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Blended families in Peru: Contributions from the Argentine legal model

Familias ensambladas en el Perú: aportes del modelo jurídico argentino

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Abstract

This article addresses the increasingly urgent need for Peru to legally recognize blended families, a growing form of family organization that lacks clear regulation in current legislation. Using a qualitative approach based on interviews with specialists in Constitutional and Family Law, three recurring problems are identified: discrimination stemming from the lack of recognition of these bonds, legal uncertainty hindering everyday decisions, and the negative impact on the child's best interests due to the absence of legal support for the stepparent in raising the child. The study contrasts this reality with the Argentine model, where the 2015 Civil and Commercial Code regulates affinity and the responsibility of the stepparent, demonstrating the feasibility of regulating relationships already established in practice. Methodological triangulation and a review of contemporary theories on the family confirm that the Peruvian legislative omission restricts fundamental rights such as identity, child support, and the continuity of affective bonds. Consequently, a specific statute is proposed to provide coherence and protection to these families, allowing for the full application of the principle of the best interests of the child in diverse and dynamic family contexts.

Keywords: blended families, legal uncertainty, Argentine model, legislative omission, protection.

Resumen

El artículo aborda la necesidad, ya difícil de ignorar, de que el Perú reconozca jurídicamente a las familias ensambladas, una forma de organización familiar en constante crecimiento que carece de regulación clara en la legislación vigente. Mediante un enfoque cualitativo, basado en entrevistas a especialistas en Derecho Constitucional y de Familia, se identifican tres problemas recurrentes: la discriminación derivada del no reconocimiento de estos vínculos, la inseguridad jurídica que obstaculiza decisiones cotidianas y la afectación al interés superior del niño por la ausencia de respaldo normativo para el progenitor afín en la crianza. El estudio contrasta esta realidad con el modelo argentino, donde el Código Civil y Comercial de 2015 regula el parentesco por afinidad y la responsabilidad del progenitor afín, demostrando la viabilidad de normar relaciones ya consolidadas en la práctica. La triangulación metodológica y la revisión de teorías contemporáneas sobre la familia corroboran que la omisión legislativa peruana restringe derechos fundamentales como la identidad, los alimentos y la continuidad de los vínculos afectivos. En consecuencia, se propone un estatuto específico que otorgue coherencia y protección a estas familias, permitiendo la plena aplicación del principio del interés superior del niño en contextos familiares plurales y dinámicos.

Palabras clave: familias ensambladas, inseguridad jurídica, modelo argentino, omisión legislativa, protección.

Introduction

In recent years, speaking of “the family” in the singular has become increasingly difficult to sustain. The classic image of the nuclear household, so pervasive in textbooks, official discourse, and even collective memory, no longer captures what actually unfolds in everyday life. Very different forms of cohabitation now coexist, and among them the blended family has become fairly common, even if it still unsettles certain sectors of society (Pinillos-Guzmán, 2020). In many cases, this configuration emerges almost organically, as two households that had already been functioning independently decide to merge their efforts, routines, and lives.

Other countries recognized this reality quite some time ago. Scandinavia, the United States, and several Latin American nations have chosen to regulate these families, not because doing so is fashionable, but because they need a framework capable of preventing confusion, particularly where children are concerned. The reasoning is fairly straightforward: if the best interests of the child stand as a guiding principle, then the law ought to make matters easier rather than more complicated.

In Peru, however, the situation differs markedly. As Adrianzén-García (2019) and Reynoso (2020) observe, a fairly conservative legislative outlook persists, one that seems to sidestep any attempt to acknowledge these family arrangements. This regulatory silence gives rise to concrete problems: uncertainty over child support, over who is entitled to make everyday decisions, and over responsibilities that are not always clearly defined, problems that tend to end up harming children (Halanocca-Paucar, 2020). It is not that this reality fails to exist; rather, the law simply lags several steps behind it.

The Constitutional Court has attempted to fill this gap. Its ruling on File No. 09332-2006-PA/TC recognized blended families as part of the family structures entitled to constitutional protection. Yet case law only intervenes once a conflict has already arisen, and it lacks the stability that a statute would provide. In this respect, Taquire (2020) points out that if the law is to be genuinely preventive, it requires more than a handful of isolated rulings.

