

Abusive relationships and implacable hostility

Most problems arise when there has been a relationship which has become abusive. Aside from any allegations made by the parties concerned it becomes apparent to certain observers that the abuse effectively continues even after the partners have separated, perhaps in reaction to the hurt they feel. Any negotiations which should be taking place to ensure that the children are properly taken care of have to occur in an atmosphere where one or both ex-partners are in an emotional turmoil. Situations go awry when there is **implacable hostility** between the partners, or implacable hostility expressed by one partner against the other. That hostility frequently, it is claimed, manifests itself in a way that affects the children, with one partner obstructing the children's right to family life **[8]** (<http://www.unicef.org/crc/crc.htm>) in respect of that child's relationship with the other parent and extended family. One parent may initiate the use of the legal system for purposes for which, it is claimed, it is ineffective. This, it is claimed, is mainly because it is the nature of an adversarial legal process itself to increase hostility further in such circumstances, and thereby be counter-productive.

Parental alienation

This is a term, sometimes called *parental alienation syndrome* (after **Stockholm syndrome**), referring to the situation where it is alleged that one parent has caused the child to express hatred toward the other parent. Lady Justice Hale (in *Re K (Contact: Psychiatric Report)* [1995] 2 FLR 432) stated:

*It is my unhappy experience, borne out by other anecdotal evidence and confirmed by the **Official Solicitor's** department that there seems to be an increasing number of cases coming before the family courts where contact between a young child and the absent parent has become bedevilled by stubborn opposition to contact being shown by the child which may, or may not, be evidence of some implacable hostility on the part of the other parent for good reason or for no reason at all.*

Since **The Children Act** requires that the views of the child need to be made known to the court, fathers' rights campaigners claim that the mother sometimes alienates a child against his or her father and that this then supports the mother's case in court to banish the father. Lady Elizabeth Butler Sloss, President of the Family division, (the top

UK family court judge) stated (in *Re L, V, M, H (Contact: Domestic Violence)* [2002] 2 FLR 334 at 351):

There is, of course, no doubt that some parents, particularly mothers, are responsible for alienating their children from their fathers without good reason and thereby creating this sometimes insoluble problem. That unhappy state of affairs, well known in family courts, is a long way from a recognised syndrome requiring mental health professionals to play an expert role.

There has been much legal argument about whether the term *syndrome* should be allowed in connection with this distressing abuse of children, but fathers' rights campaigners have argued that it doesn't really matter what the condition is called, just that there should be adequate resources available to recognise the condition and to ensure that their children are protected against this form of emotional abuse.

What is rarely addressed or examined is the increasing incidence of non-custodial parents (often the fathers) who actively work on alienating the children from the custodial parent (the mothers). When this happens, the children sometimes request to live with the alienating parent, but more often the children are repulsed by the non-custodial's attempts to undermine the children's relationship with their primary caregiver. When the children seek to reduce time shared with the alienating parent, that parent then falsely accuses the non-alienating parent with PAS. It is a terrible thing when any parent places their own agenda before the needs of the children. If PAS is alleged, then the legal system needs to ascertain which party is engaging in alienating behaviors and not just assume that the custodial party is guilty.