

Psychiatric and Legal Aspects of Persistent Litigation

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There is a paucity of literature in English about those people who persistently complain. In Germany and in Scandinavia, a diagnosis of querulent paranoia may be made, although this interesting and uncommon syndrome is rarely recognised in the UK. Five cases of litigiousness or persistent complaining are reported, to illustrate the typical psychopathology and the types of diagnosis that occur. Four of these people are barred from further litigation by the courts (vexatious litigants) and were contacted directly for the purpose of this study.

There is a small group of people who persist in litigation, over real or imagined grievances, regardless of cost and consequences. Members of this group are rarely seen for formal psychiatric evaluation. The litigation usually results from a legal slight or injustice, which assumes a special meaning for the individual and unlocks the litigious behaviour. The courts are used by these individuals to redress an injustice, but they are never able to accept a ruling against them. There is a constant process of appeal against adverse decisions, usually lasting over many years. Examples of the types of litigation include wrongful dismissal, alleged fraud or corruption, unsuccessful medical treatment, defamation, and the financial aspects of divorce. The litigants often act as their own legal representative out of choice, which reduces costs, although fees for writs and witnesses are still required. There has been little interest in the psychiatric aspects of litigiousness in the literature, as most work was undertaken in Germany, whose research is now unfamiliar to British psychiatry. The behaviour is labelled legally as 'vexatious litigation' and it is medically diagnosed as 'querulous paranoia', 'querulous paranoid state' or 'litigious paranoia'. This paper sets out the results of a preliminary study into the psychiatric aspects of persistent litigation. The subjects, specifically interviewed for this study, were selected from a list of vexatious litigants, except for one, who was routinely referred.

The legal perspective – vexatious litigants

In English law, the Attorney General can make an application in the High Court for an order prohibiting an individual from continuing or initiating legal actions. Section 42 of the Supreme Court Act 1981 states that the Court must be satisfied that the person must have "habitually and persistently and without any reasonable ground instituted vexatious legal proceedings, whether in the High Court or any

inferior court, and whether against the same person or against different persons". The Court looks at the whole history of the matter including the number, general character, and the results, of the proceedings alleged to be vexatious. The Court may then order, after allowing the person to be heard, "that no legal proceedings shall without the leave of the High Court be instituted by him in any court". The legal mechanism is used infrequently, and very few people each year have orders made against them. The order is not specific, so it cannot be made to prevent litigation against either a particular individual or organisation. After the order has been made, there can be no appeal against proceedings that have been struck out, although there can be an appeal against the order itself. The names of those people who have had orders made against them are published in the *London Gazette*. It was not until the Vexatious Actions Act of 1896 that there was any means of restraining the initiation of law suits. The first vexatious litigant, in 1897, had started 48 legal actions in the preceding 5 years (including applications that the address on the writs was in the wrong place and that the margins were too narrow, etc). He also attempted to sue a variety of people, including the Prince of Wales, The Lord Chancellor, and the Speaker of the House of Commons. The prohibition order has the effect of protecting members of the public from unreasonable legal proceedings, but it is also seen by the judiciary as protecting the litigant from the stress, expense (writs cost £60 to be registered), and wasted time of actions that fail. Between 1981 and 1986, there were on average over six orders made per year, and there are around 55 vexatious litigants, with a sex ratio of 3 men to 2 women, at present held on the list at the High Court.

The psychiatric perspective

What are the likely psychiatric diagnoses of those litigants who are declared vexatious by the courts?

The psychopathology of the symptoms merges, and it is difficult to separate overvalued ideas from delusions. Although delusions are thought to result from a primary pathological process (Schneider, 1958), the content of the ideas in querulous paranoia is directly understandable in terms of the life experiences of the person. This contrasts with other conditions, such as schizophrenia, where the delusion is more recognisable by its bizarre nature and its being out of context with the rest of the personality. The litigants fall into four main categories, two of which are related to 'psychopathic' personality development (querulous paranoia and paranoid personality disorder), and two of which have origins in a somatic process (paranoia and paranoid schizophrenia). Cameron (1963) describes situations that favour the development of paranoid disorders, and which can occur in otherwise normal people.

