Parental Alienation in Divorce Proceedings: A Systematic Review

Alienación parental en los procesos de divorcio: una revisión sistemática

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Abstract

In the context of divorce proceedings, parental alienation has emerged as a complex issue that profoundly affects family relationships and the rights of the child. This study addresses its impact from a legal and psychological perspective. The aim of this study is to analyze how parents may negatively influence their children during divorce proceedings, with particular attention to the impact of this influence on child welfare and on court decisions on custody and visitation. The methodology used consisted of a systematic review of 19 scientific articles selected from academic databases, through the use of descriptors such as "parental alienation", "divorce proceedings" and "family law", through the PRISMA protocol. The analysis included the study of legal frameworks, applicable regulations and relevant doctrinal citations. The results show that parental alienation is a critical problem in separation processes, with significant repercussions both on the rights of the parents and on the best interests of the child. It was identified that legislation in countries, such as Spain and Ecuador, recognizes the need for reforms aimed at establishing legal and psychological intervention strategies that mitigate the effects of this phenomenon on the emotional development of minors. In conclusion, the study highlights the importance of designing objective judicial procedures, supported by interdisciplinary criteria that ensure the comprehensive protection of minors in contexts of high family conflict.

Keywords: best interests of the child, family law, legal intervention.

Resumen

En el contexto de los procesos de divorcio, la alienación parental ha emergido como una problemática compleja que afecta profundamente las relaciones familiares y los derechos del niño. Este estudio aborda su impacto desde una perspectiva jurídica y psicológica. El presente estudio tiene como objetivo analizar la forma en que los padres pueden influir negativamente en sus hijos durante un proceso de divorcio, con especial atención al impacto de dicha influencia en el bienestar infantil y en las decisiones judiciales sobre custodia y régimen de visitas. La metodología empleada consistió en una revisión sistemática de 19 artículos científicos seleccionados de bases de datos académicas, mediante el uso de descriptores como “alienación parental”, “procesos de divorcio” y “derecho de familia”, a través del protocolo PRISMA. El análisis incluyó el estudio de marcos legales, normativas aplicables y citas doctrinarias relevantes. Los resultados evidencian que la alienación parental constituye un problema crítico en los procesos de separación, con repercusiones significativas tanto en los derechos de los progenitores como en el interés superior del niño. Se identificó que legislaciones de países como España y Ecuador reconocen la necesidad de reformas orientadas a establecer estrategias de intervención legal y psicológica que mitiguen los efectos de este fenómeno sobre el desarrollo emocional de los menores. En conclusión, el estudio resalta la importancia de diseñar procedimientos judiciales objetivos, respaldados por criterios interdisciplinarios, que aseguren la protección integral del menor en contextos de alta conflictividad familiar.

Palabras clave: interés superior del menor, derecho de familia, intervención legal.

Introduction

Parental Alienation (PA) is a phenomenon observed in separation and divorce processes, characterized by a series of behaviors that undermine the image of one parent—typically the non-custodial parent—in the perception of the child. These behaviors are often conceived and executed by the custodial parent, stemming from the establishment of legal and financial measures. It represents a dysfunctional dynamic that diverges from a healthy family system, perpetuating interparental conflict and fracturing relationships between parents, which directly impacts the emotional, structural, and social development of the child due to the negative effects on their attachment and emotional stability.

Currently, the world acknowledges the best interests of the child as a fundamental principle in divorce processes, directly related to their comprehensive development and protection from family conflicts. In this context, the phenomenon of parental alienation emerges as an increasingly relevant issue, as it involves psychological manipulation exerted by one parent over the child, aimed at deteriorating or nullifying the emotional relationship with the other parent. This behavior not only violates the rights of both parents but also severely affects the child’s emotional development, sense of family stability, and ability to form healthy emotional bonds (Davila Rodriguez & Miranda Valencia, 2022).

