

Mandate of the Special Rapporteur on violence against women and girls, its causes and consequences

Ref.: AL BRA 4/2025
(Please use this reference in your reply)

23 April 2025

Excellency,

I have the honour to address you in my capacity as Special Rapporteur on violence against women and girls, its causes and consequences, pursuant to Human Rights Council resolution 50/7.

In this connection, I would like to bring to the attention of your Excellency's Government information I have received concerning **the alleged misuse of parental alienation laws against a mother who reported domestic violence, resulting in her separation from her son.**

I have raised my concerns in the past about the misuse of parental alienation laws in cases of domestic violence and abuse in a way that penalizes the mother and the child ([BRA 10/2022](#)). I note that no response has been received to this communication and would welcome a response from your Excellency's Government.

According to the information received:

██████████, a vocal advocate against judicial corruption and the misuse of parental alienation laws, has reportedly lost the custody of her then three-year-old son, ██████████, since December 2023 and has been unable to establish contact with him since August 2024. Due to his special needs as a child on the autism spectrum, ██████████ requires strict routines, medication, and specialized care, which has been reportedly disrupted since his separation from ██████████, his primary caregiver since birth.

██████████ married ██████████ in 2017 after living together since 2012. They separated in 2021 when ██████████ moved out and initiated divorce proceedings, which have been delayed due to an ongoing asset division dispute.

Since their separation, ██████████ has filed six requests for protective measures due to domestic violence. The first request, filed on 7 May 2023, was granted for a period of six months, and then extended for another six months based on evidence. This measure, however, was later revoked after the court determined that the matters were "related to the custody of the minor." Her most recent request for protection measures, filed in September 2024, was denied on the grounds that the alleged acts did not "did not arise on the basis of gender" under article 5 of Law 11,340/2006.

On 16 May 2023, ██████████ moved with her son to Itajaí, while ██████████ remained in Porto Alegre. In December 2023, despite protection measures that were in place against ██████████, the

national courts transferred custody of [REDACTED] from [REDACTED] to him, citing parental alienation concerns. [REDACTED] reports that this decision lacked substantive justification and overlooked both [REDACTED] history of domestic violence and [REDACTED] special needs as an autistic child.

Fearing for her son's safety, [REDACTED] fled with [REDACTED] to Brasília around April 2024. Authorities then launched an investigation against her for the crime of kidnapping a person with a disability, leading to a police operation by the Civil Police of Santa Catarina. On 2 August 2024, officers forcibly removed [REDACTED] from [REDACTED] residence, reportedly injuring her in the process and detaining her without a judicial order. [REDACTED] was later released, but since then, has been denied contact with her son. Reports indicate that [REDACTED] was handed over to his father and that his required medication for autism, Risperidone, has been suspended. [REDACTED] reported that the abrupt separation forced her to terminate breastfeeding, negatively affecting [REDACTED] development.

[REDACTED] reports having been subjected to intimidation from judicial and police officials, including threatening phone calls and messages. In January 2024, she enrolled in the Human Rights Defenders Protection Program (PPDDH) but has continued to face threats and harassment from authorities. [REDACTED] also reports that she has been excluded from judicial proceedings involving her case, with authorities blocking her access to the case files, hindering her from gathering evidence and mounting a defense before international human rights mechanisms. Furthermore, despite being a victim of domestic violence, [REDACTED] reportedly has not been provided any State-sponsored legal aid to pursue her claims and defend her parental alienation case.

While I do not wish to prejudge the accuracy of these allegations, I express my deep concern regarding the reported misuse of parental alienation laws to penalize [REDACTED] for her advocacy on judicial corruption, and her loss of custody of her son despite repeated requests for protection from domestic violence. Furthermore, I remain concerned that there is ample weaponization of allegations under parental alienation laws in Brazil, particularly against victims of domestic violence, as noted in the Committee on the Elimination of Discrimination against Women's most recent concluding observations on Brazil ([CEDAW/C/BRA/CO/8-9](#), para. 52).