Comparative law therefore proves useful here. In Argentina, for instance, the 2015 Civil and Commercial Code introduced specific provisions on these matters: kinship by affinity (Art. 536), the figure of the stepparent (Art. 672), and even the possibility of delegating parental responsibility (Art. 674). This is not a mere technical adjustment; it represents an attempt to bring order to a reality that had already existed for a long time, as Ganong et al. (2020) note.

This debate rests on several theoretical frameworks that help explain why the law needs updating. The New Sociology of the Family and Family Pluralism both argue that the family no longer fits a single mold (Pinillos-Guzmán, 2020). Social expectations continue to shift, and household dynamics shift along with them (Bayona & Tijo, 2018). From a constitutional standpoint, Infante (2016) insists that the family deserves protection regardless of its particular configuration. For this reason, as Reynoso (2020) puts it, there is little justification for the State to keep overlooking blended families.

The principle of the best interests of the child runs through this entire discussion. González-Contró (2020) explains that this principle must guide any measure affecting minors. In practice, children are the ones who bear the consequences when blended families lack clear rules (García-Quispe, 2022). The theory of the socio-affective bond contributes further insight: Papernow (2018) shows that cohabitation and caregiving generate genuine parental bonds even in the absence of a biological tie. The law, then, cannot afford to disregard this evidence.

Once again, comparative law, particularly the Argentine case, offers a set of tools for conceiving a regulatory framework that responds to the needs of these families in Peru (Uribe-Arzate & Bustamante-Medrano, 2019). The point is not to copy that model, but to learn from experiences that have already grappled with similar problems.

Methodology

The study was carried out within a qualitative approach, following a basic, descriptive design. Rather than testing closed hypotheses, the aim was to understand how the reality of blended families in Peru is lived, and how it is or is not regulated. This approach made it possible to observe the legal phenomenon within its own context, without uprooting it from the social dynamics or the practical experience of those familiar with the field (Hernández-Sampieri & Mendoza-Torres, 2018).

Participants and selection criteria

For this research, five specialists in Constitutional and Family Law were purposively selected through non-probability sampling, with priority given to candidates possessing an established academic record, relevant publications, and direct experience with the tensions between law and family structures. Inclusion criteria were fairly strict: holding a master's or doctoral degree, demonstrating professional or teaching experience in the field, and having taken part in judicial proceedings or research related to family protection.

Instrument and validation

A semi-structured interview guide served as the primary instrument. Before it was administered, three experts in legal methodology reviewed it under the expert-judgment standard, assessing its relevance, coherence, and clarity (Rojas-Crotte, 2011). A pilot stage involving two preliminary interviews followed, which made it possible to refine terminology, remove unnecessary jargon, and reorganize certain questions.

Analytical process and coding

The analysis followed the sequence set out in the grounded theory approach proposed by Vivar et al. (2018). The procedure unfolded across three stages, each refined progressively:

1. **Open coding**, through which initial ideas relating to legal recognition, legislative omissions, and child protection were identified.
2. **Axial coding**, which made it possible to link categories such as "blended family," "recognized rights," and "duty of support."
3. **Selective coding**, from which the findings were organized around the principle of the best interests of the child as the core of the proposed reform.

To strengthen the credibility of the study, methodological triangulation was employed. This involved:

- **Source triangulation**, contrasting the interviews against comparative legislation and specialized legal scholarship.
- **Theoretical triangulation**, examining the data through the lenses of family pluralism and the theory of the socio-affective bond.
- **Researcher triangulation**, achieved through cross-review among three independent coders.

Several criteria of qualitative rigor were addressed throughout the study: credibility was secured by returning the preliminary results to participants for their review; transferability, through a detailed description of the cultural and legal context; dependability, through a meticulous record of the analytical process; and confirmability, by ensuring documentary support and traceability for every methodological decision.

This methodology made it possible to examine, through comparative law and qualitative evidence, the pressing need for a legal statute governing blended families in Peru. Comparing the Peruvian situation, marked by the absence of explicit regulation (Reynoso, 2020; Torre, 2017; Infante, 2016), with the Argentine model, which recognizes both the subsidiary duty of support and protection grounded in the socio-affective bond, opens the door to identifying institutions and principles capable of guiding a future legislative reform in the country.

Results

The analysis of the interviews conducted with five specialists in Constitutional and Family Law revealed clear areas of agreement regarding the urgency of legally recognizing and regulating blended families in Peru. To facilitate understanding, the findings are presented according to the objectives set out for the research.

