

UNIVERSIDADE FEDERAL DE SANTA CATARINA
CENTRO DE COMUNICAÇÃO E EXPRESSÃO
DEPARTAMENTO DE LÍNGUA E LITERATURA ESTRANGEIRAS
LETRAS INGLÊS

Anna Augusta Almeida de Mattos

**A Critical Discourse Analysis of Santa Catarina State Court's (*TJSC*) Perspective on
Parental Alienation**

Florianópolis

2021

Anna Augusta Almeida de Mattos

**A Critical Discourse Analysis of Santa Catarina State Court's (TJSC) Perspective on
Parental Alienation**

Trabalho Conclusão do Curso de Graduação em Letras – Inglês do Centro de Comunicação e Expressão da Universidade Federal de Santa Catarina apresentado como requisito para a obtenção do título de Bacharel em Letras – Inglês.

Orientadora: Profa: Dra. Débora de Carvalho Figueiredo

Florianópolis

2021

AGRADECIMENTOS

À Universidade Federal de Santa Catarina, um lugar que eu amo, me fez quem eu sou e deixou saudades. À todos queridos amigos e colegas que lá eu fiz, em especial ao Prof. Dr. Pedro que me instigou pelos caminhos da CDA e que eu admiro em tantos sentidos. Agradeço também à Tacyana, pelos momentos divertidos e parceria constante. Obrigada também a todos os meus professores, que tanto me acrescentaram não só em conteúdo mas também em exemplo. Um agradecimento especial à Prof. Dra. Débora de Carvalho Figueiredo, pela confiança em mim depositada, pela paciência e dedicação - tenho muito orgulho de ter seu nome nesse trabalho - thank you so much!

Aos meus pais, que sempre me incentivaram e apoiaram minhas decisões. Para a minha irmã Bia, que sempre esteve ao meu lado, mesmo de longe. Ao Philipe, que cuida de mim e possibilitou a realização desse trabalho, te amo bigorna. À minha filha Emma, que me enche de alegria todos os dias. Agradeço também às companhias felinas que escolheram essa humana para servi-las e nunca se sentir sozinha: Billy the Bite, Ramela, Lady Gaga, Gorda e Cotonha.

RESUMO

Esta é uma Análise Crítica do Discurso de acórdãos proferidos pelo Tribunal de Justiça de Santa Catarina (TJSC) contendo o termo “Alienação Parental”. Este estudo se baseia em princípios teóricos e analíticos da Análise Crítica do Discurso (FAIRCLOUGH, 2003) e da Linguística Sistêmico Funcional (HALLIDAY; MATHIESSEN, 2004) para descrever linguisticamente e analisar criticamente o discurso do judiciário relacionado à "Alienação Parental". Surge da necessidade de investigar como a prática social da “Alienação Parental” é representada pelo TJSC e se essas representações e o reconhecimento da “Alienação Parental” diferem de acordo com o gênero do suposto alienador. Atualmente muito criticada, a “Síndrome de Alienação Parental” foi proposta por Richard Gardner em 1985 como um “distúrbio no qual as crianças são obcecadas com depreciação e crítica de um dos pais - difamação que é injustificada e / ou exagerada” (p. 3). Passou a ser objeto de lei específica no Brasil (Lei n. 12.318 / 2010), gerando protestos contínuos de associações de proteção de mulheres e crianças. Como o sistema jurídico depende fortemente da linguagem, seus discursos são uma medida possível de sua prática real impressa nos acórdãos que são analisados utilizando os princípios de Fairclough (2003) para focar o problema social da "Alienação Parental". Usando também um método quantitativo, os resultados mostram que há uma diferença no reconhecimento da “Alienação Parental” pelo TJSC - 59 mulheres alienadoras contra 23 homens alienadores. Os resultados quantitativos também sugerem uma alta incidência de abuso sexual infantil e estupro associado à “Alienação Parental” - entre 187 acórdãos contendo a questão da “Alienação Parental”, houve 27 casos de abuso e 8 estupros. Os resultados da análise linguística revelam que o judiciário assume a perspectiva da família nuclear como um lugar irrepreensível e padrão para a criança e sua preocupação mais expressa são os direitos de visita da criança e o direito ao vínculo saudável com ambos os pais. Os resultados também manifestam que o judiciário exclui de sua representação da “Alienação Parental” qualquer problema potencial que a família possa representar para a criança. Além disso, a análise indica que a representação da “Alienação Parental” muda de acordo com o gênero do suposto alienador - com as mães aparecendo ativamente à frente dos pais nessa prática.

Palavras-chave: Análise Crítica do Discurso, Alienação Parental, Representação, Acórdãos.

ABSTRACT

This is a Critical Discourse Analysis of appellate decisions issued by Santa Catarina State Court (*Tribunal de Justiça de Santa Catarina*) containing the “Parental Alienation” term. This study relies on theoretical and analytical frameworks from Critical Discourse Analysis (FAIRCLOUGH, 2003) and Systemic Functional Linguistics (HALLIDAY; MATHIESSEN, 2004) to linguistically describe and critically analyse the judiciary’s “Parental Alienation” related discourse. It comes from the need to investigate how the social practice of “Parental Alienation” is represented by Santa Catarina State Court (*TJSC*) and whether these representations and the recognition of “Parental Alienation” differ according to the gender of the supposed alienator. The now much-criticized “Parental Alienation Syndrome” was propounded by Richard Gardner in 1985 as a “disturbance in which children are obsessed with deprecation and criticism of a parent - denigration that is unjustified and/or exaggerated” (p. 3). It became matter for a specific law in Brazil (*Lei n. 12.318/2010*), generating ongoing protests from women and child protection associations. As the legal system relies heavily on language, their discourses are a possible measure of their actual practice imprinted in the appellate decisions which are analysed using Fairclough’s (2003) framework to focus on the social problem of “Parental Alienation”. Employing a quantitative method as well, results show that there is a difference in the recognition of “Parental Alienation” by Santa Catarina State Court (*TJSC*) - 59 women alienators contrasting with 23 men alienators. Quantitative findings also suggest a high incidence of child sexual abuse and rape associated with “Parental Alienation” - among 187 appellate decisions containing the “Parental Alienation” issue, there were 27 cases of abuse and 8 rapes. Results from the linguistic analysis reveal that the judiciary assumes the perspective of the nuclear family as an irreproachable and standard place for the child and their most expressed concern is the child’s visitation and healthy bond with both parents’ rights. Outcomes also manifest that the judiciary excludes from their representation of “Parental Alienation” any potential problem that the family might represent to a child. Additionally, the analysis indicates that the representation of “Parental Alienation” does change according to the gender of the alleged alienator, with the mothers actively at the forefront.

Keywords: Critical Discourse Analysis, Parental Alienation, Representation, Appellate decisions.

LISTA DE ABREVIATURAS E SIGLAS

CDA Critical Discourse Analysis

IBDFAM Instituto Brasileiro de Direito de Família

PA Parental Alienation

PAS Parental Alienation Syndrome

SBP Sociedade Brasileira de Pediatria

SFL Systemic Functional Linguistics

TJSC Tribunal de Justiça de Santa Catarina

WHO World Health Organization

SUMÁRIO

1 INTRODUCTION	8
2. REVIEW OF LITERATURE	11
2.1. CRITICAL DISCOURSE ANALYSIS	11
2.2 SYSTEMIC FUNCTIONAL LINGUISTICS	12
2.3 “PARENTAL ALIENATION”	13
2.3 BRAZILIAN CRIMINAL JUSTICE SYSTEM	20
3. METHOD	23
3.1 RESEARCH QUESTIONS	23
3.2 DATA COLLECTION	23
3.3 PROCEDURES	24
4. ANALYSIS AND DISCUSSION	25
4.1 QUANTITATIVE DATA	25
4.2 QUALITATIVE ANALYSIS AND DISCUSSION	27
5 FINAL REMARKS	48
REFERENCES	49
APPENDIX	53

1 INTRODUCTION

Critical Discourse Analysis (hereinafter referred as CDA) investigates matters of “responsibility, interests, and ideology” (VAN DIJK, 1986 apud WODAK; MEYER, 2001, p.1). Rather than focusing only on theoretical issues, it is founded on current social issues which in itself is a choice for assuming the perspective of the vulnerable - while it does critically examine those in power, those accountable (VAN DIJK, 1986 apud WODAK; MEYER, 2001). Norman Fairclough’s (2003) version of CDA is especially concerned with how power operates and its reproduction in discourses. Discourses both reflect and constitute social realities in a dialogical relation, for example, discourse is a product of ideology but it is also the means through which the ideology is formed (FAIRCLOUGH, 2003). In a social practice, discourses may appear in three leading ways: “genres (ways of acting); discourses (ways of representing) [and] styles (ways of being)” (FAIRCLOUGH, 2003, p. 26). In this study, I focus on discourses as ways of representing the social practice of “Parental Alienation” (hereinafter referred as PA). When it comes to representing, we can tell various discourses apart since they may portray the same position from different viewpoints or perspectives, noticing that:

‘discourse’ is being used here in two senses: abstractly, as an abstract noun, meaning language and other types of semiosis as elements of social life; more concretely, as a count noun, meaning particular ways of representing part of the world.
(FAIRCLOUGH, 2003, p. 26)

Fairclough (2003) views CDA as not just linguistic analysis of texts but as ‘shifting’ the attention between particular texts and what he calls the ‘order of discourse’, that is, the relatively persistent social structuring of language which in turn is an element of the relatively durable social structuring and networking of social activities. Continuity and change on this more abstract, structural level are what CDA is concerned along with the happenings in specific texts (FAIRCLOUGH, 2003). Discourses also shape and distribute gender models and identities, reinforcing those patterns and making them appear as natural, thus shielding them from change. In this sense, through Fairclough’s (2003) theoretical analytical framework I analyze appellate decisions proffered by the magistrates of Santa Catarina’s State Court (*Tribunal de Justiça de Santa Catarina*, hereinafter referred as *TJSC*) to linguistically describe and critically interpret their choices of representations of the social practice of PA - observing if these vary according to the gender of the alleged alienator.

PA might be “diagnosed by the court system” (NICHOLS, 2014; O'DONOHUE; BENUTO; BENNET, 2016 apud CLEMENTE; PADILLA-RACERO, 2020, p.108) if children resist or reject contact with one of the parents - without reasonable motivation - in the context of litigation. It was “invented” (MEIER, 2013, p. 20) and “misconceived” (BRUCH, 2001 p. 534) by psychiatrist Richard Gardner (1985) actually as a “Parental Alienation Syndrome” (hereinafter mentioned as PAS) a “disturbance in which children are obsessed with deprecation and criticism of a parent - denigration that is unjustified and/or exaggerated” (GARDNER, 1985, p. 3). According to Gardner (1985, p. 3), these children are being “brainwashed” by a parent and making up their own stories to subsidize the process of alienation (Ibid.). “90% of the alienators are women” (GARDNER, 1992a p.59 apud DALLAM, 1999). Furthermore, Gardner claimed that PAS was present in 90% of children in custody litigation, and claims of child sexual abuse were epidemic in courts, assertions hinged entirely on his clinical experience (MEIER, 2013). Gardner characterized the “syndrome” as a means through which vengeful mothers falsely reported sexual abuse to get custody, vilify and chastise the father (Ibid.). Those mothers would manipulate the child to an extent that the child herself would add to these malicious tales with their own input (GARDNER, 1985). In sum, his theory was that sexual abuse allegations were mostly false and resulted from PAS instead of actual abuse (THURLER, 2019; DOUGHTY et al, 2018; HOULT, 2006; MEIER, 2013; WOOD, 1994). However, research with over 9000 families in the United States of America custody-visitation conflicts concluded that less than 2% of the cases included a sexual abuse allegation (THOENNES; TJADEN, 1990). More recently, the largest study of its kind - with a sample of 7,672 child maltreatment investigations in Canada - looking into deliberately fabricated maltreatment claims occurring in litigation contexts has found that those arise in 12% of cases; although the most common form of intentionally fabricated maltreatment is neglect (TROCMÉ; BALA, 2005). “It is more likely that a noncustodial parent (usually the father) will deliberately fabricate an allegation of abuse than for custodial parents (usually mothers) to fabricate such an allegation.” (TROCMÉ; BALA, 2005, p.1334). Domestic violence remains unseen “because family members are reluctant to jeopardize the integrity of the family by reporting it. When the family unit is split up during a divorce, there is less incentive for victims of family violence to keep their abuse secret.” (SILBERG; DALLAM; SAMSON, 2013).

The objective of my TCC is not to deny the alienating pressures that might be exerted by guardians at the time of a separation or litigation. Rather, I aim to question the notion that alienation processes are exercised mostly by women and the “naturalization of a supposed

child psychopathological condition, without a proven scientific basis” (BATALHA; SERRA, 2019, p. 27). That children might become estranged from one parent in a high conflict situation such as a separation is granted and common knowledge, but Gardner’s assumption that this must be originated by the other parent is highly flawed because it ignores all the predictably aggrieved and frequently unbecoming conducts by all involved in a divorce or custody dispute (BRUCH, 2001; WOOD, 1994). “There are lots of people who alienate their partners during a divorce [...] But it is not a syndrome, a disease or a disorder.” (FINK apud TALAN, 2003). Besides, “high conflict families are disproportionately represented, of course, among the population of those contesting custody and visitation.” (BRUCH, 2001, p.529). Furthermore, in Brazil, 3 out of every 4 divorce actions are filed by women, not men; which makes Thurler (2019, p.26) question who is most often the resentful part in court?

