



BROKEN FAMILIES

podcast summary + resources



Episode 15: Interview with Ashish Joshi

Your Hosts:

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Special Guest: Ashish Joshi, Lawyer & Author of *Litigating Parental Alienation*

"The moment you lose your credibility in the court of law, it is very hard to get it back."

~ Ashish Joshi

Why are Parental Alienation Court Cases So Challenging?

1. They are expensive
2. Often need expert witnesses
3. Go through many court motion hearings
4. Emotional toll on the client and the attorney

3 Tips for Lawyers Litigating a Parental Alienation Case

1. Lawyers have to set boundaries early on – if not they can inadvertently give poor parenting advice
2. Lawyers have to gauge
 - a. How well does the client handle alienation?
 - b. Does the client understand the boundaries they should have with a lawyer?
 - c. Does the client understand the boundaries between the legal system and his/her first amendment rights to free speech?
3. Refer client to a parenting or divorce coach

PA vs PAS

Parental Alienation Syndrome (PAS) was coined by Dr. Richard Gardner in 1985. In his research, Dr. Gardner was trying to assess the dynamics between alienated children and the target parents. His theory has been under a great deal of scrutiny and has even been dismissed as a strategy to hide history of abuse.

Overtime, the inclusion of the word syndrome has been dropped to show that alienation is beyond its semantical meaning.

Syndrome is defined per the websters dictionary as “a group of symptoms which consistently occur together, or a condition characterized by a set of associated symptoms.”

Parental Alienation has become a pop culture word to describe the manipulative process of estranging a child from a targeted parent or family member. Currently, courts are accepting of the idea that a child can be manipulated against another parent.

Under Diagnostic and Statistical Manual of Mental Disorders (DSM-5), alienation can be found under different terminology. Rather than wasting resources and time on battling esoteric theory in a court room, Ashish recommends focusing on building your case around Amy L Baker’s 5 Factor Model.

Is PA Junk Science?

Parental Alienation deniers misunderstand the nature of alienation. In present day, empirical research shows that PA is real and occurs all over the world. Notable names in this field today include but are not limited to Dr. Amy L Baker, Dr. Jennifer Harmon, Dr. Richard Warshak, and Dr. Craig Childress.

Parental alienation can be traced in Britain and America going back to the 19th century. Also, independent researchers came to similar conclusions outside of Dr. Gardner’s research.

Therefore, parental alienation is not junk science.

False Allegations of Parental Alienation

One of the common counterarguments to parental alienation is the misguided belief that every child who rejects a parent must be alienated. Ashish says this is completely false and that the argument is a strawman.

A strawman argument is a false argument that is purposely set up to be demolished in order to prove a point.

Ashish stresses that not every child who rejects a parent is alienated. However, all alienated children do reject the targeted parent.

Just like accusations of domestic violence, the court cannot ignore these allegations. The court has to look at the merit of the allegation and determine the reasons they have been made. In cases of rape, domestic violence, and other forms of abuse, it is common that people will stay silent and speak out later when they are safe to speak their truth. This is why a meticulous process of discerning truth from false allegation is required.

In order to prove parental alienation, Ashish defers to the 5 Factor Model proposed by Dr. Amy L Baker.

5 Factor Model By Dr. Amy L Baker

1. Child is actively rejecting the target parent

A child can still attend all required visitation with a parent and still reject them. In these cases, the child may completely disassociate from the targeted parent or they may instigate trouble. In advanced cases of alienation, the child may be prepared to call 911 or CPS to put the target parent in legal trouble.

2. Identify the relationship between the child and the parent prior to the separation between parents

In alienation cases, we may see that the child is only having trouble with the rejected parent. The default conclusion is that the targeted parent must be a bad parent. Ashish says we must look deeper.

To determine if alienation is occurring, the relationship of the child prior to the separation must be analysed. Supporting information can include the target parent's involvement with the community. If the parent was involved in the growth of the child and the child is now rejecting that parent, then we can move on to factor 3.

If the child and the parent had a poor relationship before the separation, then we can conclude that alienation is not the cause of the strained relationship.

3. Absence of abuse from rejected parent

The rejected parent is then analysed for any history of abusive behaviour. This behaviour is examined beyond the lens of parenting style. Are there records of direct abuse in the form of guilty verdicts, medical reports, CPS reports etc.

