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## Fourteen years of the ‘parental alienation Act’ in Brazil: negative impacts on the child custody decision-making process, children’s best interests, and women’s rights

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### ABSTRACT


Brazil was, and remains, the first country to legally recognise and penalise acts classified as ‘parental alienation’. The enactment and application of this Act have been widely criticised in Brazil due to its adverse effects on the decision-making process and its potential risks to children’s best interests and women’s rights. This article explores how ‘parental alienation’ became a legal concept in Brazil and examines its impact on the family justice system, as well as on the rights of children and women. Additionally, we present findings from a decision-making experiment conducted with 45 legal professionals – including judges, prosecutors, lawyers, psychologists, and social workers – in Brazil and England. The results reveal that legal actors influenced by ‘parental alienation’ assumptions tended to overlook the inherent uncertainty and complexity of cases, ultimately impairing the decision-making process and compromising the best interests of children.


### KEYWORDS

parental alienation; decision-making; child custody; child arrangements; best interests of the child; misogyny

## Introduction

The assumptions underlying the ‘Parental Alienation Theory’ (PAT) are as controversial as its creator, Richard Gardner – an American child psychiatrist who frequently served as an expert witness in child custody<sup>1</sup> cases involving allegations of sexual abuse (Meier 2009a, Mendes 2019). Gardner himself faced accusations of ‘sugar-coating’ incest and dismissing sexual abuse allegations by attributing them to ‘parental alienation’ and supposed false memories (Meier 2009b, Mendes 2019). Despite Gardner’s efforts, he failed to have his theory classified as a diagnosable syndrome in the *International Classification of Diseases* (ICD) or the *Diagnostic and Statistical Manual of Mental Disorders* (DSM). Gardner’s theory, along with his proposed remedies for intractable child custody cases involving claims of ‘parental alienation’, was never accepted by the academic community. Nevertheless, it continues to influence legal systems in various

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parts of the world (Mendes *et al.* 2016, Mendes and Bucher-Maluschke 2017, Meier 2020, Dalgarno *et al.* 2023).

In 2020, the *Journal of Social Welfare and Family Law* published a special issue critically examining the impacts of the PAT and its application within the family justice system, particularly in cases involving domestic violence and child custody in Australia, Canada, Italy, New Zealand, Spain, the USA, and England (Sheehy and Lapierre 2020). Although these countries' family justice systems have been influenced by PAT, none of them has enacted specific legislation concerning 'parental alienation', unlike Brazil, which remains the only country with such an Act. In Brazil, several publications have highlighted the misogynist bias embedded in PAT (Ananias 2020, Mendes and Oliveira-Silva 2022, Dalgarno *et al.* 2023, Castilho *et al.* 2025, Hacon and Motosi 2025, Lemos 2025, Menezes *et al.* 2025, Willeman *et al.* 2025) as well as its detrimental impact on the decision-making process and the best interests of children (Mendes *et al.* 2020, Barbosa *et al.* 2021, Mendes and Ormerod 2023).

In England, the Family Justice Council issued a '*Guidance on Responding to a Child's Unexplained Reluctance, Resistance or Refusal to Spend Time with a Parent and Allegations of Alienating Behaviour*', which aims 'to assist the court in determining the welfare of the child where allegations of "parental alienation" or "alienating behaviours" are made, by maintaining a focus on the impacts on the child rather than on parental behaviours per se' (FJC – Family Justice Council 2024, p. 5). The FJC guidance acknowledges that PAT is a harmful pseudoscience and, instead, promotes an approach intended to prioritise children and their best interests. However, the guidance's continued reference to 'alienating behaviours' is problematic, as this term subtly validates the notion that a third agent (i.e. the 'alienating parent') possesses an unquestionable ability to 'brain-wash' a child to distance them from the 'alienated parent' – the main argument behind PAT. A relevant example of how references to PAT-related terms remain problematic even after legal prohibition is the case of Spain, where the use of PAT was formally banned in 2021.<sup>2</sup> Despite this legal advancement, concerns persist regarding the continued epistemological influence of PAT in custody proceedings. In response, specialists from the Spanish Ministries of Youth and Childhood and of Gender Equality recently proposed stricter legislative measures, citing the ongoing and harmful application of PAT assumptions in cases involving allegations of child sexual abuse. These experts argue that such practices continue to cause significant harm to mothers' and children's welfare and rights (Albuquerque 2025).

As noted by Mendes (2019), Mendes *et al.* (2020), and Mendes and Ormerod (2023), PAT's assumptions position children as lacking agency, portraying them as a mere 'manoeuvre mass' and easily manipulable. Consequently, their wishes and feelings in cases involving 'alienating behaviours' are often disregarded. This is a harmful perspective that contradicts the principle of recognising children as 'subjects of rights', a principle enshrined in both domestic (e.g. Brazil's Child and Adolescent Statute and the England and Wales *Children Act 1989*) and international (e.g. the *United Nations Convention on the Rights of the Child 1989*) legislation in Brazil and England.

We argue that a more appropriate approach would be to frame such complex and intractable cases as characterised by '*dysfunctional family dynamics post-separation*',<sup>3</sup> which can lead to processes of 'triangulation', 'coalition', and 'invisible loyalties' (Barbosa *et al.* 2021, Mendes and Bucher-Maluschke 2017). This perspective acknowledges the

multifaceted and interdependent dynamics that can emerge in families after parental separation. Such dynamics are multidetermined, influenced by the interactions among all family members, and often shaped by the developmental crisis arising in the post-separation context (Mendes and Bucher-Maluschke 2017, Barbosa *et al.* 2021, Mendes and Ormerod 2023).

Approximately 11 years ago, the first author defended his master's dissertation, which presented a critical and systemic perspective on the use of PAT in child custody cases in Brazil. At that time, the volume of academic publications and allegations of 'parental alienation' was growing exponentially, driven by the enactment of the Parental Alienation Act in Brazil in 2010. A systematic literature review revealed that between 2008 and 2014, the number of articles addressing PAT in Brazil increased by 700% (Mendes *et al.* 2016). Despite the passage of time and increasing academic interest in the topic, several critical questions about PAT remain unresolved: has the Parental Alienation Act mitigated risks to children and safeguarded their best interests? Has it enhanced the decision-making process? What has been its impact on women's rights in child custody cases? How has PAT shaped the way family justice in Brazil perceives families and their developmental struggles following parental separation? This article critically examines these issues, exploring how PAT gained prominence in Brazil while simultaneously undermining the decision-making process and compromising the rights and well-being of children and women. Additionally, we present findings from an empirical decision-making study illustrating how PAT assumptions can impact judicial reasoning in ways that reinforce these harms. Furthermore, we argue why England and relevant organisations, such as Children and Family Court Advisory and Support Service (CAFCASS), should refrain from granting any form of recognition to PAT.

## The path of parental alienation theory in Brazil

PAT emerged as a significant issue in Brazil at the beginning of the 2000s and has since permeated the entire family justice system, particularly following the enactment of the Parental Alienation Act in August 2010. Through a historical lens, Mendes *et al.* (2025) identify four distinct waves of PAT in Brazil – discovery, engagement, legalisation, and questioning – and their implications for the Brazilian family justice system, as well as children's and women's rights and welfare.

The 'Discovery' wave marks the initial appropriation and dissemination of PAT in Brazil. It was introduced by organisations of divorced fathers and prominent family law practitioners, who actively promoted its assumptions without critical scrutiny. These groups lobbied to portray 'parental alienation' as a form of 'emotional abuse' against children, describing it as one of the most harmful types of psychological violence – without, however, providing any scientific evidence to substantiate this claim. Their efforts aimed to mobilise public discourse and pressure the State to adopt measures addressing alleged legal gaps in family justice that would purportedly enable the occurrence of 'alienating acts' (Pais por Justiça 2013, Ananias 2020) – this pattern of lobbying was similarly observed in Australia (Rathus 2020). Public campaigns, seminars, and courses disseminated Gardner's ideas across Brazil, framing PAT as an urgent social issue requiring legal recognition.

