

EDITORIAL

Editor's note about the special section

This special section of commentaries came about for an unusual reason. When the first article was submitted for publication, the reviewers commented that it might not be worthy of publication because it was clear to them “parental alienation syndrome” or disorder (PAS/PAD) had been widely discredited and not accepted as a diagnosis by any classification system nor by any credible professional organization. The reviewers went on to discuss the lack of peer reviewed research in over 25 years supporting such a disorder, and that it really had no use in family or other courts, but that this was now widely known. We tended to agree but then received the second article, and the third. In checking informally with others in the field around this country and others, we realized that although the aforementioned comments were correct, it appeared that the science had not actually made it into all family courts in the United States or in other countries.

In fact, various professionals referred to cases they had been involved in or reviewed where the terms PAS/PAD were still being used by various child custody evaluators, parent coordinators, attorneys, judges, social workers, child protective services social workers, and others. Having reviewed two child custody cases myself in the last few months, I also noted that one used the term alienating rather than PAS, but described the same approaches and principles that Gardner promoted. I also noticed that even in cases where the terms PAS/PAD or alienation were never used, the techniques, processes, conclusions, and recommendations by the various professionals involved in the cases followed the ideas and exact principles of PAS.

In addition, just recently the American Psychological Association (APA) was bombarded with letters from parents who reported they experienced such alienation, organizations, and others advocating for this disorder. They wanted APA to revise their prior statements concerning PAS and to accept this as an actual disorder. They were also requesting that APA promote training on this situation for psychologists, include it in curricula, and emphasize that such alienation is a type of child abuse.

Therefore, it was decided to move forward with this special section and to add two additional comments by professionals involved in child custody cases. The commentaries in this section make it clear that there is no peer reviewed research supporting such a theory as PAS/PAD, they discuss several problematic issues and effects from different perspectives when such an approach is taken, and the harm to traumatized children that occurs when the

recommendations promoted by Gardner or his followers are adopted by family courts. It should be noted that the ideas and principles of PAS/PAD do not fit into anything we know in developmental, family, or trauma psychology, nor in an attachment framework. The articles describe the various issues and detrimental consequences that the use of a PAS/PAD approach has in child custody cases, and one of the additional comments discusses the ethical issues when such an approach is used by professionals in child custody court cases.

It is hoped that the commentaries in this section helps us get back to research and actual theories rather than junk science that can negatively affect traumatized children for years to come. It is also hoped the field can focus on objective data and observable behaviors within an accepted theoretical framework when making child custody recommendations and decisions rather than on assumptions, confirmatory biases, and circular arguments because those involved do not want to believe that a child has been victimized or traumatized. Kleinman notes in her comment that the licensing and accreditation boards of various professions may need to be more involved and diligent in enforcing the ethical rules and regulations, and removing the licenses of those who continue to promote junk science in our family courts.

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SPECIAL SECTION COMMENTARIES

Examining the validity of parental alienation syndrome

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ABSTRACT

“Parental alienation syndrome” (PAS) is a phrase first coined by Dr. Richard Gardner. Since its inception several scholars have reviewed and criticized this construct, and it has never been accepted by the scientific community as a legitimate scientific construct, as a syndrome or as a mental disorder. Despite its general rejection as unscientific, the construct of PAS at times continues to be used in legal settings as if it has an adequate foundation within science, clinical, or forensic practice. This commentary briefly reviews past critiques of PAS and describes several additional problems that have occurred with the use of this construct.

KEYWORDS

Child custody; divorce; family court; parental alienation; parental alienation disorder; scientific status

In an effort to examine the roots of the construct of “parental alienation syndrome” (PAS), it is important to acquire a brief understanding of some of the key issues generally found in divorce and its impact on children. Currently in the United States, the lifetime probability of a marriage resulting in divorce is between 40–50% (Cherlin, 2010). Additionally, approximately 35% of marriages that end in divorce involve dependent children (Ravitz, 2011). Maccoby and Mnookin (1992) estimated that approximately 25% of parents are in “high conflict” post-divorce, which can be a severe stressor for both parents and children, and can result in significant adjustment problems for children. Indeed significant parental conflict surrounding divorce consistently has been shown to be associated with an array of deleterious effects on child and adolescent functioning (Amato, 2000; Otto, Buffington-Vollum, & Edens, 2003), in addition to being a stronger predictor of future adjustment than post-divorce family structure (Kot & Shoemaker, 1999). However, it is also important to note that these relationships are complex: due to a variety of moderating influences some children do quite well after divorce.

However, research generally shows that children exposed to high levels of parental conflict or abuse have a higher risk of developing behavioral and emotional problems (Emery, Otto, & O'Donohue, 2005; Sarrazin & Cyr, 2007). When severe parental conflict is present among divorced parents,

long-term negative effects (e.g., depression) on their children have been observed at higher rates well into adulthood (Schmidtgal, King, Zarski, & Cooper, 2000). In addition, divorce has been shown to have some effect on children's interpersonal relationships in later life—as young adults, children of divorced parents have greater likelihood of showing a decreased quality of, and lack of commitment in, current romantic relationships (Cui & Fincham, 2010). Partly due to these findings it is often recommended that children's exposure to post-divorce parental conflict be minimized (Hetherington & Stanley-Hagen, 1999). Hetherington and Stanley-Hagen highlighted that this also includes parents not fostering hostility against one another and not positioning the child in the “middle” of parental conflict.

The construct of PAS, also known as parental alienation disorder (PAD), was first introduced in the 1980s and arose from Dr. Richard Gardner using his own experiences as a psychiatrist to attempt to explain outcomes from what he saw as high conflict divorce on children. Despite the fact that PAS has been used in the courts for over 2 decades, no entity or professional organization has ever endorsed PAS as a syndrome or a disorder; in fact, the Diagnostic and Statistical Manual of Mental Disorders (DSM-5; American Psychiatric Association) has continually disregarded PAS. The empirical claims that Gardner made were never validated by actual research data or published in any peer reviewed research journals. Houchin, Ranseen, Hash, and Bartnicki (2012) stated, “there remains a paucity of scientific evidence that PAS (or PAD) should be a psychiatric diagnosis” (p. 128). Pepiton, Alvis, Allen, and Logid (2012) likewise argued that this syndrome lacks scientific support. Specifically, they critiqued the book *Parental Alienation, DSM-5, and ICD-11* written by one proponent of the syndrome, William Bernet (2010) as it “fails to provide documentation of any empirical research supporting such a condition or diagnosis and instead is a long diatribe of a person promoting his own agenda with only anecdotal or unscientific references” (p. 252).

In fact, absent any scientific data at all, Gardener advanced the claim that when there is an alienating parent, a child will, fairly inevitably, develop a series of problematic behaviors and/or reactions. He also claimed that the reverse inference was valid; specifically, that clinicians could conclude that there is an alienating parent when they observed children exhibiting certain behaviors. While in science, hypotheses are developed and then empirically tested, Gardner (nor anyone else) has never empirically tested these two key claims. In addition, Gardner (1992) claimed that PAS only occurs within the context of high-conflict divorce. However, there are no data to support the actual frequency of occurrence in divorces, its relative absence in non-high conflict divorce, nor the exact causal processes that are necessary or sufficient for its occurrence.

Moreover, according to Gardner (1992), the alienating parent will typically engage in diverse strategies to brainwash or program the child against the

target parent. He asserts that as a result of this brainwashing, the child will manifest some subset of eight symptoms, and he claims that the precise number of these will vary across children. His list of eight symptoms is:

1. The child's campaign against, and withdrawal from, the targeted parent;
2. Unconvincing rationalizations for the hatred of the targeted parent;
3. The child's lack of ambivalence toward the targeted parent;
4. The child's insistence that his/her decision about custody and visitation is his or her own and not influenced by the parent;
5. The child's automatic support or love for the alienating parent;
6. The absence of guilt regarding the negative feelings for the targeted parent;
7. The child's use of concepts regarding the targeted parent that are developmentally inappropriate; and
8. A broadening of the hatred to the targeted parent's extended family. (Pepiton et al., 2012)

In later publications, Gardner (2004) stated that the primary manifestations of PAS involve:

1. The campaign of denigration;
2. Weak, frivolous, or absurd rationalizations for the deprecation;
3. Lack of ambivalence;
4. The "independent-thinker" phenomenon;
5. Reflexive support of the alienating parent in the parental conflict;
6. Absence of guilt over cruelty to and/or exploitation of the alienated parent;
7. Presence of borrowed scenarios;
8. Spread of the animosity to the extended family and friends of the alienated parent. (p. 83).

These later descriptions are sufficiently different that these might be considered a reformulation of the original theory and give rise to new questions (e.g., what happened to the construct of brainwashing?) as well as how to measure these additional constructs such as "independent thinker" and "borrowed scenarios."

In addition, in 1999 Gardner claimed that PAS was a form of child emotional abuse and that its consequences may be even more detrimental to the child than those of physical or sexual abuse. Again, there are no scientific data to support these assertions. He suggested that the child's relationship with the targeted parent is forever changed, and even more so than the relationship with a child who has been physically or sexually abused by a parent. This claim of course significantly raises the stakes regarding the use of this construct as it now indicates that the parent is engaging in criminal felonious behavior and also invokes, if accurate, mandated reporting laws for clinicians.