The relevance of addressing this phenomenon intensifies in light of the increasing number of divorce processes and custody disputes, where alienating behaviors are frequently reported. In Latin America, various studies have highlighted its presence as a dysfunctional dynamic with long-term consequences on the mental health of children and the efficiency of the family justice system (Martínez, 2021).

Internationally, countries such as Spain, Brazil, and Mexico have begun to develop regulatory frameworks and legal and psychological strategies to confront parental alienation. These measures aim to ensure respect for family rights and prevent conflicts between parents from harming the child, emphasizing the importance of interdisciplinary intervention in these cases (Martínez, 2021). In Latin America, the concept has gained traction in family legislation, becoming crucial in debates concerning custody, visitation rights, and the psychological impact of divorce on children and adolescents.

In Peru, although parental alienation is not explicitly defined in current legislation, it has been recognized in various judicial rulings related to custody and visitation rights. National jurisprudence has emphasized the need to protect the child from the psychological consequences arising from these conflicts, underscoring that it is the duty of judicial bodies to ensure their well-being and their right to maintain a meaningful relationship with both parents. However, challenges remain concerning the lack of a specific legal framework and the need for specialized training for justice operators (Ticona Machaca, 2024).

In this context, the present study aims to analyze how parents can negatively influence their children during a divorce process, with particular emphasis on the impact of such influence on minors and on judicial decisions regarding custody and visitation rights. Additionally, it seeks to propose measures aimed at mitigating these adverse effects, ensuring the protection of the fundamental rights of children and adolescents.

Moreover, the practical utility of this research lies in the potential to formulate strategies and recommendations based on the findings that contribute to the emotional well-being of minors and promote a more equitable resolution of family conflicts. Ultimately, it is imperative that justice systems prioritize the comprehensive protection of the child in divorce contexts, ensuring the involvement of specialized judges and full respect for their rights, in order to effectively prevent and address the harmful effects of parental alienation.

Methodology

This research was conducted using a systematic literature review approach to analyze the current state of knowledge regarding parental alienation in divorce processes, with special attention to the Peruvian context. A comprehensive search for academic studies was performed in databases recognized for their scientific rigor, such as Scopus, Scielo, and other specialized digital repositories in legal, social, and psychological sciences. Only publications disseminated between 2015 and November 2023 were included, prioritizing those published in indexed and reliable journals, as well as relevant works available in academic books and other pertinent bibliographic sources.

Data collection took place between October and December 2023. Selected studies had to address cases of families or minors involved in divorce processes where elements compatible with parental alienation were identified. A uniform terminology was maintained throughout the process, considering scientific articles, empirical research, and case studies with legal and psychological implications as valid sources.

The selection procedure was executed in two phases. In the first stage, a preliminary review of titles and abstracts was conducted to filter documents meeting the inclusion criteria. Subsequently, in the second stage, a detailed reading of the full texts of the preselected studies was carried out to verify their thematic and methodological relevance. Search strategies included keywords such as "parental alienation," "divorce," "children's rights," and "Peruvian legal system," applied to titles, abstracts, and descriptors.

