

**A REVIEW OF LEGAL INTERVENTIONS IN SEVERE PARENTAL
ALIENATION CASES**

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ABSTRACT

Parental alienation is central in child custody litigation, with false allegations of abuse by the alienating parent against the target parent dominating the family court system, to ensure custody or residency court rulings in their favour. After a brief description of the symptoms of parental alienation, this study moves to a review of the various interventions employed by courts in cases of parental alienation, backed up by literature discussing case studies that review the different court responses. The review concludes that changes in custody or residency favouring the targeted parent are the most effective means of combating parental alienation, coupled with specialised family therapy that tackles the alienation.

KEYWORDS: PARENTAL ALIENATION – CUSTODY – RESIDENCY –
ALIENATED PARENT – INTERVENTION – TARGET PARENT – CHILD ABUSE

A REVIEW OF LEGAL INTERVENTIONS IN SEVERE PARENTAL ALIENATION CASES

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1. Introduction

Parental alienation occurs when a child is unreasonably brainwashed by one parent against the other parent, leading to the child refusing a relationship with the target parent while strongly aligning with the alienating parent. This behaviour occurs for no justifiable reason, and is often driven by false beliefs about the target parent, with whom the child previously enjoyed a healthy relationship. This contrasts with estrangement, where the child's negative reactions are justified as a result of a parent posing a real threat.

Parental alienation is a very real concern in our family courts in the context of separation and divorce proceedings, as it results in the loss of a previously positive parent-child relationship, with ensuing long-term negative effects on the child's psychological and emotional well-being, to the extent that it has been termed a form of child abuse. As such, Courts have an obligation to nip parental alienation in the bud when faced with it, but the Courts generally do not have enough evidence-based information on which to base their decisions.

Very little literature exists addressing effective judicial interventions that are available to the Courts in supporting the alienating parent, the target parent, and the child victim in families exhibiting symptoms of parental alienation. The interventions reviewed can be grouped into five categories: (i) change in custody accompanied by individual or family therapy, (ii) change in custody only, (iii) multi-modal family intervention, (iv) parallel group therapy, and (v) various forms reunification programs. This paper reviews case studies of these common evidence-based interventions to parental alienation and recommends best practices for Courts faced with cases involving parental alienation.

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2. The Nature of Parental Alienation

'Parental alienation' was first defined by Dr Richard Gardner, a forensic and child psychiatrist, as a syndrome in which one parent (the alienating parent) teaches the child to reject the other parent, (the target parent) via conscious and subconscious techniques like brainwashing.³⁸⁸ Additionally, the child is consciously or unconsciously taught to be scared around the target parent and avoid contact with them. Parental alienation results in the breakdown of the child's relationship with the target parent. The child will also be noted to contribute to the vilification of the allegedly hated parent.³⁸⁹ False allegations of abuse may also form a component of parental alienation, and can thus, be a powerful technique used by the alienating parent to achieve the elimination of the target parent from the child's life.³⁹⁰

Table 1 shows the symptoms displayed by children who are victims of parental alienation.³⁹¹ The defining feature of parental alienation is that the alienating parent will attempt to eradicate the relationship between the child and the target parent without reasonable justification.³⁹² In spite of opposition, there is professional consensus that parental alienation is very real and does, indeed occur.³⁹³

³⁸⁸ R. A. Gardner, *The parental alienation syndrome: a guide for mental health and legal professionals* (Creative Therapeutics 1992).

³⁸⁹ Glenn F. Cartwright. 'Expanding the parameters of parental alienation syndrome' (1993) 21(3) *The American Journal of Family Therapy* 205.

³⁹⁰ *ibid.*; D. C. Rand. 'The spectrum of parental alienation syndrome: Part II' (1997) 15(4) *American Journal of Forensic Psychology* 39; Kenneth H. Waldron and David E. Joanis. 'Understanding and collaboratively treating parental alienation syndrome' (1996) 10(3) *American Journal of Family Law* 121.

³⁹¹ R. A. Gardner. 'Should courts order PAS children to visit/reside with the alienated parent?' (2001) 19(3) *The American Journal of Forensic Psychology* 61.

³⁹² Joan S. Meier. 'A Historical Perspective on Parental Alienation Syndrome and Parental Alienation' (2009) 6(3-4) *Journal of Child Custody* 232.

