

The Parental Alienation Debate Belongs in the Courtroom, Not in DSM-5

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The DSM-5 Task Force is presently considering whether to adopt parental alienation disorder (PAD) as a mental illness. Although controversy has surrounded PAD since its inception in 1985, pro-PAD groups and individuals have breathed new life into the push to establish it as a mental health diagnosis. In this analysis, we argue that it would be a serious mistake to adopt parental alienation disorder as a formal mental illness in the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5).

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Parental alienation disorder (PAD),¹ formerly and perhaps better known as parental alienation syndrome (PAS), is one of the most controversial diagnoses under consideration for inclusion in the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5). Dr. Darrel Regier, vice-chair of the DSM-5 Task Force, told the Associated Press that he has received more mail regarding PAD than on any other proposed diagnosis.² In this regard, groups for and against PAD's inclusion in the DSM-5 have been gearing up for a battle that should have been over before it began.

A Note on Alienation

PAS advocates have argued unsuccessfully for decades that it is a mental illness and should be included in the DSM. More recently, parental alienation supporters have renamed PAS as PAD and have formally submitted it for inclusion in DSM-5. Semantics aside, the concept of parental alienation is neither unique nor particularly controversial. Alienation is defined by Merriam-Webster's online dictionary³ as

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“a withdrawing or separation of a person or a person's affections from an object or position of former attachment.” There are, of course, numerous situations in which persons who are angry with an individual might try to recruit others to their point of view. Politicians frequently engage in alienation tactics to win elections, yet there is little thought to labeling this process as a diagnosis.

In the authors' opinion, there is nothing wrong with using the term parental alienation to describe one parent's “campaign of denigration” (see below) against another. However, there is no good purpose served in deciding to mold an arguably contentious, collateral process of divorce into a diagnosable mental illness. In this article, the reader will see that parental alienation as a psychiatric diagnosis has arisen from emotions emanating from custody battles, publicity, and economics rather than from sound, scientific study.

The Origin of PAS

Richard Gardner, formerly a psychoanalyst and child psychiatrist on the clinical faculty at Columbia University, introduced the term parental alienation syndrome in his 1985 debut article on the subject.⁴ He would later strike a very academic tone in his refined definition of PAS⁵:

The *parental alienation syndrome* (PAS) is a disorder that arises primarily in the context of child-custody disputes. Its

primary manifestation is the child's campaign of denigration against a parent, a campaign that has no justification. It results from the *combination* of a programming (brainwashing) parent's indoctrinations and the child's own contributions to the vilification of the target parent [Ref. 5, p xx; emphasis in the original].

Over the next decade, Gardner would go on to write prolifically. He founded his own publishing company, Creative Therapeutics, through which he published over 30 books. He used this venue not only to explain and expand his theories regarding PAS, but also to promulgate other problematic theories. For example, he openly supported abolishing child abuse reporting laws⁶ and controversially declared that sexual abuse cases are "turn-ons" for those involved in the court process, including lawyers and judges.⁷ Despite these unusual claims, Gardner was highly sought as an expert witness, testifying in over 400 child custody cases before the end of his career.⁸

Previous Criticisms of PAS

Controversial since its inception, PAS has compelled many scholars to write articles critical of Gardner's theory. Kelly and Johnston have been noteworthy critics of PAS, writing in their 2001 article, "The Alienated Child, A Reformulation of Parental Alienation Syndrome," that "PAS terminology has led to widespread confusion and misunderstanding in judicial, legal, and psychological circles" (Ref. 9, p 250). They also highlighted the lack of empirical support for PAS as a psychiatric diagnosis and the barring of PAS testimony in many courtrooms.

Although they vigorously refuted the validity of PAS as a psychiatric diagnosis, Kelly and Johnston acknowledged in their article that alienating behavior sometimes occurs during the course of child custody disputes. It was in this context that they actually reworked the concept of parental alienation so that both practitioners and the courts could usefully apply it without invoking a mental illness. As one might expect, Gardner took issue with Kelly and Johnston's reformulation, writing a formal rebuttal.¹⁰ Tragically, Gardner ended his own life before he could see this work published in 2004. Having the last word in a spirited series of published exchanges, Kelly and Johnston submitted a response to Gardner's rebuttal that was published in tandem with it.¹¹

Criticisms of PAS have not been limited to mental health professionals, as legal scholars have also been loath to accept the premise that parental alienation should be formally classified as a mental illness. For

example, in her 2002 article, "Parental Alienation Syndrome and Alienation: Getting it Wrong in Child Custody Cases,"¹² Carol S. Bruch, JD, voiced concern with Gardner's tendency to cite his own, non-peer-reviewed books and publications on PAS. She noted that in one typical article, Gardner cited 10 sources: 9 writings of his own and 1 by Sigmund Freud. She further refuted Gardner's suggestion that PAS was a generally accepted psychiatric phenomenon by pointing out that, when the validity of PAS was challenged in court, his testimony was often excluded.

