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LA EVALUACIÓN PSICOLÓGICA FORENSE EN EL CONTEXTO DE FAMILIA EN COLOMBIA: CUSTODIA Y PATRIA POTESTAD

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Resumen. El presente artículo tiene como propósito orientar la buena praxis y evitar sanciones éticas en el ejercicio profesional del psicólogo forense, profundizando en los requisitos fundamentales que se deberían tener en cuenta en la elaboración de informes psicológicos forenses en el ámbito de la familia en casos de custodia y patria potestad. El artículo está basado en los datos derivados de la investigación científica y jurídica, lo que permitió identificar las consecuencias psicoemocionales en padres e hijos originarias de las rupturas conyugales. Al igual que las implicaciones éticas de la actuación del perito psicólogo, las limitaciones, el alcance de su práctica y las herramientas de evaluación, así como los lineamientos legales propios del derecho de familia e introduce un modelo de informe pericial derivado de las buenas prácticas en este contexto.

Palabras claves: Evaluación psicológica forense, custodia, patria potestad, separación y divorcio, modelo de informe psicológico forense.

FORENSIC PSYCHOLOGICAL EVALUATION IN THE CONTEXT OF THE FAMILY IN COLOMBIA: CUSTODY AND PARENTAL AUTHORITY

Abstract. The purpose of this article is to guide good practice and avoid ethical sanctions in the professional practice of the forensic psychologist, delving into the fundamental requirements that should be taken into account when preparing forensic psychological reports at the family level in custody cases and parental

authority. The article is based on data derived from scientific and legal research, which made it possible to identify the psycho-emotional consequences in parents and children derived from marital breakups. As well as the ethical implications of the performance of the psychologist expert, the limitations, the scope of their practice and the evaluation tools, as well as the legal guidelines of family law and introduces an expert model report derived from good practices in this context.

Keywords: Forensic psychological evaluation, custody, parental authority, separation and divorce, forensic psychological report model.

Introduction

The forensic psychological reports that are derived therefrom are intended to support the competent authority in making decisions in custody, parental authority, or visitation proceedings. Given the implications of this type of professional actions for the judicial system and the families involved in the process, the expertise and competence of the psychologist performing the psychological evaluations is of vital importance.

In Colombia, excluding the statistics of separations in which civil unions and contentious divorces do not take place, the official figures of the Superintendence of Notaries and Registry (2020) establish that in the last four years an average of twenty-two thousand and twenty-nine (22,029) cases of mutual agreement divorces have been dissolved annually. Although after the separation most of the ex-couples manage to mourn and reassign their roles, there are also cases where the conflict is perpetuated in arguments and disagreements, triggering endless litigation with a high cost for all members of the family nucleus that can even be extrapolated to the extended family. With the aim of providing support tools for the forensic psychologist who performs evaluations in the family context, this document provides a synthesis of the main aspects that the professional should know at the time of making an assessment in the family context. Key elements such as the causes of separation of couples, emotional consequences of marital breakup, legal parameters, ethical aspects, and guidelines for forensic psychological evaluation are knowledge that guide an adequate professional practice and tends to prevent ethical misconduct and places the psychologist to safeguard the best interests of children and adolescents, as well as to provide quality, reliable, and valid resources to the administration of justice.

Separation and divorce in the family

Family breakdown implies a change for its members; it is a loss that demands the restructuring of its functioning and involves restoring emotions, attitudes, behaviors, and feelings (Cantón et al., 2002). Research on general predictors of marital breakdown indicates that coming from a divorced family increases the risk of separation in a marriage (Amato & DeBoer, 2001), being unemployed (Tumin & Qian, 2017), marrying during adolescence, becoming a mother before marital union, cohabiting with the future spouse prior to marriage (Sweeney & Phillips, 2004), and having a low level of education (Bramlett & Mosher, 2002) are risk factors that can end in divorce. As well as interpersonal aspects, associated with patterns of negative interactions (Clements et al., 2004), infidelity as a cause of divorce and a consequence of the deterioration of the relationship (Previti & Amato, 2004; Teachman, 2004), the absence of positive affection (Gottman & Levenson, 2000), the physical and emotional impact of marital violence (DeMaris, 2000) and other types of violence, the use

of alcohol or drugs, personality problems, lack of communication, and physical or mental abuse (Amato & Previti, 2003). For many couples, unions represent emotional support, companionship, sexuality, security, economy, and healthier lifestyles, benefits that with the breakup often generate stress and loss of protective factors (Amato, 2014). Because of this, divorce is a process that unfolds over months or years, during which time the former spouses may experience a variety of stressful events associated with the division of economic resources, resulting in a decrease in the quality of life (Amato & Sobolewski, 2001).

