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The Important Friendly Parent Doctrine and the Judiciary (A response and solution to implacable hostility leading to parental alienation)

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2012

Abstract

In high levels of parental conflict following divorce and separation the author recommends to the Judiciary a basis for decision-making in regard to preferred residence of children. It is usually the custodial parent who prevents the absent parent from having good contact with children. This is due to the unfortunate, but often present, implacable hostility that one parent feels for the other. The author presents some supporting illustrations of a non-alienating parent's positive attitude and behaviour followed by another example of a parent who alienates a child against a former partner. The non-alienating parents are a friendly set of parents who are acting in the best interest of their child/children. The parent who alienates does not act in the best interest of his/her child/children. The Judiciary is provided with an opinion and advice favoured by one expert witness dealing with families that do not act in the best interest of their child/children

The Important Friendly Parent Doctrine and the Judiciary (A response and solution to implacable hostility leading to parental alienation)

Many family courts are still wrestling with the problem of parental animosity which involves the current and future welfare of children as well as their parents. Decisions are frequently made by expert witnesses and the Judiciary which lack justice and which are not in the best interest of children. The author compares good parenting following separation with parental alienation, which satisfies the alienator, but neither the child nor the alienated parent.

An analysis of good parenting attitudes and behaviour now follows. This may be contrasted with the next example featuring severe alienation of children against the now absent parent. This contrasting attitude and behaviour gave the author an idea which needed to be shared with the Judiciary in the family courts.

The non alienating parent's attitudes and behaviour

Mr. & Mrs. X after an unhappy marriage decided mutually to separate. They felt that they had very little in common with the exception of having brought into the world two children whom they both loved. They considered that what was in the best interest of their children and themselves, to separate due to the increasing tendency to quarrel, but never in front of the children. The children felt loved and cared for, and they felt secure.

Both parents together very gently broke the news to the children that they wished to part because they wished to cause them as little anxiety as possible. They both stated that they loved them but were

no longer happy in living with one another. They made the important statement that they (the children) were not in any way responsible for the decision they had made. They told the children that both parents would see them and do things together sometimes including the father who would be leaving. Mother agreed with the father that the children would remain in the mother's custody. Father would see them every weekend and whenever possible as he had to travel abroad due to work.

Both children aged 10 and 12, would never be deprived of good contact with both parents whenever they wished it and the parents assured the children they would both remain friendly towards one another and encourage contact between the children and each parent. They would attend parent evenings together in the school and discuss the children's progress with their teachers. They explained carefully to the children that they might both in time seek and be with another partner. They would however, remain the natural parents and carry out their duties as well as the love towards their children. They would always encourage the children to have good regular contact with the other parent and would make certain that contact with the father would be regular by telephone and email as well.

Parents who alienate children against the other parent

Matters were very different in the case of Mr. & Mrs. Y. There had been much acrimony between them and arguments that frequently occurred in front of the children. They separated without telling the children in advance what was happening. The children knew their parents had frequent altercations and were often unfriendly with one another but had no idea that they were likely to separate.

Father, after a particularly violent argument, left the home with some of his belongings intending to get the rest later. Mother explained matters to the children in the following way. "I am glad he is gone.....I hope I never see him again..... He was nothing but trouble.....You can see him if you want to do so, but I don't want anything further to do with him.....and I only hope he pays for the child benefit as he is supposed to do."

The children showed a combination of confusion and sadness since both had been close to both parents in the past. The oldest was the boy aged 13 who had always been close to his father, while the younger sister aged 7 now clung to her mother and exclaimed she did not want to see her father ever again. Mother virtually gave her son an ultimatum that if he wanted to see his father, she would not be happy since her partner has been verbally abusive towards her. The son was therefore ambivalent as to how much he wished to see his father if at all.

What can be learned from these two illustrations?

What can be learned is that the process of alienation, as noted in example 2 contrasts sharply with the illustration of example 1. In example 1, both parents wish to do what was in the best interests of their children. Both parents considered it best to remain on friendly terms with one another both for the benefit of the children and for one another. Both parents intended to do, and did do, all they could to speak well of the other parent, and to actively and sincerely encourage the children to have good contact with the other parent. The children therefore felt secure in being allowed, and even encouraged, to love and enjoy the company of both parents. They would obviously have preferred their parents to remain together. Since this was not to be they accepted the fact that both parents still loved them and they behaved in a decent and friendly manner towards one another.

