



## **Legal, social and economic situation of children with separated parents in Mozambique**

### **Legal, social and economic situation of children with separated parents in mozambique**

### **Legal, social and economic situation of children with separated parents in Mozambique**

**Raul de Miguel Benjamin Jofrisse Nhamitambo<sup>1</sup>**

#### **SUMMARY**

Children consider separation from their parents as a central event in their childhood and they experienced several difficulties. Guilt over the end of their parents' marriage is one of the most serious to the formation of personality, which required greater closeness and dialogue between former spouses, in order to avoid of children, the idea of responsibility for divorce. The research is qualitative and exploratory in nature and the approach method used was deductive and the data collection instruments and procedures were semi-structured interview and closed questionnaire. Through this work it is concluded that the consequences arising from the separation of parents, of which the reduction of contact with parents who do not have the child stands out. custody of children and, in this context, the father is often accused of being absent and not fulfilling his role.

**Keywords:** Separation; children; parental alienation.

#### **ABSTRACT**

Children consider the separation from their parents as a central event in their childhood and they experience several difficulties. Guilt over the end of a parent's marriage is one of the most serious effects on personality formation, which requires greater closeness and dialogue between the former spouses in order to distance the idea of responsibility for the divorce from the children. The research is qualitative and exploratory in nature and the approach method used was deductive and the data collection instruments and procedures were semi-structured

---

<sup>1</sup> Doctor of Legal Sciences; Lawyer; Assistant Professor of Information and Communications Technology Law – Joaquim Chissano University (UJC), in the Bachelor's Degree in Information Technology and Systems Engineering; Assistant Professor of Commercial Law, Administrative Law and Notions of Administrative Law - Pedagogical University of Maputo (UP - Maputo), in the Bachelor's Degree Courses in Human Resources Management and Public and Educational Management; Senior Legal Assistance Technician – Legal Office (UP - Maputo); University Lecturer in Introduction to Law, Administrative Law I and II and, Labour Law, in the Bachelor's Degrees in Law, Accounting and Auditing and, Public and Local Administration – Instituto Superior Maria Mãe de África (ISMMA); Author, Reviewer, External Evaluator and Peer in the Multidisciplinary Scientific Journal O Saber (since II Semester of 2024); Evaluator in the Multidisciplinary Journal RECIMA21 (since I Semester of 2025), Organizer of the Digital Scientific Publisher (since I Semester of 2025)). Matola –

Maputo.

ORCID: 0009-0006-4118-1970. [rnhamitambo@gmail.com](mailto:rnhamitambo@gmail.com).(+258) 872058783/847417800.



interviews and closed questionnaires. Through this work, it is concluded that the consequences arising from the separation of parents, of which the reduction of coexistence with the parents who do not have custody of the children stands out, and in this context, the father is often accused of being absent and of not fulfilling his role.

**Keywords:** Separation; children; parental alienation.

## ABSTRACT

Children consider the separation from their parents as a central event in their childhood and experience various difficulties. The fault for the end of the parents' marriage is one of the most serious consequences for the formation of personality, which requires greater closeness and dialogue between ex-partners to distance From children to the idea of responsibility for divorce. The investigation is of a qualitative and exploratory nature and The method of approach used was deductive and the instruments and data collection procedures were semi-structured interviews and closed questionnaires. Through this work it is concluded that the consequences derived from the separation of the parents, from which the reduction of coexistence with the parents who does not have custody of children, and in this context, the parent is often accused of being absent and of not comply with your role.

**Keywords:** Separation; children; parental alienation.

## INTRODUCTION

"The family is the first group to which the child belongs and it is from this group that countless types of bonds that may interfere in the formation of the subject's identity and also in his/her learning modality, whose training will take place according to your first contacts within the family. The family, at first, contains all of the child's references and is responsible for its formation. With the separation of the parents, it is possible that a distancing from their children. After marital separation, there may still be fight for custody of the child, further distancing the family bond after separation/divorce"<sup>2</sup>.

In this context, the child needs to reconstruct the paternal and maternal figures after the separation, re-signifying past experiences and experiences. After the grand change that is the departure of one of the parental figures at home, it is necessary to adapt to a home where things will be different. It is of great importance for the child's structuring that these environments are, to some extent, similar, sharing the same rules, duties and routine.

---

<sup>2</sup> Cf. V. Almeida. Children's and young adult literature. Curitiba: Fael, 2011.



"Younger children have greater difficulty understanding and symbolizing separation, these are more likely to blame themselves and feel abandoned by their parents. Along with the change family structure there are external ones, such as moving house, economic-social level, loss contact with the other party. In the event of separation, the ideal would be for the family to be subdivided into search for a healthy relationship, especially for a better relationship with children"<sup>3</sup> .

## Family

"The Family as the cell of society is a factor in the socialization of the person human. The same law also prescribes that the family constitutes the space privileged place in which the personality of its people is created, developed and consolidated. members and where dialogue and mutual assistance should be cultivated"<sup>4</sup> .

When we talk about family, the idea of a social unit composed of of people united by ties of affinity and blood. In the family one can discern various bonds such as dating, engagement, marriage and married life. Therefore, the family is a group of people linked by blood, by marriage or by adoption and habitually residing together, with the aim of economic survival, individual and collective identification, and the creation of possible shoots.