In 2022, the Committee of Experts of the Inter-American Convention to Prevent, Punish, and Eradicate Violence against Women to the Belém do Pará Convention (MESECVI) and I have [expressed our concern](#) about the abuse of the concept of parental alienation in the Americas, stating that: "The use of this controversial concept of parental alienation syndrome against women in cases where they denounce gender-based violence against themselves or against their daughters and sons is part of the continuum of gender-based violence and could invoke the responsibility of States for institutional violence." Furthermore, United Nations Special Procedures have expressed concern to your Excellency's Government regarding the serious negative consequences on the rights of women and their children when the pseudo-concept of parental alienation is used, particularly the way in which it has "reportedly enabled fathers to levy false allegations against the mothers with whom they are in custody battles or disputes, as a tool to continue to perpetrate domestic violence and abuse

against them” ([BRA 10/2022](#)).

I further reiterate my concern that when assessing the credibility of the threats against the child, or in making decisions regarding visitation or custody rights, Brazilian courts reportedly do not sufficiently take into consideration previous history of domestic abuse by the father or stepfather against the mother. Even where there are indications of physical, sexual, or psychological abuse of the child by the father or stepfather, courts, including in ██████████ case, have reportedly refused to issue timely protection orders for the children or their mothers, denying the father visitation rights and/or custody. Failures to provide timely protection and awarding custody to fathers who have domestic violence claims against them severely puts at risk the well-being and best interests of the children involved, such as ██████████ son, whose extended separation from his mother and alleged lack of medical care for autism is hampering his health, safety and development.

Additionally, I am particularly troubled by the reported lack of access to due process and access to justice for ██████████, whose alleged mistreatment by national authorities and courts—including non-inclusion in judicial proceedings, lack of legal aid, arbitrary arrests and harassment—may set a dangerous precedent deterring women from challenging systemic injustice and gender bias in custody cases, as well as reporting domestic violence. Overall, I am gravely concerned by the underlying gendered stereotypes that contribute to the weaponization of parental alienation claims against women, and the dismissal and devaluing of testimonies from women who claim that they themselves and/or their children are abused.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As it is my responsibility, under the mandate provided to me by the Human Rights Council, to seek to clarify all cases brought to my attention, I would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Please provide information on all instances in which ██████████ has been detained and arrested since 2017, including the legal basis for all charges brought against her, factual allegations, as well as decisions taken by governmental or state authorities on her case(s).
3. Please provide information on measures taken by your Excellency’s Government to prevent the misuse of parental alienation laws against women survivors of domestic violence, within the framework of existing legislation.
4. Please provide information on how allegations of partner violence and violence against women and children are factored in custody decisions in divorce proceedings, including in the case of ██████████ and her son.

5. Please explain what measures your Excellency's Government has taken to protect domestic violence victims, including [REDACTED], from further violence and revictimization, as obligated under the Convention on the Elimination of All forms of Discrimination against Women.
6. Please provide information on measures taken by your Excellency's Government to protect women human rights defenders and advocates who are documenting the misuse of parental alienation laws from reprisals, threats, intimidation and violence, including by judicial authorities.

This communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#) within 60 days. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

While awaiting a reply, I urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

Please accept, Excellency, the assurances of my highest consideration.

Reem Alsalem
Special Rapporteur on violence against women and girls, its causes and consequences

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, I would like to remind the Government of Brazil of the international standards and norms it has committed to uphold and respect, such as the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) ratified in 1984, the International Covenant on Civil and Political Rights ratified in 1992, the International Covenant on Economic, Social and Cultural Rights (ICESCR), ratified in 1992, and the Convention on the Rights of the Child (CRC), ratified in 1990.

The State has the duty to exercise due diligence to prevent, investigate and punish acts of violence that are perpetrated by the agents of the State or by private individuals. These obligations enshrined in articles 1, 2c), d) f) g) 3, 5 a) and 15 of the CEDAW, article 4 of the Declaration on the Elimination of Violence Against Women, article 26 of the International Covenant on Civil and Political Rights ratified by Brazil in 2009, articles 3(1), 9(3), 12(2), and 19 of the Convention on the Rights of the Child. We would like to draw the attention of the Government of Brazil to its specific obligation to eliminate discrimination against women, especially gender-based discrimination, and to ensure that all its organs and officials, including State officials, to abstain from incurring or contributing to discriminatory practices on the ground of gender, race, colour, sex, language, religion or social origin. Such obligation includes the duty to ensure that women have equal protection in front of the law as well as guaranteeing women access to justice, restitution and non-repetition.