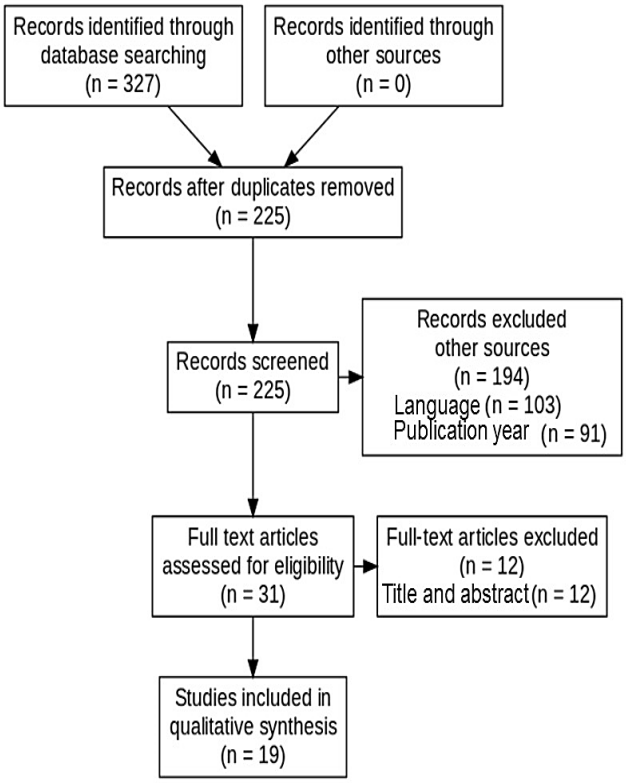
The results of this process were organized using the PRISMA flow diagram protocol, which documented each phase of the procedure clearly and reproducibly. The diagram recorded the total number of documents identified, those excluded for not meeting the established criteria, and the studies finally selected for analysis.

In total, the initial search yielded 327 references. During the filtering stage, 102 duplicates were removed. In the initial screening, 194 publications were excluded for not meeting the inclusion criteria, primarily regarding the year of publication and language. This left a total of 31 sources for a second evaluation. After a complete reading of the texts, 12 studies were excluded due to lack of alignment with the objectives of this work. Ultimately, 19 studies that met the required methodological and thematic standards were included.

The combinations of keywords employed in the search utilized Boolean operators and included the following: "alienación parental" AND "divorcio", "alienación parental" AND "derechos de los niños", "alienación parental" AND "sistema judicial", as well as their English equivalents: "parental alienation" AND "divorce", "parental alienation" AND "children’s rights", and "parental alienation" AND "legal system".

These combinations were used in both Spanish and English, depending on the language of the consulted repositories. The search was conducted in titles, abstracts, and keywords within indexed academic databases such as Scopus, Scielo, Redalyc, Dialnet, and EBSCO.

Figure 1: PRISMA diagram



Results

The results of the 19 selected studies are presented descriptively, as the qualitative nature and methodological diversity of the works did not permit statistical analyses or meta-analyses. Table 1 summarizes the main characteristics of the included studies, providing an overview of their approaches, methodologies, and findings.

Table 1

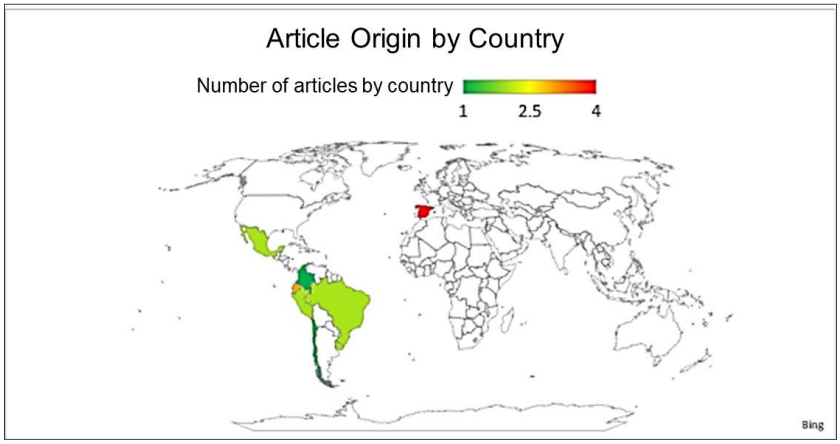
Consolidation of the 19 articles classified for the 2019-2024 period

N°	Author(s)	Year	Type of Study	Methodology	Origin	Indexed Journal
1	Blandino Garrido, M.	2022	Academic article	Legal analysis	Actualidad Jurídica Iberoamericana.	Scopus
2	Armijos-Marca, E.	2024	Academic article	Qualitative document analysis	Digital Publisher CEIT	Scopus
3	Pérez Martín, A.	2024	Academic article	Qualitative document analysis	Revista De Derecho De Familia: Doctrina, Jurisprudencia, Legislación	Dialnet

