

**PARENTAL ALIENATION SYNDROME: LEGAL AND
PSYCHOLOGICAL PERSPECTIVES**

*Neelanksha Bhatia**

"Parental alienation is an emotional act of violence aimed directly at a child, and it's a form of child abuse."¹

ABSTRACT

Parental alienation, positioned at the intersection of psychiatry, sociology, and law, remains a contentious notion despite legal provisions acknowledging its existence. The truth is there are is a legal acknowledgement of this act but it is positioned in our society in such a way because of old mindset of the generation that what parents are doing is for the benefit of the child and no third person raises any objection as to how the child is being raised and what one spouse is trying to do with the child. A child considers his parents his whole world and if they only try to commit such atrocious act then the child does not have any option left with him and therefore legal proceedings has to be initiated which will deliberately have an impact on the child's mental well-being. There are several questions arising as to what are the root cause of such behaviour of one parent, all the dynamics shall be discussed further in the paper with reference to case laws and countries like US where the PAS syndrome was first explored by a renowned child psychologist. This research paper aims to explore the dynamics of the parent-child relationship and child abuse.

Keywords: Alienation, Atrocious, Dynamics, Psychiatry

* Student, Christ (deemed to be university), Bangalore

¹ Dr. Richard Warshak

INTRODUCTION

A. Definition and Overview of Parental Alienation Syndrome (PAS)

Parental Alienation Syndrome is a situation where one of the parents tries to separate the child of their own from the other parent by using strategies. The parent tries to turn the child against the other parent which results in destroying the bond of the parent and child.²

B. Significance of the Issue

The PAS syndrome typically involves a great significance as it not only poses harm to the other parent but it ruins the emotional capacity of the child which could have a long-lasting effect. There could be possible reasons for this act to be committed by the spouses against each other.

C. Purpose of the Paper

The main aim of the research paper is to focus on the legal perspectives about what remedies does the victim have and what punishments can the parent suffer as he or she is harassing the child and is impacting him or her mentally. The paper also focuses on the psychological effects on the child and the parent. Along with all the aspects the paper further will also discuss the components or the factors which could lead to the narcissist behaviour of the parent.

LEGAL PERSPECTIVES ON PARENTAL ALIENATION SYNDROME

A. Historical Background

Parental Alienation Syndrome is a term which was first coined in 1985 by a child psychiatrist Richard Gardner.³ He described the signs and symptoms of a child who has been alienated from one of the parents. The behaviour of the child during the psychology sessions could be seen and either getting separated from one parent is a part of punishment or a part of divorce. Although Mr. Richard was an American psychologist and introduced the above concept which have been furthered studied by many scholars but the particular word 'Syndrome' has not been accepted either by legal or medical scholars for lacking scientific validation.

²Fry, Devon. "Parental Alienation Syndrome: What Is It, and Who Does It?" Review of article by Devon Fry, February 1, 2018

³Nambiar, P. P., Jangam, K. V., & Seshadri, S. P. "Parental Alienation: Case Series from India." Indian Journal of Psychological Medicine 45, no. 3 (2023): 304-306

B. Legal Definitions and Frameworks

According to the American Psychological Association, parental alienation represents “a child’s experience of being manipulated by one parent to turn against the other (targeted) parent and resist contact with him or her. This alignment with one parent and rejection of the other most often arises during child custody disputes following divorce or separation proceedings, particularly when the litigation is prolonged or involves significant antagonism between the parties.”⁴ If a child without any reasonable cause denies to even face the other parent, it reflects that the child has been brainwashed and has been turned against the specific person. From the year 2016, the concept of Parental Alienation was recognized on a legal platform at National Level in the form of child abuse.

