

**A Response to the *Report by the
Special Rapporteur on Violence
Against Women and Girls,
Its Causes and Consequences,*
to the United Nations Human
Rights Council**

**Submitted to the United Nations
Human Rights Council by**

**The International Council on
Shared Parenting**

June 22, 2023

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**A Response to the *Report by the Special Rapporteur on
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This document is a response to the report published by the Human Rights Council of the United Nations on April 13, 2023, “Report of the Special Rapporteur on Violence Against Women and Girls, its causes and consequences.” The report is not only rife with misleading statements, misinformation, errors, use of science denial techniques, and misrepresentations of the current state of peer-reviewed published research, scientific inquiry, and case law support in regard to parental alienation, but also in regard to the field of shared parenting. These errors are egregious to the degree that the report is likely to cause irreparable harm to children and families. This includes harm to women and girls, the group the Rapporteur intends to protect. Thus, the International Council on Shared Parenting strongly urges the Human Rights Council to withdraw the report from publication.

This response is in follow-up to our previous letter of December 22, 2022, authored by our past president, Dr. Jennifer Harman, which sounded the alarm about the unscientifically supported premise and the gender biased perspective on intimate partner violence of this initiative. Dr. Harman clarified that our Council advocates for the application of the European Convention on Human Rights related to cases of intimate partner violence and the need to protect children from revictimization and exposure to violence. At the same time the Council also recognizes the widespread misinformation about the scientific understanding of parental alienation, and the lack of acknowledgment in statements made by the Rapporteur of the scientific consensus that has emerged in regard to recognition of parental alienation as a form of family violence and child abuse. With the publication of the Report of the Special Rapporteur, our worst fears have come to pass.

I. Background to the International Council on Shared Parenting

The International Council on Shared Parenting, now in its tenth year as a scientific association, is the world's leading organization devoted to the study of shared parenting and the degree and circumstances to which it is commensurate with the best interests of children after parental separation. As scholars with diverse perspectives, we are not an advocacy group in the sense of uncritically promoting the concept of shared parental responsibility. The Council's goals are, first, the advancement of scientific knowledge on the needs and best interests of children whose parents are living apart, and second, to formulate evidence-based recommendations about the legal, judicial and practical implementation of shared parenting. The Council has compiled a large database of new research on child and family outcomes in shared parenting families, and seeks to integrate this scientific knowledge into family law and professional practice. Our main accomplishment has been the publication of a series of consensus statements about shared parenting and the best interests of children, at the conclusion of each of our six international conferences to date.

What is unique about the Council is that it brings together three distinct groups in dialogue: prominent scientists in the field of shared parenting who are able to share their current research; leading child and family legal and mental health practitioners who specialize in the area of parental separation and are able to share information on best practices with children and families; and members of civil society who are actively involved in the politics of law reform in the best interests of children and families. We strongly encourage dialogue among those with divergent perspectives on issues related to shared parenting and the best interests of children and families. We welcome the participation of scholars who hold viewpoints contrary to the mainstream with respect to shared parenting, family violence, and parental alienation. We are also unique in regard to the international scope of our organization; this year we attracted 200 delegates from 34 countries to our international conference. (The Council recently concluded its Sixth International Conference on Shared Parenting, held in Athens, Greece, on May 5-7, 2023.)

The Council has focused on the issue of intimate partner violence as a central concern since its inception, and devoted our fifth international conference, which drew 1,200 delegates from 50 countries, to the theme of, "The Intersection of Shared Parenting and Family Violence." At our Athens conference, we reaffirmed the main conclusions from our fifth international conference: First, "Shared parenting is a viable post-divorce parenting arrangement that is optimal to child development and well-being, including for children of high conflict parents. Shared parenting serves as a bulwark against first-time family violence, and we thus support a rebuttable presumption of shared parenting in contested cases of child custody, and advocate for shared parenting as the foundation of family law reform. At the same time, there is a consensus that shared parenting is an optimal arrangement for the majority of children and families, including high conflict families, but not for situations of substantiated family violence and child abuse. We thus support a rebuttable legal presumption against shared parenting in family violence cases." Second, "There is consensus that addressing the issue of family violence in separation and divorce

cases, and addressing parental alienation subsequent to separation and divorce, are not mutually exclusive endeavors. Recognition of parental alienation as a form of family violence is part of our collective responsibility to address family violence in all its forms. All attempts to polarize the need to address parental alienation on the one hand, and other forms of family violence on the other, place children and family members at risk.”