Psychosocial consequences on parents

Studies have shown that most divorced adults experience more mental and health problems than those who are married (Amato, 2014). In the early years of separation there is a deterioration in parenting because grief centralizes parents in attending to their own emotional responses, coupled with the readjustment of single parenthood with work and social needs. Consequently, separated parents are more prone to emotional lability, are more at risk for depression, alcoholism, drug abuse, and psychosomatic complaints in contrast to those who are married (Kelly & Emery, 2003).

Empirical work indicates that it is generally the mother who assumes custody of the children, which implies an overload in parenting since the father is no longer present in the home to exercise his parental role. In addition, work activities inside or outside the home, added to the grief involved in the separation, increase the emotional consequences and can be extrapolated to the children. Parents experience distress, even when the separation is not conflictive because they often lose the permanent contact they had with their children. Specifically, to the non-custodial parent (usually the father), studies in the area of social work warn that little attention is paid to their feelings of loss and grief when they are away from the children (Baum, 2015).

In Colombia, in forensic practice it is common to find that in contentious separations visits are established between the non-custodial parent and the children, corresponding to a weekend every 15 days and vacation periods are alternated between both filial figures (Constitutional Court of Colombia, 2014, Sentence T115; Vallejo- Orellana et al., 2004). Although the non-custodial parent has the right to interact and continue developing affective relationships with his or her children to contribute to their special care and protection, the transition from permanent contact to reduced time represents a loss for the non-custodial parent that may affect his or her state of mind and have negative consequences for the children associated with interparental tension, deterioration, and the meaning of the filial bond.

Adjustment to divorce can be understood as a resolved grief (Yárnoz-Yaben, 2017); however, adaptation is going to depend according to access to educational resources, support networks of family, friends, and new partners, as well as individual differences of each parent, e.g., social skills, positive ways of coping, and the meaning attributed to the separation (a personal failure or an opportunity to start anew).

The analysis established by Yárnoz-Yaben (2017) on grief in separations establishes that:

- Unresolved grief is significantly associated with the length of time the relationship lasted.
- Oppositional attitudes toward divorce coincide with the level of unresolved grief.
- People with insecure attachment have a higher grief score than those with secure attachment.

- Bereavement intensity predicts person adjustment, conflict, forgiveness, and subjective well-being but does not have causality with co-parenting nor with the perception of help received by the ex-partner.

Psychosocial consequences on children

In the expert work it is observed that the separation of parents constitutes a challenge and changes for the children. The main objectives of forensic psychological evaluations involving children and adolescents in legal proceedings in the family context include the assessment of the areas of adjustment (personal, family, social, and school), which result in psychological adaptation or maladjustment, i.e., absence or presence of clinical symptoms or behavioral problems. Thus, the results of the assessments show that psychologically adjusted children respond adequately in their context, comply with the instructions and regulations established at home and school, and have the ability to relate positively with their peers; in contrast, maladjustment correlates with internalization problems (depression, anxiety, etc.) and externalization problems (aggression, indiscipline, vandalism, delinquency, among others) (Cummings & Davies, 2010).

Different experts agree that children of separated families are more likely to develop adjustment problems, which may even persist into adulthood (Amato, 2014; Lansford et al., 2006; Vandervalk et al., 2005). However, the psychological maladjustment of children of divorced parents is higher during the first two years of separation, then most manage to adapt positively (Amato & Cheadle, 2008). Children with separated parents compared to children of married parents boast more behavioral problems, have more emotional difficulties, have lower academic scores, and possess deficits in social relationships (Amato, 2014; Cummings & Davies, 2010). Hispanic studies conducted with divorced single-parent versus two-parent families showed that physical and verbal aggression was higher in children and adolescents with single-parent families in contrast to those who cohabit in two-parent structures (Rodríguez et al., 2013).

Similarly, Amato & Cheadle (2008) discuss the passive genetic model which suggests that when parents possess problematic traits such as neuroticism or a tendency to antisocial behavior, it may increase the likelihood in disagreement with other parents that they will experience marital discord or that their unions will end in divorce. Thus, if these traits are genetically transmitted from parents to children, the children will have an elevated risk of developing behavioral problems.

In studies conducted by Amato & Anthony (2014), to estimate the effects of divorce in elementary school children, with fixed effects models (reading, mathematics, positive approach to learning, interpersonal skills, self-control, internalizing and externalizing) revealed that divorce was significantly associated with those variables. They also confirmed in adolescents in eighth grade through senior high school that parental separation is associated with consistent decreases in achievement and adjustment. Specifically, regardless of the conflict that may occur before or after parental separation, divorce alone significantly changes children's lives, including domiciles, parental relationships, exposure to interparental conflict, and lifestyle (Amato & Anthony, 2014).

Among the effects of marital dissolution and single parenthood, Booth & Amato (2001), Amato & Anthony (2014), Amato & Cheadle (2008), and Kelly & Emery (2003) have documented different changes in children's lives that influence their psychological maladjustment:

- Decrease in the quality of life.