Despite condemnation from national and international organisations regarding PAT's pseudoscientific foundation and misogynistic implications, its concepts gained significant traction within the Brazilian judiciary. Family courts embraced PAT's linear and pathologising perspectives on post-separation family dynamics, alongside its adult-centric notions of childhood and its reinforcement of gendered assumptions about women and motherhood within Brazil's family justice system (Mendes and Bucher-Maluschke 2017, Barbosa *et al.* 2021, Mendes and Oliveira-Silva 2022). This foundational wave laid the groundwork for PAT's formal integration into Brazilian Family Law.

The 'Engagement' wave, spanning the mid-2000s, was characterised by intensified social, political, and media advocacy for the formal recognition of PAT in Brazil. Organisations such as the *Associação de Pais e Mães Separados* (APASE)<sup>4</sup> shifted their focus from advocating for mandatory joint custody to promoting PAT as a legitimate framework within family law. Through brochures, websites, and public campaigns, these groups argued that Brazil's legal system lacked sufficient mechanisms to address psychological violence and dysfunctional parent-child alliances post-divorce (Sousa 2009, Mendes 2019).

These efforts culminated in the legislative proposal of nº 4.053/2008 (Brasil 2008), which ultimately became the Parental Alienation Act (PAA) in 2010. The legislative process was expedited, providing limited opportunities for opposing perspectives to be heard – only one public hearing was conducted, with a sole dissenting participant (from the Brazilian Federal Council of Psychology) included at the last minute (Ciarallo 2025). Although the PAA narrowly avoided criminalising parental alienation due to concerns about supposed psychological harms to children (Ananias 2020), it introduced controversial measures, such as mandatory joint custody or the reversal of custodial arrangements in cases where 'acts of parental alienation' were identified (Brasil 2010).

The engagement wave also paved the way for the enactment of the 2014 Joint Custody Act, leveraging PAT to advocate for its mandatory application just four years after the enactment of the PAA. This development occurred despite the absence of scientific evidence supporting joint custody as a prime and universally beneficial arrangement across diverse family contexts and varying children's needs (Mendes and Ormerod 2023, Ananias 2024). The widespread engagement with PAT gained national prominence when the topic was featured in a highly successful Brazilian soap opera, broadcasted during prime time by South America's largest television network.<sup>5</sup> This exposure elevated PAT into mainstream conversations, transforming it into a widely discussed issue across the country.

The 'Legalisation' wave began with the enactment of the PAA in August 2010, transforming PAT from a contested pseudoscience into a formal legal reality in Brazil. This institutionalisation resulted in a significant increase in judicial reliance on PAT principles, alongside a surge in academic publications endorsing its assumptions. Between 2008 and 2014, psycho-legal publications addressing PAT increased by over 700% in Brazil, with 86% supporting its assumptions<sup>6</sup> and only 14% offering critical perspectives (Mendes *et al.* 2016).

Judicial practices began to use PAT as a tool for resolving custody disputes, often disadvantaging mothers and children. State institutions, such as the *Conselho Nacional de Justiça* (CNJ),<sup>7</sup> integrated PAT into training programmes for judges, psychologists, and social workers, as well as mandatory parenting workshops for disputing parents that

reinforce PAT principles (CNJ 2010). These measures normalised PAT's assumptions without critical analysis, further embedding its principles within the family justice system.

On the other hand, critics of PAT faced significant institutional backlash. Psychosocial professionals who expressed dissenting views were (and still are) frequently disqualified from judicial appointments or subjected to harassment within professional bodies. Conversely, PAT advocates, particularly within the legal and psychological fields, leveraged it to enhance their professional standing and financial gain in contentious child custody disputes (Mendes *et al.* 2025). This dynamic effectively formalised a 'parental alienation marketing' in Brazil, a phenomenon similarly reported in England.<sup>8</sup> Furthermore, the legalisation of PAT reinforced harmful gender stereotypes, enabling fathers accused of domestic or child sexual abuse to weaponise the PAA against mothers, thereby undermining protections provided by laws such as the *Lei Maria da Penha*<sup>9</sup> (Meier 2020, Mendes and Oliveira-Silva 2022, Mendes and Ribeiro 2025) – this risk has also been highlighted in the FJC guidance (FJC 2024).

Brazil remains the only country to enact specific legislation recognising and penalising so-called 'acts of parental alienation' in child custody cases. The PAA (Act n°. 12,318), promulgated on 26 August 2010, defines 'parental alienation' as any

interference in the psychological formation of the child or adolescent promoted or induced by one of the parents, by the grandparents or by those who have the child or adolescent under their authority, custody or surveillance so that one of the parents is repudiated by the child or has their relationship and access/contacts with the children damaged.

The Act also lists examples of 'parental alienation':

I – carry out a campaign to disqualify the other parent concerning their paternity or maternity; II – hinder the exercise of parental authority<sup>10</sup>; III – make it difficult for a child or adolescent to have contact with one of the parents; IV – make it difficult to exercise the regulated right to 'family coexistence'<sup>11</sup>; V – deliberately omitting relevant personal information about the child or adolescent from the other parent, including those concerning school, medical and address; VI – file a false complaint against the other parent, against his or her relatives or against grandparents, to prevent or hinder their access and contacts with the child or adolescent; and VII – move the domicile to a distant place, without justification, aiming to make it difficult for the child or adolescent to live with the other parent, with his or her relatives or with grandparents.

The 'Questioning' wave represents the current and growing resistance to PAT and concerted efforts to challenge the PAA. Criticisms primarily target PAT's pseudoscientific foundation, its lack of recognition by reputable organisations such as the *American Psychiatric Association* and the *World Health Organisation*, and its purposeful use as a tool to penalise mothers and children in custody disputes (Barbosa *et al.* 2021, Dalgarno *et al.* 2023).

Grassroots organisations, such as *Mães na Luta* and *CPI Voz Materna*,<sup>12</sup> have exposed the PAA's harmful effects, particularly in cases where custody was granted to fathers accused of violence by framing mothers as 'alienators' when abuse allegations could not be substantiated (Ananias 2020, FJC – Family Justice Council 2024). These efforts have led to legislative proposals for the PAA's repeal, including Bills 2812/2022 and 1372/2023, which highlight its pseudoscientific basis and detrimental impact on gender violence

protections and children's rights (Brasil 2022, 2023). More recently, following months of public hearings and sustained advocacy and mobilisation by these organisations, academics, parliamentarians and wider civil society, the Brazilian Chamber of Deputies' Constitution and Justice Commission (CCJ) approved a proposal to revoke the PAA. The immediate challenge, therefore, is to secure approval in both the Chamber and the Senate so that the repeal can be enacted.

Beyond legislative efforts, academic and professional organisations have issued recommendations to revoke or restrict PAT's application in Brazil. For example, the Federal Council of Psychology (CFP) and the Federal Council of Social Work (CFESS) have issued Technical Guidelines (CFP 2022, CFESS 2022), while the National Human Rights Council' Recommendation n° 6/2022 (CNDH 2024) and the National Health Council (CNS, 2022) have condemned PAT's assumptions as pseudoscientific, misogynistic, and harmful to children's best interests. These critiques reflect a broader movement to reject PAT and to prioritise frameworks that recognise children as active 'subjects of rights' within family justice systems.

### The iatrogenic effect of PAT on the child custody decision-making process

The lack of robust scientific evidence supporting PAT raises serious concerns about its validity and its application in judicial decisions concerning child custody and welfare (Mendes and Bucher-Maluschke 2017, Mendes 2019, Mendes and Ormerod 2023, FJC – Family Justice Council 2024). PAT oversimplifies the complexities of post-separation family dynamics, failing to account for the emotional struggles, family structural changes, and subsequent developmental crises that typically characterise this phase in the Family Life Cycle (Juras and Costa 2011, Mendes and Bucher-Maluschke 2017). By reductively labelling non-assertive and dysfunctional behaviours as mere 'alienation', PAT overlooks the specific contexts of family dynamics and disregards the genuine needs of the children involved (Barbosa *et al.* 2021, Mendes and Ormerod 2023). This oversimplification results in superficial interventions that frequently fail to align with the child's best interests (Mendes 2019, Mendes and Ormerod 2023).