II. Flaws of the Report of the Special Rapporteur on Violence Against Women and Girls in Regard to Intimate Partner Violence and Parental Alienation

The misleading statements, misinformation, errors, use of science denial techniques, and misrepresentations of the current state of peer-reviewed published research, scientific inquiry, and case law support in regard to intimate partner violence and parental alienation in the Report have been documented by a number of scientific associations, including the Parental Alienation Study Group, and we add our critique to the chorus of voices condemning the report in that regard.

We draw attention to the following:

1. The current state of scientific knowledge indicates that intimate partner violence is not a gendered phenomenon, and the gender paradigm adopted in the report is deeply flawed. Although we support the need to draw special attention to the victimization of women and girls in family violence situations, the assumption in the report that women are most often the victims of intimate partner violence, and men are most often the perpetrators of intimate partner violence, is false. Numerous meta-analyses, including the comprehensive *Partner Abuse State of Knowledge* report, clearly indicate that women and men are roughly equally both victims and perpetrators of intimate partner violence, that most intimate partner violence is reciprocal in nature, and that women’s use of intimate partner violence is not primarily defensive. Women suffer greater injury from intimate partner violence, but this should not negate the injuries suffered by men in these situations.

2. The current state of scientific knowledge indicates that intimate partner violence takes many forms, including emotional and psychological abuse as well as physical and sexual abuse, with no less damaging consequences. There is a growing scientific consensus that as a form of coercive control, parental alienation is a serious form of both intimate partner violence and child abuse, which is often not recognized, and is far more common than most assume it to be. Parental alienation involves a set of abusive strategies on the part of a parent to foster the child’s rejection of the other parent, whereby children are manipulated by the alienating parent to hate the other, and its negative effects are serious and debilitating to children and target parents alike. For the child, parental alienation is a significant mental disturbance, based on a false belief that the alienated father or mother is a dangerous and unworthy parent.

3. Failing to acknowledge the psychological abuse that alienated children are being

subjected to in severe cases of parental alienation, and that they may also be subjected to other forms of abuse, leaves children vulnerable, unprotected, and at risk of severe harm.

4. The Report also fails to acknowledge that parental alienation represents a serious form of victimization and abuse of parents, who live with anxiety, depression, and helplessness, as well as feelings of victimization by the other parent, the child, and myriad systems (legal, mental health, and school systems) that are not responsive to their needs.

5. It is no longer tenable to dismiss the field of parental alienation is lacking in scientific status. To state that there is no scientific evidence of parental alienation is at best an outdated opinion, and at worst an attempt to deliberately falsify, mislead and misinform. Repeatedly referring to the “pseudo-concept of parental alienation” in a pejorative manner is clear evidence of the anti-scientific orientation of the Report. With over 1,000 articles and books on the subject, including over 200 peer-reviewed research studies containing empirical data using a wide variety of methods and samples in leading scientific journals, the scientific foundation for the field of parental alienation is strong and robust; as reported in the APA journal, *Developmental Psychology*, in 2022, “the current state of parental alienation scholarship meets the three criteria of a maturing field of scientific inquiry: an expanding literature, a shift toward quantitative studies, and a growing body of research that tests theory-generated hypotheses.” Nearly 40% of the research on parental alienation has been published since 2016, establishing that the field has moved beyond an early stage of scientific development and has produced a scientifically trustworthy knowledge base.

6. There are no gender differences in who the alienating and alienated parent is; based on data from nationally representative samples, fathers and mothers are equally likely to be perpetrators and targets of parental alienation.

7. The statement that it is the parent (fathers specifically) who alleges being a victim of parental alienation who is the abusive parent seeking to deflect attention away from his own perpetration of intimate partner violence is not borne out in the research. A recent study in the *Journal of Family Violence* (Sharples et al, 2023) found that parents who are found to have alienated their children had an 82% greater probability of having a substantiated claim of abuse against them than parents alienated from their children. It is significantly more likely to find a substantiated claim of abuse against alienating parents as opposed to alienated parents. Moreover, alienated parents had an 86% greater likelihood of having an unsubstantiated abuse claim made against them compared to alienating parents; such false allegations constitute form of legal and administrative aggression which is also a form of family violence.