It is clear that, in some cases, a child's relationship with his or her parents may be negatively impacted by parental behaviors during parental divorce. This is, however, quite different from Gardner's assertions regarding PAS

(see Kennedy, 2009 for this distinction). As a result, several key questions remain unanswered and sometimes are unchallenged in family court:

1. In what percentage of divorce cases are the behaviors described by PAS actually exhibited;
2. By what processes is this done;
3. What is the relative rate of mothers exhibiting these behaviors versus fathers;
4. What effects do these actually have on the children;
5. Are there moderating influences regarding these effects;
6. How can one validly measure all this and show causality; and
7. If these effects are found what can be done to intervene, both in custody and/or visitation arrangements or clinically to reverse these effects?

To date, none of these questions have been answered in over 25 years since PAS was first promulgated.

Published critiques of PAS

Emery (2005) has described PAS as a hypothesis and noted that PAS fails to meet even minimal scientific standards. Bond (2007) posited that although one study (Burrill, 2001) found descriptive differences in symptom severity between children labeled with mild versus severe PAS, that there has not been virtually any scientific study of the phenomenon to conclude that it is a diagnosable syndrome or disorder.

In addition, Kelly and Johnston (2001) criticized PAS for focusing solely on the alienating parent as the etiological agent of the child's "symptoms." These authors pointed out that research shows that within high conflict divorce, both parents can behave in ways to harm the child's relationship with the other parent, sometimes inadvertently, yet the majority of children do not display the putative "symptoms" suggested by PAS. Additionally, Walker, Brantley, and Rigsbee (2004) argued that many children display separation anxiety when their parents are divorcing, and that the "symptoms" the child may display could in fact reflect the child's attempts to handle the inevitable stress of their current situation, independent of either parent being a bad actor. In addition these symptoms could also be a product of sexual abuse, child physical abuse or neglect, which may have been the reasons for the divorce in the first place. Furthermore, it has been argued that the PAS literature adopted use of the term "alienation" in ways that its original developers in the attachment field had not intended (Walker et al., 2004). Specifically, the original attachment literature focused on assessing a child's ability to develop a bond (or "attachment") to adults; in this case, the child may indeed develop a strong "attachment" to the alienating parent, while the bond with the other parent is harmed or destroyed. Thus, these authors suggest we should focus on attachment problems instead.

Finally, PAS has also been criticized due to its gender bias in that fathers generally have used it in court to contest custody decisions by stating that mothers had alienated the child against them (Ottman & Lee, 2008). Interestingly, when Gardner (2002a) first introduced the construct, he purported that mothers were more likely to alienate children than fathers, and that 90% of alienating parents were the mother, although, again, there are no data to support this claim. Gardner (2002a) starting in the late 1990s reversed his position and stated that the ratio of alienating parents being closer to 50/50, again without citation to any empirical data.

Some have explained the continued use of PAS in legal settings is due to the fact that family courts do not always adhere to the normal rules of legal admissibility (Kleinman & Kaplan, 2016) for putative scientific claims. Interestingly, Caplan (2004) pointed out that the use of PAS in court often unfortunately results in moving the focus from the child's needs to the rights of the "alienated" parent, and allegations of abuse become secondary, minimized, or dismissed. This appears from anecdotal information to be continuing in family courts throughout the country even when the term PAS itself is not used.

Because PAS or its framework and ideas are still used in forensic settings, particularly in custody cases and decisions, it is important to understand all its problems. It is also important to note that in more recent cases, the specific term PAS or PAD may not be used by evaluators or attorneys, but the same ideas, process, and recommendations promoted by Gardner and his followers are still being followed without support of any scientific evidence or theoretical framework in child development, family psychology, or trauma psychology.

In addition to the critiques previously summarized of some of the problems in the use of PAS ideas, we have identified 22 issues that we believe are of most concern, some of which are entirely novel and some are extensions or refinements of some of these previous concerns. These are described in the following sections.

PAS is vague in important details

The terminology used to describe the key characteristics is poorly characterized and ambiguous. Specifically definitional parameters for what constitutes a "high-conflict divorce" are not provided and it is unclear what is meant by informal lay terms such as "brainwash." Other verbiage used to describe PAS and the associated symptoms is also vague (i.e., it is unclear what is meant by "strategies" used in the context of "brainwashing"), "unconvincing rationalizations," "broadening of hatred," and so forth. Such vagueness has direct implications for whether claims that use these key terms can be validly measured and if these cannot, then these claims cannot be tested. If these claims cannot be empirically tested then they are not falsifiable.

PAS entails measurement operations that have not been developed

In order to determine if this alleged construct is present and in order to determine the magnitude of PAS if present, a complex set of measurements need to be taken. However, presently none of the constructs have valid measurement procedures and thus at present it must be concluded that the key constructs simply cannot be accurately measured. While Baker and Darnall (2007) did attempt to study the constructs that are said to make-up PAS, they failed to present most of the basic psychometric information needed to assure validity: The reliability of the measures was not given, content validity construct validity and discriminate validity data were missing as was predictive validity. While two studies examined inter-rater reliability with regard to diagnosing PAS (Morrison, 2006; Rueda, 2004) and reported that it had achieved significant inter-rater reliability, others have debated the quality of these studies due to factors such as small sample sizes and other methodological concerns (Houchin et al., 2012). Moreover, inter-rater reliability sets limits on validity but is not itself a validity metric.

PAS has not subsequently undergone scientific testing since it was proposed

Consistent with our review of the published peer-reviewed literature, no study has tested the entire PAS theory to see if any actual scientific data are consistent with its assertions. Moreover, research that has examined predictors of alienation has found that while aligned parents can contribute to the alienating a child's affection from the other parent, children's negative behavior and attitudes toward a parent usually has multiple determinants (Johnston, 2003) and these pathways have not been examined in any PAS study.

It is not clear what the boundary conditions of PAS are

Put simply it is not clear under what parameters (i.e., age, family circumstance, etc.) alienation is supposed to occur. Previous authors (e.g., Kelly & Johnston, 2001) have critiqued PAS due to the fact that many parents behave in somewhat "alienating" ways yet their children do not show symptoms. This critique can be expanded by more specifically examining the relevant boundary conditions. For example, are there any boundary conditions involving age (e.g., a child of two is too young to be manipulated by a parent in this way or a child who is 15 is old perhaps because they are too cognitively sophisticated)? Is alienation always intentional or can it be inadvertent? Are there mediating processes by which a child can minimize or thwart the alienating behaviors of the parent? Can the nonalienating parent in any way minimize or thwart this alienating process? Do parents from all cultures alienate in the same ways?

Does PAS apply in instances where the parent attempts to alienate the child against the other parent but is unsuccessful? Can the “alienation” sometimes be justified (e.g., when the parent has abused the child and is unrepentant)?

PAS has not achieved a consensus in the field

While certainly other researchers have noted that PAS has not been subject to the rigorous peer-review process, the problem is broader than this as even within the nonempirical literature, a consensus within the field has not been achieved. O’Donohue and Benuto (2012) previously discussed how scientific findings tend to produce more consensus (e.g., no one debates the law of gravity) but since the PAS is not a product of science, and has not undergone scientific testing, it remains controversial in the sense that it continues to be used in courts as though it is science and that it exists.

Its rates are unknown

Typically prevalence rates of psychological phenomenon are known and established. However, the prevalence rates for the purported “brain washing” behavior that one parent may exhibit in an attempt alienate the other parent, are unknown. Moreover, the prevalence rates of the actual development of PAS (and associated characteristics) in the child are unknown. While Johnston (2003) did attempt to establish the rates of parental rejection among children of divorce, he did not examine all elements of PAS (although interestingly he found that the prevalence of extreme alignment with or rejection of one parent was rare).

It does not have a known error rate

As discussed by O’Donohue and Benuto (2012), part of model testing in science is to determine “goodness of fit” between theories or models and actual data but because no data have been collected to test PAS, to date we do not know the how well this model/theory fits with actual data. Thus, there is not quantifiable data to even estimate an error rate.

PAS at times suggests the obvious and should get no confirmatory or corroborating credit for this

For example, PAS asserts that at times some parents involved in a divorce can say or act in negative ways toward the other parent. This is well known and rather obvious. That these negative behaviors may affect the child is also obvious. Thus, some elements of the PAS are “obvious” and thus a hypothesis should not get credit or “confirmation” for the obvious or what is already known.

If some sort of alienation has in fact occurred, it does not consider alternative, plausible explanations for the supposed behaviors on the part of the child that result from the alienation

In fact, as discussed in the following section, many of the “symptoms” of PAS are consistent with symptoms that might be experienced simply as a result of normal divorce (e.g., disturbed relationships with a parent, anxiety) or from abuse and may not be the result of alleged alienation.

Differential diagnosis/categorization are lacking but necessary

As illustrated earlier, PAS has not been added to the *DSM*.

It is used in an ad hoc manner

It does not clarify how to measure parents' behavior and then to measure children's behavior and then make valid causal inferences between these. Rather, it asserts that if someone sees some number and kinds of parent behavior and some number and kinds of child behavior that the parent behavior caused the child behavior.

It has not been published in peer review journals but cogent critiques have

While there is some research on alienating parental behavior, the use of alienating parental behavior as a syndrome has been heavily critiqued. As illustrated at the outset of this manuscript several critiques of PAS have been published in the peer-reviewed literature.