## Family Law

Family Law, among all branches of Civil Law, is the one that most close to our lives, where people come together by the natural desire to find happiness and to strive for a family structure. It is in the formation of this family nucleus that is shaped by the figure of man, where his intrinsic fulfillment can only be achieved through interaction with other people, the first community in which it naturally integrates.

---

<sup>3</sup> Cf. Silva Santos. The effects of divorce on families with young children. Salvador, 2013

<sup>4</sup> Cf. Law no. 22/2019, of 11 December.

In this line, it can be assumed and subsequently affirmed with devices legal provisions pertinent to the Constitution of the Republic of Mozambique, that the Right to Family is the right of people within a family group, with interests personal and family. It also constitutes the complex of rules that regulate some institutes of family law, namely: celebration of marriage, the stable union, relationships between parents and children, kinship ties, among others.

It is therefore clear that the family is essential for the formation of the human being. It is in the family environment that the individual character is formed, as well as where one learns the values and principles that guide the social formation of a person, building an individual capable of living in society.

### **Marriage**

Marriage is one of the ways of forming a family. In the past, marriage was seen as “a contract concluded between two people of equal sex different, who intended to legitimately form a family, through a full communion of life”<sup>5</sup> . Today, marriage has come to be seen as the voluntary and singular union between a man and a woman, with the purpose to form a family, through full communion of life <sup>6</sup> .

Before the approval of the Family Law, the regime in force was that of the system of optional civil marriage, since canonical marriage was recognized legitimacy and legal validity as long as the following are met: requirements established in the Civil Code. In other words, the spouses could choose between canonical marriage or civil marriage, recognizing the State civil effects to both.

There are three types of marriage, namely Civil, Religious and Traditional, recognizes religious and traditional “value and effectiveness equal to that of civil marriage, when the requirements established by law for civil marriage have been observed”<sup>7</sup> .

<sup>5</sup> See art. 1517 of the Civil Code of 1966. <sup>6</sup> See art. 8 of the Family Law.

<sup>7</sup> Cf. Title II of the Family Law.

### Traditional wedding

The Family Law is limited to defining what marriage is in general<sup>8</sup> , no  
advancing, however, on what should be understood by traditional marriage,  
which is susceptible to different interpretations, if we consider the elasticity  
that “traditional” terminology assumes today, and in the same way, by what is  
can be understood as “uses and customs”.

Lobolo (marital compensation), which in urban spaces “reinforces the  
symbolic dimension”, more than the economic one, of a union, carried out many times  
sometimes simultaneously as a civil marriage ceremony. In general, lobolo  
represents for women, particularly in rural areas, not only “protection”  
that is granted to it, but a “social recognition that civil union in itself cannot offer”<sup>9</sup> .

There are also other forms and rituals of unions that may  
eventually be included within the scope of what is called marriage  
traditional, in addition to lobolo, which would need to be taken into account.

### Religious wedding

The Family Law introduces religious marriage as one of the forms of  
marriage. The novelty regarding religious marriage is that it  
inclusive format, by extending this type of marriage to any and all religions  
legally recognized. By accepting religious marriage into the Law, the legislator  
not only framed this type of marriage in the spirit of religious pluralism,  
how he tried to respond to the right to religious freedom enshrined in the  
Constitution.

As with traditional marriage, the Family Law does not explain what is meant by  
religious marriage, which states: “It is essential for  
the performance of the marriage the presence:

---

<sup>8</sup> See art. 8 of the Family Law.

<sup>9</sup> CF. Andrade et al. Families in a Context of Change in Mozambique. Maputo: Wilsa Moçambique. 1998.



- a) of the spouses, one of them and the attorney of the other;
- b) the religious dignitary competent to perform the act;
- c) of two witnesses”<sup>10</sup>.

It seems to us, however, that unlike what happens with marriage traditional, the type of religious marriage provided for in the Law does not incur risks of subjective interpretations about what it might mean, since it only may occur within the scope of a religion legally recognized by the State, and, as such, the religious dignitary has from the outset an equal recognition for the competent authorities.

## Divorce

"Divorce as a legitimate act that dissolves the marriage and puts an end to marital union in a definitive manner, having as its cause dissolution by death of one of the spouses or by divorce, divorces have the same effects as dissolution of marriage by death, subject to the exceptions enshrined in law, preceded by a de facto separation, its effects are produced from the moment of separation".<sup>11</sup>

## Non-contentious divorce

"Non-contentious divorce, simplifying the process of dissolving the marriage"<sup>12</sup>, was repealed with the introduction of the Family Law in 2019. Among the important innovations introduced by the Family Law, it should be noted that dissolution of marriage by divorce (contentious and non-contentious), where the figure of the divorce by mutual consent has as its basic philosophy "to decongest the courts, simplify procedures to the benefit of citizens and reduce

---

<sup>10</sup> See. Art. 50 of the Family Law. <sup>11</sup> Cf. Family Law.