C. Case Law Analysis

1. Landmark Cases

"Hatred is not an emotion that comes naturally to a child. It has to be taught, a parent who would teach a child to hate the other parent represents a grave and persistent danger to the mental and emotional health of that child." ~ The Honorable Judge, Gomery of Canada

In the Case before the abovementioned bench of the Hon'ble Apex Court namely Vivek Singh vs. Romani Singh⁵, the appellant Vivek Singh and Respondent Romani Singh were married to each other. Disagreements used to happen between them which would lead them to fight with each other. Once there was a fight which led the husband forcing the wife to leave the house and wanted her to reluctantly leave her 2-year child with him. The Respondent filed petition Under Section 25 read with Sections 10 and 12 of the Guardians and Wards Act, 1980 (Act) for the custody and appointment of the Guardian of the minor. Therefore, the Family Court judge dismissed the petition of the respondent stating that the appellant is a fit person to take care of the minor daughter. Later this decision was challenged in High Court which found it appropriate that the minor daughter need to stay with her mother, the respondent as she is under five years and need care and nurturing. The High Court granted visitation rights to father and the Appellant challenged this decision in the Apex court. A report was presented by the

⁴ "Healthcare (Basel)." National Library of Medicine. 10, no. 6 (June 2022): 1134. Published online June 17, 2022

⁵Vivek Singh v. Romani Singh. A.K. Sikri, J., author. 2017 SC (India). Decided February 13, 2017. Indian Kanoon

principal counsellor and it stated that the child was more interested in living with her father and the best interest of the child though the parents aim to ensure that the child is least affected by the outcome, the inevitability of the uncertainty that follows regarding the child's growth lingers on till the new routine sinks in. The effect of separation of spouses, on children, psychologically, emotionally and even to some extent physically, spans from negligible to serious, which could be insignificant to noticeably critical.

In the case of *Sheila B. Das v P.R. Sugasree*⁶, in this case the daughter wanted to live with her father and the court allowed her as it was in the best interest of the child. After a short span of time the mother of the daughter alleged that the father is trying to poison the child and this was PAS as this concept is vast and also includes child abuse. The court ruled in the favour of father as the mother made this claim because she was feeling neglected as the daughter lived with her for eight years and now, she is living with her father. This case was the first one in which the Supreme Court used PAS syndrome.

After *Sheils B. Das v P.R Sugasree* there was another case where the PAS was discussed, in *J. Selvan v N. Punidha*⁷, this case focuses on the PAS alongside with the best interest of the child, there was a legal battle for custody going on in which the mother did not wanted to give any rights to father to have access to their children but on the other hand the father was absolutely fine with the visitation rights given to the mother. The court took a look at the best interest of the child and stated that the father is financially and emotionally well stable and can take care of the children and moreover the court referred to the fact that if one of the parents is denied access rights then there could arise a component of PAS where the child can feel a little withdrawn. Hence the court gave the custody to the father.

2. Evidence for PAS

Critics of Parental Alienation Syndrome (PAS) argue that taking in consideration this syndrome undermines legitimate causes of parental alienation, such as neglect, abandonment during divorce, and emotional abuse. They explicitly express concerns that recognizing PAS could lead to its misuse in cases where child abuses occur in real and culprits could take a defence of this concept and hide from the courts. Supporters of PAS contend that genuine abuse precludes the possibility of PAS. There is insufficient evidence to prove the existence of PAS, its

⁶ *Sheila B. Das v. P.R. Sugasree*. Altamas Kabir, J., author. 2006 SC (India). Decided February 17, 2006

⁷ *J. Selvan v. N. Punidha*. The Honourable Mr. Justice V. Ramasubramanian. Decided July 26, 2007. High Court of Judicature at Madras

consideration as a defence in court proceedings is problematic. Courts may frame judgements on an unsubstantiated concept, leaving children in custody disputes where they are vulnerable, particularly when abuse allegations are true. There is a very problematic situation with the evidence value of PAS in every country as each one of them have their separate criteria for admission of evidence. For an instance, if the mother is constantly trying to abuse the child and brain washing her minor daughter to stay away from her father and manipulating her. The father tries to separate the mother and daughter for her child's benefit. The mother filed a case, now the mother took the defence of PAS as no third party has the evidence against her. The court might give decision based on the mother's interest. And this is how the mother has taken defence behind the PAS where the abuse of the child is not even shown and the innocent father is termed as the culprit.