It has not been accepted by any official organization

It is not in the American Psychiatric Association's *DSM* (not in the *DSM-IV* nor in the more recently published *DSM-V*); not in the International Classification of Diseases, nor is it adopted by any organization (e.g., the American Psychological Association).

It fails to include information regarding what is normative in divorce as well as ways to demarcate that which is not

Parents often engage in negative behavior toward the other parent in divorce and children experience this; it provides no evidence about how normative negativity is in divorce and how “alienation” actually deviates in number and kind from this normative behavior.

It does not consider that sometimes a positive event or interaction might mitigate negatives

For example, it may not be uncommon for a divorcing parent to note a negative characteristic in the other parent. PAS does not consider the relationship between negative comments that may be viewed as “alienating” versus those that are accompanied by positive comments. For example, if a mother states, “You father is dishonest” but then acknowledges that the child’s father is “a hard worker,” does the latter statement in anyway mitigate the former, and thus not constitute “brainwashing” or alienation? Is a mother declaring a father to be dishonest alienating in and of itself? What if it is a true statement?

It fails to consider that a child may be the cause of the alienation

Children, particularly older children may have their own legitimate or illegitimate reasons to reject a parent, due to that parent being more strict or having different values or even that the parent has indeed acted improperly in some way.

It fails to differentiate the negative states the child may be experiencing from other causes versus the parent’s behavior

Children can become depressed, anxious, or have negative relationships with others from a variety of other causes and the PAS has to distinguish these causal pathways from the alienation pathway.

It is developmentally insensitive

It assumes that the same sort of behaviors affect children of all ages, and children of all ages will display the same sorts of symptoms. Rarely is behavior so developmentally robust.

It is culturally insensitive

While some critics of PAS have noted that there is a possible gender bias in PAS, cultural sensitivity in the context of PAS has not been discussed. It assumes that the PAS applies to parents and children of all cultures. It provides no information on how parents and children of diverse cultures may engage in this behavior in a cultural context.

It fails to consider whether multiple people can be involved

It focuses on parents and children. It does not consider whether others may be involved in a problematic relationship, such as grandparents, parental friends, new boyfriend, or girlfriend.

It has the potential to cause harm

When PAS is alleged it has the potential to harm the targeted parent and perhaps even the children. This involves a very serious accusation, perhaps even one that triggers mandated reporting due to alleged emotional abuse. Being involved in such an accusation is harmful to the targeted parents and thus the children.

There is no evidence that it is actually a syndrome

Syndromes have features that regularly co-occur and that can be used to deduce the presence of other phenomena. For example in Down Syndrome, certain physical abnormalities tend to co-occur and can be used to deduce the presence of a genetic abnormality. There is no evidence that the features that are allegedly involved in PAS constitute a valid syndrome.

Summary and conclusions

This article listed previously stated problems of PAS and described 22 additional problems, some which may be extensions or refinements of previously stated problems while some are novel. These problems are fundamental in that they involve core issues. In science, it is the burden of the individuals making the claim to show that their claims are clear and supported by data. This burden has not been met with PAS. In clinical practice, it is the burden of the practitioner to show that their professional behavior is not harmful, is accurate and is the most effective pathway to the desired goal. Again, this burden is not met with the PAS.

We agree with previous reviewers that the PAS does not meet Daubert (Daubert v. Merrell-Dow Pharmaceuticals, Inc. 509 U.S. 579 [1993]) or Frye (Frye v. United States 293 F. 1013 [D.C. Cir. 1923]) standards and thus ought not to be admitted in courts; however, we supply more evidence and reasons for this conclusion. Thus, the concept of alienating parental behavior should not be used in the courts as it is currently conceptualized. However, the second construal of “parent alienation” is still viable; our critique should not be construed as stating one parent never engages in behaviors that can harm the relationship with the other parent.

We recommend that it is not a prudent course of action to attempt to salvage the PAS due to the seriousness and number of its problems. Rather, it appears that it would be more prudent to start anew and to attempt to identify specific behavior or sets of behaviors on the part of parents that have either negative or positive effects on the child's relationship with the other. Some of this kind of research has already been done under the rubric of co-parenting. Cooperation between parents in the child's (children's)

cognitive, social and emotional development was found to be associated with better adjustment in children post-divorce (Whiteside & Becker, 2000). Also, when conflict is decreased, children from divorced families appear to function as well as those from intact families (Gasper, Stolberg, Macie, & Williams, 2008). Pruett, Williams, Insabella, and Little (2003) examined relations among family dynamics, attorney involvement, and the adjustment of young children (0–6 years) at the time of parental separation from 102 nonresidential fathers and 110 primary caretaking mothers extracted from a larger longitudinal study. Results indicated that the effects of parental conflict on child outcomes were mediated by paternal involvement, the parent-child relationship, and attorney involvement.

This approach represents a more “bottom up” empirical approach toward understanding which behaviors of parents result in what kinds of effects on children and their relationship to the other parent. The PAS represents more of an *a priori* approach that unfortunately has not resulted in progress in this domain and has not resolved any of its problems in its nearly 30-year lifespan. What is clear is that some fundamental questions need to be addressed: (a) What are optimal co-parenting behaviors that promote a child’s best interests? Are these fairly universal or are these mediated by certain variables (e.g., age of the child, culture)? How can these be measured? How can these be taught to parents or a parent who are not displaying these? What impact on custody arrangements ought to occur if these are not present in one or more parties? (b) What behaviors on the part of parents while seemingly negative or “alienating” (e.g., “I am divorcing your father because of his affair”) actually don’t “alienate” or have a significant negative effect on the child? Why is this the case? And finally, (c) What parent behaviors (perhaps independent of their topography) actually do hurt the relationship with the other parent? How can these be validly measured in an individual case? Can these be modified and if so how? What is fairly normative regarding these, and is there some frequency of behaviors that is sufficiently high that it somehow mitigates the impact these have on custody arrangements? These are key unanswered questions that represent an important forward movement beyond the many problems of PAS. Scientific answers to these key questions can actually provide the courts with more useful information regarding custody arrangements and the best interests of children.

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When courts accept what science rejects: Custody issues concerning the alleged “parental alienation syndrome”

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ABSTRACT

“Parental alienation syndrome” (PAS) is unscientific and is an affront to children, women who hold the custody of children of separated couples, science, human rights, and the justice system itself. Justice, to be just, should be based on scientifically proven theories and evidence. This article describes investigations carried out to show that two of the principles that underpin PAS are false: That children lie when pressed (alienated in the terminology of PAS), and that the principle that should guide judges’ actions for the good of the child should be that for the child to always be in contact with both parents. The results of these investigations show that these two principles are false and advocates the use of truly scientific proceedings for judges to grant custody in case of dispute between parents, as well as for determining the visitation for the noncustodial parent.

KEYWORDS

Child protection; custody; forensic psychology; legal psychology; parental alienation; parental alienation syndrome

Introduction

We do not intend in this commentary to review the concept of what science is but we consider it pertinent to recall that since Galileo, through Newton and up to today, scientific theories are derived from experienced facts gained through observation and experimentation. In fact some sciences have advanced more through observation, opting for an inductive methodology, while others have progressed more through experimentation, following the hypothetical-deductive method. Of course, when a scientist, even though s/he may later use the hypothetical-deductive methodology, seeks to create a scientific theory, it stems from the real world, usually from an observation.

Perhaps that was the starting point of the American psychiatrist Richard Gardner (1992), when in the 1980s, he thought he would classify and coin a term for something that, to his knowledge, no one had named so far, to try to explain the rejection that the child exhibits when communicating with one of his parents during family breakdown. The author created the concept of “parental alienation syndrome” (PAS), giving preference to the syndrome’s name, most likely because of its medical origin.

PAS tries to explain a child's rejection of one of his or her parents, and to do so, it follows a scheme opposite to the one well-known within science as "Ockham's razor," also called the principle of parsimony, which states that all things being equal, the simplest explanation is usually the most likely. No doubt Ockham, a Franciscan friar, would have thought Gardner's explanation about how a child might reject a parent was not the best, simply because it is not the simplest. The simplest thing would have been (and is) to think that the rejected parent has taken some action that caused the child's rejection, usually abuse, sometimes of a sexual nature. Instead, Gardner laid out something diametrically opposed, stating that this refusal occurs as a result of the manipulation the other parent (who is worshiped by the child) exercises over the child, rejecting the idea that there may be other causes that justify the rejection.

Acceptance of the diagnosis of PAS by the court systems, not by science, automatically implements the treatment prescribed by Gardner, known as threat therapy. This therapy aims to correct behavior, in this case the child's and the parent's with whom s/he lives, so that regardless of the root causes of the child's rejection to visit the parent with whom s/he is not living, the child is forced to form a relationship with the latter. To achieve this, the courts takes a series of measures, all of which are based on threat and coercion. Even when PAS is not used as a label in the courts cases, this same type of intervention is recommended by to many attorneys and evaluators.

The use of PAS would possibly have more relevance if it were not for the treatment Gardner inevitably associated thereto, which is applied coercively through the courts of many countries. However, it has been found that this treatment, far from solving the child's rejection to interact with the other parent, has undesirable consequences for the children (Bruch, 2002).

It should be noted that within the terminology used in PAS's construction, the parent who holds custody of the child and with whom he or she lives will be called the "alienator" and the parent whose company the child rejects, the "alienated." The child, in turn, is also referred to as "alienated."