With regard to the alleged violations of due process and of fair trial guarantees, we would like to recall article 14 of the International Covenant on Civil and Political Rights, which enshrines the right to a fair trial and due process. In particular, article 14(1) of the ICCPR sets out a general guarantee of equality before courts and tribunals and the right of every person to a fair and public hearing by a competent, independent, and impartial tribunal established by law.

Under article 2(a) of CEDAW, States parties have the obligation to ensure by law or other appropriate means the realization and practice of the principle of equality of men and women, and that pursuant to articles 2(f) and 5 (a), States parties have the obligation to adopt appropriate measures to amend or abolish not only existing laws and regulations but also customs and practices that constitute discrimination against women. Article 2 c) in particular protects women from discrimination by the justice system and article 2 d) guarantees the right of women to be treated equally and not to be discriminated against by authorities and institutions. States parties also have the obligation, in accordance with article 16(1), to adopt all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relationships.

I also take the opportunity to remind your Excellency's Government of the CEDAW Committee's general recommendation 35 of 2017, which updates its general recommendation No. 19 of 1992 on the right to a life free from violence. General recommendation No. 35 on gender-based violence against women refers to the

obligation of State institutions, agents and organs and their duty to refrain from incurring discriminatory practice, whether direct or indirect, against women, and ensure that all its authorities, institutions and public officials act in conformity with these obligations. The latter have a duty also to ensure that judicial processes concerning allegations of violence against women must be impartial, just and that they are not affected by gender stereotypes. In accordance with CEDAW general recommendation No. 35, the State is responsible for acts or omissions of its officials where they constitute violence against women. The responsibility of the State also includes a duty to “provide mandatory, recurrent and effective capacity-building, education and training for its judiciary, lawyers, and law enforcement officers...to equip them to adequately prevent and address gender-based violence against women.” The same recommendation emphasizes that States parties to CEDAW should have effective legal mechanisms and judicial processes to address all forms of gender-based violence against women. Victims and survivors of violence must be protected and must have effective access to justice and reparations. Moreover, States must ensure the access of women to assisted, low cost, or free quality legal aid. Women victims and survivors of violence must also have access to affordable housing, property, childcare, training opportunities and work for them and their families. Protection orders and other forms of assistance and support also need to be accessible for all women.

Additionally, the CEDAW Committee’s general recommendation No. 33 of 2015 on women’s access to justice recognizes that stereotypes and gender prejudices in the judicial system impede the access to justice and may particularly affect women and victims and survivors of violence. The Committee considers that judges frequently have rigid norms regarding the appropriate behavior of women and penalize those women that do not conform to these stereotypes. The Committee further recognizes that such stereotyping can cause judges to misrepresent or misapply the law and can result in perpetrators of violence not being held legally accountable for violations of women’s rights, thereby upholding a culture of impunity. Lastly, the Committee determined that the rights of presumed or actual perpetrators of violence during or after judicial processes be determined considering the right of the affected women and children to life, their physical, sexual and psychological integrity and respect the best interest of the child, including on the issue of custody of the children.

I also wish to refer your Excellency’s Government to the concluding observations on the combined eighth and ninth periodic reports of Brazil adopted by the CEDAW Committee in June 2024 (CEDAW/C/BRA/CO/8-9, para. 52), which found that “Law No. 12.318 of 2010, known as the Parental Alienation Law, has been used against women who report domestic violence by the father of their children, resulting in the stigmatization of those women and the deprivation of custody of their children.” In that regard, the Committee recommended the State Party to “[r]epeal Law No. 12.318 of 2010, known as the Parental Alienation Law, eliminate judicial gender bias and ensure that domestic courts give due weight to situations of domestic and family violence and the best interests of the child when deciding on custody and visitation rights upon divorce.”

I would also like to remind your Excellency’s Government article 12, coupled with article 2.2 of ICESCR , which enshrines the right of everyone to the highest attainable standard of physical and mental health and the role of the State in guaranteeing that this right will be exercised without discrimination of any kind as to

race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. In this context, we would also like to draw the attention of your Excellency's Government to general comment No. 14 (2000) of the Committee on Economic, Social and Cultural Rights, which indicates that in accordance with the right to health, States have an obligation to take measures to protect all vulnerable or marginalised groups in society, in particular women, children, adolescents and older persons, taking into account acts of violence from a gender perspective (GC 14, para. 35).

