

Brazil's New Law Criminalizing "Parental Alienation Syndrome" is Harmful to Battered Women

In August, 2010, the president of Brazil signed into law a bill criminalizing “parental alienation” entitled *Alienação Parental Agora é Crime Previsto em Lei*, JURID. According to the Law Library of the United States Congress,¹ the new Brazilian legislation defines an act of parental alienation as the interference with the psychological formation of a child or adolescent that promotes repudiation of a parent or damage to the establishment or maintenance of ties with a parent, when such an act is practiced by a parent, grandparent, those who have the child or adolescent under their authority, custody, or supervision.²

The Brazilian law supports the theory of “parental alienation syndrome” (PAS). PAS is a term for a situation in which one parent is accused of alienating a child from the other parent. Since this theory was introduced, experts have widely dismissed the theory as ‘junk science’ and a simplistic, unsubstantiated explanation. In fact, after studying PAS, nearly all mental health and legal experts consider this theory to be both fictitious and even dangerous to the children involved because it may place them in the custody of an abuser. In cases of domestic abuse, behavior that is reasonable to protect a child from abuse may be misinterpreted as acts designed to alienate the child from the abuser.

Legislation should not legitimize the widely-discredited PAS theory; rather, legislation should state that “parental alienation syndrome” is not admissible as evidence in hearings on child custody or visitation.³ Further, the criminalization of the law is a serious threat to abused women in Brazil, who may not be able to leave an abusive situation with their children for fear of prosecution.

The Brazilian law provides examples of “parental alienation,” including but not limited to:

- hindering the exercise of parental authority and limiting contact between the child or adolescent and the other parent;
- deliberately omitting relevant personal information about the child or adolescent, including educational, medical, and change-of-address data, from the other parent;
- submitting false complaints against a parent, family members, or the grandparents, preventing them from having a relationship with the child or adolescent; and moving to a remote site with no explanation, in order to hamper the relationship between the child or adolescent and the other parent or the grandparents or other relatives.⁴

These behaviors describe necessary safety procedures which may be taken by an abused woman to protect herself and her family.

Brazil’s new law is a dangerous misstep, and if implemented, will put women’s and children’s safety, and the ability of a battered woman to escape her abuser, at great risk. In a country where 10 women are killed every day as a result of domestic violence, families who are victims of domestic violence need laws that help to protect them, not legislation that puts them at further risk.⁵

¹ http://www.loc.gov/lawweb/servlet/lloc_news?disp3_l205402210_text

² Article 2 of Law No. 12,318 of July 26, 2010.

³ See: http://www.stopvaw.org/inadmissibility_of_parental_alienation_syndrome.html.

⁴ Art. 2 (sole para.), Law No. 12,318. See: The Law Library of Congress, News and Events http://www.loc.gov/lawweb/servlet/lloc_news?disp3_l205402210_text.

⁵ See: De Moura, Helena, [Brazil – Domestic Violence Study – 10 Women Killed Daily](http://edition.cnn.com/2010/WORLD/americas/07/12/brazil.domestic.violence/index.html?fbid=ZXDyBf6ZoiC#fbid=vTGqjdY0kct), CNN, <http://edition.cnn.com/2010/WORLD/americas/07/12/brazil.domestic.violence/index.html?fbid=ZXDyBf6ZoiC#fbid=vTGqjdY0kct>, 12 July 2010, and *Map of Violence 2010* <http://www.institutosangari.org.br/mapadaviolencia/>.