When the breakdown of couples with children occurs, in the absence of consensus between the two parents, it is the court that has to establish custody, as well as the system of communication between the children and the noncustodial parent. To this end, the child's testimony, declared directly by him/her before the judge or through the reports of the technical bodies that assist it, sometimes is the only evidence provided in the procedure. Therefore, the testimony acquires great importance, especially when there is suspicion of mistreatment or abuse by a parent regarding the children. However, the child's testimony as such, its relevance, connotations and consequences are secondary; it simply disappears from the scene or is interpreted opposite to what the child expresses when ideas that underlie the PAS nomenclature are present during the trial.

Diagnosis of PAS

The differential diagnosis of PAS is constructed *ad hoc* to attribute a pathogenic condition to the mother's (usually) manipulation, and to interpret any act or omission of the child in consistency with this harmful influence of the mother on him. Custody of children is still held by mothers to a greater extent and what's more, abuse and mistreatment of children that lead to divorces and child custody cases are committed to a greater extent by male parents (Clemente & Padilla-Racero, 2015b). Gardner, when identifying the manipulating or alienating parent who has custody and the alienated or rejected parent who does not, mothers are almost automatically assigned the role of alienators and the role of the alienated is assigned to the rejected father. The manipulated child would also have the condition of being alienated by the mother.

The parent who is assigned the role of manipulator comes to be seen by the court system as a harmful, toxic influence on the child, and therefore the measures taken in the Courts will be in line with taking the child away from the mother, to safeguard the child from dangers to his/her mental health. Diagnosis of PAS is carried out based on the appearance of eight symptoms that Gardner determined children to have, and treatment (threat therapy) is set based on 10 symptoms supposedly present in the mother (usually the alienating parent) and only secondarily depending on the child's symptoms (Padilla-Racero, 2013). The response or treatment is simple (and the true purpose of the PAS diagnosis): The change of custody in favor of the father, a victim of unfounded rejection by the child, a rejection that is presumed to be induced by the manipulative mother.

That PAS is an ideological rather than scientific instrument is easily detectable in many of its approaches. For example, according to this false syndrome, the child makes a campaign of denigration on the noncustodial parent, which is symptom 1 of PAS in the child (Padilla-Racero, 2013). This campaign of denigration against the father of the child is induced by the mother and the product of her manipulation of the child. On the other hand, the phenomenon of the independent thinker, which corresponds to symptom 4 of the diagnosis of PAS in children (Padilla-Racero, 2013), refers to the role of the child in his/her personal campaign of denigration. This personal contribution of the child (independent of the mother's manipulation) is what PAS advocates argue to label the syndrome as a childhood disorder. PAS, through the rhetorical use of language, seeks to justify hypotheses that cannot be supported scientifically, incurring numerous contradictions, such as the one just pointed out.

Nichols (2014) explains that mental health professionals have published dozens of reports of clinical studies purporting to support the diagnosis of PAS during the past 20 years. All these reports, however, are based on clinical observations and ideology rather than empirical data or peer reviewed research. As Emery (2005) explains, authors should recognize and assume that

clinical experience, including case studies, prove nothing; case studies are valuable for generating hypotheses, but not for confirming them.

PAS interprets the child as lying when s/he vilifies one parent (usually the noncustodial parent is male), and in psychoanalytic theory, the child fantasizes (lies) when s/he recounts memories of sexual abuse during childhood (Clemente, 2010). In short, both PAS and psychoanalysis are ascribed to the field of ideology, abandoning science in these situations. PAS has not been scientifically validated because it originates from an invalid theoretical model (Clemente, 2013).

Among the ideas on which PAS is built, two stand out: the “inherent falsity in children,” because of which they should not be believed if they accuse their parent of mistreatment, abuse or neglect; and the idea that a parent uses the legal system to separate the children from the other parent, using manipulative, vicious, and vindictive nature. It was assumed that the manipulator would be a female in general, which was the gender-biased view of Gardner. However, it is more likely that such manipulation would be a symptom of control; issues which tends to be more similar to a parent who commits domestic violence or child abuse. Therefore, Gardner’s theories soon found themselves opposed by movements in defense of children and women, in addition to the scientific community.

Acceptance of the diagnosis of PAS or its theories by the courts means the immediate application of the Threat Therapy, which is intended to dissuade the children and the mother from breach of visitation. This is a coercive intervention, which aims to correct the behavior of the child and the parent with whom s/he lives, using the tools of threat and judicial coercion. Such threats are supposedly intended to be therapeutic and are implemented by the court on the grounds that they are the most suitable for the child, from an interpretation of the same interests that coincide exclusively with the interests of the manipulator. These threats consist of a range of coercive measures ranging from fines, house arrest or imprisonment of the parent diagnosed as manipulative and harmful to the child, until the change of the child’s custody in the favor of the rejected parent. Sometimes, this change of custody is carried out after a period of detaining the child in a juvenile facility or “deprogramming camp” until s/he does not go back on the accusations regarding the rejected parent and accept the situation. Contradictorily, the court record will become almost a clinical record. An alleged syndrome that has no place in the area of public or mental health where it has been continually rejected is used to diagnose and intervene by the courts and those who promote it in the legal system.

As Gardner himself acknowledged, the differential diagnosis of PAS is not capable of determining whether the child has been mistreated or abused by the parent that is rejected or if it is an invention of the minor, or a product of manipulation on the part of the alienating parent (which is attributed to the manipulation). PAS’s lack of scientific grounding, the high probability of misdiagnosis recognized by its creator and subsequent defenders, as well

as the legitimization of the use of coercion by the State through the courts to impose affection are some of the ethical considerations that should prevent the application of such threat therapy.

The consequences of treatment involving PAS diagnosis for children are dramatic. As Nichols (2014) states, survivors of domestic violence and child advocates argue that Gardner's theory overshadows the legitimate causes of estrangement between parents and children, such as abuse, neglect, or the feeling of abandonment in the child caused by the divorce itself. Bruch (2001) states that Gardner confounds a child's reaction to the divorce and the high level of parental conflict (including violence) with his approach. The authors who devote their efforts to the defense of children fear that the "diagnosis" of PAS within the resolution of cases of custody disputes can result in the courts handing children over to their abusers (Dallam, 2008).

Discrediting PAS

Clemente (2013), Padilla-Racero (2013), and Rozanski (2013), among other authors, have devoted their efforts to studying and explaining the phenomenon called PAS. Examples are the works of Meier (2009), Nichols (2014), Pepiton, Alvis, Allen, and Logid (2012), and Pignotti (2013). Paradoxically, this issue that initially does not have by itself any scientific interest has come to draw in many authors to contest it, knowing that it is highly topical because of its application in the Courts of many countries and the certainty that this real action leaves children in a more than regrettable situation of risk and vulnerability.

The main idea on which PAS is based, as previously noted, is that when a minor expresses his suffering of mistreatment or abuse by one parent (usually the father) during a separation or divorce process, this statement is false and induced by the other parent (usually the mother). An empirical study showing that children generally do not lie about these types of situations and that they are also not easily manipulated has been conducted (Clemente & Padilla-Racero, 2015a). The ideas raised by Gardner are not supported by the data. It is rare for a child to lie about what s/he has seen or experienced. Our research raised the ire of supporters of PAS, who even demanded its withdrawal from publication, showing their ways of acting to be inquisitorial (Bernet, Verrocchio, & Korosi, 2015), and was contested by the authors who carried out this work (Clemente & Padilla-Racero, 2015b).

Another important aspect to investigate was to determine the importance of PAS ideas given by judges to the various reports submitted as evidence in family courts. Clemente, Padilla-Racero, Gandoy, Reig-Botella, and Gonzalez-Rodriguez (2015) tried to verify what weight the different pieces of evidence have in court decisions regarding the determination of custody and visitation. In some countries, as is the case of Spain, teams of psychologists working for the Administration of Justice often produce reports that are

clearly pro-PAS, which requires custodial parents to resort to psychologists outside the Administration of Justice to determine whether the child's testimony is true. Pro-PAS mental health professionals systematically start with the idea that the child is lying. The testimonies of the parties involved (both parents) are part of the evidence in these trials. Given these various reports and testimonies, combined with the principle that the judge understands to be taken as a guide for the decision for the welfare of the child, there may be very different decisions about the types of communication of the child with each of his parents in the cases that concern us.

This line of research was intended to highlight the importance of child sexual abuse from a different point of view, which is the way to treat it from a judicial perspective. Clemente (2013) and Padilla-Racero (2013, 2015, 2016) sought to verify how important the different professional testimonies and reports are to judges according to how they understand that they must act for the good of the child and based on the existence of statements in the reports. It has been found that the reports of the teams assigned to the courts are second in terms of credibility given to them, which makes us reflect on the importance of their development; professionals have to be guided by knowledge and techniques that have a scientific backing, abandoning unscientific constructs, such as PAS. Data from this study show how effective different judicial behavior is depending on the variables analyzed, and how the reports of the psychosocial teams are specifically second in being taken into account to support court decisions on children.

The main conclusion is that faced with the event itself, which would be the story or account presented, judges make a decision that is influenced by variables that are manipulated, with the professional evaluations embodied in the Administration of Justice's technicians' psychosocial report being of great relevance among such variables. Unfortunately, in most cases, these reports state that there is PAS or follow the same principles even if they do not use the label.

