.06) were selected from cases that had been referred by the UK family courts

for psychological assessment by an independent expert witness working as a chartered psychologist. The sample included children ($n = 16$) from nine families who had rejected one parent (target parent) without legitimate justification (termed the alienated children). In this sample, all 16 children were aligned with their mother and rejecting their father. The comparison group included children ($n = 17$) from nine families who had been neglected or emotionally abused. The independent expert witness administered the BAFRT to each child as part of a court-ordered psychological assessment. When the samples were compared, the results revealed that alienated children appeared to perceive their target parent significantly more negatively than neglected/emotionally abused children perceived their fathers ($t(31) = 6.91, p < 0.001$) and mothers ($t(31) = 6.27, p < 0.001$). Likewise, neglected/emotionally abused children appeared to perceive their fathers ($t(31) = 3.63, p = 0.001$) and mothers ($t(31) = 4.04, p < 0.001$) significantly more positively than alienated children perceived their target parent. The results also indicated that alienated children engaged in splitting, idealising their preferred parent and demonising their target parent without legitimate justification, whilst neglected/emotionally abused children presented with greater ambivalence, sending both positive and negative messages to their mothers and fathers.

Reliability and validity

However, these results need to be treated with caution as the sample sizes were small, only fathers were the target in the alienated group, and all of these families were involved in court proceedings. In addition, within the neglected/emotionally abused children group, all children had been removed from their parents' care and were living in foster care. Therefore, the findings could have been quite different if some of the children were living with their non-abusive parent. Furthermore, the neglected/emotionally abused children tended towards idealisation of their parents rather than simply ambivalence. In addition, the BAFRT has been used less often since the 1970s as doubts have been expressed about its psychometric properties (39). Despite these limitations, Blagg and Godfrey (140) suggested that practitioners need to conduct comprehensive multimodal psychological assessments to establish children's ascertainable rather than expressed wishes.

Machiavellian Manipulation Scale (MMS)

Taking a different approach, Clemente and Diaz (114) aimed to develop a tool that would help identify parents (both custodial and non-custodial) who manipulate their children to attack the other parent. The premise was that some parents use their children to harass the other parent through the justice system and that the parent doing the harassing is using Machiavellian actions. They defined Machiavellianism as the ability to deceive, lie to and manipulate others in interpersonal relations. The Machiavellian is a person who views and manipulates others for his/her own purposes. The instrument for measuring the Machiavellian manipulation of children in both parents, is called the Machiavellian Manipulation Scale (MMS).

They developed their MMS scale by drawing on research using another scale called the Mach-IV scale (144). The Mach-IV scale contains 20 items, nine for the Manipulation Tactics dimension, nine for the Views on People dimension, and two items for the Moral Principles dimension. The items are scored using a seven-point Likert-type response format, ranging from 1 (low Machiavellianism) to 7 (high Machiavellianism). The MMS scale is a 12-category observation instrument, that consisted of six positive aspects and six negative aspects, with six applied to the interaction between the parents and six to the relationship with their children. This observation tool was tested with a sample of 90 separated or divorced Spanish fathers and 90 mothers and 90 children aged six to 15 (mean age 10.28 years) obtained from schools in Spain. The parents had to attend for interview together and were not told the purpose of the study. Instead, they were told that the aim was to determine the behaviour of separated parents concerning their child's academic performance. After completing the Mach-IV scale, parents were informed about the aim of the study and their consent sought to include their data and all parents consented.

Reliability and validity

The reliability was adequate, and the construct validity was verified. Concurrent validity was examined through the correlation between the 12 observed aspects and the items on Christie and Geis's Mach-IV scale finding significant correlations for 14 of the 20 items. The authors concluded that the MMS observation scale can help identify parents who use their children to manipulate, but other personality variables were not assessed which is a limitation. The sample size was small and it was unclear who completed the MMS scale during the interview with the parents.

Minnesota Multiphasic Personality Inventory-2 (MMPI-2)

The notion that alienating parents may have a personality disorder is supported by some authors. Consequently, an overwhelming proportion of child custody evaluations use psychometric measures to assess the personality characteristics and behaviour of those involved in PA allegations. One such measure is the Minnesota Multiphasic Personality Inventory (MMPI-2) which is a standardised psychometric test of adult personality and psychopathology. The original Minnesota Multiphasic Personality Inventory (MMPI) was published in 1940 and the second revised version — the MMPI-2 — was published in 1989. According to Gordon et al (142), it is the most widely used psychometric test for measuring adult psychopathology in the world. The MMPI-2 is a 567 item, true/false self-report measure of a person's psychological state (145). It has nine validity scales (or "lie" scales), assessing for lying, defensiveness, faking good and faking bad, among others.

According to Gordon et al (142) the MMPI-2 instrument provides objective and reliable personality data on parents involved in custody cases, particularly in the objective assessment of a parent's style of defensiveness. To test the involvement of primitive defences in Parental Alienation Syndrome (PAS), Gordon et al obtained 158 MMPI-2s from court-ordered custody evaluations from seven forensic psychology practices in the US; 76 were labelled as PAS cases and 82 were custody cases without PAS

(controls). The MMPI-2 data came from three sets of mother-father pairs (i.e. mother alienators-father targets, father alienators-mother targets, and control mothers-control fathers). Their hypotheses were that alienating parents would view themselves as all good and view the target parents as all bad (splitting), and then treat and provoke the target parents accordingly (projective identification). They suggested that projective identification occurs “when one denies personal faults, and projects them on to another and then treats and provokes that person accordingly. For example, a child or alienating parent with irrational aggression infuriates a target parent so that the child and alienating parent can claim that the target parent has the anger problem” (p. 225). Gordon et al reported that they found that the mothers and fathers who were alienators had higher (clinical range) scores indicating primitive defences such as splitting and projective identification, than control mothers and fathers (normal range scores) in both the MMPI-2 and Goldberg index. Target parents were mostly similar to the control parents. They concluded that the results showed strong support for Gardner’s definition of PAS. However, this was a small sample and the MMPI-2 may be useful in identifying primitive defences as a personality trait but does not assess any of the other aspects associated with parental alienation.

Similarly in Italy, Roma et al (146) conducted an in-depth examination of the psychological features of alienating mothers according to their MMPI-2 profiles. They obtained 58 PA case files from four custody evaluators who had been appointed by Italian courts between 2015 and 2017. The Italian full version of the MMPI-2 (567 items) was administered individually to 81 mothers involved in a custody dispute, according to standard instructions. Of these, 41 who were identified as engaging in PA were compared with 40 non-alienating mothers (No-PA).

Reliability and validity

The results indicated that alienating mothers presented higher moral virtue and extroversion, were more vulnerable to interpersonal stress and demonstrated unsuccessful self-representation. But it does not follow that these characteristics are predominant in an alienating parent. Furthermore, the results need to be treated with caution as it does not follow that if a parent scores high on a particular scale in the MMPI-2, that he/she necessarily engages in PA behaviours. Roma et al (146) do acknowledge this limitation and recommend that the MMPI-2 profiles should be used as an additional source of information in evaluators assessment and decision-making.

6.3.5. General advice and guidelines on evaluating PA

Five studies proposed a method of thinking scientifically that can be used in the assessment of PA (147-150). Four studies were from the US and one from Korea.

Milchman’s (2015) “Step-Down” Schema

In the US, Milchman (147) proposed a theory of scientific and clinical thinking that can be used in forensic mental health assessments, namely that two scientific principles should contribute to scientific reasoning in forensic mental health assessments (FMHAs) and these are: falsifiability and consistency. Milchman describes the theory

as a “Step-Down” schema in which data consistently supporting one alternative hypothesis establishes a baseline of validity for an expert’s opinion; unexplained inconsistent data reduces that validity; and unexplained logically contradictory data reduces it further and may destroy or falsify it. She makes the point that experts may subjectively weigh the evidence in a child custody case in that they emphasise some evidence, minimise or ignore other evidence, and/or use intuitive, arbitrary idiosyncratic criteria. Hence Milchman’s aim with the Step-Down schema is to provide specific guidance regarding how to think about all the case-specific data in order to formulate a trustworthy expert opinion.

Lubit’s (2019) method of assessing PA

In the US, Lubit (148) suggests that there is no research based method of assessing PA and argues that “Many PA/PAS advocates approach custody cases assuming that when children reject parents, it is probably the result of a denigration campaign by the preferred parent. Confirmation bias then leads the evaluator to spin, value, and vet information so that it supports their expected conclusion” (p. 42). Lubit, based on his clinical experience, suggests that lawyers, judges and peer reviewers consider a number of questions when trying to assess the scientific validity of an evaluation finding PA. Lubit does not provide detailed data to support these questions and they appear to be based on his experience of evaluating PA reports and finding confirmatory bias inherent. Lubit’s questions are listed below in Table 10.

Table 10 Assessment questions (Lubit, 2019)

- | |
|---|
| <ol style="list-style-type: none"> 1. Were the elements of PAS used as evidence for PA? 2. Were arbitrary decisions made about who was credible? 3. Are all inferences drawn from the data scientific? 4. Were competing hypotheses tested with a focus on invalidation? 5. Were the strengths and weaknesses of both parents fairly assessed and presented? 6. Was there actually a one-sided campaign of denigration by the preferred parent, as opposed to a few inappropriate comments, or higher levels of denigration by the rejected parent? 7. Did the evaluator use current scientific knowledge when doing the evaluation? 8. Did the evaluator trivialise the importance of attachment, availability and parenting skills? 9. How frequently does the evaluator find PA and how often mistreatment or affinity? |
|---|

Guidelines recommended by Moon et al (2020) for assessment of PAS

Similarly in Korea, in child custody cases where there are allegations of domestic violence or child abuse, Moon et al (149) recommend that evaluators check all the facts whenever PAS is suspected. He outlines six points to guide evaluators assessment of PAS (Table 11).

Table 11 Points for evaluators to consider in the assessment of PAS

1. Assess abuse first.
2. Require evaluators to have genuine expertise in both child abuse and domestic violence.
3. Once abuse is found do not consider alienation claims by the abuser.
4. Do not base any finding of alienation on unconfirmed abuse allegations or protective measures taken by the preferred parent.
5. Evaluate alienation claims only if i) actual abuse has been ruled out, ii) the child is actually unreasonably hostile to the other parent and resistant to visits and iii) there is active alienating behaviour by the “aligned” parent.
6. A finding of alienation should require at minimum that the parent consciously intends the alienation and specific behaviours can be identified.
7. Limit remedies for confirmed alienation to healing the child’s relationship with the estranged parent.

Guidelines recommended by O’Donohue et al (2008) for assessment of PA

In the US, O’Donohue et al (151) noted an absence of guidelines in child custody evaluations and outlined a five-factor model. The five sets of factors which can mitigate substantial involvement with one parent are listed in Table 12 below. They argue that these factors can be measured with some accuracy and also that these factors are supported by research as impacting child development and welfare. They also suggest that there appear to be arguments or empirical evidence to indicate that sexual orientation can be relevant to the domains of parental conflict, environmental stability, and possibly, in complex ways, to emotional stability.

Table 12 Five-factor model to assess PA

1. poor attachment
2. poor parenting skills including abuse or neglect
3. emotional instability/mental disorder of the parent
4. environmental instability
5. exaggerated conflict

Warshak’s guidelines to assess false positive identifications of PA

Taking a different approach, Warshak (150) notes that much work has gone into identifying the presence of PA, but no study has documented the prevalence and

source of false positive identifications of PA. Warshak outlines seven criteria that may be used to distinguish irrationally alienated children from children whose negative or rejecting behaviours do not constitute parental alienation. These seven criteria are listed in Table 13 below:

Table 13 Criteria to identify false positive identifications of PA

- | |
|--|
| <ol style="list-style-type: none"> 1. The behaviour is chronic rather than temporary and shortlived (but can include an ongoing pattern of intermittent alienation that recedes in the presence of the rejected parent but returns when in the presence of the favoured parent). 2. The behaviour is frequent rather than occasional. 3. The behaviour occurs in most situations rather than only in certain situations. 4. The behaviour occurs without displays of genuine love and affection towards the rejected parent. 5. The behaviour is directed at only one parent. 6. The behaviour does not reflect typical dynamics for the child's stage of development. 7. The behaviour is disproportionate to, and not justified by the rejected parent's past or current behaviour. (p. 58) |
|--|

In the US, Warshak suggests that evaluating a child's negative behaviour using these criteria will help reduce mistaken identification of PA in child custody cases. He outlines types of situations in which children treat a parent negatively but their behaviour does not meet the seven criteria, and these are: "(a) normal reactions to parental separation; (b) behaviour reflecting a difficult temperament or emotional problems; (c) reluctance to leave a parent who needs emotional support; (d) situation-specific resistance to being with a parent; (e) feeling closer to or having more rapport with one parent; (f) feeling more comfortable in one's parent's home, either because of differences in parenting styles or in the emotional atmosphere of the home; and (g) typical adolescent psychological functioning" (p. 58). In conclusion Warshak recommends that custody evaluators should assess each case using the seven criteria while also thoroughly investigating reasonable alternative explanations of the children's and parents' behaviours. He makes an important point that attending to the nuances of alienating behaviours is essential to avoid false conclusions and false identification of PA.