The one of a kind Brazilian PA Law (*Lei* n. 12.318/2010) is currently under scrutiny as there are 4 proposals to annul or modify it going through the motions in the Senate and Congress, as well as a Direct Unconstitutionality Action (*Ação Direta de Inconstitucionalidade*) filed by the Lawyers Association for Gender Equality (*Associação de Advogadas pela Igualdade de Gênero*) in the Federal Superior Court (*Supremo Tribunal Federal*) (SALES, 2020; THEMIS, 2019). The action is founded on the premise that PA law is unconstitutional due to its unscientific character as a syndrome or disease and especially for the discrimination of women and children’s rights violation (THEMIS, 2019). Protesters say the so-called “Gag Law” (CABRAL et al, 2020, p. 51) - for silencing abuse accusers - is being used as a defence strategy in court to cover for parents or guardians that are child abusers as well, deflecting child sex abuse claims as false allegations and putting children under an abusive guardian as a result (CHIAVERINI, 2017; CRUZ, 2017; FAGUNDES, 2018). In brief, according to Iencarelli (apud CHIAVERINI, 2017), “the right of coexistence is supplanting the duty of protection”.

2. REVIEW OF LITERATURE

This section is composed of 4 segments that make up the theoretical foundation of this study: CDA; Systemic Functional Linguistics; PA; and an overview of the organization of the Brazilian justice system.

2.1. CRITICAL DISCOURSE ANALYSIS

Critical discourse studies are a transdisciplinary area that has many versions; the one I chose to work with in this study, Critical Discourse Analysis, is especially interested in how power operates through language and how the actors involved in a social event or practice carry their social positions and backgrounds along with their discourses (FAIRCLOUGH, 2003). It is through language that crucial aspects of social reality are understood, revealed, and transformed, as language constitutes both a stratum of reality and a form of social action. To fully grasp the intertwined relation between language and social life, Fairclough (2003) set out to “transcend the division between social theory work inspired by social theory which tends not to analyze texts, and work which focuses upon the language of texts but tends not to engage with social theoretical issues.” (p. 2-3). Applying this approach to my work, if my textual analysis aspires to be relevant it must relate to theoretical questions about PA, and if I want to really understand the theoretical discussions on the practice of PA, I must scrutinize the texts produced about this practice (FAIRCLOUGH, 2003).

Furthermore, as texts carry varying meanings and perspectives according to the social positions of the interactants, they induce change and produce causal effects (FAIRCLOUGH, 2003). According to Fairclough (2003), on an immediate level texts produce a change of knowledge and information, and further on they shape our values and identities, reaching so far as constructing ideologies and changing the material world. This causal effect that language - texts, discourses - produces is not a regular or mechanical causality though (FAIRCLOUGH et al., 2002 apud FAIRCLOUGH, 2003, p.8):

[...] we cannot for instance claim that particular features of texts automatically bring about particular changes in people’s knowledge or behaviour or particular social or political effects. Nor is causality the same as regularity: there may be no regular cause–effect pattern associated with a particular type of text or particular features of texts, but that does not mean that there are no causal effects. Texts can have causal effects without them necessarily being regular effects, because many other factors in the context determine whether particular texts actually have such effects, and can lead to a particular text having a variety of effects, for instance on different interpreters.

So, while texts may construct social realities, these realities are dependant upon meaning-making and context. Fairclough (2003) argues for a realistic use of “‘social constructivism’ – the claim that the (social) world is socially constructed” (FAIRCLOUGH, 2003, p. 8). However constructed social realities are, “once constructed they are realities which affect and limit the textual (or ‘discursive’) construction of the social” (Ibid.). In other words, while we may textually construe (represent) specific points of view about the social world, the ability of these representations to change the construction of the social world is limited by many “contextual factors – including the way social reality already is, who is construing it, and so forth” (Ibid.). In contrast, the discourse of a court of law is particularly influential and not so limited. Hence, it makes for an interesting discourse to be critically analysed. I will be using some of the steps suggested by Fairclough (2003, p. 209) in his CDA framework “Focus upon a social problem which has a semiotic aspect [...] Identify obstacles to it being tackled, through analysis of [...] the discourse (the semiosis) itself”. PA and its use by the Brazilian legal system - explained in section 2.3 - is the social problem I focus on, and the linguistic analysis is in section 4.

2.2 SYSTEMIC FUNCTIONAL LINGUISTICS

Halliday’s (1978, 1994 apud FAIRCLOUGH, 2003) Systemic Functional Linguistics (hereinafter referred as SFL) is a ‘functional’ approach to language that stresses its ‘multi-functionality’, i.e., texts have 3 main functions working at the same time: ‘ideational’, ‘interpersonal’ and ‘textual’ (FAIRCLOUGH, 2003, p.26). These functions are corresponding to what people do with their texts in the process of meaning-making in a social practice: texts simultaneously represent the physical, social and mental aspects of the world; enact social relations between participants and their attitudes, desires, and values in social events; and coherently and cohesively connect textual fragments, as well as textual fragments with their situational contexts (Halliday 1978, 1994 apud FAIRCLOUGH, 2003). As mentioned in the Introduction section, I will focus on the discourses as ways of representing the world which Fairclough (2003) calls a representation type of text meaning - corresponding to the ideational function of language in SFL.

When we think about experiences, we tend to think of them as a series of happenings. It is the grammar of the clause that chunks these series of happenings into quanta of change -

each quantum of change modelled as a figure - of happening, doing, sensing, saying, being or having (HALLIDAY; MATHIESSEN, 2004, p. 170). As a general rule, each figure depicts a time-based process that involves individuals who are either actively participating in the process or indirectly involved in it in some way (Ibid.). However, these circumstances are not a part of the process itself; rather they are attendant on it. In the grammar of the clause is where these figures are arranged (Ibid.):

Thus as well as being a mode of action, of giving and demanding goods-&-services and information, the clause is also a mode of reflection, of imposing order on the endless variation and flow of events. The grammatical system by which this is achieved is that of TRANSITIVITY (cf. Halliday, 1967/8). (Ibid.)

Using the transitivity system, the universe of experience - experiential meaning - is broken down into a manageable collection of processes types: material, mental, relational, behavioural, verbal and existential categories, each providing models or schemas for “construing a particular domain of experience as a figure of a particular kind” (Ibid.).

2.3 “PARENTAL ALIENATION”

Along with family law developments in the United States in the late 1970s came a surge in child custody litigation (GARDNER, 1985). These developments included the fall of the “tender years presumption”, which assumed the mother as the standard custodial parent solely because of gender, and the notion of joint custody which, according to Gardner (1985), made the custodial mother's stance in litigation much more fragile. Richard Alan Gardner (1985) was a New York psychiatrist who made the leap of reasoning that these legal advances were giving rise to a “psychological toll” on children and parents undergoing custody disputes, and created a term for this condition - Parental Alienation Syndrome (PAS).

In this line, Garden argued that a pivotal component of PAS is the probability of false accusations of sexual abuse:

A vengeful parent may exaggerate a nonexistent or inconsequential sexual contact and build up a case for sexual abuse - even to the point of reporting the alleged child abuser to investigatory authorities and taking legal action. (GARDNER, 1985, p. 5)

In his 1992 self-published book *True and False Accusations of Child Sex Abuse*, Gardner writes that “the child who is drawn to sexual encounters at an early age is likely to become highly sexualized and crave sexual experiences during the prepubertal years.” (p.24). Accordingly, such children would have greater chances to pass on their genes and procreate

more, thus enhancing their “survival machines”. Meier (2009) cogitates that if legal and mental health professionals alike knew of those remarkable thoughts Gardner had on human sexuality they would not be so quick to embrace his tenet.

Gardner (2001) alleges PAS is granted the term syndrome because of symptoms that manifest together, including the common cause of them all: the “programming” by an alienating parent combined with the child’s personal contributions to defame the other parent. However, by including the supposed cause for the “syndrome” (i.e., an alienating parent plus an agreeable child) in its own description, Gardner creates a tautology for the theory of PAS and its causes (KELLY; JOHNSTON, 2001). When a thesis is true by definition it is a myth, not science. Even though Gardner called it a syndrome, PAS has never been widely accepted as such, and neither scored a DSM-V (Diagnostic and Statistical Manual of Mental Disorders) or ICD-10 (International Statistical Classification of Diseases and Related Health Problems) classification (BRUCH, 2001; HOULT, 2006; CABRAL et al, 2020).

Bruch (2001, p.530-532) lists reasons why PAS is ‘junk science’ that has been guiding court decisions, possibly causing damage to children:

[...] Gardner confounds a child’s developmentally related reaction to divorce and high parental conflict (including violence) with psychosis. In doing so, he fails to recognize parents’ and children’s angry [...] predictable behavior following separation. This error leads him to claim that Parental Alienation Syndrome constitutes a frequent example of folie à deux or folie à trois, Shared Psychotic Disorders that the American Psychiatric Association and scholarly studies report occur only rarely. His assertion that these disorders occur primarily in young children is also contrary to the literature [...] Gardner vastly overstates the frequency of cases in which children and custodial parents manufacture false allegations or collude to destroy the parent-child relationship. [...] These assertions have the practical effect of impugning all abuse allegations, allegations which Gardner asserts are usually false in the divorce context. [...] Gardner cites no evidence in support of his personal view, and the relevant literature reports the contrary—that such allegations are usually well founded. [...] PAS shifts attention away from the perhaps dangerous behavior of the parent seeking custody to that of the custodial parent.

In fact, Bruch (2001) points out that, according to Gardner, the endeavours from the custodial parent to protect the child - e.g. through qualified help and care - establish proof of false accusations. Meier (2013) calls PAS a “teflon defense” to an accusation of child abuse, considering that every piece of evidence presented by the custodial parent could be refashioned into additional confirmation of the “syndrome” (MEIER, 2013, p. 3).

Another criticism is that Gardner’s prescribed remedy for PAS is legal coercion consisting of “court-ordered threats of legal deprivations of custody, visitation, property, and liberty” (HOULT, 2006, p. 7) to force the child and mother into complying with the father’s insistence for affection and appreciation. Houlton offers a number of examples of disconcerting

consequences of the judicialization of this PAS treatment, involving cases such as a Pennsylvania juvenile that hung himself, a teenager imprisoned in North Carolina after refusing the father's visit, and an eight-year-old child terrified to obey the command to visit her mother's batterer. The whole of precedent-bearing decisions in the US since 1986 deems PAS as inadmissible (HOULT, 2006). Moreover, the bulk of law review articles in that country in the same timeframe are sceptical of PAS, Houlton (2006) relays. Willis and O'Donohue (2018) reckon that to avoid the risk of children being placed with abusive parents, PAS ought to be discarded by courts. Actually, in its Judicial Guide to Child Safety in Custody Cases (2008, p.12), the US National Council of Juvenile and Family Court Judges explicitly warns that PAS theory has been scientifically discredited and does not pass the Daubert evidentiary standard by which court expert testimonies - even the "soft sciences" supported - must tend to, according to the Supreme Court (1999). The Daubert standard for a scientific theory to serve as evidence requires a "multi-factor test including peer review, publication, testability, rate of error, and general acceptance" (Judicial Guide, 2008, p. 12). The Judicial Guide calls for court action to discriminate between cases where the child has indeed been manoeuvred by a parent to bash the other, and circumstances where the child's withdrawal from that parent is warranted by some (or many) kinds of domestic violence. As the US Judicial Guide punctuates, the fact that the concerned or abused parent articulates criticism of the other parent does not erase the scenario of domestic violence.

Ensuing PAS scrutiny, Kelly and Johnston (2001) ventured to refurbish the concept, taking away the focus from the alienating parent to the alienated child; acknowledging that a child's estrangement has many causes which must be investigated. Darnall (1997) argues for the use of the term PA for "any constellation of behaviours, whether conscious or unconscious, that could evoke a disturbance in the relationship between a child and the other parent." (p. 1), prioritizing the role of both parents in the process, instead of the child. In a different direction, Meier (2009) argues that PA is employed in the same pernicious ways as PAS in court. In his view, it serves as a cover for abusive fathers, quashing abuse claims as soon as they emerge, thus taking away the possibility of further investigation as to the source of the estrangement in the child-parent relationship (MEIER, 2009). Among the reasons why Gardner was accepted as an expert witness in about 400 cases, Houlton (2006) cites his pretence of being a full professor at Columbia University College of Physicians and Surgeons, when in reality he was just an unpaid volunteer there, benefitting from the authority that such position holds while advancing his profitable work as an expert witness. Also, a tactic to protect PAS from peer auditing was Gardner's self-publishing habits (HOULT, 2006). Houlton also believes

that PAS lured many courts with an easier medical label solution to highly complex and lingering custody litigation cases.

Although discredited in its country of origin - both in the medical community and in the legal field - PA theory arrives in Brazil around 2006, largely through events organized by *Instituto Brasileiro de Direito de Família (IBDFAM)*, a legal practitioners' organization, and divorced parents associations such as *Apas - Associação de Pais e Mães Separados*, an NGO established in Florianópolis that successfully advocated for the joint custody legislation of 2008, and subsequently pressed for PA legislation approval (SOUSA, 2009). Composed by a male majority (In 2010, 91,23% of federal deputies and 85,2% of senators were men; in 2020, 85,2% of federal deputies and 86,4% of senators were men) (ESTATÍSTICAS DE GÊNERO IBGE, 2021; G1 PORTAL DE NOTÍCIAS, 2020), the Brazilian Parliament swiftly and uncritically embraced Gardner's doctrine, approving a specific, coercive, punitive, and male-oriented legal bill on PA (*Lei n. 12.318/2010*) on August 26th, 2010 (FERREIRA; ENZWEILLER, 2014; THURLER, 2019; BATALHA; SERRA, 2019) - the only law of its kind in the world (BATALHA; SERRA, 2019; MENDES, 2013). Ferreira and Enzweiler (2014) infer that most congressmen saw themselves personified in the noncustodial parent role defended in the bill, the one that owes child support to his ex-wife. Thurler (2019, p.19) asserts the creation of the Brazilian PA law is part of a "fundamentalist wave that has been bringing serious setbacks in the 21st century", including a backlash or conservative reaction to the achievements in terms of women rights in the country. According to Ferreira and Enzweiler (2014), a blatant gender bias is exposed in the pretext for the law, where one can find that organizations such as "*Pais para Sempre*" ("Forever Fathers"), "*Pai Legal*" (a wordplay with "legal", a term that means both law-abiding and cool in Portuguese), "*Pais por Justiça*" ("Fathers for Justice"), among others, were the main campaigners for the passing of the bill (*Lei n. 12.318/2010*).

