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PARENTAL ALIENATION

Misinformation versus Facts

By William Bernet

Editor's Note: A version of this article that includes endnotes is available from the author, who can be reached at william.bernet@vanderbilt.edu.

Several of the most intense controversies involving law and medicine have pertained to child psychology and psychiatry. Arguments have addressed whether practitioners of satanic rituals abuse and murder children, whether recovered memories of adults reliably describe past maltreatment during childhood, whether facilitated communication helps autistic children disclose sexual abuse, and whether children always tell the truth when reporting sexual abuse. One of the most active controversies involving children in a legal context has pertained to parental alienation (PA), which some critics have said does not exist but was invented as a mechanism for abusive fathers to gain control of their children from protective mothers. The author of this essay believes that PA exists and damages thousands of children and families in the United States every year. However, attorneys and judges are exposed to much misinformation regarding PA.

Parental Alienation and Courts

PA is a mental condition in which a child—usually one whose parents are engaged in a high-conflict separation or divorce—allies himself strongly with one parent (the preferred parent or alienating parent) and rejects a relationship with the other parent (the target parent) without legitimate justification. The child's rejection of the target parent must be without justification for the child to be considered alienated; if a parent has been abusive or severely neglectful, the child's rejection of that parent is understandable and does not constitute PA. Most contemporary writers use *parental estrangement* to describe a

child's rejection of a parent for a good reason, such as a history of abuse or neglect; they use *parental alienation* to describe a child's rejection of a parent without a good reason. With that distinction in mind, estrangement is typically caused by the rejected parent's own behavior; alienation is usually caused by the preferred parent's indoctrination or brainwashing of the child to fear or dislike the rejected parent.

PA comes to the attention of lawyers and judges in several ways, the most common being child custody or parenting time determinations. When judges make decisions on contested custody and visitation schedules, they take a number of factors into account, including the child's attachment with his parents. When a child refuses to have contact with one parent, the court must sort out whether the child's refusal is justified (estrangement) or not justified (alienation). PA issues also arise in cases involving child maltreatment, especially sexual abuse. That is, children experiencing a moderate or severe level of PA occasionally make up allegations that the rejected parent has abused them to justify their refusal to have visitation with that parent.

PA has been described in the legal literature since the early nineteenth century,
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expert in forensic psychiatry, Dr. Bernet has testified about 300 times in 20 states.

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although it was typically called “alienation of affection” or some similar term. PA has been described in the mental health literature since the 1940s and the related term, “parental alienation syndrome” (PAS), was introduced by Richard Gardner in 1985. Gardner used the word “syndrome” to join together the following eight behaviors that frequently co-occur in children who experience PAS:

- campaign of denigration against the target parent;
- frivolous rationalizations for the child’s criticism of the target parent;
- lack of ambivalence;
- independent-thinker phenomenon;
- reflexive support of the alienating parent against the target parent;
- absence of guilt over exploitation and mistreatment of the target parent;
- borrowed scenarios; and
- spread of the child’s animosity toward the target parent’s extended family.

A comprehensive book, *Parental Alienation: The Handbook for Mental Health and Legal Professionals*, includes summaries of 500 U.S. and Canadian legal cases in which PA was a consideration. PA is an international phenomenon: the bibliography of the *Parental Alienation* handbook includes citations from 35 countries. The legislatures of Brazil and several states in Mexico have recognized that causing PA in a child is a form of psychological abuse. In 2013, the French Court of Cassation (Supreme Court) recognized PA as “un élément nouveau” (a change in circumstances) and, as such, officially recognized the reality of PA. Also, PA has been an important factor in several decisions of the European Court of Human Rights.

Despite the importance of PA for both mental health and legal professionals and despite the acceptance of PA by hundreds of courts in many countries, there has been vigorous criticism of this concept. Typically, advocates who support victims of domestic violence and child abuse are

concerned that perpetrators of child maltreatment may use PA as a way to avoid responsibility for their behavior. The debate—between advocates concerned about PA and those concerned about domestic violence—has generated both facts and misinformation. This article addresses several examples of misinformation regarding PA and PAS, which I will briefly address and refute. PA/PAS misinformation has also been discussed by other authors. (In this article, “PA” and “PAS” are almost synonymous.)

Misinformation: “Parental Alienation Does Not Exist.”

Critics frequently allege that Gardner and his followers simply concocted PA and PAS, which do not exist in real life. For example, a book intended for legal professionals referred to “the PAS fabrication of Richard Gardner and the ‘fathers’ rights’ (FRs) movement, which was never proven by research or peer-reviewed studies and has been thoroughly debunked.” Experienced mental health professionals have also expressed that opinion. For instance, psychologist Peter Jaffe and his colleagues said, “Many professionals in the field maintain that [parental alienation syndrome] does not exist. . . . It is still troubling that the court admitted the PAS testimony at all, given the serious issues as to whether PAS even exists.”