Labelling complex behaviours and family dynamics as 'parental alienation' exacerbates the inherent uncertainty in child custody cases, intensifies existing conflicts, compromises the quality of judicial decisions, and jeopardises the well-being of the children involved (Mendes 2019, Mendes and Ormerod 2023). This reductive approach fosters environments of heightened litigation, perpetuates harmful gender stereotypes, and obstructs the pursuit of balanced and fair decisions that prioritise the genuine needs and best interests of children.

The principle of the Best Interests of the Child (BIC), enshrined in Article 3 of the United Nations Convention on the Rights of the Child, serves as a cornerstone of child custody and contact decisions. In Brazil, it is explicitly articulated in Article 227 of the Federal Constitution and further supported by infraconstitutional legislation. Similarly, in England, the BIC is firmly established in Section 1 of the Children Act 1989 (Mendes and Ormerod 2021). However, its application is fraught with challenges due to some professionals' perceptions that the BIC is overly broad and vague, leaving room for subjective and inconsistent interpretations by legal practitioners, including judges, lawyers, psychologists, and social workers (Mendes *et al.* 2020, Mendes and Ormerod 2021,

2023). Custody cases, inherently complex and dynamic, require careful consideration of legal norms, children's emotional and developmental needs, family crises and often conflicting or ambiguous information (Greene *et al.* 2012, Mendes and Ormerod 2023). This complexity renders the decision-making process highly uncertain and susceptible to cognitive biases (Mendes and Ormerod 2024), which can lead to the inappropriate reliance on 'parental alienation' assumptions.

Hastie and Dawes (2001) describe decision-making as a cognitive process influenced by the decision-maker's values and goals, involving the evaluation of alternatives and their potential outcomes. In child custody cases, decisions carry significant stakes, directly affecting children's lives and family dynamics. Hence, professionals must navigate a multitude of factors, including the child's psychosocial needs and input from external professionals such as psychologists and social workers, which further complicates the process (Schneider and Parente 2006, Mendes and Ormerod 2023).

Another critical issue is that, in both Brazil and England, children's voices (i.e. their wishes and feelings) are regarded as a fundamental element of the decision-making process, given their recognised right to be heard in all matters that regard and/or affect them (Mendes and Ormerod 2021). However, there is substantial empirical and theoretical debate about the extent to which such rights are meaningfully secured in practice. Research (Neale and Smart 1998, Parkinson *et al.* 2007, Cashmore and Parkinson 2009) has shown that children's views are frequently filtered or reframed by adult professionals (e.g. judges, mediators, and welfare officers), which, in itself, reflects the degree to which children's voices are considered as part of the decision-making process – whether through Alternative Dispute Resolution mechanisms or via out-of-court interventions (e.g. by local authority services). In either context, depending on the practices and assumptions of these professionals, children may be perceived as lacking sufficient maturity or as being unduly influenced by one parent (Neale and Smart 1998, Parkinson *et al.* 2007, Cashmore and Parkinson 2009). This filtering can lead to the marginalisation of children's perspectives, particularly in high-conflict cases. Moreover, studies have raised concerns about inconsistent practices regarding child participation across decision-making forums, suggesting that children's voices are at times excluded altogether in out-of-court processes such as mediation (Neale and Smart 1998, Mendes and Ormerod 2024). In response to such concerns, some scholars have argued that participation must encompass not only the opportunity to express views but also the assurance that those views will be genuinely considered and have influence – an approach aligned with Article 12 of the UNCRC (Lundy 2007, Mendes and Ormerod 2019, 2021). Thus, while children's participatory rights are widely acknowledged in principle, their effective implementation remains contested and inconsistent across jurisdictions and settings, which creates a space for pseudoscientific constructs such as PAT to gain traction and influence decision-making in child custody disputes.

Acknowledging and validating these voices not only affirms children's status as rights-bearing individuals but also serves a protective function. For instance, in custody cases involving maltreatment or abuse, the child's account is often essential to identifying and addressing the violence they are subjected to (Pelisoli *et al.* 2023) – although, as previously discussed, it is not always heard or properly valued. However, when allegations of 'parental alienation' arise, children's voices are frequently disregarded, which undermines a decision-making process grounded in their best interests and significantly

increases their vulnerability (Mendes and Bucher-Maluschke 2017, Mendes 2019, Meier 2020, Rathus 2020, Sheehy and Lapierre 2020, Ciarallo 2025). In Brazil, this has led to alarming outcomes, including children being compelled to maintain contact with, or even placed under the guardianship of, alleged abusers (Dalgarno *et al.* 2023, Mendes and Ribeiro 2025).

PAT's assumptions are often employed as a convenient but flawed solution to manage the inherent uncertainties of child custody cases, perpetuating litigation and reinforcing stereotypes (Mendes 2019, Barbosa *et al.* 2021, Mendes and Ormerod 2023). These uncertainties challenge professionals across legal, psychological, and social domains (Mendes and Ormerod 2023, 2024). According to Klein *et al.* (1993), naturalistic decision-making contexts, such as child custody cases, are inherently uncertain, generating doubts about problem structures and potential solutions (Lipshitz 1993, Lipshitz and Strauss 1997). In such cases, emotional and psychosocial complexities amplify the risk of cognitive biases and superficial labelling (Mendes and Bucher-Maluschke 2017, Mendes and Ormerod 2023).

Lipshitz and Strauss's (1997) RAWFS heuristic model outlines three strategies for managing uncertainty: (1) reducing uncertainty through additional information, (2) recognising and addressing uncertainty, and (3) suppressing uncertainty by minimising ambiguities – a trait that PAT embodies. When professionals fail to address uncertainty effectively, they often resort to suppression strategies, such as applying simplistic labels like 'parental alienation'. This approach distorts the complexities of the situation, undermines the integrity of the decision-making process, and ultimately compromises the child's best interests (Lipshitz *et al.* 2001, Barbosa *et al.* 2021, Mendes and Ormerod 2023).

In this context, PAT operates as a dysfunctional cognitive mechanism for suppressing uncertainty, offering a superficial explanation for multifaceted family behaviours and dynamics. By prioritising the reduction of litigation over a thorough evaluation of the child's specific needs, this approach results in decisions that not only undermine BIC but also fail to address the unique challenges inherent to each case (Mendes 2019, Mendes and Ormerod 2023).

By prioritising simplistic labels over nuanced, child-centred analyses, professionals risk compromising the rights and welfare of children. The suppression of uncertainty through the application of PAT undermines the careful evaluation of family dynamics and interactions, leading to decisions that fail to prioritise children's psychosocial well-being and best interests (Mendes and Bucher-Maluschke 2017, Mendes and Ormerod 2023). Such approaches exacerbate litigation, perpetuate uncertainty, and jeopardise the healthy development and fundamental rights of children involved in custody disputes.

### **Study's scope**

To move beyond the social, legal and theoretical perspectives presented thus far, it is crucial to empirically examine whether professionals engaged in child custody decision-making are indeed relying on the heuristic suppression of uncertainty, as proposed by Lipshitz *et al.* (2001). In light of this, the study was guided by the following research questions:

- (1) Does PAT function as a cognitive shortcut that hinders a more nuanced, case-specific evaluation in child custody cases?
- (2) Does the application of PAT in judicial decision-making distort the decision-making process and/or establish a broader pattern of systemic bias?

To test these hypotheses, we applied a method capable of identifying when professionals resort to facile decision-making strategies instead of engaging in deeper, context-sensitive assessments. This was accomplished by investigating the cognitive processes underlying judicial decision-making in custody disputes, assessing the extent to which reliance on familiar but flawed heuristics, such as ‘parental alienation’, shapes professional judgements through the use of Verbal Protocol Analysis (VPA).