Although the Brazilian law (*Lei n. 12.318/2010*) makes no mention of the syndrome, its justification is entirely based on translated literature that supports PAS (FERREIRA; ENZWEILLER, 2014). Reflecting on the speed and uniqueness of the passing of the law (*Lei n. 12.318/2010*), Mendes (2013) attributes it to a judicialization of the events and a predominance of 'scientific publications' from the Brazilian Law field, demonstrating that jurists are the ones dominating the Brazilian PA discourse, in a relentless defense and positive view of its existence and need for punishment and treatment. One possible explanation provided by Sousa (2009) for PA responsiveness in Brazilian legal settings is the long-standing tradition of collaboration between that legal sphere and that of Psychiatry,

which lends its tools to law, offering individual culpabilities in divorce litigation cases in opposition to a more nuanced and reasonable view of the social condition in which people are inserted. The PA law (*Lei* nº 12.318) defines in article 2:

An act of parental alienation is considered to be interference in the psychological development of the child or adolescent promoted or induced by one of the parents, grandparents or by those who hold a child or adolescent under their authority, custody or supervision, to repudiate the parent or cause harm to the establishment or maintenance of bonds with this parent. (my translation¹).

Noteworthy is the suppression of the term “syndrome” from the Brazilian legal text, probably to avoid criticisms due to the lack of scientific support for the imported malady (FERREIRA; ENZWEILLER, 2014).

In contrast to the judicial acceptance of PA in Brazil, countries with scientific research traditions such as England, Wales, Canada, Portugal, Argentina, and Spain refused Gardner’s theory (BATALHA; SERRA, 2019). In Portugal, the Supreme Court Justice Maria Clara Sottomayor (2011) produced a substantial PA critique calling for caution in following foreign trends - especially when it comes to theories with high error rates and a circularity rationale rejected in their native lands. Furthermore, Sottomayor (2011) advises courts to rule each case based on its own facts, listening to the child as their own person, one that must have their feelings respected. In that sense, the Portuguese Supreme Court² reprimands Gardner’s pro-pedophilic stances, stating that he presents a patriarchal gaze of children and women as men’s property, objectifying them, denying their free will and suffering.

Thurler (2019) calls the Brazilian PA law (*Lei* n. 12.318/2010) a real “*mothercide*” (“*madrecídio*”) (p. 20) since the list of punishments include alimony cuts or its elimination; enforced joint custody up to a custody reversal; restricted and even terminated contact between mother and child. Two weeks before the passing of the Brazilian PA law the country had already registered a PA victim - a 5 year old infant who had custody reversed to her father after her mother required child support (FAGUNDES, 2018). The mother was accused of being an alienator because she denounced the father for mistreatment of the child - who had told the psychologist that “Daddy is bad” (Ibid.). Mother and child had contact severed for 90 days (Ibid.). They were only reunited at the hospital, where the child lay brain dead;

¹ The original reads as: “Considera-se ato de alienação parental a interferência na formação psicológica da criança ou do adolescente promovida ou induzida por um dos genitores, pelos avós ou pelos que tenham a criança ou adolescente sob a sua autoridade, guarda ou vigilância para que repudie genitor ou que cause prejuízo ao estabelecimento ou à manutenção de vínculos com este.”

² Sottomayor (2011) relays Gardner’s remorse as he stabbed himself in the chest in 2003, a grim suicide.

autopsy revealed viral meningitis as a cause of death and signs of violence such as burns and bruises through the infant's body (FAGUNDES, 2018; THURLER, 2019).

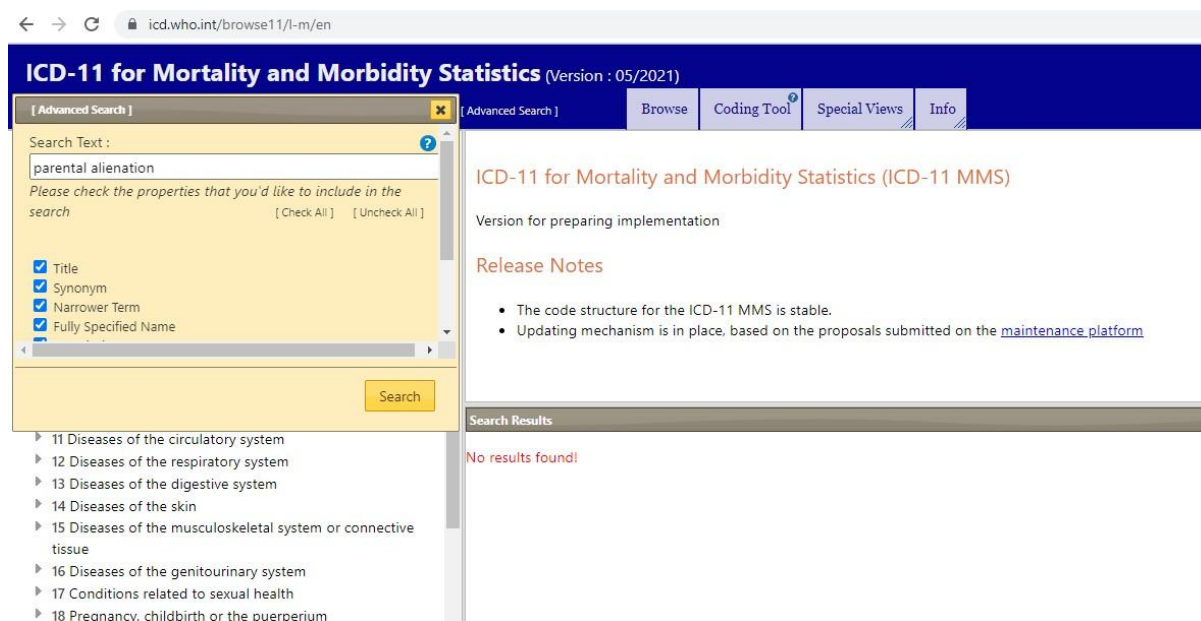
Ferreira and Enzweiler (2014) assert that the Brazilian PA law not only follows Gardner's "threat therapy" - custody reversal; breach of the contact between alleged alienator-child; child's involuntary contact with the rejected parent - to a T but enhances the level of malice when it frivolously allows (in its 4th and 5th articles) that "traces" ("indícios") of PA be grounds for court punishments beyond Gardner's threat therapy - from a warning to a suspension of parental authority; fines; psychological monitoring; court prescribed residence.

Another problem in the Brazilian PA law is item VI of its 2nd article, which deals with false abuse claims, as it facilitates the occurrence of child abuse performed by parents (RIBEIRO, 2020). Indeed, Ferreira and Enzweiler (2014) found, through quantitative and qualitative analysis, that the Superior Court of Justice (*Superior Tribunal de Justiça, STJ*) has been imprudently accepting PA, and even PAS, as grounds for defence in cases of child sexual abuse. They also detected gender bias in decisions reverting visitation and custody to fathers without social studies or technical reports, under the bland reasoning that there were "traces of PA (or PAS)" ("indiciário"). Interestingly, in many of these proceedings, the real issues were related to alimony payment or visitation flexibility aspired by the father (URRA, 2020; FERREIRA; ENZWEILLER, 2014).

PA is one of the plights identified by a 2017-2018 Senate Parliamentary Inquiry Commission (*Comissão Parlamentar de Inquérito dos Maus-tratos - hereinafter CPIMT*) on child abuse, as it relays that a law created under the pretence of protecting children from family altercations has been turned into an intimidation tool against parents that prioritize their abused children over their abusive partners. The Commission found it unacceptable that people who master the courage to denounce abuse and face harsh judicial battles should be handled as alienators simply because of their use of legal means to defend their children, such as police reports and legal action. There is an indication that relentless abusers have been using this legal loophole to obtain custody of their children, the very ones they have been accused of abusing, altogether inverting the children's protection prerogative. In 2018 *Instituto Brasileiro de Direito de Família* (hereinafter *IBDFAM*) announced the inclusion of PA in the 11th edition of the WHO's International Statistical Classification of Diseases and Related Health Problems (ICD-11). In a similar fashion, *Sociedade Brasileira de Pediatria* (hereinafter *SBP*) incorrectly registered on its 2019-2021 Orientation Handbook the information that PAS, not PA, was to be added to ICD-11. Indeed, the World Health

Organization was to incorporate PA under “caregiver-child relationship problem - Code QE52.0”, but backed up after a campaign against it headed by 199 family law academics, domestic violence experts, and children's rights organizations that manifested their repudiation in a Collective Memo of Concern (2019), featuring signatories from 10 different countries. The Collective (2019) urged the WHO to dismiss any reference to PA in its official guide, inasmuch as the concept has been scientifically discredited and used to mask domestic violence, therefore hurting children’s best interests. Additionally, The Collective (2019) claimed there is much more evidence for diagnosing domestic violence as a parent-child relationship problem than for identifying PA as such. Finally, The Collective (2019) advised that incorporating PA in the World Health Organization’s diagnostic manual could challenge its own scientific reliability. A check on the published ICD-11 website returns no results for the PA term:

Figura 1 – WHO’s ICD-11 website



Fonte: <https://icd.who.int/browse11/l-m/en> 3:22 pm Sept. 14th 2021.

In spite of these developments, I could not find any update or correction of the news given on *IBDFAM*'s website or on the register made on *SBP*'s handbook.

2.4 BRAZILIAN CRIMINAL JUSTICE SYSTEM

In this TCC I analyze appellate decisions (*Acórdãos*) produced by *TJSC*, a second-degree court of Justice where unsatisfied parties in a lawsuit (including the Public Prosecution Office) can appeal to modify or even make null the decisions of the first degree court. The Brazilian Justice system works with two degrees of jurisdiction, which enables decisions to be reconsidered by a committee of three magistrates other than the singular judge who delivered the initial decision (COACCI, 2013). The following diagram produced by Rieger (2019) indicates the flow of processes through each instance of the Brazilian judiciary system. The appellate decisions I worked with in this study came from the second instance State Court:

Figura 2 Brazilian judiciary system functioning:



Fonte: RIEGER, P. (2019).

In second-degree courts, magistrates vote to achieve a collegiate decision, unanimous or divided, with a minimum of three votes. According to Coacci (2013, p.100), the structure

of appellate decisions vary according to their State court of origin, but there is a legal requirement of at least the following elements: a) the report, which contains the name of the parties and the summary of the request; b) the principles, where the magistrates analyse the matters of fact and of law; c) the decision, where the magistrates will resolve the issue brought to the court. The summary of the decision is called ‘*ementa*’ in Portuguese and will be called as such in this study to avoid potential mistakes since translations of legal terms can be problematic.

Appellate decisions (*Acórdãos*) constitute a valuable source to the social sciences because they express particular ‘truths’ enacted by the State to control society (OLIVEIRA; SILVA 2005, apud COACCI, 2013). According to Coacci (2013, p. 102), the power of this control lies in the “indirect, filtered and retold-by-the-State” discourses that are found in the appellate decisions.

3. METHOD

In this section, I introduce my research questions for the *TCC*; the methodological choices I made to collect the objects of study; and the procedures for the quantitative and qualitative analyses.

3.1 RESEARCH QUESTIONS

The research questions that instruct my study are the following:

1. Is there a difference in the recognition of PA by the *TJSC* according to gender?
2. From which perspective is PA represented by the *TJSC*?
3. Does this representation change according to the gender of the alleged alienator?

3.2 DATA COLLECTION

Seeking answers to my research questions, I searched for appellate decisions, in February 2021, with the keywords “Parental Alienation” on *TJSC*’s jurisprudence website. My search returned 313 *ementas* of appellate decisions containing the term PA.

A significant limitation to this study was presented by the issue of secrecy of justice (*Segredo de Justiça*) in family court which keeps the full content of processes hidden (showing only a summary of the decision). Therefore, I could only get access to 4 appellate decisions in full from the 313 *ementas* results. From these full contents appellate decisions, 2 were cases where PA was not recognized and 2 where PA was recognized. One of these recognitions was to a “reverse” PA case where alienation was allegedly inflicted on an elder by her adult daughters, so as this is not a typical occurrence of PA I decided to refrain from analyzing it, also due to time constraints. Further on July 2021, I made a new search and found another full appellate decision, pronounced on June 2021, to work with in a qualitative micro-analysis. This appellate decision is not in the quantification of PA according to gender though, as it was not a result of my initial search.

3.3 PROCEDURES

In order to determine if there is a difference in PA recognition by the *TJSC* according to gender, I set out to organize the 313 appellate decisions in 3 categories: recognized PA; non-recognized PA; and inconclusive as to PA recognition. My criteria for the categorization of the *ementas* were the following: assertive as to the occurrence of PA were placed under the recognized category; assertive as to the non-occurrence of PA were placed under the non-recognized category. For the inconclusive as to PA *ementas* my criteria were the following: inconclusive as to PA; judicial decision not available in the *ementa*; impossible to determine gender; requests for expert report attesting PA; need for evidential delay; urgent production of social study; request for investigation of PA; need for psychological support/counselling; allegations that must be investigated through proper procedures; lack of interest in the legal proceedings; dismissal of the conflict and lack of valid and regular basis for the proceedings. This categorization resulted in 87 appellate decisions where PA was recognized; 115 appellate decisions where PA was not recognized; and 111 appellate decisions where PA recognition was inconclusive.