1. Querulous paranoia

A recent review by McKenna (1984) supports the concept that those with querulous paranoia have an overvalued idea, and not a delusion, by stating that "the central belief lacks a specifically delusional quality". Jaspers (1959) defined overvalued ideas as "convictions that are strongly toned by affect which is understandable in terms of personality and its history". Fish (Hamilton, 1974) points out that the overvalued idea is usually acted on, in distinction to a delusion, which usually is not. ICD-9 (World Health Organization, 1978) excludes paranoia querulans from the paranoid psychoses in an effort to separate the two conditions. Kraepelin (1905) described the syndrome of persistent litigation, and he comments on the general style of the litigant's correspondence. He mentions that the form of the letters are like that of a legal document, except that the litigants often cover all of the surface of the page with script about their complaints (including the margins). The substance of the dispute is also repeated several times in different ways. He also noticed that there was undue grammatical emphasis and that frequent underlinings were prominent in the correspondence. I know of one person (not a vexatious litigant) whose life revolves around litigation, who has had printed at his own expense, an 11-page summary of the 42 legal actions during a disputed custody case. In the printed document, he refers to himself in the third person and in a legalistic manner ("the defendant"), as described by Kraepelin.

Kahn (1928) described several of the features he believed to be important in these personalities. He felt that "they need the pleasure of the struggle" and that they used litigation as a "tool for their craving

for prestige". He also noted that they have a cold emotional nature that excludes a closer understanding of other people's points of view, which he thought might contribute to the development of the disorder. There is some agreement that these disorders may arise out of abnormal personalities, especially those with a paranoid tendency, although there is an absence of the sensitive personality, as described by Kretschmer (1927). The probable motivating and continuing factors may derive from hidden positive psychological benefits that the litigants receive from their actions (Hallerman, 1966).

Kolle (1931), in his detailed and classic study, obtained information on 49 patients with querulous paranoia from several centres, which he attributed to personality factors ('psychopaths'). He found that there were no above-average levels of either manic depression or schizophrenia in relatives. He concluded that querulous paranoia was not genetically related to the psychoses, nor a deteriorating condition, as few sufferers were to be found chronically ill in psychiatric hospitals. It is interesting to note that 9 of his 29 had not been involved with the law. The prognosis is usually not good and Jaspers (1959) describes the case of a man who committed suicide after a 10-year struggle with the law - having sent a prior notice of it to the newspapers. Litigants from all research groups (Astrup, 1984; von Dietrich, 1968; Winokur, 1977) were generally between 40 and 60 years old. The litigation tends to run a chronic course, with periods of relative quiescence, interrupted by vigorous outbursts of litigation. Some authors suggest that the disorder may have roots in childhood experiences (von Dietrich, 1968; Hallerman, 1966). Family relationships are difficult to assess for this group, as there is often non-disclosure of personal information at interview. Astrup (1984) states that physical treatments such as psychotropic drugs and ECT have little benefit in the condition.

2. Paranoid personality disorder

Schneider (1958), in his book on psychopathic personalities, describes hyperthymic psychopaths, who are by nature overactive; although they have a good sense of humour, they can, because of their inflated self-esteem, be sensitive to slights. He believed that they did not make hardy or determined litigants, and he termed them "pseudo-querulants". Kretschmer (1952) describes persistent litigants as "fanatical psychopaths", but he believed that the majority could be categorised as having "expansive reactions". He stated that on the surface they are arrogant and self-assured people, but have "a tender spot in the

core of their being, an hypersensitive nervous vulnerability, a buried focus of inferiority feelings". It is difficult to know whether these categories refer to querulous paranoia or whether they are separate from it. It would be expected that some persistent litigants would have paranoid personalities because of their hostility in the face of threat. DSM-III (American Psychiatric Association, 1980) uses the following diagnostic criteria for this disorder, provided the symptoms are characteristic of the individual's current and long-term functioning. The behaviour is not limited to episodes of illness, and causes a significant impairment either in social or occupational functioning or subjective distress.