The study presented here stems from a doctoral thesis with a cross-cultural design, comparing legal actors’ conceptions and practices regarding the BIC and decision-making in child custody cases. VPA was particularly well-suited for this approach, as it enabled the identification of cognitive strategies and culturally embedded biases that influence how professionals in different jurisdictions process information, assess risk, and reach decisions.

## Materials and methods

This study employed VPA, a well-established technique for investigating cognitive processes and decision-making in real-world contexts. VPA was chosen due to its ability to capture thought processes without altering their underlying structure, thereby avoiding reactivity bias, where participants’ reporting might influence the cognitive processes being observed (Ericsson 2006). This methodological strength is particularly relevant in justice system studies, as forensic professionals often struggle to retrospectively articulate their thought processes and decision-making. As MacMillan (2015, p. 47) highlights, ‘they are often not fully aware of the details of what they do, let alone how they do it’. VPA is thus highly effective in uncovering implicit knowledge within experts’ cognitive processes (Ericsson and Simon 1984/1993, Ericsson 2006) and is especially suited for examining decision-making processes (Kuusela and Paul 2000).

Given the study’s aim was to investigate whether professionals rely on superficial heuristics, such as PAT, when navigating uncertainty in custody decision-making, VPA offers a uniquely suitable approach. Unlike post-hoc interviews or standardised questionnaires, which often rely on retrospective rationalisations, VPA enables real-time access to participants’ thought processes as they unfold. This feature is critical for empirically examining the cognitive shortcuts described by Lipshitz *et al.* (2001), particularly the suppression of uncertainty. By capturing the sequence, content, and structure of participants’ verbalised reasoning, VPA allows for a fine-grained analysis of when and how professionals invoke familiarity-based strategies or avoid deeper contextual engagement. Thus, VPA not only aligns closely with the research questions but also provides a robust methodological bridge between theory and observable decision-making practices in complex, real-world scenarios.

The methodology required participants to verbalise their thoughts while performing a task, rather than merely describing or rationalising their actions (Ericsson and Simon

1984/1993). The approach assumes that working memory content can be expressed verbally without altering the sequence or substance of task-related thoughts (Ericsson 2006, Trickett and Trafton 2009). In this study, participants verbalised their reasoning while deciding on custodial arrangements and contact situations in cases involving children or adolescents.

As shown in Table 1, participants were ‘legal actors’ recruited in Brazil and England, encompassing judges, prosecutors,<sup>13</sup> lawyers, psychologists, and social workers. A minimum of four professionals from each category and country participated, resulting in a total of 45 participants (27 from Brazil and 18 from England), 62% of whom were women. The participants had an average of 14.5 years of professional experience in Brazil and 16.9 years in England.

**Table 1.** Participants’ basic sociodemographic information per country.

Country	Category	Gender	Years of Experience
<i>Brazil</i>	Judges	F	7
		M	20
		F	20
		F	4
		F	7
		F	8
	Prosecutors	F	16
		M	4
		M	27
		F	3
		M	22
		F	5
	Lawyers	F	27
		M	10
		F	24
		F	6
		F	26
		F	21
	Psychologists	F	11
		F	12
F		22	
M		5	
F		15	
F		20	
Social Workers	F	31	
	F	5	
	F	11	
	F	11	
	M	25	
	M	8	
<i>England</i>	Judges	M	12
		M	10
		M	10
	Lawyers	F	9
		M	20
		M	31
		F	33
		F	12
		M	30
	Psychologists	M	31
		F	25
		F	12
		M	5
	Social Workers	M	27
		F	7
		F	3
		M	4

## Study design

Mendes and Ormerod (2019) indicate that the literature frequently associates the child's best interests with the provision and maintenance of their material-physiological and psychosocio-emotional developmental needs. According to the authors, material-physiological needs refer to access to adequate housing, food, healthcare, physical safety, and education – i.e. basic conditions that ensure a child's physical and biological survival and development. On the other hand, psychosocio-emotional needs involve emotional support, the right to be heard, to express feelings and opinions, and to be protected from coercion, fear, and neglect in their everyday interactions and relationships. Another study addressing contextual issues of child custody decision-making process corroborated this approach, as 56% ( $n = 41$ ) of the participants referred to the child's material-physiological/basic needs and 53% ( $n = 39$ ) of them referred to psychosocio-emotional well-being needs (Mendes and Ormerod 2023). The literature has also shown that the interaction between material-physiological/basic and psychosocio-emotional well-being needs tends to make the decision-making more complex and uncertain (Mendes and Ormerod 2024). Inspired by these studies, we selected two categories of developmental needs: *preserving basic (material-physiological) needs and rights* and *enhancing the child's psychosocio-emotional well-being*. We addressed the two most frequently cited needs in each category, as identified in Mendes and Ormerod's (2023, 2024) studies: 'education' (138 references) and 'physical well-being' (48 references) under material and physiological needs, and 'child – parent relationship' (67 references) and 'sense of stability' (52 references) under psychosocial and emotional needs. All four needs were presented and interwoven within each case.

Based on Mendes and Ormerod (2023, 2024)'s findings, we assumed that the complexity prompted by interactions between these needs would affect decision-making. Hence, in the first case, these needs were presented as conflicting – i.e. by safeguarding a type of need, one would jeopardise or make harder to safeguard the other type of need. In the second condition, needs interacted independently, meaning that assuring one need would not make it difficult to assure the other one.

The literature points to the frequent association, especially in Brazil, between BIC and allegations of parental alienation (Mendes and Bucher-Maluschke 2017, Mendes and Ribeiro 2025). Accordingly, we incorporated elements that alluded to parental alienation in each condition, without explicitly referencing the term 'parental alienation' or its variants – e.g. making contacts difficult, saying bad things about the other parent.

In the end, the design ensured that each case addressed the child's needs differently. Both cases addressed material-physiological needs (i.e. physical integrity and access to education) as well as psychosocial-emotional needs (i.e. protecting the child-parent relationship and children's sense of stability). The distinction between them lies in the nature of the interaction between these needs. Case A demonstrated a conflicting interaction, whereby the fulfilment of a material-physiological need hindered the satisfaction of a psychosocial-emotional need, and vice versa. Case B, on the other hand, illustrated that while both types of needs were present and considered, they operated independently – for example, the fulfilment of a material-physiological need was not directly related to, nor did it interfere with, a psychosocial-emotional need, and vice versa. For more details about each case's content, please refer to Appendix A.

The study was structured into three stages of information blocks before participants provided their final custody and contact recommendations. Starting with the second block, participants were presented with six to eight different sources of information and required to select three. While reasoning through and choosing their options, participants were instructed to ‘think aloud’, verbalising their thoughts as they progressed through the task. The researcher remained silent throughout the process, only intervening to prompt ‘*please keep talking*’ if a participant remained silent for more than 10 seconds.

In the first block, participants received a general description of the case, including the history of the ex-couple, the reasons for judicial intervention, and each parent’s statements. The second block provided additional information, such as the age and gender of the children or adolescents, parental communication, financial status, and criminal records of the parents. In the third block, psychosocial information about the case were presented to support their decisions. Ultimately, participants were asked to make recommendations regarding custody and contact arrangements based on their selected information and verbalised deliberations.

### **Data collection**

Data collection was conducted via the Qualtrics platform, where participants analysed cases A and B. Throughout the decision-making experiment, participants’ verbalised thoughts were audio-recorded, transcribed, and segmented into 20-second intervals for coding and analysis. The initial coding framework was based on the work of Lipshitz *et al.* (2001). During the pilot phase, an additional category was identified: ‘context screening’, a process in which legal actors evaluate decision-making contexts based on their professional experience and practices (Mendes 2022). This category was further divided into:

- **Familiarity:** recognising elements of the context that are typical or familiar in custody cases;
- **Experience Evocation:** using professional experience to assess, analyse, or judge specific aspects of the context;
- **High Stakes:** identifying elements of concern or significance, such as feeling uncertain about making a decision based on the available information or recognising the gravity of the situation.