<sup>12</sup> Law No. 8/92 of 6 May 1992



the charges with the emoluments that it should bear”<sup>13</sup>. The Code of Civil Registry introduces a subsection on procedures concerning to divorce by mutual consent. A comparative analysis between Law No. 8/92 and the various articles in this subsection suggest some similarities between both, naturally adjusted to a faster process. However, the major innovation consists of the “attribution of competence to the conservator of the registration to decree divorce by mutual consent” and its subsequent “professionalization”<sup>14</sup>.

#### **Parent-child relationship before/after divorce**

"Mothers demonstrate greater burden with the parental role post-divorce, mainly related to custody and the inevitable responsibilities associated. There are many relationships that are established between the factors involved in co-parenting, from individual, relational issues, contextual and procedural, which coexist in a dynamic of interdependence. However, two issues seem to profoundly mark the exercise of Post-divorce coparenting: conjugality and parental emotional bonds children. All other issues involved in the coparenting process seem to arise from this"<sup>15</sup>.

"The bond that united the couple, the feelings they had or still have for each other on the other hand, the way in which the separation took place and whether or not the separation was overcome. marital emotional problems are linked to the way in which co-parenting. If there was no important bond between the husband and the woman, if the children were not the result of a mutual choice, if the separation was conflictual or non-consensual and/or if one of the ex-spouses still has strong affective-sexual bond with the other, it is very likely that there will be a separation parental or a problematic co-parenting exercise. Conjugality is

---

<sup>13</sup> Cf. M. Malunga; J. Oliveira. Annotated Civil Registry Code. Lisbon: Office for International Relations European and Cooperation (GRIEC). 2005.

<sup>14</sup> Ibid.

<sup>15</sup> Cf. L. Grzybowski; & A. Wagner, A. Father's House, Mother's House: Coparenting after Divorce. Psychology: Theory and Research. 2010. pp. 77-87.



intertwined in parenthood, are inseparable, even after the end of marriage".<sup>16</sup>

## Separation

De facto separation is understood as the absence of a communion of material life, and affective between the spouses and existence on the part of both, or one of them purpose of not reestablishing it. The following constitute prerequisites for de facto separation:

- a) The lack of communion of material and emotional life;
- b) Intention not to reestablish communion; abandonment of the marital home for more than a year.

Our legislator understands that with the abandonment of the marital home for more than a year the grounds for divorce are met.

The judicial separation of persons and assets does not put an end to the marriage, that is, the legally separated people can only remarry if the separation is convert to divorce or death of the spouse.

But it has effects on marital duties, preventing spouses from having the duties of cohabitation and assistance, without prejudice to the right to maintenance spouse who needs them, while maintaining the duties of respect, loyalty and cooperation.

## Impact of marital separation on children/families

Parental separation is often the first major change in a child's life. child. This disturbing event drastically alters the family's future, causing a loss of understanding due to the disruption of normal routines and the absence of daily contact with both parents. Parental separation is probably a





of major events that affect the child's life, causing family breakdown as a model of conduct and future life together.

"Young people from divorced families have difficulty establishing feelings lack of confidence in their own relationships and have difficulty asserting themselves individual"<sup>17</sup>. Although parental divorce has diverse effects on children, some family factors, appear to moderate the influence of these effects.

"In addition to divorce itself, persistent parental conflict has been linked with various aspects of the child's well-being, as it affects them, such as behavioral disorders, anxiety and aggression"<sup>18</sup>.

Teenagers whose parents had separated and/or lived with only one of them parents, were slightly more depressed than teenagers from families intact and reconstituted. He also highlighted that for some young people, divorce continues to be a problem in adolescence."

"Preteens from divorced families compared with preteens from intact families show increased levels of aggression, behavioral disorders, conduct, disrespect, disobedience and decreased self-regulation and social responsibility, as well as inappropriate conduct in the classroom and school performance. They also show an increased risk of problems internalizing, including depression and anxiety, and lower levels of self-esteem, although the associations between family structure and problems internalized are generally weaker and less consistent than found for externalizers and achievement. Also, the relationship of children with parents, siblings and friends are harmed, characterized by increased negativity, conflicts, aggression and coercion"<sup>19</sup>.

In a large number of situations, children stay with their mothers, who face problems associated with poverty, have increased problems since they do not rarely move to neighborhoods that are problematic in themselves with several problems such as inadequate schools, delinquency, low results

---

<sup>17</sup> Cf. R. Bogdan, R. & S. Biklen. *Qualitative research in education*. Porto: Porto Editora. 2009.

<sup>18</sup> See SK Houseknecht & DW Hango. The impact of marital conflict and disruption on children's health. *Youth & Society*, 38, 58-89. 2006.



schoolchildren in peer groups, high unemployment rates, families  
single-parent families and substance abuse, which enhance the negative effects of  
children who have gone through divorce. However, divorce can also offer  
a shift to a more harmonious, rewarding family situation and  
salutary.