4	Carrascosa González, J.	2024	Academic article	Qualitative comparative study	Cuadernos De Derecho Transnacional	Dialnet
5	Cabrera Cabrera, S.	2023	Academic article	Qualitative document analysis	Revista Latinoamericana De Ciencias Sociales Y Humanidades.	Dialnet
6	Espinosa Encarnación, M. S., Pucha Peláez, B. G., & Ramón Merchán, M. E.	2020	Academic article	Qualitative document analysis	Revista Pedagógica De La Universidad De Cienfuegos.	Scielo
7	Pinzón-Pérez, C. I., & Colunga-Rodriguez, C.	2023	Academic article	Qualitative theoretical analysis	Scielo Preprints.	Scielo
8	Waquim, B.	2022	Academic article	Qualitative theoretical analysis	Revista Opinião Jurídica Fortaleza	Redalyc
9	Carlos, I.	2022	Academic article	Qualitative document analysis	Revista De Derecho	Redalyc
10	Barcia, R.	2019	Academic article	Qualitative comparative study	Boletín Mexicano De Derecho Comparado.	Redalyc
11	Barlocci, I., & Fernández Ramirez, L.	2023	Academic article	Qualitative critical review	Revista De Derecho.	Ebsco
12	Zavaleta, D., & Rivera, A.	2023	Academic article	Qualitative theoretical-philosophical study	Revista De Filosofía	Ebsco
13	Larenas, C. V.	2020	Academic article	Qualitative document analysis	Revista De Derecho	Ebsco
14	Ferreira Lopes, A. L., &	2023	Academic article	Systematic review	Revista Foco (Interdisciplinary Studies Journal)	Ebsco

	Mesquita, L. M.					
15	Trillo-Padilla, F., Zaldívar-Basurto, F., & García-García, J.	2019	Academic article	Qualitative exploratory study	Universitas Psychologica	Ebsco
16	Baker, A. J. L. (2020)	2020	Academic article	Literature review	Journal of Family Studies	Ebsco
17	Kelly, J. B. (2021)	2021	Academic article	Qualitative empirical research	Family Relations	Ebsco
18	Johnston, J. R. (2022)	2022	Academic article	Qualitative critical review	Canadian Journal of Family Law	Redalyc
19	Martínez, L. (2021)	2021	Academic article	Legal analysis	Revista de Derecho de Familia	Redalyc

Figure 2
Map showing the geographical distribution of selected scientific articles



From the thematic analysis of the literature, five recurring lines were identified regarding parental alienation and its treatment in the legal sphere: the legal aspects of the phenomenon, the impact on child welfare, the role of mediation and shared custody, the challenges within the judicial system, and the debate surrounding the scientific validity of parental alienation syndrome.

Regarding normative approaches, various studies highlight legislative gaps, comparative approaches, and reform proposals. Armijos-Marca (2024) indicates that the lack of explicit recognition of parental alienation in Ecuadorian legislation negatively affects visitation rights and the well-being of the child. Similarly, Carlos (2022) reveals deficiencies in the Peruvian legal framework and suggests reforms aimed at preventing adverse psychological consequences for involved minors. In this line, Blandino Garrido (2022) examines normative advances in legal capacity, concluding that parental alienation remains an inadequately addressed issue.

In the international context, studies by Carrascosa González (2024) and Pérez Martín (2024) emphasize that jurisdictional conflicts and disputes over shared assets can exacerbate dysfunctional family dynamics. On the

other hand, authors like Acosta-Daza (2020), Bernales (2019), and Rodríguez (2018) underscore the necessity of ensuring access to justice that respects the principle of the best interests of the child, in accordance with international standards.