Additionally, as proposed by Mendes and Ormerod (2023, 2024, 2025), participants’ use of heuristics and metacognitive<sup>14</sup> strategies was also coded. However, this article focuses exclusively on the findings related to ‘familiarity’, ‘experience evocation’, and ‘high stakes’ to illustrate how PA assumptions can impact the decision-making process in child custody cases – see Appendix B for further details about the code tree and the coding process. The study was approved by the University of Sussex Research Ethics Committee (UK) under certificate number ER/JA454/5.

## Results

Table 2 suggests that PAT appears to have a proportionally stronger influence in England. Importantly, the issue lies not in the absolute number of professionals identifying signs of PA, but in the fact that 4% (BR) to 22% (EN) of participants did so despite the absence of any explicit or direct reference to ‘parental alienation’ in the case information – given that no legal professional should rely on pseudoscientific constructs to assess complex family situations, any occurrence is concerning. These findings suggest the influence of PAT in shaping professionals’ contextual screening, raising serious implications for the quality of the decision-making process and the safeguarding of children’s best interests.

When analysed by professional category, a distinct pattern emerges: judges and lawyers (each representing approximately one-quarter of their category) were the groups most likely to identify signs of PA, while only one prosecutor did so. This discrepancy might point to the possibility that the legal role these professionals have in the decision-making process may shape their perceptions and engagement with PA assumptions – something that should be addressed further, by another study with a larger sample. Similarly, while none of the psychologists identified signs of PA, nearly one-quarter of social workers did – again underscoring a suggestive role-dependent divergence in the interpretation of custody-related dynamics and in the adoption of PA-based reasoning.

As seen, even though the cases presented to the participants lacked explicit references to ‘parental alienation’, some of them still identified signs of it during their analyses. This finding suggests that, even in the absence of direct information or allegations, legal professionals’ familiarity with the concept of ‘parental alienation’ can shape their interpretations and limit their capacity to undertake a broader contextual analysis of the case. This influence extends to how they process information and make decisions in custody and contact cases.

The graph in Figure 1 depicts the average mapping of context-screening strategies employed by participants who did not identify signs of ‘parental alienation’ in the two cases analysed. As depicted, *familiarity* emerges as a prominent element during the initial stage of decision-making, which aligns with expectations given the inherent uncertainty of this phase. However, as the process progresses and additional information is gathered, reliance on *familiarity* diminishes, while the use of *experience evocation* and *high stakes*

**Table 2.** Characteristics of participants who ‘identified’ and ‘did not identify’ signs of parental alienation.

Characteristics		Identified PA Signs (n; %) <sup>a</sup>	Did Not Identified PA Signs (n; %) <sup>a</sup>
Country	Brazil	4; 7.4%	50; 92.6%
	England	8; 22.2%	28; 77.8%
Gender	Man	5; 14.7%	29; 85.3%
	Woman	7; 12.5%	49; 87.5%
Legal Actors	Judge	4; 20%	16; 80%
	Prosecutor	1; 8.3%	11; 91.7%
	Lawyer	4; 18.2%	18; 81.8%
	Psychologist	0; 0%	18; 100%
	Social Worker	3; 17%	15; 83%

<sup>a</sup>Considering the overall frequency – i.e. 45 participants x 2 cases (A and B) = 90.

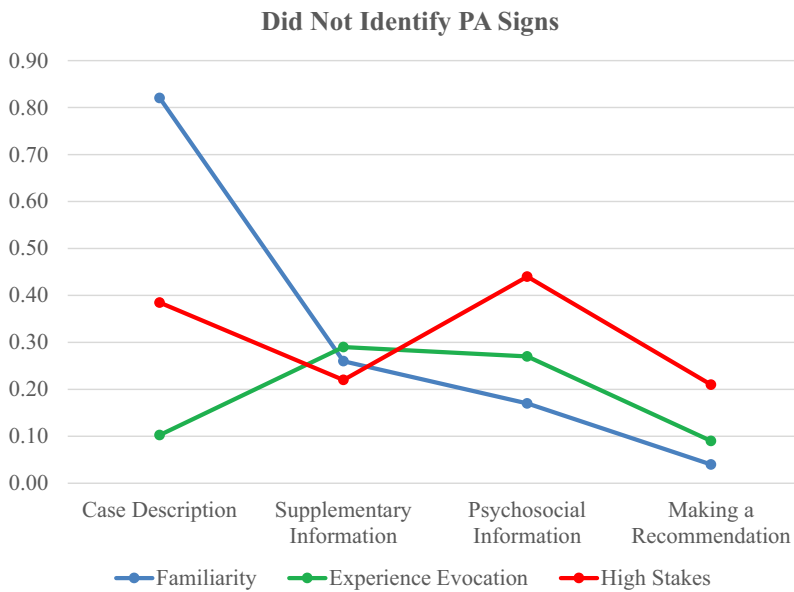


Figure 1. Mapping of context-screening strategies for participants who ‘did not identify’ signs of “parental alienation”.

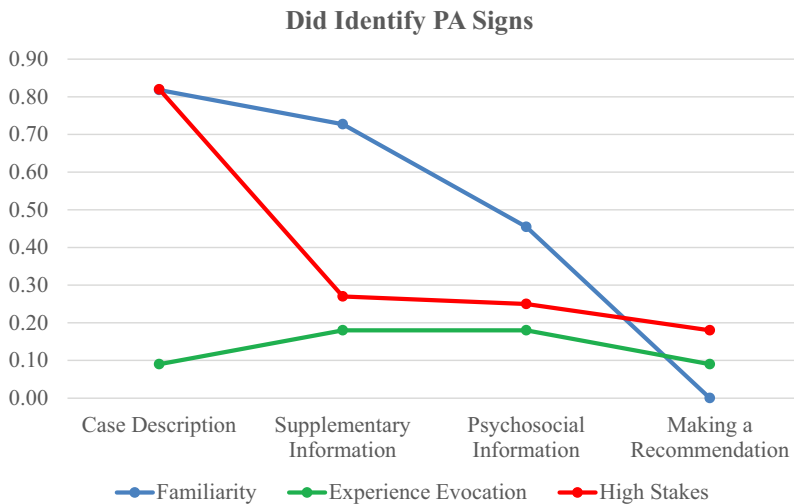


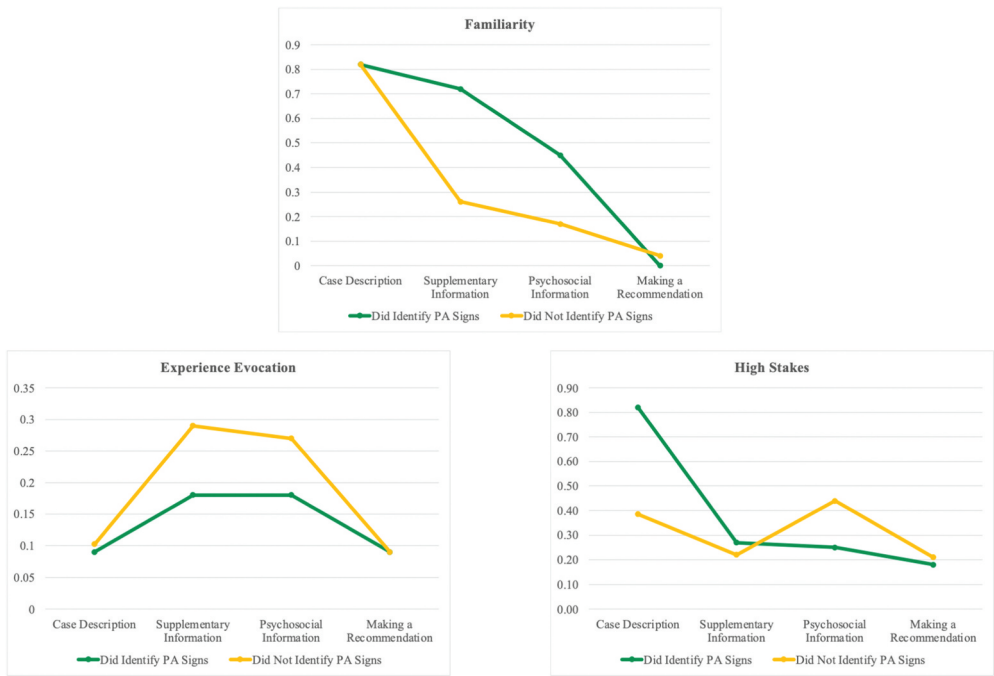
Figure 2. Mapping of context-screening strategies for participants who ‘did identify’ signs of “parental alienation”.

strategies increases. This pattern indicates that, for these participants, the decision-making process involves significant cognitive adaptation and complexity. They appear to shift their strategies to effectively manage uncertainty and address the nuanced aspects of the cases presented.

