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Shield for aggressors: use of the Parental Alienation Law as a counterattack in domestic violence cases

Escudo para agressores: uso da Lei da Alienação Parental como contragolpe em casos de violência doméstica

Escudo para agresores: uso de la Ley de Alienación Parental como contraataque en casos de violencia doméstica

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Abstract

This article investigates the relationships between allegations of parental alienation and reports of domestic violence found in judicial proceedings in Brazil, focusing on the application of Law No. 12.318 (Brasil, 2010) (the Parental Alienation Law) as an instrument for perpetuating gender violence. As an empirical counterpoint, the study draws on judicial rulings, understood not merely as legal decisions but also as “state truths” responsible for shaping family dynamics more broadly and dictating specific rules on the roles to be followed by parents and, above all, by mothers, the main individuals accused of practicing parental alienation. Based on the analysis of judicial decisions published up to 2022, a structured questionnaire was developed to categorize the information both quantitatively and qualitatively; it also made it possible to understand how parental alienation is mobilized in cases of domestic violence, particularly those involving protective measures. The preliminary results show that the Parental Alienation Law has been used as a defense strategy by aggressors to mitigate domestic violence, delegitimizing complaints and revictimizing women. In light of this, the study seeks to contribute to the debate on the legal and political implications of the Parental Alienation Law in view of feminist struggles and the protection of victims of domestic violence.

Keywords: parental alienation; domestic violence; gender violence; judicial decisions; protective measures.

Resumo

Este artigo investiga as relações entre alegações de alienação parental e denúncias de violência doméstica presentes em processos judiciais no Brasil, com foco na aplicação da Lei nº 12.318 (Brasil, 2010) (Lei da Alienação Parental – LAP) como instrumento de perpetuação da violência de gênero. Em contraponto empírico, utilizam-se os acórdãos judiciais, compreendidos não apenas como decisões jurídicas, mas também como “verdades estatais” responsáveis por moldar dinâmicas familiares de forma mais ampla e ditar regras específicas sobre os papéis a serem seguidos pelos pais e, principalmente, pelas mães, as principais acusadas da prática da alienação parental. A partir da análise das decisões judiciais publicadas até 2022, criou-se um questionário estruturado, que categorizou as informações de forma quantitativa e qualitativa, além disso, viabilizou o entendimento de como se ocorre a mobilização da alienação parental em casos de violência doméstica, especialmente os que contam com medidas protetivas. Os resultados preliminares demonstram que a LAP tem sido utilizada como estratégia de defesa de agressores para mitigar a violência doméstica, deslegitimando denúncias e revitimizando mulheres. Com isso, o trabalho busca contribuir para o debate sobre as implicações jurídicas e políticas da LAP à luz das lutas feministas e da proteção às vítimas de violência doméstica.

Palavras-chave: alienação parental; violência doméstica; violência de gênero; decisões judiciais; medidas protetivas.

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Resumen

Este artículo investiga las relaciones entre las alegaciones de alienación parental y las denuncias de violencia doméstica presentes en procesos judiciales en Brasil, centrándose en la aplicación de la Ley n.º 12.318 (Brasil, 2010) (Ley de Alienación Parental – LAP) como instrumento de perpetuación de la violencia de género. Como contrapunto empírico, se utilizan las sentencias judiciales (acórdãos), entendidas no solo como decisiones jurídicas, sino también como “verdades estatales” responsables de moldear las dinámicas familiares de manera más amplia y de establecer reglas específicas sobre los roles que deben desempeñar los padres y, principalmente, las madres, quienes son las principales acusadas de practicar la alienación parental. A partir del análisis de las decisiones judiciales publicadas hasta 2022, se elaboró un cuestionario estructurado que permitió categorizar la información tanto cuantitativa como cualitativamente y comprender cómo se moviliza la figura de la alienación parental en los casos de violencia doméstica, especialmente en aquellos que cuentan con medidas de protección. Los resultados preliminares demuestran que la LAP ha sido utilizada como estrategia de defensa por parte de agresores para minimizar la violencia doméstica, deslegitimando las denuncias y revictimizando a las mujeres. En este sentido, el trabajo busca contribuir al debate sobre las implicaciones jurídicas y políticas de la LAP a la luz de las luchas feministas y de la protección de las víctimas de violencia doméstica.

Palabras clave: alienación parental; violencia doméstica; violencia de género; decisiones judiciales; medidas de protección.

1 Introduction

The enactment of Law No. 12.318 (Brasil, 2010), known as the Parental Alienation Law, introduced into Brazilian legal system an instrument aimed at protecting family relationships and preventing interference in the relationship between children, adolescents, and their parents. However, since its creation, the statute has been the target of criticism from researchers, legal practitioners, and women's rights organizations, especially because of its use in proceedings involving reports of domestic and family violence.

In this context, a central concern emerges: the allegation of parental alienation has been mobilized by men accused of domestic violence as a defense strategy capable of shifting the focus from the violence committed to the mother's conduct. This phenomenon produces significant tensions between the protection afforded by the Maria da Penha Law (Brasil, 2006) and the application of the Parental Alienation Law (Brasil, 2010), especially when women seeking state protection come to be accused of preventing their children from having a relationship with their father.

This article seeks to answer the following research question: how has the allegation of parental alienation been used in judicial proceedings involving domestic violence against women and emergency protective measures?

The primary aim of the research is to analyze the relationship between allegations of parental alienation and reports of domestic violence found in Brazilian judicial rulings. The specific objectives are: i) to identify how frequently acts of violence against women appear in cases related to parental alienation; ii) to verify the presence of emergency protective measures in these cases; iii) to examine who raises allegations of parental alienation and under what circumstances they are recognized by the courts; and iv) to discuss the effects of the application of the Parental Alienation Law (Brasil, 2010) in light of the literature on gender and violence against women.