- Poor care as a result of stressed parents.
- Low parental supervision and decreased parenting time.
- Extrapolation of post-divorce parental conflict.
- Relocation to new neighborhoods and schools.
- Introduction of new parental partners in the households.

Even though adjustment to parental divorce, low conflict, the establishment of a co-parenting program, and parental competence facilitates the psychological adjustment of children to separation (Kelly & Emery, 2003; Yárnoz- Yaben, 2017), it has also been identified that the extrapolation of interparental conflict in children leads to a higher risk of developing gastrointestinal, genitourinary, dermatological, and neurological problems, making parental separation a public health problem (Martinón et al., 2017), as well as emotional consequences associated with guilt, anxiety, depression, and aggressive symptoms (Miedo et al., 2009).

Forensic practice allows us to identify that the difficulties that are most difficult for parents to resolve after separation are associated with child support and physical contact with the children. Disputes range from interruptions in child support payments to parental interference such as conflict of loyalties, i.e., when one parent denigrates the other parent or limits contact between the child and the other parent, which is another form of psychological abuse (Baker and Brassard, 2013). Even when the conflict reaches judicial instances, some parents are willing to lie and manipulate their children to harm the other parent (Clemente et al., 2020).

Previous research indicates that early exposure of children to parental relationship instability may predict a greater likelihood of sexual activity and major depression among adolescents (Donahue et al., 2010). Likewise, marital conflict is collinear with lower levels of parental involvement in parenting; parents are less likely to engage in play activities, reading, and time together, aspects that correlate with child and adolescent maladjustment (Buehler & Gerard, 2002). However, whatever the conflict between parents, the closeness and time spent with each parent after divorce is positive for children's adjustment, as poor parent-child relationships are a predictor of poor physical health (Fabricius & Luecken, 2007).

Thus, in Colombia, when there is conflict between the ex-couples that makes it impossible for them to have a healthy co-parenting relationship, a contentious process arises in which the judicial body will be in charge of adopting pertinent measures regarding custody, visitation, and food regulation to watch over the interests of the children because their welfare takes precedence over the particular interests of the parents or their legal representatives.

Legal aspects: custody and parental authority

The family is a dynamic and complex unit of analysis that guides its members in multiple processes of development, interaction, and learning protected by the Colombian state as the fundamental nucleus of society in which the rights of individuals are harmonized in relation to the demands of social life. Thus, it is constituted as the foundation of the evolution conformed by legal bonds through marriage, contained in the Civil Code or natural bonds determined by the will and responsibility to conform it (National Constituent Assembly, Political Constitution of Colombia, 1991, Article 5 and Article 42).

According to the Colombian Civil Code, the family ties of descendants are identified as those existing between persons who are united by consanguinity (procreated within a marriage, marital union or extramarital union) and the so-called civil relationship, which emerges between parents and adopted children. However, although the ties are identified in a differentiated manner, the Civil Code establishes that "legitimate, extramarital and adoptive children will receive the same protection, equal rights, opportunities and obligations" (Congress of the Republic of Colombia, 1873, Law 84, Article 250).

In relation to children and adolescents (NNA), it is possible to identify that the Political Constitution of Colombia elevates them as subjects of special protection not only by the primary nucleus to which they belong but also by the state and society (National Constituent Assembly, 1991). Likewise, Law 1098, by which the Code of Childhood and Adolescence is issued, ratifies that all persons under 18 years of age are subjects of rights (Congress of the Republic of Colombia, 2006, Article 3) to whom conditions must be preserved for an adequate development consistent with the prevention - protection from risks and unfavorable changes in the present conditions of the environment in which they are immersed (Constitutional Court of Colombia, 2007, Sentence T-090).

In this way, children and adolescents have the right to grow and be welcomed but especially not to be separated from their primary nucleus as a fundamental institution in the development at a socioemotional, intellectual, interpersonal, physical, and personal level (Constitutional Court of Colombia, 1994, Sentence T-278). Therefore, separation from the family constitutes a threat to the fundamental rights of each individual, such as health, physical integrity, balanced nutrition, education, culture, and the right to grow up in an environment of affection and solidarity, where the basis for the full exercise of other rights such as personal identity and freedom of conscience are structured.

As has been pointed out, the marital separation affects all the members of the family nucleus. However, even if the union ends voluntarily, with respect to the children, the obligations, duties, and rights remain intact. For this reason, for the supreme interest and welfare of the children and adolescents involved, Law 1098 of 2006 and Law 640 of 2001 promote the peaceful conciliation of conflicts related to the regulation of visitation, food, and custody, either in a judicial way immersed in a legal process or extrajudicially in conciliation centers "before ombudsmen and family commissioners, regional and sectional delegates of the Ombudsman's Office, agents of the public prosecutor's office, before judicial and administrative authorities in family matters and before notaries" (Congress of the Republic of Colombia, 2001, Law 640, Article 31).