6.3.6. Analysis of findings relating to assessment approaches and their implication for the Irish context

The preceding section has presented an analysis of approaches used to assess PA including models, questionnaires, psychological tools and more general advice and guidelines. As can be seen from above the studies to evaluate these approaches are

of varying quality and the evidence on assessment of PA is very limited and weak. Since no evaluations were available on the five-factor assessment tool proposed by O'Sullivan and Guildea (112) in respect of the Irish context this tool has not been considered in this section. It is important to note that the five factors included in the O'Sullivan and Guildea (112) tool are not the same five factors as those included in the O'Donohue et al (151) five-factor model to assess PA.

Some assessment tools have been developed on the basis of Gardner's criteria (135-138). As highlighted in the previous chapters, some researchers and experts have suggested that PA lacks a scientific basis, there is no scientific method of diagnosing PA, and that evaluators under the influence of confirmation bias manipulate the data to fit a preordained conclusion (67, 148, 152). There is general agreement in most of these studies that parental alienation research would benefit from more high-quality studies, including longitudinal studies which could assist in the development of valid and reliable assessment instruments (139, 150). Likewise, Lubit (148) argues that there is no research supported method of diagnosing parental alienation and suggests that a re-analysis of Gardner's data and current knowledge of children indicates that the elements of PAS are not unique to PA and that no scientific study has demonstrated this link. The previous chapters in this report have highlighted complexities, controversies and conflicts around PA. Any assessment that focuses only on the characteristics of PA as described by Gardner, therefore, is flawed since it fails to take account of other possible reasons for the child's rejection of their parent. This is contrary to one of the few areas of agreement around PA where if there are "rational" or "logical" reasons for the rejection PA is not present.

The three studies reporting on the use of existing tools used by psychologists to assess relationships (140) and parents' personality characteristics (114, 142), are subject to the same limitations as outlined above. The use of psychometric measures such as the MMPI-2 to identify the personality profiles of alienating parents and to use this information to help custody evaluators to detect cases of PA again fails to take account of the wider issues arising (142, 146). Further, a tool based on assumptions that parents engaging in alienating behaviours are more likely to use the psychological defences of denial and projection or splitting is not supported by others (140).

7. A comparative understanding in how PA is dealt with across jurisdictions

This chapter is presented in two sections. Section 1 presents a review of legal interventions ordered by courts in England and Wales, Italy, Sweden, New Zealand, the United States and the European Court of Human Rights.

Legal interventions include early intervention and fact finding, orders for assessments, orders for therapy, transferring custody and enforcing custody and access or contact orders. Each of these interventions will be discussed and academic commentary is drawn upon, where available, to assess their effectiveness and applicability to Ireland. Proposed interventions regarding the need for training for judges and legal practitioners are also discussed.

Section 2 provides a summary of the studies that examined interventions for PA and evaluated intervention effects on specific outcomes. Each of the interventions is discussed in relation to the impact on outcomes identified, and its reliability and validity.

7.1. Key points

- Some cases in Ireland and the UK, wherein parental alienation claims were made, also involved a protracted history of court applications. Legal interventions ordered by courts internationally include early intervention and fact finding, orders for assessments, orders for therapy, transferring custody or residence of the child and enforcing custody and access orders.
- Training for judges, legal practitioners and others has been recommended in other jurisdictions and in the literature.
- Other jurisdictions have developed specific guidance to assist in the assessment of PA, including in the context of domestic abuse.
- Some courts have made orders transferring the child's custody or residence in parental alienation cases, but these orders have been criticised by some researchers. The European Court of Human Rights has emphasised that domestic authorities are required to ensure that orders for assessments and therapy are "effectively provided" to children, to assist them in "overcoming" alienation, and that orders for the enforcement of custody and access are also effective, in order to comply with Article 8 of the European Convention on Human Rights.
- The evidence on the effectiveness of current programme interventions is weak. The content and the method of delivery of the interventions varied between studies and were sometimes not specified. Many of the studies were of weak

design, with small non-randomised samples, hence caution is urged in reading the findings and considering the implications for practice and policy. Interventions need to be evaluated using methodologies such as randomised controlled trials, and measured using validated and reliable methods as this will facilitate the accrual of empirical evidence on the effectiveness of interventions from different studies.

- Interventions that build on families' strengths to help reduce the level of inter-parental conflict and to reach agreement on how to best meet the needs of their children are recommended.
- Interventions administered proactively at earlier identification of access difficulties may be more successful.
- Psychoeducational interventions that involve the whole family including the child and delivered by a multidisciplinary team in a community setting may be beneficial.

7.2. Section 1: Legal interventions ordered by courts

A consideration of interventions that were ordered by courts in Ireland was presented in Chapter 4. Other jurisdictions are considered here.

7.2.1. Early intervention and fact-finding

Some courts have focused on the need for early intervention and fact-finding where claims of parental alienation are made. Doughty et al (48) found that “outcomes are more likely to meet the child’s needs where there is: early resolution of disputed facts about domestic violence; early intervention where alienation appears to be an issue; and early consideration of separate representation for the child as a party in the proceedings” (p. 73). In the UK, for example, *Practice Direction 12J — Child Arrangements and Contact Orders: Domestic Abuse and Harm* underlines the court’s duty to “identify at the earliest opportunity ... the factual and welfare issues involved” (153). The need for early fact-finding where there is possible domestic abuse and harm was emphasised by the Court of Appeal in *Re J (Children)* [2018] EWCA Civ 115, [89].

Lord Jackson, in *Re S (Parental Alienation: Cult)*, also reiterated “the value of early fact-finding” at [7] and stated at [13]: “... in a situation of parental alienation ... [a]bove all, the obligation on the court is to keep the child's medium to long term welfare at the forefront of its mind and wherever possible to uphold the child and parent's right to respect for family life before it is breached. In making its overall welfare decision the court must therefore be alert to early signs of alienation. What will amount to effective action will be a matter of judgement, but it is emphatically not necessary to wait for serious, worse still irreparable, harm to be done before appropriate action is taken. It is easier to conclude that decisive action was needed after it has become too late to take it”.

A pattern of parental conflict and protracted court applications was traced by Lord Jackson in the UK in *Re S (Parental Alienation: Cult)* at [12]:

“*Re A ((Intractable Contact Dispute: Human Rights Violations)* [2013] EWCA Civ 1104): 12 years of proceedings, 82 court orders, 7 judges, 10 CAFCASS officers, no contact. *Re D (Intractable Contact Dispute: Publicity)* [2004] EWHC 727 (Fam); [2004] 1 FLR 1226 (Munby J): 5 years of proceedings, 43 hearings, 16 judges, no contact. *Re A (Children) (Parental Alienation)* [2019] EWFC B56 (HHJ Wildblood QC): 8 years of proceedings, 36 hearings, 10 professionals, no contact despite an attempted change of residence”.

In *Re A (A child)* [2013] EWCA Civ 1104, McFarlane L.J. stated that he was expressly endorsing the judgment of Munby L.J. in *Re L-W* [2010] EWCA Civ 1253 regarding the approach that can be taken by courts in intractable contact disputes. This judgment emphasised the need for “judicial continuity, judicial case management including effective timetabling, a judicially set strategy for the case; and consistency of judicial approach” [60].

Australian response and implications for Irish context

In Australia, the second Interim report issued by the Joint Select Committee on Australia’s Family Law System in March 2021 also highlights challenges arising from ongoing protracted cases of family conflict. One of their recommendations focuses on fast-tracking cases where family violence has been identified, including allegations of PA. The Committee refers specifically at recommendation 2.44 to the roll out on a national basis, subject to evaluation, of a triage pilot programme known as the Lighthouse Project.

This project (<https://www.fcfsco.gov.au/fl/fv/lighthouse>) involves a three-part process of screening, triage and case pathways and case management which has three streams — a specialist court list designed to assist families who have been identified as being at high risk of violence or other risks, low to moderate risk cases and family dispute resolution.

Such a project may have relevance in the Irish context where protracted court applications, that include reference to PA, were identified in this report as problematic.

7.2.2. Orders for assessments and therapy

Similar to Ireland, courts in other jurisdictions have ordered assessments and therapy. In New Zealand, for example, in the case of *KP as litigation guardian for the child v. AZ* [2020] NZHC 1340, which involved extensive claims of parental alienation, Grice J. ordered that the child M attend counselling and also stated that “the ongoing litigation has added considerably to the possible psychological damage to” the child [181] and [184]. In Italy, however, according to Lavadera et al (92), “PAS cases generally do not receive specific interventions from the court and mental health professionals” (p. 341). They propose at p. 341:

“For these PAS cases, a multi-level intervention could be indicated: clinical (child or family psychotherapy for the prevention of alienation; psychotherapy for the allegedly alienated child and the rejecting parent; or psychotherapy for the allegedly alienated child, the rejected parent and the preferred parent), case management (changes in the custody status of the rejected parent; removal of the child from the family; case management by Social Services), in vivo clinical (e.g. the Overcoming Barriers Family Camp), and educational (e.g. Family Bridges) (Friedlander & Walters, 2010)”.

7.2.3. Transfer of custody or residence

Transferring custody or residence of the child, requiring them to live with their other parent or alienated parent has been ordered by some courts internationally, in cases where claims of parental alienation are established, but such orders are recognised as involving a major change for the child.

In the UK, in *Re M (Children) (Ultra-Orthodox Judaism: Transgender parent)* [2017] EWCA Civ 2164, Munby J. stated at [64] that, “[w]here an intransigent parent is fostering in their child a damaging view of the other parent, and thereby alienating the child from the other parent and denying contact between them, the court does not hesitate to invoke robust methods where that is required in the child’s interests”. The judge explained that “the court may make an order transferring the living arrangements (residence) from one parent to the other, either to take immediate effect or ... suspended so long as the defaulting parent complies with the court’s order for contact” [64]. In addition, “[t]he court can make the child a ward of court. The court can make an order under Chapter 37 of the Children Act 1989 for a report from the local authority with a view to the commencement of proceedings for taking the child into public care” [64]. In *Re S (Parental Alienation: Cult)*, Lord Jackson stated, at [10]:

“Where a process of alienation is found to exist, there is a spectrum of severity and the remedy will depend upon an assessment of all aspects of the child’s welfare, and not merely those that concern the relationship that may be under threat. The court’s first inclination will be to reason with parents and seek to persuade them to take the right course for their child’s sake, and it will only make orders when it is better than not to do so. Once orders are required, the court’s powers include those provided by Chapters 11A to 11O of the Children Act 1989, and extend to consideration of a more fundamental revision of the arrangements for the child. We agree that whilst a change in the child’s main home is a highly significant alteration in that child’s circumstances, such a change is not regarded as “a last resort”: *Re L (A Child)* [2019] EWHC 867 (Fam) at [53] to [59] per Sir Andrew McFarlane P. The judge must consider all the circumstances and choose the best welfare solution”.

Doughty et al (63) (pp. 32-33) reference two cases in the UK where a transfer of residence was ordered in the context of parental alienation: *Re S (A Child)* [2010] EWHC 3721 (Fam) and *Re A (A Child)* [2007] EWCA Civ. Of note, in *Re S (A Child)* [2010] EWHC 3721 (Fam), Doughty et al (63) (p. 33) comment that “[a]fter ten years of litigation (almost the child’s lifetime), the judge had ordered a transfer of residence

from the mother to the father ... The judge cited research in the *Family Court Review* special edition (Warshak; Jaffe et al; Bala 2010)". Milchman (81) commented on the appropriateness of transferring custody of the child in circumstances where claims of parental alienation are verified, as follows (p. 239):

"If there were affirmative evidence that an unfounded CSA allegation was false, *and* there was also affirmative evidence of PA, *and* there was also affirmative evidence that other plausible reasons for obstructing the parent-child relationship had been ruled out (Drozd et al, 2013), then severe legal remedies such as transferring custody might be the only solution" (emphasis added by Milchman (81)).

According to Neilson (119) in Canada, "[t]he Court of Appeal for British Columbia reminds trial courts of the duty to focus on child best interests factors and is advising courts to exercise restraint in connection with use of punitive "draconian" orders that drastically alter child custody and parental care or that cut off children's contact with a parent in *Williamson v. Williamson*, 2016 BCCA 87 " (p. 45).

In Italy, Feresin (44) outlined that Articles 17 and 18 of the "735 Bill, known as the Pillon Draft Law (2018)" provides that "if the child manifests refusal, alienation or estrangement from one of the parents, 'even in the absence of obvious conduct by one of the parents, the judge can take urgent measures, i.e. limit or suspend the parental responsibility, reversal of the habitual residence of the child with the other parent and provisional placement of the child in a specialized structure'" (p. 57). According to Feresin, this draft Bill has met with significant criticism and a review was commenced by the Justice Commission in 2019. At the time of undertaking this research no update was found on this.

7.2.4. Processing and enforcing custody and access or contact orders

Courts may enforce orders for custody and access or contact, if appropriate, where orders are not complied with. In the UK, Hunter et al noted that "[m]any submissions from fathers complained that resident mothers exerted complete control over contact and breached contact orders with impunity, and that family courts were not sufficiently robust in enforcing contact orders" (47) (p. 158, [10.3.2]). However, Hunter et al (47) also found that the limited research available to date showed that "implacably hostile mothers' appeared in only a very small minority of such cases (4%), while around one third of cases involved current risk or safety issues relating to domestic abuse and/or child abuse. In these cases, contact had broken down because orders were unsafe" (p. 158, [10.3.2]). On the subject of enforcing court orders, Lord Justice McFarlane in *Re A (A child)* [2013] EWCA Civ 1104, emphasised the importance of judges considering enforcement of contact orders which have been breached: "the judge must, in the absence of good reason for any failure, support the order that he or she has made by considering enforcement, either under the enforcement provisions in CA 1989, ss 11J-11N or by contempt proceedings" [60]. According to McFarlane L.J., "[t]o do otherwise would be to abandon the strategy for the case with the risk that a situation

similar to that which has occurred in the present case may develop; to do otherwise is also inconsistent with the rule of law” [60].

