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CHILDREN MUST STAY THE FOCUS WHEN PARENTAL CONTACT BREAKS DOWN

Professor Jo Delahunty KC, Barrister

Utah has become the second state in America to introduce legislation to provide consistency and judicial focus on children caught between parents in a war of words post-separation when contact breaks down. The reasons given by one parent for why the child doesn't want to see the other can become 'weaponised' – allegations of domestic abuse and coercive controlling behaviour (DA/CCB) being met with counter allegations of so-called parental alienation (PA). Utah has taken a hard look at whether children have been best served by judicial orders requiring participation in reunification therapy when safety might be compromised by being forced to see an abusive parent. This new law mandates, amongst other things, that: judges deciding childcare arrangements must first consider risks to the child's safety (no longer limited to evidence of violence); reunification therapy must be demonstrably safe and effective; no separation from the parent to whom the child is 'bonded' will be sanctioned unless that parent poses a risk to the child's safety; so-called 'experts' who have a known bias towards so-called PA will have to demonstrate their independence and effectiveness; experts must be accredited and be experienced in working with abuse victims; and Utah courts will be required to train judges and other court personnel to better recognise domestic abuse and address child safety in residence and contact disputes. Since the concept of so-called PA was an import from the United States, and corrective legislation has been required to change unsafe practices, doesn't this beg the question – shouldn't we follow suit in the UK?

As a family barrister, I see cases where allegations of so-called PA have obscured rather than illuminated the complex reasons why a child might not see a parent, especially when DA/CCB lies within the family picture, but is sometimes hidden in the shadows until separation has been achieved. Polarising labels make it easy for professionals, and the court, to lose sight of the single most important person in proceedings – the child. When allegations of DA/CCB are met with so-called PA, too often the focus shifts to the adults' accounts and not those of the child. Rather than remaining the subject of proceedings, the child becomes an object. The child's narrative, wishes and feelings, become sidelined and over-written by unaccredited 'experts' who trespass into disputed facts. Facts are the court's province to resolve, transparently, in a courtroom where each side can properly challenge the other parent's allegations. Matters such as these are not resolved by pseudoscientific testing or in the therapist's chair.

When I chaired the Nagalro Spring Conference in March, I asked the audience to think about why, in private law cases, therapy is introduced when facts in dispute haven't been resolved; why evidence is sequestered and contaminated by ill-advised, and downright dangerous, therapy by an 'expert' with a weighted practice. The child's voice is not seen and heard, save through a filter that may have a tint. I was not a lone voice – mine was echoed by lessons from private practice, Jenny Beck KC(Hon), Cafcass, the Family Justice Council Young People's Board, the Domestic Abuse Commissioner, ACP-UK (the professional body for clinical

psychologists) and Nagalro itself. The conference agreed our practices needed to change. We needed to be clear about professional roles and responsibilities and not overstep (or allow others to overstep) boundaries.

Not all allegations of DA/CCB are true, nor are all allegations that a parent has been unfairly excluded from their child's life. But, and it is a big but, we must not be swayed by labels. The body of evidence about the existence and prevalence of DA/CCB is uncontroversial. By contrast, there is emerging, well-respected, research that so-called PA has been elevated, by the application of pseudoscience, to a 'syndrome' in some instances. To be clear, PA is not a syndrome capable of being 'diagnosed', as some experts in the UK have presumed to do. PA is not recognised as a disorder or condition in either of the major indices (DSM-V or ICD-11). As a concept, it has been denounced by the European Parliament and the Domestic Abuse Commissioner. The UN Special Rapporteur on Violence against Women and Girls has recommended that the concept of PA be banned in Family Courts. Reluctance, Resistance and Refusal (RRR) to see a parent may stem from a variety of reasons which need to be heard and understood. All too quickly, professionals turn to 'alienation' because they cannot find another explanation. However, the behaviour of a child should not be attributed to an adult without solid evidence.

So-called PA is contentious. It divides professionals as much as families, but when the professionals get it wrong they walk away from the courtroom and the case – it is the children who live with the consequences.

We do not have a trauma-informed Family Court system. We have a binary system of proof, which has momentous consequences if we get the balance of evidence wrong. We have inconsistent practices between different levels of court. As childcare professionals, we aim to do the best for the families we become involved with, but good intent does not equate to good practice. Ours has to improve.

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nagalro@nagalro.com