

La protección del menor dentro del sistema de justicia desde una perspectiva psicosocial

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INFORMA:

Que es el Director y Tutor de la alumna de Doctorado Doña **Dolores Padilla Racero**, cuya Tesis se desarrolla en el Programa “Ciencias Sociales y del Comportamiento”, habiendo finalizado la Tesis titulada “**La protección del menor dentro del sistema de justicia desde una perspectiva psicosocial**”.

Que la citada Tesis posee los requisitos académicos y científicos pertinentes para que se proceda a la Lectura y Defensa de la misma, considerando este Director que se trata de un trabajo de alta calidad.

Y QUE POR LO TANTO:

Se emite este **informe FAVORABLE** de cara a la lectura y Defensa de la misma.

Y para que conste a los efectos oportunos, firmo la presente en A Coruña, a 10 de Febrero de 2020.



Fdo.: Dr. D. Miguel CLEMENTE DÍAZ

Universidade da Coruña

Mi agradecimiento a todas las personas, niños y adultos, que con su tiempo y gentileza han hecho posible la recogida de información necesaria para llevar a cabo los estudios empíricos de este trabajo y a las instituciones que lo han hecho posible.

Quiero dar mis más sinceras gracias a mi Director y Tutor D. Miguel Clemente Díaz. Ha sido un privilegio poder aprender de él porque atesora muchos conocimientos que ha tratado siempre de transmitirme con infinita paciencia. Le agradezco también, y especialmente, su generosidad, gran capacidad e incansable esfuerzo para que la ciencia se ponga al servicio de la construcción de una sociedad más justa.

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I. RESUMEN

La protección del menor dentro del sistema de justicia desde una perspectiva psicosocial

1.1. Resumen

El título de esta Tesis Doctoral es “La protección del menor dentro del sistema de justicia desde una perspectiva psicosocial”. La protección jurídica del menor, desde el punto de vista legal, se ha regulado en nuestro país a través de una serie de normas que parten de nuestra Constitución y del Código Civil. A partir de la Ley Orgánica 1/1996, de 15 de enero, de Protección Jurídica del Menor, de modificación parcial del Código Civil y de la Ley de Enjuiciamiento Civil, se asienta como principio informador del sistema de protección jurídica el interés superior de los menores, debiendo prevalecer éste sobre cualquier otro interés legítimo que pudiera concurrir. Las posteriores reformas de esta ley, han ido perfilando los criterios de evaluación y concreción del concepto interés superior del menor en aras de su más efectiva aplicación; sin embargo, éste no deja de ser un concepto jurídico indeterminado sujeto a diferentes interpretaciones dentro del mismo marco legal.

Además de las distintas lecturas o interpretaciones a las que pueda prestarse el concepto interés superior del menor, los procedimientos y técnicas que se utilizan en la Administración de Justicia y las premisas de las que ésta participa en su cometido de impartición de Justicia respecto a los menores, también y de forma más directa, darán lugar a muy dispares decisiones sobre lo que se entiende que debe ser la protección de los menores. Con este trabajo de investigación, pretendemos contribuir desde un punto de vista investigador a una efectiva protección del menor a través del estudio de la idoneidad de los procedimientos utilizados y de los paradigmas imperantes en la Administración de Justicia, y del aporte a ésta de instrumentos científicos útiles para una mejor protección del menor. Entendemos que solo desde la rigurosidad y científicidad de los instrumentos utilizados dentro de la Administración de Justicia se puede velar y garantizar la impartición de justicia que ésta tiene encomendada.

Desde hace años realizamos investigaciones sobre la protección del menor dentro del sistema de justicia y, específicamente, nuestro campo de estudio son los procedimientos en los que se ven inmersos los menores dentro del ámbito del Derecho de Familia. Actualmente esta línea de investigación ha generado catorce artículos, un preprint y contamos con otros dos artículos en proceso de revisión. Asimismo, esperamos la respuesta de los envíos de otros artículos realizados a diversas revistas.

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De los catorce artículos que hemos publicado hasta este momento, siete se encuentran indexados en la base de datos Social Sciences Citation Index-Journal Citation Reports (SSCI-JCR) y tres de estos siete artículos se publicaron con anterioridad a este periodo doctoral.

Las referencias de los tres artículos publicados con anterioridad a este periodo doctoral e indexados en la base de datos SSCI-JCR son las que se detallan a continuación:

- Clemente, M. & Padilla-Racero, D. (2015). Are Children Susceptible to Manipulation? The best Interest of Children and their Testimony. *Children and Youth Services Review*, 51, 101-107. <http://doi.org/10.1016/j.chilyouth.2015.02.003>.
- Clemente, M. & Padilla-Racero, D. (2015). Facts Speak louder than Words: Science versus the Pseudoscience of PAS. *Children and Youth Services Review*, 56, 177-184. <http://doi.org/10.1016/j.chilyouth.2015.07.005>.
- Clemente, M., Padilla-Racero, D., Gandoy-Crego, M., Reig-Botella, A. & Gonzalez-Rodriguez, R. (2015). Judicial Decision-Making in Family Law Proceedings. *American Journal of Family Therapy*, 43(4), 314-325. <https://doi.org/10.1080/01926187.2015.1051895>.

Otros artículos indexados en otras bases de datos y publicados con anterioridad a este periodo doctoral son:

- Padilla-Racero, D. (2013). El síndrome de alienación parental no es un trastorno mental, problema relacional ni de conducta. Es una feroz resistencia a los avances en la igualdad entre hombres y mujeres. *Infancia, Juventud y Ley*, 4, 58-73.
- Padilla-Racero, D. (2015). El papel de la memoria y los recuerdos en la credibilidad del testimonio de los menores en las denuncias de abuso sexual infantil. *Diario La Ley*, XXXVI (8651), 1-7.
- Padilla-Racero, D. (2016). Credibilidad de las denuncias de maltrato infantil y el falso Síndrome de Alienación Parental. *Revista de Derecho y Proceso Penal*, 42, 379-395.

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□ Clemente, M. & Padilla-Racero, D. (2016). When courts accept what science rejects: Custody issues concerning the alleged “parental alienation syndrome”. *Journal of Child Custody*, 13(2-3), 126-133. <https://doi.org/10.1080/15379418.2016.1219245>.

Entre los artículos que hemos publicado hasta ahora, he seleccionado cuatro para esta Tesis Doctoral, todos ellos indexados en la base de datos SSCI-JCR y que han sido publicados durante este periodo doctoral. Las referencias de los mismos y sus índices de impacto son los que se detallan a continuación:

□ Clemente, M., Espinosa, P. & Padilla-Racero, D. (2019). Moral disengagement and willingness to behave unethically against ex-partner in a child custody dispute. *Plos One*, 14(3): e0213662. <https://doi.org/10.1371/journal.pone.0213662>. ISSN: 1932-6203.

Los datos de impacto, con base 2018, son los siguientes: índice de impacto 2.776; Q2 (posición 24 de 69 revistas)

□ Clemente, M., Padilla-Racero, D., Espinosa, P., Reig-Botella, A. & Gandoy-Crego, M. (2019). Institutional Violence Against Users of the Family Law Courts and the Legal Harassment Scale. *Frontiers in Psychology*, 10, 1-8. <https://doi.org/10.3389/fpsyg.2019.00001>. ISSN: 1664-1078.

Los datos de impacto, con base 2018, son los siguientes: índice de impacto 2.129; Q2 (posición 40 de 137 revistas)

□ Clemente, M., Padilla-Racero, D. & Espinosa, P (2019). Revenge among parents who have broken up their relationship through Family Law Courts: its dimensions and measurement proposal. *International Journal of Environmental Research and Public Health*, 16(24), 4950. <https://doi.org/10.3390/ijerph16244950>. ISSN 16617827, 16604601.

Los datos de impacto, con base 2018, son los siguientes: índice de impacto 2.468; Q1 (posición 38 de 164 revistas)

□ Clemente, M. & Padilla-Racero, D. (2020). Influence of intrafamilial abuse in children,s change of values toward their parents. *Journal of Family Research-Zeitschrift für Familienforschung*, 20(1), 1-18. <https://doi.org/10.20377/jfr-157>. ISSN 2196-2154.