The mapping presented in Figure 2 highlights a distinct pattern among participants who identified signs of ‘parental alienation’ during their analyses. For this group,

*familiarity* remained consistently high, particularly during the initial phases of the decision-making process. Unlike the participants who did not observe such signs, this group showed limited progression towards employing more complex cognitive strategies, such as *experience evocation* and *high stakes*. The sustained reliance on *familiarity* may reflect a tendency to default to pre-existing concepts and labels, such as ‘parental alienation’, fostering an ‘automatised’ and acritical recognition of PA signs. This behaviour appears to hinder the adoption of more nuanced and contextualised analyses, which are often critical in addressing the complexities of custody and contact cases.

This limited progression towards more complex cognitive strategies is particularly concerning given the multifaceted nature of custody and contact disputes, which often involve ambiguous, emotionally charged, and highly contextualised information (Mendes and Ormerod 2023). When professionals remain anchored in familiarity-based reasoning (particularly via reductive frameworks like ‘parental alienation’) they risk bypassing deeper interpretative processes that could reveal critical psychosocial, relational, or safeguarding concerns. This cognitive rigidity can narrow the scope of decision-making context screening, leading to decisions based on superficial cues rather than a thorough engagement with the unique circumstances of each case. As a result, the decision-making process can become less responsive to the child’s lived experience and developmental needs, potentially undermining the principle of the child’s best interests. In this sense, the premature labelling of a case as involving ‘parental alienation’ may not only distort professional judgement but also compromise the fairness and adequacy of



**Figure 3.** Comparison between who ‘did not identify’ and ‘did identify’ signs of “parental alienation” throughout the decision-making process.

outcomes, thereby failing to protect the rights and well-being of children involved in family court proceedings.

A comparison of the two groups (Figure 3) suggests that the uncritical application of parental alienation assumptions directly affects how legal professionals process uncertainty and make decisions. Participants who did not identify signs of parental alienation adjusted their strategies throughout the decision-making process, increasingly employing ‘experience evocation’ and recognising ‘high stake’ scenarios. Conversely, those who identified signs of parental alienation remained confined to a more superficial level of cognitive processing, heavily reliant on ‘familiarity’. This reliance on familiarity can be particularly detrimental, as parental alienation theory, often applied automatically and without critical reflection, overly simplifies complex scenarios. Such oversimplifications risk leading to decisions that fail to align with the best interests of the child or adolescent (Mendes 2019, Mendes and Ormerod 2023).

## Discussion

Decision-making in naturalistic contexts, such as child custody and contact cases, relies heavily on ‘situation assessment’ – the cognitive process of interpreting the environment before selecting a course of action (Lipshitz and Strauss 1997). This early stage is fundamental, as professionals are not yet deciding what to do but are trying to understand what is happening. Hence, high mapping of ‘familiarity’ at this stage is expected, as it reflects the recognition of known patterns. In contrast, more complex strategies such as ‘experience evocation’ and ‘high stakes’ tend to appear later, as the situation becomes clearer and more refined cognitive engagement is required (Mosier 2008, Mendes 2022). However, the present study suggests that participants’ professional roles appear to influence how they assess and process decision-making contexts.

Judges and lawyers were proportionally the groups most likely to identify signs of ‘parental alienation’. This pattern may be partially explained by the structural logic of legal practice itself, which often privileges binary and antagonistic thinking (e.g. claimant vs. defendant, ‘alienating’ vs. ‘alienated’ parent) and objective, rule-based frameworks over contextual nuance (Mendes and Bucher-Maluschke 2017). Only one prosecutor identified signs of PA, a notable divergence that may reflect their distinct institutional role within the Brazilian legal system. Acting as *custos legis* (i.e. as guardians of the law and public interest), Brazilian prosecutors are tasked with ensuring that the legal process upholds constitutional protections, especially those concerning children’s rights. As such, their role places greater emphasis on safeguarding principles rather than adversarial claims, which may discourage uncritical acceptance of pseudoscientific concepts such as PAT (Mendes and Ormerod 2021, Mendes and Ribeiro 2025).

Similarly, the contrasting responses between psychologists and social workers further underscore the influence of professional role and regulatory guidance on situation assessment. None of the psychologists in this study identified signs of parental alienation, while approximately one-quarter of social workers did. This discrepancy is particularly salient in the Brazilian context, where professional bodies have taken formal positions against the use of PAT. The Federal Council of Psychology (CFP 2022), in its Technical Guidance n°. 04/2022, states that psychologists should not base their professional conduct on the Parental Alienation Act, urging instead that decisions be guided by scientific,

ethical, and critical standards. The Federal Council of Social Work (CFESS 2022) issued similar guidance in 2022 but adopted an even more critical tone, alerting that allegations of ‘parental alienation’, as defined by the Parental Alienation Act, are grounded in ‘psychological aspects’, which fall outside the object and scope of Social Work practice. CFESS further warns that such allegations have often been used to undermine credible reports of domestic and sexual violence involving women, children, and adolescents, thus violating the rights of those most vulnerable in child custody cases – which is also signposted by the literature (Sheehy and Lapierre 2020, Dalgarno *et al.* 2023, Castilho *et al.* 2025).

In the United Kingdom, however, no equivalent guidance appears to have been issued by professional bodies or CAFCASS – although the Family Justice Council’s *Guidance on Responding to Allegations of Alienating Behaviour* (December 2024) represents an important advance, this Guidance suggests that further discussion and development are still needed to ensure alignment with the protection of children’s rights and best interests. This limited institutional response may contribute to the high number of UK-based social workers in this study who identified signs of ‘parental alienation’, despite the absence of explicit indicators in the case materials. The lack of a critical institutional stance may allow problematic heuristics like PAT to remain embedded in professional decision-making, shaping not only how legal professionals perceive case complexity but also how they interpret children’s behaviours, parental dynamics, and allegations of harm. For instance, in Brazil, Mendes and Trainotti (2025) reported the case of Sophia, a child in a custody dispute involving allegations of sexual abuse by her father and counter-allegations of ‘parental alienation’. Despite exhibiting PTSD symptoms and credible claims, professionals influenced by PAT, including Social Workers, discredited her testimony, subjected her to repeated interventions, and prioritised confirming ‘alienation’ over her protection. Her emotional responses were dismissed, her mother’s protective actions undermined, and she was coerced into contact with her alleged abuser, against her will.

This study’s findings suggest that reliance on familiar but unexamined frameworks, such as PAT, may limit legal and psychosocial professionals’ ability to transition towards more sophisticated cognitive strategies as cases unfold. When professionals remain anchored in simplistic interpretations early on, their subsequent analysis is less likely to accommodate contextual complexities or evolving family dynamics (Mendes 2022, Mendes and Ormerod 2023, 2024). This constrains the quality of situation assessment, a core component of sound decision-making, and may ultimately impair the fairness and child-centredness of custody decisions. By extension, it risks undermining the principle of the best interests of the child, particularly in cases where abuse or neglect is present but reframed, or dismissed, through the lens of ‘alienation’.