To carry out the micro-analysis of the 4 full appellate decisions I chose a Fairclough's (2003) Critical Discourse Analysis framework to investigate from which perspective Santa Catarina's judiciary represents PA. Since the focus of this work is the social practice of PA I will analyse only the parts referring to PA in the "*ementa*", report, and vote section of the appellate decision. Occasionally, the mention of PA is not expressed with that exact term so I will analyse those other occurrences too.

Appellate decisions belong to the genre "judicial decision" and as such, carry the choices of language made by the judiciary, that is, out of the ordinary lexicalizations, broad use of specific terms, and unique structures. These reasons render judiciary texts very difficult to read for a layperson. Therefore, the selected segments of texts representing the social event PA in the decisions will be displayed here fully in Brazilian Portuguese, to avoid de-contextualization of the judicial discourse.

4. ANALYSIS AND DISCUSSION

4.1 QUANTITATIVE DATA

There were a few difficulties concerning the counting of the data - *ementas*, due to technical problems in the TJSC's website. I contacted their technical support to understand why there were some identical *ementas* repeatedly shown, and was promptly answered that it is probably because of a glitch in their system that makes a unique process appear more than one time under the same file number, or even with a different number but with identical content. Under the category 'Recognized PA *Ementas*', there were 5 instances of doubled displayed processes, and under the category 'Non-recognized PA *Ementas*', there were 8 instances of doubled processes and 1 instance of a process repeatedly displayed for 3 times. So, from the original count of 87 Recognized PA *Ementas*, I discarded the repeated ones and was left with 82 *ementas*. And from the original 115 Non-recognized PA *Ementas*, I discarded the repeated ones and was left with 105 *ementas*. Thus, I was left with a total of 187 *ementas* presented in the table below, according to TJSC's position towards PA and to the gender of the supposed alienating agent:

Table 1 - "Parental Alienation" Recognition by TJSC According to Gender Status

187 ' <i>ementas</i> ' containing the expression "Parental Alienation"	Mother as Alienating Agent	Father as Alienating Agent
82 Recognized PA	59	23
105 Non-Recognized PA	64	41
Total	123	64

The quantitative data analysis that follows regards only these 187 appellate decisions from TJSC in the period between 2010 to 2020, which was the timeframe available to search at their website. The data shows a total of 123 women as alleged alienators, in contrast to 64

men as alleged alienators. This answers ‘yes’ to my first research question - there is a difference in the recognition of PA by *TJSC* according to gender. These figures also corroborate one of the main criticisms against the Brazilian PA law (*Lei n. 12.318/2010*), i.e., that it is gender-biased legislation (BATALHA; SERRA, 2019; CABRAL et al, 2020; FERREIRA; ENZWEILLER, 2014; THURLER, 2019). Of course, we have to consider that many more women than men are the custodial guardians of children and that this is reflected in those numbers. Notwithstanding, the numbers manifest that the PA law (*Lei n. 12.318/2010*) is reaching women two times more often than men. Another salient point is that the number of cases of PA enacted by women recognized by *TJSC* is quite similar to the number of non-recognized cases: 59 recognized against 64 non-recognized. At a first glance, those numbers might not mean much, but when compared to the number of cases of men accused of enacting PA - 23 recognized and 41 non-recognized by *TJSC* - the difference is apparent. When men are alleged alienators the likelihood that they will be cleared of PA charges is almost double than that of women. To put it another way, in this timeframe related to *TJSC* decisions, a woman is twice as likely to be guilty of PA than a man. The threat posed by PA law for women is demonstrated by these quantitative data from *TJSC*. In this sense, this quantification reaffirms what has been denounced: “Law 12.318/2010 is a fertile field for the perpetuation of violence and unequal treatment based on gender, as it institutionalizes and sustains male supremacy, thus generating a manifest and oppressive inequality on women.” (BATALHA; SERRA, 2019 p. 29).

Moreover, the Brazilian PA law (*Lei n. 12.318/2010*) sets a grievous risk - casting claims of child sexual abuse aside as it “shifts attention away from the perhaps dangerous behaviour of the parent seeking custody to that of the custodial parent” (BRUCH 2001, p.532); and “the practical effect of introducing Gardner's theory in custody cases is that the issues of abuse are pushed aside” (FINK apud TALAN, 2003). Among the 82 *ementas* where PA was recognized by *TJSC*, I counted 11 cases involving sexual abuse and 1 case involving rape. Among the 105 *ementas* where PA was not recognized, I counted 6 cases with abuse and 5 with rape; and among the 111 *ementas* inconclusive as to PA recognition, there were 10 cases with abuse and 2 with rape:

Table 2 - *TJSC* ‘*ementas*’ containing the expression “Parental Alienation” along with sexual abuse or rape

187 ‘ <i>ementas</i> ’ containing the expression “Parental Alienation” +	Sexual Abuse	Rape
82 Recognized PA	11	1
105 Non-Recognized PA	6	5
111 Inconclusive as to PA Recognition	10	2
Total	27	8

Unfortunately, from all these rape or abuse cases I could only get access to one in full content, which is part of my qualitative analysis in the next subsection. In that appeal, the rape was established - as there was overwhelming evidence, including a forensic report, and “an acquittal sentence is infrequent when forensic reports demonstrate the materiality of sexual violence” (CRUZ, 2002, p. 188). Many researchers in the area call attention to how frequently PA figures along with child sex abuse (BATALHA; SERRA, 2019; FERREIRA; ENZWEILLER, 2014; SOTTOMAYOR, 2011; CABRAL et al, 2020; URRÁ, 2020), as seen in table 2 above. We also have to keep in mind that 70% of the 527 thousand rapes perpetrated in Brazil yearly are against children and adolescents (Ibid.). Several studies (MITIDIERO, 2000; BENFICA; SOUZA, 1999; VAZ; BENFICA; FRÓES, 2000; NETO; MATTAR; COLÁS, 1995; FLEMING, 1997 apud CRUZ, 2002, p. 189) indicate that 60% to 80% of all sexual violence is perpetrated against 0 to 20-year-old victims, on female children and teenagers, by a family member or a known assailant; the father is appointed as the main aggressor. Furthermore, Trocmé and Bala (2005, p.1342-1343) argue that the main problem in child sex abuse evaluation is not false allegations, but instead a high frequency of cases labeled “unsubstantiated” in “circumstances that indicated that abuse or neglect may have occurred.” And there is yet another factor to consider - “children who retract often later confirm their original disclosure. Research consistently shows that false allegations of child

sexual abuse are rare.” (AUSTRALIAN ROYAL COMMISSION INTO INSTITUTIONAL RESPONSES TO CHILD SEXUAL ABUSE, 2017, p. 53).

4.2 QUALITATIVE ANALYSIS AND DISCUSSION

This section contains the analyses of 4 full content decisions, 2 appellate decisions where PA was recognized and 2 appellate decisions where PA was not recognized by *TJSC*.

Considering that PA is the social practice I am focusing on, I will analyse only the segments representing PA in the ‘*ementa*’, report, and vote sections of the appellate decision (see review of literature, subsection 2.3). It is also important to keep in mind that the following analysis and discussion refers only to these 4 full content appellate decisions and should not be overgeneralized.

Below, I present a table with key information about the 4 full content decisions analysed.

Table 3 - Key information on the full content appellate decisions analysed

	Year	Parental Alienation	Supposed Alienating Agent
Appeal 1	2021	Recognized	Mother
Appeal 2	2016	Not Recognized	The parents
Appeal 3	2020	Recognized	Mother
Appeal 4	2018	Not Recognized	Father and Paternal Grandparents

Appeal #1 *Agravo de Instrumento*

This appellate decision is an interlocutory appeal (*Agravo de Instrumento*) over a first instance decision concerning a divorce case with an incidental discussion of PA. In the first instance decision the appellant, in this case, the mother (identified in this work by her initials “M.A.”) received a fine of four minimum wages for the “practice of acts of alienation”, such as hindering the father’s (identified in this work by his initials “P.A.”) visitation rights. After that, the mother appealed to *TJSC*.

The ‘*ementa*’ follows a formulaic structure, that is, a fixed and reiterated structure composed basically of noun phrases, which is common in this stage of the schematic structure of appellate decisions. Another feature of the formulaic structure of the ‘*ementa*’ is the use of nominalizations, i.e., processes that were turned into nominal or noun-like entities (FAIRCLOUGH, 2003). In Example 1, I underlined the nominalizations the *TJSC* magistrates chose to represent material process “generate” (“*ATOS CAPAZES DE GERAR*”) and the material process “obstruct” (“*OBSTRUÇÃO IMOTIVADA*”). According to Fairclough (2003), nominalization is a grammatical metaphor that represents processes as ‘things’, which excludes their subjects, objects, and so forth from the representation:

MULTIPLICIDADE DE ATOS CAPAZES DE GERAR NA FILHA COMUM DO CASAL
SENTIMENTOS NEGATIVOS SOBRE A FIGURA PATERNA. OBSTRUÇÃO
IMOTIVADA DO DIREITO DE VISITAÇÃO EM PREJUÍZO DO GENITOR.

Example 1: *Agravo de Instrumento* (p.1)

Still regarding the elements which the judiciary chose to emphasize in their representation, in example 1 shown above the magistrates do not state which the acts referred to would be, but the next phrase foreshadows them: “Unwarranted obstruction of visiting rights to the damage of the father” (“*OBSTRUÇÃO IMOTIVADA DO DIREITO DE VISITAÇÃO EM PREJUÍZO DO GENITOR*”). From this segment, it is clear that the magistrates chose to highlight, from the social practice of PA, the issue of visiting rights and the negative consequences of obstructing/questioning these rights.

Another element of the practice of PA emphasized in the ‘*ementa*’ is the mother’s disobedience to the summons from original Court (“*DESOBEDIÊNCIA A SUCESSIVAS INTIMAÇÕES DO JUÍZO DE ORIGEM*”). Following, the magistrates chose to accentuate

the mother's unwillingness to collaborate in the preparation of the psychosocial report (“*RENITÊNCIA À CONFECCÃO DO LAUDO PSICOSSOCIAL DETERMINADO*”), as demonstrated in Example 2:

DESOBEDIÊNCIA A SUCESSIVAS INTIMAÇÕES DO JUÍZO DE ORIGEM E RENITÊNCIA À CONFECCÃO DO LAUDO PSICOSSOCIAL DETERMINADO.

Example 2: *Agravo de Instrumento* (p.1)

In Example 2, the magistrates transform the verb “disobey” into the noun “disobedience” (“*DESOBEDIÊNCIA*”) and the verb “refuse” into the noun “unwillingness” (“*RENITÊNCIA*”). Apart from the effacing of the agent, the use of nominalizations entails “the ‘loss’ of certain semantic elements of clauses – both tense [...] and modality (so distinctions between ‘is’, ‘may be’, ‘should be’ and so forth are ‘lost’)” (Fairclough, 2003, p. 143).

Also noteworthy is the judiciary's lexical choice in the next mention to the social practice of PA, as can be seen in Example 3:

SANÇÃO MANTIDA. PEDIDO DE ABRANDAMENTO DA MULTA. ACOLHIMENTO PARCIAL. GENITORA AGRAVANTE QUE OSTENTA MODESTA CONDIÇÃO ECONÔMICA. REDUÇÃO PARA DOIS SALÁRIOS MÍNIMOS. **VALOR QUE ATENDE AO ESCOPO PEDAGÓGICO DA SANÇÃO.**

Example 3: *Agravo de Instrumento* (p.1)

In Example 3 above, the magistrates confirm the decision of the first instance Court as to the fine, but partially accept the mother's appeal by reducing the amount to be paid, in line with the mother's financial limitations. Quite interesting in this portion is the explicit declaration of the magistrates expressing that the amount of the fine meets the pedagogical scope of the decision (“*VALOR QUE ATENDE AO ESCOPO PEDAGÓGICO DA SANÇÃO*”), which is an example of the judiciary's disciplinary power enacted mostly through discourse, as explained by Figueiredo (2002, p. 261):

Women [...] are discursively trained to police and control their own behaviour and the behaviour of others, without the need for coercion or external surveillance (Lees, 1997).

For those who have difficulty internalising the habits of self-surveillance and self-correction (non-conformists, rule-breakers), there are several panoptic and disciplinary mechanisms to supervise, discipline and rehabilitate individuals. [...] We can interpret the discursive practices of judges, for instance, as tools in a complex pedagogy of behaviour constructed and realised through legal discourse, a pedagogy which aims to supervise, discipline, educate and control the way men and women behave socially and sexually. From this viewpoint, no legal trial and legal sentence are the judgement and punishment of an isolated individual; the discourse of lawyers, prosecutors and judges also represents the social cultural evaluation of human behaviour, the setting of examples, an attempt to recompose normality and restore the social pact.

Next, I will analyze the PA-related events in the Report and Vote sections of Appeal 1. The report starts by presenting again the information provided in the ‘*ementa*’, but now it names the social actors and their actions in the social practice, again a linguistic feature of the genre appellate decision. The mother, M.A., appears as an active social actor and the father, P.A., is the affected social actor of the material process “to file a suit” (“*Trata-se de Agravo de Instrumento interposto por M. A.*”). Then, the social actor ‘mother’ is specifically classified as “appellant” (“*agravante*”), which is her role in this judicial petition. The choices made to characterize social actors are important because they demonstrate agency, or lack of agency (Fairclough 2003, p. 155). The appellate decision goes on to say that the legal decision mentioned was the recognition of the PA enacted by the mother over the litigant’s teenage daughter. In this segment, there are 2 material processes: “carried out” (“*praticada*”) and “*filed*” (“*ajuizada*”) which are both embedded clauses. In this chunk of the report, the mother is acting through embedded clauses dependent on the main clause “recognized”. According to Halliday (2004), an embedded clause is a qualifier or postmodifier within a nominal group that functions as a subject.