Table 1

Synthesis of qualitative findings: the need for a legal statute governing blended families in Peru

Emerging category	Units of meaning (key findings)	Supporting rationale and quotations
Structural discrimination	Creation of an unjustified distinction from the nuclear family. Denial of concrete rights (health coverage, inheritance) to stepchildren.	"There is an improper distinction ... that borders on discrimination" (Centurión). This is consistent with Arroyo-Vargas (2020).
Legal uncertainty	Deliberate legislative omission driven by dogma and populist interests. Infringement of support and assistance-related rights.	"Peruvian legislation is acting unconstitutionally" (Hermoza). This echoes the findings of Ganong et al. (2020).

Best interests of the child	Economic and identity-related vulnerability of the child. The protective network expands once the obligations of the stepparent are recognized.	"The more people who bear this obligation ... the greater the chances of a dignified life" (Mgtr. Centurión). This aligns with González-Contró (2020).
Path toward a legislative solution	Need for a legal reform of the Civil Code. Constitutional case law provides a basic foundation but remains insufficient on its own.	"The substantive solution lies in amending the Civil Code through a legislative bill" (Torres Cordero).

Source. Author's own elaboration based on survey data from Urteaga (2021).

Findings related to the general objective: the need for legislative recognition

Participants agreed that the absence of regulation amounts to a form of structural discrimination against blended families. For Juan Carlos Centurión Portales, this omission carries concrete consequences, since it restricts stepchildren's access to rights such as health coverage or even inheritance, reproducing inequalities that find no justification within a constitutional state governed by the rule of law. This assessment aligns with the findings of Arroyo-Vargas (2020), who warns that the absence of a legal framework leaves hundreds of families exposed to future uncertainty regarding the enforceability of basic rights.

Jéssica del Pilar Hermoza Calero added that Peruvian legislation falls into an unconstitutional omission, since it fails to acknowledge that biological children and stepchildren should enjoy equal rights under equal conditions. Her assessment is consistent with the argument put forward by Martínez-Muñoz and Rodríguez-Yong (2020), who explain that social change tends to drive the legal restructuring needed to preserve the coherence of the system.

Regarding the obstacles standing in the way of this recognition, the specialists pointed to sociocultural factors rooted in conservatism. Hilda Melo Yllantico noted that certain dogmas, and even political interests, continue to delay legislative debate. Ganong et al. (2020) had already warned of something similar: the absence of regulation restricts access to basic rights and perpetuates the vulnerability of these families.

Findings related to specific objective 1: legal regulation and the right to child support

Regarding the feasibility of promoting comprehensive regulation, most experts agreed that the most plausible route is a reform of the Civil Code through a legislative bill that ties doctrinal foundations to constitutional case law. Luis Enrique Torres Cordero stressed the need to incorporate the Constitutional Court's criteria into this reform, a position that aligns with Cicerchia and Palacio-Valencia (2018), who remind us that the State bears an unwaivable duty to guarantee effective protection to every family configuration.

On the right to child support, the consensus was even more emphatic. Centurión explained that, in many cases, it is the stepparent who effectively provides for the child, particularly when the biological parent is absent. Hermoza added that allowing the putative parent to formally assume this responsibility strengthens the child's protection and aligns fully with the principle of the child's best interests. Coarite-Andrade (2020) agrees that such regulation is necessary given its protective, rights-securing character.

In the specialists' view, feasibility criteria should draw on constitutional case law, including Constitutional Court Ruling File No. 01204-2017-PA/TC, as well as on the formalization of the relationship, whether through marriage or cohabitation, which would make it possible to extend support obligations equivalent to those arising from parental authority. This position resonates with Ganong and Coleman (2020), who note that children's sense of security depends not only on the affective role played by the stepparent, but also on the social and legal safeguards available to them.

Findings related to specific objective 2: the best interests of the child and the duty of support

The specialists likewise agreed that clear regulation would broaden the protective network available to children. Centurión observed that the more individuals who are legally bound to provide sustenance and care, the greater the conditions for a dignified life become. Melo added that such regulation would keep

children from being left unprotected or dependent on unnecessary judicial proceedings simply to validate bonds that already exist in practice.