These findings become more critical when one considers that the decision-making process in child custody and contact cases after parental separation is marked by uncertainty, stemming from contradictory information and complex family dynamics (Mendes and Ormerod 2023). This study’s findings reveal how uncertainty influences professionals’ cognitive strategies, highlighting two distinct patterns. Participants who identified signs of ‘parental alienation’, even in cases where such signs were neither explicitly referenced nor present, displayed a pronounced reliance on familiarity-based

strategies throughout the decision-making process. Conversely, those who did not identify such signs demonstrated a progression towards more sophisticated strategies, such as recognising ‘high stakes’ and engaging in the ‘experience evocation’. These results underscore the impact of PAT as a reductive framework that perpetuates superficial processing of complex family dynamics.

PAT, as highlighted by Mendes and Ormerod (2023), operates as a dysfunctional cognitive mechanism that simplifies intricate family interactions into overly generalised labels, such as ‘parental alienation’. This study’s results reinforce the criticism that such simplifications often suppress uncertainty rather than address it, with professionals relying on familiar yet inadequate assumptions to interpret nuanced and complex situations. As mentioned before, this approach undermines the best interests of the child by prioritising expedient resolutions over thoughtful, case-specific analyses (Mendes and Bucher-Maluschke 2017, Mendes 2019).

Rhetorically, especially in Brazil, PAT has been promoted as a tool to safeguard children’s welfare and best interests. This argument was central to the enactment of the Parental Alienation Act in Brazil and continues to justify its existence. Our findings challenge this narrative, illustrating how PAT’s application tends to overshadow children’s voices and legitimate needs. Allegations of ‘parental alienation’ can lead professionals to doubt, minimise, or dismiss children’s accounts, perceiving them as ‘contaminated’ by the allegedly alienating parent (Mendes and Bucher-Maluschke 2017, Doughty *et al.* 2020, Mendes and Ribeiro 2025). As observed in this study, participants influenced by PAT were less likely to consider psychosocial complexities critically (e.g. power dynamics, potential domestic abuse, children’s wishes and feelings and externalising and internalising behaviours),<sup>15</sup> instead reverting to familiarity-based strategies that prioritised predefined narratives over the child’s expressed needs and perspectives.

This suppression of children’s agency, as noted by Doughty *et al.* (2020), denies children the opportunity to meaningfully participate in decisions about their lives – a right largely guaranteed by Western legislation, but one that, as previously discussed, can fail to materialise in practice. The label of ‘alienated child’ further marginalises their voices, framing their legitimate feelings and wishes as mere extensions of a parent’s manipulation. This perpetuates a cycle of revictimisation, wherein children are forced into coercive contact with an abusive parent or have their well-being compromised by decisions that fail to address the complexities of their family dynamics (Feresin 2020, Mendes and Trainotti 2025, Mendes and Ribeiro 2025).

The systemic biases underpinning PAT also merit critical examination. Historically, PAT emerged alongside other misogynistic frameworks, such as the *Sexual Allegations in Divorce Syndrome* (Blush and Ross 1987), the *Medea Syndrome* (Jacobs 1988), and the *Divorced Malicious Mother Syndrome* (Turkat 1995). These constructs reflect a broader trend in the medical-legal field of the 1980s and 1990s to pathologise women in post-divorce scenarios, discredit their concerns, and frame their protective actions as malicious (Sheehy and Lapierre 2020, Mendes *et al.* 2025). While these frameworks have largely been discredited, PAT has persisted, spreading globally and becoming entrenched in family justice systems, for instance, in Australia (Death *et al.* 2019, Rathus 2020), Brazil (Mendes and Oliveira-Silva 2022, Mendes and Ribeiro 2025), Canada (Lapierre

*et al.* 2020), Italy (Feresin 2020), New Zealand (Mackenzie *et al.* 2020) and USA (Meier 2020).

At its inception, PAT predominantly framed mothers as the primary ‘alienators’, a bias that persisted until the early 2000s, when societal and academic critiques prompted a shift towards a more gender-neutral discourse (Mendes 2019, Mendes and Oliveira-Silva 2022). Nevertheless, the legacy of misogyny remains evident. As highlighted by Sheehy and Lapierre (2020), applying a ‘parental alienation lens’ often invalidates women’s and children’s concerns, portraying them as manifestations of hostility or manipulation. The results of this study reflect this dynamic, showing that participants who adhered to PAT assumptions were less likely to engage critically with contextual factors, thereby reinforcing harmful stereotypes and perpetuating the very conflicts they aimed to resolve.

The findings also align with global critiques of PAT’s misuse as a tool of coercive control in post-separation scenarios. Joint custody arrangements, when combined with the threat of PA allegations, can serve as a mechanism for abusers to maintain dominance over their former partners and children (Mendes and Oliveira-Silva 2022, Dalgarno *et al.* 2023). This study illustrates how professionals influenced by PAT may unwittingly enable such dynamics by prioritising familiarity-based strategies that fail to account for power imbalances or the broader context of intimate partner violence and coercive control.

Ultimately, the findings underscore the urgent need for a critical re-evaluation of PAT within family justice systems. The uncritical adoption of its assumptions perpetuates a cycle of uncertainty and conflict, as observed in the contrasting decision-making strategies of the study’s participants. While those who rejected PAT assumptions demonstrated the potential for more nuanced, child-centred approaches, the prevalence of familiarity-based strategies highlights systemic issues that must be addressed to ensure that children’s best interests are genuinely prioritised. This involves not only rejecting reductive labels but also fostering professional practices that embrace the complexity of family dynamics and uphold the rights and welfare of children and women.

### **Limitations and future directions**

This study is the first known to map the cognitive tendencies of professionals guided by parental alienation assumptions, providing innovative insights into how these assumptions influence decision-making in custody and contact cases. Despite the relevance and significance of the findings, further research with larger samples is needed to enhance the robustness of the conclusions presented here. Future studies could also facilitate the application of inferential statistical analyses, deepening the understanding of the cognitive and practical impacts of PAT in decision-making processes within the family justice system.

### **Final considerations**

This article critically examined the adverse impacts of PAT on child custody decision-making, challenging its purported aims of safeguarding children’s best interests and enhancing judicial processes. We began by presenting a narrative review of PAT, particularly in the Brazilian context, and explored how, since the enactment of the

PAA in 2010, the theory has been used as a tool to undermine children's rights, women's protections, and the integrity of decision-making in custody cases. Complementing this analysis, the findings from the decision-making experiment revealed that, far from fulfilling its stated objectives, the PAT has failed to mitigate risks to children and protect their best interests. Instead, research has shown how its application can lead to the revictimisation of children by disregarding their voices, promoting reductive interpretations of complex family dynamics, and enforcing contact arrangements that expose them to potential harm (Mendes and Bucher-Maluschke 2017, Mendes 2019, Meier 2020, Rathus 2020, Sheehy and Lapierre 2020, Ciarallo 2025). These outcomes highlight the inherent contradictions of the PAT and PAA, which claim to prioritise children's best interests while systematically undermining their agency and welfare.

The PAA has also failed to enhance the decision-making process and the safeguarding of the child's best interests. In the explanatory statement of Bill n°. 4053/2008, which gave rise to the PAA, it is suggested that the law would enhance decisions regarding custody and contact, thereby protecting the best interests of children (Brasil 2008). As revealed in this study, legal professionals influenced by PAT tend to rely on simplistic cognitive strategies, such as recognising signs of 'parental alienation', even when such signs are unsupported by case evidence. This reliance on familiarity-based approaches limits the professionals' capacity to engage with the psychosocial complexities of family disputes, which may lead to decisions that are neither nuanced nor evidence-based. The study findings reveal how PAT's pseudoscientific assumptions can exacerbate uncertainties rather than resolving them, potentially perpetuating cycles of conflict and litigation that ultimately compromise the integrity of judicial decisions.

Furthermore, previous research has shown how PAT has profoundly undermined women's rights in child custody cases – see the JSWFL's 2020 special issue (Sheehy and Lapierre 2020) and Dalgarno *et al.* (2023). By reinforcing patriarchal and misogynistic narratives, the PAA has been weaponised against mothers, particularly those raising legitimate concerns about domestic or child sexual abuse. This trend, observed internationally, is perpetuated in Brazil, where the PAA has facilitated the erosion of legal protections for women and children.