### Regulation of the exercise of parental authority

Minors are protected by the legislation in force in Mozambique. In case  
separation, dissolution of marriage, whether due to the death of one of the spouses or  
for the purposes of divorce, the interests of children must always be guaranteed.  
In the case of non-contentious divorce, according to article 196 of the Family Law, the  
conservator must ensure the protection of the interests of the couple's children. The  
regulation of parental power, the provision of alimony, the division of the couple's assets  
and the fate of the family home, where applicable, have  
direct and indirect repercussions on the protection of the interests of minors,  
therefore constituting part of the agreements between the couple for the instruction of the process  
of divorce.

**Table 1.** Construction of the Analysis Model

Parent composition.

Participants:

Total Sex		Age						Training		Current marital status		
M	F	25-35	35-45	45-55	55-65	+65	Superior	Technicians	Single	Married	Union	Facts
1	4	5		3	2		2	3		2		

**Source:** Questionnaire addressed to children, adapted by the author/2022

As illustrated in Table 1, of the 5 parents interviewed, 4 are female and 1 is male.

2 with a bachelor's degree and 3 with a technical degree. Regarding current marital status 3

are single and 2 are married, the age range is 45 to 55 years old corresponding to 3 interviewees and 55 to 65 corresponding to 2 countries.

Sex Total		Age	Training								Live with		
M	F	13-18	18	23	+28	EP2	Secondary	Technical	Degree	frog	Father	Mother	Grandmother
6	9	15	5	8	2				7	3	3	10	1

**Source: Questionnaire addressed to children, adapted by the author/2022**

Table 2 shows that, of the 15 respondents, the majority of respondents are in the age group of 18 23 years of age corresponding to 8, followed by the age group of 13 to 18 years corresponding to 5 and finally from 23 to 28 years. Regarding training, 7 of the respondents have a technical level, 5 have secondary education and 2 are attending higher education (degree). Regarding current experiences, 10 of those surveyed responded that they live with their mother, 3 with his father and 1 with maternal grandfather.

### Study Limitations

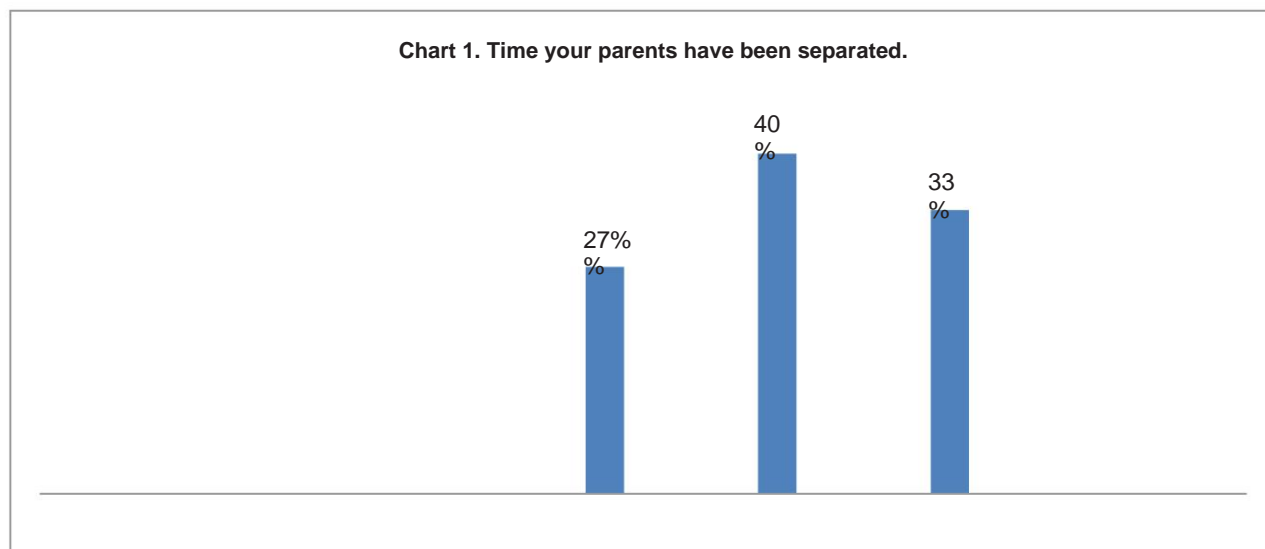
During the execution of this study, several constraints were encountered that limited in the elaboration of certain procedures, highlighting: managing time, access to field to be researched and acquisition of bibliographic materials (physical and electronic), write a scientific text.

### Data Analysis and Interpretation

### Presentation and Discussion of Results

This section will be dedicated to the presentation and discussion of the results from interviews about the legal, social and economic consequences that children of separated parents suffer.