Trata-se de Agravo de Instrumento interposto por M. A. contra a decisão interlocutória [...] do Magistrado da 1ª Vara Cível da comarca de Itapema, proferida na Ação de Divórcio n. [number], por ela ajuizada contra P. A. que, dentre outras deliberações, reconheceu a **alienação parental praticada pela agravante (genitora) em relação à filha adolescente dos litigantes e aplicou multa de quatro salários mínimos em seu desfavor.**

Example 4: *Agravo de Instrumento* (p.1)

Still in the Report section of the appellate decision, in Example 5 the following clauses contain a verbal process, “added” (*aduziu*), followed by a material process (*que em momento algum teria praticado atos de alienação parental*):

[Ø] **Aduziu**, em suma, **que em momento algum** [Ø] **teria praticado atos de alienação parental**, sendo inconclusivos os laudos psicológicos elaborados a esse respeito nos autos.

Example 5: *Agravo de Instrumento* (p.1)

The social actor of the verbal (“Added”- *Aduziu*) and material (“had practiced” - *teria praticado*) processes is the mother, which is in an active role. Although active, she (the mother/the actor) is backgrounded through ellipsis, a resource that can understate agency by concealing the subject in the clause - though it can be inferred from the previous text. It should be noted that if the vernacular grammar of Portuguese allows for an elliptical subject, then we cannot say that the backgrounding necessarily plays an ‘obscuring’ function, which does not seem to be the case here.

The following clauses, shown below, present the same elliptical subject, that is, backgrounding of the social actor (the mother, M.A.) in both the verbal processes “Ascribed” (“*Atribuiu*”) and “disagreeing” (“*discordando*”). In this section, the magistrates report that the mother ascribed the difficulties of father and daughter relationship “to the pandemic situation” (“*ao estado de pandemia*”) and to the “teenager’s own whims” (“*vontades próprias da adolescente*”), “disagreeing with the application of the penalty established in the contested decision”. It is also interesting to notice the use of quotation marks to refer to the teenager’s supposed agency, as reported by the mother. The quotation marks indicate direct reporting, signalling a clear boundary between the mother’s speech and the judiciary written report (Fairclough 1988; Volosinov 1973 apud Fairclough, 2003):

[Ø] **Atribuiu** ao estado de pandemia e às "vontades próprias da adolescente" a dificuldade de convivência entre pai e filha, [Ø] **discordando** da aplicação da sanção fixada na decisão recorrida.

Example 6: *Agravo de Instrumento* (p.1)

In the succeeding clause, the magistrates carry on with the backgrounding of the social actor mother through ellipsis when she performs the verbal process “alleged” (“*Alegou*”).

[ø] **Alegou**, por fim, que a **alienação parental** somente poderia ser reconhecida em ação autônoma ou em incidente específico, o que não teria sido observado pelo Juízo singular.

Example 7: *Agravo de Instrumento* (p.1)

Example 8 below comes from the ‘Vote’ section, where the magistrates present supporting arguments for their decision.

Em que pese não haver desacerto na fixação da penalidade por prática de **alienação parental** na espécie, tem-se que o valor estipulado na origem parece **exacerbar** a necessidade de **admoestar a genitora agravante**, transmudando-se em indevida vantagem à parte adversa.

Example 8: *Agravo de Instrumento* (p.2)

I underlined the portion where the judiciary refers to the passivated and affected social actor mother, again specifically classifying her role in this process - “appellant” (“*agravante*”). Highlighted in bold are the following material processes: “exacerbate” (“*exacerbar*”) and “admonish” (“*admoestar*”) enacted by the judiciary.

No Evento 45, **o réu noticiou** o descumprimento da decisão liminar no que diz respeito à convivência paterna. [ø] **Afirmou** que a **genitora teria se mudado** de endereço sem **informar** seu paradeiro, bem ainda que **estaria praticando alienação parental**.

Example 9: *Agravo de Instrumento* (p.2)

In this passage, the defendant (father) is activated while giving his version of the facts. Next, he is backgrounded through ellipsis in the verbal process “asserted” (“*Afirmou*”), probably to avoid unnecessary repetition, as the subject can be inferred from the previous clause. The mother (“*genitora*”) is activated in both the material process “would have moved” (“*teria se mudado*”) and the verbal process “informing” (“*informar*”). She is also activated in the final clause of the sentence “would be practicing” (“*estaria praticando*”), which is a modalized material process.

Additionally, in the Vote section, the appellate decision informs that “Both parties manifested themselves [...], while the Public Prosecution “opined”. In Example 10, the social

actors ‘parents’, referred to as “both parties” (“*As partes*”), are activated when they perform the verbal process “manifested” (“*manifestaram*”):

As partes se **manifestaram** [...], enquanto o Ministério Público [...], opinou pelo reconhecimento de **alienação parental**, com o arbitramento de multa, pela fixação do direito de convivência entre o pai e a filha em finais de semanas alternados, alternando-se, também, os feriados e encaminhamento da menor e dos genitores ao CRAS, para acompanhamento junto ao PAIF.

Example 10: *Agravo de Instrumento* (p.3)

In the following excerpt, the social actor “reporting magistrate” (“*relator*”) is activated. The magistrate’s action is expressed through the mental process “believe” (“*Tenho que*”), which projects another clause (*a medida que melhor se adequa a inibir ou atenuar os efeitos da alienação parental é a de caráter pecuniário, consistente na aplicação de multa*). Also activated is the social actor “teenager” (“*adolescente*”) in the material process “has been living” (“*já convive*”). The sentence ends with the relational process “is” (“*mostra-se*”).

Desse modo, **tenho que** a medida que melhor **se adequa a inibir ou atenuar** os efeitos da **alienação parental** é a de caráter pecuniário, consistente na aplicação de multa. Isso porque a adolescente já **convive** unicamente com a mãe há muito tempo, sendo que a alteração da guarda - cuja necessidade não se descarta -, **mostra-se** ainda assaz gravosa.

Example 11: *Agravo de Instrumento* (p.4)

Further on in the Vote section, the magistrates present jurisprudence from similar cases to justify the court’s pecuniary sanction to the mother. The social actor magistrates report that “contrary to what the appellant alleges, sufficient elements are present in the case file to indicate the practice of parental alienation, even after several warnings and clarifications”. The social actor mother is activated and classified as “appellant” (“*a parte agravante*”) when she performs the verbal process “to allege” (“*alegar*”) in her disputed version.

Como se vê, ao contrário do que **alega a parte agravante**, estão presentes nos autos elementos suficientes a indicar a prática da **alienação parental**, mesmo após diversas advertências e esclarecimentos, sendo plenamente possível a aplicação de sanção pecuniária como ultima ratio, consoante já admitido por esta Corte em casos similares, veja-se [...]

Example 12: *Agravo de Instrumento* (p.4)

In the following example, the magistrates state that the absence of a separate procedure to assess the practice of PA is not reason enough to overturn the sanction applied. Highlighted in bold is the material process “assess” (“*aferir*”):

Refira-se que a ausência de procedimento apartado para **aferir a prática da alienação parental** não é razão para derruir a sanção aplicada, porquanto seria contraproducente a repetição e traslado de atos processuais e laudos psicossociais para autos que restariam reunidos à demanda principal ao final.

Example 13: *Agravo de Instrumento* (p.5)

The social actors ‘parents’ are both specifically classified as to their role in the process, the father “the appellee party” (“*a parte agravada*”) and the mother “the appellant party” (“*a parte agravante*”). The father is activated when performing the verbal process “suggested” (“*aventou*”) and the mother is also an active agent of the verbal process “oppose” (“*contrapor*”). These are highlighted in Example 14:

Ademais, além de a jurisprudência desta Corte **admitir o reconhecimento incidental da alienação parental** em diversas demandas de guarda, visitação ou divórcio, por exemplo, na espécie extrai-se do relatório que inúmeras foram as ocasiões em que **a parte agravada aventou a prática de alienação parental**, e **a parte agravante teve** oportunidade de **contrapor** todas elas no curso do feito, sendo preservado o contraditório e inexistindo prejuízo capaz de ensejar nulidades na decisão combatida.

Example 14: *Agravo de Instrumento* (p.5)

Concerning the predominance of processes through this appeal, the mother is attributed a total of 14 processes - 6 material and 8 verbal processes. It contrasts with the processes attributed to the father; a total of 3 verbal ones. This makes for a grammatically explicit pattern in the appeal - material processes are all performed by the social actor mother and the verbal processes are mostly hers as well. It is a narrative of activity by the mother - a representation of her responsibility in every action and its consequences - not by chance in accordance with their decision that the mother is an alienator. This narrative is also reflected in the social actors' role allocation - the mother has 11 active positions while the father has 3.

Appeal #2 *Apelação Criminal*

This appeal concerns a rape case with an incidental remark on PA. The rape was perpetrated by a stepfather upon his 11-year-old stepdaughter, and the appeal is for his acquittal due to probatory insufficiency, which the magistrates declare unfeasible. However, they partially grant the appeal, reducing his custody sentence to 16 years and 4 months imprisonment in a closed regime. In the '*ementa*', the aspects of the social practice of PA included and emphasized are elements of the criminal offence and the abundance of evidence, as well as the non-recognition of PA. The magistrates also accentuate the fact that the absence of a psychological report is not meaningful in this case since there is overwhelming evidence of the rape³.

ALEGAÇÃO DE ALIENAÇÃO PARENTAL NÃO COMPROVADA. ÔNUS PROCESSUAL QUE LHE CABIA.

Example 15: *Apelação Criminal* (p.1)

In Example 15, nominalized forms appear again, as is usual in the '*ementas*'. The verbal process "allege" is turned into the noun "allegation" ("*alegação*") to compose the phrase stating that PA was unproven.

Continuing to the report section, the stepfather is an activated social actor and is also specifically classified as to his role in the process ("the accused" - "*o acusado*") when performing the material process "filed" ("*interpôs*"). In the next clause, he is backgrounded through ellipsis when performing the material process "pleaded" ("*pugnou*"). Even though

³ In addition to the consummated rape, the accused tried to rape the victim on another occasion but - due to circumstances beyond his control - he could not.

there might be political motivations for using the resource of backgrounding (Fairclough, 2003), this does not seem to be the case here, since the social actor can be inferred from the previous clauses. In this case, backgrounding is a probable means to avoid redundancy:

Irresignado com a prestação jurisdicional, o acusado **interpôs** recurso de apelação e, em suas razões, [Ø] **pugnou** pela aplicação do princípio do in dubio pro reo, diante da falta de provas a comprovar a autoria delitiva, bem como da ausência de laudo psicológico.

Example 16: *Apelação Criminal* (p.2)

The representation of PA is not always textualized with these exact words though; sometimes the judiciary refers to it using other lexico-grammatical choices, as can be seen in Example 17, “being influenced” (“*sendo influenciada*”):

[Ø] **Alegou**, ainda, que a vítima **está sendo influenciada** por sua genitora. Assim, [Ø] **requereu** a absolvição do réu, [...]

Example 17: *Apelação Criminal* (p.2)

Elliptical backgrounding of the social actor ‘stepfather’ continues in this clause when he performs the verbal process “Alleged” (“Alegou”). Although backgrounded, the social actor stepfather is in an active position in the representation when he alleges that the passivated social actor stepdaughter, “the victim” (“*a vítima*”), “is being influenced by her mother”. When passivated, the social actor suffers the action instead of being responsible for it, thus, her capacity for agentive action is hindered in this choice of representation (Fairclough, 2003, p.150). Then, still backgrounded through ellipsis, the social actor stepfather is activated when performing the material process “requested” (“*requereu*”). So, based on an unfounded accusation of PA, the social actor stepfather actively requests his acquittal.

Going ahead to the next mention of the practice of PA in this decision, in the Vote section we see:

Ademais, em suas razões, **afirmou o apelante** que **a vítima sofre** de **Síndrome de Alienação Parental**, sendo que "**a implantação das falsas memórias na menor** foi um processo sistemático, rotineiro, **visando a genitora da menor se afastar** do relacionamento com o **C.** e **passar a coabitar** com seu **atual amante (S.)** atualmente companheiro more uxório, sem, sequer, **esperar** o fim do processo que **provocou**".

Example 18: *Apelação Criminal* (p.6)

In Example 18, the social actor stepfather is activated, specifically classified as “the appellant” (“*o apelante*”) when performing the verbal process “asserted” (“*afirmou*”). The “victim” (“*a vítima*”), the social actor stepdaughter, is classified according to her role in this case and is activated when performing the material process “sofre [de Síndrome de Alienação Parental]”. The clause then features a nominalization - “*a implantação de falsas memórias na menor*”, that is, the social actor stepdaughter is here specifically classified in regards to her underage status. It relates to the next process, a mental one, “aiming” (“*visando*”), performed by the activated social actor mother, here specifically classified as the “the minor’s parent” (“*genitora da menor*”). The clause continues with the social actor mother activated to perform both the material processes “to stray” (“*se afastar*”) and “start to cohabit” (“*passar a coabitar*”) with her “current lover” (“*atual amante*”). The stepfather goes on with his statement, claiming that the mother did not even “wait” for the end of the process which she “provoked” (“*provocou*”), still with her position marked as active in both material processes. Noticeable in this segment is the use of quotation marks on the greater part of the claims presented by the appellant, starting from the “implantation of false memories” onwards. It could represent an explicit partition between his declaration and that of the magistrates, distancing themselves from the defendant’s outlandish claim. His thesis of being a victim of PA is completely out of place since he does not have a parental relationship with his rape victim. It is curious to notice how in many instances the judiciary will invalidate a claim on a mere technicality, but in this case, they admitted and validated the appellant’s allegation of PA, even though he was not a parent of the child in question. Although they ended up not accepting his claim on the grounds of lack of evidence, the mere discussion of PA in this case represents the magistrates’ acknowledgement of a rather bizarre claim. The case needed not be proven as it could not be characterized as PA. This exemplifies how the concept of PA is a fuzzy one, thus open to being instrumentalized as a defence strategy, or simply too unclear for law operators to understand and deal with it properly.