In our opinion, Gardner's approach of self-publishing books and then citing himself as an authoritative reference in the scholarly literature went beyond simple self-aggrandizement; it was frankly misleading. We agree with Ms. Bruch that the inaccurate portrayal of PAS as an accepted and credible diagnosis gets it wrong on many levels.

Lack of an Empirical Basis for PAS

In Gardner's 2004 posthumous publication,¹⁰ he countered critics who consistently pointed out the lack of an empirical basis for PAS as a psychiatric diagnosis. The term empirical, Dr. Gardner argued, could be interpreted to mean direct patient observation and therefore did not have to involve scientific experimentation. He claimed that when the term empirical was interpreted this way, there was ample evidence that PAS stood as a legitimate diagnosis. He then acknowledged that there was only one PAS study (his own) at that time that had actually applied statistical analysis.

In our view, the argument over how one chooses to define the word empirical is semantic. It does not change the fact that there remains a paucity of scientific evidence that PAS (or PAD) should be a psychiatric diagnosis.

Since Gardner's death, others have taken up the crusade to crown his creation of PAS with acceptance in DSM-5. For example, the book, *Parental Alienation, DSM-V, and ICD-11*,¹³ was published in 2010, claiming to have dozens of professional-level contributors. The book contains the aptly named chapter, "Twenty Reasons Why Parental Alienation Should Be a Diagnosis," in which the author sought to address the frequently criticized lack of quantifiable, empirical research support for PAS as a psychiatric diagnosis. In the chapter, the author cited two recent studies on the interrater reliability of making

the diagnosis of PAS.^{14,15} Both studies made use of written clinical vignettes, asking mental health evaluators to read them and determine whether PAS was or was not present. Based on these two studies, the author of “Twenty Reasons” concluded that PAS has achieved interrater reliability. We disagree.

First, only one of these studies was published in a peer-reviewed journal. Second, both studies relied exclusively on written vignettes, with neither study broadening the scope of evaluation to include videos, live patients, or even actors. Third, a combined total of only 45 evaluators actually returned the surveys of the more than 350 that were sent out. Of those surveys that were returned, only 34 were considered useable. In our view, labeling PAS a viable diagnosis based on these limited studies with minimal statistical sway is misguided.

Many scholars of medicine, psychology, and the law have examined the literature regarding PAS. In short, they have consistently encountered a lack of empirical studies published in peer-reviewed journals. Studies of PAS typically exhibit a low number of study participants, causing us to question how some have cited these studies as proof that PAS (or PAD) should be a diagnosis in DSM-5.

Economics of PAS

As with any heated controversy, one must examine the possible financial motivations that may influence the positions of those engaged in debate. Unfortunately, to get a good sense of PAS’s support, one has only to follow the money trail. Litigation stemming from the dissolution of marriage is estimated to be a \$28 billion industry.¹⁶ It is no secret that the cost of divorce and custody litigation can add yet another facet of stress to all involved. Adding any further complexity to the problems involved in child custody only serves to compound the financial burden borne by the affected families. A formal diagnosis of PAS, with the obligatory dueling experts testifying at a custody hearing, can become a prime source of fee generation for everyone but the divorcing family.

The Associated Press article cited above² went on to speak about how the diagnosis of PAS might garner more business for those involved in the evaluation of child custody. The article highlighted the view of Elizabeth Kates, an attorney who litigates child custody cases. “It’s monetary,” Kates said. “These psychologists and therapists make huge money doing the evaluations and therapies.”

As Kates suggested, additional assessments would be a financial boon to evaluators who already oversee a complicated process with multiple variables that affect cost. In 2001, psychologist Dr. Ira Turkat wrote an article in which he, too, shed light on the economics of child custody evaluations:

Custody evaluations can be pricey. . . . In 2003, the Florida Court of Appeal noted that one psychologist charged \$20,000—an amount equal to the parties’ entire net worth, and questioned how it could be in a child’s best interest for the family’s resources to be depleted by fees of this magnitude [Ref. 17, p 8].