I would further like to refer to article 12 of the Convention on the Rights of the Child, which recognizes the right of the child to be heard and that its opinion be taken into consideration; the right to protection and care (article 3), the right to development (article 6), the right to family life, including the right not to be arbitrarily separated from one's parents and to maintain contact with parents if separation occurs (article 9), the right to be protected against all forms of abuse, including sexual and domestic violence (article 19), and the right to the enjoyment of the highest attainable standard of health (article 24).

Furthermore, I wish to refer to the Declaration on the Elimination of Violence against Women, which was adopted by the United Nations General Assembly and states that women are entitled to the equal enjoyment and protection of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field. These rights include, *inter alia*, (a) the right to life, (b) the right to equality, (c) the right to liberty and security of person, and (d) the right to equal protection under the law (art. 3). In addition, the article 4(g) of the Declaration provides for the responsibility of States to ensure that women subjected to violence have specialized assistance, such as rehabilitation, treatment counselling and health and social services, facilities and programs, as well as support structures, and should take all other appropriate measures to promote their safety and physical and psychological rehabilitation. Furthermore, resolution 2005/41 of Commission on Human Rights on the Elimination of Violence against Women states that Governments must strengthen initiatives, promote gender equality, and eliminate discrimination against women. The resolution calls for the full and effective implementation of international instruments and encourages the ratification of relevant conventions. States are advised to address gender stereotypes, enact and reinforce legislation, and support initiatives by women's organizations.

The Special Rapporteur on violence against women and girls, its causes and consequences emphasized in her report on custody, violence against women and violence against children that domestic violence is one of the most serious and pervasive human rights violations, in particular as it affects women and girls (A/HRC/53/36). While men can also fall victims to domestic violence, women are at a much higher risk and the dynamics of abuse are different for men. Given the prevalence of domestic violence in intimate relationships, separation from a perpetrator can also be a highly dangerous period for the victim. Allegations of domestic violence tend to receive insufficient scrutiny by courts and to trigger problematic assumptions, for example that it causes little harm to the mother or child and that it ceases with separation. The consequences of domestic violence and its effects on children are also misunderstood and underestimated by judges, who tend to prioritize and grant contact with fathers. In doing so, judges fail in their duty to protect children from harm, giving

abusive fathers unsupervised access to their children, including in cases where judges have found that physical and/or sexual violence has occurred. The Special Rapporteur on violence against women and girls, its causes and consequences has emphasized that perpetrators of domestic violence can also misuse family law proceedings to continue to perpetrate violence against their victims, resulting in secondary traumatization.

Additionally, the Special Rapporteur on violence against women and girls, its causes and consequences noted that victims of violence have reported feeling belittled by judges and legal professionals and of being revictimized by professionals who lack an understanding of the impact and dynamics of domestic violence. Research reveals women's frustration with the sympathy expressed by judges towards violent fathers and at witnessing professionals being manipulated by perpetrators of abuse, who behave in a charming manner and are on their best behavior. Victims of domestic violence have also perceived differential treatment of parents by courts and professionals, with mothers expected to be calm and accommodating while aggressive behavior by fathers was tolerated in court.

Moreover, according to the Committee on the Rights of the Child, separation from parents in general and from mothers, in particular, have potentially serious implications on children, including on their right to development. It is especially so for young children, who are especially vulnerable to adverse consequences because of their physical dependence on and attachment to their parents. Given the gravity of the impact on the child of separation from their parents, such separation should only occur as a last resort, when there are no less intrusive measures to protect the child (general comments No. 7 (2005) para. 36 and No. 14 (2013), paras. 60 and 61).

Additionally, the Inter-American Convention to Prevent, Punish, and Eradicate Violence against Women to the Belém do Pará Convention (MESECVI) stated in 2014 that “conducting prompt and exhaustive investigations, bearing in mind the context of coercion as a fundamental element for determining the existence of violence, by using technical evidence and explicitly prohibiting evidence based on the victim's behavior to infer consent, such as lack of resistance, sexual history, retraction during trial or discrediting testimony on the basis of alleged Parental Alienation Syndrome” (MESECVI/CEVI/DEC.4/14). In August 2022, MESECVI and the UN Special Rapporteur on Violence Against Women and Girls expressed their concern about the illegal utilization of parental alienation syndrome in many countries that are party to the Belém do Pará Convention.