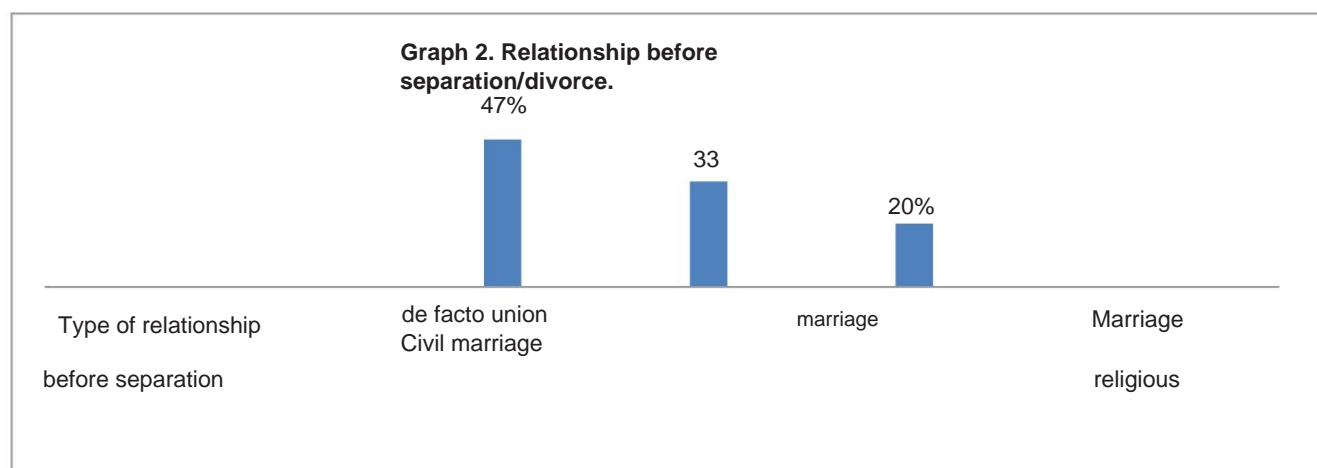
## CHART 1. HOW LONG HAS IT BEEN YOUR PARENTS SEPARATED?



**Source:** Questionnaire addressed to children.

According to graph 1, of the 15 respondents, 40% responded that their parents separated in the range of 10 to 15 years, 33% in the range of 15 to 20 years and 27% in the range of 5 to 10 years.

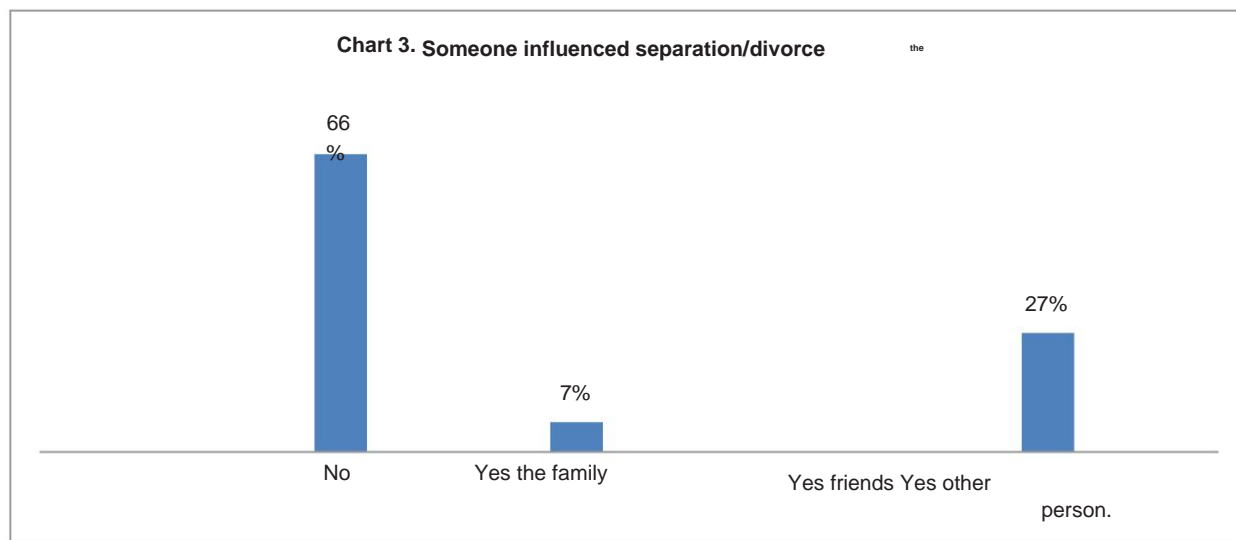
**GRAPH 2. TYPE OF RELATIONSHIP BEFORE SEPARATION/DIVORCE**



**Source: Questionnaire addressed to children.**

As illustrated in graph 2, of the 15 respondents, 47% responded that their parents before separation or divorce lived in a de facto union, 33% in civil marriage and 20% in traditional wedding.