Thus, parental authority is a paternal-filial regime of protection of the unemancipated child and their respective assets that the law attributes to both parents (Decree 2820, 1974, art. 24) to facilitate the exercise of the duties that their role imposes (Congress of the Republic of Colombia, 1968, Law 75, Article 19), which are framed in covering the legal, personal, and patrimonial needs of the minor, which involve aspects such as raising, educating, establishing, and forming morally and intellectually (García - Presas, 2013). The Colombian Civil Code (1873), establishes that the rights of the parents are reduced to the usufruct of the assets (art. 291), the administration of these (art. 295), and the judicial and extrajudicial representation of the children (Congress of the Republic of Colombia, Law 84, Article 306).

The parental authority of children and adolescents as a legal effect of the paternal or maternal filial relationship has a duty, which seen from an external perspective is considered a natural and subjective right to be parents that emanates a tutelary character in which the guardianship and custody of children are structured (Lledó-Yagüe, 2015). This issue calls for

parental responsibility of both parents, so that together they promote the guidance, care, accompaniment, and upbringing of children in their formation process with the aim of ensuring their emotional and material well-being (Constitutional Court, 2004, Sentence C-997), as well as the maximum satisfaction of the rights determined by their role (Congress of the Republic of Colombia, 2006, Law 1098, Article 14).

According to Lledó-Yagüe and Monje-Balmaseda (2017), parental authority is non-transferable and unavailable to the extent that it cannot be regulated, modified, or extinguished voluntarily, except in cases where the law allows it (Montoya, 2015). Therefore, it is the obligation of parents to protect and enhance the rights of minors in order to promote the free development of their personality and comprehensive welfare (López - Contreras, 2015).

When the fundamental rights of children established in the Political Constitution of Colombia are transgressed by the family, the state, or society, in general, the offenders must be sanctioned (National Constituent Assembly, 1991, Article 44). Thus, if the family does not guarantee the comprehensive development of minors and the exercise of their rights, it can lead to the temporary suspension or extinction of parental authority (Saumeth and Henry, 2018), depending on whether the grounds are presented indistinctly:

- *Suspension*: is the temporary loss of rights over unemancipated children in which the parents maintain the exercise of their duties (Congress of the Republic of Colombia, 1873, Law 84, Article 310). It occurs when either parent suffers from dementia or a mental disability that makes it difficult for him/her to understand the scope and consequences of his/her acts, has long absence, or is in interdiction to manage his/her own assets due to excessive exposure to risks regarding the management of his/her patrimony (Presidency of the Republic of Colombia, 1975, Decree 772, Article 7; Turriago, 2019).
- *Extinction*: It is the definitive loss of the rights over the children decreed by a judge, which does not exonerate from the fulfillment of the obligations when the parents incur in situations of abuse, abandonment, depravity related to the issuance of corrupt conduct or outside the law that negatively affects the education of the minor, absence due to deprivation of liberty sentence of the parent exceeding one year and commission of criminal offense by the minor as stated in law 1453 of 2011: "When the adolescent had been punished for the crimes of intentional homicide, kidnapping, extortion in all its forms, and aggravated crimes against freedom, integrity, and sexual formation, and it is proven that the parents favored these conducts" (Congress of the Republic of Colombia, Article 25).

Emancipation, then, is an event that terminates parental authority (Congress of the Republic of Colombia, 1873, Law 84, Article 312) either by voluntary public instrument that must be authorized by a judge with knowledge of the cause (Presidency of the Republic of Colombia, 1974, Decree 2820, Article 43), by events such as the real or presumed death of the parents, the child's marriage, the child having reached legal age (Presidency of the Republic of Colombia, 1974, Decree 2820, Article 44), or by decree of a judge as described above.

According to Law 29 of 1982, "legitimate, extramarital, and adoptive children have equal rights" (Congress of the Republic of Colombia, Article 1), which means that from the first instance the parents are holders of parental authority, based on the recognition provided by law to the family bond by consanguinity, different from what happens when the relationship is mediated by a civil act, where kinship between parents and children in cases

of adoption takes place (Castro-Gonzalez, 2017). However, without differentiating the underlying of the family bond, all children and adolescents have the right that "their parents in a permanent and solidary way assume direct and timely custody for their integral development" (Congress of the Republic of Colombia, 2006, Law 1098, Article 23), even more so when it is their obligation "in common or established by law to provide for the personal care, upbringing, and education of their children" (Congress of the Republic of Colombia, 1873, Law 84, Article 253).