³⁹³ Joan B. Kelly and Janet R. Johnston. 'The alienated child: A Reformulation of Parental Alienation Syndrome' (2001) 39(3) *Family Court Review* 249; Meier (n 7); C. A. Rueda. 'An Inter-Rater Reliability Study of Parental Alienation Syndrome' (2004) 32(5) *The American Journal of Family Therapy* 391; Lenore E. Walker and David L. Shapiro. 'Parental Alienation Disorder: Why Label Children with a Mental Diagnosis?' (2010) 7(4) *Journal of Child Custody* 266; R. A. Warshak. 'Current controversies regarding parental alienation syndrome' (2001) 20 *American Journal of Forensic Psychology* 31.

Table 1: Gardner's differential diagnosis of the three types of parental alienation

PRIMARY SYMPTOMATIC MANIFESTATION	MILD	MODERATE	SEVERE
The Campaign of Denigration	Minimal	Moderate	Formidable
Weak, Frivolous, or Absurd Rationalizations for the Depreciation	Minimal	Moderate	Multiple absurd rationalizations
Lack of Ambivalence	Normal ambivalence	No ambivalence	No ambivalence
The Independent-Thinker Phenomenon	Usually absent	Present	Present
Reflexive Support of the Alienating Parent in the Parental Conflict	Minimal	Present	Present
Absence of Guilt	Normal guilt	Minimal to no guilt	No guilt
Borrowed Scenarios	Minimal	Present	Present
Spread of the Animosity to the Extended Family of the Alienated Parent	Minimal	Present	Formidable, often fanatic
ADDITIONAL DIFFERENTIAL DIAGNOSTIC CONSIDERATIONS			
Transitional Difficulties at the Time of Visitation	Usually absent	Moderate	Formidable or visit not possible
Behavior During Visitation	Good	Intermittently antagonistic and provocative	No visit, or destructive and continually provocative behavior throughout visit
Bonding with the Alienator	Strong, healthy	Strong, mildly to moderately pathological	Severely pathological, often paranoid bonding
Bonding with the Alienated Parent	Strong, healthy, or minimally pathological	Strong, healthy, or minimally pathological	Strong, healthy, or minimally pathological

Parental alienation is nowadays central in child custody litigation, with false allegations of abuse by the alienating parent against the target parent dominating the US family court system, to ensure custody or residency court rulings in their favour.³⁹⁴ Furthermore, alienating parents pressure their children, consciously and unconsciously,

³⁹⁴ Meier (n 7).

to reject the target parent during court proceedings, resulting in additional distress for the child.³⁹⁵

Cases of parental alienation require a synergistic combination of legal and clinical management, if families are to be helped to function better. Judicial intervention will depend on the severity of the alienation rather than on the commonly applied yet ill-defined notion of an appropriate outcome for the child, as is often the unfortunate case.³⁹⁶

Based on the differing opinions of various mental health professionals, the court decisions taken in the US and UK have included any of the following:

- a) Leaving the child with the alienating parent while the parents undergo individual and/or family therapy.³⁹⁷
- b) Putting strict visitation schedules in place, while imposing court sanctions to force the alienating parent to comply with court orders.
- c) Ordering that the victim child reside with the target parent.³⁹⁸
- d) Take no action, expecting that the alienation will be resolved in time by itself.³⁹⁹

Children exposed to parental alienation experience various negative outcomes and their symptoms have even been likened to those of individuals exposed to cults.⁴⁰⁰ Effective therapeutic intervention is an absolute necessity in parental alienation, with the ultimate aim to restore the child-target parent relationship and achieve positive outcomes for the

³⁹⁵ Douglas Darnall PhD. 'The Psychosocial Treatment of Parental Alienation' (2011) 20(3) Child and Adolescent Psychiatric Clinics of North America 479..

³⁹⁶ Matthew J. Sullivan and Joan B. Kelly. 'Alienated Children in Divorce: Legal and Psychological Management of Cases With an Alienated Child' (2001) 39 Family Court Review 299; Darnall (n 14).

³⁹⁷ Sullivan and Kelly (n 15).

³⁹⁸ Darnall (n 14); Gardner (n 6).

³⁹⁹ William Bernet and others. 'Parental Alienation, DSM-V, and ICD-11' (2010) 38(2) The American Journal of Family Therapy 76; Darnall (n 14); D. Darnall and B. F. Steinberg. 'Motivational methods for spontaneous reunification with the alienated child' (2008) 36 American Journal of Family Therapy 107.