The relevance of the investigation stems from the growth in reports of domestic violence in Brazil and the broadening of the legal and academic debate on the impacts of the Parental Alienation Law (Brasil, 2010) on women in situations of violence. By analyzing judicial decisions issued by Brazilian state courts, the study aims to contribute to understanding the concrete uses of the Parental Alienation Law (Brasil, 2010) within the justice system and its possible effects on the reproduction of gender inequalities, offering input for improving policies to protect women and children.

The notion of parental alienation was formulated by the American psychiatrist Gardner (1985). In Brazil, the concept began to gain visibility in the 2000s, referring to the deliberate action of one parent against the other through a defamation campaign aimed at distancing the child from contact with the alienated parent. It is a phenomenon of disqualification and even of implanting false memories, aimed at destroying the relationship between the child and the other parent (Gardner, 2002). Gardner proposed the existence of a “parental alienation syndrome,” but his work has been the target of criticism, including the lack of scientific evidence and the sexism present in his theory, devoid of any parity: the mother is the alienator, and the father, the alienated one (Ferreira; Enzweiler, 2014; Malta; Nicácio, 2021). This latter point is the main focus of this study's inquiry.

Beyond the sexism intrinsic to the theory, there are other problems behind this almost automatic process of identifying alienating mothers and victimized fathers. For Gardner, the mother who reports this domestic violence wants to keep the child away from the father, rather than seeking protection from the violence she suffers. After all, the “good mother” remains silent in the face of domestic violence for the sake of the child's relationship with the father and the preservation of family bonds. As Monteiro and Coutinho (2020) point out, there is a concrete risk that

aggressors against women, removed from the home as a result of their crimes, will use the Parental Alienation Law (Brasil, 2010) to ensure the continuity of their control over their victims, thereby preventing the cycle of violence from being broken, under the Judiciary's own seal of approval.

It is in this context that the present study is situated, linked to the research project "Domestic Violence and Parental Alienation: What Is the Relationship?" under development at the Center for Studies on Crime and Public Security of the Federal University of Minas Gerais (CRISP/UFMG). The investigation focuses on the analysis of rulings – decisions issued at the second-instance level by the state courts – in order to understand whether, and how, the Parental Alienation Law (Brasil, 2010) has been instrumentalized by aggressors as a counterattack tool in the face of legitimate reports of domestic violence.

In order to do so, it is necessary to consider the Brazilian context regarding domestic violence. According to Brazilian Public Security Yearbook (Anuário Brasileiro de Segurança Pública [2024¹]), femicide occurrences in Brazil reached the highest number recorded in the historical series since the publication of the law that defines femicide as a crime (Brasil, 2015). A total of 1,467 women were killed for reasons of gender in Brazil in 2023. Increases were also recorded in reports of aggression in the context of domestic violence (9.8%), threats (16.5%), and harassment/*stalking* (34.5%), and psychological violence (33.8%). The Yearbook also shows that emergency protective measures, in addition to serving as fundamental instruments, are increasingly being requested to address domestic violence.

Notably, the national rate of 516.8 protective measures per 100,000 women refers to the 2023 national data released by the Brazilian Public Security Yearbook (2024). Indicators in Table 1, in turn, were calculated based on data made available by the courts of justice and on the female population estimated by the Brazilian Institute of Geography and Statistics (IBGE, 2022). Thus, any differences between the figures result from the use of distinct time bases.

The figures reveal that, although important laws have been enacted and the use of protective measures is expanding, this has still not been enough to contain the violence, since the rates remain alarming, showing that Brazil remains far from a scenario of effectively guaranteed rights and protection for women. This is because the change needed goes beyond the creation of legal norms. According to Scott (1986), systems of oppression, from the standpoint of gender violence, are structured and legitimized through cultural and social norms that assign women a position of subordination. Accordingly, addressing gender violence requires dismantling these normative structures that legitimize inequality, which entails reconsidering the entire conception of gender, so as to prevent this type of violence from continuing to occur.

Institutional responses remain insufficient. This scenario allows certain theories, such as that of parental alienation, to be instrumentalized to weaken reports and perpetuate dynamics of oppression.

2 Methodology

This research adopts a quantitative and qualitative approach, based on documentary analysis of judicial rulings that cite Law No. 12.318 (Brasil, 2010), with a time frame extending to June 30, 2022.²

We identified 13,022 rulings that mentioned parental alienation. To ensure the representativeness of data, the sample accounts for the proportionality of each state. Accordingly, after constructing a representative random sample by federative state, **1,854 judicial decisions** were analyzed, of which **353** (19%) mention acts of violence against women. Of these 353 decisions, **163 include granted protective measures**, which corresponds to 46% of the parental-alienation cases that mention violence against women.

As a data collection instrument, a structured questionnaire was developed to code the information extracted from the rulings. The instrument covered the following variables: identification of the court; year of the decision; existence of an allegation of parental alienation; presence of acts of violence against women; existence of emergency protective measures; authorship of the parental alienation allegation; whether or not parental alienation was recognized by the court; occurrence of a conviction for domestic violence; and the types of violence mentioned in the proceedings.

The coding of data was carried out through a full reading of the selected rulings. The analytical categories were defined in advance based on the literature on parental alienation and gender violence, allowing for the standardized classification of the information and the quantitative and qualitative analysis of the results.

¹ Information available from <<https://publicacoes.forumseguranca.org.br/handle/123456789/253>>. Accessed February 15, 2025.

² Access dates indicated in the references correspond to the moment the authors consulted the sources, rather than to the time frame of the empirical corpus analyzed, which is limited to judicial decisions published up to June 30, 2022.