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Los datos de impacto, con base 2018, son los siguientes: índice de impacto .222; Q4 (posición 45 de 56 revistas)

Otros artículos publicados durante este periodo doctoral e indexados en otras bases de datos son:

□ Padilla-Racero, D. & Clemente, M. (2018). ¿Obedecer o no obedecer? Protección del menor versus obediencia judicial. *Revista Aranzadi de Derecho y Proceso Penal*, 49 (enero-marzo).

□ Padilla-Racero, D. (2018). Un acercamiento al acientífico Síndrome de Alienación Parental: repercusiones psico-jurídicas y sociales. *Revista de Estudios e Investigación en Psicología y Educación*, 5(2), 118-124. <https://doi.org/10.17979/reipe.2018.5.2.4637>

Después de haber publicado los cuatro artículos que presento en esta tesis por compendio de artículos, mi labor investigadora continúa en la actualidad. Muestra de ello, son los tres artículos que se citan a continuación: el primero ha sido ya publicado, el segundo ha sido aceptado para su publicación y el tercero se encuentra a la espera de respuesta final por parte de la revista una vez que se han efectuado las correcciones por ésta requeridas. Todos estos artículos han sido publicados o enviados a revistas indexadas en la base de datos SSCI-JCR:

□ Clemente, M., Padilla-Racero, D. & Espinosa, P. (2020). The Dark Triad and the Detection of Parental Judicial Manipulators. Development of a Judicial Manipulation Scale. *International Journal of Environmental Research and Public Health*, 17, 2843. <http://doi.org/10.3390/ijerph17082843>.

Los datos de impacto, con base 2018, son los siguientes: índice de impacto 2.468; Q1 (posición 38 de 164 revistas)

□ Clemente, M. & Padilla-Racero, D (2020). The effects of the justice system on mental health. *Psychiatry, Psychology and Law*. Aceptado para su publicación (29/03/2020). <https://doi.org/10.1080/13218719.2020.1751327>.

Los datos de impacto, con base 2018, son los siguientes: índice de impacto 0.744; Q3 (posición 102 de 148 revistas).

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□ Clemente, M. & Padilla-Racero, D. Obey the Justice System or Protect Children? The Moral Dilemma Posed by False Parental Alienation Syndrome. Enviado a la revista *Journal of Child and Family Studies*, revista que se encuentra indexada en la base de datos SSCI-JCR , posicionada en el Cuartil 2.

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1.2. Abstract

The title of this Doctoral Thesis is “The protection of the child within the justice system from a psychosocial perspective”. The legal protection of minors, from a normative point of view, has been regulated in our country through a series of regulations that start from our Constitution and the Civil Code. From the Organic Law 1/1996, of January 15, on the Legal Protection of Children, partial modification of the Civil Code and the Law of Civil Procedure, the best interest of the legal protection system is based on minors, and this must prevail over any other legitimate interest that may concur. Subsequent reforms of this law have outlined the criteria for evaluation and concretion of the concept of the best interests of the child for the most effective application; however, this is still an undetermined legal concept subject to different interpretations within the same legal framework.

In addition to the different readings or interpretations to which the concept of the best interests of the child can be lent, the procedures and techniques used in the Administration of Justice and the premises from which it departs in its role of imparting Justice regarding minors , also and more directly, will give rise to very different decisions about what is meant to be the protection of minors. With this research work, we intend to contribute from an investigative point of view to effective protection of the child through the study of the suitability of the procedures used and the prevailing paradigms in the Administration of Justice, and the contribution to it of scientific instruments useful for better protection of the child. We understand that only from the rigor and scientific nature of the instruments used within the Administration of Justice can we ensure and guarantee the delivery of justice that it has entrusted.

For years we have been conducting research on the protection of minors within the justice system and, specifically, our field of study is the procedures in which minors are immersed within the scope of Family Law. Currently this line of research has generated thirteen articles, a preprint and we have two other articles under review. Also, we await the response of shipments of other articles made to various journals.

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Of the thirteen articles that we have published so far, seven are indexed in the Social Sciences Citation Index-Journal Citation Reports (SSCI-JCR) database and three of these seven articles were published prior to this doctoral period.

The references of the three articles published prior to this doctoral period and indexed in the SSCI-JCR database are as detailed below:

□ Clemente, M. & Padilla-Racero, D. (2015). Are Children Susceptible to Manipulation? The best Interest of Children and their Testimony. *Children and Youth Services Review*, 51, 101-107. <http://doi.org/10.1016/j.chilyouth.2015.02.003>.

□ Clemente, M. & Padilla-Racero, D. (2015). Facts Speak louder than Words: Science versus the Pseudoscience of PAS. *Children and Youth Services Review*, 56, 177-184. <http://doi.org/10.1016/j.chilyouth.2015.07.005>.

□ Clemente, M., Padilla-Racero, D., Gandoy-Crego, M., Reig-Botella, A. & Gonzalez-Rodriguez, R. (2015). Judicial Decision-Making in Family Law Proceedings. *American Journal of Family Therapy*, 43(4), 314-325. <https://doi.org/10.1080/01926187.2015.1051895>.

Other articles indexed in other databases and published before this doctoral period are:

□ Padilla-Racero, D. (2013). El síndrome de alienación parental no es un trastorno mental, problema relacional ni de conducta. Es una feroz resistencia a los avances en la igualdad entre hombres y mujeres. *Infancia, Juventud y Ley*, 4, 58-73.

□ Padilla-Racero, D. (2015). El papel de la memoria y los recuerdos en la credibilidad del testimonio de los menores en las denuncias de abuso sexual infantil. *Diario La Ley*, XXXVI (8651).

□ Padilla-Racero, D. (2016). Credibilidad de las denuncias de maltrato infantil y el falso Síndrome de Alienación Parental. *Revista de Derecho y Proceso Penal*, 42, 379-395.

□ Clemente, M. & Padilla-Racero, D. (2016). When courts accept what science rejects: Custody issues concerning the alleged “parental alienation syndrome”. *Journal of Child Custody*, 13 (2-3), 126-133. <https://doi.org/10.1080/15379418.2016.1219245>.

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Among the articles we have published so far, I have selected four for this Doctoral Thesis, all of them indexed in the SSCI-JCR database and that have been published during this doctoral period. Their references and their impact indices are as detailed below:

□ Clemente, M., Espinosa, P. & Padilla-Racero, D. (2019). Moral disengagement and willingness to behave unethically against ex-partner in a child custody dispute. *Plos One*, 14 (3): e0213662. <https://doi.org/10.1371/journal.pone.0213662>. ISSN: 1932-6203.

The impact data, based on 2018, are the following: impact index 2,776; Q2 (24 of 69 journals)

□ Clemente, M., Padilla-Racero, D., Espinosa, P., Reig-Botella, A. & Gandoy-Crego, M. (2019). Institutional Violence Against Users of the Family Law Courts and the Legal Harassment Scale. *Frontiers in Psychology*, 10, 1-8. <https://doi.org/10.3389/fpsyg.2019.00001>. ISSN: 1664-1078.

The impact data, based on 2018, are the following: impact index 2,129; Q2 (40 of 137 journals)

□ Clemente, M., Padilla-Racero, D. & Espinosa, P (2019). Revenge among parents who have broken up their relationship through Family Law Courts: its dimensions and measurement proposal. *International Journal of Environmental Research and Public Health*, 16 (24), 4950; <https://doi.org/10.3390/ijerph16244950>. ISSN 16617827, 16604601.

The impact data, based on 2018, are the following: impact index 2,468; Q1 (38 of 164 journals)

□ Clemente, M. & Padilla-Racero, D. (2020). Influence of intrafamilial abuse in children, s change of values toward their parents. *Journal of Family Research*, 20 (1), 1-18. <https://doi.org/10.20377/jfr-157>. ISSN 2196-2154.

The impact data, based on 2018, are the following: impact index .222; Q4 (45 of 56 journals)

Other articles published during this doctoral period and indexed in other databases are:

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□ Padilla-Racero, D. & Clemente, M. (2018). ¿Obedecer o no obedecer? Protección del menor versus obediencia judicial. *Revista Aranzadi de Derecho y Proceso Penal*, 49 (enero-marzo)

□ Padilla-Racero, D. (2018). Un acercamiento al acientífico Síndrome de Alienación Parental: repercusiones psico-jurídicas y sociales. *Revista de Estudios e Investigación en Psicología y Educación*, 5(2), 118-124. <https://doi.org/10.17979/reipe.2018.5.2.4637>

My research work has not stopped after the selection of the four articles that make up this Thesis. And a sample of this are the three articles listed below: one of them already published; another accepted for publication; and the third is still awaiting such acceptance, although minimal changes have been requested. All these articles have been sent to journals indexed in the SSCI-JCR database:

□ Clemente, M., Padilla-Racero, D. & Espinosa, P. (2020). The Dark Triad and the Detection of Parental Judicial Manipulators. Development of a Judicial Manipulation Scale. *International Journal of Environmental Research and Public Health*, 17, 2843. <http://doi.org/10.3390/ijerph17082843>.

