



FAMILY REALITIES

The Experience of the Judicial Power of Peru

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The Family in Postmodernity

The Postmodern Society is open to change. The new family model breaks the traditional scheme of the family, linked to the conception of marriage.

This change is clearly seen in human rights systems, as an expression of legal globalism, typical of the current historical stage with its important factor of globalization.

While in the universal system (Universal Declaration of Human Rights, Covenants on Civil and Political Rights and Economic, Social and Cultural Rights, the Inter-American Regional System reveals a decoupling between family and marriage (American Declaration of Human Rights and Protocol Of San Salvador).

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In the Constitution of Peru of 1979 there is this bond between family and marriage. In 1993, the two institutions were disassociated.

Thus, through the principle of the dynamic interpretation of Human Rights we move from the marriage-family relationship to the untying of these institutions. This means that the family is protected in general, regardless of origin.



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The main international instruments, recognizing the importance of the family, consecrate diverse rights with respect to her and her members, and the Courts dictate their sentences, supporting them in such rights:

- Right to establish a family or to found a family
- Right to live with family
- The right of the child to live with his natural family
- The right of the family to a decent life and an adequate standard of living
- Right to be free from interference with family life

In the Peruvian State there is a reply, in that double perspective: several of these rights are recognized in the Constitution and sentences are pronounced by the Constitutional Court regarding the family and its members.

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However, the family can not be analyzed as a static institution because it is contrary to its nature, but in a dynamic way according to its evolutionary process, from the **different perspectives that encompass this nature**, all the more so in the current historical stage characterized by the dizzying change of The institutions, which has to do with the phenomenon known as the "*acceleration of historical time*", imposes an approach that is not only multidisciplinary, which could be artificial.



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Interdisciplinarity as an Option

The family is the group of two or more people who are closely linked by relationships of different character such as: biological, psychological, social, economic, cultural, and legal.

The family can be approached from all these points of view in a monodisciplinary way; Nevertheless, the real dynamics of the institution, both from the internal and external perspective, imposes more than ever on a new approach that is not only multidisciplinary, **but rather interdisciplinary**, allowing its approach as a living reality in order to contribute to the strengthening of relations between its Members and of the institution itself

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Interdisciplinarity as an Option

In this scenario, what will be the role of the Family Judge to solve the conflicts of family relationships? The Judge of today must be the Specialized Judge protagonist (Process Director) who dialogues with the parties (immediacy) and understands the human drama for which he is aware of the need to use **interdisciplinarity as a tool**, everything that will allow him to find a Current and predictive solution (as Silvia Villaverde tells us in the "*Family Courts of Buenos Aires*").

Thus, with these competences, the Family Judge can, with the support of the Multidisciplinary Teams, solve family conflicts, not only based on law, but also principles, with a focus on human rights and interdisciplinarity.

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In accordance with the Family Law of our time, the Judicial Power of Peru has incorporated the participation of the professionals of support to the Family Offices since the first Code of the Children and Adolescents, in force since 1993, and although it is true Has called them Multidisciplinary Teams (EM), the new interdisciplinary approach has become progressively present.



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Interdisciplinarity has been driven more strongly since the creation of the *National Program for Budgeting by Family Results* (PpR Familia) starting in 2013, with the intention of irradiating it from the Office of the Family Judge with the commitment of the professionals of The MS.

The interdisciplinary approach has been further accentuated since the enactment of Law 30364 on Gender and Family Violence (November 2015), resulting in the creation of another National Program by the Presidency of the Judiciary.

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Thus the members of the MS deploy different actions, through the following services, in the impulse and in coordination with the Family Judges:

- a) Greater speed in issuing reports;
- b) Empowerment of child, couple and general therapist services through individual and group dynamics;
- c) Counseling and family counseling service;
- d) Strengthening the competences of MS on an ongoing basis;
- e) Preventive social projection activities in different areas (family violence, adolescent pregnancy, infraction of the criminal law by adolescents) and places (School Centers, Basic Modules of Justice, etc.)



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In the Application of the Law on Gender and Family Violence

The Judicial Power agrees with the institutional policy of guaranteeing a life free of violence, acting in three moments:

Previously, through preventive actions, based on gender, vulnerability and interdisciplinarity, in Educational Centers, Basic Modules of Justice, grassroots organizations, etc.

In **concurrent** form occupying the center of the Justice System when the cases come to its knowledge.

In a **later** form through the service of individual and group therapies directed at victims and aggressors.

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CONCLUSIONS

1 ° The family institution is characterized by its great dynamicity and therefore its incessant change, especially in the current historical stage. Hence new forms of family have emerged, such as monoparticles, in fact, reconstituted ones, the extended family.

2 ° The foregoing determines that an analysis of the family from the different sciences independently is artificial, because it must be analyzed holistically as living reality, that is, **interdisciplinary**, in search of strengthening the family institution, as agent of social change.



Thank you very much!