

AFFECTIVE ABANDONMENT AND PARENTAL ALIENATION: DIVORCE AND ITS PSYCHOSOCIAL EFFECTS ON CHILDREN

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SUMMARY

Emotional abandonment is characterized by self-negligence when neglecting children. Parental alienation is an interference in the formation of the child or adolescent's psyche. In this context, the following question emerged: what are the implications of divorce on a child who suffers emotional abandonment? How is this viewed and conceptualized by Brazilian law and what implications may occur, aiming to clarify the possible consequences that are present in the interference of child development in an unhealthy manner? Thus, the objective of this study was to list the psychosocial impacts suffered by children due to emotional abandonment and parental alienation as legal aggravating factors. The methodology adopted was a deductive-hypothetical study, which used an integrative literature review as a research technique, with a qualitative approach. Therefore, due to various eventualities such as separation or the parents' tiring daily routine, the offspring may find themselves isolated, due to the lack of affection, which ends up causing inestimable damage in relation to the psychosocial aspects of the child and adolescent.

Keywords: Divorce. Family. Society. Emotional abandonment. Parental alienation.

1. INTRODUCTION

The dissolution of marriage or divorce is a personal crisis, like those faced in human development, starting with the psychological sphere relating to affective and emotional conflict, then moving on to the legal sphere, with practical resolutions (Morais *et al.*; 2021).

According to Victor (2020), the possibility of breaking off the relationship between subjects called spouses or partners is assured, in whatever form. And, when they generate offspring together, when in the process of separation, it becomes imperative to adopt precautionary measures on how this fact will be carried out, because despite the breakup between parents, the relationship between parents and children must remain preserved and as consolidated as possible.

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Given these circumstances, two situations can occur: emotional abandonment and parental alienation. Emotional abandonment, in turn, involves a minor child; however, it is a lack of love, affection, understanding, care, that is, an absence of care from the parents (mother or fathers) responsible for the minor, that is, emotional abandonment is not only a lack of affection and love; but also encompasses the absence of financial assistance such as: health, education, food, leisure, etc. (Amazonas). *et al.*, 2023).

In view of this, emotional abandonment is configured through self-neglect when neglecting children, even if they do not feel morally and psychologically affected by such neglect, there is still the legal constitution of emotional abandonment (Silva; Takeda, 2022).

Parental alienation is an interference in the formation of the child or adolescent's psyche, where this interference is promoted or even induced by one of the parents, or grandparents or those who have custody of that child or adolescent, whose intention is to make him/her repudiate the other parent, with the purpose of causing damage to the emotional bond with this parent (Neves, 2021).

In this context, the law is punitive and educational, and provides guidance regarding alienating behaviors in relation to children, which cause emotional problems and consequences for the minor who suffers alienation (Brandão; Azevedo, 2023).

The psychological consequences caused in children are numerous and devastating, ranging from somatic illnesses, depression, anxiety, aggression and even disorders, serious ones such as mental disorganization and identity disorders, and suicidal desire in extreme cases, in addition to the use of illicit and licit substances (Jesus; Sartori; Felipe, 2020).

In this scenario, emotional abandonment has generated great repercussions in Brazilian law scenes, mainly due to the evidence that this attitude causes immeasurable harm to the child and can even cause disorders in one of the greatest assets of the human being, which is psychological health (Medina; Vieira, 2022), as well as parental alienation (Neves, 2021).

Therefore, Family Law must adapt to changes in society and must act so that family relationships become increasingly respected in the Brazilian legal system, and it has done so. Therefore, the study on the subject is essential and deserves great care and attention, since it deals with values and feelings within the family, which is the basis of society (Zuconelli, 2023).

The present study aimed to list the psychosocial impacts suffered by offspring due to emotional abandonment and parental alienation as legal aggravating factors.

2. THEORETICAL FRAMEWORK

2.1 Society and Its Changes and Family Life

Due to major changes in society in general, Family Law also needed to be restructured in response to social developments, with affection being the main difference within the identity of the family. However, in relation to children, in particular, it is known that for the formation of a person's particular identity in its psychological, moral, social, emotional, and other aspects, the affection of the parents is essential (Cordeiro, 2017).

It is clear that in some situations parents allow their affectionate relationship with their children to be deficient, which leads them to a situation of total emotional desertion, only meeting, and when they meet, material needs (Azevedo *et al.*, 2020).