Another significant line focuses on the psychological and emotional consequences of parental alienation on children and adolescents. Research by Baker (2020), Kelly (2021), and Ferreira Lopes & Mesquita (2023) warns about the lasting effects of this phenomenon on the emotional development of minors, stressing the importance of early intervention and psychological support during separation processes. Additionally, Pinzón-Pérez & Colunga-Rodríguez (2023) address the phenomenon from developmental psychology, proposing that parental alienation can constitute a violation of fundamental rights. From a philosophical perspective, Zavaleta & Rivera (2023) position the right to emotional well-being as a central axis in judicial decision-making.

Family mediation and shared custody emerge as effective strategies to prevent or mitigate the effects of parental alienation. Cabrera Cabrera (2023) & Larenas (2020) highlight mediation as a key tool for reducing parental conflict and safeguarding the best interests of the child. Espinosa Encarnación et al. (2020) and Barcia (2019) argue that shared custody promotes co-responsibility and minimizes tensions between parents, thereby reducing the incidence of alienating behaviors.

Several studies also caution regarding the challenges faced by the judicial system in identifying and adequately addressing cases of parental alienation. Martínez (2021) emphasizes the need for specific training for judges and family justice operators, while Johnston (2022) recommends caution in using the term "parental alienation syndrome," advocating for interdisciplinary evaluation involving mental health professionals.

There is an ongoing critical debate regarding the scientific validity of parental alienation syndrome. Barlocci & Fernández Ramírez (2023) question its incorporation into judicial processes without sufficient empirical support. Similarly, Waquim (2022) proposes understanding parental alienation as a form of symbolic violence, particularly relevant in Latin American contexts of marital separation.

Overall, the findings indicate that parental alienation requires a clear normative response, improved training for judicial system operators, and strengthened co-responsibility strategies, such as shared custody, to ensure healthier family environments for minors. This necessitates a multisectoral approach that integrates law, psychology, pedagogy, and social work to comprehensively address an issue that, although invisible in legislation, has tangible and lasting consequences on childhood development.

Discussion

Parental alienation presents itself as a complex and multidimensional phenomenon that has gained increasing relevance in the context of divorce processes in Peru, particularly concerning child custody and visitation rights. Although it currently lacks explicit recognition within the Peruvian normative framework, the reviewed literature agrees that its effects violate the fundamental rights of minors, especially their right to emotional well-being and to maintain meaningful relationships with both parents. This right, enshrined in international instruments such as the Convention on the Rights of the Child, is compromised by the absence of legal mechanisms that allow for effective and timely intervention.

Authors like Carlos (2022) highlight that the lack of a specific legal framework to address parental alienation complicates the judicial system's operations, resulting in decisions that do not always guarantee the protection of the child's best interests. This perspective aligns with that of Zavaleta & Rivera (2023), who conceptualize this phenomenon as a violation of the human right to child welfare from a philosophical-legal viewpoint. Both agree on the necessity to reinforce the centrality of the principle of the child's best interests, especially in a system that still presents structural limitations and scarce access to specialized technical resources.

A recurring proposal in the literature is the incorporation of an integrated perspective that articulates legal, psychological, and ethical considerations to ensure more effective protection for minors caught in parental conflicts. This disciplinary convergence is a necessary trend for future reforms in public policy regarding family law.

From another angle, various studies emphasize shared custody as a preventive measure against the emergence of parental alienation behaviors. Espinosa Encarnación et al. (2020) argue that this custody arrangement favors a more equitable balance in family relationships post-divorce, thereby reducing the conditions for emotional manipulation of minors by one parent. Their qualitative review of legal literature suggests that by more equitably distributing parental responsibilities, greater co-responsibility is promoted, and conflicts arising from unilateral control over parenting are mitigated.

