

Working group complex divorces – multidisciplinary collaboration (CSMS)

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The theory of parental alienation leads to violation of children's rights in the Netherlands

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On June 17th 2019, 333 concerned international family law academics, family violence experts, family violence research institutes, child development and abuse experts, child rights networks and associations signed (an update of) a collective memo to the World Health Organization (Neilson, e.a., 2019) In this memo, the group calls for the removal of all references to 'parental alienation' (commonly referred to in Dutch as 'ouderverstoting' or 'oudervervreemding') and related concepts. It explains that the theory of parental alienation is not scientifically credible and is often used to divert attention away from domestic violence, abuse and other evidence relevant to the child's best interests. Two weeks later, 1 July 2019, Minister Dekker writes that an expert team will be set up in the Netherlands to work out concrete solutions to the problem of 'parental alienation'. We find it remarkable that almost at the same time international attention is being paid to the lack of empirical support and to the dangers of using a theory, and in the Netherlands the same theory is considered to be valid, and it is being investigated how the theory can be further applied.

What theory is it?

According to the parental alienation theory, some parents would brainwash the child after a divorce by means of a hateful attitude towards the other parent. The child would unjustly take over the hatred towards the other parent and express extremely negative feelings towards this parent (Gardner,1992; Groenhuijsen, 2014). Gardner drew attention to this theory in the 1980s and introduced it to family law. Gardner is also internationally known for his statements which he used to justify the sexual abuse of children (Blizard, & Shaw, 2019; CSMS, 2019; Dallam, 1998; Hoult, 2006, Meier, 2009). The theory is linked to gender issues, in which proponents indicate that parental alienation can lead to the unjustified loss of custody and/or contact of mainly fathers (Kruk, 2016) and opponents say that the theory can lead to failure to protect against domestic violence, especially against mothers and their children (Šimonovic, e.a., 2019).

What does the evidence say?

Research has shown that a negative attitude from one parent towards another is not a sufficient condition for a child to reject the other parent, it only contributes to a more negative reaction from

the child to the other parent if the child itself has reasons for doing so (Dallam, & Silberg, 2016). Children usually find negative statements from one parent to another unpleasant and show this as well (Rowen, & Emery, 2014; Silverberg Koerner, Wallace, Jacobs Lehman, Lee, & Escalante, 2004). Children almost never reject a parent and when they do, it is often only temporary and for their own reasons (Johnston, & Goldman, 2010; Katz, 2019). When children consistently reject a parent, it is usually the result of a process characterized by disappointment in that parent, who has shown serious problems such as domestic violence or addiction problems (Johnston, & Goldman, 2010).

Why do people use the theory?

Some argue that, despite a lack of evidence, parental rejection can be seen in practice (Groenhuijsen, 2014; Raad voor de Kinderbescherming, 2018). Parents who are divorcing may have a negative attitude towards the (former) partner (Rowen, & Emery, 2014). This behaviour may be confused with parental alienation, even though the child does not reject either parent (Mercer, 2019). Parents and children who rightly reject a parent because of domestic violence are often not believed (Neilson, e.a., 2019). This is partly because domestic violence is difficult to prove, is considered so bad that people cannot or do not want to imagine it, children often do not dare to talk about it and victims (due to trauma) show different behaviour and emotions than one would expect (CSMS, 2019). In the absence of recognition of domestic violence, the negative behaviour of the parent (and child) can be interpreted as evidence of parental alienation (Neilson, e.a., 2019). Moreover, the theory is defended by a group of people who, in documents and articles, suggest that there is scientific evidence for it, but those do not contain any scientific research results, or describe studies with insufficient validity (for a further discussion, see, for example, Bruch, 2006; CSMS, 2019; Meier, 2009; Neilson, e.a. 2019). This group may have idealistic or financial interests in recognizing the theory (CSMS, 2019; Neilson, e.a., 2019). (Unjustified) trust in theory by people with authority, such as the LEBZ (national expert group on special sexual offences) and family judges, may contribute to the conviction of others (Nierop, & Van den Eshof, 2008; Van Leuven, 2001). Especially fathers are successful when they use the theory in response to accusations of domestic violence in matters of authority or association, even when evidence of domestic violence is present (Meier, & Dickson, 2017; Neilson, e.a., 2019).

Why are people concerned about the use of this theory?

Through the use of the theory, justified accusations and signs of domestic violence (ex-partner violence and/or child abuse) can be seen as a parental alienation by the child protection services and family courts involved (Neilson, e.a., 2019). Children are forced to (unsupervised) contact with a violent parent and in some cases (if the protective parent does not cooperate) eventually even fully assigned to a parent who commits domestic violence (a so-called 'paradoxical allocation') (CSMS, 2019; Neilson, e.a., 2019). As a result, children are not protected, which is a violation of their human rights (Neilson, e.a., 2019). It happens that these children run away, make suicidal attempts or are murdered by the violent parent in question (Neilson, e.a., 2019). Researchers are confronted with children who talk about domestic violence and the consequences of not being protected (Neilson, e.a., 2019). These researchers try to inform policymakers and professionals about this by means of publications (see for example Herbert & Mackenzie, 2017; 2018). Some children who have reached adulthood are striving for change by sharing their stories via social media so that a new generation will be spared the suffering they have experienced (see for example

https://americanchildrenunderground.blogspot.com/). The Council of Europe published a statement

this year in which it is stated that accusations of parental alienation by abusive fathers of mothers should be seen as a continuation of power and control by public authorities and actors, including those who decide on the care of their children (<u>https://rm.coe.int/final-statement-vaw-and-custody/168094d880</u>). We hope that the Netherlands will follow international initiatives aimed at preventing the use of theory and protecting victims.

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