- A. Pervasive, unwarranted suspiciousness and mistrust of people as indicated by at least three of the following:
 1. expectation of trickery or harm
 2. hypervigilance, or taking unneeded precautions
 3. guardedness or secretiveness
 4. avoidance of blame where warranted
 5. questioning the loyalty of others
 6. intense, narrowly focused searching for confirmation of bias, with loss of appreciation of total context
 7. overconcern with hidden motives and special meanings
 8. pathological jealousy.
- B. Hypersensitivity as indicated by at least two of the following:
 1. tendency to be easily slighted, and quick to take offence
 2. exaggeration of difficulties
 3. readiness to counter-attack when any threat is perceived
 4. inability to relax.
- C. Restricted affectivity as indicated by at least two of the following:
 1. appearance of being 'cold' and unemotional
 2. pride taken in always being objective, rational, and unemotional
 3. lack of a true sense of humour
 4. absences of passive, soft, tender, and sentimental feelings.
- D. Not due to another mental disorder such as schizophrenia or a paranoid disorder.

3. Paranoia

During the 19th century, the position of querulous paranoia was controversial until a subdivision of paranoia was created for it (Lewis, 1970). The ICD-9 defines paranoia as a "rare chronic psychosis in which logically constructed systematised delusions have developed gradually without concomitant hallucinations

or the schizophrenic type of disordered thinking. The delusions are mostly of grandeur, persecution or somatic abnormality".

DSM-III defines paranoid disorder as having the following diagnostic criteria:

- A. persistent persecutory delusions or delusional jealousy
- B. emotion and behaviour appropriate to the content of the delusional system
- C. duration of the illness of at least one week
- D. none of the symptoms of criterion A of schizophrenia such as bizarre delusions, incoherence, or marked loosening of associations
- E. no prominent hallucinations
- F. the full depressive or manic syndrome is either not present, developed after any psychotic symptoms, or was brief in duration relative to the duration of the psychotic symptoms
- G. not due to an organic mental disorder.

The diagnostic criteria for paranoia are similar except that there must be a chronic and stable delusional system of at least 6 months' duration. Shared paranoid disorder is defined as developing as a result of a close relationship with another person or persons who have an established disorder with persecutory delusions.

Paranoia with querulous symptoms is a rare condition (Astrup, 1984). In a review of 21 000 case histories (Winokur, 1977), the incidence of paranoia (with a delusion) was 0.04%. Out of the 29 patients seen, only three had litigious behaviour. In a follow-up survey (Astrup, 1984), four patients out of 71 had querulent symptoms as a part of a paranoid psychosis, if those with a primary diagnosis of 'querulous paranoia' were excluded. This is less than the incidence of 10% of those with paranoia having querulous symptoms, found in the USA (Winokur, 1977), but the figures were from a smaller sample of similar patients. In a review of the paranoid disorders, Munro (1982) states that litigious paranoia is a subtype of paranoia, and that only a small minority of querulous litigants have a delusional system. Their delusions are based on, and often proceed logically from, the misinterpretation of an actual event. In paranoia, there is a strong coherence of the rest of the personality. In case history 4 presented below, there is evidence of a shared paranoid disorder occurring in the context of an exceptionally close relationship between two litigants from the same family. Although they shared the same delusion, they did not institute joint legal proceedings.

4. Schizophrenia

Patients who suffer from schizophrenia are known

on occasions to initiate legal actions. It is uncommon for them to follow through the litigation to such an extent that they become subject of a vexatious-litigant order. Schizophrenia often reduces the ability to achieve long-term goals, which can prevent the continuation of litigation. If they are detained under the Mental Health Act while they are involved in litigation, then the appointment of a 'next friend' or 'guardian ad litem' is necessary, as required by court rules.

Case reports

Case history 1: querulous paranoia

A 67-year-old married male park-keeper initiated a series of lawsuits concerning the theft of a bird bath and a bench from a local-authority park. There was no family history of psychiatric disorder. At school, he was an average pupil, leaving at 14 to work in a shipyard as a labourer. At 18, he enlisted in the regular army in the hope of a better life. He enjoyed the discipline of, as he put it, the King's rules and regulations, which suited his personality. On leaving, he had several jobs as an unskilled labourer, mainly in the building trade, before he became a park-keeper. He had no significant medical or psychiatric history.