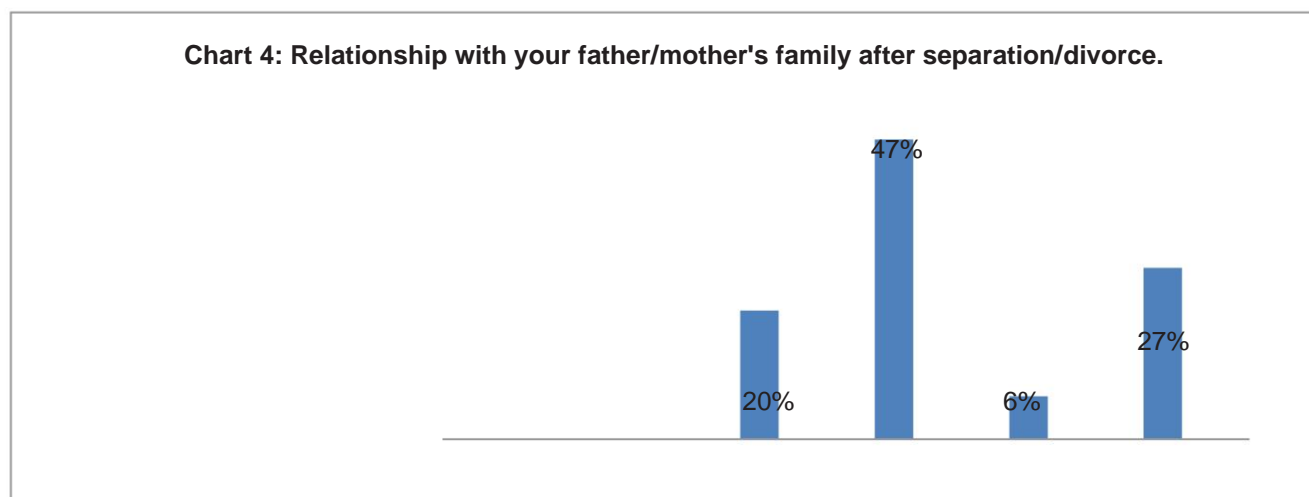
**FIGURE 3. DID SOMEONE INFLUENCE THE SEPARATION/DIVORCE?**



**Source: Questionnaire addressed to children.**

According to graph 3, of the 15 respondents, 66% responded that no one influenced the separation of their parents, 27% answered yes someone influenced the separation, in this case the current husband or wife and 7% responded that the family influenced the separation or divorce.

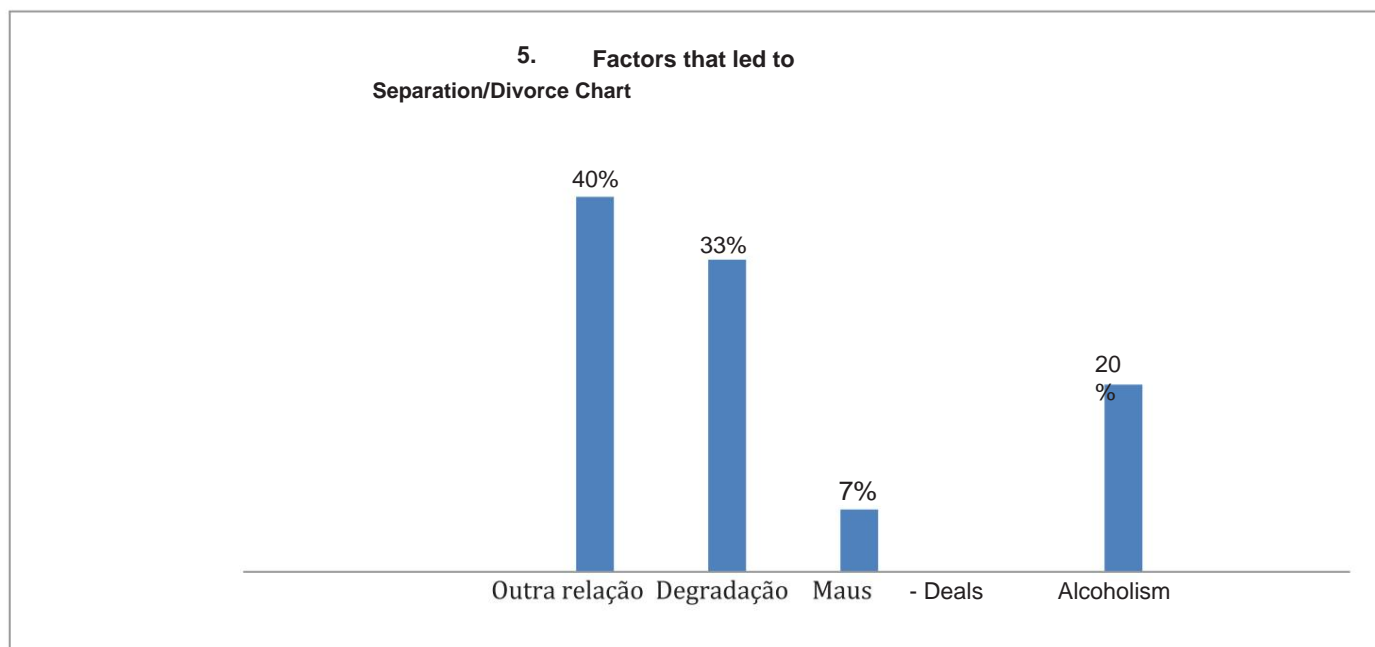
**FIGURE 4. WHAT IS YOUR RELATIONSHIP WITH YOUR FAMILY CURRENTLY LIKE?  
FROM YOUR FATHER/MOTHER AFTER SEPARATION OR DIVORCE?**



Source: Questionnaire addressed to children

According to graph 4, of the 15 respondents, 47% responded that the relationship with the family of their parents after separation or divorce is reasonable, 27% do not have any relationship, 20% good and 6% responded negatively that they have a bad relationship with your parents' family after separation or divorce.