The impact data, based on 2018, are as follows: impact index 2,468; Q1 (position 38 out of 164 magazines)

□ Clemente, M. & Padilla-Racero, D (2020). The effects of the justice system on mental health. *Psychiatry, Psychology and Law*. Accepted for publication (03/29/2020). <https://doi.org/10.1080/13218719.2020.1751327>.

The impact data, based on 2018, are as follows: impact index 0.744; Q3 (position 102 of 148 magazines).

□ Clemente, M. & Padilla-Racero, D. Obey the Justice System or Protect Children? The Moral Dilemma Posed by False Parental Alienation Syndrome. Sent to the *Journal of Child and Family Studies*, a journal that is indexed in the SSCI-JCR database, positioned in Quartile 2.

II. MARCO TEÓRICO

La protección del menor dentro del sistema de justicia desde una perspectiva psicosocial

Cuando un niño nace, la patria potestad y la guarda y custodia se atribuye a quienes se reconozcan como sus progenitores, normalmente sus padres. Pero si dicha pareja se rompe, son los juzgados los encargados de determinar quién debe ostentar dichas figuras. En general y en nuestro contexto, la patria potestad, se puede definir como el poder global que la ley otorga a los padres sobre los hijos. Inicialmente, la patria potestad era un derecho absoluto del padre, tal y como se concebía en el derecho romano primitivo y en la redacción original de nuestro Código Civil. Afortunadamente, hoy en día el Código Civil establece que la patria potestad se ejercerá por ambos progenitores conjuntamente, o por uno solo con el consentimiento expreso o tácito del otro. Este mismo precepto dicta reglas para el ejercicio de la patria potestad en caso de desacuerdo o de separación de los padres (Padilla-Racero y Clemente, 2018a). Como explican estos autores, si los hijos van a vivir en un domicilio en el que van a ser cuidados por uno sólo de sus progenitores (es lo que se denomina la guarda y custodia, que luego se comentará), es evidente que ese ejercicio conjunto de la patria potestad queda vacío de contenido para quien no vive con ellos (el llamado progenitor no custodio), ya que su papel se reduce a ver a sus hijos durante periodos de tiempo menores (llamados visitas), y no va a poder ni ocuparse de ellos ni tomar decisiones en lo que les afecta en el día a día a sus hijos. Es más, sería imposible crear un sistema en el que todas las decisiones puntuales y continuas fueran decididas por ambos progenitores. En cualquier caso, la tendencia actual es a, de no ser posible la consideración de una guarda y custodia compartida, determinar un régimen de visitas para el progenitor no custodio muy amplio, de forma que de facto estaríamos ante una custodia compartida, e incluso los niños no tienen por qué saber que ésta no existe legalmente, sino que piensa que tiene dos casas. Es decir, se supone, aunque sea en el vacío, que la patria potestad es una potestad inherente a la condición de padre, y que es la guarda y custodia el concepto que se convierte en el representante de las características citadas. En la práctica, el hecho de atribuir la patria potestad en exclusiva a uno de los progenitores se utiliza como sanción, se supone que ante la existencia de graves incumplimientos por parte de un progenitor.

El concepto de guarda y custodia ha ido evolucionando legalmente en los últimos años, hasta establecerse con la reforma de 2005, la misma en la que se aprobaba el matrimonio homosexual, en la forma que se entiende como más adecuada de establecer

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el contacto de los hijos con sus padres cuando éstos rompen la convivencia. No existe una definición adecuada de lo que es la guarda y custodia, pero se supone que es la capacidad que se le otorga a uno de los progenitores para cuidar de sus hijos de manera habitual. Lógicamente al otro progenitor que no ostenta la guarda y custodia, se le asigna un régimen de visitas, es decir, unos espacios predeterminados en los que se va a ocupar de los niños, para mantener el contacto con ellos. Si no existe una custodia compartida, lo preferible es que sean los propios progenitores los que se pongan de acuerdo para establecer cuál debe ser el régimen de visitas del progenitor no custodio. Pero de no ser así, tendrá que ser el Juez quien lo determine. El régimen de visitas, desde un punto de vista operativo, se convierte en una decisión sobre los tiempos, condiciones y contextos en los que el progenitor no custodio puede mantener contacto con sus hijos (Padilla-Racero y Clemente, 2018a)

Para la determinación del progenitor con el que van a vivir los menores, es decir, el progenitor que va a ostentar la guarda y custodia, y del régimen de visitas de los hijos con el otro progenitor que no posee la guarda y custodia (salvo que haya una alternancia entre ambos en vivir con el menor), muchos jueces basan sus decisiones al respecto en teorías psicodinámicas, que sostienen que para que un niño tenga un óptimo desarrollo psicológico y social necesita ambas figuras parentales tradicionales, es decir, el padre y la madre (Clemente, Padilla-Racero, Gandoy-Crego, Reig-Botella y Gonzalez-Rodriguez, 2015). Dentro de estas teorías psicodinámicas, aparece un concepto crucial, que va a repercutir como ningún otro en los procedimientos que regulan las separaciones familiares o divorcios: es el concepto del Síndrome de Alienación Parental, en adelante SAP. Este supuesto síndrome fue propuesto y difundido por un médico psiquiatra, Richard Gardner (Gardner, 1985, 1991, 1998, 1999), quien no consiguió probar su existencia y validez. A pesar de ello, el SAP es aceptado en muchos países occidentales y el tratamiento que el mismo propone es puesto en marcha en éstos.

Según el pensamiento de Gardner, en los contextos de disputa judicial por la guarda y custodia de los hijos, el testimonio del menor es falso y fruto de una campaña de vilipendio o injurias del hijo contra un progenitor. Por ello, este testimonio no debe ser tenido en cuenta (al considerarse falaz) o va a ser interpretado en el sentido contrario a lo

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que éste expresa (Clemente, 2013; Clemente y Padilla-Racero, 2015a, 2015b, 2016; Padilla-Racero, 2013, 2016)

Las raíces, los conceptos, las premisas sobre las que el SAP se construye y sus implicaciones han sido ampliamente estudiadas por diversos autores (Clemente, 2013; Clemente y Padilla-Racero, 2015a, 2015b, 2016; Clemente, Padilla-Racero, Gandoy-Crego, Reig-Botella y Gonzalez-Rodriguez, 2015; Erard, 2016; O'Donohue, Benuto y Bennett, 2016; Padilla-Racero, 2013, 2015, 2016; Saunders y Oglesby, 2016; Shaw, 2016). Este supuesto síndrome no ha sido probado ni reconocido científicamente (Emery, 2005; Emery, Otto y O'Donohue, 2005; Escudero, 2008; Escudero, Aguilar y De la Cruz, 2008; Escudero et al., 2010; Nichols, 2014). Sin embargo, gracias a su gran divulgación (Clemente y Padilla-Racero, 2015b), se le otorga validez y es incluso “diagnosticado” por los Tribunales de Justicia (Nichols, 2014; O'Donohue, Benuto y Bennett, 2016). La aceptación de las ideas del SAP por la Administración de Justicia redundo en que en sus informes y sentencias no se le da credibilidad al testimonio de los menores (Clemente, 2013; Clemente y Padilla-Racero, 2015a; Kleinman y Kaplan, 2016; Padilla-Racero, 2013, 2016; Rozanski, 2013; Shaw, 2016).

El SAP interpreta que cuando un menor rechaza y se niega a estar en contacto con un progenitor se debe a la manipulación del otro progenitor (Clemente, 2013; Clemente y Padilla-Racero, 2015a, 2015b; Padilla-Racero, 2013, 2016). Para sustentar esta premisa, Gardner sostiene que los niños son mentirosos sin escrúpulos, capaces de persistir en una mentira solo para perjudicar a un tercero y que, además, son fácilmente manipulables.