Conclusion

PAS advocates, to this day, have not produced any evidence or empirical data demonstrating its existence. What they mean by scientific evidence is bound solely to the merely theoretical circulation of Gardner's work, the creator of the PAS concept. The authors cited by proponents of PAS as alleged researchers are mere disseminators of PAS, not actual researchers who have published in peer reviewed research journals.

The data obtained in our research allow us to affirm that in general, children do not lie about abuse they have experienced, and they are not easily manipulated. These data refute, therefore, one of the main ideas on which PAS is based. By not being based on sound theoretical principles and not being able to be verified, PAS and its framework cannot generate a diagnostic

tool. Consequently, you cannot establish an intervention program for a suspected syndrome that cannot be diagnosed, because it is impossible for a diagnostic tool to be derived from it, with it not being supported in a valid theoretical model. Without a solid theoretical model, one cannot make a diagnosis and possible treatment for it. In short, you cannot measure what does not exist and that is what is happening with PAS.

The social utility of science is to deliver justice between individuals, which is why when scientific instruments or techniques such as PAS are used, it constitutes social injustice (Clemente, 2013). The followers and believers of PAS promote threat or coercive treatment/intervention, and removal of the child from the person who may have been the primary caretaker. It is not possible to derive a treatment from a theory that is not falsifiable, and even less, if an instrument that meets the appropriate psychometric requirements is not derived, for without such an instrument, it is impossible to verify whether the treatment produces improvement in children. PAS is ideology, not science. It is a whole system of ideas based on a mirage of equality, which does not stand up to any scientific, legal, or social analysis.

PAS projects on the women the suffering of mental disorders, and on children the presumption of being liars and easily manipulated; and quite unfortunately, because of the undeniable weight of these two pseudosciences in our society, both theories correspond to subjective approaches of interpreting reality and of undeniable gender bias.

The testimony of minors must be duly taken into account in these proceedings, since it is empirically verified that children tend to tell the truth and that furthermore they are not easily influenced or manipulated to give a false testimony, but quite the opposite. Therefore, if you want to ensure the good of the child, you cannot do it without their testimony being heard and duly taken into account in judicial decisions that concern them.

PAS is a false attribution, a cause–effect relationship that does not exist, unprovable, unscientific, but generates three types of victims, two of them custodial parents (usually mothers) and children. The latter, who sometimes suffer abuse, including sexual abuse, sometimes only find a single solution in their lives, suicide. The third victim is society, which instead of defending the existence of a more just society for all, allows the opposite to occur. For the sake of the child, we must struggle to conceive PAS and those who follow and promote its principles as what it is: False.

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Recommended treatments for “parental alienation syndrome” (PAS) may cause children foreseeable and lasting psychological harm

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ABSTRACT

The coercive and punitive “therapies” recommended for children diagnosed with parental alienation constitute an ethical minefield and are especially inappropriate when used on children who have already been traumatized. Forced reunification against a child’s will and without taking into consideration the child’s point of view and emotional well-being, can be expected to reinforce a sense of helplessness and powerlessness in an already vulnerable child. Such “treatment” can be expected to do more harm than good, and rather than helping their well-being, could cause lasting psychological harm, particularly when imposed upon children who claim the parent they are being forced to reunify with is abusive.

KEYWORDS

Child abuse; parental alienation; reunification; treatment

We are in agreement with the broad critiques of parental alienation theory as offered by O’Donohue, Benuto, and Bennett (2016) and Clemente and Padilla-Racero (2016) in this issue, and many of the researchers that they cite. “Parental alienation syndrome” (PAS) criteria are vague and subjective, nondiagnostic, and inconsistent with good child-centered evaluation. As a result, PAS proponents frequently draw conclusions based on pure speculation, correlation without demonstrated causation, and inference without any foundation other than their own beliefs about how children should think and behave during a stressful divorce. Current proponents of parental alienation, including Bernet (2008) and Warshak (2015), have attempted to circumvent widespread condemnation of PAS by replacing it with parental alienation disorder (PAD) or simply parental alienation. While they have attempted to imbue their viewpoints with the mantle of science, the criteria used to determine alienation are the same ones offered by Gardner and thus the same criticisms of Gardner’s theory of PAS are applicable as noted in the Commentaries in this issue noted above as well as by others (e.g., Houchin, Ranseen, Hash, & Bartnicki, 2012; Meier, 2013; Saini, Johnston, Fidler, & Bala, 2016). In rejecting PAD for inclusion in the latest revision of the *Diagnostic*

and *Statistical Manual of Mental Disorders* (DSM), Dr. Darrel Regier, vice chair of the DSM task force, stated, “It’s a relationship problem—parent–child or parent–parent. Relationship problems per se are not mental disorders.” The Board of Trustees would not even consider putting it in a section for disorders needing further research (Thomas & Richardson, 2015, p. 33). Our view is that the ongoing harm to children that this faulty concept has engendered is significant. In this Comment, we examine some of the diagnostic and treatment implications derived from PAS that can harm children and families.

The potential for PAS diagnoses to harm children is not surprising given the concept’s origin. As noted in the Commentaries, PAS was invented by Richard Gardner based on his clinical impressions of cases he believed involved false allegations of child sexual abuse (Gardner, 1985). At the time, Gardner was a frequent expert witness, most often on behalf of fathers accused of molesting their children (Sherman, 1993). Thus, PAS was first described to counter sexual abuse allegations in custody litigation. Without citing any evidence, Gardner (1987) claimed that PAS is responsible for most accusations of child sexual abuse that are raised during custody disputes, and that in his experience “in custody litigation ... the vast majority of children who profess sexual abuse are fabricators” (p. 274). As a result, PAS has frequently been introduced into custody cases by parents whose child has rejected them in order to discredit allegations of family violence or abuse (Bruch, 2001). Actual research, on the other hand, has consistently shown that sexual abuse allegations are not common during custody litigation and when thoroughly investigated, are often no more likely to be false than allegations raised at other points in time (see Dallam & Silberg, 2006 for a review). Yet, even when abuse claims were valid, Gardner appeared to believe that PAS was more detrimental than sexually abusing a child. For example, Gardner (2000) considered PAS to be a form of emotional abuse that can lead to lifelong psychiatric disturbance in the child. Conversely, Gardner claimed that the determinant as to whether the sexual abuse will be traumatic for a child “is the social attitude toward these encounters” (1992a, pp. 670–671) and that special care should be taken by the therapist to not alienate the child from the molesting parent (p. 537).

Gardner’s theory of parental alienation was based on the assumption that if a child rejects their parent (usually the father) after allegations of abuse, the other parent (i.e., the mother) must have brainwashed the child. As Gardner (1992b) stated, “Children are not born with genes that program them to reject a father. Such hatred is environmentally induced, and the most likely person to have brought about the alienation is the mother” (p. 75). Thus, problems in the child’s relationship with the father were simply blamed on brainwashing by the mother. The recommended solution to remedy PAS involves coercive and punitive treatments for both the mother and the child along with switching custody to the rejected parent as noted by Clemente and Padilla-Racero (2016) in this issue. Although Gardner (2001) said that children may then

add their own contributions to the vilification of a parent, there is minimal indication in Gardner's perspective that children can react to a parent based on their own experiences, feelings, and beliefs. Thus, the mental life of the child who is being diagnosed with PAS is largely ignored in Gardner's theoretical analysis.

Gardner's theory of PAS has been difficult to overcome because he relied on popular gender and cultural myths (see Dallam & Silberg, 2006 for a review) and offered courts a simple explanation for very complex cases. One judge wrote that when she first read Gardner's (1987) book *The Parental Alienation Syndrome and the Differentiation Between Fabricated and Genuine Child Sex Abuse*, she believed that "Dr. Gardner had just handed me the key to the mysteries of all my high-conflict family law custody cases ... the magic of the theory was intoxicating" (Slabach, 2014, p. 8). One reason the theory seemed so comprehensible was that the definition of PAS includes its hypothesized etiological agents (i.e., a manipulative/alienating parent and a receptive child) (Kelly & Johnston, 2001). This renders Gardner's theory of PAS unfalsifiable because it is tautological (i.e., true by definition). The child's denial that such brainwashing has taken place and the mother's attempts to obtain professional assistance in diagnosing, treating, and protecting the child, are then used by Gardner and proponents of his views as evidence of alienation. Thus, Gardner's theory works backward using circular reasoning to assume causation from an observation. As a result, Rotgers and Barrett (1996) cite PAS theory as a prime example of a nonscientific theory that engages in reverse logic.

The rejected parent's role in contact refusal

As a theory, PAS is black and white with minimal attention given to family dynamics or child development. The alienating parent was painted by Gardner as pathological and completely to blame for the child's position. The rejected parent in Gardner's theory was totally blameless and the "true victim" (Gardner, 2002, p. 26). In actuality, when a child rejects a parent there is a wide range of possible explanations including normal developmental conflicts with a parent, separation anxiety with the preferred parent, abuse, or neglect, etc. (e.g., Faller, 1998; Garber, 1996). Moreover, research on the topic has found that rejected parents often have contributed to their situation. Huff (2015) surveyed 292 young adults (18–35 years old) who were between 8 and 17 at the time their parents separated. He found that that violence and a perceived lack of warmth were significant predictors of contact refusal with a parent. The largest effect size for predicting contact refusal was for the degree to which participants reported being aligned with the other parent. At the same time, co-parental conflict and parents' alienating behaviors had little to no direct contribution to contact refusal after controlling for the other

variables in the model. Huff's study is of particular importance since alienating behaviors are the primary variable that alienation proponents claim causes contact refusal. His study found that participants were *not* influenced to reject a parent due to manipulation by the other parent; instead, they tended to align with the parent who exhibited the most caring behavior toward them.