The 1988 Magna Carta, as well as the Statute of Children and Adolescents (ECA), has as a legal principle the full protection of children and adolescents, this being a right, as well as the right to family life, whether natural or substitute, thus providing for the rights and obligations intrinsic to parents (Moura, 2019).

Therefore, when a parent abandons his/her offspring, there is a lack of love, respect, care and affection, which dissolves a duty that was properly imputed to him/her (Barbosa, 2019). Given this and considering the importance of the affective relationship between family members, a new problem arises to be regulated by Civil Law: affective abandonment (Batista, 2020).

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2.2 The Family and Its Social Duty

In the broad and biological sense, the family is seen as a group of individuals who have common ancestral descent. In a stricter sense, it is seen as

family as a group structured by parents and children. In the universal sense, the family is considered a social cell par excellence (Silva, 2020).

The 1988 Constitution of the Republic defines the family with the understanding that it is the basis of society and has been given the duty to be protected by the State. According to Brasil (1988), Article 227 of the 1988 Federal Constitution states that it is the duty of the family, society and the State to promote, with absolute priority to children and adolescents, the right to life, health, leisure, food, education, culture, professional training, respect, dignity, freedom, as well as family and community life, as well as to protect them from any and all forms of discrimination, neglect, violence, exploitation, oppression and cruelty.

2.3 Emotional Abandonment: General Theoretical Contributions

Affection, according to Farias and Rosenvald (2017), is a fundamental factor in the development of family relationships, which establishes bonds between its members, and surely brings trust and solidarity, which are essential for family construction, without losing sight of respect for the dignity of the human person.

In the doctrinal and jurisprudential context, the expression “emotional abandonment” is used to describe the event of abandonment of children by their parents, with these parents being completely neglectful towards their descendants. In this sense, one of the parents or even both may be absent from caring for their children, however, through jurisprudential analyses, abandonment is observed to be practiced, especially by the paternal figure (Matias; Melo, 2022).

In this context, emotional abandonment is defined as the absence of affection within the family, of coexistence, care and assistance between parents and children. It can also be defined as acts of humiliation, contempt and rejection by the person responsible for the abandonment (Batista, 2020).

In this sense, Charles Bicca (2015, p.44) highlights that one cannot question the evidence that abandoning one's offspring is a serious act of mistreatment, where it gives rise to an explicit violation of the principle of human dignity, which governs all legal relations and is subject to the Brazilian legal system. The Brazilian Magna Carta of 1988 provides that it is the duty of the family unit

ensure the rights of children and adolescents to family life, and also protect them from all forms of discrimination and neglect.

According to Garrot and Keitel (2015), emotional abandonment can be configured as the father's failure to comply with his legal duties. Despite the morality, due to the fact that the law has brought him closer, this has led to legal repercussions that can be assessed.

The negative figure of affectivity, affective abandonment, aims not to link a right, but a duty, implicitly regulated in the 1988 Constitution, namely, the duty to care (Vasconcelos, 2020).

The 1988 Constitution and the Statute of Children and Adolescents encompassed the doctrine of full protection. Thus, minors need protection against any omission; they are considered subjects of rights and are entitled to guarantees, which generates in the social environment, in the family and, mainly, in the State. In this context, an affective obligation can be seen, understood as a legal imposition to care (Dias, 2015).

2.4. Application of Civil Liability in Emotional Abandonment

Article 186 of the Brazilian Civil Code gave rise to the concept of civil liability, according to Araujo (2020), which states: "anyone who, through voluntary action or omission, negligence or imprudence, violates the rights and causes harm to others, even if exclusively moral, commits an unlawful act".

Therefore, the unlawful act can be configured in cases of emotional abandonment by through non-compliance with the legal duty of care, imposed by the Federal Constitution of 1988 and the Statute of Children and Adolescents, as well as the duties arising from parental authority (Souza, 2020)

Thus, there is a consequence to the individual's personality, since it has been proven that abandonment has negative effects capable of compromising the entire existence of the abandoned individual (Monteiro, 2023).

For Medina (2022), regarding the causal link, it is necessary to analyze whether the damages suffered by the child are caused by emotional abandonment, since the parent, in this case the father, cannot be blamed for damages that were conceived prior to the verification of abandonment, whether due to physical absence of the child.

or by means of a form of abandonment, where the poor exercise of parental duties is configured, even if the cohabitation was daily.

Failure to comply with parental duties for Guimarães Júnior (2015) generates psychological and emotional consequences, actions indicating a conviction to pay compensation for these damages.