Beyond its immediate impacts, PAT has shaped the way family justice in Brazil perceives families and their developmental struggles following parental separation. By framing post-separation behaviours through a pathologising lens, PAT oversimplifies the complex realities of family dynamics, reducing them to binary narratives of 'alienator' versus 'alienated'. This approach disregards the interdependent and multifaceted nature of family systems, overlooking critical factors such as coercive control, unresolved trauma, and the psychosocial needs of children and parents. Instead of promoting family well-being and stability, the application of PAT has entrenched adversarial relationships, further destabilising families during a vulnerable period.

The international dissemination of PAT underscores the critical urgency of the discussions presented herein. As Doughty *et al.* (2020) highlight, pressure groups in England and Wales are actively lobbying for legislative recognition of parental alienation, a development that warrants serious concern. This would be catastrophic for the British Family Justice System, as highlighted by the Family Justice Council (FJC – Family Justice Council 2024) guidance, which cautions against the incorporation of PAT's pseudoscientific assumptions. British entities such as the CAF/CASS and local authorities must

learn from the Brazilian experience, recognising the risks of legitimising PAT in their practices. Continued reliance on such frameworks jeopardises safeguarding efforts, reinforces harmful stereotypes, and undermines children's rights.

The discussions presented here make a compelling case for CAFCASS and other relevant organisations to urgently distance themselves from PAT and its pseudoscientific underpinnings. Adopting pseudoscientific theories risks sidelining children's voices, revictimising vulnerable women, and compromising the integrity of safeguarding mechanisms. Instead, a commitment to evidence-based practices that prioritise children's best interests and recognise the complexities of family dynamics is imperative.

Ultimately, the findings of this study underscore the necessity of rejecting reductive labels like 'parental alienation' and advancing approaches that genuinely safeguard children and respect women's rights. In Brazil, the PAA has not only failed to fulfil its promises but has also perpetuated a cycle of harm and injustice. Policymakers, practitioners, and researchers must work collectively to dismantle these harmful frameworks, ensuring that family justice systems are equipped to address the nuanced realities of post-separation families and uphold the principles of justice, equity, and child's best interests.

## Notes

1. In English private law matters, the term 'custody' is no longer in use. Following the enactment of the Children and Families Act 2014, the appropriate terminology is 'child arrangement', which pertains to decisions made about the child's care after the parents' relationship ends. Nonetheless, we are employing 'custody' as a standardised term to refer to: a) the child's primary residence; b) the allocation of time spent with each parent; and c) contact arrangements, outlining how and when parents can spend time with their child post-separation.
2. In April 2021, Spain enacted the *Ley de Protección de la Infancia* (Childhood Protection Act), which explicitly prohibits reliance on assumptions of parental alienation or any other non-scientific theories in custody and coexistence disputes. Source: Article 11, <https://www.boe.es/buscar/act.php?id=BOE-A-2021-9347>. The Colombian Supreme Court has done the same in January 2024. Source: <https://efeminista.com/colombia-prohibe-sindrome-alienacion-parental/>.
3. Although distinctions exist in law and definition, this article treats 'divorce' and 'parental separation' as synonymous, both referring to the dissolution of a relationship. Therefore, henceforth, the terms 'parental separation' and 'divorce' will be used interchangeably.
4. Association of Divorced Parents.
5. The soap opera in question, *Salve Jorge*, was broadcast by Rede Globo in 2013, with an estimated audience of approximately 24 million viewers, representing about 12% of Brazil's population at the time. Rede Globo's soap operas, known as *novelas*, have historically played a significant role in Brazilian culture, shaping public opinion, influencing social behaviour, and reaching a vast audience through free-to-air television. Their accessibility and engaging storylines make them a powerful medium for communication and entertainment in Brazil, where open television remains a primary source of information and leisure for many.
6. All the publications were placed in journals with low or no 'scientific/academic quality' according to QUALIS-CAPES (see Mendes *et al.* 2016) – a Brazilian system developed by CAPES (Coordination for the Improvement of Higher Education Personnel) to evaluate the quality of scientific publications and journals. It categorises journals into tiers (e.g. A1, A2, B1, B2), based on their scientific rigour and impact, serving as a critical tool for appraising the academic relevance of research

outputs in Brazil. This system significantly influences funding decisions, academic assessments, and the perceived credibility of scientific publications within the Brazilian academic community

7. The National Council of Justice (CNJ) oversees Brazil's Judiciary, ensuring transparency, efficiency, and accountability. Established by Constitutional Amendment 45/2004, it monitors judges' conduct, coordinates justice-related policies, and promotes judicial innovation.
8. 'Parental alienation and the unregulated experts shattering children's lives', *The Guardian*. Source: <https://www.theguardian.com/global-development/2022/jun/12/parental-alienation-and-the-unregulated-experts-shattering-childrens-lives>.
9. The *Lei Maria da Penha* (Maria da Penha Act) is landmark Brazilian legislation enacted in 2006 to prevent and combat domestic and family violence against women. It strengthens protective measures for victims, criminalises various forms of violence, and promotes accountability for offenders. The law also establishes mechanisms to ensure women's rights and supports awareness-raising initiatives on gender-based violence.
10. Would be the equivalent of 'parental responsibility' within the English Law. For a comparative look and discussion of 'parental authority' (Brazil) and 'parental responsibility' (England), please see Mendes and Ormerod (2021).
11. For further information and discussion regarding the principle of 'family coexistence' within the Brazilian Family Law, please see Mendes and Ormerod (2021).
12. '*Mães na Luta*' (Mothers in Struggle) and '*CPI Voz Materna*' (Mother's Voice Parliamentary Inquiry) are NGOs formed by mothers who have been directly affected by PAT and PAA. Their stories, which highlight the systematic violation of both their rights and their children under PAT and the PAA, have received extensive coverage from major media outlets in Brazil.
13. In Brazil, prosecutors are involved in child custody cases – see Mendes and Ormerod (2021).
14. **Heuristics:** are mental shortcuts employed to make swift decisions in uncertain situations. They function as 'rules of thumb' or experience-based guidelines rather than theoretical frameworks (Shah and Oppenheimer 2008). When professionals encounter complex problems, they rely on heuristics to choose the most promising pathway towards a desired solution (van Gog *et al.* 2005). In custody and contact disputes, these heuristics facilitate the selection of relevant information, assessment of its value, recognition of decision limits, and, where necessary, exploration of solutions beyond the courtroom (Mendes and Ormerod 2024). Essentially, heuristics aid in organising and interpreting information, simplifying complex scenarios, and navigating uncertain contexts (Hutchinson and Gigerenzer 2005).

**Metacognitive Strategies:** involve the monitoring and regulation of one's decision-making processes to ensure actions are accurate and contextually appropriate (van Gog *et al.* 2005). These strategies provide professionals with confidence in the appropriateness and coherence of their decisions, aligning them with the best course of action for the case (Mendes and Ormerod 2024). Within the context of custody and contact disputes, metacognitive strategies not only aim to serve the best interests of the child or adolescent but also safeguard the professionals themselves. These strategies ensure that decisions and actions are defensible, well-reasoned, and aligned with professional standards. Key strategies include preferences for custody arrangements, supervision of professional practices, and the application of the BIC framework as a justification for decisions and actions (Mendes and Ormerod 2024).

For further analysis and detailed discussions, see Mendes (2022).

15. Externalising and internalising behaviours are two distinct, but related responses children may exhibit when exposed to parental conflict or domestic abuse (Pinquart 2017, Fong *et al.* 2019, Zhao *et al.* 2022). Externalising behaviours involve outward expressions such as aggression, defiance, or hyperactivity, while internalising behaviours reflect inward distress, including anxiety, depression, or withdrawal. Both are common indicators of emotional dysregulation and may signal the child's attempt to cope with unsafe or unstable family environments are mental – rather than signs of 'parental alienation' (Mendes and Ribeiro 2025).

## Disclosure statement

The authors do not have any conflicts of interest to disclose.

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