Rulings that expressly mentioned parental alienation and that were available for consultation in the courts' electronic systems were included in the study. On the other hand, duplicate documents, decisions without access to the full text, and records from courts whose systems did not make the rulings available or imposed access restrictions that made analysis unfeasible were excluded.

The sample, stratified by court, was sufficient to guarantee a 95% confidence level and a margin of error of approximately 6.5%, following the bureaucratic obstacles that prevented reaching the original target of 2,717 decisions.

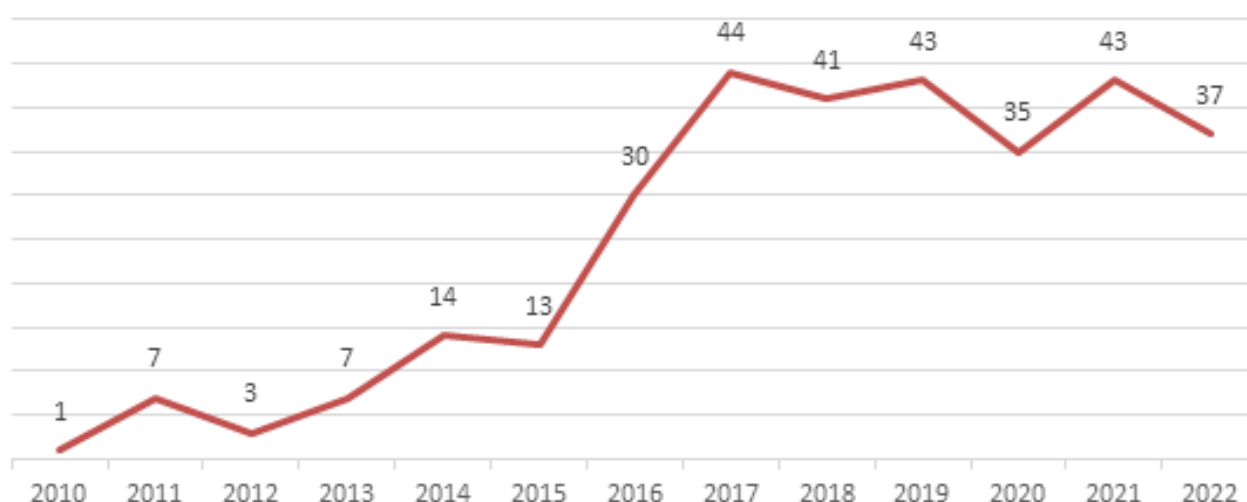
In the states of Amapá (AP), Espírito Santo (ES), Rio de Janeiro (RJ), Rio Grande do Norte (RN), and Tocantins (TO), it was not possible to include an analysis of judicial rulings due to the unavailability of or restricted access to decisions in the respective courts' systems.

2.1 What the numbers reveal about the intersection between domestic violence and parental alienation in the courts

Data show that, as Brazilian courts have consolidated their understanding of the Parental Alienation Law (Brasil, 2010), the volume of cases mentioning the law grew from 2015 onward, reaching its peak in 2017. This movement cannot be understood in isolation, since it coincides with a scenario in which reports of domestic violence became more frequent and emergency protective measures became more widespread. However, the increased visibility of violence against women has not translated into greater acceptance of these reports in family disputes. Data suggest that even in the face of legislative and institutional advances in the protection of women, the Judiciary largely continues to render domestic violence invisible when it occurs alongside parental disputes, especially when the allegation of parental alienation is mobilized as a defense.

This scenario can be seen in Chart 1.

Chart 1 – Evolution of judicial decisions mentioning acts of violence against women related to PA



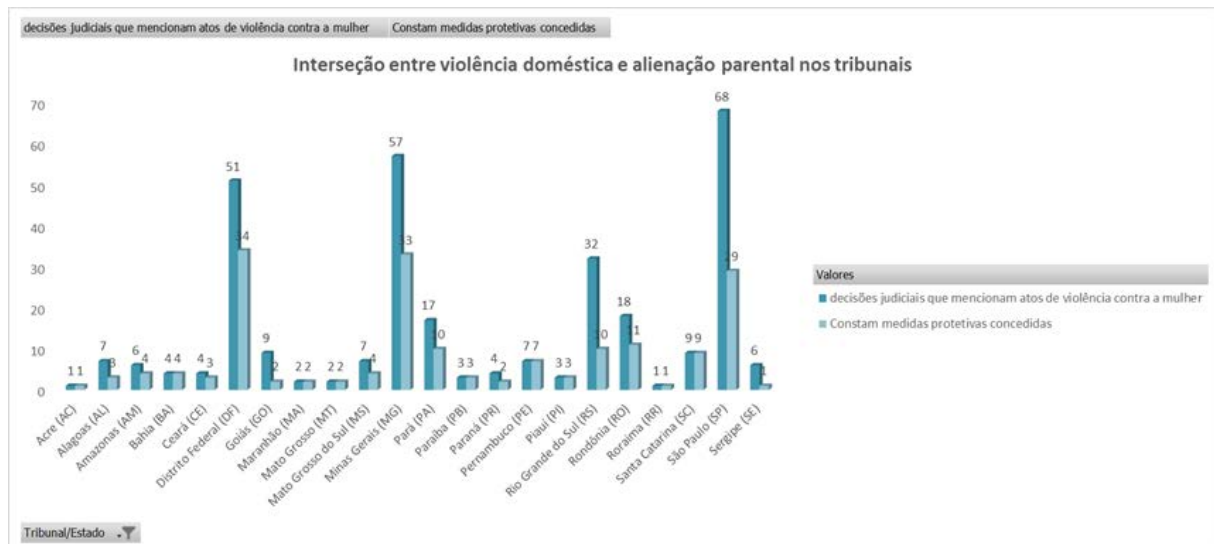
Source: Research project database "Domestic Violence and Parental Alienation: What Is the Relationship?" (CNPq 307133/2021-4).