In Sweden, with regard to obstructing contact, Burman (99) states that:

“it is argued that sanctions should be introduced against parents who obstruct cooperation by influencing a child in order to stop the child’s contact with both parents ... In this context, custody law in its 2006 version is labelled ‘conflict driving’ because it is said to support parental non-cooperation as well as efforts to exclude fathers from the children’s lives by initiating custody disputes. The fact that child custody disputes have increased after the 2006 custody reform is said to support this claim and to substantiate the FGA demand to restore custody law to the 1998 version” (p. 169).

Enforcement of custody and access or contact orders, forms an important part of a State’s obligations with respect to the right to family life under Article 8, and the European Court of Human Rights has delivered a number of judgments which specifically engage with the subject of PA in this context. Case law has established that the national authorities’ obligations to take measures to facilitate reunion is not absolute. *Hokkanen v. Finland* (Application No. 19823/92), 23/09/1994, [58] is worth considering, for example. Facilitating a reunion between a parent and child may require time and preparatory measures and varies from case to case. The interests of all parties, including the best interests of the child, must be taken into account (*Hokkanen v. Finland* (Application No. 19823/92), 23/09/1994, [58] and *Kosmopoulou v. Greece* (Application No. 60457/00), 05/02/2004, [45]).

In *Aneva and Others v. Bulgaria* (Application No.: 66997/13) 06/07/13, where expert evidence detailed that there was parental alienation in respect of one of the children, the Court held, at [109], that:

“Despite such unambiguous observations by the social services, the Court notes that they produced reports with conclusions and recommendations which were not followed up. In that connection, the relevant authorities failed to make sure that professional, targeted support was effectively provided to the children, which was critical for them to get used to the idea of seeing their mothers ... and accept them back into their lives. Such support was part of the indispensable preparatory measures that the authorities were required to take in line with their positive obligations under Article 8. In particular, preparatory measures were vital for ensuring the children’s autonomous engagement with the situation, independently from the other parent’s undeniable decisive influence”.

It can be seen that the Court underlined the importance of adhering to recommended interventions in order to facilitate contact where this has not taken place for some time, including in circumstances where there is evidence of parental alienation. Of note, the Court also emphasised that sanctions may be necessary in some cases: “although coercive measures in the context of child care and relations with children are not desirable, the use of sanctions must not be ruled out in the event of unlawful conduct by the parent who owes enforcement” [110]. The Court held, at [115] that “the

protracted lack of enforcement contributed to creating and consolidating a situation where the passage of time effectively alienated the first and third applicants and their children, which in turn significantly enhanced the difficulties in enforcing the judgments". The Court drew similar conclusions in *I.S. and others v. Malta* (Application No. 9410/20), 18/03/2021, which concerned unenforced contact orders, stating at [122] that:

"... family therapy, for both the children and the parents, was necessary for the successful establishment of contact ... That notwithstanding, it was only three years later ... that some sort of therapy was initiated ... Therefore, the relevant authorities failed to make sure that professional, targeted support was effectively provided to the children, which was critical for them to get used to the idea of seeing their father ... the children were not offered any help or advice aimed at overcoming the alienation stemming from the mother and the fact that they had had no meaningful contact with their father for months which became years with the passage of time ... The Court recognises that the children were reluctant to see their father, and rejected him, a situation exacerbated by the other parent's unlawful refusal to comply with the court orders and the ineffectiveness of any enforcement measures. However, the protracted lack of enforcement contributed to creating and consolidating a situation where the passage of time effectively alienated the children, which in turn significantly enhanced the difficulties in enforcing the orders".

The Court in *I.S. and others v. Malta* found that there was a violation of Article 8 and concluded at [124] that "it cannot be said that the authorities have taken all necessary steps that could reasonably be demanded in the given circumstances to enforce the applicants' contact rights". The Court was also critical of the family court's apparent reliance on the children's views in making a decision to revoke contact and commented at [128] that "there is no doubt that the children were severely conditioned by their mother". In addition, "the content of the children's statements was not made available to the first applicant, for comment, before the decision" and "the first applicant's request for such information was denied, on the basis that the children had only been 'heard', but they had not 'testified'" [132]. The Court concluded that this meant that the first applicant did not have "access to all relevant information which was at the disposal of the domestic court" [132].

The case of *Pisica v The Republic of Moldova* (Application No 23641/17) 29/01/2020 concerned claims of parental alienation by a mother in circumstances where she did not have contact with her children for five years, despite a court order directing that she have custody of the children. The mother complained to the European Court of Human Rights that her right to family life under Article 8 ECHR was breached because of the lack of enforcement of the custody order and "that the authorities had failed to take action in line with their positive obligation under Article 8 to prevent the emotional abuse of the children as a result of their alienation from their mother" [67]. The Court held that there was a violation of Article 8. In reaching this conclusion, the Court stated that the mother had complained to the authorities multiple times that the actions of the

father “P” “aimed to alienate the children from her by manipulating them and turning them against her” [69]. The Court concluded that: “In view of the complaints made by the applicant and the psychological reports confirming the veracity of her claims, the authorities could not be unaware that P.’s actions were seriously threatening future relations between the applicant and her children” [69]. The Court stated at [79] that:

“the alienation of the applicant’s children ... was a major factor impeding the enforcement of the judgment ... Therefore, the authorities’ failure to react to the applicant’s complaints about alienation and to examine the custody case in an urgent matter must be seen as having substantially contributed to the eventual difficulties in enforcing the judgment ... More importantly ... they did no preparatory psychological work with the children or their parents to facilitate the enforcement, despite there being clear signs that the children had been psychologically alienated from their mother ... and that complex preparations for the enforcement were therefore necessary”.

In *Schrader v. Austria* (Application No.: 15437/19), 12/10/2021, the applicant claimed that “the length of the proceedings concerning his visiting rights had been unreasonable and that the inaction of the Austrian courts had resulted in his being alienated from his son and stepson” [1]. The Court held that there was a violation of Article 8 ECHR as the domestic courts did not “deal expeditiously with the applicant’s request” [31]-[32].

7.2.5. Training for judges and other legal practitioners

Academics in several jurisdictions internationally emphasise the need for specific training in domestic abuse in cases where claims of parental alienation are made. In Canada, Lapierre et al (10) state that “[p]rofessionals in family court and child protection services also need additional training on domestic violence and coercive control, in order to better understand the complex dynamics of power and control and the distinction between domestic violence and ‘high conflict’” (p. 42). Also in Canada, Neilson (119) recommended a need for such training and referenced developments in the US as follows:

“...parental alienation cases demonstrate limited attention to scientifically documented child development factors and limited understanding of the impact of domestic violence on parents or children. Trauma affects demeanour, disclosure, fear, and protective responses. In recognition of similar perceptual problems in courts in the United States, the National Council of Juvenile and Family Court Judges is recommending that all judicial officers receive training on: • *How to identify the nature and context of abuse in a family, its implications for the children and parenting* • *Child development* • *Trauma and how it affects children and parents (including their participation in litigation)* • *Overcoming implicit bias and how to view each case as a blank slate* ... Clearly judicial and professional education on the same issues is also warranted in Canada” (pp. 46-47).

In Spain, Vila (28) noted “the lack of specific training on gender violence dynamics for professionals working in the domain of family breakdown” (p. 53). The Australian Law Reform Commission (ALRC), although not specifically commenting on parental alienation, stated that “[f]amily violence is the most commonly raised factual issue in family law proceedings ... In recognition of this prevalence, the ALRC recommends a legislative requirement that judicial officers presiding over family law matters in the family courts be competent in dealing with both family law and family violence”, Australian Law Reform Commission (154) (p. 400, [13.54]). The ALRC also recommended CPD for lawyers in the area of family violence (p. 405, [13.69]). Similarly, in the UK, Hunter et al (47) recommend specific judicial training in “[i]nteractions and distinctions between risks in complex cases: domestic abuse, child sexual abuse, parental alienation, drug and alcohol abuse, mental health, high parental conflict” (p. 184, [2]).

7.2.6. Analysis of findings arising and their implications for the Irish context

In respect of the legal cases analysed, it is evident that courts have ordered a range of interventions, including early intervention and fact finding, assessments and therapy. Transferring custody or residence of the child, requiring them to live with their other parent or alienated parent has been ordered by some courts internationally, in cases where claims of parental alienation are established, but such orders are recognised as involving a major change for the child. These approaches are also observed in Irish cases. Experts have recommended that parents and children attend counselling and family therapy in cases where there are claims of parental alienation. In considering the implications for the Irish context, it is clear that many of these interventions have already been taken on board by courts in Ireland. Judges have ordered parties to attend counselling and family therapy, either individually or jointly with their former partners and children (*AB v CD* [2012] IEHC 543; *LD v. CD* [2012] IEHC 582). Courts have ordered parties to attend clinical psychologists and medical experts for assessment in cases where there are claims of parental alienation (*AB v CD* [2012] IEHC 543). In some cases, courts “strongly recommend” that parties attend such experts for assessment (*LD v. CD* [2012] IEHC 582).

The importance of “parenting skills” including parental communication and cooperation post separation has been emphasised by experts in case law, and the need for parents to consider children’s long term needs to have a relationship with both parents (*SH v. JC* [2020] IEHC 686). The need to avoid the repeated use of high conflict litigation has also been emphasised by experts and judges (*SH v. JC* [2020] IEHC 686; *AB v CD* [2012] IEHC 543; *LD v. CD* [2012] IEHC 582). In *AB v. CD*, for example, an expert proposed that the parties not be allowed to litigate matters regarding their children for two years. Abbott J. noted that this would “not be justified by the law” but instead ordered the parties to attend mediation first in the event of further issues, rather than immediately resorting to court.

Given the contested nature of PA, assessment and a definitive finding of PA can be very problematic. If a court does, however, find that there is PA, the court can change the child's custody and access arrangements so that they can spend more time with the alienated parent. Section 45 of the Children and Family Relationships Act 2015 requires a court to "regard the best interests of the child as the paramount consideration" in any proceedings concerning the child's living arrangements. Case law from the European Court of Human Rights has emphasised the importance of carefully re-establishing family relationships where there is PA, so an Irish court may need to order that the child and their parent(s) attend therapy to assist them in re-establishing a relationship with the alienated parent. Case law from Irish courts has shown judges making such orders. The European Court of Human Rights makes it clear, however, that any orders for therapy made by the court must be promptly adhered to, in an effort to promptly re-establish family relationships.

It is clear that the implementation of recommendations made in the Houses of the Oireachtas Joint Committee on Justice and Equality Report on Reform of the Family Law System (1) have the potential to greatly strengthen interventions relevant to issues highlighted in this report regarding PA. Recommendation 6, facilitating family law judges to refer couples or parties to skilled personnel for a range of interventions, is particularly welcome. A tailored, individualised and interdisciplinary approach could assist in reducing conflict at an early stage, and in adopting a holistic approach to management; monitoring custody and access orders when they breakdown and facilitating their restoration would assist in claims that access is being denied by one parent. Recommendations 17-22 on alternative dispute resolution measures are also welcome, as is the recognition that training, standards and competencies of mediators merits attention. It is particularly important that mediators are not starting from a position of bias in respect of PA and that they understand this concept in the context of the broader discourse.

The voice of the child is identified as a key area for recommendations in the report (28-32). Some consideration should be given to ways in which the cost of expert reports can be offset.

In addition to the implementation of the recommendations made in the Report on Reform of the Family Law System, Head 5 of the General Scheme of the Family Court Bill 2020 provides many important guiding principles for courts that are relevant to the management of PA. Those set out in subsection (3) are particularly pertinent as follows:

"(a) encouraging and facilitating as far as possible the resolution of issues in dispute by means of alternative resolution methods, such as mediation, unless resolution by such means would not be appropriate due to the nature of the proceedings,

(b) promoting and engaging in active case management practices, including time limits and maximum word counts for submissions,

(c) conducting proceedings in a manner which—

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- a. is as far as possible user-friendly for the parties,
 - b. identifies the issues in dispute,
 - c. minimises as far as possible conflict between the parties,
- (ii) (iv) is just, expeditious and likely to minimise costs of those proceedings,
- (d) in any family law proceedings in which a child is involved or likely to be affected by the outcome—
- (i) ensuring that the best interests of each such child are a primary consideration in those proceedings,
 - (ii) in respect of any such child who is capable of forming his or her own views, ensuring as far as practicable that the views of the child are ascertained and given due weight having regard to the age and maturity of the child.”

Specifically, regarding parental alienation, this section of the Bill is extremely welcome as it will potentially limit the number of cases which become protracted by ensuring that there is a focus on alternative resolution methods as well as active case management practices. Further, express reference to minimising conflict and ensuring expeditious proceedings are vital additions to the legislative framework. It is imperative that this Bill is urgently progressed and that adequate resources are available to support the implementation of this section and the parties to proceedings.