These findings are supported by prior studies looking at children's rejection of a parent after divorce. Lampel (1996) studied 24 consecutively referred children of parents in custody litigation. She found that the rejected parent's demonstration of empathy was a better predictor of a child's rejection than manipulation by the preferred parent. She concluded, "The complex family dynamics suggested by these studies are that a closed parent system, in which both parents are defensive and remain in conflict, led the child to align with the more problem solving, capable, and outgoing of the two parents" (p. 239). Johnston, Walters, and Olesen (2005) found that substantiated accounts of abuse significantly predicted parental rejection when controlling for a variety of other factors, including alienating behaviors by the other parent.

Acceptance of PAS can result in failure to adequately investigate reports of abuse

One of the biggest pitfalls of having children evaluated by someone trained in parental alienation theory is that the assumption of manipulation by the preferred parent means that the rejected parent is deemed by evaluators to be the only source of "credible" information; the preferred parent and child are not viewed as credible and thus their concerns are often ignored. This parent and the child often quickly realize that the evaluator does not believe them, is biased, and has their mind made up. This can lead to them shutting down and not providing information, or even exaggerating actual abuse to be more extreme in an attempt to get the evaluator to pay attention.

Although proponents of parental alienation agree that substantiated abuse rules out a diagnosis of PAS, many custody evaluators appear predisposed to attribute abuse allegations to vindictiveness, rather than exploring whether there is a factual basis for the child's disclosure or the protective parent's concerns (e.g., Saunders, Faller, & Tolman, 2011). In addition, as Johnston, Roseby, and Kuehne (2009) pointed out, parental violence, abuse, and neglect range on a continuum from blatant acts to more subtle forms of emotional abuse, neglect, and a lack of empathy and concern for the child that may not be acknowledged, difficult to document, and unreported or dismissed by authorities. Even when abuse is formally investigated, it is frequently not substantiated as allegations of interpersonal violence can be very difficult to independently confirm, especially if the law enforcement or child protective services personnel also believe in the myth of PAS and, therefore, do not conduct their normal comprehensive investigations.

Parental alienation proponents, on the other hand, often assert that they can easily determine whether abuse has occurred, often with no formal evaluation of the child or family (e.g., Childress, 2015). Once they make their determination, custody evaluators schooled in PAS theory were instructed by Gardner to ignore and aggressively contradict any abuse disclosures by a child they believe to be alienated. For example, Gardner (1999) wrote, “The court’s therapist must have a thick skin and be able to tolerate the shrieks and claims of impending maltreatment that PAS children often profess... To take the allegations of maltreatment seriously, is a terrible disservice to PAS children” (pp. 201–202). Similarly, Warshak (2015) noted that children can be very convincing in their accounts of poor treatment at the hands of the rejected parent and, as a result, “[n]aïve therapists who lack specialized knowledge and experience with alienation cases may inadvertently reinforce the children’s alienation by accepting their patients’ representations as accurate” (p. 246). Gardner (1999) even directed therapists to actively counter allegations of abuse if they believed them to be false. He stated, “[I]t is therapeutic to say, ‘That didn’t happen! So let’s go on and talk about real things, like your next visit with your father’” (p. 202).

We find this position to be inherently dangerous, not only because it is disrespectful to children, but also because of the very real possibility of abused children being misdiagnosed as alienated and placed with their abuser. The ability for PAS and its offshoots to harm children was recognized by the National Council of Juvenile and Family Court Judges, a leading judicial body, in its published guidelines noting that PAS may divert attention away from the behaviors of an abusive parent by assuming that child’s attitudes toward that parent have no basis in reality (Dalton, Drozd, & Wong, 2006).

Because of the difficulty in substantiating allegations of interpersonal violence in custody cases, the American Professional Society on the Abuse of Children (2013) recommends a comprehensive family evaluation by mental health professionals with expertise in interpersonal violence. Evaluators should conduct more than a single interview with children, rely upon multiple methods of data collection and, whenever feasible, a team approach should be used to mitigate individual bias. Even with such a careful investigation, finding insufficient evidence for a finding of abuse does not mean that “brainwashing” is the most likely alternative. It is very difficult to substantiate abuse particularly in young children and, as noted previously, parental rejection has many causes.

Experimental and punitive treatments for PAS

Both PAS and PAD are built on the assumption the relationship of an alienated child with the rejected parent will be irreparably damaged, unless drastic measures (custody transfer, isolation from the loved parent, and

deprogramming) are taken. These theories further assume that the child will suffer permanent psychological harm if they are not forced to see the rejected parent. Consequently, the recommendations of PAS advocates can endanger children by separating them from the parent with whom they are most bonded and attempting to force the child to accept the rejected, and possibly abusive, parent.

Gardner (2001) claimed that children with PAS require an authoritarian and confrontational approach. As a result, treatment of children who diagnosed with parental alienation involves incarceration, threats, and/or special reunification “camps” where children are held against their will to be indoctrinated into rejecting the influence of the parent with whom the child is most bonded (see Gardner, 1999, 2000, 2001). Current treatments for alienation have not been empirically studied for efficacy and Johnston and Kelly (2004) described Gardner’s prescriptions for treating PAS “a license for tyranny” (p. 85).

Recently a number of reunification “camps” to treat PAS have emerged (see Slabach, 2014; Warshak, 2010b). The operators of reunification “camps” often emphasize that these are not treatment programs but instead are “educational” in nature, thus avoiding scrutiny of regulating bodies (Houchin et al., 2012). Houchin et al. noted that these “educational” programs are a burgeoning industry that are making some professionals and lay people quite wealthy, but which have no empirical support other than the claims of those who run the programs. Many of these programs are run out of hotel rooms. Before agreeing to take the child, most of these “camps” require that the court sign special orders to prevent the preferred parent and child from having any contact (including phone, texts, e-mail or Facebook) for a period of at least 90 days. These no contact orders require that the rejected parent be given sole legal custody, and that the preferred parent, along with the child’s other family and friends, are not allowed to know where the child is being held. The child’s cell phone is taken and all communications are restricted and monitored. The child may be threatened that if they make any attempt to contact their preferred parent, they both will be in trouble with the court, and that the 90-day period of no contact will start over again (e.g., Warshak, 2014).

Isolating a child from everyone they are familiar with and attempting to force them to adopt a different view of a parent, especially by strangers who know little about the child’s actual experiences, can in and of itself be traumatic. Warshak (2010b) who runs Family Bridges, a reunification program for “alienated” children, wrote that that when children are court-ordered into Family Bridges and told they can have no further contact with their preferred parent, “It is not uncommon for children to react by screaming, refusing to go, threatening to run away, sobbing hysterically, and, in one case, hyperventilating” (p. 61). At the same time, Warshak (2010a) claimed, “Despite their vehement protests, children and teens welcome the sense of

protection and control that comes when adults exert appropriate authority to keep children on the right track” (as cited by Warshak & Otis, 2010, p. 93) However, no peer reviewed research to support such claims has been published.

Research refutes forced treatment for PAS

Research refutes the assumption that a child’s bond with a preferred parent must be disrupted to safeguard the child’s relationship with the rejected parent. Instead, researchers have found that if a child’s rejection of parent is unwarranted, the child will usually reconcile with the parent on their own without any intervention (e.g, Johnston & Goldman, 2010; Johnston et al., 2009). Johnston et al. found that alignments with a preferred parent are usually time-limited. However, they noted if these cases are mishandled through attempting to force the child to change allegiances, they can contribute to the entrenched position in the child. Research by Johnston and Goldman found that adults who were forced into reunification with a rejected parent when they were a child had strong negative views and feelings about the experience. Based on their research, Johnston and Goldman suggested a “strategy of voluntary supportive counseling and/or backing off and allowing the youth to mature and time to heal the breach” (p. 113) instead of forcing adolescents to participate in counseling. They concluded that teenagers who feel empowered and have their autonomy respected are better able to distance themselves from the parental and family conflicts and consequently more likely to initiate meaningful contact with the rejected parent. Other writers who have looked at the issue argue that enforced treatment and custody reversal are counterproductive, in that they will only serve to reinforce the child’s hatred for the rejected parent, and add stress to the already vulnerable child (e.g., Jaffe, Ashbourne, & Mamo, 2010; Johnston et al., 2009).

Silberg, Dallam, and Samson (2013) documented the harm that can come when children are court ordered into custody of abusive parents. They analyzed the court records of 27 custody cases in which courts initially placed children in the custody of an allegedly abusive parent and later reversed itself and protected the child. Silberg et al. reported that family courts were highly suspicious of a mother’s motive for being concerned with abuse and custody evaluators and guardian ad litem (GALs) frequently accused mothers of alienating their children from fathers and coaching them to report abuse. In the majority of the cases (59%), the alleged perpetrator was granted sole custody. Some mothers were not allowed any contact with their children, and several others were ordered not to speak to their children about abuse or report any further concerns about abuse or risk losing any further contact. The children spent an average of three years in the abusive parent’s custody before the case was reversed. Court records showed evidence of the children’s deteriorating mental and physical condition including anxiety, depression,

dissociation, PTSD, self-harm, and suicidality. Thirty-three percent of the children became suicidal, some repeatedly ran away, and others ended up in psychiatric hospitals.