8. The charge that courts and legal and judicial bodies disregard and “dismiss” evidence of intimate partner violence when parental alienation is alleged in the context of child custody disputes is patently false.

III. Flaws of the Report of the Special Rapporteur on Violence Against Women and Girls in Regard to Intimate Partner Violence and Shared Parenting

We also note the many egregious errors in regard to the report's views on shared parenting and the best interests of children. We are compelled to respond to the misleading statements, misinformation, errors, use of science denial techniques, and misrepresentations of the current state of peer-reviewed published research, scientific inquiry, and case law support in regard to intimate partner violence and shared parenting, and draw attention to the following:

1. In the arena of child custody, although most cases of high conflict over the issue of parenting involve no violence, the incidence of violence is significantly elevated during and after parental separation and divorce. A very high proportion (fully 50%) of first-time family violence occurs during and after separation and divorce. The adversarial "winner-take-all" child custody system seems almost tailor-made to produce the worst possible outcomes, where parents become polarized when the stakes are high, and disagreements become intense conflicts, with the potential to escalate into situations of violence. The threat of losing one's children in a custody contest exacerbates conflict and creates violence. In previously non-violent families sole custody determinations are associated with increased conflict and first-time violence. Thus the assumption that in *non-violent* high-conflict cases shared parenting is not a viable option is problematic. In fact, shared parenting is associated with decreased parental conflict levels. A high-conflict case not involving violence has a much higher likelihood of escalating to violence when one's relationship with one's child is threatened by loss of custody. The sole custody regime elevates the risk of spousal abuse in these cases.

2. When spousal violence does exist, it usually involves bilateral or reciprocal violence. Cases of family violence in the context of child custody disputes come in different forms, including ongoing or episodic male battering, female initiated violence, male controlling interactive violence, separation and divorce violence, and psychotic and paranoid reactions. Mutual violence is the most common type, with male battering (the classic "cycle of violence" paradigm) constituting only one-fifth of family violence in separation and divorce cases. Not all acts of intimate partner violence in contested custody cases have motivations and expressions derived from a structurally derived male assumption of entitlement and need for control.

3. There is no debate that judicial determination of custody in cases of established family violence is needed; it is erroneous, however, to assume that high conflict cases, in which parents disagree on custodial arrangements for children after divorce, commonly involve serious family violence. This places children at risk of losing one of their parents via a sole custody or primary residence order, and increases the risk of family violence in the majority of contested custody cases that did not previously involve violence. In cases of family violence where there is a finding that a child is in need of protection from a parent, the safety of children requires that the abusive parent has limited, supervised, or no contact with children because of potential harm to the children and the spouse. Parents

with a proven history of severe violence will need different resolutions, the majority of non-violent litigating parents in conflict over the care and custody of their children are best served, in the interests of prevention of first-time violence, by a shared parenting approach to child custody.

4. On the question of protracted parental conflict, there is no debate that exposure to ongoing and unresolved high conflict is harmful to children. What is under debate is the amount of parenting time that is advisable in high conflict situations. Recent studies have found not only that shared parenting is not harmful in high conflict situations, but can ameliorate the harmful effects of high conflict: a warm relationship with both parents is a protective factor for children, and the benefits of shared parenting on children's well being exist independent of parental conflict. Shared parenting is beneficial for children in both low and high conflict situations. And shared parenting is positively related to parental cooperation. Comparing parental outcomes in joint versus sole custody families, shared parenting is associated with a significant reduction of parental conflict levels. There is no evidence that to support the contention that shared parenting increases parental conflict, and research does not support a presumption that the amount of parenting time should be limited in cases of high conflict, and high conflict should not be used to justify restrictions on children's contact with either of their parents.

IV. Potential Harms to Children and Families, Including Women and Girls, Emanating from the Report of the Special Rapporteur on Violence Against Women and Girls

Inasmuch as the report calls for changes to legislation to suppress the dissemination of scientific evidence on parental alienation to decision makers, the potential for harm toward children and families, including women and girls, affected by parental alienation is considerable.