⁴⁰⁰ Amy J. L. Baker and Naomi Ben-Ami. 'To Turn a Child Against a Parent Is To Turn a Child Against Himself: The Direct and Indirect Effects of Exposure to Parental Alienation Strategies on Self-Esteem and Well-Being' (2011) 52(7) Journal of Divorce & Remarriage 472; Bernet et al (n 20); J. R. Johnston. 'Children of Divorce Who Reject a Parent and Refuse Visitation: Recent Research and Social Policy Implications for the Alienated Child' (2005) 38(4) Family Law Quarterly 757; Gardner (n 6).

child and the whole family.⁴⁰¹ Both psychological and legal interventions should take into account the severity of alienation, and treatment should be guided by three principles:

- 1) a healthy redirection of the needs of the alienating parent,
- 2) restoring the victim child's healthy relationship with the target parent and hence the child's appropriate role within the family, and
- 3) avoiding blame.⁴⁰²

3. Review of recommended responses to severe parental alienation

Dunne and Hedrick⁴⁰³ studied 21 children from 16 families who displayed behaviours consistent with Gardner's definition of parental alienation syndrome. The study aimed to analyse parental alienation cases and explore the characteristics of each case and how parental alienation was addressed. *Parental alienation was eradicated in cases when custody was changed in favour of the target parent and became worse in cases engaged in traditional therapy with no change in custody.*

Multi-Modal Family Intervention (MMFI) is a form of therapy involving the alienated child and both parents, and includes individual psychotherapy, case management, education, and targeted intervention to reduce parental alienation.⁴⁰⁴ 55 cases consisting of children who were considered at risk of parental alienation on the basis of clinical judgement, and who completed MMFI experienced *a reduction in parental alienation after an increase in time that the alienated child spent with the target parent.*

Gardner⁴⁰⁵ compared outcomes of parental alienation cases where custody was changed in favour of the target parent, to those cases where the alienating parent had residential custody. His study involved 99 children with behaviours consistent with Gardner's

⁴⁰¹ Paz Toren and others. 'Sixteen-Session Group Treatment for Children and Adolescents With Parental Alienation and Their Parents' (2013) 41(3) *The American Journal of Family Therapy* 187; Darnall (n 14).

⁴⁰² Benjamin D. Garber. 'Parental alienation and the dynamics of the enmeshed parent-child dyad: adultification, parentification, and infantilization' (2011) 49(2) *Family Court Review* 322.

⁴⁰³ John Dunne and Marsha Hendrick. 'The Parental Alienation Syndrome: An Analysis of Sixteen Selected Cases' (1994) 21(3/4) *Journal of Divorce & Remarriage* 21.

⁴⁰⁴ Steven Friedlander and Marjorie Gans Walters. 'When a child rejects a parent: tailoring the intervention to fit the problem' (2010) 48(1) *Family Court Review* 98.

⁴⁰⁵ Gardner (n 6).

parental alienation symptoms from 55 families, and their target parent.⁴⁰⁶ Recommendations regarding custody were made to the court, and the target parent was followed up 3 months to 19 years after. *In all the 22 cases where custody was changed in favour of the target parent, parental alienation was decreased and even eliminated. In 70 cases where custody remained with the alienating parent, parental alienation increased.*

In order to examine the efficacy of therapeutic intervention in severe parental alienation, 45 children (from 25 families) who displayed behaviours consistent with Gardner's parental alienation symptoms were divided into three outcome groups – interrupted alienation, mixed outcome, and completed alienation.⁴⁰⁷ *Alienation was interrupted when custody was changed in favour of the target parent. Complete alienation or minimal reduction in alienation occurred when custody remained with the alienating parent and visitation with the target parent was not enforced.*

The Family Reflections Reunification Program (FRRP) aims to reconcile alienated children with their target parents, and it is specifically designed for the treatment of children who have been severely alienated, and their families. 21 out of 22 children (from 12 families) who attended FRRP re-established and maintained contact with the target parent. *Having been separated from the alienating parent was not observed to be harmful to children.*

'Family Bridges: A Workshop for Troubled and Alienated Parent-Child Relationships'TM is a program that draws on social science research to help severely and unreasonably alienated children and adolescents adjust to court orders that place them with the target parent while suspending contact with the alienating parent.⁴⁰⁸ 23 children (from 12 families) who refused to spend time with one parent and who completed the Family Bridges workshop were followed up. *22 of these children experienced a decrease in parental alienation post intervention. Out of these 22, the decrease in parental alienation was observed even 4 years later. The other 4 cases had resumed contact with the alienating parent, at which point there was an increase in parental alienation.*

⁴⁰⁶ Richard A. Gardner, 'The parental alienation syndrome and the differentiation between fabricated and genuine child sex abuse' (Creative Therapeutics 1987).

⁴⁰⁷ *ibid.*; Deirdre Rand, Randy Rand and Leona Kopetski, 'The spectrum of parental alienation syndrome part III: the Kopetski follow-up study' (2005) 23(1) American Journal of Forensic Psychology 15.

