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Parental Alienation

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I. Introduction

In Japan, one third of the marriage ends up to divorce. The number of the divorce is 260,000 per year. Around 40% of divorced couples have very young children. In the around 80% of the divorce cases, mothers become the sole guardians of the children.

In many disputed cases, a mother first disappears with children and file a mediation for divorce claiming the severe and continuous domestic violence (“DV”) made by her husband against her and the children. The father files mediation for visitation of his children claiming no DV was made by him against his wife and the children. The father often submits motion pictures showing close relationship between him and his children.

The mother claims that the children firmly refuses to see their father due to DV against them and their mother. The mother also submits the letter of children and diagnosis of psychiatrist that the children are in so unstable condition and visitation of their father may cause detrimental damage to them.

This is the case of parental alienation.

II. How to Distinguish Alienated Children from Abused Children

Richard A. Warshak distinguishes alienated children from abused children by the following cognitive impairment:

“Alienated children’s thoughts about their parents become highly skewed and polarized. They seem unable to summon up positive memories or perceptions about the rejected parent, and have difficulty reporting negative aspects or experiences with the favored parent. They rewrite the history of their relationship with the rejected parents to erase pleasant moments.

“By contrast, physically abused children often try to maintain a positive image of the abusive parent. They cling to positive memories of being nurtured by, and having fun with their abuser.”

“Children in these situation learn to curry favor with one parent by echoing that parent’s complaints about the other parent. They learn that it displeases one parent when they show signs of connection and affection with the other parent. Often they refer to the rejected parent by first name or with a term of derision, rather than as Mom or Dad.”

“Although others see clearly that a child’s negative attitude toward one parent developed in the shadow of the other parent’s hostility, the alienated child disavows any such influence. Instead the child blames the rejected parent and relatives for provoking the child’s hatred, but the child often gives vague reasons for the rejection.

III. How Could the Alienated Father See the Alienated Children?

1. Domestic Mediation

In Japan, the domestic mediation for visitation is always preferred to the domestic judgment. Domestic mediation is normally very useful to settle the domestic conflict in that the domestic conflict is suitable for amicable solution assisted by the experienced mediation panel.

Domestic mediation is, however, useless to settle the visitation of alienated children. As alienated children is controlled by the alienating parent (often mother), the amicable solution is quite difficult (if not possible).

Often the alienating parent merely claims the DV by the alienated parent against the

alienating parent and the children.

As it is necessary to show the evidence in the mediation, it is very difficult to persuade the alienating parent to allow the visitation.

The alienating parent often requests the alienated parent to admit the DV either physically or mentally and demands to take a counselling for DV abuser before the commencement of the visitation. It is obviously a tactic to obtain the preferable terms and conditions of divorce mediation. To prevent such tactic, the alienated parent should therefore refuse mediation and demand domestic judgment.

2. Domestic Judgment

A. Who Adjudicate the Case?

The domestic judgment is adjudicated by a judge who is specialized in domestic conflict. The main difference between the ordinary judgment and the domestic judgment is that the domestic judgment is rendered not open to the public.

B. What is the Position of the Family Court of Japan ?

Previously it was firmly believed that the Japanese divorced father should wait until his children becomes old and wishes to see him. It was also believed that fathers have to work hard and send to the former wife money for his children to enjoy a good life and education. Recently the position of the family court of Japan dramatically changed (perhaps based on the external pressure from western countries, such as US.).

The family court is now willing to render the visitation order unless special reasons for prohibiting the visitation is shown, such as severe and continuous DV by the left parent. The burden of proof of DV is now shifted to the guardian or taking parent.

As it is very hard to show the physical DV without diagnosis or picture, the DV defense by the guardian is now not so effective.

IV. Current Issue in the Family Court of Japan

The most effective defense of the guardian or taking parent at this moment is the will of the children. Some believes that the will of the children should be respected in deciding the visitation. If the children firmly refuse to see the left parent, the visitation should be prohibited until and unless the children want to see the left parent voluntarily.