PSYCHOLOGICAL PERSPECTIVES ON PARENTAL ALIENATION SYNDROME

A. Theoretical Underpinnings

1. Origins of PAS Theory

In his article '*Recent Trends in Divorce and Custody Litigation*', Gardner introduced the concept of PAS for the first time. Gardner was encouraged to theorise this concept because of the allegations of sexual abuse in children which mostly happens during divorce of the couple or is very common during these times⁸ either the abuse is physical or mental or emotional. He wanted to specify that the child abuse is particularly because of Parental Alienation Syndrome, and he was more focused on the fact that it is the mother of the child who instigates them against father. A survey taken at the Association of Family and Conciliation Courts' annual (2014) conference has reported that 98% of the statistics are in the favour of basic tenet of Parental Alienation where that one parent puts the child in such manipulation that the child rejects the other parents who is not even deserving of that rejection. This is the reason that why Gardner wanted to come up with the idea of Parental Alienation Syndrome as many a times court favours women instead of men even though they haven't done something and are the main victim.

⁸Bledsoe, J. A. "Child Abuse during a Divorce." January 30, 2017

2. Psychodynamic Explanations

Psychodynamic approach takes place when there is an unresolved conflict from the past and it is influencing on the present behaviour currently. The parent who has the intention to obstruct the child's contact with other parent will try to exploit every loophole and ambiguity in order to complete his or her goal. Child custody disputes have no ethnic, educational, or socioeconomic boundaries. When Albert Einstein's marriage was ending, he feared that his wife was intentionally "poisoning" their two children against him. In *In re Miller and Todd*⁹, the New Hampshire Court awarded custody to the mother who was successful in breaking down the father child relationship. The court had found that the mother was the one who had alienated the child from the father and reasoned on the basis that the child lived with their mother for years so the custody went to her. The New Hampshire Supreme court vacated the award and was in cognizance that the father was denied contact for more than two years and awarding the custody to the mother because of the lack of father child contact rewards the mother for violating courts order. This reasoning gives voice to the most frequent complaint parents make regarding their custody litigation: Repeated violations of orders go unpunished, with some parents making a mockery of the court's authority. In some circumstances a child runs away from the rejected parent's home into the arms of a parent intent on driving a wedge between the child and the other parent.

3. Social and Developmental Factors

A. Clinical Presentation and Symptoms

Gardner observed during his research eight symptoms which are commonly reflected by the PAS targeted children.¹⁰

- i. The child's feeling of love towards one parent is replaced with the intense hate.
- ii. The vocabulary of the child is not consistent with his or her age as the language leads to derogatory remarks against the rejected parent.
- iii. No one is perfect and has flaws. The child here outweighs all the positive qualities over flaws and see the rejected parent as all bad parent.

⁹Miller, J.J., & Todd, J.S. "[Title of the case]." 2011 N.H. LEXIS 40 (N.H. Mar. 31, 2011)

¹⁰Perrotta, G., "Parental Alienation Syndrome (PAS): Definition, Humanistic Profiles and Clinical Hypothesis of Absorption with 'Adaptation Disorder'." Clinical Evidences, (July 2021)

- iv. The child would likely to display independent thinker phenomenon as the child would mirror the alienators delusional system.
- v. The child experiences an intense fear of losing a relationship with the only person in the world who loves him and support him.
- vi. The child will overlook every good quality of rejected parent and would discriminate him or her on every minor flaws. One mother who was diagnosed with migraines was labelled a “drug abuser” because she was prescribed a triptan medication.
- vii. The child would always try to mirror the behaviour of the rejected parent towards perfectionism.
- viii. Hate and animosity are also filtered into other relationships as a result of Parental Alienation Syndrome.

C. Intervention Strategies

1. Therapeutic Approaches

Parental Alienation requires legal and therapeutic management for family functioning. The family could use an option of family therapy or the court can suggest the family who is suffering from this syndrome to take family therapy. The therapist is trained in a manner where they understand all of the issues going in a family and they will try to recommend solutions which could benefit the whole family and especially the solution which does not degrade the child’s health but for his or her best interest. The solutions could be educating the couple about parental alienation syndrome as in some cases the parents are unaware what they are doing to the family then supporting the alienated parents to improve their relationship with the child. The therapist is like professionals just like before litigation person aims to resolve conflicts by mediation, in this scenario also the couple take help from the professionals and the court also wants the same as court proceedings is a very lengthy process and will have a long-lasting effect on the parent as well as the child. This term of “Reunification Therapy” has quickly spread as the idea that where there is an estrangement between a parent and a child, and the child does not want to re-engage with that parent that the parent/child relationship can be fixed through this new form of purported therapy.¹¹ A reunification/reintegration therapist serves as a child's advocate in addition to serving as a therapist for the parents. Reunification Therapy usually begins when there is an abundance of stress and disruption in the family. The