⁴⁰⁸ Richard A. Warshak, 'Family Bridges: using insights from social science to reconnect parents and alienated children' (2010) 48(1) Family Court Review 48.

4. Practical Recommendations

It is clear that parental alienation can only be eliminated or improved by bestowing primary parental responsibility, including custody and residency, of the alienated child on the target parent.⁴⁰⁹ Separation of the target child from the alienating parent was not proven to harm the child.⁴¹⁰ In addition, specialised and targeted family therapy can address the damage done to the target parent-child relationship by parental alienation. Such therapy has been shown to have the following aims:

- 1) Protect the target child from further harm caused by alienation.
- 2) Improve the child's psychological well-being.
- 3) Address the target child's distorted thinking while strengthening their critical thinking skills.
- 4) Improve the target parent-child relationship.
- 5) Prepare the alienating parent for an improvement in the quality of the target parent-child relationship and support them through this change.
- 6) Repair the co-parenting relationship.
- 7) Strengthen family communication and healthy boundaries within the family structure.

Despite previous suggestions, no study recommends or supports waiting for parental alienation to spontaneously resolve itself, or allowing the target child to decide custody or residency.⁴¹¹ Actually, the weight of evidence suggests that leaving the child under the care of the alienating parent was found to aggravate parental alienation and has been shown not to be effective.⁴¹² Such a strategy appears to enable the alienation to continue and even become more severe. This continued alienation causes further damage to the target parent-child relationship and negative psychological and social outcomes for the target child, such as major depressive disorder, low self-esteem, and insecure attachment styles as adults.⁴¹³

⁴⁰⁹ Dunne and Hendrick (n 30); Gardner (n 6); Rand et al (n 35).

⁴¹⁰ Kathleen M. Reay. 'Family Reflections: A Promising Therapeutic Program Designed to Treat Severely Alienated Children and Their Family System' (2015) 43(2) *The American Journal of Family Therapy* 197.

⁴¹¹ Darnall and Steinberg (n 22).

⁴¹² Gardner (n 6); Rand et al (n 35).

⁴¹³ Gardner (n 6), Naomi Ben-Ami and Amy J. L. Baker. 'The Long-Term Correlates of Childhood Exposure to Parental Alienation on Adult Self-Sufficiency and Well-Being' (2012) 40(2) *The American Journal of Family Therapy* 169.

A change in custody and residency in favour of the target parent is the only effective strategy supported by evidence to improve targeted relationships and reduce distress in the alienated child, especially since, separating the child from the alienating parent was not observed to be harmful to the child.⁴¹⁴ These findings coincide with previous literature suggesting that courts should implement strict visitation schedules and changes in custody and residency to the target parent.⁴¹⁵

Court-ordered therapy was only effective in resolving parental alienation when implemented before parental alienation reaches the severe stage and becomes compounded by the adversarial court process.⁴¹⁶ However, traditional therapy in isolation does not address parental alienation effectively, and in these situations a change in custody and residency in favour of the target parent is warranted.⁴¹⁷

Interventions for parental alienation should include both a legal and psychotherapeutic response to facilitate restoration of family relationships when parental alienation is evident, especially when the parental alienation is moderate or severe.⁴¹⁸

5. Discussion

A family therapy approach including all members, supported by legal interventions is recommended in cases where a child is refusing contact with a parent as a result of parental alienation.⁴¹⁹ A change in custody or residency in favour of the target parent can reduce and even eliminate parental alienation, as evident by current literature. The literature very clearly shows that assigning primary parental responsibility to the target

⁴¹⁴ Dunne and Hendrick (n 30); Gardner (n 6); Rand et al (n 35); Reay (n 40).

⁴¹⁵ Darnall (n 14).

⁴¹⁶ L. Lowenstein. 'Parent Alienation Syndrome: A Two Step Approach Toward a Solution' (1998) 20(4) *Contemporary Family Therapy* 505; Janet R. Johnston and Judith Roth Goldman. 'Outcomes of family counseling interventions with children who resist visitation: an addendum to Friedlander and Walters (2010)' (2010) 48(1) *Family Court Review* 112.

⁴¹⁷ Dunne and Hendrick (n 30); Rand et al (n 35).

⁴¹⁸ Sullivan and Kelly (n 15); Richard A. Gardner. 'Recommendations for Dealing with Parents who Induce a Parental Alienation Syndrome in their Children' (1998) 28(3-4) *Journal of Divorce & Remarriage* 1.