Es cierto que en el año 1991 Gardner introduce la cláusula de exención (Escudero, Aguilar y De La Cruz, 2008), añadiendo a la definición de su SAP que cuando existe maltrato el mismo no es aplicable (Gardner, 1991a, 1991b, 1998, 2001a, 2001b, 2002a, 2002b), pero no es menos cierto que los técnicos que evalúan las cuestiones relativas a las custodias y regímenes de visitas de los hijos, tienen un exquisito cuidado en determinar que no existen malos tratos y en la mayoría de las ocasiones especifican que tras la acusación de malos tratos de un menor contra un progenitor, lo que subyace es el SAP. Esto lo determinan sin aplicar un protocolo científico que determine si realmente ha existido maltrato o no (Clemente y Padilla-Racero, 2015b)

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El SAP es una teoría psicodinámica, como ya se ha indicado, que defiende que los hijos necesitan a ambas figuras parentales tradicionales (madre y padre) para un correcto desarrollo psicológico y social. Prepondera el contacto de los hijos con ambos progenitores sobre la conveniencia de proteger a los hijos contra el maltrato por parte de un progenitor (Clemente, Padilla-Racero, Gandoy-Crego, Reig-Botella y Gonzalez-Rodriguez, 2015). Sin embargo, hace ya mucho que la investigación ha demostrado que los estilos parentales basados en la ira, la agresividad o el rechazo producen problemas de salud mental en los niños o en su ajuste psicológico y social (Gracia, Lila y Musitu, 2005). Estos autores compararon familias en las que las relaciones padre-hijo fueron consideradas disfuncionales, frente a otro grupo de familias consideradas normalizadas. Los niños rechazados, en comparación con los niños del grupo de control, manifestaron significativamente más problemas. La personalidad de estos niños problemáticos se caracterizó por la dependencia, baja autoestima y autoajuste, inestabilidad emocional, y una visión negativa del mundo. El estudio de Gracia, Lila y Musitu (2005) demostró que el rechazo percibido por los niños, ya sea de la madre, del padre o de ambos, tiene un resultado negativo para su ajuste psicológico y social.

Se vislumbran, según lo expuesto en el párrafo anterior, dos posicionamientos opuestos en cuanto al bienestar y equilibrio de los menores: éstos necesitan a ambas figuras parentales, madre y padre, para un óptimo desarrollo psicológico y social aun cuando puedan existir dinámicas de maltrato por parte de uno de sus progenitores; o es conveniente apartar a los menores de una figura parental negativa que puede provocarles daños en su salud y desarrollo social.

En la actualidad, desde la Administración de Justicia, se está preponderando el contacto de los hijos con ambos progenitores por delante de cualquier otra consideración (Clemente 2013; Padilla-Racero y Clemente, 2018a, 2018b). Esta opción de prevalencia de contacto, se asienta sobre un conjunto de ideas que obedecen a estereotipos sociales en vez de a certezas probadas científicamente (Padilla-Racero, 2016), como, por ejemplo, la idea de la presunta manipulación de las madres sobre los hijos para que rechacen a los padres. Además de esta presunción, la posibilidad de poder exigir y obtener, con el recurso a la Administración de Justicia, el contacto forzoso con los hijos en contra de la voluntad de éstos incluso en contextos probados de malos tratos o abusos sexuales; el

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obviar que existen determinadas personalidades oscuras o dadas a autojustificar, con diversas estrategias, sus comportamientos poco éticos y que hacen uso de este recurso a la Administración de Justicia con fines exclusivos de venganza ante una separación no deseada (Clemente, Espinosa y Padilla-Racero, 2019; Clemente, Padilla-Racero y Espinosa, 2019); etc., son realidades presentes en los procedimientos de Derecho de Familia. Del abordaje de estas cuestiones desde una metodología científica se va a ocupar la investigación llevada a cabo en esta Tesis Doctoral.

Como se ha señalado, caben plantearse diversas cuestiones fundamentales en lo referente a las relaciones de los hijos con sus progenitores después de la separación o divorcio. En la actualidad premisas como que un progenitor tiene la capacidad de mediatizar la voluntad de los hijos para que rechacen el contacto con el otro progenitor están arraigadas y extendidas en el sistema de justicia; se hace necesario, por ello, profundizar y arrojar luz sobre el alcance y naturaleza del vínculo entre los hijos y sus padres, ¿es tan volátil este vínculo? ¿puede deteriorarse fácilmente por influencias interesadas de venganza de un progenitor contra el otro? La primera investigación realizada en esta Tesis Doctoral abordará, en primer lugar, el estudio de los valores en los que están socializados los menores en orden a determinar cuáles son los valores presentes en ellos que tienen relación con el vínculo que mantienen con sus progenitores; y, en segundo lugar, se estudiará cómo influyen y pueden cambiar la naturaleza del vínculo de los hijos con sus progenitores la existencia o aparición de dinámicas de maltrato por parte de uno de sus progenitores.

La respuesta del sistema de justicia ante la negativa de los hijos a tener contacto con uno de sus progenitores, que parte de la premisa ya mencionada de que esta negativa la provoca la mediatización del otro progenitor, es la coerción sobre los hijos y los supuestos progenitores manipuladores para que se produzca el contacto con el progenitor rechazado. Esta respuesta coercitiva por parte de los juzgados tiene lugar a instancia del progenitor rechazado, que suele alegar que antes de la separación o divorcio mantenía un vínculo fuerte, saludable y positivo con sus hijos, pero que dicho vínculo ha sido destruido por el otro progenitor con el fin de hacerle daño y vengarse de él (Clemente, 2013; Clemente y Padilla-Racero, 2015a, 2015b, 2016; Padilla-Racero, 2013, 2015, 2016; Padilla-Racero y Clemente, 2018a, 2018b). Este argumento del progenitor rechazado,

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habida cuenta de que tiene la posibilidad de reclamar judicialmente el contacto forzoso con sus hijos hasta que éstos alcancen la mayoría de edad, somete a los hijos y al progenitor guardador a interminables procesos e intervenciones judiciales que se sustentarían en una premisa errónea si se demuestra con nuestras investigaciones que el vínculo entre padres e hijos no es tan fácil de mediatizar ni destruir por influencias de terceros ni aunque estos terceros sean el otro progenitor (Clemente, Padilla-Racero, Espinosa, Reig-Botella y Gandoy-Crego, 2019). Esta coyuntura judicial de incidencia durante periodos tan extensos de tiempo en la vida de los progenitores guardadores y de sus hijos, sustentada en determinadas premisas que a día de hoy no han sido probadas científicamente, provocarían, en general, un menoscabo y grave deterioro en las condiciones de vida de ambos y, muy específicamente, daños en su salud mental. La segunda investigación de esta Tesis Doctoral va a intentar determinar si existe el fenómeno del acoso en el ámbito judicial descrito y, de existir, si es posible crear un instrumento capaz de detectarlo y de medirlo.

Tan cierto es que las ideas del SAP no han sido probadas científicamente como que, en la práctica, muchos progenitores alegan estas ideas pidiendo auxilio a la Administración de Justicia para que ésta obligue a los hijos a tener contacto con ellos (Clemente, 2013; Clemente y Padilla-Racero, 2015a, 2015b, 2016; Padilla-Racero, 2013, 2015, 2016; Padilla-Racero y Clemente, 2018a, 2018b). Si se demuestra con la primera investigación de esta Tesis Doctoral que el vínculo de los hijos con sus progenitores se deteriora gravemente por causa de la existencia de malos tratos por parte de los últimos y no por el intento de manipular a los hijos en contra de un progenitor por parte del otro, nos situaríamos en un escenario en el que algunos progenitores obligan a sus hijos a relacionarse forzosamente con ellos utilizando a la Administración de Justicia basándose en unos argumentos falaces. De ser así, cabría preguntarse: ¿por qué un progenitor acusa al otro de que sus hijos lo rechazan por su culpa sin cuestionarse que, a lo mejor, es su comportamiento el que provoca el rechazo de los hijos? ¿no es probable que un progenitor que maltrata al otro o a los hijos en común, utilice este argumento de sufrir el rechazo de sus hijos por culpa del otro progenitor para, de una forma más sutil, menos explícita y arriesgada que el maltrato directo, seguir infiriendo negativamente en la vida de su expareja y de los hijos en común utilizando como herramienta o vehículo a la

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Administración de Justicia? ¿existen personalidades oscuras que, por su naturaleza, sean proclives a este comportamiento? ¿qué variables de personalidad operan y con qué peso específico en los comportamientos poco éticos de las partes intervinientes en las disputas judiciales por la custodia de los hijos? Los estudios tercero y cuarto de esta tesis pretenden arrojar luz sobre estos aspectos; el tercer estudio se va a ocupar de determinar si los litigantes en los procesos de Derecho de Familia tienen como motivación de sus actuaciones el vengarse de su expareja y de elaborar un instrumento que permita detectar y medir esta conducta; y el cuarto estudio examinará el papel de las estrategias de desconexión moral como protagonistas de los comportamientos poco éticos en los contextos de las disputas de la custodia de los hijos.