**FIGURE 5. WHAT FACTORS LED TO SEPARATION/DIVORCE?**

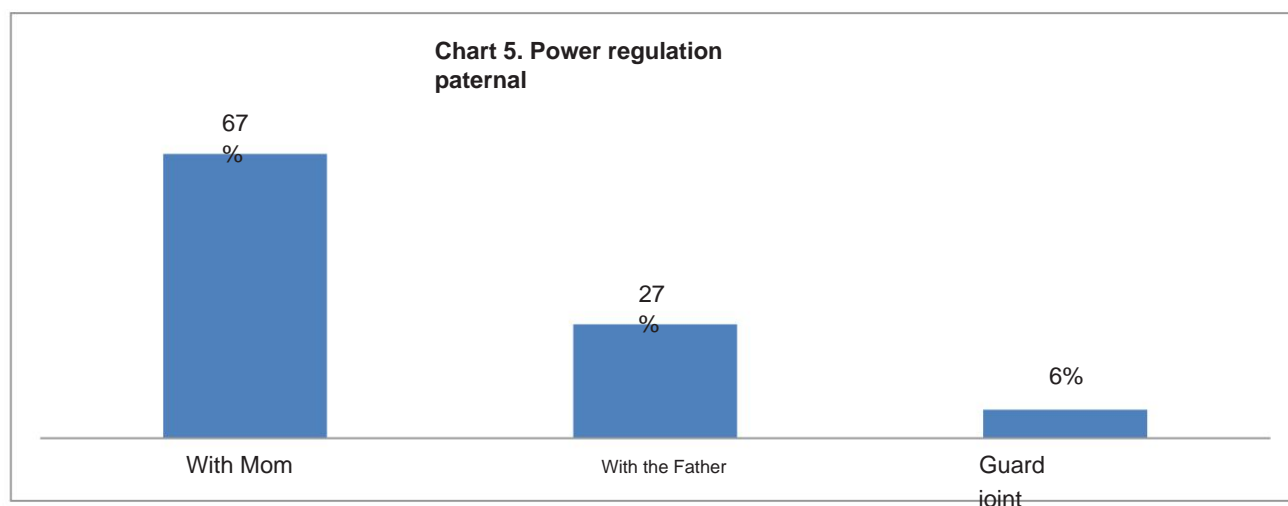


**Source: Questionnaire addressed to children.**

According to graph 5, of the 15 respondents, 40% responded that the factors that influenced the separation or divorce of their parents, it was another relationship, 33% relationship degradation, 20% alcoholism and 7% abuse.



**FIGURE 6. WHO WAS RESPONSIBLE FOR REGULATING THE EXERCISE OF POWER?  
 FATHERLY?**



Source: Questionnaire addressed to children.

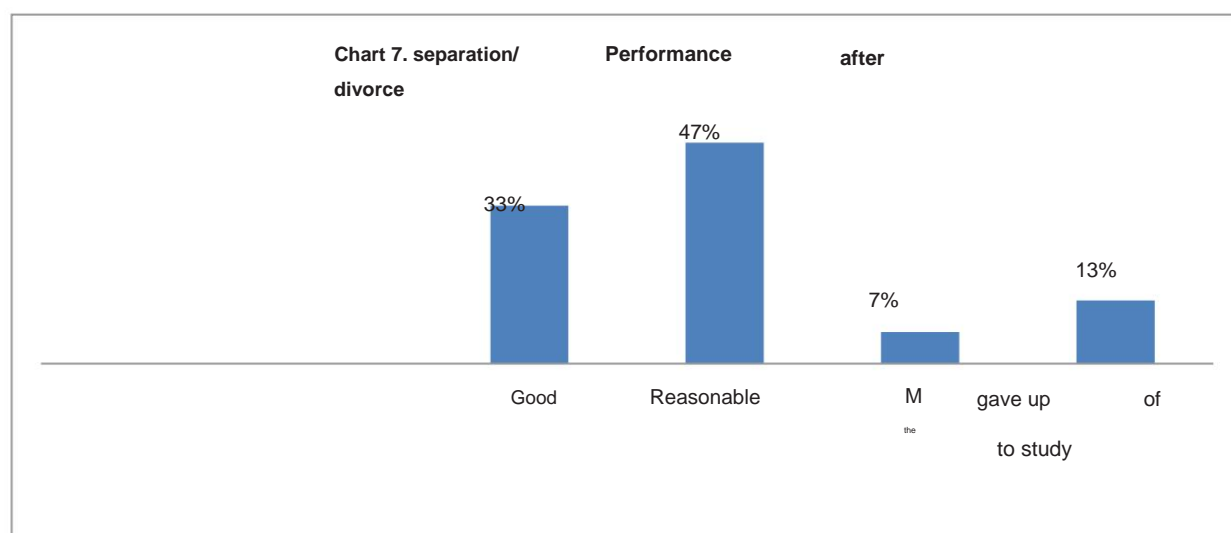
As illustrated in graph 6. Of the 15 respondents, 67% responded that the regulation of exercise of parental authority was with the mother, 27% with the father and 6% joint custody. Observing the data, it is concluded that the majority of respondents (children) stay with the mother, thus to alleviate the discord and suffering of the child and adolescent, in this context, it is necessary to insert into the Mozambican legal system, custody shared in terms of the separation of de facto unions, traditional marriage or civil.