The Special Rapporteur positions herself as a champion of women's rights with an overriding concern about the safety and protection of women and children undergoing parental separation and divorce, but her fixed ideological position in regard to parental alienation, shared parenting, and the well-being of women and girls blinds her to the overwhelming scientific consensus that has emerged in regard to violence against children and families, including women and girls. We draw attention to the following:

1. The lack of acknowledgement that women are also victimized by parental alienation by their male partners. Failing to acknowledge that parental alienation represents a serious form of victimization and abuse of women as well as men, who live with anxiety, depression, and helplessness, as well as feelings of victimization by the other parent, the child, and myriad systems (legal, mental health, and school systems) that are not responsive to their needs.

2. The lack of acknowledgement of the profound harms of parental alienation on children, which are well documented. The effects of parental alienation on children include five main categories of consequences: poor self-esteem, depression and self-hatred; disrupted social-emotional development: withdrawal, isolation, and social anxiety; low self-sufficiency, lack of autonomy, and dependence on the alienating parent; academic struggles and failure to reach academic and employment potential; and poor impulse control, and struggles with addiction and self-harm.

3. The lack of acknowledgement that family and intimate partner violence is a criminal justice issue, and that women and children are not adequately served by the criminal justice system. Family courts do not have the resources to adequately adjudicate these cases.

4. The lack of acknowledgement that adversarial family law processes and “win-lose” outcomes in the form of primary residence decrees place women and children at risk, and sole custody is associated with increasing levels of conflict between parents and the risk of first-time family violence. Fully 50% of first-time violence occurs during and after the separation process with an adversarial climate and battles over the custody and living arrangements of children. Shared parenting is associated with decreasing levels of conflict between parents and removes the risk of first-time family violence during and after separation. Shared parenting is a bulwark against parental alienation.

5. The lack of acknowledgement that with shared parenting, the general and divorce-specific adjustment of women and children is significantly better on all adjustment measures, and worse in sole maternal custody, in cases where historical violence is not an issue of concern. Shared parenting is contraindicated in situations where family violence exists.

6. The lack of acknowledgement that an allegation of family violence is not the same as substantiated family violence. Allegations of family violence increase when a legal outcome of shared parenting is contested by women, but these are most often unsubstantiated. Rates of substantiated family violence are significantly lower when shared parenting orders are made. Similarly, when a legal finding of parental alienation is made, the alienating parent is more likely to have other findings of family violence and abuse against them, not the alienated parents; and alienating parents are more likely to engage in legal and administrative aggression by making false allegations of abuse (Sharples et al, 2023).

V. Conclusion and Recommendations

The intentional misrepresentation of data and key findings of family violence, parental alienation, and shared parenting research by the Report of the Special Rapporteur on Violence Against Women and Girls, detailed in the June 2, 2023 analysis of the Parental Alienation Study Group, directly results in significant harms befalling children and parents, and as such the report

represents a serious breach of trust on the part of its author. Those in positions of power and influence who make false claims and report erroneous data, while ignoring the vast amount of current scientific information provided to them, as well as those who aid in the transmission and proliferation of false data, are culpable of a serious breach of responsibility. The issue of breach of the rapporteur's responsibilities needs to be directly addressed, including setting an expectation that the rapporteur responds directly to the concerns expressed in this and other responses to the Report. It is notable that the most vocal critics of the concept of parental alienation neither publish empirical research on the topic, nor participate at international conferences to present and discuss their perspectives, and be held accountable to the scientific community.

We offer the following evidence-based recommendations with respect to the intersections of shared parenting, parental alienation, and family and intimate partner violence:

1. Shared parenting is a viable post-divorce parenting arrangement that is optimal to child development and well-being, as well as parental well-being, including high conflict situations. Shared parenting also serves as a bulwark against first-time family violence. We thus support a legal presumption of shared parenting in contested cases of child custody, rebuttable in cases of family violence, and support a rebuttable legal presumption of shared parenting as the foundation of family law reform.

2. Shared parenting is an optimal arrangement for the majority of children and families, including high conflict families, but not for situations of substantiated family violence and child abuse. We thus support a rebuttable legal presumption against shared parenting in family violence cases. (This is in accordance with the National Council of Juvenile and Family Court Judges and the position of the National Association of Women and the Law: In every proceeding where there is at issue a dispute as to the custody of a child, a determination by the court that domestic or family violence has occurred raises a rebuttable presumption that it is detrimental to the child and not in the best interest of the child to be placed in sole custody, joint legal custody, or joint physical custody with the perpetrator of family violence.)