Conclusion

Hopefully, the tide is beginning to turn on this issue. The lack of empirical support for PAS theory has been repeatedly documented, as has the potential for harm when children are diagnosed and treated for this pseudoscientific condition. In addition, the confinement of children, who have no mental disorder and who have committed no wrong doing, away from parents and friends in unfamiliar surroundings in order to force them to adopt a new belief system would appear to violate these children's basic civil rights (Kleinman & Kaplan, 2016). As a result, in our view, diagnosing children with PAS (or following the same principles without using the label) and recommending coercive and untested treatments for child who refuse contact constitute a form of professional malpractice.

In summary, parental alienation as defined by PAS advocates is a popular, but faulty, concept which has been disproven by research and is not accepted by any professional mental health organization. Coercive and punitive "therapies" recommended for children diagnosed with parental alienation constitute an ethical minefield and are especially inappropriate when used on children who have already been traumatized. Forced reunification against a child's will and without taking into consideration the child's point of view and emotional well-being, can be expected to reinforce a sense of helplessness and powerlessness in an already vulnerable child. Such "treatment" can be expected to do more harm than good, and rather than helping their well-being, could cause lasting psychological harm, particularly when imposed upon children who claim the parent they are being forced to reunify with is abusive.

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Commentary for “Examining the use of ‘parental alienation syndrome’”

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ABSTRACT

This commentary is in response to the article, “Examining the use of ‘parental alienation syndrome,’” and provides useful information to individuals and institutions within both the mental health and legal fields. Further exploration of the concepts within Richard Gardner’s parental alienation syndrome (PAS) is important given the fact that PAS has no methodologically sound, peer-reviewed research and yet legal systems and mental health professionals continue to rely on it greatly in making very important legal decisions that affect the lives of many. While attorneys, judges, or clinicians may not say a child is suffering from PAS, or may never even use the term “alienating,” they still base their opinions and subsequent recommendations on Gardner’s concepts and ideology. Articles like this one hopefully bring light to these important areas and bring the focus back on what is in the best interest of the children.

KEYWORDS

Child custody; family court; parental alienation syndrome; Richard Gardner

The commentaries provide important information for researchers, clinicians, and legal fact finders. As noted in the articles, there is a no methodologically sound, peer-reviewed studies related to the concepts, ideas, or foundation outlined by Gardner’s (1992) “parental alienation syndrome” (PAS). As such, it is incredibly important to have researchers in the field working together to acquire specific data that can further the knowledge base as it relates to the issues of parenting, attempts at turning children against other parents, adjustment to divorce, dealing with child abuse or domestic violence, and the appropriate interventions for these situations. This is especially important given the fact that the court systems, and many of the mental health professionals who work within it, continue to utilize the framework of PAS even if they do not use the label, which, as noted in the articles, is not supported by appropriate data or theory.

As a clinical and forensic psychologist who deals with complex forensic cases involving issues related to child maltreatment, abuse, and intimate partner violence with respect to divorce and child custody cases, it is especially

concerning to see just how often cases arise that cite the concepts of Gardner (1992) as facts that are then used to make decisions that greatly impact the lives of the children and families involved. Given the controversy surrounding the term, PAS, it is now more common to see different, but obviously related, terminology that is not as explicitly stated. For example, while attorneys or clinicians may not say a child is suffering from PAS, or may never even use the term “alienating,” they still base their opinions and subsequent recommendations on Gardner’s concepts and ideology. This is why articles like these are so important to inform judges, attorneys, and mental health professionals, as well as the public, that there is no such disorder as PAS nor is the framework valid as represented in its promotions by those who continue to follow the ideas.

There are special interest groups within the field of psychology and family law who have made concerted efforts to reframe the ideals of Gardner (1992) by giving them different labels while still utilizing the concerning framework that can be incredibly detrimental to the individuals involved. There are also many jurisdictions in this country that have systems in place where legal professionals, mental health professionals, and social services professionals work together on case after case using these same concepts and damaging many families’ lives until we as outsiders come in and try to educate these systems on the actual state of the research regarding PAS. At times, some judges have perpetuated the myth of PAS also, and have appointed evaluators and others who share their beliefs. The prevalence of how often this occurs really speaks to a lack of training for many professionals who work in this child custody arena. Often, they are going to the same trainings held by the same individuals or special interest groups who are promoting these damaging concepts and do not seek out outside perspectives or training opportunities from other experts in the field that might counteract these trainings. As such, these cyclical occurrences continue to happen in case after case that works its way through the family court systems.

I think that a very important point made in these articles is that most often in the forensic cases that we see where there are various allegations of abuse and alienation by one or both parties, the focus of the court unfortunately moves away from the needs of the child or children involved, and instead becomes more focused on the rights of the so-called “alienated” parent. While I by no means want to take away from the magnitude of the experience of a parent whose parental rights are being impeded upon, it can be very easy for the court and the professionals involved to get so wrapped up in the back and forth related to this, that the impact to the child is often overlooked or discounted. Similarly, many of the underlying concepts in Gardner’s PAS framework discount and minimize the experiences of the children involved, and can completely disempower them from

relaying their experience and feelings related to one of the parents or the other.

To reiterate, it is incredibly important to the current state of the science, as well as to the individuals who lives are greatly impacted by these concepts, for more work to be done in the areas noted within these articles. Furthermore, it is important to have input from different professions and individuals who work within the mental health and family court arenas to help more clearly outline how these concepts can best be utilized to make the complex and difficult determinations that must be made in these cases to ensure that the best interest of the child is being carried out, and that the focus remains on the child or children without the use of assumptions that are not validated.

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Ethics on trial: A comment

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ABSTRACT

This comment reviews attorney and mental health duties to the court and their profession and discusses ways to have an impact on how information, known to be considered without scientific basis, “junk science” is put forth to courts and what can possibly be done to stop that.

KEYWORDS

Attorney; custody; Daubert; ethics; Evidence Rule 702; expert; Frye; Gardner; parent alienation syndrome (PAS)

Attorneys have a duty of candor to the tribunal. The tribunal is the court. Why then is it possible for lawyers to put forth information to courts across the country that is known by them and others to be without basis, is false on its face and considered by responsible scientists to be junk science? Why is it that every day “parent alienation syndrome” (PAS) or some facsimile thereof, which has no basis in reliability or validity and passes no muster as science, is put forth by lawyers through their witnesses, and then relied upon by courts to the detriment of children? Why are these lawyers not sanctioned for doing so?

Every state has a similar requirement of candor, some more stringent and specific than others, but the basic framework is expressed in the American Bar Association’s Center for Professional Responsibility Rule 3.3, which says:

a) A lawyer shall not knowingly:

1. Make a false statement of fact or law to a tribunal or fail to correct a false statement of material fact or law previously made to the tribunal by the lawyer;
2. Fail to disclose to the tribunal legal authority in the controlling jurisdiction known to the lawyer to be directly adverse to the position of the client and not disclosed by opposing counsel; or
3. Offer evidence that the lawyer knows to be false. If a lawyer, the lawyer’s client, or a witness called by the lawyer, has offered material evidence and the lawyer comes to know of its falsity, the lawyer shall take reasonable remedial measures, including, if necessary, disclosure to the tribunal. A lawyer may refuse to offer evidence, other than the testimony of a defendant in a criminal matter, that the lawyer reasonably believes is false.

- b) A lawyer who represents a client in an adjudicative proceeding and who knows that a person intends to engage, is engaging or has engaged in criminal or fraudulent conduct related to the proceeding shall take reasonable remedial measures, including, if necessary, disclosure to the tribunal.
- c) The duties stated in paragraphs (a) and (b) continue to the conclusion of the proceeding, and apply even if compliance requires disclosure of information otherwise protected by Rule 1.6. [Note: This rule even protects privileged and/or confidential information learned through the attorney/client relationship.]
- d) In an ex parte proceeding, a lawyer shall inform the tribunal of all material facts known to the lawyer that will enable the tribunal to make an informed decision, whether or not the facts are adverse (American Bar Association, 2016).

The simple answer to the questions raised is that there is minimal or no accountability for attorneys for not following the prescribed guidelines despite the fact that it is unethical. To me, the best answer to stopping this behavior is for lawyers and others who become aware of this to file grievances against the people who are putting false information forward to a court.

Lawyers who submit reports and/or put witnesses on the stand to give opinions based upon junk science are violating the basic tenet of their ethics. Because there are these stringent ethical requirements, judges have a right to assume that attorneys who come before them are practicing according to ethical standards. An attorney has an obligation to bring unethical behavior to the attention of court and/or to an ethics board, when an attorney brings junk science forward, the court can rely upon it. It is either up to the opposing counsel to raise it or if the attorney putting it forward knows it is baseless in science s/he has an obligation to raise the issue.

It seems simple but it is more complex because since it has become common knowledge that PAS is junk science (as noted in the commentaries in this issue and those the research they cite) and does not meet any admissibility standards in the law, the same techniques and recommendations promoted by Richard Gardner (1992) and his PAS are now being utilized by other mental health professionals without the PAS label, but still have no basis in science.

