

'Parental Alienation Syndrome'

Forget The Title; Does the Behavior Exist?

By Lawrence Jay Braunstein

Parental Alienation, sometimes referred to as Parental Alienation "Syndrome" (PAS), is generally used to describe the behavior of children who are enmeshed in their parents' highly contentious divorce and custody litigation and placed in the midst of it by one of their parents. There is substantial disagreement within both the legal and psychological fields as to whether or not PAS is a legitimate concept. This article explores the psychological underpinnings of this behavior and the legal implications within the context of custody litigation.

LABELING THE SYNDROME

The late Dr. Richard Gardner first coined the phrase "Parental Alienation Syndrome" in 1987 (*The Parental Alienation Syndrome and the Differentiation Between Fabricated and Genuine Child Sex Abuse*, Creative Therapeutics, 1987) after he had repeatedly observed a specific set of behaviors in children involved in protracted, highly contentious custody litigation. Dr. Gardner defined the behavior as "... a disturbance in which children are preoccupied with deprecation and criticism of a parent — denigration that is unjustified and/or exaggerated." Gardner further observed that describing this behavior as "brainwashing" was too narrow a definition. He stated, "The concept of parental alienation syndrome includes a brainwashing component, but is much more inclusive. It includes not only conscious but subconscious and unconscious factors within the programming parent that

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contribute to the child's alienation from the other."

Dr. Gardner observed an increase in these behaviors in the late 1970s, correlating with the shift in the law from utilizing the "tender years doctrine" as the standard to be applied in deciding custody cases, to the broader concept of the "best interest of the child" standard. Gardner hypothesized that since the court-applied standard had shifted away from the presumption that the mother — unless proven "unfit" — should be the custodial parent and with the "popularization of the joint custodial concept," the mother's position became more precarious in custody litigation. Gardner ultimately concluded that ... mothers have been more likely than fathers to attempt to alienate their children against fathers in order to strengthen their positions in custody conflicts ... and ... children have been supporting their mothers much more than their fathers, providing thereby their own contributions to the parental alienation syndrome."

Gardner also applied his theoretical concept of a parental alienation syndrome to explain the difference between fabricated and genuine allegations of child sexual abuse arising in the context of a divorce or custody case, and devised a "Sex Abuse Legitimacy Scale" with which to judge the veracity of the allegations.

CRITICISM

Much criticism has been leveled against Gardner's self-proclaimed and self-proven "syndrome." In order for a syndrome to be accepted in the mental health community, long-established convention required a new theory to be validated by peer review. The peer review process challenges concepts and the ability to replicate results before the concept gains general acceptance into the mainstream. Because Gardner's writings were self-published and based upon his own personal observations and experiences, they lacked peer review prior to publication and dissemination. Consequently the psychological community was deprived of the opportunity to test his theories and assumptions. Although he ascribed an easily

identifiable phrase to what he had observed, Gardner created a controversy by referring to the condition of parental alienation as a "syndrome," because he did not provide empirical support for it as a distinct entity.

Putting aside the label of "syndrome" and the validity of Gardner's methodology and testing criteria, the mental health community has generally recognized the destructive behavior of one parent seeking to alienate the children from the other parent, including the making of false allegations of sexual abuse.

PARENTAL ALIGNMENT

In 1980, before Gardner's "discovery" of "parental alienation," Dr. Judith Wallerstein and Dr. Joan Kelly, in their book, *Surviving the Breakup*, addressed the concept of the "alignment" of a child with a parent during the divorce. They observed that:

A very important aspect of the response of the youngsters in this age group (ages 9 to 12) was the dramatic change in the relationship between parents and children. These young people were vulnerable to being swept up into anger of one parent against the other. They were faithful and valuable battle allies in efforts to hurt the other parent. Not infrequently, they turned on the parent they had (previously) loved and been very close to prior to the marital separation.

Wallerstein and Kelly's approach to the study of the alignment behavior of children enmeshed in their parent's divorce was grounded in and based upon the accepted psychological concept of "attachment theory."

In order for parental alienation to exist, there must first be attachment, e.g., an emotional bond between the child and the child's caregivers. In essence, attachment theory focuses on understanding and identifying the degree of the child's emotional relationship with each parent, how the child utilizes this emotional bond to provide himself with a source of security and strength, and ultimately how one of the caregivers uses this attachment against the other.