¹¹Kleinman, T., "Family Court Ordered 'Reunification Therapy:' Junk Science in the Guise of Helping Parent/Child Relationships?" (December 29, 2017), pp. 1-6

Reunification therapist relies on the tenet that children are entitled and are deserving to peaceful relationships with both parents.

2. Collaborative Interventions

Professionals such as family therapist, social worker, psychologist they all shall be trained to assess the syndrome. This kind of process would includes assessments of family dynamics, observing the parent child relationship. Another possible collaborative approach could be connecting the parent with community networks or supports that provide emotional support and could help the parent coping from PAS

3. Prevention Programs

Provide education and psychoeducation to both parents who are involved in the PAS situation. Helping them understand the dynamics of parental alienation, its impact on children, and suggest strategies to promote healthy co-parenting relationships. Psychoeducational programs can also help parents develop communication and conflict resolution skills.

INTERSECTION OF LEGAL AND PSYCHOLOGICAL PERSPECTIVES

A. Role of Mental Health Professionals in Legal Proceedings

Mental health professionals are called during court proceedings for the assessment and evaluations that are need to be conducted during PAS cases. They thoroughly observe the family dynamics, parental relationships, the emotional and psychological wellbeing of the child. Evaluation may be conducted through interviews of the parent child in front of the professional so they could determine what's going on with each one of them. Mental Health professionals provides expert opinion to judges, attorneys on what is PAS, what is the impact of PAS on the child and the alienated parents. Expert testimony can help the court to frame decisions like parental rights, custody of the child. In some cases where the relationship is adversely damaged due to PAS, the courts may order mental health professionals to conduct assessments and provide recommendations regarding custody, visitation, and parenting plans. These assessments may involve evaluating the child's needs, assessing the parent's capacity to meet those needs, and making recommendations for the child's best interests based on psychological principles and research.

B. Ethical Considerations

Ethical consideration is of paramount importance as the concept of parental alienation syndrome is of very sensitive nature due to family dynamics. The child's interest shall always be given primary importance, it shall be prioritized by the professionals and the courts while making decision. Article 3¹² of the United Nations Convention on the Rights of the Child states that "the best interests of the child shall be a primary consideration in all child welfare matters. The professionals shall not be biased towards anyone they should base their evaluations and recommendation on empirical evidence and clinical expertise. All the experts involved in PAS cases shall respect privacy of the information shared by the individuals and families. Professionals must obtain informed consent from all parties involved as the parties need to be aware of every consequence, including parents and children, before initiating assessments, therapy, or legal proceedings related to PAS. Professionals should avoid engaging in dual or conflicting roles that may compromise their objectivity, impartiality, or integrity in PAS cases. This includes refraining from personal or professional relationships with individuals involved in PAS cases outside the scope of their professional role. Professionals should respect the autonomy and self-determination of individuals involved in PAS cases, including parent's right to make decisions about their own lives and the lives of their children.

IMPACT AND CONSEQUENCES OF PARENTAL ALIENATION SYNDROME

A. Effects on Children

No matter what you think of the other party, these children are one-half of each of you. Remember that, because every time you tell your child what an 'idiot' his father is, or what a 'fool' his mother is, you are telling the child half of him is bad¹³. The most sensitive creature in the world is a child in terms of emotional well-being. A child is someone who adapts every little thing very quickly, and learns very fast from his or her surroundings. The primary stage where a child learns is from his or her parents. And there are many factors which contribute to a healthy development of a child. Therefore, when parents separate it leaves a long-lasting impact on the child. In many cases parents cannot separate their angry and negative feelings