To a business-minded, professional child custody evaluator, the adoption of PAS or PAD as a *bona fide* psychiatric diagnosis in DSM-5 represents a potential windfall opportunity to increase fee revenue. There would almost certainly be more interviewing and testing required by both parents seeking the services of independent experts to testify to the existence of PAS in their children.

It does not take much prognostication to see how inserting PAS into a custody situation may serve to further escalate an already tense situation, adding billable preparation time for lawyers and psychiatrists, while lowering the likelihood of an amicable settlement without a full hearing or trial.

PAS and Hollywood

Parental alienation has not only caught the attention of mental health professionals, it makes for lively discussion among attorneys, social workers, parents, and even Hollywood celebrities. Actor Alec Baldwin wrote a book on fatherhood¹⁸ that contained the chapter, “Parental Alienation.” He also appeared on various talk shows detailing how he believed that his ex-wife, actress Kim Basinger, had alienated his daughter. While Baldwin’s alienation dialogue did not scientifically advance any of the theories of PAS, it did serve to bring PAS into mainstream discussion.

In 2010, PAS was the subject of the hit TV show *Law and Order* and was later described and quoted in *The Huffington Post*.¹⁹ In the episode, a defense attorney attempted to use PAS to exculpate a young man accused of murdering his father’s girlfriend after reportedly being alienated by his mother. The judge in the episode dismissed the PAS argument, but the American Psychiatric Association is clearly not dismissing PAS(D), at least not for now, as it considers adding PAD as a diagnosis to DSM-5.

Current Status of PAS

As mentioned earlier, several individuals are leading the charge to include parental alienation in DSM-5. In addition to contributing to *Parental Alienation, DSM-V and ICD-11*,¹³ many of these individuals have also been active in the Canadian Symposium for Parental Alienation Syndrome. Shortly after the book's publication, this group held a massive pro-PAS forum at the Mount Sinai School of Medicine in New York City.²⁰

A current opponent to PAS's inclusion in DSM-5 is esteemed psychologist Lenore Walker, PhD, who was among the first to describe the battered-woman syndrome. In 2010, she published an article rebutting the assertion in *Parental Alienation* that PAS is a diagnosable mental illness.²¹ Echoing the criticism of PAS by other writers, Dr. Walker made the sound, if classic, argument that there is a paucity of empirical data to support a formal psychiatric diagnosis of PAS. Also published in 2010 was the textbook, *Principles and Practice of Child and Adolescent Forensic Mental Health*,²² which credited Drs. Kelly and Johnston with largely replacing Dr. Gardner's PAS paradigm regarding parental alienation.

Conclusions

Arguments for and against parental alienation as a mental health diagnosis have been intense and ongoing for decades. Gardner started the PAS movement, citing his own, self-published works as evidence that PAS is a mental illness. Gardner's critics have consistently cited the lack of empirical research to support such a diagnosis. Nevertheless, PAS supporters have recently demonstrated a high level of organization, vocalization, and cohesiveness. They have garnered much press and have even received support from Hollywood celebrities.

There is little question that codifying the common phenomenon of alienation as a formalized mental disorder would further complicate many custody disputes, thereby increasing the time and money required to evaluate these already complicated situations. One has to wonder if some of the interest on the part of mental health practitioners supporting the inclusion of PAS or PAD in DSM-5 has more to do with economic self-interest than with any belief that it would lead to improved clinical practice.

Do we believe that alienation by a parent occurs in some cases of child custody? Of course! Divorce is an

intense and emotionally charged situation, often bringing out the worst in all parties. Having said this, we believe the courts are quite capable of dealing with this type of scenario without invoking a mental illness to explain a child's malignity against a parent.

At its best, adopting PAS or PAD as a formal diagnosis in the DSM-5 serves only to further confuse mental health practitioners and the courts. At its worst, it lines the pockets of both attorneys and expert witnesses by increasing the number of billable hours in a given case. It creates an entire new level of debate, in which only qualified experts can engage, adding to the already murky waters of divorce testimony. We believe PAS(D) has neither the empiric support nor the clinical relevance to justify its adoption as a mental illness. By all means, each side should be allowed to present a robust argument to gain custody in court, but these conflicted children, caught in the middle, should not be labeled as mentally ill.

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