Having said the above, the custody and personal care of children and adolescents, as a right derived from parental authority, is defined as "the duty of supervision, upbringing, education, maintenance, and guidance of the minor" that parents and those who live with minors fulfill to provide them with the necessary tools and support in the course of their development. In Colombia, sole or single-parent custody is that in which the care of the child, physical custody, and the distribution of resources to respond to all their needs corresponds to one of the parents or in exceptional cases to a third party (Ochoa et al., 2020), where the non-custodial parent is assigned a visitation regime and monthly economic contribution (Gallego, 2018).

In the case of joint custody, the participation and legal responsibility of both parents is joint to the extent that not only the economic contributions, but also the periodical or rotating time spent with the children are dosed. This provides the opportunity for both parents to participate actively and responsibly in the process of upbringing, care, and education of the children ensuring that they share the legal rights and responsibilities to make important decisions affecting their children (Fariña et al., 2017). Thus, among others, it constitutes a duty of both parental figures to provide their children with the food and means necessary for their integral development throughout their minority until they are older, only if they continue their period of academic training (Gallego, 2018).

Regarding the development of children and adolescents, the term "child support" refers to everything required by the minor to satisfy his/her needs and promote his/her adequate development, such as sustenance, clothing, medical assistance, recreation, housing, and education (Congress of the Republic of Colombia, 2006, Law 1098, Article 24). Although in Colombia there is no exact regulation of the amount of this obligation, different criteria are taken into account to determine it, such as the economic capacity of the parents, food obligations with other persons, the needs of the children and adolescents, labor situation, wage garnishment limit, and periodic adjustment according to the consumer price index (Congress of the Republic of Colombia, 2006, Law 1098, Article 24).

Granting custody of the minor children to one of the parents or third parties does not deprive the other parent of his or her right to visitation and its respective regulation to maintain communication and closeness. The Constitutional Court states that the regulation of visitation is a system that seeks legal homeostasis between separated parents in the exercise of parental rights (Constitutional Court, 1993, Sentence T-500). Thus, in order not to denaturalize the relationship between parents and children, the right to visitation is implemented with the purpose of preserving the emotional bond, family unity, care, and protection, but especially to maintain the necessary basis for the psychological and emotional development that the particular characteristics of each child demand (Ochoa et al., 2020).

The evaluation process

Evaluating family dynamics is not a simple task and it is even more complex when psychological evaluations are carried out in the forensic field. In the forensic work it is

observed that the family is a complex body of knowledge, where not only the individual characteristics of its members are involved but also the interactions between them, the patterns of upbringing that are established, the generational patterns, the role played by the extended family, and the degree of tension that they imprint on the system, as well as the members that make up the social support network with their paradigms and individualities. In addition to the above, the level of emotional maturity, mental health, and resilience of the parents, who in most cases are the main risk factor for the psychological health of the children, specifically in contentious separations.

From this perspective, forensic psychology in the field of the family is provided with scientific tools that allow establishing the capacity of a person to assume responsibilities, roles or functions, based on the evaluation of their mental and cognitive abilities (Hernández and Espinosa, 2011). Thus, the experience in professional practice allows us to account for the orientation of the work of the expert psychologist towards the determination of emotional interferences in any of the parents and their implications in the performance of parental functions or in the mental health of the children. Starting from the premise that it is the forensic experts who must provide the competent authority with strategies and/or recommendations aimed at reestablishing the balance of the family system, giving priority to the emotional state of the child, the psychologist is required to clarify the nature and directionality of the evaluation, as well as his loyalty to the truth, which is established through scientific evidence and professional responsibility. Therefore, after the reading and analysis of the judicial documents to the extent that it allows knowing the individual circumstances of each family and favors the construction of hypotheses, which will be confirmed or disapproved, it is vital to make a triangulation of all the variables of the case and make use of some evaluation tools among which stand out (Lobo et al., 2016):

1. *Conducting interviews with the evaluated subjects*, which serves to obtain, in a systematized and flexible manner, psychobiographical information on the subjects of interest and information of importance for the evaluation.
2. *Collateral interviews* widely recommended by the American Psychological Association, which are conducted with persons related to the examinees, as determined by the evaluator or documentary evidence, which are used to complement and contrast the information provided and thus confirm or reject the data obtained.
3. *The use of psychometric instruments* that contribute to the measurement of human behavior and cognitive processes, from reliable and valid measurement tools, based on scientific, objective, and demonstrable evidence. The results of the psychological instruments allow to pronounce on the psychopathology, the personality, the capacity of understanding, and volition of the evaluated persons to exercise the functions of protection and care in the children. They enrich the evaluation process based on validity and reliability, and they discourage the risk of simulation of clinical symptomatology, depending on the instrument applied.