⁴¹⁹ Friedlander and Walters (n 31); Lowenstein (n 51); Reay (n 40); Matthew J. Sullivan, Peggie A. Ward and Robin M. Deutsch. 'Overcoming barriers family camp: a program for high-conflict divorced families where a child is resisting contact with a parent' (2010) 48(1) *Family Court Review* 116; Toren et al (n 27); Warshak (n 36).

parent in parental alienation cases of a severe nature is an important step towards its elimination.

Research further indicates that removing the target child from the care of their preferred parent does not harm them, in spite of the transient distress experienced. Rather, such a step will protect the child from further harm and allow for an improvement in the target parent-child relationship without further interference from the alienating parent.⁴²⁰

Needless to say, all family members will need to adjust to changes in custody or residency, and need to be supported therapeutically during this transition. Since traditional family therapy has been shown to be ineffective and may actually result in further damage, specialised family therapy targeted to the needs of families going through parental alienation is an important requisite, and such therapy should occur as soon as parental alienation is identified, be court-ordered, and noncompliance needs to be sanctioned to encourage alienating parents to attend therapy.⁴²¹

The various forms of specialised family therapy programmes in use share similar objectives. To begin with, any parental alienation intervention must involve the targeted child, target parent and alienating parent. Additionally, parental alienation family therapy should:

- provide each family member with psycho-education about parental alienation and its consequences;
- protect the targeted children from harm caused by the alienation;
- use therapeutic intervention that reduces the targeted child's distress and improves psychological well-being;
- use techniques that challenge the targeted child's distorted thinking and teach them critical thinking skills;
- work to improve the targeted parent-child relationship;
- prepare the alienating parent for an improvement in the quality of the targeted parent-child relationship and challenge their distorted thinking;
- employ conflict resolution tactics aimed at repairing the co-parenting relationship; and
- establish healthy boundaries and communication within the family.

A non-judgemental approach must be adopted by mental health practitioners working with families going through parental alienation, who must strive to build rapport with

⁴²⁰ Dunne and Hendrick (n 30); Gardner (n 6); Reay (n 40); Rand et al (n 35).

⁴²¹ Reay (n 40); Warshak (n 36); Johnston and Goldman (n 52).

all family members.⁴²² Therapy sessions with family members all together and individual sessions should be offered so that individual as well as family concerns are tackled.⁴²³ The ultimate intention of family therapeutic interventions is an achievement and maintenance of healthy parent-child relationships, and a facilitation of a new environment within the family allowing parents to maintain healthy boundaries with respectful interactions as required.⁴²⁴

The main difficulty of implementing such specialised family therapy interventions will be presented by the averseness of the alienating parent to participate in a process that intends to change the nature of the parent-child relationships in a way contrary to his/her wishes. However it is a requisite that the alienating parent is motivated to engage in such therapy aimed to improve their child's mental health, as the degree of their engagement will determine the success, or otherwise of the intervention. The motivation for alienating parents to participate might have to be externally driven, by courts adopting a strategy for managing non-compliance.

Non-collaboration with court orders aimed at improving the child's situation should be met with sanctions that are clearly defined and implemented. This is based on the concept that it is more beneficial for the child to be under the care of the target parent with limited contact with the alienating parent, than to continue living with an alienating parent who is not willing to make a genuine effort to achieve the best interests of the child.

⁴²² Douglas S. Rait. 'The therapeutic alliance in couples and family therapy' (2000) 56(2) *Journal of Clinical Psychology* 211.

⁴²³ J. Lebow and K. Newcomb Rekart. 'Integrative Family Therapy for High-Conflict Divorce With Disputes Over Child Custody and Visitation' (2007) 46(1) *Family Process* 79.

⁴²⁴ *ibid.*

6. Conclusion

This paper analysed a number of peer-reviewed case studies of outcomes from various evidence-based judicial interventions that are commonly used by Courts in cases of parental alienation. Based on this analysis, best practices that ought to be applied by the Courts when faced with such cases are recommended. The studies analysed consistently suggest that the negative effects of parental alienation are effectively reduced when custody of the victim child is switched in favour of the target parent, and furthermore that when such a switch is accompanied by family therapy with the involvement of the Court any ensuing distress in the victim child is significantly reduced while the relationship between the child and the target parent is re-established.

Such an approach is rarely applied by Malta's family courts, and it may be necessary that judges rethink the way they address cases of parental alienation, especially of the severe kind. In pursuit of what is truly in the victim child's long-term best interest, judges must have the courage to take the seemingly more challenging option of switching custody to the target parent rather than maintaining the status quo "because the child wishes it to be so". When hearing a child who is a victim of parental alienation, the Courts must keep in mind that the voice they are hearing is not that of the child, but that of the alienating parent who is using the child for his or her purposes. Judges should feel confident in taking such an approach since it is the approach backed by evidence-based research.