Adjacent to that, the magistrates declare that the defendant’s thesis is not in the least corroborated, since there was not a single record of the victim’s parents influencing her to blame the accused:

No entanto, a tese defensiva não ficou minimamente demonstrada nos autos, uma vez que não **há** qualquer relato de que os genitores da vítima **estariam** lhe **influenciando** para **imputar** as condutas descritas na exordial ao acusado.

Example 19: *Apelação Criminal* (p.6)

In Example 19, the existential process “there is” (“*há*”) is related to the activated social actors ‘parents’, here specifically classified as the “parents of the victim” (“*os genitores da vítima*”) when they actively perform all of the following material processes: “would be influencing” (“*estariam influenciando*”), and “blame” (“*imputar*”).

In regards to the prevalence of processes throughout this appeal, the mother⁴ is attributed a total of 8 processes - 6 material; 1 mental and 1 existential. There is a total of 5 processes attributed to the stepfather - 3 material and 2 verbal. Concerning social actors’ role allocation, the mother (in 3 instances with the father “the parents”) has 8 active positions while the stepfather has 5 activations.

Appeal #3 *Agravo de Instrumento*

This is an *agravo de instrumento* filed by the mother (identified in this work by her initials “J.M.”) against a first instance court decision that denied her request to change the father’s visitation to their son.

To start with, the appellate decision emphasizes, in the representation of the social practice of PA, the issue of visitation and the insurgency of the social actor mother, here classified via her role in this legal process - “the defendant” (“*a ré*”). The actions performed by the parties are all nominalized which, as mentioned before, is a common practice in structuring an ‘*ementa*’, as shown in Example 20.

⁴ In Example 19 the agents are the mother and the father as well (“parents of the victim”)

ACÇÃO DECLARATÓRIA DE **ALIENAÇÃO PARENTAL** C/C **REGULAMENTAÇÃO DE VISITAS**. **DECISÃO INTERLOCUTÓRIA** QUE INDEFERIU PEDIDO DE **NOVA ALTERAÇÃO DAS VISITAS**. **INSURGÊNCIA DA RÉ**.

Example 20: *Agravo de Instrumento* (p.1)

Also included in the representation of PA in this ‘*ementa*’ is the lack of evidence to corroborate the mother’s claims that the father is a drug abuser and has improper conduct. There are 2 material processes: “provide” (“*prestam*”) and “prove” (“*comprovar*”) connected to the social actor “genitor” (“*father*”), here specifically classified as to his relationship to the son:

TESE FUNDADA EM ELEMENTOS UNILATERAIS, QUE NÃO SE **PRESTAM A COMPROVAR** A DEPENDÊNCIA QUÍMICA OU EFETIVA CONDUTA DESABONADORA DO GENITOR.

Example 21: *Agravo de Instrumento* (p.1)

Furthermore, closing the ‘*ementa*’ section, the magistrates chose to emphasize the “best interest of the child (“*melhor interesse da criança*”), which “is achieved by the strengthening of the father-son contact”. The social actors “Father” (“*pai*”) and “son” (“*filho*”) are specifically classified as to their role in the parental relationship:

MELHOR INTERESSE DA CRIANÇA QUE É **ATENDIDO** PELO FORTALECIMENTO DO CONVÍVIO ENTRE PAI E FILHO.

Example 22: *Agravo de Instrumento* (p.1)

Once again, the magistrates chose to include and emphasize the element of visitation in the representation of the social practice of PA, this time in the Vote section of the decision. They state that if there is a right to visitation, it belongs to the “visited” (“*visitado*”), which is the specific classification of the social actor son, and not to the “visitor” (“*visitante*”), which is the specific classification of the social actor father. Concerning the processes, there are 2 occurrences of the same relational identifying process “is” (“*é*”). In the second instance, the

activated participant is the son, here named “him” (“*ele*”), related to the previous clause where they call him “visited” (“*visitado*”):

[...] se há um direito, esse é do visitado, ele é o verdadeiro detentor do direito, e não o visitante.

Example 23: *Agravo de Instrumento* (p.2)

Going further on the Vote section, the judiciary emphasizes the judicial decision itself, which “aims to inhibit” (“*visa inibir*”) “possible practice of parental alienation” (“*eventual prática de alienação parental*”), both material processes affected on the social actor “mother” (“*mãe*”), here classified as to her position in the paternal relationship. Although nominalized, this segment attributes agency of the alienation to the mother - the alienation is her responsibility. In this appeal, the judiciary acts preventively aiming to inhibit the potential practice of PA. This differs from the other appeals where the alleged PA had already taken place at the time of the decision. These features are highlighted in Example 24:

Diante deste quadro e ressaltando-se que o presente feito visa [...] **inibir** eventual prática de **alienação parental** por parte da mãe, conclui-se que o interlocutório deve permanecer incólume, até como meio de se fortalecer o relacionamento com ambos genitores, direito este de grande valor ao infante.

Example 24: *Agravo de Instrumento* (p.3)

Regarding both the preponderance of processes and social actors’ role allocation in this appeal, the father actively performs 2 material processes while the mother has 2 material processes attributed to her.

Appeal #4 *Apelação Cível*

This is a suit for moral damages compensation filed by the mother against the father and grandparents of her 2 daughters. The elements that the magistrates chose to include in the ‘*ementa*’ section are those pertaining to the duty to compensate in cases of PA and the

importance of evidence. Also included and emphasized is that the burden of proof belongs to the accuser and that this legal principle was not followed in this event.

AÇÃO DE INDENIZAÇÃO POR DANOS MORAIS. PRETENSÃO FUNDAMENTADA NA SUPOSTA PRÁTICA DE ALIENAÇÃO PARENTAL POR PARTE DOS REQUERIDOS. [...] TESE, NO ENTANTO, DESPROVIDA DE SUBSTRATO PROBATÓRIO

Example 25: *Apelação Cível* (p.1)

The ‘*ementa*’, as customary, brings several nominalizations such as the “Supposed acknowledgement of the duty to compensate” (“*indenizar*”), which is a material process related to the “practice of PA”, highlighted in Example 26:

PRETENSO RECONHECIMENTO DO DEVER DE **INDENIZAR** DIANTE DA PRÁTICA DE ALIENAÇÃO PARENTAL.

Example 26: *Apelação Cível* (p.1)

In the excerpt below, the names are naturally suppressed: the mother is ‘C.’, the father is ‘A.D.’, the grandfather is ‘J.D.’, the grandmother is ‘A.R.D.’, and the minors are ‘G.D.’ and ‘C.R.’. The abbreviations make for the specific naming of the social actors involved in the processes, and “minors” (“*menores*”) is the specific classification of the social actors daughters in regards to their age. ‘C.’, the mother, is then active when performing the material process “filed” (“*ajuizou*”) and verbal process “adding” (“*aduzindo*”) “the occurrence of PA”, which is a nominalized form of “PA occurred”. Also active are “os *requeridos*”, that is, the father and grandparents when performing the material process “practiced” (“*praticada*”) on the “minors” (“*menores*”).

‘C.’ **ajuizou** ação de indenização por danos morais em face de ‘A.D.’, ‘J.D.’ e ‘A.R.D.’, **aduzindo**, em síntese, a ocorrência de alienação parental, **praticada** pelos requeridos, em face da menores ‘G.D.’ e ‘C.R.’.

Example 27: *Apelação Cível* (p.2)

Then, “the author” (“*a autora*”), which is the specific classification given to the social actor mother in this appeal, actively performed the material process “filed” (“*interpôs*”) and the verbal process “alleging” (“*alegando*”). The social actors ‘daughters’ are specifically classified here as to their age - “two minors” (“*duas menores de idade*”), when affected by the material process “suffered” (“*sofrida*”) [PA], which was “practiced” (“*praticada*”, a material process) by “the appealed” (“*os apelados*”), the specific classification given to the social actors father and grandparents, against the “appellee” (“*apelante*”):

Irresignada, a autora **interpôs** recurso de apelação cível (fls. 182-193), **alegando**, em síntese, que a decisão do magistrado de primeiro grau **merece ser reformada**, pois **restou caracterizada** nos autos a alienação parental sofrida pelas duas menores de idade, **praticada** pelos apelados contra a apelante.

Example 28: *Apelação Cível* (p.2)

The next example shows the activated social actor ‘mother’ backgrounded through ellipsis, probably to avoid reiteration since her agency can be inferred from the immediate previous clauses. She actively performs the verbal process “Sustains” (“*Sustenta*”), and the “appellees” (“*apelados*”) also actively performed the following material processes: “acted” (“*agiram*”); “act” (“*agem*”); prohibiting (“*proibindo*”); “implanting” (“*implantando*”); [not] “respecting” (“*respeitando*”); “using” (“*usando*”); “spoil” (“*estragar*”); “allowing” (“*permitindo*”) and “instilled” (“*incutidos*”). The mother claims that negative feelings were instilled by the “alienator” (“*alienante*”), which is the specific classification of the social actor father as to the practice of PA. That affects the daughters when it follows with the material processes “lead them not to want” (“*façam não mais querer*”) the presence of the “alienated mother” (“*genitora alienada*”), which is the specific classification of the social actor mother according to the practice of PA.

[ø] **Sustenta**, que os apelados "**agiram** e **agem** de forma comissiva, **proibindo** as visitas da apelante, **implantando** falsas verdades na cabeça das menores, não **respeitando** a relação das mesmas com a sua genitora, **usando** de todos os meios para **estragar** a relação afetiva, **permitindo** que sentimentos negativos, **incutidos** pelo alienante, as **façam** não mais **querer** a presença da genitora alienada"

Example 29: *Apelação Cível* (p.2)

The mother's claim in the extract above was presented with quotation marks by the reporting magistrate. This is significant because it represents a choice by the judiciary to use direct reporting as a way to distance themselves from the quoted text (Fairclough, 2003). According to Halliday (2004), "in quoting, the projected element has independent status" (p. 462)

Com efeito, o pedido indenizatório está alicerçado na alegação de que os requeridos estariam praticando alienação parental sobre as infantes, contra a genitora/apelante, devido a disputa da custódia da criança e da adolescente.

Example 30: *Apelação Cível* (p.3)

In Example 30, the judiciary evaluates the compensation claim based on the allegation that the father and grandparents would be practicing PA on the infants against the mother because of their custody dispute. The social actors father and grandparents are specifically classified as to their role in this appellate decision - the "required" ("*os requeridos*"), when they actively "would be practicing PA" ("*estariam praticando AP*"), a material process enacted over the infants ("*infantes*"), which in turn is the specific classification of the social actors daughters according to their age. The mother is also specifically classified as both a parent and appellant ("*genitora/apelante*"), and the daughters are again specifically classified as to their age "the child and adolescent" ("*da criança e da adolescente*").

O fenômeno da alienação parental é **definido** no art. 2º, da Lei 12.318/10, nos seguintes termos:

Considera-se ato de alienação parental interferência na formação psicológica da criança ou do adolescente **promovida** ou **induzida** por um dos genitores, pelos avós ou pelos que tenham a criança ou adolescente sob a sua autoridade, guarda ou vigilância para que **repudie** o genitor ou **cause** prejuízo ao estabelecimento ou à manutenção de vínculos com este.

Example 31: *Apelação Cível* (p.3)

Then, the magistrates define the legal concept of PA according to the Brazilian PA Law (*Lei 12.318/10*). In this excerpt of the law there is the mental process “considera-se” and the following material processes: promoted (“*promovida*”); “induced” (“*induzida*”); “repudiate” (“*repudie*”); and “cause” (“*cause*”). Social actors are specifically classified - “*genitores*” and “*avós*” - as to their relationship to the “child” (“*criança*”) and “adolescent” (“*adolescente*”). Finally, the social actor “parent” is also specifically classified and then referred to as “este” (“this”).

Convém destacar que a prova testemunhal em nada contribuiu para corroborar a aventada tese inaugural, principalmente no que concerne a ocorrência de **alienação parental praticada** pelos apelados.

Example 32: *Apelação Cível* (p.4)

Next, the appellate decision includes and emphasizes the element of the testimonial evidence in relation to the mother’s thesis, especially with regards to the occurrence of PA practiced by the “appellees” (“*apelados*”), which is the specific classification given to the social actors father and grandparents.

Além do mais, como bem **consignou** o Ministério Público em seu parecer, “(...) **a dita alienação** não **restou demonstrada** nestes autos.

Example 33: *Apelação Cível* (p. 5)

In Example 33, the magistrates decided to include and emphasize the argument from the Public Prosecution that the PA was not sufficiently demonstrated in the records while taking the opportunity to praise their fellow legal practitioners (public prosecutors). The practice of PA is here referred to as “the said alienation” (“*a dita alienação*”), which casts doubt on its veracity. Again, the magistrates represent the alienation as the mother’s thesis, distancing themselves from her point of view.