If not, then we can move on to factor 4.

4. Signs of alienating behaviour from the favoured parent

If the favoured parent engages in any of the 17 alienating behaviours (See Below), we can move on to factor 4. These signs need empirical evidence to be proved in court. There is no room for speculation in the court of law.

5. Signs of alienation in the child

Children who are abused by other means display different symptoms compared to alienated kids. Often kids in abusive situations will blame themselves and try to save the relationship with the abuser. This is known as trauma bonding.

In contrast alienated children will have a strong black and white mentality about their parents. One parent will be perfect and flawless and the other will be unredeemable and horrible. The alienated child will exaggerate faults. The faults can be frivolous but they will stand on these faults as grounds to not engage in a relationship.

Alienation can operate on a spectrum and can impact children differently based on age, temperament, and the behaviours of both parents.

The 17 Alienating Behaviours

- Badmouthing the other parent
- Limiting contact with the other parent
- Interfering with communications, i.e. letters, phone calls, emails
- Interfering with symbolic communication, i.e. photos of targeted parent in child's home
- Withdrawal of love towards the child
- Telling the child that the targeted parent does not love him or her
- Forcing the child to choose between parents
- Creating the impression that the targeted parent is dangerous
- Confiding in the child

- Forcing the child to reject the targeted parent
- Asking the child to spy on the targeted parent
- Asking the child to keep secrets from the targeted parent
- Referring to the targeted parent by their first name
- Referring to the stepparent as “Mom” or “Dad” and encouraging the child to do the same
- Withholding medical, academic, and other important information from the targeted parent/Keeping targeted parent’s name off of medical, academic and other relevant documents
- Changing the child’s name to remove association with targeted parent
- Cultivating dependency on the part of the child

Should You Call your Ex a Narcissist or High Conflict Personality in Court?

Avoid using the terms high conflict personality or narcissist unless you have clear evidence proving it. Acceptable proof includes psychological evaluations and expert witnesses. Otherwise, it is an unsubstantiated claim. Ashish stresses that credibility in court is critical. If you lose credibility by making unsubstantiated claims, you can have a poorer outcome in hearings.

Instead of making a direct accusation, build your case around the troublesome behaviours. This is significantly easier for clients to document and prove.

For example, a narcissist may display extreme behaviours that 90% of people won’t do. Document these incidents to prove that the ex has a history of extreme behaviour without directly calling him/her a narcissist.

Alienation on an International Level

The Hague Convention is a multilateral treaty that protects parents and children from international child abduction.

Some parents began their story of alienation by falling in love with a person from another country. After the initial separation, many parents find their kids were gone. Their ex had taken their children overseas, often back to their home country. For children to travel overseas, consent of both parents is required. Without consent, there is grounds for a case of international child abduction.

If you are fearful of your children being taken out of the country without your consent, be sure to take these precautions.

- Consider contacting the airlines and inform them of your concerns
- Have a neutral third party hold on to the passports of the children
- Consult an attorney who specialises in the Hague Convention

In the event your children are taken out of the country without your consent

- Go to the State Dept website for resources
- Consult an attorney who specialises in the Hague Convention
- Identify if your children are in a country that is a signatory of the Hague Convention

Bonus Resources

Litigating Parental Alienation by Ashish Joshi can be found [here](#)

Ashish Joshi can be reached [here](#)

Parental Alienation Study Group can be found [here](#)

PASG 2021 Conference in Brussels can be found [here](#)

For more information on the Hague Convention click [here](#)

Amy L Baker on Parental Alienation Syndrome click [here](#)

Beyond the High Road: Responding to 17 Parental Alienation Strategies without Compromising Your Morals or Harming Your Child (Amy J.L. Baker, Ph.D. and Paul R. Fine, LCSW, May 2008)

Amy L Baker explaining the 4 Factor Model of Proving Alienation click [here](#)

Under the Microscope: The Admissibility of Parental Alienation Syndrome by Kimberly Joyce click [here](#)

Parental Alienation Syndrome — The Parent/Child Disconnect By Amy J. L. Baker, PhD click [here](#)

Video Version

Want to watch the conversation? This podcast is also available on YouTube. You can find our [channel](#) here.