Legislative changes considered in other jurisdictions

The introduction in Italy in 2018 of the 735 Bill, known as the Pillon Draft Law, proposed a series of changes in family law including mandatory mediation and co-parenthood including equal time spent with each parent. Feresin (44) writes that:

“The bill states that ‘in situations of family crisis, the child’s right to have both parents frequently ends up with the concrete exclusion of one of the parents (most often the father) from the life of the children and with the contextual excessive reinforcement of the role of the other parent.’ Articles 17 and 18 specify that if the child manifests refusal, alienation or estrangement from one of the parents, ‘even in the absence of obvious conduct by one of the parents, the judge can take urgent measures, i.e. limit or suspend the parental responsibility, reversal of the habitual residence of the child with the other parent and provisional placement of the child in a specialized structure.’” The author notes that in June 2019, the Justice Commission commenced an evaluation of the Pillon Draft Law.

No other jurisdictions were identified as having brought forward legislation that specifically deals with PA and it is difficult to envisage this happening in a way that accommodates the arguments and positions held by both sides.

7.3. Section 2: Evaluations of interventions for parental alienation (PA)

7.3.1. Overview

This section focuses on the interventions that have been undertaken internationally to address parental alienation. Using the systematic search already described in detail in the methodology section (Chapter 2), three studies were identified that evaluated interventions for PA and two review papers reported on Parental Alienation Treatments in the US were identified. A further eight papers that reported on evaluations of programmes delivered to reduce inter-parental conflict, promote better co-parenting and child adjustment, were also identified. In addition, a specific search was carried out to identify programmes that had been implemented in the Irish context and one study, relating to the Parenting Plus programme, was identified. Consequently, as these nine evaluations are not specific to interventions for PA, they are not included in this review. They are, however, included in Appendix 2.

Table 14 Evaluations of interventions included in the analysis

Title of intervention	Country of origin
1. Parenting Conflict Resolution (PCR) (Cyr et al 2020)	Canada
2. The Family Reflections Reunification Program (FRRP) (Reay 2015)	Canada
3. Sixteen-Session Group Treatment (Toren et al 2013)	Israel
4. Parental Alienation Treatments (PATs) (two review papers)	US

7.3.2. Parenting Conflict Resolution (PCR)

In Cyr et al (155), the researchers reported on a pilot of an intervention protocol called the Parenting Conflict Resolution (PCR). It originated in the family court system in Quebec, Canada and was described as a psycho-legal case management protocol to reduce parental conflict, improve inter-parental communication and support or restore the parent-child relationship. Information about the extent to which this programme has been rolled out was not identified in this review.

The programme was aimed at “high-conflict parental separation cases that are associated with child’s estrangement or contact refusal and which take an unusually large amount of court time and generate high emotional costs for parents and children” (p. 560). Cyr et al proceed to state that “the majority of refusal cases are hybrid, with both parents engaging in alienating conduct or having some responsibility for breakdown in the relationship with one parent, and it is rare to have cases of ‘pure parental alienation’” (p. 562).

The key elements of the PCR are A) a judicial intervention and B) a psychosocial intervention.

A) Judicial intervention enables close follow-up of cases when high-conflict dynamics are identified by a Superior Court judge: “1. a single judge is assigned to hear the case; 2. latitude is given to the judge in matters of case management; for example, the judge can rapidly schedule a hearing, predetermine the length of testimonies, and determine the issues to be addressed. The judge can also make recommendations and orders for more effective management of high-conflict dynamics; and 3. commitment by the lawyers for parents and children to work cooperatively rather than adopting a strictly adversarial stance” (p. 563).

B) The psychosocial component is provided without charge to the family, and includes: “Nine hours of psychoeducational, skill building and introspective group intervention focused on co-parenting; and forty-five hours of service provided by a family psychotherapist, who is expected to communicate, as needed, with the lawyers and the judge. The psychotherapist designs a systemic family intervention that is tailored to the family’s needs, with the primary aim of re-establishing the strained or broken parent-child relationships” (p. 563). Interventions might also include parenting guidance to support psychotherapy objectives, and to apply identified solutions for better parental communication and parent-child relationships. The key element in this intervention was the focus on support for the whole family from a family systemic paradigm in that the participation of the children was a key part of this intervention model.

Outcomes

The Parenting Conflict Resolution intervention was applied to eight high-conflict families in a pre and post comparison. The parents were between 26 and 50 years of age ($M = 37.56$), while the children (nine boys, four girls) were between four and 12 years old ($M = 8.69$). All the participants were Caucasian and Canadian citizens. It was unclear how many weeks it took to deliver the programme intervention. Among the six families that completed the programme, there was child refusal or loss of contact between parent and child in all of the families (three mother rejections and three father rejections) for four months to two years. The outcomes were assessed using telephone interviews with parents, psychotherapists and judges. In terms of outcomes, there was an effect in that there was a restoration of the parent-child bond in six families where there had been no contact. The favourable factors in the reinforcement of the parent-child bond included: “1. the focus on the best interests of the child and his or her very central place throughout the intervention; 2. a judge assigned to the family case and his or her tight case management; 3. the lawyer’s support of the parent’s participation in the protocol; and 4. the systemic understanding of the access problems within the family. 5. the trust between the parents and their lawyers played a decisive role in helping the aligned parent to support the parent-child bond with the other parent and the rejected parent to respond appropriately to the situation.” (p. 567). The elements seen as impeding the intervention were: loss of parent-child bond for more than a year, and discord between the psychotherapist and judge over the optimal duration of the intervention. These findings are limited by the

very small number of participants, non-randomisation and the lack of validated measures.

7.3.3. The Family Reflections Reunification Program (FRRP)

The Family Reflections Reunification Program (FRRP) was described as a programme specifically designed to treat severely alienated children and their family system in Canada (156). This is in contrast to other programmes that had broad outcomes aimed mainly at reducing conflict between parents. The main aim of the FRRP intervention is to reconcile children between eight to 18 years with their rejected parent and to foster a healthy relationship between the child and his/her rejected parent. The FRRP consists of six major components which are: “1. The child and his or her siblings initially attend the retreat facility without having any contact with either parent (referred to as ‘the transition phase’). 2. The child subsequently begins a psycho-educational program that leads to the reunification process with the rejected parent (referred to as ‘the reunification phase’). 3. The rejected parent arrives at the retreat and begins working with a psychologist in preparation for a successful reunification. 4. The child and rejected parent engage in various psycho-educational and outdoor experiential programs separately and then together after they have successfully reconnected with each other. Prior to exiting the program, the child and parent share the same large living quarters and enjoy a special celebration chosen by the child (referred to as ‘the departure phase’). 5. The favoured parent seeks counselling with a trained and certified FRRP therapist in his or her own locale. Or, if that is not possible, the favoured parent seeks counselling with a trained, certified FRRP therapist near the retreat or via a safe, secure video-conferencing service. 6. A strong continuing care plan supports the reunification process and is an important key to obtaining long-term success (referred to as ‘the follow-up phase’)” (p. 202).

Outcomes

The intervention was piloted with 22 children (aged eight to 18 years) from 12 high-conflict families in Canada (156). The sample of rejected parents comprised of six mothers and six fathers. The intervention was delivered to the child(ren) and rejected parent in a retreat setting over four days and five nights. The favoured parent attended therapy with an FRRP therapist elsewhere. In terms of outcomes for the FRRP intervention, there was a 95% success rate (21 of the 22 children) in re-establishing a relationship between the children and their once-rejected parents between the second and third day of the retreat as evidenced by the children’s statements, parents’ statements, and observations of the multidisciplinary team at the retreat. The measure used appeared to be just observation. The families were followed at four time points in a year and the positive relationship with the rejected parent remained as evidenced by the statements of the child(ren) and rejected parents and observations of the aftercare counsellors. The findings are limited by the fact that this was a small-scale pilot study, no objective evidence was provided, and it was unclear how the sample was selected to participate in the programme.

7.3.4. Sixteen-Session Group Treatment

In an Israeli study by Toren et al (157), children were considered to have PA if they had refused to visit the alienated parent for a minimum of four months. The intervention was described as a parallel group psychotherapy programme that was developed by the authors. The programme consisted of 16, once-weekly group sessions (that included equal numbers of alienated and non-alienated parents but not ex-couples) that lasted for 90 minutes. Each group had two therapists and the focus was on cognitive-behavioural modules and inter-personal skills and coping techniques.

Outcomes

The 16-session intervention was delivered to 22 children and adolescents who had refused contact with an alienated parent for at least four months (157). The children were between six and 15.5 years. A total of 18 mothers and one father were the custodial parents. The remaining parents (19) were alienated from their children. The control group (n = 48) were treated using standard community treatment, but it was unclear what this consisted of. The measures were administered at three time points, one week prior to the beginning of the intervention and one week prior to the last treatment session, and again at 12 months. In terms of children's behaviours, there was significant intervention effects for anxiety and depression levels as both decreased from Time 1 to Time 2. The number of visits with an alienated parent and the level of parental cooperation was significantly better in the study group than that of the control group. The findings are limited by the small sample size, lack of detail on the intervention, only a partial control group available and no randomisation applied.

7.3.5. Parental Alienation Treatments (PATs)

The interventions described above are seen as types of reunification therapies that work with families while leaving the child in their original living situation (158). In the US, there are other interventions which are described as parental alienation treatments (PATs) which appear to be privately run programmes developed by individuals in the US. These share the assumption that PA can only be successfully treated if the child is removed from the custody of the preferred parent for some period of time. These are usually court-ordered intensive treatments because they place children for several days or more with the non-preferred parent and include prohibition of contact with the preferred parent. The premise is that the custody change will alter the alienated child's attitudes and create positive behaviour towards the non-preferred parent. Warshak (159) notes that professionals often view PATs as useful for helping alienated children when traditional therapies have failed.

In the US, Mercer (160) reviewed five PATs (Family Bridges, High Road, Transitioning Families and Stable Paths, Overcoming Barriers, and the Family Reflection Reunification Program) to evaluate if these interventions were plausible, effective and safe for children. Family Bridges, High Road and Transitioning Families and Stable Paths involve the separation of the child from the preferred parent for a period of time

and the application of a psychoeducational intervention with the child. Overcoming Barriers and the Family Reflection Reunification Program are psychoeducational camps where the parents, new partners and children attend together usually under court order. The focus is on reconnection between the child and the non-preferred parent.

From the review of the five PATs, Mercer (160) concluded that there was insufficient empirical support for the safety and effectiveness of the PATs and that custody proceedings should take these facts into consideration. Hence Mercer cautioned against the use of PATs which remove the child from the preferred parent and place of habitual residence because such interventions may potentially cause direct or indirect harm to the child. Similarly, Templer et al (53) systematically reviewed the empirical evidence regarding the effects of PATs and noted the extremely weak designs, implementation, and absence of control groups in most of the studies. There appears to be a consensus that some PATs lack peer-reviewed outcome studies that demonstrate, with reliable empirical measures and statistical tests, positive outcomes for severely alienated children. While Warshak (159) agrees that some PATs lack strong evidence, he refutes the criticisms of the legitimacy of Family Bridges and Overcoming Barriers and feels that they “have been maligned with anecdotes, false accusations, and flawed theoretical speculations” (p. 433). In his paper Warshak provides evidence to support this claim that both of these PATs can lead to positive outcomes for children who are alienated from a parent. Analysis of review of interventions and their implications for the Irish context

As can be seen from the above, a few interventions have been undertaken internationally to address parental alienation. In these studies, the programmes had a range of aims, including reducing inter-parental conflict, improving parental communication, supporting or restoring parent-child relationships and reducing child behaviour problems. Studies were conducted with separated or divorced families from the United States, Canada, and Israel. Most of the studies characterised the parents as displaying intense high inter-parental conflict with the children caught in the middle. Parents were characterised as high conflict when the parents had been separated or divorced for more than two years but were still displaying ongoing anger, hostility, mistrust, recurrent verbal abuse, recurrent litigation to settle custody disputes or continuous dysfunctional co-parenting (155, 161). The children’s ages ranged from four to 18 years. Programmes consisted of short-term interventions delivered over a couple of sessions (six weeks), and longer programmes delivered over a number of weeks (i.e. 12 weeks to one year). The duration of the intervention ranged from four to 54 hours.

All the interventions included a specified parenting support intervention which aimed to reduce the level of inter-parental conflict, improve parenting and communication skills and improve custody arrangements so that the child had contact with both parents.

Most of the interventions aimed to raise parents' awareness of their children's needs and to encourage the parents to make decisions collaboratively about their children's wellbeing. Some interventions aimed to provide support for the whole family from a family systemic paradigm and the participation of the children was a key part of the intervention (155). There appears to be a growing recognition that children may like to express their views and take part in the psychoeducational interventions to improve the family situation.

Success and impact of the effectiveness of these approaches

Most of the studies were of weak quality as they used an uncontrolled before and after design with a small convenience sample of families. The data collection methods were mainly questionnaires and scales. Two studies reported a restoration of the parent-child bond, for six out of eight families (155) and for 21 out of 22 families (156). One study in Israel reported better cooperation between parents in the treatment group and a reduction in the children's anxiety and depression (157). In relation to PATs, there appears to be a consensus that PATs lack peer-reviewed outcome studies that demonstrate, with reliable empirical measures and statistical tests, positive outcomes for severely alienated children (53, 160).

7.3.6. The extent to which interventions reviewed are transferable to an Irish context

Although three interventions reported a positive finding on some outcomes, most of the studies were of weak quality, used an uncontrolled before-and-after design, and included a small convenience sample of families. Therefore, caution is warranted in considering these interventions for use in the Irish context. What is clear is that interventions that build on families' strengths to help reduce the level of inter-parental conflict and to reach agreement on how to best meet the needs of their children are required. Furthermore, interventions administered proactively at earlier identification of access difficulties may be more successful. As mentioned earlier, a tailored, individualised and interdisciplinary approach could assist in reducing conflict at an early stage and in adopting a holistic approach to management; monitoring custody and access orders when they breakdown and facilitate their restoration would assist in claims that access is being denied by one parent.