This was not the result in example 2. Here one child (the boy) wished to maintain contact, yet felt somewhat guilty in this as the boy realised the animosity of the mother towards the father. The boy therefore was put into the unhappy predicament of seeming to have to choose between his parents. The daughter had already decided to reject the father since she knew mother sought total loyalty to herself from both children. She succeeded totally in this with her daughter despite the fact that the girl had always considered herself a "daddy's girl" in the past. Father was very upset when he sought contact with both children, especially concerning his daughter's reaction to him.

In example 2 the process of implacable hostility between the parents turned to alienation and primarily from the custodial parent. The mother sought to "pay back" her former partner due to his behaviour towards herself when they were together. Whenever father arranged to be with, or take the children out, mother claimed that the children did not want to leave her or the home, or wanted to go out with their friends etc. etc., using one excuse after another. This was in direct contrast to the mother in example 1. This mother always encouraged and gave first preference to the children being with their father. This provided the children with the security of knowing that both parents cooperated in ways that

put the children's welfare first. They had both agreed that good contact with the other parent was beneficial for the children as well as for the parents.

Despite the break-up of the parents' relationship, in illustration 1, the children were now not forced to choose between their parents.....it was deemed OK to love and be with both parents either separately or when the parents went out with both children together as they still did from time to time.

What can the Judiciary learn?

Both cases presented were based on examples of real cases. The author has been a clinical practitioner as well as a clinical educational and forensic psychologist dealing with family courts when the alienation process has appeared. The author does not have to deal with cases such as example 1, and neither has the Judiciary any role to play with parents who truly and sincerely act in ways that are in the best interest of their children.

It is my belief that the Judiciary has an important role to play in acting with decision and fairness which is in the best interest of the children, parents and society. This is not merely to encourage both parents to speak well of the other but to insist on this being maintained when making contact arrangement it is always kept. The Judiciary should consider that when contact arrangements fail to materialise or occur haphazardly, this is likely to be due to parents behaving as illustrated by example 2, and not by example 1.

The other possibility is of course that the child/children have been, and may still be suffering, physical, sexual or emotional abuse by one or both parents. They are therefore understandably reluctant for contact with that particular parent who carried out such abusive actions. This possibly therefore needs to be explored. When there is no evidence for it however, the reason for the children's reluctance in having contact could well be that one or both parents have acted as an alienator against the other parent. Alienation is therefore the reason why children wish to avoid contact with a parent. When there is no evidence of the abuse of a child by a parent, then the reasons for reluctance for contact should be explored as it could well be that one of the parents has acted as an alienator of the child toward the other parent. This alienation is therefore the reason why children wish to avoid contact with an absent parent. Again, this possibility needs to be investigated competently by a clinical psychologist or psychiatrist.

Action needs to be taken which is appropriate and deals with the causes as well as with the lack of contact by a child who is avoiding such contact. The process of alienation may be taking place even whilst the alienator states that he/she is encouraging contact with the absent parent but is in fact only playing lip-service to this and is really doing the opposite. What needs to be carefully examined is the fact that the custodial parent is stating that the child does not want the contact with the absent parent. This will not be achieved by merely asking a child why he/she does not want contact with an absent parent. It must be understood that a child is often indoctrinated into developing animosity towards the non custodial parent. The child of course, is quite unaware that his/her decision is not really their own. The Judge also is often unaware that this is often not the child's true wish. This point is frequently not recognised by psychological experts and the Judiciary who are provided with inaccurate information. It is for that reason that the Judiciary will make decisions that are not always in the best interest of children. An expert in parental alienation or parental alienation syndrome is required to understand and make decisions as to why a child once so close to a parent now rejects that parent.

The decision which the Judiciary must make is to award custody in many cases to the parent who does not alienate and hence, does not commit emotional abuse towards the child. Such an alienating parent needs to do what is illustrated by example 1 which is to sincerely and successfully encourage good contact with the other parent. Alienators should never be rewarded for the emotional abuse they practice. They have no right to take advantage and to be in control of impressionable and suggestible children or their future lives. Until they desist from this abusive practice, they need to give up their rights to be in control of children.

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