¹² "Article 3, Convention on the Rights of the Child," UNICEF

¹³ Judge Michael Haas, Minnesota, USA (2001)

from their spouse and end up manipulating their children in an attempt to bolster their own importance and parental identity. This creates situations where children feel pressure to choose sides with one parent or the other.¹⁴ Italian researchers Verrochio and colleagues found that individuals who were exposed to parental alienating behaviours as children had a higher likelihood of developing low self-esteem, perceiving only negative aspects of situations, or having poorer coping skills in stressful environments¹⁵. In 2018, Verrocchio and colleagues also found an association between depression in adults and reported exposure to parental alienating behaviours in childhood.¹⁶

B. Effects on Alienated Parents

The alienated parent or the targeted parent, they develop a history of emotional constriction. The parent gets reserved to develop a relationship with any one or even his child from the fear of getting rejected or hurt. They don't want to seek help for the sake of their reputation and tries to fulfil the demand of manipulative parent so that he or she does not create any more negative image in the mind of the child against the targeted parent. When an adult is depressed or anxious, then the person find ways to keep his mental peace stable and that is when the person gets used to drugs, alcohol. If the Parental alienation syndrome is having an effect on the child, then it is equally leaving a long-lasting effect on the parent as it can lead to self-harm, suicidal ideation, post-traumatic stress disorder and several other scenarios.

C. Long-term Implications

Splitting is a psychological phenomenon in which people are unable to recognise any grey areas and instead perceive other people as either completely good or terrible. People with borderline personality disorder often exhibit this tendency, which makes it difficult for them to deal with the interpersonal relationships. It's difficult for alienated youngsters to establish and sustain healthy relationships since they've been trained to cut connections at the slightest of threat. They lack abilities that are essential for maintaining relationships, like flexibility, forgiveness, and acceptance. Rather, they shut people out without thinking any consideration, rejecting them with haste when they sense any kind of threat. Furthermore, children who feel alienated have a low threshold for animosity or rage and may even interpret these feelings as

¹⁴ Szarka, C., "The Long-Term Impact of Parent Alienation Syndrome (PAS)" (September 12, 2016)

¹⁵Verrochio, M.C., Marchetti, D., & Fulcheri, M. (2015). "Perceived Parental Functioning, Self-Esteem, and Psychological Distress in Adults Whose Parents Are Separated/Divorced." *Frontiers in Psychology*, 6, 1760

¹⁶ Id

maltreatment. They frequently feel scared of being rejected, which makes it difficult for them to take responsibility for their actions or offer apologies. Building wholesome connections is severely hampered by this incapacity to accept other people's bad emotions.

CURRENT DEBATES AND CONTROVERSIES

A. Critiques of Parental Alienation Syndrome

The primary critique of the concept is that it lacks scientific validity. PAS is not recognized as a distinct syndrome by the American Psychiatric Association or the American Psychological Association. It does not have a medical standpoint. The court always needs evidence, more specifically empirical evidence which PAS does not have to support itself or its existence. Without robust scientific validation, the reliability and accuracy of PAS assessments are called into question. Another flaw in this concept is gender biasness where it is often stated that PAS is associated with the alienation of father by mothers and not vice versa which leads to fairness in legal proceedings. Furthermore, critics raise ethical concerns regarding the use of PAS in legal systems. PAS may be exploited by one parent to gain advantage in child custody battles, exacerbating parental conflict and overlooking the child's best interests. Overall, while PAS has gained attention in legal and clinical areas, its validity and utility remain contentious. When it comes to the empirical study of parental alienation, the state of knowledge has advanced considerably. There has been an explosion of qualitative, quantitative and mixed methods research on parental alienation over the past decade, generating more than one thousand research and clinical studies reported in scientific and professional journals, books, and book chapters.¹⁷

B. Parental Alienation versus Parental Estrangement

The terminologies are although synonyms from a general point of view but if seen from a medical standpoint it reflects distinct degrees. Parental Alienation is when the child is manipulated but parent estrangement is based on the reaction of the child as a consequence of abuse from the targeted parent.¹⁸ Parental Alienation as also described by Gardner is abuse of a child in which the child for no solid or specific reason cuts off ties from the alienated by

¹⁷ Bernet et al. (2016); Vanderbilt University Medical Center (2017)

¹⁸Bernet, W., Gregory, N., Rohner, R. P., & Reay, K. M. (2020). "Measuring the Difference Between Parental Alienation and Parental Estrangement: The PARQ-Gap." *Journal of Forensic Sciences*, 65

parent and once the communication is no more it is very difficult to resolve them whereas Parental Estrangement is protection of a child by a child himself or herself and with a passage of time and keeping distance from the estranged parent conflicts can be resolved.

