



Essay Series

Parental Alienation vs. Disinformation

I.

Why Can't (and Shouldn't) the Existence of
Parental Alienation Be Denied?

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1. Introduction

Parental Alienation (PA) is a complex and sensitive issue that encompasses legal and psychological aspects, among others. PA refers to the process of intentional emotional distancing of a child from one parent, usually carried out by the other parent. It most often occurs as a result of family conflicts within the context of parental separation. This PA can be caused by the custodial parent's negative influence, such as manipulation, indoctrination, or lack of support in the relationship between the child and the other parent. However, it can also result from contact prevention, for example, as a consequence of child abduction. PA is likely to have serious effects on the child's relationship with both parents, as well as on the child's emotional development: for example, children lose a significant part of their identity, many continue to suffer from fear of loss, attachment issues, or depression for years. For the rejected parent, the alienation of their child often leads to tremendous emotional stress, if not an existential crisis.

Currently, there is intense debate in science and practice about whether the phenomenon of PA even exists or whether it produces a "syndrome" in those affected. PA or PA syndrome is often confused, or conclusions from one are applied to the other, which contributes little to the clarification and understanding of this phenomenon. The following pages aim to provide guidance, especially in the area of effective child protection.

2. Unrealistic Assumptions for Denying PA

Denying the phenomenon of PA would automatically imply two aspects: that children can freely and independently decide, so that this will should be respected, and that caregivers would never abuse their power over children. It would mean, for example, that children could maturely and resiliently resist this power, so that they can still make autonomous decisions. These assumptions are briefly analyzed here.

a. The "Free" Will of the Child

Those who question or even deny PA argue that children should be free to decide in matters of contact or custody, for example, which parent they want to live with. The individuality and self-determination of children should be protected. The assertion would also include that this "child's will" should be respected. This approach has found clear support in contact and custody matters.



These premises or demands are truly astonishing because children are extremely vulnerable and, due to their development, are not capable or barely capable of recognizing the consequences of their actions. These points are not debatable (see below). Therefore, this demand or premise precisely favors what is intended to be avoided: the abuse of these children. It also favors that the effective realization of PA would be easier under these favorable conditions (for such adults, and then under such advantageous conditions, the effective realization of PA would be a "children game").

It is important to note that the rest of the legal system is based harmoniously and consistently on these principles. It also starts from respect for the child. But this respect must be expressed more as protection in the childhood phase. Children must be protected, at least while they are children and cannot yet have the necessary insights to assess the consequences of their actions and decisions.

Given that children do not have the necessary insights and are (extremely) vulnerable, so that they need to be protected from foreign, child-detrimental influences, they need adults to care for them. For this reason, they have, for example, (compulsorily!) caregivers. The Civil Code (BGB) stipulates in § 1626, paragraph 1: "Parents have the duty and the right to care for the minor child (parental care)." It is therefore assumed that a minor person cannot (yet) take care of themselves.

This is also the spirit of the (German) Youth Protection Act. For example, for children between 14 and 18 years old, the consumption of certain products (such as alcohol, tobacco products) is restricted. Similar regulations can be found in the field of media and their age-appropriate use.

Similarly, the guiding principle of criminal law is: "criminal responsibility" begins in Germany at the age of 14 - "children" are therefore in all cases, incapable of being guilty. So is labor law: The Youth Labor Protection Act prohibits children under 14 from working at all. Then, as young people, they can, but until they are 18, only under more favorable conditions, such as more breaks or shorter working hours.

In addition, for the reasons mentioned, it is important to note that adolescents under 16 or 18 years of age are not allowed to vote actively or passively. The principle is that people are only capable of making informed decisions and assuming responsibilities for themselves, for others, or for society from that age onwards. It would also be understood that their voice is potentially more easily manipulable than that of adults.

All these norms demonstrate that children and young people form an extremely vulnerable part of society, but also that they cannot yet be fully autonomous. These norms are not aimed at disrespecting children or their individuality, but - on the contrary - ensuring that the necessary development, until they are able to care for themselves and others confidently and autonomously, takes place in the most protected environment possible.

Therefore, it should be clear: If during this particularly vulnerable phase of their lives, too much value is placed on the child's will, this could, in the worst case, favor unauthorized and harmful intervention in this development through damaging influences.

b. Responsible Parents, Always Watching Over Their Children

Denying PA would also imply that children should decide "freely" and that this "will" should be considered as a basis for decision-making because caregivers would never abuse their responsibility and power over their children. They would never manipulate or influence children, for example, to prevent contact with the other parent.