He liked his employment, and he enjoyed the freedom that it gave him. He took pride in the running of the park and had, for instance, tried to prevent vandalism by starting a local youth club. He felt that he was out of touch with others in his department and therefore a possible target for victimisation. One day, he saw his foreman driving a van through the park in excess of the speed limit. He felt it was a danger to the children, but when he pointed this out to the foreman, an argument ensued. He informed the superintendent, but the complaint was not accepted. He discovered that the foreman had a bird bath and a park bench in his garden, which he alleged belonged to the local authority. After photographing them, he accused the foreman of theft, believing that this would expose the 'corruption' in the department. Soon afterwards, he was dismissed for shutting the park gates too early in the evening, although he had kept a record of the times he had shut them. He started an action for unfair dismissal, because he felt bitter about the 'wrongness of it all', and another for damages for the loss of employment. These actions failed, but he started five other actions in the next few years, despite having to sell the furniture in his home to pay for the costs of the witnesses and the writs. He was made a vexatious litigant about 6 years after the initial incident. He has complained to his Member of Parliament, the Prime Minister, the Director of Public Prosecutions, the Deputy Chief Constable, the European Commission, the Law Society, and the Lay Observer at the Royal Courts of Justice, without obtaining satisfaction. The burning desire to achieve justice has now moderated, and he sees his attempts to contact the Lay Observer at the Royal Courts of Justice more in terms of a hobby. He explained his failure of his litigation as the result of a conspiracy against him.

On mental-state examination, his ideas did not amount to delusions, as he was able to express doubt about them. His main preoccupation was with the conduct of his cases, and his false ideas were an elaboration from his initial idea of seeking justice. He described the amount of affect that was associated with these ideas and the sense of outrage at both the rules of the park and society being broken. He described the intensity of his feeling about his dismissal in vehement terms and added that "If you had come to see me a few years ago I would have cried because these things meant so much to me". He believed that the man he alleged stole the bird bath also undertook odd jobs in the home of the judge, thereby influencing the result of the court cases. He also believed that the judge prevented local solicitors acting for him by speaking over the telephone to them. He did not have features of a paranoid personality disorder because he was emotionally warm and trusting in his relationships with others. A diagnosis of querulous paranoia was made, because of the overvalued idea which motivated him to continue with the court actions.

Case history 2: paranoid personality disorder

A 53-year-old married furniture warehouseman first became involved in litigation at his place of work, but subsequently went on to sue his landlord. He was reticent about giving details of his background, but he said that he was born in poverty, and that his childhood was repeatedly interrupted by frequent hospital admissions. It was also disrupted by his parents becoming wealthy and so he moved "from famine to feast". There were further stresses, as his father assaulted him at home, so that he felt no place in his childhood world could be regarded as safe. He was a perfectionist as a child, which coloured his attitudes in his adult life. He emphasised that he was not the sort of man who would go out of his way to look for disagreements. "While I am ever ready to help an old lady or a child across the road I do not seek out such; similarly, when wrongdoing is thrust under my nose, I feel bound to do something about it." He rarely used the telephone, preferring to put complaints down in writing.

He had discovered that the building at work had been constructed in breach of the Factories Act, and that the employees' contracts had been breached. While in the warehouse, he believed that he had been exposed to poisonous dust that had eventually caused lung disease and a contact dermatitis. His employers had reduced his hours of work after he had complained, and later he was made redundant with little explanation. He sued for breach of contract without help from his trade union, and then for damages for personal injuries. He failed in these and many other actions. A little while later, his landlord started proceedings for possession of his bedsitter. He counter-claimed for another breach of contract, so that there was a second series of legal actions. He was made a vexatious litigant about 6 years after the dismissal. He believed that misconduct by his lawyers caused the loss of his cases.

He was divorced and rarely saw his children. His accommodation was a small bedsitter in private rented accommodation in which there were about 40 files concerning his legal actions. He had microphones set up

near the door so that he was able to record any conversation of visitors before he let them in, and carefully filed all these tapes. He kept a minutely detailed diary of the events that went on in his multi-occupancy house, down to the time to the minute of each entrance and exit, and the registration numbers of the vehicles that called. An accurate and detailed account of the climatic conditions was also recorded, as he felt that this might have had a detrimental effect on the structure of the house. There was some evidence that he had been subject to harassment in this property and that he had little recourse to protect himself except through careful recording of facts, as he was barred from litigation. He said he was bored with the documentation that he had been obliged to record, but he believed it was necessary for his own protection.