That said, it is by obtaining information through different sources of information that the expert will be able to argue those hypotheses and respond to the evaluation objectives. Thus, with regard to the children, the aim is to determine the adaptation in the different spheres of functioning, forms of bonding, and socialization with the parents. Habits related to sleep, leisure, food, hygiene, and physical activity. The establishment of the moral development of the children (rules and behavioral norms) and the acquisition of values. While in the parental figures it is essential to assess the pre-existence or absence of mental illness and personality disorders, global adjustment, labor stability, support networks, and

history of the ex-partner (resolution of grief due to marital separation), their current situation (post-breakup interparental relationships, forms of communication, attitude towards the other parent, and motivations for obtaining custody of the children), the incidence of the existence of new parental partners (forms of interaction with the children), and parental styles (parenting patterns/educational style, time spent with the children, emotional bonding, assertive communication, and the level of moral development).

It is also essential to assess the presence or absence of emotional or parental interference. Research and experience in evaluations with parents involved in child custody disputes has shown that in some cases parental interference is present. Thus, the best interests of the children prevail perennially over the particular interests of the parents, coupled with how essential it is for their proper development to have both parental figures and their respective family contexts. It is essential that the evaluator, regardless of the party for which he/she has been hired, examines the existence or not of possible interferences and report it to the competent authority.

Ethical and deontological aspects

The relationship between the disciplines of law and psychology is close due to the concordance with their object of study, human behavior. However, with different approaches in terms of their understanding and methodologies for their approach, law does so from a perspective of the regulation of human behavior by establishing mechanisms to control social interactions, while psychology, from the comprehensive view, through the evaluation and analysis of the behaviors established within the framework of such relationships. In this sense, the specialty of psychology that maintains a closer link with law is forensic psychology.

When the specialist acts in the "forum" scenario, his professional work is framed in the context of justice, being the result of his intervention, an expert report that is part of the judicial decisions made by the judge, so that the implications and social impact generated by his actions leads to the expertise in the development of his work to be located at the highest levels of quality from the scientific, technical, and ethical perspective. Therefore, expert professionals are required to provide objective, reliable, and valid answers supported by scientific criteria at the service of justice and society.

All psychologists must be governed by ethical principles that guide their actions. In the case of Colombian psychologists, non-compliance with the guiding principles and duties of the Colombian Psychology Law 1090 of 2006, which regulates the professional practice of psychology in the country, leads to the commission of an alleged ethical misconduct and with it, probably, an investigation by the Courts of the Colombian College of Psychologists -COLPSIC, resulting in a sanction for the specialist, which depending on its severity could result in a blemish in his professional record with serious implications at the time of proving in court his ethical and moral suitability. For the forensic psychologist who works in family contexts, his expertise contains a high level of specialty and complexity, and at the same time the one that generates the most ethical controversy. For this reason, the forensic psychologist has the obligation to know in depth the current legislation on family law in his or her country, the characteristics, concepts, and functioning of the system, among other aspects (Urrea, 2007). As well as having expertise in clinical evaluation of children, adolescents, and adults, they must have knowledge of family systems, parenting patterns, psychopathology, evaluation instruments in the family forensic field, as well as a high understanding of the ethical and legal implications of their actions. In other words, the

professional practice of psychologists, without exception, must be oriented to the ethical approaches established by Colombian law and the Code of Ethics (Congress of the Republic of Colombia, 2006, Law 1090). As well as ensuring compliance with universal ethical principles: beneficence, non-maleficence, autonomy, and responsibility should be the guiding notions of professional action. Beneficence indicates a moral obligation to act for the benefit of others, while non-maleficence reveals that the professional is obliged not to cause harm to the user and even to third parties who might be involved in the evaluation process. The deontological and bioethical handbook of psychology of the Colombian College of Psychologists presents these universal principles, which should be mandatory for all psychology professionals. Therefore, every specialist must carry out a thorough deliberative process in each of the decisions and conclusions reached in their approach processes.

The Colombian psychologist law (1090 of 2006) establishes that all psychologists are obliged to maintain high standards of competence, recognizing the limits of their knowledge and expertise, as well as the techniques available for the evaluation (Congress of the Republic of Colombia), bearing in mind that they only use the methodologies and methods in which they have been trained and are qualified in order to guarantee the well-being of their users. Thus, prior to the beginning of the evaluation, the limitations, if any, should be presented, as well as the scope and implications, clarifying to the users and their legal representatives, attorneys, and proxies that they are not co-authors of the report (Molina-Bartumeus, 2017), and also clarifying that the conclusions derived therefrom are the result of the evaluation and not of the particular interests of the interested parties, regardless of the costs incurred as part of the expert's fees. This aspect in particular requires special attention given that in Colombia there is no regulation of the rate of expert's fees.

Correspondingly, the American Psychological Association (APA, 2010), according to the ethical principles and code of conduct to be assumed by psychologists established by this association for family child custody evaluations, the primary purpose is to help determine the child's best psychological interests and well-being.