CONCLUSION

A. Summary of Key Findings

The research paper explores the Parental Alienation Syndrome from legal and psychological perspectives, highlighting its contentious nature despite legal acknowledgment. PAS involves one parent manipulating a child to turn against the other parent, resulting in emotional harm to both the child and the targeted parent. The paper delves into the historical background, legal definitions, and frameworks surrounding PAS, emphasizing on its recognition as a form of child abuse since 2016. Case law analysis provides insight into how courts handle PAS cases, focusing on the best interests of the child and the dynamics between parents. The psychodynamic explanations shed light on the unresolved conflicts and motivations behind a parent's attempt to alienate the child. Social and developmental factors also play a vital role in PAS dynamics. The paper outlines intervention strategies, including therapeutic approaches like family therapy and reunification therapy, collaborative interventions involving various professionals, and prevention programs aimed at educating parents about PAS and promoting healthy co-parenting relationships. The role of mental health professionals in legal proceedings is emphasized, along with ethical considerations to prioritize the child's best interests and maintain professional integrity. Furthermore, the paper explores the impact and consequences of PAS on children, alienated parents, and long-term implications. Effects on children include low self-esteem, difficulty forming healthy relationships, and susceptibility to psychological disorders. Alienated parents experience emotional distress and may resort to harmful coping mechanisms. Long-term implications include difficulties in maintaining relationships and managing emotions, leading to interpersonal challenges and emotional instability. Current debates and controversies surrounding PAS are addressed, including critiques of its scientific validity and concerns about gender bias and ethical implications in legal proceedings. The distinction between parental alienation and parental estrangement is also discussed, highlighting the nuanced differences between the two concepts. In summary, the research paper provides a comprehensive analysis of PAS, examining its legal, psychological, and societal dimensions. Despite its recognition as a form of child abuse, PAS remains a complex and

contentious issue, requiring interdisciplinary approaches to intervention and prevention. Efforts to address PAS must prioritize the well-being of the child while navigating legal and ethical considerations.

B. Future Directions for Research and Action

As the Parental Alienation lacks scientific standpoint so continued research is needed for better understanding and how it is prevailing cross the world and how it is leaving a long-lasting effect on children, parents and families. There is critical need for assessment tools for identifying PAS at different levels because many times it is overlooked and misused by the parents. These tools shall be of sensitive nature due to the complexities of family dynamics. Action should include effective intervention and treatments approaches for the disrupted families, these may include psychoeducational programs for parents, family therapy interventions, and specialized support services for children and families affected by PAS. However, the most current research indicates that therapeutic interventions are most effective when there are strong legal sanctions for non-compliance with shared parenting orders.¹⁹ Efforts should be made to raise awareness of PAS among legal professionals, policymakers, and the general public so that in the first instance PAS Is prevented from being initiated. This includes advocating for legal and policy reforms that recognize PAS as a form of psychological abuse and ensure that the best interests of the child are prioritized in custody and visitation decisions. As discussed in the research paper both parents and children suffer from emotional and legal challenges, hence there is a need for developing support systems and improving resources for their mental benefit like peer support, community services. Research should explore the cultural factors that influence the occurrence PAS in different cultural contexts. This includes examining how cultural norms, beliefs, and practices shape parental relationships and family dynamics, as well as the impact of cultural factors on intervention and treatment approaches. This syndrome shall not rise in families and to prevent that it is necessary to acknowledge these directions by everyone whether it's a professional, a parent or any person who is going to start a family. We all can work towards a better understanding of PAS and create efficient strategies to support families who are affected by this emotionally, psychologically challenging syndrome.

¹⁹ Templer, Matthewson, Haines, & Cox. (2016)