As for the connection between the best interests of the child and the duty of support, Luz Ada Tafur Chávez recalled that this principle serves as a cross-cutting guide for any family policy. For Torres Cordero, its application should not depend on the type of family involved, but rather on the concrete needs of the child, in line with what Tirado-Pertuz (2020) has written regarding the State's role in guaranteeing effective upbringing.

Finally, the specialists identified a particular type of harm faced by children when the obligations of the stepparent go unrecognized: a twofold form of vulnerability, both economic and socio-affective. As Melo warned, this situation affects emotional development and even the child's evolving sense of identity. González-Contró (2020) had already noted that the best interests of the child reflect the basic human imperative of protecting the continuity of the species from its most vulnerable stage onward.

Comparison between Peruvian and Argentine legislation

The specialists emphasized that, whereas Argentina has maintained a robust framework since 2015 that recognizes kinship by affinity and regulates the figure of the "stepparent" (Art. 672), Peru continues to rely on fragmentary legislation that makes no explicit mention of blended families. Del Valle Vargas (2022) explains that, although the Constitutional Court has made progress in recognizing certain inter vivos rights, gaps remain in matters of inheritance and property. According to the author, Peru needs (much as Argentina did) a constitutional and civil reform that recognizes socio-affective kinship.

Rojas-Peralta et al. (2025) note that Peruvian law shows comparable gaps in areas such as de facto custody and the protection of non-traditional families, which in turn produces inconsistent judicial criteria and leaves stepchildren and caregiving mothers in a position of vulnerability.

Along these same lines, Adrianzén-García (2019) underscores that extending the right to support to stepchildren is a pressing necessity grounded in the principle of family reality, while Taquire (2020) warns that the absence of regulation directly undermines the best interests of the child.

International perspective

These findings also align with international standards. The Convention on the Rights of the Child (1989), ratified by Peru, establishes in Articles 3 and 8 the State's obligation to safeguard the best interests of the child and preserve their family identity (UNICEF, 2020). The Inter-American Court, for its part, has broadened the notion of the protected family in cases such as Atala Riffo v. Chile (2012) and Fornerón and Daughter v. Argentina (2012), thereby recognizing the legal value of the socio-affective bond.

Table 2

Regulatory comparison between Peru and Argentina regarding blended families

Legal aspect	Peru	Argentina
Kinship by affinity	Article 237 of the Peruvian Civil Code addresses kinship by affinity. The Constitutional Court has judicially recognized the existence of affinity between stepparents and stepchildren, although parental rights remain without clear regulation.	The Argentine Civil and Commercial Code recognizes kinship by affinity under Art. 536. It defines a legal bond between the spouse or cohabiting partner and the relatives of the other party.
The stepparent figure	Not explicitly regulated under the Peruvian Civil Code; the corresponding duties and rights depend largely on case law and legal scholarship.	Art. 672 defines the "stepparent" as the spouse or cohabiting partner who lives with the person responsible for the child. Art. 673 sets out the duties of that stepparent (cooperating, making urgent decisions, and so forth). Art. 674 allows parental responsibility to be delegated to the stepparent, subject to judicial approval. Art. 675 governs joint exercise of parental responsibility should a parent die or be absent.

Support obligation of stepparents	Academic debate persists: some scholarship maintains that stepparents bear a subsidiary support obligation toward stepchildren, drawing on Constitutional Court rulings. No clear civil provision establishes support payments for stepparents, leaving the matter unsettled.	Art. 676 of the Argentine Code provides that the stepparent bears a subsidiary support obligation toward the other party's children for as long as cohabitation continues; a support payment may be set if the breakup causes harm.
Legal representation and custody	The Peruvian Civil Code contains no explicit provision on legal representation or parental authority for stepparents. Much depends on judicial interpretation and the particulars of each case. Academic scholarship calls for the formal recognition of the stepparent's role.	The Argentine legal regime allows for the formal delegation of parental responsibility to the stepparent (Art. 674), which extends to everyday child-rearing decisions subject to judicial validation.
Legal gaps and reform proposals	Numerous academic studies have highlighted legal gaps—concerning inheritance rights, support, and custody—affecting blended families in Peru. A preliminary bill to reform the Civil Code was proposed (Ministerial Resolution 46-2020-JUS) to recognize diverse family forms, including blended families.	Argentina already has a clear regulatory framework for blended families under its Civil and Commercial Code, which provides legal certainty for affinity-based bonds and for the parental responsibility of stepparents.