This contrast reveals a significant tension in the legal treatment of parental alienation: on one hand, its harmful effects are recognized, and structured measures such as shared custody or family mediation are

proposed; on the other, the risks of judicializing without a solid technical foundation regarding still-debated diagnostic categories in the scientific community are evident. The proposal by Larenas (2020), which promotes family mediation from a psycho-legal approach, is particularly relevant in this debate, as it positions the child as a rights holder rather than an object of dispute among adults. By promoting sustainable agreements and reducing conflict, these mechanisms can serve not only as solutions but also as preventive measures against the emergence of alienation dynamics.

However, the effectiveness of these measures largely depends on their proper implementation. Managing cases with indications of parental alienation requires specialized and ongoing training for judicial system operators. As Barlocci & Fernández Ramírez (2023) point out, the hasty use of "parental alienation syndrome" could obscure real situations of abuse, dismissing valid testimonies and jeopardizing the child's integrity.

Johnston (2022) proposes a balanced approach: to apply the concept of parental alienation cautiously, supported by rigorous interdisciplinary evaluations. This stance allows for harmonizing the protection of the child against manipulations with the need to avoid unjustly discrediting legitimate reports of domestic violence. Consequently, all judicial decisions should be based on objective technical criteria, with the active involvement of professionals specialized in mental health and family law.

In summary, the reviewed studies agree that parental alienation in Peru constitutes an issue that demands a comprehensive and multidisciplinary legal approach. It is urgent to move toward specific regulation that delineates this concept within family law. The absence of clear regulations limits the judicial system's ability to act in situations that, while frequent, do not find sufficient normative support.

One viable alternative is the incorporation of shared custody into Peruvian legislation to promote parental co-responsibility and reduce the impact of emotional manipulation. Concurrently, it is essential to strengthen family mediation programs by equipping them with specific tools for the detection and treatment of parental alienation.

These advancements must be accompanied by continuous training for judges, prosecutors, public defenders, and professionals involved in family processes, ensuring fairer decisions centered on the best interests of the child. Similarly, the use of concepts like "parental alienation syndrome" should be critically evaluated and applied rigorously, avoiding generalizations or misinterpretations that could lead to re-victimization or dismissal of violence reports.

Finally, it is crucial to promote awareness campaigns aimed at the public and justice system stakeholders. These campaigns can help establish a legal culture that prioritizes the emotional well-being of minors, recognizing the lasting impact of family conflicts that are not managed appropriately. Only through a coordinated response among legislation, judicial practice, and psychosocial intervention can we prevent couple conflicts from evolving into new forms of covert emotional violence against children.

Conclusions

Parental alienation in divorce processes is a complex phenomenon that can occur anywhere in the world and affects various social, educational, religious, and cultural groups. A multidisciplinary approach has allowed for the identification of various conceptual frameworks, although challenges remain in establishing a singular definition. Nonetheless, a common framework acknowledges four essential elements linked to this phenomenon: the behavior of alienation, the transfer of conflict to the child, the alienated subject, and the psychological harm generated. The behavior of alienation, whether direct or indirect, significantly contributes to the deterioration of family ties and the well-being of the child.

While definitions vary according to researchers' perspectives, there is consensus in characterizing parental alienation as a set of practices wherein one parent, actively or passively, seeks to distance the child from the other parent, interfering with their emotional bond. These actions often involve emotional manipulation, distortion of reality, and controlling behaviors that negatively impact the emotional development of the child.

From this perspective, parental alienation can be considered a form of child abuse, as it exposes minors to dynamics of emotional violence and instrumentalizes them within the conflict between adults. This situation generates environments of tension and helplessness in the family unit, complicating the timely detection of the problem, as well as its appropriate evaluation and professional intervention.

Based on the analysis conducted, it is concluded that the Peruvian state must advance toward a regulatory reform that includes specific mechanisms for identifying and treating parental alienation, strengthening family mediation as a preventive and conflict resolution tool. Furthermore, it is indispensable to implement interdisciplinary training programs aimed at judges, judicial operators, and professionals involved in family law to ensure effective protection of the child's best interests.

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