This pattern reinforces the hypothesis that the Parental Alienation Law (Brasil, 2010) has been instrumentalized as a defense strategy by aggressors. In this way, it operates as a kind of procedural "counterattack" capable of shifting the focus from the violence suffered by the woman to her conduct as a mother, over the course of the last ten years.

In the effort to reduce or stabilize litigation, the consolidation of the Parental Alienation Law (Brasil, 2010) appears to have increased the frequency with which such allegations are brought before the courts, even in contexts permeated by protective measures or by a history of abuse already recognized by the courts. This persistence in the use of the Parental Alienation Law (Brasil, 2010), despite the accumulation of evidence of its adverse effects, points to the need for debate on its application and on the risks it poses to the justice system when mobilized in a way that erases legitimate reports of domestic violence.

Thus, the figures not only describe the scale of the phenomenon but also shed light on regional inequalities in the judicial response and reinforce the urgency of a well-informed debate on the strategic use of the Parental Alienation Law (Brasil, 2010) in family disputes. This investigation makes clear that understanding the intersection between parental alienation and domestic violence requires looking beyond the letter of the law, examining how these legal mechanisms are operationalized, interpreted, and used in the day-to-day workings of the courts, and to what extent they end up perpetuating, rather than confronting, the structural dynamics of gender violence.

Chart 2 – Intersection between domestic violence and parental alienation in the courts.



Source: Research project database “Domestic Violence and Parental Alienation: What Is the Relationship?” (CNPq 307133/2021-4).

Among the **163 rulings that mention the existence of protective measures**, the allegation of parental alienation was made by the father in **76 (46%)** of cases, and although outside the scope of this study, in 26 (16%) cases the allegation was made by the mother, in 2 (1%) by the Guardianship Council, in 1 (1%) by the police, in 4 (2%) by the judge, in 3 (2%) by the Public Prosecutor’s Office, in 1 (1%) it originated from the police station, and in 51 (31%) cases the origin of the allegation could not be identified. However, in **only one** of them was alienation, in fact, recognized, with the court finding that the mother was influencing the child to reject the father. Even though the allegation is not upheld by the courts in most cases, it is widely used as a **defense mechanism** by men accused of violence.

It is thus a mechanism widely deployed by male aggressors; it functions as a shield for self-protection in an attempt to neutralize an accusation of violence against women, even in more serious cases, such as physical violence. Of the 163 rulings involving parental alienation cases in which the woman holds a protective measure, 75 refer to reports of physical violence, representing 46% of the total. Not even aggressors already convicted of domestic violence forgo using the theory of parental alienation in proceedings as a means of defending themselves and, at the same time, attacking the very woman who is a victim of violence and revictimized by an accusation of parental alienation. This occurs in 46 of the 163 rulings analyzed, i.e., in 28% of cases – even when the woman is a victim of domestic violence, even when she has been granted a protective measure, even when the aggressor has been convicted – she still has to defend herself against an accusation of parental alienation brought by the father.

The concept of parental alienation, designed to protect children from emotional manipulation, has been mobilized in ways that delegitimize reports of violence made by women. The theory of alienation is thus used to invert the narrative and the logic of accountability, shifting the focus from the violence suffered by the woman to her supposed attempt to keep the children away from the father.

By alleging parental alienation, aggressors who are already facing charges of domestic violence introduce a new layer of dispute into the proceedings, shifting the focus away from the violence perpetrated and constructing a counter-attack narrative. This strategy creates a double challenge, or double punishment: in addition to proving the violence they suffered, women must also prove that they are not alienators.

In cases of domestic violence with a protective measure in which the allegation of parental alienation was not recognized in the decisions, which occurred in **162 of the 163** rulings, the main reasons given were: insufficient evidence (24); procedural issues (22); the existence of indications of sexual abuse (7); the children themselves reject family contact (3).

The detailed findings of the study show that the State of São Paulo (SP) concentrates the largest number of decisions mentioning acts of violence against women, totaling 68 rulings. Although this number is considerable given the state's population size, it remains notable owing to the scale of litigation on this type of conflict.

In this scenario, the State of Minas Gerais (MG) appears with 57 decisions, placing it among the states that warrant attention regarding how the issue is handled in the courts of justice.