III. OBJETIVOS DE LA INVESTIGACIÓN

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Mucho se ha hablado del concepto jurídico indeterminado del interés superior del menor. Su interpretación ha sido ambigua y contradictoria. De un lado, se sitúan los autores defensores de que el mencionado interés superior del menor, y su mejor salvaguarda, es la prevalencia del contacto del menor con ambos progenitores sobre cualquier otro aspecto, incluido la propia seguridad física y mental del menor; de otro lado, los autores que defienden que el interés superior del menor es, ante todo, apartarlo de cualquier posible daño en su salud, física o mental, aunque ello conlleve el apartarlo de uno de sus progenitores si es quien pone en peligro su bienestar o salud.

Dos son los objetivos principales que pretende alcanzar este trabajo de investigación. El primero es el de aportar certezas y conocimientos científicos sustentados en los distintos estudios empíricos llevados a término, sobre premisas fundamentales por su relevancia e implicaciones y sobre los cuales existe gran controversia y disparidad de interpretaciones y soluciones propuestas desde la práctica judicial en función de estas interpretaciones; y el otro objetivo principal de este trabajo es crear una serie de instrumentos que permitan, de manera objetiva, detectar y medir variables o fenómenos presentes y de vital importancia en los procedimientos de Derecho de Familia en los que se ven inmersos los menores cuando se produce la ruptura entre sus progenitores, de tal manera que trascendiendo la interpretación subjetiva de los distintos técnicos y operadores judiciales intervinientes en estos procedimientos, desde la ciencia se pueda dotar a éstos de unos instrumentos que rigurosamente velen por el bienestar físico, psicológico y social de los menores.

Dentro de estos dos objetivos aglutinadores y en función de cada uno de los estudios empíricos realizados en orden a alcanzar los mismos, se especifican a continuación los objetivos específicos que se han marcado en cada uno de los estudios llevados a cabo:

Los objetivos de la primera investigación sobre la determinación de los valores en los que están socializados los menores y cómo influyen las dinámicas de maltrato familiar en el vínculo de los hijos con sus progenitores son:

- * Analizar si unos determinados valores sociales están presentes en la escala de valores en las que están socializados los menores.

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- * Determinar si los hijos informan con veracidad de la conducta maltratadora por parte de sus progenitores.
- * Comprobar, en el caso de que se confirme que el valor social “querer a ambos progenitores” esté imbuido en los menores, si este valor se modifica y en qué sentido ante la existencia de malos tratos por parte de uno de los progenitores dentro de la unidad familiar.
- * Constatar, en el caso de que se confirme que el valor social “querer tener contacto con ambos progenitores” esté presente en los menores, si este valor varía y en qué sentido ante la existencia de malos tratos por parte de uno de los progenitores dentro de la unidad familiar.
- * Verificar, en caso de que los valores sociales de querer y desear estar en contacto con ambos progenitores estén interiorizados en los menores, si ante los relatos interesadamente negativos de parte de un progenitor contra el otro y de los que son destinatarios estos menores (relatos de hechos no vividos o no recordados por ellos), los menores dejan de querer y desear estar en contacto con el progenitor objeto de esos relatos negativos.

Los objetivos del segundo estudio sobre la determinación de la existencia del fenómeno del acoso judicial a través de la creación de un instrumento que permita detectarlo y, en su caso, medirlo son:

- * Probar que existe otro tipo de acoso, el acoso judicial, que también daña a los sujetos involucrados en el mismo, especialmente al que es víctima, ya que desea proteger a su hijo y defenderle de los malos tratos y a veces abusos sexuales del otro progenitor.
- * Crear un instrumento que mida la existencia de dicho acoso judicial y sus efectos en los sujetos.
- * El instrumento propuesto en el objetivo anterior, podrá ser unidimensional o multidimensional, y será también objetivo de este estudio determinarlo.
- * Si se puede determinar dicho instrumento, se verificarán los requisitos de fiabilidad y de validez, y se baremarán las puntuaciones que se puedan obtener en percentiles.

Los objetivos de la investigación sobre las conductas de venganza y la creación de un instrumento que permita detectarla y medirla son:

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- * Examinar si la venganza es la motivación de las actuaciones de los litigantes en los procedimientos de Derecho de Familia.
- * Determinar, en el caso de que los haya, cuáles son los componentes de la conducta de venganza.
- * Comprobar si la ideología de rol media entre la triada oscura y la venganza.
- * Construir un instrumento que permita detectar la venganza y medirla.

Los objetivos del cuarto estudio sobre los mecanismos de desconexión moral en las conductas de las partes litigantes en los procedimientos de Derecho de Familia son:

- * Examinar el papel de la desconexión moral en los comportamientos de las personas involucradas en un hipotético proceso de separación que incluye una disputa sobre la custodia de los hijos de la pareja y las posibles diferencias entre hombres y mujeres.
- * Examinar la relación entre la desconexión moral y el comportamiento poco ético relacionado con las disputas de custodia de menores; comprobando si es un mejor predictor de comportamiento poco ético en este contexto en comparación con las variables en la tríada oscura.
- * Examinar las diferencias de género en las actitudes hacia comportamientos poco éticos contra la pareja y en el uso de mecanismos de desconexión moral.

IV. INVESTIGACIÓN Y ESTUDIOS REALIZADOS

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Dentro del campo de estudio de la protección del menor inmerso en los procedimientos de Derecho de Familia, se ha desarrollado esta investigación que, como se ha explicado en los párrafos anteriores, ha abarcado diferentes aspectos fundamentales de incidencia en la protección del menor dentro del Sistema de Justicia.

A continuación, y en el orden que se han ido mencionando dentro del apartado Marco teórico, se van a exponer resumidamente (pues se adjunta en este trabajo, como anexo, una copia íntegra de los artículos generados y publicados) los cuatro estudios realizados en esta Tesis Doctoral, cada una de los cuales ha dado lugar a la publicación del correspondiente artículo con los títulos que seguidamente se expresan y que han sido publicados, todos ellos, en revistas indexadas en la base de datos SSCI-JCR:

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4.1. Influencia del maltrato intrafamiliar en el cambio de valores de los hijos hacia sus padres

La socialización que los padres y la sociedad ejerce sobre los hijos inculca en los menores una serie de valores con respecto a sus progenitores. Algunos de ellos son no mentir, tener cariño hacia dichos padres, y desear tener contacto con ellos. Son los padres los encargados de la socialización de sus hijos, de forma que forjan sus mentes inculcándoles una serie de principios o valores.

En esta investigación queremos referirnos a algunos de ellos, ya que tienen implicación con las declaraciones policiales y judiciales de los menores en los casos de presuntos abusos; nos referimos a los valores de no mentir (especialmente a los padres), de tener afecto por los progenitores y de desear estar en contacto con los mismos. Si se quiebra el valor de no mentir y se produce la mentira interesa sobremanera en esta investigación, puesto que es la clave para poder actuar judicialmente contra un posible agresor en el caso de no haber otras pruebas más allá del testimonio.

Clemente y Padilla-Racero (2015a, 2015b) ya comprobaron mediante un estudio empírico, que los niños, por regla general, no mienten y que no son fácilmente manipulables. Con una muestra de 300 niños, de edades comprendidas entre los 6 y los 12 años, estos autores verificaron que los niños, prácticamente en su totalidad, informan verazmente de los hechos problemáticos que presencian y que, además, sus informes o relatos no se ven influenciados por presiones y mediatizaciones externas. Son muchas las investigaciones que convergen en que los niños, por regla general, no mienten. Autores como Clemente y Padilla-Racero (2015a), Gudjonsson, Sigurdsson, Finnbogadottir y Smari (2006), o Perkins y Turiel (2007) demuestran esta afirmación.