The assignment of the new custody model to both parents balances the roles parental. Responsibilities fall on both, as well as the most important decisions important must be taken together. According to Quintas (2009, p. 68), With the shared custody, it is not intended that the former couple maintain a relationship with each other as it was before, only that the decisions concerning the children are taken together and that both can maintain contact with their child whenever possible and in the way they agree. Shared custody does not mean equal time with the child, but that the child has access to the parents whenever necessary.

Corroborating the author, Leite (2003) states that children in joint custody do not create the distorted image that the exclusivity of traditional custody fosters, this is, the exclusive and suffocating bond to a single parent. As is known, when the child

lives with only one parent (who has not yet overcome the conflicts of separation) he tends to remove the other parent from the child's imagination.

**FIGURE 7. AT SCHOOL, HOW DO YOU CONSIDER YOUR PERFORMANCE AFTER SEPARATION/DIVORCE?**



Source: Questionnaire addressed to children.

According to graph 8, of the 15 respondents interviewed, 47% responded that their school performance after separation or divorce of their parents is reasonable, 33% good, 13% dropped out of school and 7% bad.

The education of children should be discussed between parents, with the aim of seek the best education for the child or adolescent. The Constitution of the Republic provides that *"parents have the duty to assist, raise and educate their minor children, and their children Adults have the duty to help and support their parents in old age, need or illness."*

## CONCLUSION

To conclude that, the child builds his personality based on experiences of their parents, as they provide them with security and stability, elements indispensable to their first apprehensions of reality. Therefore, it is within the family that the individual absorbs the experience of being sometimes united, or separated, which can

be perceived from a very early age, first in relation to the mother, then to the father and to the brothers, becoming the family, a true laboratory of relational experiences and of learning, where all affections are developed.

From the breakdown of marital ties, parental alienation arises as a behavior truly harmful to children and adolescents, placing them as actors in the dispute over child custody and instruments of revenge and revanchism arising from breakdown of feelings between parents. Blame for the end of the parents' marriage constitutes one of the most serious effects on the formation of personality, which requires parents who are separating to get closer and have greater dialogue in order to distance themselves from children, the idea of responsibility for divorce.

In cases of separation, the likelihood of conflict between spouses and their families happens due to lack of consensus and an impartial mediator. The results allow also understand that there are greater chances of occurrence of cases of instrumentalization of minors by the guardian who holds the minors in custody, sometimes causing the child to develop a certain distance and detachment emotional in relation to the family and the parent who is away most of the time of the minor.

## REFERENCES

- ALMEIDA, V. Children's Literature. Curitiba: Fael, 2011.
- ANDRADE et al. (1998). Families in the context of change in Mozambique. Maputo: Wilsa Mozambique.
- BOGDAN, R. & BIKLEN, S. (1994). *Qualitative Research in Education*. Porto: Porto Publisher.
- EYMANN A., Busaniche, J., Llera, J., De Cunto, C. & Wahren, C. (2009). Impact of divorce on the quality of life in school-age children. *Journal of Pediatrics*.
- GRZBOWSKI, L.; & WAGNER, A. (2010). Father's House, Mother's House: Coparenting after Divorce. *Psychology: Theory and Research*, 26, pp. 77-87.
- HETHERINGTON, M. (2003). Intimate pathways: Changing patterns in close personal relationships across time. *Family Relations*, 52, pp. 318-331



HOUSEKNECHT, S. K & HANGO, D. W. (2006). The impact of marital conflict and disruption on children's health. *Youth & Society*, 38, 58-89.

JOHNSON, P; THORNGREN, JM & SMITH, AJ (2001). Parental Divorce and Family Function: Effects on Differentiation Levels of Young Adults. *The Family Journal*, 265-272.

KALMIJN, M. & van Groenou, M.B. (2005). Differential effects of divorce on social integration. *Journal of Social and Personal Relationships*.

MALUNGA, M.; Oliveira, J. (2005). Annotated Civil Registry Code. Lisbon: Office for European International Relations and Cooperation (GRIEC).

MONTEIRO, W. (2011). *Marital breakdown and its legal consequences: essay about parental alienation*.

OLIVEIRA, Maxwell Ferreira de (2011). *Scientific Methodology: a manual for the conducting research in Administration*. Catalan: UFG.

TEIXEIRA, Ana Carolina Broxado. **Family, custody and parental authority**. 2nd ed. Rio de Janeiro January: Renew, 2009.

TRINDADE, Jorge. Incest and parental alienation: A reality that justice insists on not seeing. In: DIAS, Maria Berenice. (Coord.) *Alienation Syndrome*. 2nd ed. Courts, 2010.

## LEGISLATION

Constitution of the Republic of Mozambique, 2004.

The Civil Registry code.

Law No. 8/92 of 6 May, which approves the **Divorce Law**. Mozambique – Council of Minister.

Law No. 22/2019, of December 31, which approved the family law.