Because of the above, the APA (2010) states that professionals in psychology should strive to:

- Achieve and maintain specialized competence.
- Function as impartial evaluators.
- Engage in culturally informed and non-discriminatory valuation practices.
- Avoid conflicts of interest and multiple relationships when approaching.
- Establish the scope of the evaluation in a timely manner, in accordance with the objectives of the evaluation.
- Adequately obtain informed consent.
- Employ multiple methods of data collection.
- Interpret information in a manner consistent with the context of the evaluation.
- Complement the approach with the appropriate combination of tests.
- Base recommendations, if any, on the best psychological interests of the child.
- Create and maintain professional records in accordance with ethical and legal obligations.

Informed consent

Professional secrecy, informed consent and the handling of sensitive and confidential information are aspects of important relevance in forensic psychological evaluations, which

are known to the judge and the actors in the process. One of the frequent difficulties in family expert evaluations is the lack of information regarding the scope and explanations of the psychological evaluations that are carried out, which sometimes leads to misunderstandings generated by the lack of prudence and responsibility in some cases, which is associated with the diminished expertise of the professional. When evaluating minors, it is necessary to keep in mind that the Informed Consent (IC) is under the responsibility of both parents as legal representatives of the minor, according to Colombian legislation. Similarly, it is essential to recognize its dual function, i.e., a duty that the psychologist is obliged to comply with and a right for the user, which is in a position to demand. Thus, it becomes a priority for the expert to inform the interviewee and ensure that he/she understands the procedures, techniques, and strategies to be used in the evaluation or intervention.

Accordingly, doctrine No. 3 of the Colombian College of Psychologists, which refers to Informed Consent (IC) in the practice of psychology in Colombia, establishes that before a psychological evaluation all users must know in a clear and detailed manner what the evaluation process to be performed consists of, the procedures, techniques, and methodologies to be followed.

The process is legalized from the signature of the IC, which is of total knowledge for the evaluated and/or his legal representative, this must meet at least four requirements, being the most important perhaps the recognition that the IC is not provided with the simple signature of a document, the process goes far beyond, existing the central element, the autonomy of the appraisee in the decision making in front of the evaluation process. Likewise, the psychologist must be certain that the person being evaluated has understood the explanation, as well as guaranteeing that the assessment is carried out without any kind of flaw, on the contrary, it is carried out voluntarily and without pressure.

Another aspect of special relevance in the family forensic context is the handling of sensitive information because it belongs to the private life of the people who undergo the evaluation, so the professional must safeguard and guarantee the duty not to disclose the information obtained from its users as a result of their professional practice. In this regard, Doctrine No. 2 of the Colombian College of Psychologists (Hernández, 2018a) establishes the obligation of every psychologist to keep in reserve the information obtained, based on the work with the user and is not authorized to disclose without the prior authorization of its sole owner. In this sense, it should be clear that it is not the judge or the operators of justice who are the owners of the information but the user. This aspect is not easy to understand in the forensic field, taking into account that the result of the evaluation will be known to the judicial authorities and those who make up the forum. However, given the trust that the person being evaluated places in the expert psychologist who, in the use of his faculties as a psychology professional, has access to privileged and private information concerning his intimate life (habits, customs, way of life, difficulties in his relationship life, among others) that leaves him in a situation of vulnerability, the psychologist is obliged to keep the information in absolute reserve and to foresee the handling that will be given to it by the parties involved.

Thus, the role of the forensic psychologist takes place in a context of extreme care, with sometimes unclear boundaries. However, in any case, the forensic psychologist cannot forget that the well-being of the user must be his or her main interest, as they are human beings and their dignity is a fundamental value.

Finally, the minimum ethical requirement for a forensic psychologist, according to Urra (2007), recommends caution when making predictions about antisocial behavior, as

well as making reference to the mental state of any of the family members without having performed a previous psychological evaluation. The author recommends clearly documenting conclusions and recommendations, which should be based on scientific evidence, the current state of the theoretical body and research advances in the area. In this way, the psychologist must maintain his autonomy and professional judgment, not lend himself to confusing situations, inform the evaluated subject of his obligation to provide valid and reliable information, as well as the obligation to inform the competent authority of the commission of a crime of which he has become aware through the evaluation. Although the Colombian legislation on psychology and the National Constitution establishes that professional secrecy is inviolable and every psychologist is protected by the duty of confidentiality, the knowledge of a crime obliges him/her to report it.

Conclusion

The challenges for the specialty of forensic psychology in Colombia are enormous; divorce statistics and empirical work have shown the serious problems that arise within families after marital breakup. Therefore, it is vital that the interventions of the forensic psychologist in associated cases are carried out in a rigorous and exhaustive manner that tends to an exploration of all the variables of the case. The research shows the socioemotional alterations that parents and children may present upon separation and that may be exacerbated by difficulties that emerge around custody, visitation regulation, or parental authority. There are interruptions in the maintenance and physical contact with the children, as well as parental interferences, such as the conflict of loyalties due to the particular interests of each of the parents because of their high emotional charges in which negative feelings of anger, frustration, and revenge prevail, which seems to cloud the conscience of the parents and prevents them from objectively analyzing the situation, leaving the best interests of the children undermined and the welfare of the family system affected.