Diante do comportamento pretérito da genitora, as atitudes dos avós não **podem ser** conceituadas como '**alienação parental**', pois é normal e compreensível o receio, ainda que

juridicamente infundado, de **perderem** o contato com aquelas que **ajudaram a criar** (...)" (fl. 166).

Example 34: *Apelação Cível* (p. 6)

In the chunk displayed above, the judiciary reasons that, given the mother's past behaviour, the grandparents' conduct cannot be seen as PA since the fear, albeit legally unfounded, of losing contact with those they helped to raise is normal and understandable. The social actor mother is specifically classified as to her relationship with the daughters, "parent" ("*genitora*") as well as the social actors "grandparents" ("*avós*"). Additionally, there are 2 relational attributive processes: "may be" ("podem ser") and "is" ("é"); and the following material processes: "lose" ("*perderem*"); helped ("*ajudaram*"); and "raise" ("*criar*").

Outrossim, no tocante a alegação de que existe contradição na sentença a quo, devido o magistrado entender que não ficou caracterizada a **alienação parental** mas, em contrapartida, acatou pedido ministerial e determinou a inclusão das menores no serviço de acompanhamento psicológico; esta argumentação cai por terra quando da fundamentação do decisum frisa-se que é "importante ressaltar as declarações das crianças, das quais se denota, apesar das dificuldades em tocar no assunto, que em nenhum momento foram maltratadas pelos requeridos ou, ainda, instigadas a se afastarem da autora. Na verdade, dessume-se a desídia da requerente no trato da preservação dos laços familiares, a qual, de forma reiterada, **afasta-se** por longos períodos do contato com as infantes, **prejudicando**, assim, o desenvolvimento destas" (fl. 174).

Example 35: *Apelação Cível* (p.6)

Closing their vote, the magistrates chose to include and accentuate the lack of grounds for the mother's allegation that there was a contradiction in the first instance decision since it was based on the children's testimony that they were not being mistreated or influenced to distance themselves from their mother. Instead, the estrangement is attributed to the mother's conduct. The other element emphasized in this chunk is the importance of the children's testimony, something that is reiterated throughout the decision. In his article "*O mito do superior interesse da criança e do adolescente*", Nakamura (2020) reflects on "the myth of

the best interest of the child and adolescent” - a premise often invoked by the judiciary. While the children should naturally be heard - as is their right -, they should not single-handedly carry the responsibility of deciding the family’s fate, which is incompatible with “the needs and interests of developing subjects” (BRITO, 1999, p. 178 apud NAKAMURA, 2020).

The social actors ‘daughters’ are specifically classified as to their age “minors” (“*menores*”) and “children” (“*crianças*”). The social actors ‘grandparents’ and ‘father’ are specifically classified as to their role in this appellate decision (“*requeridos*”), as well as the social actor mother who is the “author” (“*autora*”). She is then again specifically classified as to her role in this appeal (“*requerente*”) who actively performs both the material processes “distancing” (“*afasta-se*”) and “harming” (“*prejudicando*”). In this piece, the effects of attributed agency are in full display as the mother’s ‘bad behaviour’ is presented as directly harming the daughter’s growth. This choice of the judiciary affirms her responsibility in this case - freeing from blame the supposed alienators.

With respect to the predominance of processes, there are 16 material and 2 relational processes attributed to the father and grandparents and 4 material and 3 verbal processes attributed to the mother in this appellate decision. While the father and grandparents have 14 active positions the mother has 7. This reflects the lack of agency attributed to the mother by the magistrates: in their representation she is acted upon - her attributed social role is one of the receiver of the action; not the doer.

Discussion of the results:

Concerning the elements that the magistrates chose to include and emphasize in their representation in the 4 appellate decisions, the current and most voiced one is the rights of the child, more specifically in terms of rights to visitation and to a healthy familial relationship. Regarding the elements that the judiciary chose to exclude, the most salient is the child’s protection and safety. The magistrates subscribe to the representation of the nuclear family as the most sacred and safe place for a child, incurring in the naturalization of the view that the best interest of the child is necessarily together with her mother and father. This is a value shared with some of the proponents of PAS, such as Darnall (1999 apud HOULT, 2006, p. 31), who ignores “the negative effects of myriad parental behaviours including infidelity, abandonment, alcohol and drug abuse, domestic violence, physical abuse, sexual abuse, and emotional abuse.” Indeed, inside the family is where most of the cases of child abuse occur, and of notice is the fact that “allegations of child maltreatment are frequently contested - that is a claim of maltreatment often sparks a counter-claim - the allegation is false” (MILDRED

apud FALLER, 2005). What's more, sexual abuse is pervasive and prevalent against children; the danger is usually within families or closed community, as 72,3% of all child sexual abuse cases happen inside the victim's or the assailant's home (CHILDHOOD BRASIL, 2019). Besides, domestic violence always harms a child, if not directly then through the violence aimed at their mother (THURLER, 2019). In short, children are not always safe within the family and the magistrates seem to ignore that, at least in these 4 decisions. If the child is not safe within the nuclear family the extended family or even a foster family should be an option but the magistrates do not seem to consider that. However, it must be noted that in these full content decisions that I could access I did not find any instance where the magistrate's decision jeopardized the child's safety. Still, as I have noted before, this is a small sample and therefore cannot be generalized.

With regards to the representation of action in the whole, there is a predominance of material processes - 39 ones followed by 16 verbal processes. In a much lower count, comes 2 relational processes; 1 mental process and 1 existential process. Considering social actors' role allocation, it is primarily active with mothers leading the way with 26 active roles and fathers with 24 active roles - displayed in the table below. This backs up the previous data, reaffirming who stands out in the PA scene - the mothers. Social actors are all specifically classified, as customary in the genre judicial decision. The most common form of process ascribed to women in the appeals was of the material type, which accounted for 18, followed by 11 verbal processes. Men, on the other hand, were assigned a total of 21 material processes and 5 verbal processes. It seemed to me that this quantification contradicts my earlier ones, in which women consistently outnumber males in the PA social practice. However, this is a reflection of Appeal 4 where the "father/men" count includes the grandmother and grandfather, i.e., three persons acting - resulting in 16 of the total 21 material processes for males coming from this appeal alone. Appeal 4 also resulted in a large increase in the activation count for fathers, since 14 of the fathers' active positions (out of a total of 24) came from this appeal alone.

Table 4 - Social actors activation count in the appellate decisions analysed

	Mothers	Fathers
Active roles	26	24

5. FINAL REMARKS

This study arose from the need to examine how the social practice of PA was represented by *TJSC* and whether these representations and the recognition of PA differ according to the gender of the supposed alienator.

My first research question was answered in the affirmative - yes, there is a difference in the recognition of PA by *TJSC* according to gender. A substantial one for that matter - 59 recognitions of PA enacted by women against 23 recognitions of PA enacted by men. Furthermore, the data shows a total of 123 women as alleged alienators in contrast to 64 men as alleged alienators.

The second research question was regarding the perspective from which the magistrates represent PA: it can be summed up by their reiterating of the nuclear family as an irreproachable and standard place for the child. The magistrates' most expressed concern is the child's rights - particularly in terms of visitation and a healthy family bond with both parents. Yet, an important aspect that the judges chose to ignore is the child's protection and safety inside the family, disregarding the variable reasons a family might not be the best option for a child.

Answering my third research question, the analysis indicates that representation of PA does change according to the gender of the alleged alienator. Regarding the role allocation of social actors, it is largely active - with mothers at the forefront with 26 active roles, and fathers with 24 active roles. This corroborates my quantitative data showing who appears most actively in the parental alienator's scene - the women. In terms of transitivity (HALLIDAY; MATHIESSEN, 2004), the most frequent type of process attributed to the women in the appellate decisions were material ones - 16 counts followed by 11 counts of verbal processes. Meanwhile, men were attributed a total count of 21 material processes and 5 verbal ones. It called my attention that this quantification clashes with my previous ones - where women always appear ahead of men in the PA social practice. However, that is a reflection of Appeal 4 where the fathers'/men's count includes the grandmother and grandfather, that is, 3 people acting thus 16 material processes of the total 21 count for men came from this appeal alone. Appeal 4 also led to an increase in the fathers'/men's activation of social actors' count - because all of 14 active positions from the total of 24 came from this appeal alone.

The results corroborate the previously made criticisms about the Brazilian PA legislation, showing that it is gender-biased and open to be used by some men as another form of violence against women and children. The PA law is also ideological, as it has served to maintain relations of domination of men over women and children.

A great limitation to this research was the issue of the secrecy of justice which significantly limited my access to full-content decisions, thus hindering my options as to material for analysis. To overcome that, I suggest further research requesting access to full-content appellate decisions involving PA concomitant with sexual abuse or rape - since I could not look into the full-content of these cases and the quantitative analysis I carried out suggests a high overlapping incidence of these issues. Among the 187 *ementas* containing the PA issue, there were 27 cases of child sexual abuse and 8 child rapes - a worrisome setting that should be better investigated.

An additional suggestion for further research is to employ Van Leeuwen's (2007) Legitimation in Discourse framework for the analysis of how the *TJSC* discourses produce legitimation for the PA social practice. Van Leeuwen's (2007) framework works inside Systemic Functional Linguistics (SFL) being heavily dependant on it for lexical and grammatical choices. The framework divides legitimation into four primary categories: Authorization, Moral evaluation, Rationalization, and Mythopoesis. These categories can appear in text alone or in combination, and they can function as both legitimizing and delegitimizing strategies.

REFERENCES

ALEXANDER, R. et al **Collective Memo of Concern**. 2019 Disponível em: <http://www.learningtoendabuse.ca/WHO.22April-L.pdf>, 2019 Acesso em: 17 jun. 2021.

ASSESSORIA DE COMUNICAÇÃO DO INSTITUTO BRASILEIRO DE DIREITO DE FAMÍLIA - IBDFAM. **OMS reconhece a existência do termo Alienação Parental e o registra no CID-11**. 2018 Disponível em: <https://ibdfam.org.br/noticias/6717/OMS+reconhece+a+exist%C3%Aancia+do+termo+Aliena%C3%A7%C3%A3o+Parental+e+o+registra+no+CID-11>, 2018. Acesso em: 17 jun. 2021.

BATALHA, G.; SERRA, M. **PRODUÇÕES DISCURSIVAS DE GÊNERO: UMA REFLEXÃO CRÍTICA SOBRE A LEI 12.318/2010 E A “SÍNDROME DA ALIENAÇÃO PARENTAL”**. 2019. Revista de Direito de Família e Sucessão, v. 5, n. 2, p. 19 - 37, e-ISSN: 2526-0227, Belém, Jul/Dez. 2019.

BRASIL **Lei Nº 12.318, de 26 de agosto de 2010**. 2010. Dispõe sobre a alienação parental e altera o art.236 da Lei nº 8.069, de 13 de julho de 1990. Disponível em: http://www.planalto.gov.br/ccivil_03/_ato2007-2010/2010/lei/112318.htm 2010.

BRASIL **Relatório da Comissão Parlamentar de Inquérito**. 2017-2018 <https://www12.senado.leg.br/noticias/arquivos/2018/12/06/relatorio-da-comissao-parlamentar-de-inquerito> 2017-2018.

BRUCH, C.S. **Parental Alienation Syndrome and Parental Alienation: Getting It Wrong in Child Custody Cases**. 2001 Family Law Quarterly, 35, 527-552, 2001.

CABRAL, A. et al **Lei da mordaza? Da “alienação parental” à alienação patriarcal como expressão de violência de gênero**. 2020 IN: Caderno Temático nº 38 CRP 06 SP Cristalização, patologização e criminalização da vida no sistema de Justiça: “Alienação Parental” e a atuação da/o psicóloga/o. 1st. ed. São Paulo: Conselho Regional de Psicologia de São Paulo, 2020.

CHIAVERINI, T. **Lei expõe crianças a abuso: A lei de alienação parental, que deputado pretende tornar mais severa, abre brechas para que vítimas de abuso sexual sejam obrigadas a viver com pais suspeitos da agressão**. 2017. Disponível em: <https://apublica.org/2017/01/lei-expoe-criancas-a-abuso> Acesso em 27 de jun. de 2021.

CRUZ, R. A. da. **A prova material nos crimes sexuais**. 2002. Revista do Ministério Público / Procuradoria Geral de Justiça do Estado do Rio Grande do Sul, n. 53, p. 185-203, 2002.

CRUZ, R. A. da. **Alienação parental: uma nova forma de violência contra a mulher**. 2019. Disponível em: <http://www.justificando.com/2017/08/23/alienacaoparental-uma-nova-forma-de-violencia-contramulher> Acesso em 23 ago. 2021.

COACCI, T. **A Pesquisa com Acórdãos nas Ciências Sociais: Algumas Reflexões Metodológicas**. 2013. Mediações, Londrina, v. 18, n. 2, p. 86-109, Jul-Dec 2013. ISSN DOI: 10.5433/2176-6665.2013v18n2p86. 2013.

DALLAM, S. J. **Parental Alienation Syndrome: Is it scientific?** 1999 In E. St. Charles & L. Crook (Eds.), *Expose: The failure of family courts to protect children from abuse in custody disputes*. Los Gatos, CA: Our Children Our Children Charitable Foundation. Disponível em: <http://leadershipcouncil.org/1/res/dallam/3.html> Acesso em 02 set. 2021.

DARNALL, D. **New Definition of Parental Alienation: What is the Difference Between Parental Alienation (PA) and Parental Alienation Syndrome (PAS)?** 1997 Disponível em: <https://docs.google.com/viewer?a=v&pid=sites&srcid=ZGVmYXVsdGRvbWFpbmFjYXV9wYXJlbnRhbHxneDozNTZiNTk2MzU0NGVhMWNl> Acesso em: 9 jun. 2021.

