



E50 Parental Alienation Syndrome as it Relates to Hague Abduction Convention Article 13b: To Be or Not to Be Admissible in the Courts

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After attending this presentation, attendees will understand issues surrounding the controversial scientific evidence issues regarding parental alienation syndrome in light of the numerous children involved at international and local levels in these child custody disputed cases.

This presentation will impact the forensic science community by offering diverse and enlightening insights into this controversial scientific evidence issue of the court's admission or exclusion of Parental Alienation Syndrome (PAS) evidence, and by suggesting recommendations as to how courts and lawyers should handle cases involving PAS evidence in light of the numerous children involved at international and local levels in these child custody disputed cases.

Parental Alienation Syndrome (PAS) is a theory surrounded by much debate amongst scientists and lawyers as to its diagnostic legitimacy. Questions concern the scientific foundations, if any, of PAS and its practical applications in legal settings, particularly as PAS affects children and families across the globe. In most instances where a parent abducts a child from the other parent, the Hague Abduction Convention provides for the Court to exercise its discretion to return the child to his or her "habitual residence." However, in certain rare cases under Article 13b, the judge or administrative authority of the requested country (referred to as a State) is not bound to order the return of a child if the Court finds a grave risk exists and to return the child exposes that child to physical or psychological harm. Many States use Article 13b to request psychological profiles, detailed evaluations of parental fitness, evidence concerning the nature and quality of lifestyles and relationships. Clinical examinations and observations of interactions between the parents and the child are pivotal to understanding the family dynamics and unveiling the truth. How are and should these clinical findings, diagnoses and recommendations be implemented and accepted by the Courts across the globe? Is PAS acceptable science? Is a determination of PAS helpful to the Courts? Is their a comfort level achieved by the finder of fact - the judge or administrative body - in utilizing this information? Although parental alienation syndrome has not been recognized or included in Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition (DSM-4) in the past, experts and others are discussing whether this concept of parental alienation should be included in DSM-5 which is due to be released early next year. What do these discussions encompass on this controversial topic known as PAS? Should parental alienation be considered as a syndrome?

Why is PAS so controversial? PAS, it is argued, lacks an empirical basis as a psychiatric diagnosis. However, Dr. Gardner, the first expert to acknowledge parental alienation as a syndrome in 1985, used the term "empirical" to mean direct patient observation only. Although he used no scientific experimentation, Dr. Gardner claimed he had ample "empirical" evidence to support PAS as a psychiatric syndrome to which he applied a statistical analysis methodology. Other scientists disagree with Dr. Gardner as to whether PAS should be classified as a syndrome and question whether PAS has been subject to peer review; whether PAS is generally acceptability in the field of psychiatry or psychology; and whether PAS has scientific empirical validity as to falsifiability, error rates, etc. Judges across the globe have struggled as gatekeepers of relevant and reliable scientific evidence to admit or exclude PAS evidence in their courtrooms.

Parental Alienation, Child Abduction, Syndrome Evidence