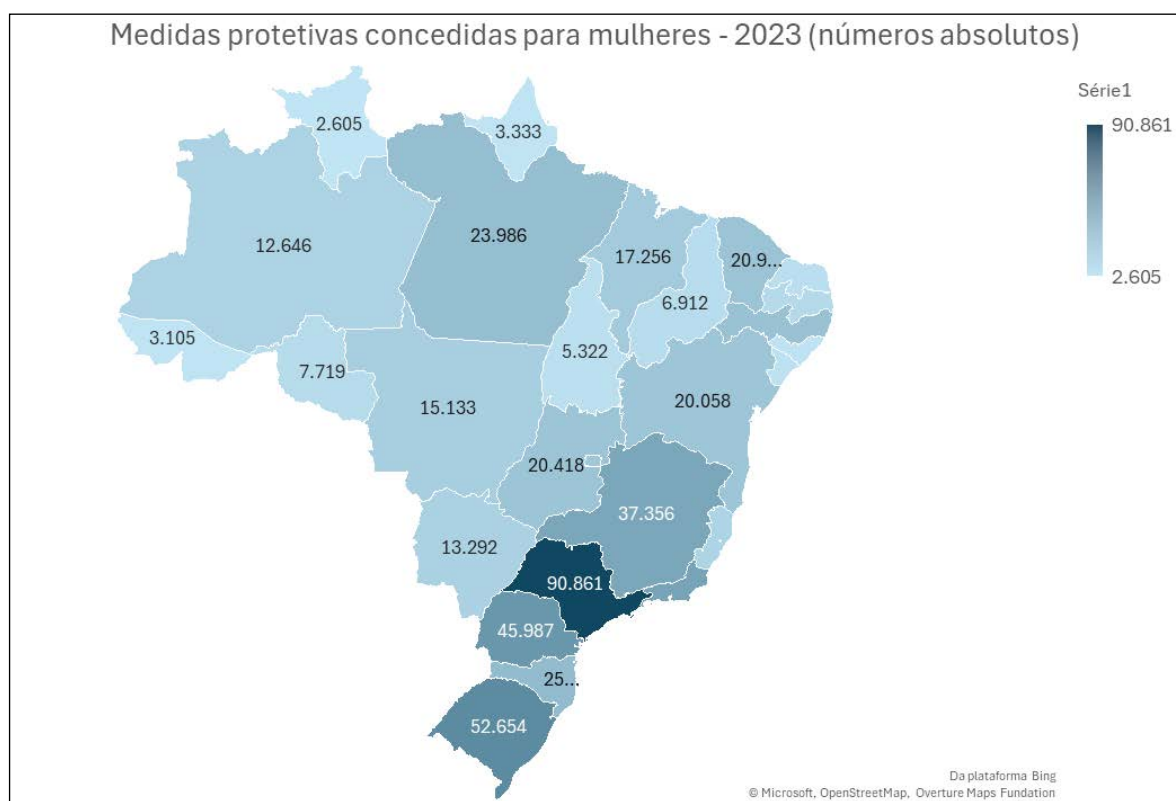
Next, the Federal District (DF) and Rio Grande do Sul (RS) stand out, with 51 and 32 decisions, respectively, mentioning acts of violence. Given their comparatively smaller population size relative to other states on the list, these figures suggest a tendency toward litigation in local courts involving allegations of gender violence in family disputes.

By contrast, the remaining states show lower numbers of decisions mentioning acts of violence against women. The State of Rondônia (RO) appears with 18 decisions, Pará (PA) with 17, Goiás (GO) and Santa Catarina (SC) with 9. In addition, Alagoas (AL), Mato Grosso do Sul (MS), and Pernambuco (PE) have 7 decisions each, Amazonas (AM) and Sergipe (SE) have 6, Bahia (BA), Ceará (CE), and Paraná (PR) have 4, Paraíba (PB) and Piauí (PI) have 3, Maranhão (MA) and Mato Grosso (MT) have 2, and finally, Acre (AC) and Roraima (RR) record only 1 decision each.

Thus, the analysis of the rulings, built from a representative sample, reveals a troubling intersection between domestic violence and the strategic use of the Parental Alienation Law (Brasil, 2010). Far from exclusively fulfilling its stated function of protecting children, the Parental Alienation Law (Brasil, 2010) has, in many cases, been mobilized as an instrument of intimidation, delegitimization of reports, and silencing of women in situations of violence, functioning more as a mechanism of control than as a tool of protection.

According to the Brazilian Forum on Public Safety, in 2023 there was significant growth in the granting of emergency protective measures in Brazil. A total of 663,704 measures were issued and 540,255 were granted, representing a granting rate of 81.4%, compared with 2022, which had a rate of 77.9%.

Chart 3 – Protective measures granted to women in 2023



Source: Brazilian Public Security Yearbook, 2023.

Reinforcing this analysis, a critical reading is made of Table 1, Rate of Emergency Protective Measures per 1,000 Women by Federative Unit (IBGE 2022; ANSP, 2022), which presents the rate of protective measures granted in each state. Based on these indicators, it is possible to observe not only how the federative units differ in the granting of emergency protective measures but also to what extent these institutional responses align with the volume of judicial decisions mentioning allegations of violence against women within the family context, as illustrated in Chart 1. This integrated analysis helps to understand the effectiveness of protection policies for women in situations of domestic violence in the country.

Table 1.³

State	Absolute number of emergency protective measures issued and granted by the courts of justice, 2022	Absolute number of women according to IBGE, 2022	Rate per 1,000 women
Distrito Federal	15.335	1.474.595	10,40
Rondônia	7.334	793.209	9,25
Mato Grosso do Sul	12.633	1.400.498	9,02
Rio Grande do Sul	4.808	5.627.214	0,85
Mato Grosso	15.001	1.817.408	8,25
Roraima	2.223	316.315	7,03
Paraná	41.259	5.867.030	7,03
Acre	3.463	414.686	8,35
Santa Catarina	23.308	3.859.258	6,04
Amazonas	11.305	1.975.803	5,72
Pará	18.854	4.068.318	4,63
Goiás	18.648	3.589.554	5,20
Maranhão	15.528	3.447.276	4,50
Pernambuco	19.435	4.737.611	4,10
Ceará	18.304	4.537.030	4,03
Paraíba	15.944	2.055.832	7,76
Piauí	5.819	1.670.597	3,48
São Paulo	98.170	23.014.862	4,27
Sergipe	3.654	1.152.196	3,17
Minas Gerais	52.622	10.524.280	5,00
Bahia	17.824	7.305.940	2,44
Alagoas	2.829	1.630.264	1,74

Source: *Brazilian Public Security Yearbook (2024) and IBGE, the Brazilian Institute of Geography and Statistics.*

Data analysis suggests that the institutional response to allegations of parental alienation in contexts of domestic violence may vary across states, indicating possible interpretive and operational asymmetries in the application of the Parental Alienation Law (Brasil, 2010). This hypothesis is reinforced by the concentration of rulings in certain courts and by the absence or low number of decisions made available.