The question then becomes what can be done about it? Attorneys have several procedures which can be utilized to identify what I refer to as the syndrome of attempted cooption by use of language. The law uses tests to determine appropriate testimony. Simply put, there are rules of evidence adopted by the federal courts and each state court. They need to be known and used by all lawyers who practice in court. Lawyers daily argue principles and methods are flawed and without scientific foundation and the next day the same lawyer on behalf of an accused batterer, for example, comes to court to argue on behalf

of those unscientific principles. These lawyers are violating their ethics and should be brought before the ethics committee and the court. While an attorney could plead ignorance of the correct science and that s/he was relying upon the “expert,” s/he cannot do so truthfully where s/he plays both sides of the coin depending upon whom s/he is representing that day. Central to all of this is the duty to the tribunal and not to put forth things known to be false.

The mental health professionals who still use Gardner’s theory and ideas, absent its name, put forth principles and methods which are unreliable, such as the conclusion that mothers whose children are genuinely abused tend to be passive and unassertive. There is no scientific evidence that such an assertion is true. Yet evaluators daily berate mothers for anger at their abusive husbands. Lawyers must know the law and the science, and the basic premises upon which Gardner based his conclusion to assert alienation. They must then be able to challenge the expert on the scientific basis for any conclusions which are not based in science. In doing so any unscientific tenet asserted must be called to the attention of the court. The court can then have a hearing on that tenet. The mental health professional should be held accountable with their licensing board. The lawyer who puts or attempts to put this information forward to a court after learning it is unscientific must likewise be brought to the attention of the licensing board.

Where there is a legitimate legal argument, both sides can be heard and the matter can be brought through the appellate processes. However, this is not one of those arguments where there are two legitimate sides. There has never been science to back up Gardner’s’ principles and methods as he admitted. Indeed when Dr. Gardner was teaching at Columbia University in New York, a complaint was registered with his Dean, Herbert Pardes, who wrote a letter saying in pertinent part:

We appreciate the fact that Dr. Gardner’s views are controversial and offensive to some people. They are, however his views and so long as he presents them as his views based upon his own clinical experience and does not inappropriately claim that they are facts based on research, he does not cross the boundaries which protect academic freedom in a University.

In response to earlier complaints, our Psychiatry Department convened a special committee which reviewed Dr. Gardner’s work.... The committee found that Dr. Gardner had been careful to qualify any conclusions as his own opinion He rarely makes citations except to his own work.

There are many here at the University who disagree with Dr. Gardner, but he has a right to his views so long as he does not falsely present them as the results of research (Letter from Columbia University, Dean Herbert Pardes, Health Services Division, Office of the Vice President for Health Sciences and Dean of the Faculty of Medicine, November 23, 1999)

Rule 702 is the federal rule for testimony by expert witnesses. This rule has been adopted by the majority of states and pursuant to Rule 702 (Federal Rules of Evidence, Article VII, Rule 702).

A witness who is qualified as an expert by knowledge, skill, experience, training, or education may testify in the form of an opinion or otherwise if:

- a) The expert's scientific, technical, or other specialized knowledge will help the trier of fact to understand the evidence or to determine a fact in issue;
- b) The testimony is based on sufficient facts or data;
- c) The testimony is the product of reliable principles and methods; and
- d) The expert has reliably applied the principles and methods to the facts of the case.

Thus, anyone who seeks to give expert testimony must first be qualified as an expert. Once qualified, their testimony must be not only based upon sufficient facts or data, but the underlying principles upon which their interpretation is given must be based upon "reliable principles and methods" and these methods must be reliably applied to them. In addition to Rule 702 and/or where Rule 702 may not have been adopted by a state, then the general rules of Frye and Daubert control admissibility of testimonial evidence. (*Frye v. United States*, 1923; *Daubert v. Merrell Dow Pharmaceuticals*, 1993).

The Frye standard also known as the Frye test is a test for general acceptance in the scientific community, such that opinion must be based upon a scientific technique that is generally accepted as reliable in the relevant scientific community. In the more recent case of *Daubert v. Merrell Dow Pharmaceuticals* (1993), the Supreme Court held that the Federal Rules of Evidence superseded *Frye* as the standard for admissibility of expert evidence in federal courts as to reliability and held,

"...general acceptance" is not a necessary precondition to the admissibility of scientific evidence under the Federal Rules of Evidence, but the Rules of Evidence—especially Rule 702—do assign to the trial judge the task of ensuring that an expert's testimony both rests on a reliable foundation and is relevant to the task at hand. Pertinent evidence based on scientifically valid principles will satisfy those demands. [Note: *Daubert* did not overturn *Frye* but superseded *Frye*]

Subsequently many states found that PAS has no scientific basis for admission in court. For example, in *Tungate v. Kentucky* (1995), the Kentucky Supreme Court held Gardner's testimony inadmissible because it lacked scientific basis. Later in New York, the same ruling occurred in the case of *People v. Fortin* (2000):

The defense has sought to introduce testimony as part of its case regarding a psychological syndrome called Parental Alienation Syndrome. Since Parental Alienation Syndrome has never been the subject of a *Frye* hearing in New York State, a *Frye* hearing was requested by the District Attorney and consented to by the

defense. At the hearing the defense called one witness to describe Parental Alienation Syndrome (hereinafter called PAS). This witness called by the defense was Dr. Richard Gardner, a psychiatrist who has been a pioneer in writing about and discussing the syndrome in question.

Since there was a considerable delay between the occurrence of the acts set forth in the indictment and a report being made to the police, PAS is being offered to support the defense position that because of surrounding circumstances and inter-familial discord the victim lied and fabricated this alleged incident of rape with respect to the defendant.

Relying upon the case of *People v. Wesley* (1989), Chief Judge Kaye (at 437, n4), that “[i]t is not for a court to take pioneering risks on promising new scientific techniques, because premature admission both prejudices litigants and short-circuits debate necessary to determination of the accuracy of a technique.” [emphasis added]

Thus, based upon the testimony at the hearing, this court finds that the *defendant has not established general acceptance of Parental Alienation Syndrome within the professional community...* [emphasis added]

Frye’s principle is a scientific practice to have general acceptance of accuracy and reliability within the community of scientists that practice in that field. For example a polygraph, although widely liked by police and law enforcement, is not accepted in court because it cannot actually detect lies. It can only detect whole truths. It is subjective.

The finding in Fortin comports with the Ethical Principles of Psychologists and Code of Conduct Principle C which makes the psychologists’ duty clear, that:

Psychologists seek to promote accuracy, honesty, and truthfulness in the science, teaching, and practice of psychology. In these activities psychologists do not steal, cheat, or engage in fraud, subterfuge, or intentional misrepresentation of fact... (American Psychological Association, 2010a)

Principle 2.04 of the Code of Ethics requires psychologists’ work to be “based upon established scientific and professional knowledge of the discipline” (American Psychological Association, 2010b) while 5.01 requires the “avoidance of false or deceptive statements” (American Psychological Association, 2010c). Since it is accepted that PAS does not exist nor does its tenets have any basis in science, the only way I believe its use can be stopped is by accountability of those who use or attempt to use it in court and in public. There are huge numbers of mental health professionals who promote this unscientific and unreliable theorem. This must be stopped and should be brought to their respective ethics boards.

People are permitted of course to have honestly held beliefs which are not based in science. Just because someone is an expert and has an opinion does not make it an expert opinion permitted in court. They are personal. The court is not the place for personal opinion, even by an expert.

Over time many mental health professionals have utilized these unscientific and unethical practices to not only promote their baseless opinions to court but

they have hurt hundreds and maybe thousands of children and protective parents in the process. They often go unchallenged and without any accountability.

It is time for that to stop. We must put our own fears aside and help those who are most vulnerable in the system: Children and their protective parents. Unless we begin to challenge the proponents of fake science and file grievances to take on the people who so willingly put forth personal opinion under the guise of expert opinion, we cannot hope to stop this infection. The physical and emotional stability of children is being withered away when we remove them from a protective parent.

Gardner followers are essentially abuse deniers. They seem to believe that protective parents alienate children from their abusive parent for no reason and should lose custody when they raise the issue of abuse. These people use unscientific means and their status to have that child placed with a person the child has accused of abusing him/her. Since most abuse complaints originate from the child, they are put forth to the court by their protective mother, and statistics demonstrate that it is very risky for a protective parent to raise child abuse as more than 70% will lose custody to the abuser (Saunders, Faller, & Tolman, 2011). Therefore, absent raising our voices and signing our names to ethics complaints wherever we see this abhorrent behavior, we become a part of a system that allows the placing of a child in an abuser's home.

Lawyers can bring other lawyers to the court and to ethics boards when attorneys practice law by both promoting alienation in one case using false science theories then fighting it as false, knowing it is junk science in another. Where a lawyer does not know opposing counsel in other cases, s/he should still challenge the other lawyer's knowledge of the falsity of the claims of alienation in advance by giving this information directly to the court, quite apart from the case information itself. They can seek hearings and use other legal mechanisms to expose the unethical behavior and when all else fails in advance of trial, they can cross examine experts on science, reliability, and methodology of their opinion. This is hard work but may save a child. I think it is worth it.

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