However, that piece of misinformation was disproven by Jaffe himself, who was one of the authors of a short article that established just the opposite: that the vast majority of experienced mental health and legal professionals agree with the basic proposition of PA. At the 2010 annual meeting of the Association of Family and Conciliation Courts, about 300 attendees completed a brief survey regarding PA. Jaffe and his colleagues reported: “Nearly all of the respondents to the survey (98 percent) endorsed the question, ‘Do you think that some children are manipulated by one parent to irrationally and unjustifiably reject the other parent?’ . . . The survey results were overwhelming in support of the basic tenet of parental alienation.” Also, the phenomenon of PA has been described by mental health and

legal professionals from every continent on earth. The bibliography of the *Parental Alienation* handbook contains hundreds of references related to PA and PAS, which constitute enormous support for the reality of this mental condition.

Misinformation: “Parental Alienation Has Not Been Recognized by Professional Associations.”

This is a common allegation by critics of PA and PAS. For example, Jaffe et al. said, “Although Parental Alienation Syndrome (PAS) has not been recognized by any major mental health or legal association, it has infiltrated the family justice system.” Sociologists Sharon Araji and Rebecca Bosek wrote, “PAS is not recognized in the most current version of the *Diagnostic and Statistical Manual of Mental Disorders* (DSM-IV-TR) as a legitimate syndrome.”

While it is true that the actual words “parental alienation” are not in the *Diagnostic and Statistical Manual of Mental Disorders*, now in its fifth edition (DSM-5), the concept is clearly expressed in that book. Children who experience PA can be identified by DSM-5 terms such as “child affected by parental relationship distress,” “parent-child relational problem,” and “child psychological abuse.”

Leading mental health and legal organizations have acknowledged the reality of PA through their publications, national and international meetings, and educational programs for their members. For example:

- The ABA published a book by Stanley S. Clawar and Brynne V. Rivlin, *Children Held Hostage: Identifying Brainwashed Children, Presenting a Case, and Crafting Solutions* (1st ed. 1991; 2d ed. 2013), an exhaustive study of 1,000 families in which the children were brainwashed to dislike and reject one of their parents.
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Adolescent Psychiatry (AACAP) published *Practice Parameters for Child Custody Evaluations* (1997), which was considered an “AACAP Official Action.” That document refers explicitly to “parental alienation” and explains this phenomenon.

- PA papers and symposia have been presented at many conferences for mental health and legal professional organizations such as the American Academy of Forensic Sciences (2010, 2012), Association of Family and Conciliation Courts (2010), American Academy of Psychiatry and the Law (2010, 2014), American Academy of Child and Adolescent Psychiatry (2010, 2012), American Psychological Association (2011), VI Congreso Nacional de Psicología Jurídica y Forense (Spain, 2011), American Psychiatric Association (2011, 2013), American College of Forensic Psychology (2013), International Congress on Law and Mental Health (The Netherlands, 2013), International Society for Interpersonal Acceptance and Rejection (India, 2013), and World Congress of Psychiatry (Spain, 2014).

Misinformation: “PAS Is Junk Science.”

The meme that “PAS is junk science” has taken on a life of its own. An influential psychiatrist, Paul J. Fink, stated in 2003 that PAS constitutes “junk science.” Fink repeated that opinion many times, and he has been quoted by other critics of PA and PAS. For example, in 2010 he reiterated—in his column in *Clinical Psychiatry News*—that PAS was “junk science invented by a psychiatrist.” At the same time, Fink added the claim that “‘father’s rights’ groups who don’t like to be interfered with when they are sexually abusing their children . . . [have] petitioned the DSM task force to include PAS in the publication.” After receiving letters objecting to Fink’s statements, the management of *Clinical Psychiatry News* arranged for him to issue an apology and a clarification. Fink then said, “I do not deny that parental alienation occurs and that a lot of people are hurt when there is an alienator.”

Another example of the meme that PAS

is junk science was a legal journal article by Andrea C. Farney and Roberta L. Valente, in which they referred to “the scientifically defunct and legally unjustifiable theory of parental alienation syndrome (PAS) in custody cases.” The idea that PAS constitutes “bad science” or “junk science” is usually based on the premise that Richard Gardner “had no empirical data to support this theory [of PAS], and in fact, self-published his ideas.” For example, Joan S. Meier wrote, “There is actually no empirical research validating the existence of PAS.” Persistent critics Stephanie J. Dallam and Joyanna L. Silberg said, “Gardner has never submitted his theory to scientific testing and it has never been shown to be a valid syndrome.” The idea made its way to Spain, where a book intended for both legal and mental health personnel referred to PAS as “an unfounded syndrome, lacking any scientific basis, discarded in the U.S. today.”