The *Parenting Plus — Parenting when Separated Programme*, which is presented in 7.3.5 as the only Irish intervention, appears promising for separated parents as it was designed for both mothers and fathers and for both custodial and non-custodial parents. However, it is a parenting intervention that has a broad focus and does not explicitly focus on the reduction of PA.

This chapter sets out a range of interventions adopted in dealing with PA in the courts internationally and in Ireland. Many of the interventions in use in other jurisdictions are also either currently available, or there are recommendations for their implementation, in the Irish context. Although these interventions are not specific to PA, they can be

ordered in circumstances where the court finds that there is, or may be, parental alienation.

The overall quality of the scientific literature presented in this report is weak, and while authors have asserted that there is a sufficient evidence base (34, 35), others have identified significant limitations in the literature around PA. In the identification of the literature for this report, no significant national or international study with a robust methodology such as cohort studies or randomised controlled trials, where findings can be generalised to the Irish population was identified. This is a significant limitation in both the literature and in drawing meaningful conclusions about PA.

8. Questions addressed in this report, conclusions drawn and areas for consideration identified

This report set out to answer a series of questions about the nature, extent, assessment and management of PA in Ireland and internationally. This chapter now summarises what has emerged in the analyses of the scientific and legal literature and of court cases in Ireland and other jurisdictions. The conclusions and areas for consideration in the Irish context identified below are drawn from insights emerging.

In presenting these conclusions, it is worth highlighting again, the polarised, contested and divided nature of the literature on this topic where, despite a substantial and growing presence in the literature and in legal cases, there continues to be very fundamental disagreements between authors about the concept. This is reflected in the substantial number of papers, based on commentary and/or non-systematic approaches to literature synthesis, which either start from a position of embracing the concept in its entirety or of dismissing it totally. Where primary research involving the collection of new information has been carried out, it is clear from the focus of the research questions that the authors either strongly agree or strongly disagree with the concept.

It is also important to note that while there is a substantial literature on this area, in general, the overall empirical base is limited and there is an absence of both national and international evidence in respect of basic information relating to the prevalence, aetiology, assessment and management of PA.

It is within the context of these limitations that the responses to the questions below are presented.

Q1. Defining Parental Alienation: How has parental alienation been defined within an Irish, European and international context? Is there an agreed definition of parental alienation used internationally? How is it defined legislatively?

Our analysis clearly highlighted the absence of an agreed definition in case law and in the scientific literature. It is also noted that a range of different terms is used to describe the same or similar type of concepts. The following conclusions are highlighted:

- Judges in Irish courts do not appear to use an agreed definition of PA and this is also seen internationally. Behaviours associated with PA raised in the courts, for example, have focused variously on the behaviours of the alienating parent (*LD v. CD* [2012] IEHC 582), the behaviours of the child (*SS v. KA* [2018] IEHC 795), and the behaviours of both parents (*BB v. ZS* [2018] IEHC 15). Three papers that have considered definitions of PA in the legal context in Ireland each present a different definition (2, 4, 112). Two specific areas of contention

relate to whether PA is a process or an outcome or both and whether it is intentional, malicious and deliberate or whether it is unintentional. These differences are identified in both court cases and in the scientific literature and they are important since they inform judgments about assigning blame and the actions to be taken to resolve the issue.

- While noting these differences, it is also very clear that the work of Gardner from the 1980s forms the basis for almost all definitions identified and for how PA is understood more generally. In Ireland and internationally, the case law illustrates some recurring aspects of the term and concept, such as undermining a parental role, conscious and unconscious criticism of the parent in front of the children, both coherent with Gardner's understanding. This is also evident in the literature where many of the papers included in this review restate the characteristics of the child and the characteristics of the alienating parent as first described by Gardner, and although some authors have elaborated, expanded or recategorised these characteristics, their essence remains the same.
- There are two definitional components around which there is almost universal agreement and these are that a) PA refers to the child's rejection of one parent and b) this occurs as a result of behaviours or actions of the other parent. Both must be present. Where there is a legitimate reason for the child rejecting a parent, PA is not considered. This is also an important issue in the legal context since assessment needs to take account of both factors. One recently published Irish-based study based on observations of custody and access cases in the District Court presented several examples of what were described as "parental alienation" (2). These examples made reference only to specific behaviours and none identified the child's rejection of the parent, thus, failing to meet the first criteria outlined above.

Area for consideration 1: Arising from these findings, it is suggested that greater precision is required when adopting the terminology of parental alienation in legal settings. Alienating behaviours by one parent may not necessarily lead to the rejection by a child of the other parent and in those circumstances the term parental alienation should not be used. In situations where a child does reject contact with a parent, the term estrangement is more accurate, and the term "parental alienation" should only be used in those circumstances where all other reasons for the rejection have been investigated and excluded.

Q2. Exploring the issue of parental alienation in Ireland: What attempts, if any, have been made to establish how parental alienation is interpreted in Ireland? What is the nature and extent of parental alienation in Ireland? How has that nature and extent been measured? Have the nature and occurrence levels changed over time? What are the main social and economic factors that underpin parental alienation?

An analysis of case law and the limited literature available about the Irish situation shows there is an increasing awareness of this concept in the Irish courts.

- It is concluded, however, that there is little empirical evidence available on the nature or prevalence of PA in Ireland and there is no objective information on demographic, social or economic factors associated with it.

Area for consideration 2: There is a clear lack of well-designed, methodologically-sound research in the area of PA in the Irish context and some consideration needs to be given to the development of a more robust evidence base. There are a number of areas where research could assist in better understandings, and these include:

- a) Longitudinal research based on existing research through cohort analyses of the datasets of the National Longitudinal Study of Children in Ireland would allow for the relationships between children and parents before, during and after separation and divorce to be described.
- b) Research on the coincidence of PA allegations with domestic violence allegations and the outcomes arising in the Irish courts.

Q3. What is understood by parental alienation in Europe, particularly within the EU/EEA, and internationally, with particular emphasis on common law jurisdictions? Has this understanding changed over time? What is known about its extent and nature in Europe and how has this changed over time?

In considering understandings about the nature and extent of PA, the following conclusions are drawn:

- The literature around PA is predominantly written by authors based in the United States and considerably less is written about the European situation. Nevertheless, it is clear that PA is increasingly cited in case law and literature across European (particularly in England, Wales, Spain and Italy), Canadian and Australian jurisdictions.
- The question about the extent of PA and its nature in Europe has not been addressed in the literature. Despite the emergence of the concept of PA in the 1980s, there has not been any nationally representative studies identifying the extent and the prevalence of PA. This lack of data has resulted in vastly varying estimates being presented along with many definitional and methodological problems evident therein
- PA as a concept is highly controversial and there are four main contested areas. These are the gendered nature of the concept, the intersection between PA and domestic violence and abuse, the extent to which the voice of the child is taken into account in the courts and the scientific basis for the concept. The polarised nature of these understandings has been present almost since the emergence of the concept, although over time some changes have been seen. False claims of child sexual abuse, for example, have become less evident in

legal cases; it is acknowledged that the child can be alienated from either mother or father and there is an appreciation that wider family members can also be alienated; and there is an understanding that while it continues to be much more commonly identified in the context of high conflict custody and access cases, it can also occur in intact families. The main areas of contest in respect of domestic abuse, the scientific basis for the concept and the voice of the child, however, remain the same.

- As highlighted in Chapter 4, those who support the concept of PA generally focus on the behaviours and characteristics of the child and the alienating parent. Those who oppose the concept of PA raise issues around gender and domestic abuse in the context of PA and argue that mothers are disproportionately labelled as the alienating parent, that PA is used as a counterclaim to allegations of domestic violence against women, that a lack of understanding about domestic violence leads to claims of PA by women and that the courts treat women in a less favourable way if they raise claims of abuse alongside PA. A pro-contact culture has been criticised by some authors and it has been identified as a barrier to dealing effectively with domestic abuse. Both supporters and opponents of PA write about the voice of the child with those who support PA arguing that the child's views are negatively influenced by the alienating parent and those who oppose it arguing that the child's voice is silenced in these cases.
- These contested issues are relevant to the Irish context where serious allegations of domestic abuse are present in some cases (e.g. (*LD v CD* [2012] IEHC 582; *AMQ v. KJ* [2017] IEHC 342; *SS v. KA* [2018] IEHC 795). Allegations of self-harm and emotional abuse of children are also evident (*AB v CD* [2012] IEHC 543).
- In terms of assessing PA, there is learning for the Irish context in the preceding analysis. First, a lack of high-quality empirical research on what constitutes PA detracts from efforts to assess the actual phenomenon. Second, it is clear that with conflicting views on what elements constitute PA, and an absence of reliable and validated tools, any assessment tool will form only one component of a comprehensive evaluation. Arising from that it is clear that tools that focus only on alienating behaviours fail to take account of the broader context for PA and the controversial nature of the concept. Individualised assessment of the reasons for the child's rejection of the parent is essential and many sources recommend that interview, observation, and clinical experience are included in any assessment of claims of PA. Furthermore, in carrying out a child custody evaluation where an allegation of PA has been made, it is essential that the individual family dynamics, history, and context are all included and taken into consideration in the assessment of PA.

- Finally, there is not a “gold standard” for assessing PA, although an approach such as Baker’s (2020) four-factor model has potential since it adopts a step-wise approach and also ensures that information from all parties is included in custody assessments. It also establishes that all four factors must be present before one can conclude that a child is alienated. There is a limited empirical basis for this model, however, and it has not been evaluated for use in the Irish context.

Area for consideration 3: The areas of disagreement identified in respect of PA make for significant challenges and a requirement for comprehensive assessment procedures that take account of the different standpoints. In cases where claims of parental alienation are made, it may be concluded that while such claims can be valid and are one factor for a court to consider, it is important that any such claims should not dominate a case as there may also be other, complex issues involving a risk of harm to the child(ren) and other parent emanating from domestic abuse.

Area for consideration 4: In carrying out a child custody evaluation where an allegation of PA has been made, it is essential that the individual family dynamics, history, and context are all included and taken into consideration in the assessment of PA. In this report, government-sponsored guidelines have been identified in the UK, Canada and Australia and it is recommended that consideration be given to the development of a similar type of guidance in Ireland for use in the assessment of high-conflict custody and access cases, including those where PA is a feature.

Area for consideration 5: The voice of the child was identified as a contested area. Research has highlighted the impact that claims of parental alienation can have on the weight which is attached to children’s views. It is important to draw attention to this issue from a children’s rights point of view, given that children’s participation in decisions affecting their lives is enshrined in both domestic and international law, and the expressed concern by authors such as Hunter et al (47) (p. 78, [6.9.2]), Doughty et al (48)(p. 74), Macdonald (49) (2017, pp. 1 and 9) and Barnett (50) (p. 27) that children are being silenced in such cases.

Further research in this area should be considered, particularly directly with children who have been involved in such cases, particularly about their views and experiences.

Area for consideration 6: In this report we have identified issues arising in respect of expert evidence and highlighted that where parental alienation claims are made, judges in Irish courts have ordered reports to ascertain the child’s views under s. 47 of the Family Law Act 1995, s. 20 of the Child Care Act 1991 and s. 32 of the Guardianship of infants Act 1964, as inserted by the Child and Family Relationships Act 2015. Abbott J. also emphasised the value for judges of speaking with children directly themselves, to assess if a report is necessary and if it is, what the focus should be for the assessor. Internationally, concerns around the use of expert evidence include that it is important to be alert to the possibility of confirmation bias in appointing a “specialist in parental alienation”.

Consideration also needs to be given to concerns raised about the costs of engaging experts which can affect both parents, or one more than the other, resulting in inequities.

Q4: What can be learned from an international context that can help us understand and deal with the issue of parental alienation in Ireland? What interventions have been undertaken internationally to tackle parental alienation? What are the various approaches taken in other jurisdictions on this issue? This should include (but not be limited to) examination of the following: legislative interventions, specific statutory instruments, laws, policies, guidelines and specific interventions. What has been the specific situational context in which these have been undertaken, i.e. what may have prompted these interventions? How successful have they been? What has been the impact of these various approaches? What evidence is there for their effectiveness (or lack there-of)? What contributes to effectiveness? In particular, is there evidence from other jurisdictions of criminalisation of parental alienation?

The above range of questions focus on interventions adopted in response to claims of PA and in this report two approaches have been adopted to answering these questions. First, an analysis of case law in Ireland and other jurisdictions, as well as the European Court of Human Rights, has been carried out. The second approach involved a rigorous analysis of evaluations of programmes delivered. As highlighted earlier, the search strategy and selection of studies to be included was deliberately constructed to take account of the continuum of parental conflict so that potential opportunities for responding to claims of PA at an early stage could, if available, be identified.

- Chapter 7 set out a range of interventions adopted in dealing with PA in the courts internationally and in Ireland, and it is concluded that many of the interventions in use in other jurisdictions are also either currently available, or there are recommendations for their implementation, in the Irish context. Although these interventions are not specific to PA, they can be ordered in circumstances where the court finds that there is, or may be, parental alienation, and also where the court does not make a finding on the matter.

Area for consideration 7: The identification and collation of these interventions, including those relating to the enforcement of custody and access orders, can reinforce and improve knowledge about the existing interventions. This, in itself, has the potential to assist in assessing and implementing an appropriate course of action to address issues arising relating to PA.