Source. Author's own elaboration (2025), based on the Peruvian Civil Code (1984) and the Argentine Civil and Commercial Code (2015).

Taken together, the results show that the legal recognition of blended families responds to a social, constitutional, and international need. The proposed conceptual-normative model, grounded in the socio-affective bond, substantive equality, and the best interests of the child, aligns with current trends in International Family Law and supports the urgency for Peruvian lawmakers to adopt a coherent, comprehensive regulatory framework.

General discussion

A review of the results makes it clear that nearly all the specialists point in the same direction: regulating blended families in Peru is no longer merely a pending matter, but an urgency that has lingered for years. What stands out is that, when this situation is set against developments abroad, a fairly clear gap emerges. While other legal systems have incorporated the socio-affective bond with relative ease, Peru appears to keep circling the same issue without resolution.

Turning back to Peru, the regulatory vacuum is hard to overlook. The specialists interviewed were consistent on this point: absent an express statute, blended families remain on uncertain ground. Melo Yllantico observes that, beyond the difficulties in accessing certain rights, there is a persistent risk that children will be unable to exercise those rights fully. Portales Centurión goes further, warning that this lack of regulation creates an unjustified, and troubling, divide between the nuclear family and the blended family. For Torres Cordero, this resistance has more to do with conservative dogma and rhetoric than with any serious legal analysis. What is certain is that, measured against the clarity of the Argentine model, this gap becomes increasingly difficult to justify.

With respect to specific objective 1, the discussion surrounding child support reveals a fairly direct problem: in the absence of a clear legal basis, everything remains subject to interpretation and to judicial proceedings that end up wearing families down. Hermoza Calero recalls that the Constitutional Court has attempted to provide answers, for example, in File No. 01204-2017-PA/TC, but this does not remove the need for a statute. Both Torres Cordero and Tafur Chávez agree that the only genuine solution lies in amending the Civil Code. Without a clearly defined support obligation, as exists in Argentina under Art. 672, children remain exposed.

As for specific objective 2, which addresses the best interests of the child, the testimonies gathered reveal a reality that often goes unnoticed in legislative debate. Centurión Portales points out that, in many families, daily sustenance comes from the putative father rather than the biological one. When the law disregards this fact, it ends up harming the very party it should protect: the child. Melo Yllantico adds that this vulnerability is not only economic but also bound up with identity. And according to Tafur Chávez, clear legislation could prevent many of the judicial proceedings that today have become unnecessary. Argentina, once again, offers a concrete example through the possibility of delegating parental responsibility (Art. 674), thereby ensuring continuity in child-rearing.

Taken as a whole, the discussion shows that Peru stands at a critical juncture: the technical knowledge needed to regulate exists, as do comparative points of reference, yet the law fails to move forward. This inaction carries real consequences for hundreds of children and for the adults who perform parental functions without any legal recognition. The Argentine experience demonstrates that a comprehensive statute is not only feasible but also strengthens protection for every member of the blended family.

Conclusions

The comparative analysis between Peru and Argentina allows this study to close with reflections intended to inform the debate over blended families in the country, rather than with definitive answers. Although the research explored multiple angles, it proceeds from an unavoidable premise: Peru still lacks regulation suited to the reality of these families, despite their constant presence in social life. This regulatory omission creates a climate of uncertainty that weighs particularly heavily on the children and adolescents living in such households.

By contrast, the Argentine system has moved toward more comprehensive regulation by expressly incorporating the figure of the stepparent and the effects of kinship by affinity. This contrast is not meant to idealize the Argentine model, but it does demonstrate the feasibility of a clear, well-ordered regulatory framework. What emerges from this comparison is the urgency for Peru to pursue a comprehensive reform, conceived not as a set of legislative patches, but as a coherent body of law capable of addressing matters that are currently resolved only through inconsistent criteria or case law alone.

Moreover, such legislative progress goes beyond mere political convenience to constitute a constitutional and conventional duty, given that international treaties and the Constitution itself require the protection of every family form without unjustified distinctions. Failing to regulate the obligations and rights arising within blended families perpetuates situations of vulnerability that a clear, explicit statute could otherwise prevent.

In sum, the findings reaffirm a simple yet crucial conclusion: blended families exist, fulfill genuine affective and caregiving functions, and require a legal framework that acknowledges that reality. It falls to lawmakers to take up this challenge and close a regulatory gap that has, for years, left thousands of people without legal support.

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