3. Family violence must be regarded as a criminal law matter, and barriers to criminal prosecution of perpetrators of family violence and to protection of victims of family violence be acknowledged, recognized and removed. Gender-based family violence is of particular concern in this regard, as women are disproportionately the victims of severe violence and require the full protection of the criminal justice system. The law at present does not protect women as it should. In addition, we call upon child protection authorities to recognize children witnessing the abuse of a parent as a child protection matter, and a serious form of child abuse, which requires immediate investigation to determine whether a child is in need of protection from a parent or parents, and immediate action to ensure children's safety and well-being.

4. Parental alienation is a common form of family violence in contested child custody cases, and should be recognized as such by practitioners, policy makers, legal practitioners, and judicial and legislative bodies. Shared parenting serves as a bulwark against first-time family violence, and that includes parental alienation. Parental alienation

is an egregious form of both family violence and child abuse, perpetrated by and against fathers and mothers.

5. Four pillars of intervention are recommended to deal effectively with the problem of parental alienation:

1. Recognition of parental alienation as a specific form of family violence, warranting a criminal justice response;
2. Recognition of parental alienation as a specific form of emotional child abuse, warranting a child protection response;
3. Prevention of parental alienation, by means of establishing shared parental responsibility as the foundation of family law;
4. Treatment of parental alienation, including specialized intervention with children and targeted parents, and parent-child reunification programs.

6. With respect to the development of policies, guidelines and procedures regarding parenting and co-parenting after separation in the context of family violence, we draw attention to needed reforms in professional practice in four key areas:

1. Family Violence and the Education and Training of Mental Health and Legal Practitioners, and Child and Family Legislators and Policymakers

Establishing standards for the education and skills training of mental health and legal practitioners in the field of shared parenting, and the education of child and family legislators and policymakers, are urgently needed, in the following areas:

- abuse in intimate relationships and its consequences for shared parenting;
- the unique needs of culturally diverse populations, including Indigenous populations;
- procedures, instruments and skills to screen for abuse and assess safety risks;
- specialized skills and interventions to ensure safety and provide specialized processes in cases of family violence;
- alternatives to shared parenting when violence is a factor.

2. Screening for Family Violence

Separating parents must be able to negotiate safely, voluntarily and competently in order to reach a fair agreement. Because abuse can significantly diminish a person's ability to negotiate safely and effectively, shared parenting professionals should never proceed without first screening for abuse.

The presumption against shared parenting in cases of family violence suggests that few families in which violence is or has been present are suitable for a shared parenting arrangement. Clients should be interviewed separately and in a safe environment to assess:

- the risks and/ or threats of homicide and suicide;
- the safety needs of their children;
- each client's ability to negotiate voluntarily and competently;

- the extent of power imbalances and their impact on shared parenting arrangements;
- the need for safe and appropriate alternatives to shared parenting.

As aids to assessment, screening instruments ought to be carefully designed and should not replace high levels of investigative interviewing and assessment for those cases in which family violence is an issue of concern.

3. Safety and Cases of Historical Family Violence Where Specialized Interventions May Enable Shared Parenting

Minimizing risk and maximizing safety ought to direct the development of protocols, interdisciplinary collaboration and research on the effectiveness of shared parenting where past family violence is no longer an issue of concern and supporting services for abused persons and their children. Provisions for safety should be in place prior to considering shared parenting as an option in these situations. These provisions should include policies to warn and protect endangered parties and requirements to report threats of harm. Screening for abuse and maintaining safety provisions are ongoing obligations throughout the entire process. Specialized intervention in cases of historical family violence require safety considerations for victims as well as the development and use of specific skills and interventions to:

- ensure safety before, during and following shared parenting negotiation;
- compensate for power imbalances;
- terminate shared parenting negotiation safely and effectively.

4. Alternatives to Shared Parenting in Cases of Family Violence

An array of marital dissolution models that include legal negotiation, adjudication, mediation, negotiation, and facilitated settlement conferences are vital. Jurisdictions should provide education about the benefits and risks of available alternatives to shared parenting in situations of intimate partner violence, and dedicate the resources necessary to assure safe and timely access by victims of violence to marital dissolution alternatives. Victims of violence should not be compelled into shared parenting arrangements, and legal representation must be made available and economically accessible in cases of intimate partner violence.

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