DOUGHTY, J., MAXWELL, N. e SLATER, T. **Review of research and case law on parental alienation School of Law and Politics.** 2018 Cardiff: School of Social Sciences, Cardiff University. <https://gov.wales/sites/default/files/publications/2018-05/review-of-research-and-case-law-on-parental-alienation.pdf> Acesso em 20 jun 2021.

INSTITUTO BRASILEIRO DE GEOGRAFIA E ESTATÍSTICA - IBGE **Estatísticas de Gênero: Indicadores Sociais das Mulheres no Brasil - 2a edição.** 2021 Estudos e Pesquisas - Informação Demográfica e Socioeconômica n.38 Disponível em: https://biblioteca.ibge.gov.br/visualizacao/livros/liv101784_informativo.pdf . Acesso em 25 jul 2021.

FAGUNDES, C. **Lei pode obrigar crianças a conviver com abusadores. Legislação que tipificou a alienação parental usa teoria controversa como base e pode deixar ainda mais vulneráveis vítimas de abuso sexual.** 2018 Revista Azmina Disponível em: <https://azmina.com.br/reportagens/alienacao-parental> Acesso em 25 jul 2021.

FAIRCLOUGH, N. **Analysing Discourse: Textual Analysis for Social Research.** London: Routledge, 2003.

FAIRCLOUGH, N. **Critical discourse analysis as a method in social scientific research.** 2001 In R. Wodak & M. Meyer (Eds.), **Methods of Critical Discourse Analysis** (pp. 121–138). London: Sage, 2001.

FERREIRA, C. e ENZWEILER, R. **Síndrome da alienação parental, uma iníqua falácia.** 2014 Revista Esmec, SC- Brasil, v. 21, n. 27 Disponível em: <https://revista.esmesc.org.br/re/article/view/97>. Acesso em 12 maio 2021.

FIGUEIREDO, D. **Discipline and Punishment in the Discourse of Legal Decisions on Rape Trials.** 2002 IN: COTTERILL, J. **Language in the Legal Process** Basingstoke: Palgrave Macmillan, 2002. cap. 16, p. 260- 274, 2002.

HALLIDAY, M.A.K. & MATTHIESSEN, C. **An Introduction to Functional Grammar.** 2004. NY: Oxford University Press Inc, 2004.

INSTITUTO BRASILEIRO DE DIREITO DE FAMÍLIA **IBDFAM website** Disponível em: <https://ibdfam.org.br/noticias/busca/> Acesso em 17 jun. 2021.

G1 - GLOBO PORTAL DE NOTÍCIAS **Mulheres ocupam 25% das vagas em parlamentos no mundo, aponta estudo.** 2020 Disponível em: <https://g1.globo.com/mundo/noticia/2020/03/06/mulheres-ocupam-25-das-vagas-em-parlamentos-no-mundo-aponta-estudo.ghtml> Acesso em 25 jul. 2021.

GARDNER, R.A. **Recent Trends in Divorce and Custody Litigation.** 1985 Academy Forum, Volume 29, Number 2, Summer, 1985, p. 3-7, 1985.

GARDNER, R.A. **True and False Accusations of Child Sex Abuse.** 1992 Cresskill, NJ: Creative Therapeutics, 1992.

GARDNER, R.A. **Parental Alienation Syndrome (PAS): Sixteen Years Later.** 2001a Academy Forum, 2001, 45(1):10-12, 2001.

GARDNER, R.A. **Basic Facts About The Parental Alienation Syndrome.** 2001 Disponível em: http://richardagardner.com/Pas_Intro 2001. Acesso em 20 mar. 2021.

HOULT, J. **The Evidentiary Admissibility of Parental Alienation Syndrome: Science, Law, and Policy.** 2006 Children's Legal Rights Journal, 2006.

KELLY, J. e JOHNSTON, J. **THE ALIENATED CHILD A Reformulation of Parental Alienation Syndrome.** 2001 FAMILY COUPX REVIEW, Vol. 39 No. 3, July 2001 249-266 <https://www.researchgate.net/publication/227680682> Acesso em 05 jun. 2021.

LOURES, R.; FELIPPE, A. **10 ANOS DA LEI DE ALIENAÇÃO PARENTAL: UMA ANÁLISE DA JURISPRUDÊNCIA BRASILEIRA**. 2020 CADERNOS DE PSICOLOGIA, Juiz de Fora, v. 2, n. 4, p. 4-26, jul./dez. 2020 – ISSN 2674-9483, 2020.

MEIER, J. **Parental alienation syndrome and parental alienation: Research reviews**. 2009 Disponível em: http://www.vawnet.org/Assoc_Files_VAWnet/AR_PAS.pdf Acesso em 15 fev. 2021.

MEIER, J. **Parental Alienation Syndrome and Parental Alienation: A Research Review**. 2013 Harrisburg, PA: VAWnet, a project of the National Resource Center on Domestic Violence. Disponível em: <https://www.courts.ca.gov/documents/BTB25-PreConDV-11.pdf> Acesso em 15 fev. 2021.

MEIER, J. **U.S. child custody outcomes in cases involving parental alienation and abuse allegations: what do the data show?** 2020 Journal of Social Welfare and Family Law, 2020.

MENDES, J. **Reflexões Sistêmicas Sobre o Olhar dos Atores Jurídicos que Atuam nos Casos de Disputa de Guarda Envolvendo Alienação Parental**. 2013 Brasília: UNB. Disponível em: https://repositorio.unb.br/bitstream/10482/15118/1/2013_JosimarAntoniodeAlcabtaraMendes.pdf Acesso em 14 fev. 2021.

NAKAMURA, C. **O mito do superior interesse da criança e do adolescente**. 2020 IN: Caderno Temático n° 38 CRP 06 SP Cristalização, patologização e criminalização da vida no sistema de Justiça: “Alienação Parental” e a atuação da/o psicóloga/o. 1st. ed. São Paulo: Conselho Regional de Psicologia de São Paulo, 2020.

NATIONAL COUNCIL OF JUVENILE AND FAMILY COURT JUDGES **Judicial Guide to Child Safety in Custody Cases**. 2008 Reno, NV, 2008. Disponível em: https://www.ncjfcj.org/wp-content/uploads/2012/02/judicial-guide_0_0.pdf Acesso em 14 jun. 2021.

RIBEIRO, P. **Lei de Alienação Parental: Uma Análise das Propostas de Alteração legislativa em Tramitação no Congresso Nacional**. 2020 Brasília: UNB. Disponível em: <https://bdm.unb.br/handle/10483/26496> Acesso em: 21 jul. 2021.

RIEGER, P. **Neuronarratives, geopolitics and the pharmaceuticalisation of mental health: connecting the dots in the judicial discourse about attention deficit and hyperactivity disorder**. 2019 Florianópolis: UFSC. Disponível em: <https://repositorio.ufsc.br/handle/123456789/204402> Acesso em: 26 jul. 2021.

ROYAL COMMISSION INTO INSTITUTIONAL RESPONSES TO CHILD SEXUAL ABUSE **Final Report: Vol. 4 Identifying and disclosing child sexual abuse**. 2017 Commonwealth of Australia ISBN 978-1-925622-44-7, 2017

SALES, A. **A Possível Revogação da Lei da Alienação Parental no Ordenamento Jurídico Brasileiro**. 2020 Fortaleza: UFC Disponível em: http://repositorio.ufc.br/bitstream/riufc/55196/1/2020_tcc_amsales.pdf Acesso em: 16 mai. 2021.

SILBERG, J.; DALLAM, S.; SAMSON, E. **Crisis in Family Court: Lessons From Turned Around Cases Final Report**. 2013. Office of Violence Against Women, U.S. Department of Justice. 2013.

SOCIEDADE BRASILEIRA DE PEDIATRIA - SBP **Manual de Orientação - Departamento Científico de Adolescência - Alienação parental: o que é? Como conduzir?** 2019-2021

SOCIEDADE BRASILEIRA DE PEDIATRIA - SBP website https://www.sbp.com.br/resultado-da-pesquisa/?tx_kesearch_pi1%5Bsword%5D=aliena%C3%A7%C3%A3o+parental Acesso em: 17 jun. 2021

SOTTOMAYOR, M. C. **Uma análise crítica da síndrome de alienação parental e os riscos da sua utilização nos tribunais de família**. 2011 Julgar.n. 13. Portugal: Coimbra Editora, Disponível em: <http://julgar.pt/wp-content/uploads/2015/10/073-107-Alienação-parental.pdf> Acesso em: 29 abril 2021.

SOUSA, A. M. de **A consagração das vítimas nas sociedades de segurança**. 2014 Revista EPOS, v.5, n. 1, Rio de Janeiro, 2014.

SOUSA, A. M. de; BRITO, L. M. T. de **Síndrome de alienação parental: da teoria Norte-Americana à nova lei brasileira**. 2011 Psicol. cienc. prof., Brasília, v. 31, n. 2, p. 268-283 Disponível em: <http://dx.doi.org/10.1590/S1414-98932011000200006> Acesso em: 02 mai. 2021.

SOUSA, A. M. de **Síndrome da alienação parental: análise de um tema em evidência**. 2009 Universidade do Estado do Rio de Janeiro, Rio de Janeiro, 2009.

TALAN, J. **The debate rages on... In Death, Can He Survive? Psychiatrist Richard A. Gardner's theory - used by parents in child custody battles - gained prominence. And critics**. 2003 Newsday.com, July 1, 2003 Disponível em: <http://www.leadershipcouncil.org/1/pas/talan.html> Acesso em: 01 mai. 2021.

THEMIS **Entenda porque revogar a Lei de Alienação Parental é importante para mulheres e crianças**. 2019 Disponível em: <http://themis.org.br/entenda-porque-revogar-lei-de-alienacao-parental-e-importante-para-mulheres-e-criancas> Acesso em: 22 ago. 2021.

THOENNES, N.; TJADEN, P. G. **The Extent, Nature, and Validity of Sexual Abuse Allegations in Custody/Visitation Disputes**. 1990. CHILD ABUSE & NEGLECT 151, 152-53, 1990.

THURLER, A. **Violência doméstica e guarda compartilhada: uma oposição inconciliável**. 2019. Artigo publicado em FERREIRA, Cláudia Galiberne e ENZWEILER, Romano José (organizadores). **A Invisibilidade de Crianças e Mulheres Vítimas da Perversidade da Lei de Alienação Parental. Pedofilia, Violência e Barbarismo** p. 33-56. Conceito Editorial, Florianópolis: 2019.

THURLER, A. in **Tecendo Fios das Críticas Feministas ao Direito no Brasil**. 2019 Consórcio Lei Maria da Penha pelo Enfrentamento a Todas as Formas de Violência de Gênero contra as Mulheres. Ribeirão Preto : FDRP/USP, 2019.

TROCMÉ, N.; BALA, N. **False allegations of abuse and neglect when parents separate**. 2005 Child Abuse & Neglect, 29(12). 2005

URRA, F. (2020) **Masculinidades e a produção de “alienação parental”**. 2020 IN: Caderno Temático nº 38 CRP 06 SP Cristalização, patologização e criminalização da vida no sistema de Justiça: “Alienação Parental” e a atuação da/o psicóloga/o. 1st. ed. São Paulo: Conselho Regional de Psicologia de São Paulo, 2020.

VAN LEEUWEN, T. V. (2007) **Legitimation in discourse and communication**. Discourse & Communication, 1(1), 91–112. Disponível em: <https://doi.org/10.1177/1750481307071986>

WARSHAK, R. **Current Controversies Regarding Parental Alienation Syndrome**. 2001 Balboa Island: American Journal of Forensic Psychology, Volume 19, No. 3, pp. 29-59, 2001.

WILLIS, B. e O'DONOHUE, W. **Parental Alienation Syndrome: A critique**. 2018. REVISTA DE ESTUDIOS E INVESTIGACIÓN EN PSICOLOGÍA Y EDUCACIÓN ISSN: 1138-1663; eISSN: 2386-7418 UDC / UMinho 2018, Vol. 5, No. 2, 74-81. University of Nevada, Reno Disponível em: <https://doi.org/10.17979/reipe.2018.5.2.4364> Acesso em: 02 mar. 2021.

WODAK, R.; MEYER, M. (eds) **Methods of Critical Discourse Analysis**. 2001. London: Sage, 2001.

WOOD, C. **The Parental Alienation Syndrome: A Dangerous Aura of Reliability**. 1994. 27 Loyola of Los Angeles Law Review 1367 Disponível em: <https://digitalcommons.lmu.edu/llr/vol27/iss4/5> Acesso em: 02 jul. 2021.

WORLD HEALTH ORGANIZATION - WHO **ICD-11 for Mortality and Morbidity Statistics** (Version: 05/2021) Disponível em: <https://icd.who.int/browse11/l-m/en> Acesso em: 17 jun. 2021

APPENDIX

Appeal #1 *Agravo de Instrumento*

http://busca.tjsc.jus.br/jurisprudencia/html.do?q=&only_ementa=&frase=&id=321622811839741564554262232765&categoria=acordao_eproc

Appeal #2 *Apelação Criminal*

https://busca.tjsc.jus.br/jurisprudencia/html.do?q=&only_ementa=&frase=&id=AABAg7AADAAAHnAAE&categoria=acordao_5

Appeal #3 *Agravo de Instrumento*

http://busca.tjsc.jus.br/jurisprudencia/html.do?q=&only_ementa=&frase=&id=AABAg7AAIAAFijlAAT&categoria=acordao_5

Appeal #4 *Apelação Cível*

http://busca.tjsc.jus.br/jurisprudencia/html.do?q=&only_ementa=&frase=&id=AABAg7AAEAAPolqAAL&categoria=acordao_5