In this type of situation, an impartial third party, in this case the psychologist, must make use of the scientific foundations and his professional expertise to provide alternatives aimed at the welfare of the children and the preservation of family harmony. Then, the psychologist must remain in continuous training and experience that allows him to feedback his practice, so that his actions are subject to absolute impartiality, understanding that he owes psychology as a science to the extent that his arguments are based on scientific evidence, ethics, responding to high quality standards, and adjusting to the premises established by the Colombian legislation to adapt his work; prioritizing the psychological welfare and the best interests of the children over the individual interests of parents and/or parties involved in the process.

For this reason, it is transcendental to follow the guidelines subscribed in this article, unifying criteria for forensic psychological evaluation processes through the attached report model, which make the professional work a more standardized, reliable, and valid process. Likewise, the parameters that serve as a guide for forensic psychologists as well as for family law attorneys or users of forensic services on the implications of this type of evaluations, their limitations, their frame of reference, and their technical-scientific quality in the vicinity of judicial decision making in cases of separation and divorce are gathered.

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Annex

OFFICIAL MODEL

Approved by the List of Experts in Forensic Psychology
Colombian College of Psychologists
www.colpsic.org.co

MODEL REPORT, FORENSIC PSYCHOLOGICAL EVALUATION: CUSTODY AND PARENTAL OWNERSHIP

- 1. IDENTIFICATION**
 - 1.1. **Forensic psychology expert's** data (brief summary of professional profile).
 - 1.2. Data on the person **being evaluated** (name, identification number, age, date of birth, education, occupation, marital status, origin, number of children, religious affiliation, among others).
 - 1.3. Details of the **requesting authority** (judge, commissioner, lawyer, or others).

- 2. REASON FOR THE EXPERTISE**
 - 2.1 Put in quotation marks and italics the **request made** by the requesting authority verbatim.

- 3. DOCUMENTS PROVIDED FOR THE STUDY**
 - 3.1. Describe all **court documents** (document title, issuing entity, number of pages, date of preparation, and name of the person signing the document).
 - 3.2. Request the clinical history of the examinee. This document generates knowledge about the examinee's psychopathological background and minimizes the confabulation of information.

4. ALLEGED FACTS	4.1 Describe the possible facts subscribed in the judicial documents. It is essential to include the version of both parents or persons involved in the process, as well as of the subjects evaluated. 4.2 Refer to the current status of the case and the procedural stage of the case.
5. OBJECTIVE OF THE EXPERTISE	4.1 Delimit the scope of the expert's objective according to psychology and its areas of knowledge.
6. EVALUATION METHODOLOGY AND PROCEDURE	6.1. Explain the assessment strategies (document review, consultation with other professionals, home visits to the family nucleus, and observation of the interaction between parents and children). 6.2. Describe the interviews conducted with the evaluated (name, date and type of interview). 6.3. Include interviews of third-party sources of information or collateral interviews (name, date, and type of relationship). 6.4. List the psychological tests applied (name of the test, author, and brief description).
7. FINDINGS	7.1. Results of the descriptive analysis by areas (mental examination, physical and mental health history, family history; personal, academic, social, and occupational adaptation). 7.2. Results of the history of the ex-couple (bonding of the children with the new partners, parents' ability to differentiate the parental role from the marital role, forms of communication, among others). 7.3. Results of the collateral interviews. 7.4. Psychological test results (describe the purpose of the test, its psychometric properties, and interpretation of the scores obtained).
8. DIAGNOSIS	8.1. According to the results of the evaluation, relate diagnoses based on the Diagnostic and Statistical Manual of Mental Disorders (DSM-5R) or the International Classification of Diseases Manual ICD-10.
9. CASE ANALYSIS	9.1 Make the analysis of the case relating the findings with the previous study of the documents of the judicial file.
10. FORENSIC DISCUSSION	10.1 Compare the results with the specialized scientific literature.
11. CONCLUSIONS	11.1 Provide conclusions that meet the objective of the report.

12. RECOMMENDATIONS 12.1 Provide recommendations according to the evaluator's criteria and the findings.

13. NAME OF EVALUATOR 13.1 Incorporate the evaluator's full name, professional card number, signature, and date of preparation of the report.

14. BIBLIOGRAPHIC REFERENCES 14.1 According to the latest version of the APA norms.

15. ANNEXES

15.1 Attach **accreditation of the expert**, in accordance with article 226 of the General Code of the Process (if required).

15.2 Attach elements of the **content of the report**, as considered by the expert (psychological tests, transcripts of interviews, or others).