However: The daily activity of child welfare services, family, and criminal courts - unfortunately - refutes this point of view (at best, naive or irresponsible). Parents abuse their children, use their power over them against them, sometimes in the worst possible way. It would be incomprehensible, then, why it should be excluded that parents do not instrumentalize their children against the other parent if they had the opportunity to do so. But undeniable facts prove that this form of child abuse is unfortunately also practiced. The activity of the visit supervisor arose from the judicial observation that, for example, court orders on visits were massively ignored by parents. It was initially introduced by case law, then taken up by the legislature in § 1684 III and IV BGB. Therefore, visit supervisors are tasked with enforcing the court-established visitation between the child and the (separated) parent, especially when the other parent, who is primarily the caregiver, refuses the child's visitation with the other parent. In this sense, visit supervisors - if necessary - are the most visible evidence of PA. If parents always complied with contact court orders and never abused their power and responsibility towards the child, there would be no need for visit supervisors.

3. Consequences of Parental Alienation

a. Regarding the Question of an Parental Alienation Syndrome

Scientifically unclear is the question of whether PA in affected children would lead to a specific (mental) illness. It would be questionable if the child victims of PA would suffer from a comparable "syndrome" – an PA syndrome, so to speak. In medicine and psychology, a syndrome refers to an open list of different signs (symptoms) of illness that occur simultaneously and together, forming a recognizable pattern. Every illness (whether physical or mental) is a syndrome. Most have a specific name for it (depression, Post-Traumatic Stress Disorder, etc.), others do not (post-COVID syndrome, Down syndrome, etc.).

Science has not yet found a clear answer as to whether there is an PA syndrome. The author could not identify a syndrome in a relevant study conducted in Germany¹. One possible explanation is that the course of PA is very individually variable, and that the circumstances

¹ Guerra González, J. (2023a). Ursachen und langfristige Folgen von Trennungs- und Entfremdungserfahrungen in der Kindheit. Eine quantitative/qualitative Studie. Leuphana Schriftenreihe Nachhaltigkeit und Recht, 28.

can differ greatly from one another, so that the consequences, which are likely to be severe and in some cases very serious, would nevertheless not form a clear and recognizable pattern. However, it would be logically absurd to conclude from this that there is no such pattern of symptoms, and that PA has no harmful consequences – several studies, including mine, prove the opposite – much less (as a consequence of the frequent confusion between PA and PA-S), that there is no PA. However, these questionable conclusions are indeed often drawn from the fact that no PA syndrome can be identified in the victims. This contributes to the atmosphere of general confusion about the phenomenon of PA.

Partly due to the fact that a clearly defined disease picture caused by PA has not been found, the World Health Organization (WHO) could not include an PA syndrome in its "International Classification of Diseases and Related Health Problems" (ICD). However, the WHO is very aware of the consequences and causes of PA. Chapter 24 of the ICD 11 is titled "Factors influencing health status or contact with health services". It allows for the registration of circumstances or problems that affect a person's health status, but do not constitute a disease or injury in themselves. This chapter includes the category "Problem in the relationship between caregiver and child". The WHO justifies its decision not to include the term PA "because it is not a term from the health sector", and notes that "the term (...) is rather used in legal contexts, generally in connection with custody disputes in divorces or other partnership dissolutions. The broader category of 'problem in the relationship between caregiver and child' was considered suitable to cover the aspects of this phenomenon that could be of interest to health services."²

Thus, the WHO explicitly acknowledges the phenomenon of PA and its consequences for health, although it cannot be described by a recognizable syndrome. The WHO argues that the term PA is used more in legal contexts than in the health field, although this could certainly be debated. Therefore, PA was directly included in the ICD 11, but not nominally. The consequences of PA cases should be interpreted as "Problem in the relationship between caregiver and child" in diagnostic code QE 52.0.

b. On the Harm to Children Due to Parental Alienation

Regarding the consequences of PA, we still do not know exactly what PA does to people. However, there are solid indications that the potential harm to children, as well as to affected parents, or to other family members, can be immense. If one were to focus exclusively on the

² Parental alienation. (o. D.). World Health Organization International.