The Federal District has the highest rate in the country, with 10.40 protective measures per 1,000 women, standing out as the territory that, proportionally, shows the most significant institutional response to domestic violence.

Next, high rates are recorded in Rondônia (9.25), Mato Grosso do Sul (9.02), Acre (8.35), Mato Grosso (8.25), and Paraíba (7.76), indicating that states with a smaller absolute population may, in relative terms, grant a proportionally higher number of protective measures. This cluster of higher rates suggests the existence of regional contexts in which access to the Judiciary, the work of support services, or local protection practices are more effective or, alternatively, a greater propensity toward reporting and granting of measures in that year.

³ The average national rate calculated for the federative units analyzed was 5.56 protective measures per 1,000 women.

The case of Rio Grande do Sul shows a rate significantly lower than that observed in the other federative units. Because data used were drawn from secondary databases made available by official bodies, the indicator was kept in the analysis. However, the result should be interpreted with caution, since it was not possible to verify any methodological particularities related to the recording and disclosure of protective measures in that state. Large, populous states such as São Paulo (4.27) and Minas Gerais (5.00) show rates below the national average, indicating that a high absolute volume of measures does not necessarily translate into greater proportional protection. Overall, Bahia (2.44) and Alagoas (1.74) are among the lowest rates, which may point to barriers to access, underreporting, or institutional practices that hinder the granting of protective measures.

The comparison with the national average, which stands at a rate of 5.56 protective measures per 1,000 women, allows the federative units to be grouped into two analytical profiles: ten states (Federal District, Rondônia, Mato Grosso do Sul, Acre, Mato Grosso, Paraíba, Roraima, Paraná, Santa Catarina, and Amazonas) show rates above the average, suggesting a proportionally greater institutional response; the remaining units fall below the average, indicating significant regional inequalities in the judicial protection of women. In gender terms, this distribution shows that the justice system's response is uneven: in some contexts protection is relatively more accessible, while in others women face barriers that compromise the effectiveness of the Maria da Penha Law (Brasil, 2006).

In terms of trend, the analysis confirms that more populous states do not, by themselves, guarantee greater proportional protection. São Paulo's rate, for example, despite the high absolute number of measures, is below average, which may reflect pent-up demand, overloaded services, access difficulties, or more restrictive judicial procedures. These interpretations require further analysis: rates will need to be cross-referenced with contextual variables (the presence of specialized courts, the number of public defender's offices and women's police stations, the gender composition of the judiciary, local reporting campaigns, and the financial and human resources available to the courts) in order to determine whether a high rate corresponds to better protection or to a higher incidence of violence/reporting.

From the standpoint of protecting women and formulating public policy, these results highlight two priorities: (1) the need to verify possible inconsistencies or methodological differences in how measures are recorded (particularly in atypical cases, such as that of Rio Grande do Sul); and (2) the urgency of strengthening institutional capacity in federative units with below-average rates, through the training of legal practitioners, the expansion of support services, and the standardization of data recording and disclosure procedures. These steps are essential so that statistical analysis can be translated into operational diagnosis and practical guidance for the effective protection provided under the Maria da Penha Law (Brasil, 2006).

The contrast between data drawn from the rulings and the concrete cases involving emergency protective measures thus highlights the complexity of judicial proceedings, in which women who are victims of domestic violence, upon seeking protection from the State, end up being targeted by accusations of parental alienation. Such accusations are frequently mobilized as a defense strategy by aggressors, turning the search for protection into yet another arena of judicial dispute and revictimization.

In one of the rulings analyzed, the father states: "The complaint narrates that the mother left the Federal District with the daughters without even informing the plaintiff of her decision, and also practices parental alienation by falsely alleging that the father is a violent and aggressive person, which led her to file a police report and request protective measures." This excerpt shows how the allegation of parental alienation is used to delegitimize the woman's account, casting suspicion on her attempt at self-protection and turning a report of violence into a supposed manipulative strategy. The reversal of roles – from the woman as victim to the woman as perpetrator of alienation – reveals a recurring pattern of discrediting women's voices within the judicial sphere.

In cases involving both parental disputes and domestic violence simultaneously, women are subjected to a double burden in accessing justice. In addition to proving the violence they suffered – often already recognized through protective measures or even criminal convictions – they must also defend themselves against the accusation that they are manipulating the children to keep them away from the father. This duplication of procedural demands has practical effects: it delays the progress of proceedings, weakens judicial protection that should be immediate, and contributes to prolonging the woman's exposure to the aggressor. The mere existence of a parental alienation complaint can shift the focus away from the violence, generate distrust toward the victim, and create obstacles to maintaining protective measures. The burden of proof falls disproportionately on the woman, who, in order to be recognized as a legitimate victim, must repeatedly justify her conduct and her motherhood before the State. It is a

scenario in which the justice system, instead of functioning as an instance of protection, reproduces the structures of control and silencing that sustain gender violence.

The non-recognition of parental alienation in these rulings does not stem from a rejection of the theory itself. On the contrary, the courts emphasize the need for substantial evidence to establish parental alienation, reflecting a cautious approach to allegations that may delegitimize reports of violence against women. But even when the allegation is not accepted, its invocation can delay the progress of proceedings, weaken and silence victims, and, in some cases, hinder the granting or maintenance of protective measures, in addition to leading to greater contact between the aggressor and the child or even to a reversal of custody.

This scenario exposes not only the complexity of family disputes marked by violence but also the structuring effects of invoking parental alienation in judicial proceedings, even when it is not formally recognized. The mere presence of the allegation thus creates a climate of suspicion toward the woman. This dynamic does not occur in isolation; rather, it is embedded in a broader normative tension between the Maria da Penha Law (Brasil, 2006) and the Parental Alienation Law (Brasil, 2010), whose objectives – protecting women, on one hand, and preserving parental relationships, on the other – frequently collide within judicial disputes.