For this reason, the Brazilian Civil Code of 2002 provides in article 1,638, II, that the father or mother who abandons a child will lose parental authority, since both are responsible for the full exercise of parental authority, regardless of the marital situation, in relation to the children where they are responsible for directing the upbringing and education of the offspring, as well as exercising unilateral or shared custody under the terms of art. 1,584 (Skaf, 2021).

The balance of the legal relationship is the objective of civil liability, which generates a consideration, not with the intention of extinguishing the existing damage, but using a way to repair it (Facchini Neto, 2020).

The Civil Code deals with the issue of liability in numerous provisions, among which we can highlight, in its Art. 186, that anyone who, through omission or involuntary action, imprudence or negligence, violates the right and causes harm to another, even if exclusively morally, commits an unlawful act (BRASIL, 2002).

Still on the Civil Code, now in its Article 187, it provides that the unlawful act is also committed by the holder of a right who, when practicing it, manifestly exceeds the limits imposed on the economic or, even, social purpose, by integrity, that is, good faith, or by good customs, according to Brasil (2002).

In Article 389 of the same Code, it is provided that if the obligation is not fulfilled, the debtor shall be liable for losses and damages, plus interest and monetary adjustment in accordance with the regularly established official indexes, plus legal fees (BRAZIL, 2002).

According to Tartuce (2017), there are several controversies in Family Law, and they are doctrinal and jurisprudential. The understanding in favor of compensation for emotional abandonment is based on the principle of human dignity, which is considered the principle of principles. The opposite is true in the argument that this compensation is truly a monetization of affection, and that it is impossible to impose feelings such as love and affection.

The configuration of emotional damage, in this case, must be characterized by the observance of a civil wrong committed by the parents in the absence of the constitutional duty of care and support for their children. Its investigation must also observe the assumptions of subjective civil liability, aiming to enable due compensation for the damages suffered due to parental emotional abandonment (Guimarães Júnior, 2015).

2.5. Parental Alienation vs. Parental Alienation Syndrome

The discussion on the topic of parental alienation began in 2006, the year in which the courts discussed the matter and, in 2008, Bill No. 4,053 was presented and, in 2010, converted into Law No. 12,318, a law that contains provisions on parental alienation (Soares; Alves; Caribelli, 2020).

For Pires and Alves (2016), parental alienation can be understood as a form of mistreatment; a psychological disorder arising from a range of symptoms in which one of the parents, the alienator, modifies the conscious judgment of their children, aiming to impel, destroy or hinder their bonds with the other party, the alienated.

Thus, Law 12,318/2010, according to its article 2, stipulates the concept of parental alienation as being the act that interferes in the psychological formation of the child or adolescent, which is induced by their parents, or grandparents or legal guardians, to repudiate the parent or cause harm to the affective bond with this parent (BRASIL, 2010).

Further on, still according to Brasil (2010), in its sole paragraph, a list of examples of parental alienation has been stipulated, which we can mention: disqualifying the conduct of the other parent in the exercise of maternity or paternity; making the exercise of parental authority difficult, the contact of the child with the parent, the right to family life, omitting information about the child such as medical, school, etc., to the parent, reporting false accusations against the parent or their family members with the purpose of making it difficult to live with the child or, even, changing address to a distant location, without justification, the purpose of which is nothing more than to make it difficult for the child to live with the parent, their family members or grandparents.

It should be noted that, according to Madaleno, Madaleno (2014), parental alienation and parental alienation syndrome have distinct concepts, but they are correlated. Parental alienation is understood as a real situation of neglect, abuse, mistreatment and, also, family conflicts where the alienating parent intends to remove the children from living with the alienated parent. Parental alienation syndrome (PAS) is related to the effects and consequences burdened at least due to the abusive practice of parental alienation by the alienating parent.

According to Sá (2020), Professor Richard Gardner named SAP in 1985, with a view to characterizing the pathologies and ills that resulted from the practice of parental alienation.

In this context, it is understood that parental alienation can be seen as an aggression where, most of the time, the perpetrator of the alienation is not aware of such an act or the harm caused, since his intention is to destroy and denigrate the other parent in front of his children, while parental alienation syndrome (PAS) is related to the disorder arising from the post-litigation, where the parent begins to destroy and denigrate the image of the other party (Montezuma *et al.*, 2017).