Desafortunadamente existen divorcios que se producen en contextos de violencia dentro de la familia, donde un progenitor maltrata al otro o a los propios hijos. Cuando esto ocurre, ¿cómo se ven alterados estos valores sociales inculcados a los niños? ¿contarán la verdad sobre el maltrato? y ¿seguirán queriendo y deseando estar en contacto con ambos progenitores? Estos aspectos son fundamentales de cara a la determinación del régimen de estancia y comunicación de los hijos con sus progenitores tras la separación o divorcio.

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Frente a los valores inculcados en los hijos a través de la socialización (no mentir y querer y desear contacto con ambos progenitores), se sitúa el SAP (Gardner, 1985, 1991a, 1991b, 1998, 2001a, 2001b, 2002a, 2002b). Para esta teoría, el niño es manipulado por el progenitor custodio, que inculca en él un odio hacia el progenitor no custodio, de forma que el menor expresa que odia (plano emocional) y no quiere tener contacto (plano conductual) con dicho progenitor.

Esta investigación trata de verificar si un menor, ante una situación de maltrato de mayor o menor gravedad, informaría correctamente de la misma, desearía seguir en contacto con ambos progenitores, y expresaría que quiere o no a ambos. Es decir, cuándo una situación de maltrato llega a romper los tres valores o elementos citados inculcados por la socialización. Se plantearán para ello cuatro preguntas ante casos en los que existen supuestos maltratos de un progenitor a otro o al menor: si efectivamente los niños informan del maltrato en los dos sentidos, es decir, cuando el maltrato lo ejerce el padre o cuando lo ejerce la madre (principio de decir la verdad), si expresan cariño por sus padres (principio de expresar cariño por sus padres) y si desean tener contacto con ambos (principio de procurar estar siempre con ellos). Se hipotetiza que los hijos preservarán el valor de decir la verdad cuando tienen que informar del maltrato por parte de uno de sus progenitores; que los hijos se alejarán de los valores querer y desear el contacto con ambos progenitores cuando uno de ellos maltrata psicológica o físicamente al otro progenitor o al propio hijo; que los hijos preservarán más los valores querer y desear estar en contacto con ambos progenitores si uno de sus progenitores es el que les cuenta que se produjeron las agresiones (psicológicas o físicas) que si ellos las han presenciado o sufrido directamente; que los hijos preservarán menos los valores querer y desear estar en contacto con los dos progenitores cuando el objeto del maltrato sean ellos mismos que cuando lo sea el otro progenitor; que también se preservarán más dichos principios ante una agresión psicológica que física; que cuando el emisor del maltrato sea el progenitor custodio (la madre) se preservarán más dichos principios que si es el progenitor no custodio (el padre). Es decir, se obtendrán resultados contrarios a lo que sería predecible según los conceptos derivados del SAP.

Para realizar esta investigación se utilizó una muestra incidental de 2730 menores de 6 a los 18 años que nunca habían sufrido maltrato y se les pidió que se pusieran en el

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lugar del protagonista de un relato. Dicho relato fue distinto en función de las condiciones que se deseaban estudiar: observación y sufrimiento directo o relato por parte de otro de los malos tratos, tipo del maltrato (psicológico o físico), quién emitió el maltrato (progenitor custodio o no custodio), y quién lo recibió (el otro progenitor o el menor)

4.1.1. Resumen del método seguido

Participantes

Los participantes fueron 2730 menores con edades comprendidas entre los 6 y los 18 años ($M = 12,45$ años, $SD = 2,91$). La proporción entre varones y mujeres fue similar (50%), respetándose para todos los grupos de edad (formados en bloques de dos años). Los niños nunca habían sufrido maltrato (según sus informes). El muestreo fue incidental, utilizándose las aulas de los centros educativos que se prestaron a colaborar.

Instrumentos

Se construyó un cuestionario *ad hoc* que tras recoger las variables sociodemográficas de los menores, se componía de dos partes:

En primer lugar, se les preguntaba por la valoración que otorgarían a una serie de valores que definen la relación con sus padres. Se les pedía que valoraran en una escala tipo Likert de cuatro puntos (muy en desacuerdo, en desacuerdo, de acuerdo y muy de acuerdo) cuatro valores de su socialización referentes a su relación con los padres: “Hay que decir la verdad a todo el mundo”, “Hay que querer a los padres”, “Hay que tener contacto con los padres”, “Hay que decir la verdad a los padres”. Estas cuatro preguntas estaban enmascaradas dentro de un conjunto más amplio, es decir, se presentaron ocho preguntas en total. De esta manera, se pretendía determinar si dichos principios básicos se manifestaban como tal en los niños.

Después se les relataba una historia. Si los respondientes eran varones, la historia le ocurría a un varón, y si eran mujeres, la protagonista era una mujer. Luego se les pedía que ese niño o niña tenía que ir a declarar ante un juez al día siguiente, y que se pusieran en su lugar para responder por él o ella.

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El relato de cómo era la relación de los padres o de las madres con ellos se manipuló en función de las variables independientes que se citan en el procedimiento. Tras leer el relato, cada menor debía responder a cuatro preguntas (variables dependientes)

Procedimiento

Se manipularon cuatro variables independientes:

A) Observación y sufrimiento de malos tratos por parte del menor, o ser informado por el progenitor custodio o no custodio de los mismos, sin tener él noción de los mismos. Esta variable, por lo tanto, tuvo dos niveles: a1, el menor observa el maltrato y lo sufre; a2, el menor es informado de las posibles agresiones por parte del progenitor custodio o no custodio, pero nunca las ha observado (se le trata de convencer). El segundo de los niveles permite verificar si los niños son fácilmente manipulables, idea básica en el SAP.

B) Tipo del maltrato. También tuvo dos niveles: b1, verbal y psicológico (insultos, desprecios y humillaciones); y b2, físico (agredir físicamente)

C) Emisor del maltrato. De nuevo con dos niveles: c1 (el progenitor custodio, en nuestro caso mujer); y c2 (el progenitor no custodio, en nuestro caso varón)

D) Receptor del maltrato. También con dos niveles: d1 (el otro progenitor) y d2 (el menor)

Se expone a continuación como muestra un texto que corresponde a la posibilidad a₁b₁c₁d₁, siendo un varón el que tiene que responder:

Manuel vivía con su padre y con su madre. Sin embargo, sus padres se han separado, y ahora él vive sólo con su madre. A su padre le ve los martes y los jueves por las tardes, y además pasa con él un fin de semana de cada dos. Hoy le van a hacer una entrevista a Manuel para que diga en los Juzgados cómo se portan sus padres con él, y de eso dependerá que tenga más o menos contacto con sus padres. Cuando Manuel vivía con su padre y con su madre, la madre insultaba a su padre, le decía palabrotas, no valoraba su esfuerzo, y le ponía en ridículo constantemente delante de los demás.

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A continuación se le preguntaban cuatro cuestiones (variables dependientes), las dos primeras referentes a decir la verdad (una referente al trato del padre hacia la madre y la otra de la madre al padre): cómo trata o trataba tu padre a tu madre (con dos alternativas de respuesta, bien o mal) y cómo trata o trataba tu madre a tu padre (con las mismas alternativas de respuesta que la pregunta anterior); la tercera hizo referencia a querer a los progenitores: ¿A quién quieres más de los dos? (con tres alternativas de respuesta: a mi madre, a mi padre, o a ambos); y la cuarta hizo referencia a estar en contacto con ambos: ¿Quieres ver a ambos aunque vivas sólo con uno de ellos? (con tres alternativas de respuesta: no, quiero ver sólo a mi madre; no, quiero ver sólo a mi padre; sí, quiero ver siempre a ambos)

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4.2. Acoso judicial: Violencia contra las personas utilizando el sistema judicial y creación de una escala de medida

El término acoso ha sido utilizado normalmente para referirse a dos contextos, el laboral y el escolar, pero no al ámbito judicial. No existe literatura al respecto, pero en los procesos judiciales de larga duración, como los de Derecho de Familia, se produce un fenómeno de violencia hacia algunos litigantes, que se convierten en víctimas del sistema judicial. Esta investigación pretende determinar si es posible detectar dicho acoso judicial, creando una escala al respecto.