Area for consideration 8: The Houses of the Oireachtas Joint Committee on Justice and Equality Report on Reform of the Family Law System in 2019 identified training for key personnel involved in family conflict. This training should include a focus on understanding the complexities and polarised nature of PA and would be very helpful in ensuring appropriate decisions are made.

Area for consideration 9: The speedy implementation of work identified in Chapter 7, which are relevant to PA in both the Houses of the Oireachtas Joint Committee on Justice and Equality Report on Reform of the Family Law System and in Head 5 of the General Scheme of the Family Court Bill 2020, would greatly assist in reducing the number of protracted cases where issues of PA are raised, and this would have benefits for all stakeholders.

Area for consideration 10: The importance of early intervention and fact-finding is evident in cases where there are claims of PA. In this report, a pilot project underway in Quebec, Canada, developed in response to the need to fast-track cases where family violence has been identified, including allegations of PA, has been identified. The findings from the evaluation of this pilot project when available should be considered for their relevance in the Irish context where protracted court applications, that include references to PA, are identified.

Area for consideration 11: Legal interventions, including court-ordered assessments and therapy, must be promptly attended to, in order to comply with obligations under the European Convention on Human Rights. Furthermore, obligations to enforce custody and access or contact orders have also been emphasised by the European Court of Human Rights.

Intervention programmes

The following key conclusions relevant to the Irish context are drawn from the analysis of evaluation studies of programmes relevant to PA. Findings should be viewed with caution due to the methodological limitations arising in the evaluations conducted.

- It appears that individual child therapy alone is unlikely to resolve a parent-child contact problem. Likewise, reunification therapy involving only the non-preferred parent and child may not address inter-parental conflict and communication problems. Cyr et al (155) note that traditional interventions such as mediation or litigation often fail with high-conflict families and recommends the development of innovative approaches to address the needs of children and parents.
- Parenting coordination is increasingly seen as a solution for high-conflict families in the US and Canada and appears to be beneficial in assisting parents to implement their co-parenting plan in a child-focused and expeditious manner to minimise parental conflict, thereby reducing risk to children (161, 162).
- It also appears that early identification of access issues and implementation of interventions before the family conflict becomes cemented may be more successful at restoring the child-parent bond (155).
- The main goals of the interventions programmes reviewed in this report were to educate parents about the effects of family conflict, improve co-parental behaviours and contribute to children's post-separation or divorce adjustment. Overall, the interventions that involved a psychoeducational programme that

targeted the whole family showed some promising results. However, many of the studies were of weak design, with small non-randomised samples, hence caution is urged in reading the findings and considering the implications for practice and policy. Similar conclusions about the weak quality of evidence on interventions were reported by authors of other reviews (48, 53, 54, 160).

Areas for consideration 12: Consideration should be given to the development of a tiered model of parenting supports and services for all parents experiencing separation and divorce, with extra support available for parents in line with their level of need. Consideration should particularly be given to early intervention and direct supports for parents and children in conflicted-custody cases. Psychoeducational interventions administered proactively, at the point of identification of access difficulties, that involve the whole family including the child and delivered by a multidisciplinary team in a community setting should be considered.

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Appendix 1 Supplementary information PA report

Example of search carried out in MEDLINE (Ebsco)

An example of one search carried out in MEDLINE illustrating search terms and Boolean operators applied is presented below:

(TI((parental N2 (alienat OR estrange* OR denigrat* OR separat* OR conflict*)) OR "induced psychotic disorder") OR AB((parental N2 (alienat* OR estrange* OR denigrat* OR separat* OR conflict*)) OR "induced psychotic disorder") OR CI((parental N2 (alienat* OR estrange* OR denigrat* OR separat* OR conflict*)) OR "induced psychotic disorder")) AND (TI(access OR abduct* OR concept* OR understand* OR disorder* OR theor* OR construct* OR dimension* OR (child* N2 protection) OR assess* OR measure* OR tool* OR checklist* OR scale* OR judg* OR diagnos* OR treat* OR therap* OR interven* OR program* OR train* OR court* OR custody OR contact* OR guideline* OR voice* OR mediat* OR (alternative N2 resolution)) OR AB(access OR abduct* OR concept* OR understand* OR disorder* OR theor* OR construct* OR dimension* OR (child* N2 protection) OR assess* OR measure* OR tool* OR checklist* OR scale* OR judg* OR diagnos* OR treat* OR therap* OR interven* OR program* OR train* OR court* OR custody OR contact* OR guideline* OR voice* OR mediat* OR (alternative N2 resolution)) OR CI(access OR abduct* OR concept* OR understand* OR disorder* OR theor* OR construct* OR dimension* OR (child* N2 protection) OR assess* OR measure* OR tool* OR checklist* OR scale* OR judg* OR diagnos* OR treat* OR therap* OR interven* OR program* OR train* OR court* OR custody OR contact* OR guideline* OR voice* OR mediat* OR (alternative N2 resolution))) AND ((MH "Child+") OR (MH "Adolescent")) OR TI(child* OR son OR sons OR daughter*) OR AB(child* OR son OR sons OR daughter*) OR CI(child* OR son OR sons OR daughter*))*

Limits applied: Peer-reviewed; Journal article; English; 2005-

Run in title, abstract and contributed indexing fields, plus Child/Adolescent MeSH

Examples of definitions of PA/ PAS/ PAD

Author/s	Definition	Concept
(Adams , 2006)	Reports that according to Gardner, PAS is a psychiatric disorder, confined primarily to divorce/custody situations, constituted of “programming ('brainwashing')” of the child by one parent to denigrate the other parent... [and] self-created contributions by the child in support of the alienating parent's campaign of denigration against the alienated parent.	PAS
(Baker, 2007; Baker & Darnall, 2007)	Reports that Richard Gardner (1998) defined PAS as a “disorder that arises primarily in the context of child custody disputes. Its primary manifestation is the child’s campaign of denigration against a parent, a campaign that has no justification. It results from a combination of a programming (brainwashing) parent’s indoctrinations and the child’s own contributions to the vilification of the targeted parent” (p. 77). Referenced to: Gardner, R.A. (1998). <i>The parental alienation syndrome: A guide for mental health and legal professionals</i> . Cresskill, NJ: Creative Therapeutics.	PAS
(Balmer , Matthe wson, & Haines, 2018; Poustie , Matthe wson, & Balmer, 2018)	Parental alienation occurs when a child aligns with one parent and partakes in a campaign of unjustified denigration against the other, once-loved parent. Referenced to: Gardner R. A. (2002). Parental alienation syndrome vs. parental alienation: Which diagnosis should evaluators use in child-custody disputes? <i>American Journal of Family Therapy</i> , 30, 93-115. doi:10.1080/019261802753573821.	PA
(Bernet, 2020)	Draws on Gardner and notes that PAS and PA are meant to be synonymous and presents a generic definition of both PAS and PA as: “a mental condition in which a child — usually one whose parents are engaged in a high-conflict separation or divorce — allies himself or herself strongly with an alienating parent and rejects a relationship with the target parent without legitimate justification.” (p. 294)	PA/PAS are synonymous

Author/s	Definition	Concept
(Bernet, von Boch-Galhau, Baker, & Morrison, 2010)	Parental alienation disorder (PAD) is a serious mental condition. The primary criteria for PAD are the attitudes and behaviour of the child; that is, the child essentially has a false belief that the alienated parent is a dangerous person and must be avoided. In this article, the word alienation refers to the child's false belief, whether the false belief was brought about by the alienating parent or by other circumstances, such as the child who avoids being caught between warring parents by gravitating to one side and avoiding the other side of the battle.	PAD
(Blank & Ney, 2006)	"Parental alienation" is a formulation designed to privilege outcome over process, expediency over mediation, and authority over subjectivity page 141	PA
(Blank & Ney, 2006)	"Parental alienation" is a formulation designed to privilege outcome over process, expediency over mediation, and authority over subjectivity (p. 141).	PA
(Bond, 2008)	<p>Draws on Gardner and states the term "Parental Alienation Syndrome" is used to describe a psychiatric disorder in a child that arises in the context of a custody dispute. This author also draws on the work of Darnall 1998 to define parental alienation as any group of behaviours (i.e. conscious or unconscious) that might evoke trouble in the relationship between the child and the other parent (i.e. the non-custodial parent). Also draws on Darnall (1997,1998) to differentiate between PAS and PA as follows:</p> <p>parental alienation (which focuses on the parent's behaviour) whereas PAS focuses on the child's behaviour;</p> <p>PA focuses on the custodial parent's degradation of the alienated parent and not the child's degradation.</p> <p>References to Darnell:</p> <p>Darnall, D. (1998). Divorce casualties: Protecting your children from parental alienation. Lanham, MD: Taylor Trade Publishing.</p>	PAS

Author/s	Definition	Concept
	Darnall, D. (1999). Parental alienation: Not in the best interest of the children. <i>North Dakota Law Review</i> , Vol. 75 (2), pp. 323-364.	
(de Alcântara Mendes & Bucher-Maluschke, 2017)	Writes that Richard Gardner proposes the existence of a dynamic (he called it Parental Alienation) which would be a deliberate and malicious attempt by one parent to turn the child against the other parent, effectively alienating the parent from the child.	PA
(Feresin, 2020)	<p>Parental alienation syndrome is a psychiatric theory based on the social prejudice that abuse victims, that is women and children, lie, fantasise, fabricate or exaggerate situations of abuse.</p> <p>References this definition to: Crisma, M. and Romito, P., 2007. L'occultamento delle violenze sui minori: il caso della sindrome da alienazione parentale. <i>Rivista di sessuologia</i>, 31 (4), 263-270.</p>	PA
(Harmann, Birington, Ratajack, Outland, & Kraus, 2016)	<p>Draws on Gardner and states:</p> <p>The term parental alienation refers to a damaged or severed relationship between a child and a targeted parent, caused by the alienating parent.</p>	PA
(Houchin, Ranseen, Hash, & Bartnicki, 2012)	In the authors' opinion, there is nothing wrong with using the term parental alienation to describe one parent's "campaign of denigration" against another. However, there is no good purpose served in deciding to mould an arguably contentious, collateral process of divorce into a diagnosable mental illness.	PA
(Jaffe, Thakkar, & ...)	Parental alienation is a construct which describes a campaign of disenfranchisement from children on the part of one parent against another, particularly during divorce...	PA

Author/s	Definition	Concept
Piron, 2017)	Also: Parental alienation is further described as the programming of children to distance themselves emotionally, and to learn to despise the targeted parent	
(Johnston & Sullivan, 2020)	“Parental Alienation is the process, and the result, of psychological manipulation of a child into showing unwarranted fear, disrespect or hostility toward a parent and/or other family members.” Based on Wikipedia.	PA
(Johnston & Sullivan, 2020)	Parental alienating behaviours (PAB) are an ongoing pattern of observable negative attitudes, beliefs and behaviours of one parent (or agent) that denigrate, demean, vilify, malign, ridicule, or dismiss the child’s other parent. It includes conveying false beliefs or stories to, and withholding positive information from, the child about the other parent together with the relative absence of observable positive attitudes and behaviours (affirming the other parent’s love/concern for the child, and the potential to develop and maintain the child’s safe, supportive and affectionate relationship with the other parent).	Parental alienating behaviours
(Meier, 2020)	Suggests that while PA lacks any universal definition, it embodies the notion that when a child (or the primary parent) resists contact with the non-custodial parent without “legitimate” reason, the preferred parent is “alienating” the child, due to his/her own anger, hostility or pathology.	PA
(Milchman et al., 2020b)	Differentiates between PAS, PAD and PA and those whose primary focus is on child abuse and domestic violence.	Differentiation between PA, PAD, PAS
(Milchman, 2019)	Argues that current researchers do not refer to a “syndrome” but refer to PA which can refer to a parent’s attempt — conscious or unconscious — to undermine a child’s relationship with the other parent, and it can also refer to a child’s unreasonable rejection of a parent, whether or not the other parent has caused it.	PA

Author/s	Definition	Concept
(Parsloe, 2020)	Writes that in the UK legal system, judges and other professionals often prefer to use the term “implacable hostility” rather than PA, although the author notes that this term does not cover precisely the same phenomenon.	Implacable hostility
(Parsloe, 2020)	Parental alienation is an emotional action...The term emotional action will be used in this paper to mean action in the emotional realm which arises from the conscious or unconscious, which may be manifested physically or verbally, or which may be non-verbal and ‘sensed’, but which has an impact on another person.....when one parent uses their power over a child to excommunicate the other parent. This is sometimes called parental alienation.	PA as an emotional action
(Rowen & Emery, 2018)	The authors define parental denigration as “a phenomenon characterized by disparaging comments made by one parent about the other parent in front of their children” and recommend that further research be conducted to reach better understandings of this “controversial construct”.	Parental denigration
(Scharp et al., 2021)	Notes differences between estrangement and alienation stating that while both might look the same (i.e. children and parents who are distanced), differences in the attitudes and reasons for estrangement are different.	Estrangement vs. alienation
(Scharp, Hansen, Kubler, & Wang, 2021)	Parental alienation often occurs after divorce when one parent intentionally or even unintentionally persuades his or her children to distance themselves from or reject the other parent and is where “the child's rejection is not typically due to the actions of the targeted parent; if it is, then it is grossly exaggerated and out of proportion to his or her actual experience with the parent” (p. 2).	PA
(Siracusa et al., 2015)	Defined for the first time in 1985 by Richard Gardner as a disorder that primarily arises in the context of court divorces that involve a dispute over the custody of the children. Its primary manifestation is the unjustified campaign of denigration by the child of one parent.	PAS
(Tavarez,	Parental alienation is the process by which one parent negatively influences a child's perception	PA