He had many of the features of a paranoid personality disorder as defined in DSM-III because of his hypervigilance, expectation of harm, and a lack of appreciation for the total context of his litigation. He was hypersensitive in his attitudes, and had overvalued ideas concerning the propriety of the company that he previously worked for, and the extent of the corruption in the local councillors, one of whom owned the property he was then living in.

Case history 3: paranoia

A 50-year-old married man alleged corruption in his local council. He had had an uneventful childhood, although his father was often away at sea. He had left school at 14 years old with no qualifications, and trained as a motor mechanic until he was conscripted into the army. After leaving the army, he worked as a long-distance lorry driver until he retired because of a change in the sight in one eye that was diagnosed as caused by multiple sclerosis. He was in receipt of a disability allowance. He produced a newspaper from home as a home-worker for the Workshops for the Blind for 2 years. He had lived in bed-and-breakfast accommodation since his house was sold. He had shared the cramped accommodation with his wife and daughter for the previous few years (see case 4). The family remained exceptionally close. He supplemented his income through writing a history book and other more popular works.

He had applied for a mortgage from the local authority but the documentation was subsequently lost with the reorganisation of local government in 1974. He claimed that they had mixed up his papers with a man of the same name who had been prosecuted for a sexual attack on a minor. His case therefore was for defamation of character, and he sued the council for negligence as he was "boiling over with anger" at their incompetence. He took the case to appeal and also took out a private prosecution. There were several other cases that he had also lost on appeal with costs awarded against him. He refused to pay and the house was sold to pay the debt. He was made a vexatious litigant in the same hearing as his daughter was (see below).

He described himself as "never happier than when under attack, as it gives me purpose in life". He believed that there was a masonic conspiracy that infiltrated all parts of national life, including the royal family. He moved out of the area to be away from the influence of Freemasons,

which he knew to be the cause of his failure in the courts. He first realised that the masons wanted to persecute him after he had distributed handbills against them. He believed a particular mason was masterminding events whose influence on the legal system reached throughout the UK. The organisation was controlled by a particular mason in the West of England, who had caused his downfall.

Case history 4: shared paranoid disorder

The 30-year-old daughter of the above litigant became involved in litigation for bad debts. She had not become independent from her parents, but remained closely involved, in the cramped living quarters, with her parents, and she was at the time unemployed. She commenced her litigation after she had started an artwork and printing business, at the same time as her father was having troubles with the documents for their house. She had sued the customers who had not paid their bills and had won at least one action, but the court was reluctant to enforce payment. There was often confusion in the courts because of her father's similar name. She believed that she was prevented by a corrupt court from bringing her case to trial. She shared her father's delusion that there was a masonic conspiracy that prevented the administration of justice. She was made a vexatious litigant on the same day as her father was.

Case history 5: paranoid schizophrenia

A 58-year-old single man presented in an out-patient department asking for a further medical report so that he could obtain a disability allowance. He had had admissions to various hospitals in Scotland in 1952, 1953, 1954 (twice), 1956, 1960, 1962, 1965, and then in the London area in 1969 and 1979. In each of these admissions, the diagnosis was of paranoid schizophrenia.

His querulous behaviour started after he had had his second course of ECT and he stated that "I failed to get a hearing for my complaint". He walked to London and "Upon arrival I immediately made my way to Parliament where a police officer courteously enquiring to my purpose, and hearing that I wished to see the Home Secretary, informed me that Parliament was not in session but if I wished to write a message it would be given to him". After living rough for a time, he moved into a Salvation Army Hostel and "proceeded, seeking employment and corresponding with the Home Secretary, taking the precaution of sending such letters by recorded delivery". He was arrested on the embankment and he was remanded in prison, where he saw the visiting psychiatrist. "I was invited to sit down, whereupon the doctor immediately queried 'Why are you corresponding with the Home Secretary?' Now I realised that if I told the full story I would certainly have been declared paranoid schizophrenic and probably committed somewhere so I therefore confined myself to replying that I did not see what concern of his it was to the doctor. This went on for about two or three minutes whereupon the doctor turned to his secretary and instructed her to record 'paranoid personality'". He said