El acoso es una forma de violencia, y en la literatura sobre el tema se han acuñado fundamentalmente dos términos para referirse a este concepto: el de “mobbing” y el de “bullying”, que se suelen utilizar como sinónimos de violencia psicológica pero que tienen significados ligeramente distintos, y que suelen emplearse para referirse a dos contextos diferentes: el primero se suele utilizar dentro del ámbito laboral, y el segundo dentro del contexto escolar. Se puede definir la violencia psicológica como una conducta abusiva, que adopta la forma de acoso, ejercida por parte de un superior, un colega, un inferior, o un cliente, durante un tiempo prolongado, que se caracteriza por comportamientos, actos, palabras, gestos o escritos malintencionados que atentan contra la dignidad y la salud mental de una persona, que degradan, por ejemplo, las condiciones de trabajo. Dentro del ámbito laboral, vuelven imposible la conservación de un empleo, y dentro del ámbito escolar, impiden el aprovechamiento escolar e incluso provocan que un alumno abandone su centro escolar.

La otra forma de entender el fenómeno es desde el punto de vista de quien sufre el acoso. En ese caso, existe otro término ampliamente relacionado con los dos citados: el de “burnout” o síndrome de estar quemado. Se trata de los efectos que se manifiestan en las víctimas, sobre todo debido a las situaciones de estrés que padecen. Este término fue acuñado por Maslach, y es bien conocido en la literatura (Maslach, 1976; Maslach y Jackson, 1986). La diferencia es que el fenómeno de burnout no necesita de la aparición de un agresor, sino que la propia organización de la institución con la que se relaciona un sujeto (es decir, las características estructurales de su puesto de trabajo, como por

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ejemplo, el trabajo continuo con enfermos terminales) puede hacer que éste manifieste este hecho.

Se ha podido verificar cómo son frecuentes los cuadros de estrés, de desgaste y de cansancio psicológico, que presentan algunas personas debido a que sufren acoso, y cómo esta situación puede acabar alterando su estabilidad emocional, causándoles un síndrome de agotamiento emocional, conocido como burnout. Maslach y Jackson (1976) lo definieron como un síndrome de agotamiento emocional, despersonalización y realización personal reducida, que puede desarrollarse en personas que desempeñan actividades que tienen como objeto el trabajo con otras personas. Este síndrome de burnout se asocia con un incremento del riesgo de bajas por enfermedad, incapacidad laboral, insatisfacción laboral, absentismo laboral, y una mayor intención de abandonar el puesto de trabajo (véase, por ejemplo, aplicado al personal de enfermería, el trabajo de Westerman -2014-)

Pero, ¿y desde el punto de vista del sistema de justicia? Pocas son las investigaciones que han abordado esta cuestión, y sin embargo, en muchas ocasiones el usuario del sistema de justicia se encuentra victimizado por el propio sistema, bien sea como denunciante o como denunciado, si bien el efecto del acoso se debería manifestar más en el sujeto denunciado. Desgraciadamente, no existen trabajos al respecto. Sí es posible referirse a algunas investigaciones que permiten establecer alguna relación, y que se van a analizar a continuación.

En toda sociedad existen grupos desfavorecidos, en los que por un lado se ceba la sociedad, y por otro lado se ceba el sistema de administración de justicia. Bajo este supuesto se desarrolla el trabajo de Athwal y Burnett (2014), que se aplica al racismo. Relatan estos autores cómo miembros de determinados colectivos, fundamentalmente relacionados con la economía sumergida, van “desapareciendo”, al existir un acoso de bajo nivel, en primer lugar, como se acaba de establecer, de la sociedad en general, pero también en segundo lugar del propio sistema de justicia, que no actúa o también actúa de una manera que se podría denominar como de “bajo nivel”, dejando impunes la mayoría de los crímenes.

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Resulta interesante constatar cómo el sistema de justicia estigmatiza a todos, a los agresores y a las víctimas. Así lo demuestra el trabajo de Stotzer (2014), que analiza 33 estudios que se centran en el trato que otorga el sistema de justicia a sus usuarios. Estos trabajos ponen de manifiesto cómo los transgresores de la ley sufren acoso, detenciones ilegales, asaltos, y en general una gran falta de protección por parte del sistema, siendo los agentes de dichas agresiones los propios integrantes del sistema de justicia. Pero ocurre también lo contrario: las víctimas también sufren acoso y discriminación por parte del sistema. La conclusión es clara: el sistema policial y de justicia agrede a agresores y agredidos.

Por otra parte, la forma en que el sistema de justicia trata a aquellos que acuden a él en calidad de víctimas afecta a su salud mental. Así lo demuestran, por ejemplo, dos investigaciones. Bell, Street y Stafford (2014), trabajando con 1562 reservistas del ejército de Estados Unidos que sufrieron abusos sexuales en su organización, ponen de manifiesto cómo cuando estas personas fueron tratadas de manera adecuada por parte del sistema de justicia, y se les tomó declaración de manera apropiada y respetuosa, mejoraron en su salud mental, y especialmente mejoraron en su nivel de estrés postraumático; y contrariamente, aquellos a los que el sistema de justicia trató de manera irrespetuosa, empeoraron en su salud mental. Un trabajo similar lo realizó Smith (2012), pero refiriéndose al sistema penitenciario, y con resultados similares. Por lo tanto, de manera general, podemos afirmar que cuando las víctimas de los delitos y los agresores son tratados de manera adecuada por parte del sistema de justicia, éstas incluso mejoran en su salud mental. Pero desgraciadamente, también ocurre lo contrario.

Quizá una de las posibles explicaciones de esta discriminación, desde el punto de vista jurídico, la podemos encontrar en el concepto de Silbey (2005) de “conciencia legal”.

En general, su teoría establece una clara distinción entre el concepto teórico de la ley y cómo actúa la misma cuando se pone en funcionamiento. Se podría argumentar que a menudo la aplicación de la ley es iatrogénica, es decir, si bien a nivel general pretende defender a las víctimas, en su aplicación individual perjudica a éstas en muchas ocasiones.

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Otro fenómeno que pone de manifiesto este acoso al ciudadano por parte del sistema legal es el de la “Norma Perversa”, que fue creado por Fernández-Dols (1993), que lo definió como una norma explícita e incumplible. Se trata de una norma que sólo puede cumplirse en términos ideales o excepcionales (véase también Oceja y Fernández-Dols, 1992). Así, la policía puede sancionar a quien incumple una norma porque ha violado la ley, a pesar de que toda la sociedad la incumple, incluso debido al desconocimiento de su existencia. Las normas perversas suelen ser impuestas a todos los grupos de un subsistema social o al menos al grupo sin autoridad, utilizando la coacción por parte de un sistema social jerárquicamente superior.

Pero es el Derecho de Familia donde el tema es mucho más acusado. Primero porque se juega con los seres queridos, con los hijos, y por lo tanto con la sensibilidad de las personas. Y en segundo lugar, porque los procedimientos judiciales no se cierran hasta que los niños adquieren la mayoría de edad. La situación se ha complicado, además, desde que un psiquiatra, Gardner (1999), estableció el término de “Parental Alienation Syndrome” o SAP, especificando que a menudo el progenitor custodio inculca en los hijos odio hacia el progenitor no custodio, para evitar que se produzcan las visitas. Desgraciadamente este argumento suele ser utilizado por los progenitores acusados de abusos sexual, argumentando que sus hijos son capaces hasta de provocarse daños en su cuerpo con tal de evitar las visitas. En general, existen dos tendencias, especialmente en España, acerca del síndrome creado por Gardner. La de aquellos autores que defienden la existencia del SAP (por ejemplo Vilalta, 2011) y la de aquellos que critican este supuesto síndrome por falta de verificación científica (por ejemplo, Clemente y Padilla-Racero, 2015b). Lo cierto es que el síndrome no tiene ninguna verificación científica, pero lo que aquí nos interesa es que los procesos de familia son muy extensos en el tiempo, y dañan enormemente a las partes que intervienen en el proceso, sobre todo al sujeto de estas visitas, el menor, y al progenitor que debe cumplir un régimen de visitas obligado por el sistema de justicia, entregando a su hijo al otro progenitor, a sabiendas de que éste último maltrata o abusa sexualmente del mismo. Algunos niños, incluso, no son capaces de irse con el progenitor que les maltrata en cumplimiento del régimen de visitas, pero ante el que el sistema de justicia no ha podido comprobar el maltrato o abuso, y se suicidan. En otras ocasiones, el progenitor custodio, normalmente la madre, huye con sus hijos como

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única salida para eludir unas visitas que son en la práctica de imposible cumplimiento o cuyo cumplimiento conlleva un alto coste o riesgo para el menor. Por estas razones, hemos escogido para esta investigación a personas involucradas hace años en procedimientos judiciales de familia. Es normal que en estos procedimientos a menudo algunos abogados, los jueces y los fiscales, descalifiquen, humillen, y en general, acosen a una de las partes a petición o instancia de la otra.