Author/s	Definition	Concept
Crespo, & Ribeiro, 2021)	of the other parent, identified as the targeted parent.	
(Vilalta & Nodal, 2017)	Reports that Gardner (1985) coined the later controversial term <i>Parental Alienation Syndrome</i> (PAS), which we will consider equivalent to the more currently used <i>Parental Alienation</i> (PA), mainly within the context of a contentious divorce.	PA/PAS are synonymous
(Whitcombe, 2013)	In 1985 Richard Gardner coined the term Parental Alienation Syndrome (PAS) for a type of emotional child abuse, following the observations he carried out in child custody evaluations. The Parental Alienation Syndrome is a disorder that arises primarily in the context of child-custody disputes. Its primary manifestation is the child's campaign of denigration against the parent, a campaign that has no justification. The disorder results from the combination of indoctrination by the alienating parent and the child's own contributions to the vilification of the alienated parent. Referenced to: Gardner, R.A. (1985). Recent trends in divorce and custody litigation. <i>Academy Forum</i> , 29(2), 3-7, p. 61.	PAS

Examples of characteristics of the child

Author	Symptoms/behaviours associated with the child
“Clustering signs of commonalities” that form PAS (C. C. Summers & D. M. Summers, 2006)	<ul style="list-style-type: none"> • They have a relentless hatred towards the targeted parent(s). • They parrot the obsessed alienator. • The child does not want to visit or spend any time with the targeted parent. • Many of the child’s beliefs are enmeshed with the alienator. • The beliefs are delusional and frequently irrational. • They are not intimidated by the court. • Frequently, their reasons are not based on personal experiences with the targeted parent, but reflect what they are told by the obsessed alienator. • They have difficulty making any differentiations between the two. • The child has no ambivalence in their feelings; it’s all hatred with no ability to see the good. • The victim identifies, enmeshes and aligns through the abuser and the abuser’s allies, seeing things from the perspective of the perpetrators. • They have no capacity to feel guilty about how they behave towards the targeted parent or forgive any past indiscretions. • They share the obsessed alienator’s cause. Together, they are in lockstep to denigrate the hated parent. • The children’s obsessional hatred extends to the targeted parent’s extended family without any guilt or remorse. • They can appear like normal healthy children until asked about the targeted parent that triggers their hatred.
Diagnostic Criteria for Parental Alienation Disorder (Bernet et al., 2010)	<p>A. The child, usually one whose parents are engaged in a high-conflict divorce, allies himself or herself strongly with one parent and rejects a relationship with the other; thus, alienating one parent without legitimate justification. The child resists or refuses contact or parenting time with the alienated parent.</p> <p>B. The child maintains the following behaviours:</p> <ul style="list-style-type: none"> • A persistent rejection or denigration of a parent that reaches the level of a campaign. • Weak, frivolous, and absurd rationalisations for the child’s persistent criticism of the rejected parent. <p>C. The child manifests two or more of the following six attitudes and behaviours:</p> <ul style="list-style-type: none"> • lack of ambivalence; • independent-thinker phenomenon; • reflexive support of one parent against the other; • absence of guilt over exploitation of the rejected parent; • presence of borrowed scenarios; and, • spread of animosity to the extended family of the rejected parent.

- D. The duration of the disturbance is at least two months.
 E. The disturbance causes clinically significant distress or impairment in social, academic (occupational), or other important areas of functioning.
 F. The child's refusal to have contact with the rejected parent is without legitimate justification. That is, parental alienation disorder is not diagnosed if the rejected parent maltreated the child.

(O'Donohue et al., 2016)
Based on Gardner's 1992 criteria

- Gardner claimed PA is 'manifest in some subset the following eight symptoms although the precise number varies across children'. These symptoms are:
- a) The child's campaign against, and withdrawal from, the targeted parent;
 - b) Unconvincing rationalisations for the hatred of the targeted parent;
 - c) The child's lack of ambivalence towards the targeted parent;
 - d) The child's insistence that his/her decision about custody and visitation is his or her own and not influenced by the parent;
 - e) The child's automatic support or love for the alienating parent;
 - f) The absence of guilt regarding the negative feelings for the targeted parent;
 - g) The child's use of concepts regarding the targeted parent that are developmentally inappropriate; and
 - h) A broadening of the hatred to the targeted parent's extended family.

(Baker & Andre, 2008; Bernet, 2020; Siracusano et al., 2015).
Based on Gardner's 2004 criteria

- Campaign of denigration:
 - This involves the active participation of the child to the disparaging campaign against the target spouse, without scolding or punishment by the alienated parent.
- Weak, frivolous, and absurd rationalisations for the child's criticism of the targeted parent:
 - When the child is asked to report specific incidences or explicit examples which support their accusations, they are unable to document credible, significant, or factual examples.
- Lack of ambivalence:
 - PAS children will report a long list of deficits about their targeted parent while minimising or refuting any positive attribute or redeeming quality of that parent.
- The independent thinker phenomena:
 - The child claims to be independent in making decisions and judgments about the alienated parent, rejecting accusations of being a weak and passive person.
- Reflexive support of the alienating parent:
 - The phenomenon of the "identification with the aggressor" can be connected to this. The child being weak supports the alienating parent because of his/her power.
- Absence of guilt over cruelty to or exploitation of the alienated parent:
 - Child victims of the alienating parent's campaign of denigration do not feel guilt or empathy towards the victim

parent and do not feel a decrease in their self-esteem, which is Section of the guilt.

- Presence of borrowed scenarios:
 - Children use phrases and expressions learned from the adults' vocabulary and relate events they have never lived or cannot know about, but that are part of the smear campaign.
- Spread of the child's animosity to the extended family of the alienated parent:
 - PAS children also inexplicably reject those relatives they had previously had a loving relationship with and turn hostile to them.

(Vilalta & Nodal, 2017)	<p>The authors highlight the following three characteristics identifiable in a child where PAS is presented:</p> <ul style="list-style-type: none"> • the child typically rejects and criticises one of their parents; • speak of the "hated parent" in derogatory terms without feeling embarrassed or guilty for doing so; and • these criticisms are unwarranted or clearly exaggerated and may take on the appearance of 'a litany'.
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Elaborations presented in this table on Gardner's 2004 criteria are by Siracusano et al. (2015).

Types and characteristics of alienators as described by Bond (2008)

The naïve alienator

- This type of person means well and generally understands that the child needs a healthy relationship with the non-custodial parent. The naïve alienator therefore facilitates visits between non-custodial parent and child.

The active alienating parent

- Again this type of parent also means well and understands that the child needs to have a healthy relationship with the other parent. This parent, however, cannot manage the frustration, bitterness, and hurt that the divorce or separation has caused.

The obsessed alienator

- Bond argues that this type of alienator is the most pathological of the three types. The obsessed alienator's cause is to "align the children to his or her side and together, with the children, campaign to destroy their relationship with the targeted parent" (Darnall, 1998, p. 13). A major characteristic of the obsessed alienator is that the parent enmeshes the child's personality and beliefs with his/her own, and aligns the child with him/her in the alienator's efforts to destroy the relationship between the child and the targeted parent.

Gardner's behaviours at different levels of PAS as described by Jaffe et al. (2017)

	Behaviours of the alienating parent
Mild	Parental alienation presents as passive-aggressive comments by one parent about the other parent in the presence of the children, blocking some forms of communication, or ensuring periodic unavailability of the child to visit with the alienated parent. At the onset, mild parental alienation forms the foundation upon which moderate and severe cases of parental alienation can further extrapolate.
Moderate	In moderate cases of parental alienation, children get caught up in the arguments between the parents, often guilted into taking sides with the alienating parent, and pushed into pathological alignment (Lowenstein, 2013).
Severe	In the more severe cases of alienation, the parent is so determined to undermine the relationship between the children and the other parent that they will go to great lengths to put pressure on the children to reject the other parent entirely and demand allegiance.

Examples of indirect and direct aggression in alienating strategies adopted by parents and children

Examples of direct aggression in PA behaviours	Examples of indirect aggression in PA behaviours
Alienating parent hits the targeted parent at a parenting time exchange	Alienating parent badmouths the targeted parent to a child
Severely alienated child calls the targeted parent names	Alienating parent calls the police to get the targeted parent arrested based on a false claim
Alienating parent blocks parenting time with child	Alienating parent turns friends and family against the targeted parent
Child destroys property of targeted parent	Alienating parent tells children false stories about targeted parent from the past
Alienating parent sends hostile emails and texts to the targeted parent	Alienating parent tells children details about court proceedings
Alienating parent blocks or changes phone number so targeted parent cannot talk with the child	Alienating parent yells at the targeted parent in front of the children
Alienating parent makes unilateral decisions about the children, in violation of court orders	Alienating parent lists stepparent on school records as the biological parent

Appendix 2: Interventions reviewed relating to situations of high conflict

1. PACT programme (parents achieving with collaborative teams)

The PACT programme consists of a six-session (16 hour) programme that combines conflict resolution and group/community support (Brown et al., 2009). The programme provides a “Personal Support Team” and “Personal Plan of Action” to help each parent control emotions and maintain agreement. Goals relate to 1) reducing inter-parental conflict including frequency of re-litigation; 2) assisting parents in responding to their children’s questions and needs; 3) complying with parenting plans and court orders; and 4) increasing child wellbeing. The measures of inter-parental conflict, co-parenting and child adjustment were administered at baseline, 6 months, and 12 months. It was unclear how many weeks it involves to deliver the 16-hour programme. Parents are court-ordered to attend the assessment which determines their eligibility to participate in the PACT programme. The assessment consists of a number of measures to determine if couples are amenable to treatment (no indication of substance abuse or domestic violence), then they will receive a referral to the PACT programme (Brown et al., 2009). When parents complete the programme they have to sign a Family Parenting Plan and this is placed on their court record.

Outcomes

The intervention (PACT programme) was applied to 14 families in a pre and post comparison by experienced facilitators (Brown et al., 2009). It was unclear what qualifications or discipline the facilitators came from. The 14 couples were identified by the court service using the following criteria: divorce case (at least one child), geographic (living in area) and custody conflict (parents have filed two or more motions related to custody or visitation issues or have outstanding issues). Parents were mandated by court order to participate in the programme but they had a choice about participating in the research study. In terms of parenting behaviours, there was significant intervention effects for verbal conflict, co-parenting cooperation and triangulation, but no effects reported for physical conflict or cooperative communication (Brown et al., 2009). Triangulation refers to the extent to which parents distort parent-child boundaries by attempting to form a coalition with the child that undermine or excludes the other parent. Of the 14 couples who participated, only one parent from five divorced couples provided data at baseline, 6-month and 12-month assessment. There were no comparative groups and only a small number of participants completed the surveys at the three time points. No details were provided on the number of children and their ages in these 14 families.

2. Kids' Turn programme

Kids' Turn is described as a community based education programme that has been offered to divorcing couples and children since 1988 in the US (Cookston & Fung, 2011). It includes six community-based sessions and it is designed to be offered to all members of a divorcing family. Mothers and fathers participate in different groups made up of mixed-sex participants. Children participate in different groups based on their age (i.e. 4-6 years, 7-9 years, 10-14 years). It was not stated what happened to the children within these groups except to say that they prepare a newsletter that captures their responses to the divorce. There are five goals: 1. Children's needs expressed and child's voice in issues; 2. Improve authoritative parenting skills; 3. Motivation to promote non-custodial parent-child relations or maintain contact; 4. Co-parenting/parallel parenting practices; and 5. Knowledge of appropriate child coping skills. The programme content is documented in a self-help parenting book, called *Good Parenting Through Your Divorce*. The aim of the programme is that participants leave the programme with greater awareness of their children's needs, show more authoritative parenting skills, be more motivated to promote the child's relationship with the other parent, impact co-parenting processes and knowledge of how to help the child cope, lead to better child-parent relationships and reduced levels of inter-parental conflict (Cookston & Fung, 2011).

Outcomes

A sub-sample of 61 parents were included in the evaluation as complete data was available before they entered the Kids' Turn programme (Time 1) and after they had completed the programme (Time 2). The design was a within person comparison from Time 1 and Time 2. It was unclear how many weeks it took to deliver the programme. The parents completed 12 measures. In terms of parenting behaviours, there was significant intervention effects for inter-parental conflict, conflict breadth (numbers of topics argued about), and parental alienation. The results indicated that there was a significant change in the degree to which the participants perceived the other parent was competing for the child's affection. There also was a significant decrease in the parents' level of anxiety and depressive symptoms. In relation to the child, the parents reported a significant decrease in their child's internalising behaviour problems (Cookston & Fung, 2011). There was no change in the constructs that measured the parent-child relationship and communication.

There were a number of limitations with this study. The study lacked random assignment or a non-equivalent comparison control group. There was a high level of attrition from the baseline sample (n = 144) and the final sample (n = 61) in the study. The evaluation only included participants (61 couples) for whom "complete" data were available pre and post entry to the programme and who completed the programme. Parental alienation was assessed by participants' responses to three items that assessed the degree to which parents perceived the other parent to be competing for the child's affection, so quite a limited tool. It is difficult to determine if the changes

would have occurred as a function of normative changes over time or as a result of the intervention of Kids' Turn.