The alienating parent, and his/her attorney often utilize the above opinion. The alienating parent programs the children to alienate the left parent. Successfully alienated children rewrite history of the relationship between the left parent and themselves. They firmly refuse to see the alienated father. As the children live with the taking parent and is protected solely by the taking parent, they are amazingly easily mind-controlled.

Although Japanese family court does not officially accept PA (especially the concept of PAS or Parental Alienation Syndrome originated by Richard A. Gardner), they recognize this issue.

The Japanese family court now refers to the loyalty conflict concept under which the alienated children tend to show sympathy with the feeling of the taking parent and try to say what the taking parent wants them to say. If the taking parent does not want the taken children to see the left parent, they tend to refuse to see the left parent.

The Japanese family court now closely scrutinizes the children. In this process, the family court investigator's report is critically important. If the family court investigator does find the real intent of the children (that they are willing or don't mind to see the taken parent), Japanese family court will render the visitation order.

V. Does the Alienating Parent Follow the Order?

The alienating parent is, of course, not willing to follow unfavorable court order. In some extreme case, he or she ignores the court order.

In that case, PA experts, such as Richard Gardner, suggest to remove the children from the alienating parent as follows:

“Some courts, very naively, are relying upon traditional therapy to deal with PAS families. Ordering such therapy is often a judicial cop-out. It is clearly a way of passing the buck and gets the judge “off the hook,” because he cannot be accused of doing nothing. As I have said repeatedly PAS-inducers, with very rare exception, are not candidates for therapy. Candidates for therapy need insight into the fact that they have psychological problems and motivation to change. The vast majority of PAS-inducers satisfy neither of these criteria. It is quite common for judges to order children into therapy, possibly each child assigned to a different therapist. Ordering PAS-inducers and/or their children into therapy is just what alienators want, because time is on the side of PAS-inducers, and ordering therapy only plays into their hands as they make a mockery of the process. At the same time the “therapy” is proceeding, the indoctrinating parent is ignoring court orders to effect visitation and recognizes that he (she) can do so with impunity, because the judge can be relied upon to do nothing about implementing the more stringent and predictably effective measures described below.”

“There is a good analogy between PAS children and those who have been removed from their homes and seduced into secluding themselves in cults. To think that one can provide such youngsters simply with psychotherapy—while they still remain living in the cult compound—is simpleminded and even grandiose. Even if the child were treated seven sessions per week, one session each day, all of the remaining time would be spent in the compound with ongoing exposure to the cult indoctrinations. PAS children need deprogramming just like cult children, and the deprogramming is only likely to be effective when the child is removed from direct exposure to the indoctrinators”.

It is necessary for the alienated parent to remove his/her children from the alienating parent.

VI. How to Remove the Alienated Children from the Alienating Parent

Under Japanese law, the guardian of the children could be changed from the alienating parent to alienated parent by court order.

If the alienated parent (and its attorney), with the great assistance of PA expert, could show the severe PA by the alienating parent who refuses to follow the visitation order, Japanese family court would render the order to change the guardian from the alienating parent to the alienated parent.

The big issue is the state of mind of the children. If the children are heavily alienated by the alienating parent, they firmly refuse to see the alienated parent. Unfortunately they sometimes firmly believe that they are victim of DV of the alienated parent. In that case the family court of Japan hesitates to change the guardian of the children from the alienating parent to the alienated parent immediately.

The alienated parent (and his/her) attorney should therefore provide the intermediate place where the alienated children can be released from PA by the PA expert. The intermediate place may be home of the parents of the alienated parent (if they live in Japan) or home of the alienated parent's friend.

VII. Conclusion

Thanks to recent dramatic change of the position of the family court of Japan, the visitation of taken children is becoming significantly easier.

Still there are issues in the visitation. In particular PA by the taking parent to the taken child. It is possible to overcome PA.

You, however, do need expert's support. Please note that the PA is new in Japan and the experts of PA in Japan are few.

We are one of the few experts, and more than happy to help you.

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