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THE ATTACHMENT THEORY

Psychologists have studied the quality of child-caregiver emotional relationships and psychological support as a way of defining attachment theory. John Bowlby and Mary Ainsworth are generally recognized as pioneers in the study of attachment theory.

From 1958 through 1960 Bowlby published three papers entitled “The Nature of the Child’s Tie to His Mother,” “Separation Anxiety” and “Grief and Mourning in Infancy and Early Childhood.” These three published works, as well as several others, formed the groundwork for attachment theory, and certainly complemented the legal notion that the mother was the emotional anchor for the child, and that a strong mother/child relationship was necessary for the emotional growth of the child.

Since attachment theory is a psychological concept widely accepted in the mental health community, researchers have sought to use attachment theory as the context within which to study the behaviors of children caught in the middle of their parent’s acrimonious divorce. This theory focuses more on an analysis of the child’s behavior than on an analysis of the parent’s behaviors.

Bowlby hypothesized that a child maintains an “internal working model” (IWM) of each of his attachment figures (presumably his parents, as primary caretakers), and that as part of the child’s development, the IWM of each attachment figure is constantly being refined and modified. Alienating statements and behavior by the parent toward the child toxify this process and relegate the child to a life of insecurity in relationships with associated anxiety and inhibition.

Consistencies and inconsistencies impacting upon the child’s IWM for each parent are part of the child’s normal development within intact family systems. In the context of a family experiencing a break-up due to divorce, however, the potential exists to use these developmental tools as a weapon to manipulate the

child’s allegiance toward one parent by attacking the child’s attachment to that parent, as part of the “strategy” of a custody battle. Manipulation by one parent intent on destroying the child’s relationship with the other parent is a very real danger and is the basis of parental alienation. This is often done under the guise of protecting the child, but is actually an expression of the alienating parent’s co-dependency and associated insecurity.

In his 1969 work, *Attachment and Loss*, Bowlby recognized that divorce was one of the events that would cause a child to alter his IWM of each parent, and would result in a disruption of the child’s attachment security to either or both parents. Researchers Kelly, Lamb, Solomon and Biringen have all sought to recommend post-separation custody scenarios, utilizing the theory of attachment, so as to minimize the disruption of the child’s attachment security toward each parent. There is widespread agreement that positive, child centered co-parenting arrangements best support the child’s security attachment to both parents. Sadly, when parents cannot — or will not — make the child the priority, these arrangements cannot succeed, and the child suffers.

THE ALIENATED CHILD

The impact of parental alienation upon the child is destructive and long lasting, and affects the child’s reality, impacts upon his ability to sustain healthy relationships, encourages him to become manipulative, and impacts upon core issues of identity and a sense of belonging.

In *The Alienated Child, A Reformulation of Parental Alienation Syndrome*, Kelly and Johnston approach the concept of parental alienation from the perspective of a family systems analysis and propose to view the issue by focusing “on the alienated child rather than on parental alienation.” They define an alienated child as “... one who expresses, freely and persistently, unreasonable negative feelings and beliefs (such as anger, hatred, rejection, and/or fear) toward a parent that are significantly disproportionate to the child’s actual experience with that parent.”

Kelly and Johnston identify “common behaviors and organizing beliefs of the aligned [alienating] parent” consisting of the following:

- Extremely negative views of the rejected parent freely, angrily and repeatedly expressed to the child by the aligned parent;
- The stated belief that the child does not need the other parent in his life;
- The rejected parent is denigrated, and the personality and parenting flaws of the rejected parent are exaggerated and discussed frequently in the child’s presence;
- The aligning parent believes that the rejected parent is dangerous to the child, and therefore that parent’s access to the child must be blocked; and
- The belief of the aligned parent that the rejected parent does not and has never loved or cared about the child.