3. Parenting coordination in the United States

Parenting coordination is defined as a “dispute resolution process provided by mental health or legal professionals (family law attorneys or retired judges) that assists high-conflict parents to implement their existing parenting plan in a child-focused and expeditious manner to minimize parental conflict, thereby reducing risk to children” (Sullivan, 2013) (p. 57). Parenting coordination originated in the US and Canada in the 1990s as a new solution for high-conflict families and has gained acceptance in the area of family dispute resolution (Cyr et al., 2020). The parenting coordinator supports parents to implement their previously agreed to or court-ordered parenting plan in a child-focused and expeditious manner to minimise parental conflict, thereby mitigating risk to children (Fidler & McHale, 2020). A parenting coordinator is usually skilled in case management, mediation, and counselling. In the US, some judges have begun to enlist the help of parenting coordinators to support high-conflict families to develop and agree to their own parenting plan, with the intention of minimising their conflict earlier in the legal process (Henry, Fieldstone, & Bohac, 2009).

Outcomes

In a case study, Henry et al. (2009) conducted a retrospective analysis of a convenience sample of court documents on 49 parents who were ordered to undergo parenting coordination in one family court services unit in the United States. The aim of this study was to explore the degree to which changes occurred in the number of motions filed by high-conflict co-parents the year before and the year after parenting coordination was implemented. This study found a 75% reduction in child-related court filings from a review of the court held documents. The total number of motions filed among 49 couples was compared between one year prior to (2005–2006) and one year following (2006–2007) their participation in parenting coordination intervention. A total of 491 motions were filed in the year prior to parenting coordination, compared to the year following, when 254 motions were filed (a reduction of 237 (48.27%) total motions filed). Of these 237 motions, there was a 75% decrease in child-related motions and a 40% decrease in all other motions. These results indicate that parenting coordination can help reduce the number of motions filed by high-conflict couples. However, the findings are limited by the convenience sample from only one court system. It was unclear how many weeks the high-conflict parents were supported by the parenting coordinator (Henry et al., 2009).

4. Parenting coordination in Canada

In this study, parenting coordination was described as a “child-focused intervention combining elements of mental health and law, used as a post-decree intervention for parents who have failed at solving their disputes” (Quigley & Cyr, 2017) (p. 153). It has five key functions: assessing the co-parenting difficulties, education, case management, conflict management and decision-making. Parenting coordinators are

usually highly trained professionals from mental health or law backgrounds, and the average parenting coordinator tends to have approximately 16 years of experience working with divorced or separated families. As part of a pilot project in the Montreal area of Canada 10 high-conflict families received up to 40 hours of a free parenting coordination service over a period of approximately one year (6-18 months). When appropriate, children met with the parenting coordinator and were involved in a limited number of sessions. The families who took part in the pilot project were considered by Superior Court judges to have a high-conflict dynamic and to be in need of intensive intervention to settle their dispute (Quigley & Cyr, 2017).

Outcomes

The intervention was administered to 10 high-conflict families with six children (Quigley & Cyr, 2017). The measures were completed at the start of the parenting coordination process (Time 1) and once the intervention had ceased (Time 2). There was no statistical difference between Time 1 and Time 2 on any of the psychometric measures. When the parenting coordination intervention finished, the same sample of children and some younger siblings were part of a qualitative study. Interviews were held with 10 children aged 8-17 years and the findings revealed that four children reported a positive experience but three described it as a negative, even harmful experience. Two children described it as unhelpful since it did not change anything in their or their family's situation. One child identified both positive as well as negative aspects concerning efficacy and their overall experience with the process. The children shared important information about their involvement in parental coordination.

At the end of the programme, the children, parents and two parenting coordinators were interviewed and the findings reported in a separate paper (Quigley & Cyr, 2018). Most of the children felt it was important to have a voice in the parenting coordination intervention and to have an opportunity to meet the parenting coordinator at least once. Parents were favourable towards their child's involvement in parenting coordination. They felt that the involvement of their child allowed them to better understand their child's inner world; allowed children to give relevant information to the parenting coordinator; provided a safe space for feelings to be shared; and allowed children to give their views and feel that they mattered. Parenting coordinators found the child inclusion to be beneficial for the child and the whole parenting coordination process. These results do confirm the importance of children being heard in post separation interventions, even when parental conflict is high (Quigley & Cyr, 2018). The findings are limited by the very small sample size, and no control group.

5. Mentalization-Based Therapy for Parental Conflict — Parents Together (MBT-PT)

In the UK, Hertzmann et al. (2017) developed an intervention for both parents in entrenched post-separation disputes. MBT was originally developed for patients with borderline personality disorders “who often experience overwhelming and intense

emotional distress, particularly in relation to inter-personal aspects of their lives” (p. 197). Mentalization-Based Therapy for Parental Conflict — Parents Together (MBT-PT) was described as a practical, brief, manualised MBT (adapted for use with inter-parental conflict) (Hertzmänn et al., 2017; Hertzmänn et al., 2016). The MBT-PT intervention aims to help parents regulate their emotions and maintain their capacity for mentalising (stand outside feelings and observe emotions in self and others) in the presence of their ex-partner when discussing matters to do with their child, which is a highly stressful situation for them. Keeping the child as the focus is central to MBT-PT as parents can lose sight of the child because of their entrenched disputes. The intervention is usually delivered by two co-therapists working conjointly with both parents together, if safe to do so over, 6 to 12 weekly one-hour sessions (Hertzmänn et al., 2017).

Outcomes

The intervention was applied to 15 pairs of co-parents (30 parents) in the UK who were randomly allocated from a potential pool of 170. Participants were separated parents who were in chronic, entrenched, and intense conflict over their children. Parents were randomised to either the Mentalization-Based Therapy for Parental Conflict — Parents Together (n = 16; time 2 follow up 15; time 3 follow up 15), or the Parents’ Group, a psychoeducational intervention for separated parents based on elements of the Separated Parents Information Program — part of the UK Family Justice System and approximating to treatment as usual (n = 14; time 2 follow up 12; time 3 follow up at 12 months). The Parents’ Group (PG) involved parents attending PG sessions separately in mixed-gender groups. Sessions were delivered by trained mediators (one facilitator for each group), over one 4-hour session or in two 2-hour sessions.

In terms of outcomes, there was significant intervention effects for parenting stress and depression, and improvement in children’s SDQ scores, but no effects reported for parents’ expressed anger, capacity to perceive and understand the experience of their children and their co-parenting, quality of parenting alliance and hostility of attributions (Hertzmänn et al., 2017; Hertzmänn et al., 2016). However, there was no significant main effect of type of intervention, nor a significant interaction effect and the results showed improvement across both groups of parents in both intervention conditions.

There was a reduction in parents’ expression of anger (but not the degree of anger) towards each other in both interventions over the time of the study. This finding could be due to the parents’ social desirability bias (i.e. wanting to report improved behaviour) or that both interventions were equally effective in helping parents to reduce the expression of anger towards each other. The study findings are limited by the small sample size and the fact that the outcomes were not influenced by intervention type. Recruitment was difficult as parents were reluctant to meet with their ex-partner. It was also noted by the authors that engaging parents in the intervention required a large amount of administrative and clinical time in order to build and

maintain relationships with parents who are experiencing high-conflict and entrenched positions.

6. Brief therapeutic mediation for entrenched parenting disputes

This study compared outcomes over one year for two groups of separated parents, who attended two different forms of mediation in Australia (McIntosh, Wells, Smyth, & Long, 2008). Both forms of the brief therapeutic mediation interventions targeted psychological resolution of parental conflict, enhanced parental reflective function, and associated reduction of distress for their children. The aim was to explore differential effects of child-focused (CF) and child inclusive (CI) mediation interventions upon quality of conflict resolution and associated post separation adjustment. The child-focused intervention supported the parents to consider the needs of their children without the involvement of the children. The child-inclusive intervention included separate consultations with the children in each family, and consideration of their concerns with parents in the mediation forum. The child-focused mediation was offered during the first six months of the project to all families who met the inclusion criteria. Following that, the same mediators then trained in the new CI intervention and were joined for that treatment phase by eight Child Consultants (two male, six female).

Outcomes

The interventions were delivered to 181 families with 111 CF and 70 CI cases (McIntosh et al., 2008). The findings are based on the one-year analyses of 56 cases in the child-inclusive (CI) intervention and 67 cases for the child-focused (CF) intervention. The measures were administered at baseline, three months, and one year post-intervention and explored changes over time and across treatments in conflict management, subjective distress, and family members' relationship quality. In terms of outcomes, in both interventions there was significant reduction in inter-parental conflict and children perceived less frequent and intense conflict between their parents and better resolution of it, with a significant lowering of their own distress in relation to their parents' conflict.

In terms of outcomes for the CI intervention, there were several significant effects compared to the CF intervention in relation to: parental alliance, reduction in acrimony, satisfaction with living arrangements, management of disputes, greater stability of care and contact patterns, lower rates of litigation and parent-child relationship (McIntosh et al., 2008). In the child sample, 112 children participated in the child-inclusive (CI) and 64 in the child-focused (CF) intervention. However, later in the reporting of the results, data is provided for 165 children which suggests that some were lost to follow-up. The child-inclusive intervention had several impacts related to relationship improvements (improvements in emotional availability of fathers and greater feelings of closeness to him, closeness relationship to mother) and psychological wellbeing (greater contentment with care and contact arrangements) with these effects strongest

for fathers and children. The findings indicated that the families who benefited most from the additional, tailored features of the CI approach were those with a poor parental alliance at the outset of mediation. The other significant finding was that those children whose emotional wellbeing was poorest at the end of the year ($n = 53$) were most likely to be under 10 years old and living in substantively shared overnight care, with the combined stressors of highly conflicted parents and poor maternal availability. The limitations include the fact that the sample were not randomised and that the research team had lower capacity to monitor the application of the CF intervention than the CI treatment.

7. Post Parenting Through Separation (PTS)

This programme is available throughout New Zealand for separating parents (J. P. Robertson & Pryor, 2011). The PTS programme is about educating parents on the impact of separation on their children, how to minimise parental conflict, and how to make post separation care arrangements that are in children's best interests. The programme consists of two 2-hour sessions one week apart by a range of providers who have received training in the programme. The main areas addressed are: "the effect of separation on children, protecting children from adult conflict, obtaining help, making child-care arrangements based on children's best interests, maintaining contact with family after separation, and negotiating arrangements outside the Court system" (p. 26).

Outcomes

To evaluate the effect of the intervention, a sample of participants who had attended the PTS programme from May 2006 to September 2008 ($n = 3,979$) were asked to complete a survey prior to starting the programme and then were followed-up 4-6 months on completion of the programme. However only 119 pre-programme surveys were returned and only 83 who attended the PTS course completed the follow-up survey (J. P. Robertson & Pryor, 2011). In terms of outcomes, the intervention helped reduce inter-parental conflict, improved parents' knowledge and understanding of children's experiences, improved children's behaviour and increased satisfaction with child-care arrangements. It did not however improve cooperation with ex-partners re day-to-day care. The findings are limited as this was a pre and post course comparison, there were very small numbers relative to the numbers completing, there was a low response rate to the survey and only a small number of participants. There was no control group and the follow up period was relatively short (4-6 months).

8. Parents Plus - Parenting when Separated Programme

The Parents Plus - Parenting when Separated Programme (PP-PWS) was specifically designed to address the needs of separated parents in an Irish context (Keating, Sharry, Murphy, Rooney, & Carr, 2016). It was developed from data from separated parents, reviews of effective psychoeducational training programmes, research on risk

and protective factors affecting child and adult adjustment following divorce and material included in other Parents Plus programmes. It was designed for both mothers and fathers, and for both custodial and non-custodial parents. The PP-PWS is a six-week psychoeducational programme that is informed by research on separated families, principles of cognitive behavioural therapy and solution-focused therapy. The sessions address: “1. Helping parents and children cope (impact of separation on parents and on children); 2. Co-parenting (developing a business relationship with your child’s other parent and effective communication); 3. Helping your children cope (different needs of children at different ages, positive parenting strategies, talking with children about separation); 4. Being a live away or resident parent (impact of being a live away or resident parent, managing successful contact for children); 5. Conflict management (remaining calm in tough situations through balanced thinking and relaxation, managing conflict with the child’s other parent); 6. Coping in the long term (personal coping in the long term, managing new relationships and their impact on children)” (Keating et al., 2016) (p. 245).

Outcomes

The intervention was delivered over a six-week period and involved six group sessions, each lasting two hours across sixteen community-based sites (Keating et al., 2016). The measures were administered at baseline (Time 1) and six weeks later (Time 2). A total of 82 cases were assigned to the PP-PWS treatment group and 79 to the waiting-list control group. At Time 2 on completion of the programme, 56 cases from the treatment group and 47 from the control group completed the measures. The control group were put on a six-week waiting-list and did not receive any usual care. The dropout rates from the treatment and control groups were 31% and 34%, respectively. In terms of outcomes, there was significant intervention effects for client goal attainment, parent adjustment problems, inter-parental conflict, parent satisfaction, and child behaviour problems. In terms of limitations, the findings were reliant on parent-report measures only. The control group were allocated to a waiting list and did not receive any usual care, so it is difficult to separate the effect of the session content from having regular meetings with other separated parents in a therapeutic setting. It is unclear how many parents were approached to participate and there were 50 dropouts from the programme. The greatest effect size occurred for the control groups but this scale does not have well-established psychometric properties. The treatment fidelity was not measured (adherence to the treatment manual).