3 The tension between the Maria da Penha Law and the Parental Alienation Law: between protection and suspicion

When examining the legal treatment given to women in family disputes marked by domestic violence, a normative and interpretive tension emerges between the Maria da Penha Law (Brasil, 2006) and the Parental Alienation Law (Brasil, 2010). On one hand, the Maria da Penha Law (Brasil, 2006) seeks to ensure the physical and psychological integrity of women in situations of violence. On the other, the Parental Alienation Law (Brasil, 2010) allows a mother's conduct to be questioned – even amid protective measures or formal reports of abuse – based on the supposed attempt to keep the children away from the father, thereby constituting parental alienation.

The Parental Alienation Law (Brasil, 2010) has functioned as an instrument of conservative reaction within the legal field, straining the advances brought about by the Maria da Penha Law (Brasil, 2006). This tension is not merely legal but deeply political: by reporting an aggressor, many women come to be perceived by the justice system not as victims, but as possible manipulators, undermining the credibility of their accounts. Rather than expanding protection, the concurrent application of the two laws tends to produce an institutional ambiguity that weakens the state's response to domestic violence.

For Severi and Villarroel (2023), in political terms, the Maria da Penha Law (Brasil, 2006) represents an affirmative initiative by the Brazilian State aimed at reducing the structural gender inequalities that sustain the perpetuation of violence against women. According to the authors, in this context of pressure from feminist movements, which resulted in the Maria da Penha Law (Brasil, 2006), the Parental Alienation Law (Brasil, 2010) can be interpreted as a reaction to the legal advances in favor of women, which came to limit the power traditionally exercised by men within families. As a result, violence committed by intimate partners tends to be ignored or downplayed.

In light of this, the difficulty of reconciling the two sets of legislation produces concrete effects on the judicial system: **reversals of narratives, suspension of protective measures, removal of child custody**, and even **reversal of the roles of victim and aggressor**, as documented in the rulings analyzed in this study. Even when the allegation of parental alienation is not upheld, it delays the progress of the case, destabilizes the victim's narrative, and undermines the effectiveness of the state's response to domestic violence.

This perpetuation of gender violence and of the stereotypes associated with motherhood and fatherhood occurs under the rhetoric of the “best interest of the child and adolescent” and under the guise of a judicial neutrality that, in practice, masks structural inequalities. The invocation of this principle, often decontextualized from the dynamics of domestic violence, legitimizes decisions that reinforce power hierarchies and silence women's experiences, in the name of a supposed impartiality of the justice system. Hümmelgen and Cangussu (2017) show that gender stereotypes, such as the “lying mother” or the “paranoid mother,” are reinforced by psychological reports and judicial decisions, turning the mother into the prime suspect whenever she reports violence.

From this perspective, the tension between the Maria da Penha Law (Brasil, 2006) and the Parental Alienation Law (Brasil, 2010) runs through the concept of gender violence as a symbolic and institutional process. Gender violence cannot be reduced to a synonym for “violence against women,” as Saffioti (2015, p. 85) teaches: “Gender

violence, including in its family and domestic forms, does not occur randomly, but derives from a social organization of gender that privileges the male.” Accordingly, many women remain, for years, in relationships marked by violence with their partners and develop bonds of emotional and social dependency that are, to a large extent, structured by the very dynamics of the violence itself. It is not only the woman who becomes dependent on the aggressor; it is the violence itself that becomes established as a structuring element of the relationship – a violence that, paradoxically, becomes necessary to sustain the bond, however destructive it may be (Saffioti, 2015).

By ignoring these complex dynamics and naturalizing family cohabitation at any cost, the application of the Parental Alienation Law (Brasil, 2010) in contexts of domestic violence reinforces women’s continued presence in abusive relationships, while simultaneously holding them responsible for trying to protect themselves and their children. The result is the institutional perpetuation of gender violence, disguised as concern for the “best interest of the child.”

4 Final Considerations

The misogyny present in the formulation of the concept of parental alienation, which regards mothers as natural alienators and fathers as victims, is also present in the way the concept is mobilized in judicial proceedings involving domestic violence. The woman, who has already suffered some form of aggression and is fighting a battle against her abuser, comes to be accused of parental alienation, moving from victim to defendant, in a scenario that can result in the mother losing custody of her child. Even in cases where women hold protective measures against their aggressors, parental alienation is used as a weapon, whether to compel the woman’s contact with the aggressor – since, to prove that there is no alienation, the mother could not avoid such contact – or to revictimize the woman, who then bears the burden of proving that she is a victim, not a perpetrator.

What is striking is how frequently parental alienation is used as a shield against accusations of domestic violence, even in cases where the woman has been granted a protective measure. This phenomenon is far from an isolated occurrence. As shown by data from the rulings analyzed, nearly 20% of all second-instance parental alienation cases in the country mention acts of violence against women.

There are 353 rulings that, directly or indirectly, reveal the intersection between parental alienation and domestic violence. In nearly half of these rulings (46%), there are women who are victims of domestic violence with a granted protective measure, who are typically questioned by the aggressor about supposedly alienating behavior. Even where physical violence has occurred, in 46% of cases the woman, the victim, will be identified as the perpetrator of parental alienation. Even when the aggressor has been convicted, the woman, the victim, will still be identified as the perpetrator of parental alienation.

More than a strictly legal argument, parental alienation is used in divorce proceedings as a male weapon of defense against an accusation of domestic violence. It is a patriarchal reaction against the growth of laws that guarantee protection to women, such as the Maria da Penha Law (Brasil, 2006), and, above all, a form of gender violence, used as a tool of pressure to prevent women in situations of violence from leaving their abusive husbands (Severi; Villarroel, 2021).