[https://www.who.int/standards/classifications/frequently-asked-questions/parental-alienation: Parental alienation and parental estrangement \(20.05.2024\)](https://www.who.int/standards/classifications/frequently-asked-questions/parental-alienation: Parental alienation and parental estrangement (20.05.2024))

The purpose of ICD-11 is to provide an internationally standardized classification for health diagnoses, to count health events and episodes of contact with healthcare for statistical purposes. Chapter 24 'Factors influencing health status or contact with health services' allows for the recording of circumstances or problems which influence an individual person's health status, but which are not in themselves an illness or injury. This chapter includes the category 'caregiver-child relationship problem'.

During the development of ICD-11, a decision was made not to include the concept and terminology of 'parental alienation' in the classification, because it is not a health care term. The term is rather used in legal contexts, generally in the context of custody disputes in divorce or other partnership dissolution. The broader category of 'caregiver-child relationship problem' was seen as adequately covering aspects of this phenomenon that could be the focus of health services.



children, these solid indications would be understandable without a deep understanding of developmental psychology.

During the process of intentional and unjustified severance of parental attachment, children experience at least four conceivable traumatic situations:

1. It begins with the parental separation, which can be traumatic for the children – the main pillars of their lives would be torn apart, their world would be shaken. However, if parents still keep the children in mind, it should not be too bad for the children.
2. If the former partners cannot continue their parental relationship smoothly after the separation, the children may also be exposed to the parental conflict, which will further unsettle and hurt them. However, parents can shield the children from this conflict, protecting them from this trauma.
3. If they do not, the parents may also involve the children in the parental conflict and use them as weapons against the other parent. The harm to them would then be much greater. However, if both parents do not take further harmful steps, it could stop there.
4. Finally, an alienation situation can lead to the termination of a parental bond, which could be catastrophic for the children.

In addition, a fifth traumatic aspect could be added, which would further worsen the bleak picture above: if the alienating parent conducts a targeted denigration campaign against the other parent among the children.

This process can be metaphorically illustrated with a river lined with dykes. Normally, parents should guide and support their children through life, forming the dykes on the side of the river (the child). If the dykes break one after the other, the children lose all security, and the river would flood.

Based on logic alone, and without further scientific evidence – the receipt of which would be anything but complicated – PA can only be considered as causing serious emotional damage, the consequences of which for the child may potentially be insurmountable even in adulthood. For the healthy development of offspring, the emotional support of parents is essential for the children. This fact can be recognized from attachment theory or the phenomenon of hospitalism (harm to children due to emotional or social neglect), if it is not present.

Due to these harmful consequences, behavior directed at PA can easily be described as endangering the child's welfare³. This approach has recently been pursued by the prosecutor's office. Such actions would violate sections 171 of the German Criminal Code (violation of duty of care or upbringing) and 235 of the Criminal Code (deprivation of minors)⁴. Both offenses

³ Guerra González, J. (2023b). Eltern-Kind-Entfremdung als Kindeswohlgefährdung: Ursachen, Folgen, Auswege. in: Recht für soziale Berufe 23-24. Schmidt, Christoph. Nomos

⁴ HA 2024 (26.4.). Landgericht Hamburg. Wende im Fall Block: Jetzt doch Strafprozess gegen Vater 26.04.2024, 16:18

Uhr <https://www.abendblatt.de/hamburg/article242190040/Sorgerechtsstreit-um-Block-Kinder-Prozess-gegen-Vater.html>



are, incidentally, offenses of endangerment: for their fulfillment and then for liability, it is not necessary for damage to occur, it is sufficient with the performance of the harmful action. Thus, criminal law assumes that actions for the purpose of conducting an PA are harmful to the affected children.

4. Conclusion and Outlook

For the reasons mentioned above, the case of PA is very special. It is not understandable why, in this context – perhaps as the last child protection issue at all – perpetrators are facilitated in abusing children, violating the rights of other parents or other caregivers of the children. Because such objections or fundamental discussions are unknown in other areas of child protection or protection of victims of violence. The protection of victims, for example, in cases of domestic, school, etc., violence does not depend on the recognition of a "domestic, school, etc., violence syndrome."

Such "syndromes" may not exist medically either, but this would certainly not matter. These victims are logically protected anyway, and the necessary efforts are made to prevent/avoid these phenomena.

Therefore, PA is a clear and frequent phenomenon that regularly affects children and parents. Meanwhile, resources are wasted in useless discussions that cause confusion and, therefore, passivity. Thus, the victims of PA remain unknown, as they are not registered anywhere, so they officially do not exist. Their suffering continues to go undescribed. Preventive strategies are not being developed, nor are therapies being developed.

It is high time that we take action and put the emphasis in the right places.