Kelly and Johnston also note that “in many cases of alienated children, parents who are rejected have contributed to the alienation in one or more significant ways,” in essence stating that the victim of alienation contributes to his own victimization. Most interestingly, Kelly and Johnston state that their “observations of the behaviors and emotional responses of alienated children are similar to those reported by others (Gardner, 1987, 1992; Wallerstein & Kelly, 1980)”. The article concludes with the following statement:

No one factor produces the alienated child. A full understanding of this pathological development in the parent-child relationship, most often separation engendered, can then lead to an effective plan and structure for legal, judicial, and therapeutic interventions directed at resolving the profound alienation of the child from the parent.

CONCLUSION

It is easy to discount the concept of parental alienation by taking the position that since it is not a syndrome, (and therefore not a recognized and generally accepted psychological disorder), it has no conceptual and practical validity. To do so, however, would be

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LITIGATION

PATERNITY AND CHILD SUPPORT

Where the state legislature creates a statute to protect a substantive right to obtain relief from final judgment, that statute does not violate the constitutional separation of powers.

The State Ex rel. Loyd v. Lovelady, No. 2004-1465, Supreme Court of Ohio, Feb. 1, 2006.

In 1985, Loyd gave birth to a child. The local child services agency sought a paternity order from Lovelady. Lovelady failed to appear, and a default judgment was entered establishing paternity of the subject child and ordering him to pay

child support. Thereafter, in 2003, Lovelady filed a motion appealing from the 1996 order under R.C. 3119.961 *et seq.*, claiming that recent DNA testing established that Lovelady was not the father of the subject child. The trial court denied Lovelady's motion, holding that RC 3119.961 *et seq.* violate the separation of powers by interfering with the Ohio Supreme Court's exclusive authority to regulate state court procedures. Lovelady appealed, and the court of appeals reversed and remanded, finding the RC 3119.961 *et seq.* do not violate the constitutional separation of powers because

those sections establish a substantive, rather than a procedural right. The supreme court affirmed the court of appeals. It considered language of Ohio's General Assembly that was exactly on point, stating that the R.C. 3119.96 *et seq.* deals with a person's substantive right to obtain relief from a final judgment of an order that requires that person to pay child support. The court concluded that the Ohio General Assembly intended to create a substantive right to address potential injustice.



Custody

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the court's order and absconded with her son for 15 days, informing the media of her stance and publicly discussing the sex-abuse allegations. Judge Hummel issued an emergency order temporarily shifting custody to Mr. Chase, which led to a protest outside his chambers by Ms. Chase's friends and supporters, and women's rights groups.

Judge Hummel then held a lengthy hearing, where he expressed concern over Ms. Chase's persistent interference with Mr. Chase's visitation rights, her failure to abide by court orders, her "dangerous obsession" with the idea that her son had been

molested and her attempts to forum-shop and misrepresent the status of the case. Nonetheless, Judge Hummel awarded Ms. Chase custody. He also granted Mr. Chase more visitation and again directed the mother to stop discussing the sexual abuse allegations unless she also provided copies of the court's findings that those allegations were unfounded.

PARENTAL ALIENATION

In November, the Third Department unanimously reversed, granting Mr. Chase full custody and directing the trial court to set a visitation schedule for Ms. Chase. "[R]espondent's repeated interference with petitioner's parental rights, coupled with her crusade to brand [Mr. Chase] a pedophile and her well-documented refusal to abide by

Family Court's prior orders, warrants granting petitioner's application and awarding sole legal and physical custody of the parties' minor child to him," Justice Carl J. Mugglin wrote for the court. Mr. Chases' attorney, Mitch Kessler of Cohoes, Albany County, remarked that he'd never seen such an egregious case of parental alienation. Thomas D. Shanahan of Shanahan & Associates in Manhattan, who represented Ms. Chase, insisted his client acted like a responsible parent, if not necessarily an obedient litigant.



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intellectually dishonest, and would ignore what has become a custody litigation strategy for a growing number of parents. Understanding why a child is alienated requires putting aside the issue of whether the behaviors can be

classified as a "syndrome" and focusing on the family dynamics before the separation, the personalities of the family members, and the actions of parents as they battle their way through the divorce and custody litigation utilizing a "scorched earth" approach.

If the judges and attorneys can view these factors within the context

of professionally accepted psychological principals of child development, attachment theory and family systems, it will yield a more universally accepted analysis of the problem and may make addressing the offending behavior that much easier.



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