Ortoiani (2023) brings a concept to SAP where it can be revealed in three stages: mild, moderate and severe, where mild refers to the feeling of embarrassment that the child has when meeting the other parent; moderate refers to the child who presents attitudes of indecision and conflicts, showing, in some situations, detachment from the other parent; and severe is related to the child who develops illness and disturbance to the point of making the guardian's feelings shared with the non-guardian, such as directed aggression, as well as contributing to the demoralizing process aimed at the latter.

Sá (2020) connotes that PAS is characterized when the alienated child faithfully believes in the entire plot of lies created by the alienator, thereby creating an aversion in the victim, in addition to losing interest in maintaining contact with their alienated parent, even after the act of parental alienation has been confirmed.

3. METHODOLOGY

This is a deductive-hypothetical study that used the integrative literature review as a research technique, which is the acquisition of a deep understanding about the event under investigation, the purpose of which is to synthesize knowledge on a given subject, in addition to promoting the identification of gaps in knowledge that need to be filled with new studies (Oliveira, 2017).

The survey was carried out within the CAPES, SCIELO and Google Scholar databases, whose descriptors used to obtain data collection were “Divorce” AND “Family” AND “Society” AND “Emotional abandonment” AND “Parental alienation”.

The eligibility criteria were complete works published in the vernacular, English and Spanish, between 2014 and 2024, as well as Laws, Regulations, Opinions, etc., which addressed divorce and its psychosocial effects on children as a result of emotional abandonment.

Exclusion criteria included the elimination of incomplete works or works that were not consistent with the theme addressed here.

4. RESULTS AND DISCUSSION

4.1 The Psychosocial Impacts Suffered by Offspring Due to Emotional Abandonment and Parental Alienation as Legal Aggravating Factors

Emotional abandonment, once committed, can have several consequences in the life of the child or adolescent. The absence of a father or mother can generate deficiencies in the child's social and moral conduct for the rest of his or her life (Thomas; Oliveira, 2020).

The lack of paternal and/or maternal emotional contact will cause harm to the development that occurs in childhood and adolescence, harming the personal gap, human dignity and personal rights of those who have suffered such abandonment. The absence of affection causes consequences that cannot be mitigated (Calderón, 2017).

Therefore, for Oliveira (2019), a minor who suffers abandonment due to a lack of affection and absence of duties on the part of their parents is likely to carry out the same practice.

at another point in life, due to not having taken the necessary care for their psychic development.

For Araújo (2020), parental emotional abandonment generates severe psychological damage, which can even become irreversible, resulting in perpetual trauma. Numerous studies link the lack of attention received in childhood with depression.

Bicca (2015) also explains that the severe psychological and behavioral consequences resulting from the lack of care and affection provided by parents often lead to children using drugs and becoming involved in crime.

Dias (2015) says that parental alienation is a form of imposition of information, exaggerated or false in most cases, which has the capacity to demoralize the alienated parent, causing the parent to be separated from their children, and can generate numerous harm to the offspring.

This statement is confirmed by Soares, Alves and Caribelli (2020), when they understand that situations in which the person holding custody of the minor induces him/her to give up affection with the other parent end up generating feelings of anxiety and fear in the child, thus breaking the emotional bond.

There are also some harmful behaviors such as drug abuse and violent attitudes, whose origin lies in the void left by the lack of care and affection in childhood on the part of parents. As a way of rebelling against the wound left by not feeling loved or interesting, the teenager finds ways to morally attack their parents, then using a way to punish their parents for having made them feel invalid or insufficient (Rayane; Sousa, 2018).

Finally, paternal emotional abandonment can cause profound and irreversible psychological damage to the child, which may have a negative influence on his or her identity. It is extremely important to educate citizens capable of promoting the construction of a better society, properly based on values, whose priority is always the principle of human dignity and solidarity (Cantalice, 2022).

5. CONCLUSION

This study shows that one of the causes of emotional abandonment is the promotion of natural distancing from the offspring by the parent who does not have custody of the child.

It was also found, from another perspective, that the situation of emotional abandonment can be the result of disagreements, that is, disagreements between the parents of a child or adolescent, where, for example, the father, when moving away from the mother, also results in moving away from the offspring and vice versa.

The lack of physical contact often results in distancing and abandonment, which can cause harm and disruption to children. However, due to various eventualities such as separation or the parents' tiring daily routine, children may find themselves isolated due to the lack of affection, which ends up causing inestimable harm to the psychosocial aspects of the child and adolescent.

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