“The cause of all of this can be traced back to the after-effects of the ferocious ECT inflicted in Scotland, which brought me down here to make a complaint which is going to require skilled and competent therapy to sort out. The need for therapy arises from the fact that the intensively punitive treatments to which I have been subjected under the NHS, have reduced me to a state such as observed in shell-shocked soldiers or bomb-happy citizens during the last war – furthermore, whereas at the commencement of the ‘treatments’ I was a young marine engineer, with excellent prospects, I was eventually reduced to rummaging in garbage cans for food and derelict houses for shelter”. He had been refused a disability allowance 6 months previously, as he did not fulfil any of the necessary requirements. His original complaint was that he had had lapses in his memory since a course of ECT in 1965. He believed it to have caused black-outs, which he thought meant that he was unable to be alone and hence needed the attendance allowance. A diagnosis of paranoid schizophrenia with querulous behaviour was made.

Discussion

The mental characteristics of those who persist in litigation is far from clear. The investigation of an unselected group of vexatious litigants in this pilot study has shown that there is a wide variety of psychopathology and several different psychiatric disorders within it. No single one predominates among the diagnoses, but they spread along a continuum from paranoid personality disorder to querulous paranoia and then to paranoia. The current literature, mostly on querulous paranoia, does not emphasise the variety of diagnoses that are found in persistent litigants.

Litigiousness may become so much a way of life after it has been first experienced, that thereafter an appreciation of normal values may be lost. The key experience, which, is the precipitating factor, is embedded in the social situation and in personality factors that give psychological meaning to the event when it occurs. The desire for ‘justice’ transcends the usual limitations of what is generally acceptable as practicable, so that understanding of the wider issues and the interests of society as a whole is lost. To achieve this end, it is necessary for the litigant to show that others are in the wrong, whether it be individuals, organisations, the courts, or the state. Querulous paranoia is not necessarily confined to legal proceedings (Sim, 1981).

This study also confirms the concept that the litigants do have a case, but that the case is not worth pursuing to such lengths. It is always wise to proceed carefully in the acceptance that there is no substance to the legal disputes (Stalstrom, 1980), as there may be truth in the accusations. Some of the subjects have had some success in litigation, but they become

preoccupied with grievance and correcting them through litigation. The litigants also expressed the view that what they were doing was not only for themselves but also for the general good of society. They pursue the cases to the detriment of other areas of their life, such as family, friends, housing, and employment. None of the people studied above were in full-time work, and several had had housing difficulties as a direct result of their litigation. One had had his house repossessed to pay for debt, and another had sold his furniture to pay for legal fees. There does not seem to be a particular type of event that initiates the ‘key experience’, although, in this group, the majority were in dispute with the various offices of local government. A recent case reported in the newspapers (*Daily Telegraph*, 1987) was precipitated by a successful libel action. It would have been difficult to predict in advance the long-term implications and consequences for the individuals if they had been seen at the start of their litigation.

DSM-III has no diagnostic group for querulous paranoia, in which the subject does not have a true delusion, and there is no agreed name for the people who pursue litigation to a reckless extent. For comparative research studies a new term, ‘querulous syndrome’, might be beneficial. It would allow more selectivity in diagnosis and more research into these unusual people. It may be defined as:

A condition in which there is an overvalued idea of having been wronged, that dominates the mental life, and results in behaviour directed to the attainment of justice, and which causes significant problems in the individual’s social and personal life. It usually, but not always, involves petitioning in the courts or other agencies of administration.

The present terminology is confusing because of the reliance that has to be placed on the phenomenology in each case. As can be seen from the case histories quoted above, a group which has been delineated by the legal system falls into a mixed group of conditions. This definition leaves open the question as to whether those people with querulous paranoia are ‘ill’ in the psychiatric sense, the German sociologist Kaupen (1982) arguing that chronic complainers are socio-political rebels rather than ill. A brilliant clinical description is given in the story of Michael Kohlhaas (von Kleist, 1811). In this story of a horse trader who has his horses detained and maltreated, there are the essential psychological elements that are found in these litigants. von Kleist points out the wider issues often felt by the litigants, the frustration of thwarted justice, and the lack of regard for the eventual cost to the litigant. The story was based on the life of Hans Kohlhaas,

who was executed in 1540 after being unable to restrain his desire for justice to legal means.

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