Regarding the allegation of “no empirical data,” Gardner was a clinician who made observations of the individuals he evaluated, much as Leo Kanner did when he described childhood autism and Gilles de la Tourette did when he identified Tourette’s syndrome. Regarding self-publishing, Gardner did self-publish some of his books, but he also published many scientific papers on PAS in peer-reviewed journals. Regarding the allegation of “junk science,” since Gardner introduced the term “parental alienation syndrome” in 1985, PA and PAS have been described in hundreds of professional articles, chapters, and books by mental health and legal professionals in at least 35 countries on six continents. Although it is true that most of that research is descriptive and qualitative, there has also been quantitative research regarding PA by Amy J. L. Baker and her colleagues, Janet Johnston and her colleagues, and other individuals and groups.

Misinformation: “Advocates for Parental Alienation Say That Abuse Allegations Are Always False.”

When critics of PA and PAS publish papers, they frequently misrepresent this mental condition in order to have an easy straw man to refute. For example, law professor Carol S. Bruch said that in custody disputes, PAS advocates say the custodial

parent is “presumed to be lying and poisoning the child.” Likewise, Jennifer Hoult published a law review article in which she referred to “PAS’s presumption that abuse allegations are always false.” Years later, Joan S. Meier repeated that sentiment, saying, “Gardner’s PAS theory presumes that a child’s hostility to a father is pathological. . . .”

It is flatly incorrect to allege that PAS advocates say that custodial parents and children are always lying when they make allegations of abuse. Of course, authors who are knowledgeable about this topic are concerned that false allegations of child abuse *sometimes* occur in high-conflict divorce in the context of PA. However, they would never claim that abuse allegations in the context of PA are *always* false. PA scholars have written extensively about the importance of telling the difference between alienation (when the child’s rejection of a parent is driven by the false belief that the parent is evil or dangerous) and estrangement (when the child’s rejection of a parent is driven by a history of actual abuse or neglect). Ruling out actual abuse or neglect is an essential step in making a determination of PA.

Misinformation: “Richard Gardner and His Followers Advocated for Pedophilia.”

Perhaps the most outrageous allegation made by PA critics has been that Gardner and endorsers of his teachings advocate pedophilia. These false allegations are usually created by taking Gardner’s writings out of context. He wrote about pedophilia and incest and said that those behaviors have historically been widespread, but he stated that as a historical fact. His writings certainly did not indicate that he approved the practice. In fact, Gardner strongly disapproved of pedophilia and stated that pedophiles should be in prison.

Propagators of False Information

Several organizations actively oppose the introduction of PA, PAS, and similar concepts in legal proceedings. The organizations are not secret; they openly

announce their opposition. For example, the Leadership Council on Child Abuse and Interpersonal Violence discusses PAS extensively on its website. It refers to “simplistic ‘junk science’ theories to explain the child’s behavior,” noting that “Parental Alienation Syndrome (PAS) is one such theory. The unsophisticated, pseudoscientific theory explains a child’s estrangement from one parent or allegations of abuse at the hands of one parent by blaming the other.” The former president of the Leadership Council was Paul J. Fink—discussed earlier in this article—who said many times that PAS is junk science. Also, Jennifer Hoult’s work, discussed above, was partly supported by the Leadership Foundation. I commend the Leadership Council for educating mental health and legal professionals and the general public regarding child maltreatment and domestic violence. However, I disagree with their pattern of denying PA’s reality and importance.

The Domestic Violence Legal

Empowerment and Appeals Project (DV LEAP) is another organization that actively opposes PA. The founder and legal director of DV LEAP, attorney Joan S. Meier, regularly criticizes the concept of PA. The website of the organization (<https://www.dvleap.org>) includes news articles in which Meier was interviewed regarding PA and PAS. In a media interview, for example, Meier said, “Many experts argue that when alienation surfaces in the legal system, it is used to punish well-intentioned mothers who raise allegations of abuse.” There have been cases in which a court relied on testimony regarding PA that were subsequently reversed by a higher court. However, let’s not throw out the baby with the bath water and exclude all arguments regarding PA.

Conclusions

Friction and mistrust occur between advocates concerned about domestic violence and child abuse and advocates concerned

about PA. At the risk of oversimplification, I say: Domestic violence is a serious problem in many families, but sometimes there are false allegations of domestic violence; and PA is a serious problem in many families, but sometimes there are false allegations of PA. It is incorrect to minimize either issue or to dismiss the topic in a peremptory manner by calling it junk science or lacking in empirical evidence. Although I have zero experience as a judge, I suggest that allegations of domestic violence as well as allegations of PA be taken seriously and considered in enough detail to sort out the truth, the half-truths, and the non-truths. Given the complexity of family life, there are no quick or easy answers. ■

The author appreciates the suggestions of Amy J. L. Baker, PhD; Demosthenes Lorandos, PhD, JD; and S. Richard Sauber, PhD.

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