This “tug of war” between the protection guaranteed by the Maria da Penha Law (Brasil, 2006) and the suspicion introduced by the Parental Alienation Law (Brasil, 2010) exposes a paradox in the justice system: while gender violence is formally recognized as a human rights violation, the delegitimization of women is practiced institutionally. The ideal of the “best interest of the child,” mobilized in an apparently neutral register, becomes an instrument for policing motherhood and reasserting patriarchal hierarchies. When the legal system ignores this structural fact – and judges mothers in contexts of violence based on criteria of relational normalcy – it fails to protect them and silences voices that need to be heard.

Finally, some limitations of this study should be acknowledged. Although the sample analyzed is representative of the universe of rulings identified, the research focused exclusively on second-instance decisions, not covering proceedings still pending at the first-instance level. As with any research based on documentary analysis and content coding, there are also limitations inherent to data categorization process. These limitations, however, do not undermine the patterns observed, but rather point to avenues for future research.

References

- ANUÁRIO BRASILEIRO DE SEGURANÇA PÚBLICA 2024. São Paulo: Fórum Brasileiro de Segurança Pública, ano 18, 2024. ISSN 1983-7364. Disponível em: <https://publicacoes.forumseguranca.org.br/handle/123456789/253>. Acesso em: 3 jun. 2025.
- BRASIL. **Lei nº 11.340, de 7 de agosto de 2006**. Cria mecanismos para coibir a violência doméstica e familiar contra a mulher [...]. Brasília: Presidência da República, 2006. Disponível em: https://www.planalto.gov.br/ccivil_03/_ato2004-2006/2006/lei/l11340.htm. Acesso em: 29 jun. 2026.
- BRASIL. **Lei nº 12.318, de 26 de agosto de 2010**. Dispõe sobre a alienação parental e altera o art. 236 da Lei nº 8.069, de 13 de julho de 1990. Brasília: Presidência da República, 2010. Disponível em: https://www.planalto.gov.br/ccivil_03/_ato2007-2010/2010/lei/l12318.htm. Acesso em: 3 jun. 2025.
- FERREIRA, Cláudia; ENZWEILER, Romano. Síndrome da alienação parental, uma iníqua falácia. **Revista da Esmesc**, v. 21, n. 27, 2014.
- GARDNER, R. A. Recent trends in divorce and custody litigation. **Academy Forum**, v. 29, n. 2, p. 3-7, 1985.
- GARDNER, R. A. Does DSM-IV Have Equivalents for the Parental Alienation Syndrome (PAS) Diagnosis?[S. l.]: [s. n.], 2002. Artigo não publicado. Aceito para publicação. Disponível em: <http://www.fact.on.ca/Info/pas/gard02e.htm>. Acesso em: 10 maio 2024.
- HÜMMELGEN, Isabela; CANGUSSU, Kauan. Estereótipos de gênero no direito das famílias: um estudo da doutrina jurídica sobre alienação parental. In: ENCONTRO NACIONAL DE ANTROPOLOGIA DO DIREITO, 5., 2017, São Paulo. **Anais** [...]. São Paulo: FFLCH/USP, 2017.
- IBGE. **Estimativas da população residente no Brasil e unidades da federação – 2022**. Rio de Janeiro: IBGE, 2022. Disponível em: <https://www.ibge.gov.br>. Acesso em: 10 nov. 2025.
- MALTA, Rafaella Rodrigues; NICÁCIO, Camila Silva. Do Acesso ao Segredo ao (Des)Acesso à Justiça: Alienação Parental entre Moralidades e Técnicas em Disputa. **Antropolítica - Revista Contemporânea de Antropologia**, [s. l.], n. 51, 2021. DOI: 10.22409/antropolitica2021.i51.a45469. Disponível em: <https://periodicos.uff.br/antropolitica/article/view/45469>. Acesso em: 10 nov. 2025.
- MELO, Ezilda (org.). **Maternidade no Direito Brasileiro: padecer no machismo**. 1. ed. São Paulo: Tirant lo Blanch, 2020.
- MONTEIRO, Izabelle Pontes Ramalho Wanderley; COUTINHO, Ana Luisa Celino. Imputação de alienação parental contra mulher em situação de violência doméstica. In: MELO, Ezilda (org.). **Maternidade no Direito Brasileiro: padecer no machismo**. São Paulo: Tirant lo Blanch, 2020.
- SAFFIOTI, Heleieth I. B. **Gênero, patriarcado, violência**. 2. ed. São Paulo: Fundação Perseu Abramo, 2015.
- SCOTT, Joan W. Gender: a useful category of historical analysis. **The American Historical Review**, v. 91, n. 5, 1986.
- SEVERI, Fabiana; VILLARROEL, Camila. Violência patrimonial e inacessibilidade à justiça: quando a alienação parental afasta mulheres da justiça de família. In: **Pesquisas Judiciárias e Práticas Inovadoras em Direitos Humanos: o prêmio do STJ e o fomento à pesquisa acadêmica**. Brasília: Superior Tribunal de Justiça, 2023. Disponível em: <https://bdjur.stj.jus.br/jspui/handle/2011/201774>. Acesso em: 11 jun. 2025.
- SEVERI, Fabiana Cristina; VILLARROEL, Camila Maria de Lima. Análise jurisprudencial dos tribunais da região sudeste sobre a aplicação do instituto: (síndrome da) alienação parental. **Pensar - Revista de Ciências Jurídicas**, [s. l.], v. 26, n. 2, 2021. DOI: 10.5020/2317-2150.2021.11443. Disponível em: <https://ojs.unifor.br/rpen/article/view/11443>. Acesso em: 11 jun. 2025.