El objetivo de esta investigación es probar que existe otro tipo de acoso, el acoso judicial, que también daña a los sujetos involucrados en el mismo, especialmente al que es víctima, ya que desea proteger a su hijo y defenderle de los malos tratos y a veces abusos sexuales del otro progenitor. Se pretende crear un instrumento que mida la existencia de dicho acoso judicial y sus efectos en los sujetos. Ese instrumento podrá ser unidimensional o multidimensional, y será también objetivo de este trabajo determinarlo. Además, si se puede determinar dicho instrumento, se verificarán los requisitos de fiabilidad y de validez, y se baremarán las puntuaciones que se puedan obtener en percentiles.

4.2.1. Resumen del método seguido

Participantes

Se utilizó una muestra incidental tomando en consideración que los sujetos, para poder participar en el trabajo, debían ser parte (en calidad de denunciantes, denunciados o de ambas categorías) de un proceso judicial que en el momento de su participación siguiera abierto. Se escogieron sólo procedimientos de Derecho de Familia, ya que se trata de procesos muy largos, especialmente cuando se litiga por el régimen de visitas de los hijos o sobre su guarda y custodia, ya que hasta que los niños no cumplen la mayoría de edad, los padres pueden litigar. En parte debido a esta característica, la mayoría de las personas eran tanto denunciantes como denunciados, si bien normalmente en mayor medida denunciados. En total participaron 209 personas, mayoritariamente mujeres (72,9%), con una edad media de 40,28 años (mínimo 18 y máximo 59). Algunos de ellos llevaban 12 años pleiteando con el mismo procedimiento judicial. La muestra fue de personas involucradas en procedimientos llevados a cabo en España.

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Instrumentos

Se elaboró una escala *ad hoc* de 78 ítems relacionados con situaciones de acoso dentro del campo judicial. Con posterioridad se realizó un Análisis Factorial para poder reducir la dimensionalidad y construir una escala de acoso judicial. Además, se incluyeron tres pruebas, habituales en la literatura científica, de cara a poder determinar la validez de la nueva escala:

La escala Top 8, creada por Davidson y Colket (1997). Se ha utilizado la versión y adaptación española (Bobes et al., 2000). Posee 8 ítems.

Escala de estar quemado o Maslach Burnout Inventory (MBI). Posee 30 ítems y mide tres dimensiones (Cansancio emocional, Despersonalización, y Realización personal), permitiendo también calcular un índice global.

Escala de Sintomatología Psicosomática de Derogatis SCL-90-R: está compuesta por 90 preguntas, y mide varias dimensiones: Somatización, Obsesión-Compulsión, Sensibilidad Interpersonal, Depresión, Ansiedad, Hostilidad, Ansiedad fóbica, Ideación paranoide, y Psicoticismo. También permite calcular un índice global de manifestación de psicomatizaciones. Probada psicométricamente (véase Derogatis y Cleary, 1977a, 1977b; Derogatis, Rickels y Rock, 1976;), se ha utilizado la versión y adaptación española (Derogatis, 2002)

Después de recoger las respuestas de los sujetos a las 78 preguntas iniciales de la escala, se aplicará a los resultados obtenidos un Análisis Factorial utilizando un método de extracción de componentes principales basado en la matriz de correlaciones (autovalores superiores a 1), y sistema de rotación Varimax (máxima varianza, de forma que el primer factor obtendrá mayor explicación que los siguientes, y así sucesivamente). Para verificar si la escala que se pretende crear es fiable, se empleará el coeficiente alfa de Cronbach; para determinar la validez se calculará la correlación de Pearson con las tres pruebas ya citadas; y para determinar el ajuste a la curva normal, se calculará la curtosis y la asimetría.

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4.3. La venganza entre progenitores que han roto su relación de pareja utilizando los tribunales de justicia de familia: sus dimensiones y propuesta de medida

Se analiza el fenómeno de la venganza de un progenitor hacia otro tras los procesos de ruptura de pareja, desde la perspectiva de los componentes de la tríada oscura, los mecanismos de desconexión moral y la ideología de rol. Se hipotetiza que ideología de rol media la relación entre la personalidad oscura y los mecanismos de desconexión moral, y la venganza, y que se puede crear una escala que mida la venganza entre los progenitores.

La venganza es una de las principales causas que explican la comisión de delitos. Incluso se convierten en la causa fundamental en los delitos de stalking y de sexting, por ejemplo, pero también explica la mayor parte de los homicidios (Kopsaj, 2016). Se trata de un fenómeno global, y que se manifiesta prácticamente en todas las sociedades. Es un fenómeno que permanece en el tiempo, de forma que a veces se ejerce aunque hayan transcurrido años desde que se produjo el hecho que se considera dañino por parte de una persona o de un grupo.

La venganza se muestra de manera muy diferente según la emita un solo individuo o un grupo (Pereira y Van Prooijen, 2018), siendo ésta de mayor intensidad cuando es individual, y siendo necesario en la grupal que se produzca el elemento de la entitividad, que sirve para aglutinar al grupo o a la masa.

Una de las posibles definiciones de venganza es la de Jackson, Choi y Gelfand (2019), que la entienden como una agresión, y por lo tanto como una respuesta conductual, emitida por un individuo o por un grupo, y que parte de la existencia de una percepción de una injusticia sufrida por el individuo o grupo que se va a convertir en agresor, y que se dirige contra quien dicho agresor identifica como causante del perjuicio sufrido.

Por lo tanto, si bien la venganza es algo conductual, es fundamental que exista en quien se venga una percepción de haber sido dañado, y que el perjuicio que creen haber sufrido no se deriva de algo involuntario (Gray et al., 2007; Young et al., 2011). Quizá

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por este hecho venganza e ira suelen estar íntimamente relacionados (Lerner y Tiedens, 2006). De hecho, Tripp y Bies (2010) afirman que la ira es buen predictor muy potente de la venganza.

La relación entre ira y venganza ha dado lugar a la aparición de investigaciones que han tratado de relacionar las tres variables que hoy componen la denominada Triada Oscura de la Personalidad (Dark Triad). Así, existe evidencia de la relación entre narcisismo y venganza (Exline et al., 2004; Maltby et al., 2008; Twenge y Campbell, 2003).

Se ha concebido la venganza como un mecanismo alternativo al sistema de justicia, afirmando algunos autores que se debe a que dicho sistema de justicia no ha reparado “subjétivamente” a la supuesta víctima (Jackson, Choi y Gelfand, 2019), pero lo cierto es que por ejemplo, en los casos de conflicto entre progenitores (Derecho de Familia) este recurso se emplea incluso aunque también actúe el sistema de justicia, como luego se especificará (Clemente, Padilla-Racero, Gandoy-Crego, Reig-Botella y Gonzalez-Rodriguez, 2015; Padilla-Racero y Clemente, 2018a). Quizá una de las características de esta venganza es que a pesar de que incluso cuando el sistema de justicia actúa, el futuro agresor considera que el daño que se le ha producido debe repararse de manera directa por su parte, independientemente de la actuación de la ley y de la sociedad. Esto lleva a la concepción de la venganza como algo que debe ser injurioso, pretende que otros sufran dolor, y se acompaña del rencor, un concepto que se excluye de los códigos penales, pero no de los personales.

La idea de la venganza, y especialmente concebida como injuria, se opone a la del perdón, un concepto más religioso que psicológico, y que ha sido abordado sobre todo por la Psicología Positiva (Adam-Karduz y Saricam, 2018; Garzón-Arañón y Barahona-Esteban, 2018)

El concepto de perdón no ha sido bien definido desde el punto de vista psicológico, a pesar de que ya Casullo (2015) lo abordó y creó una escala (CAPER), retomando el concepto que trabajó en su momento Kaminer, Stein, Mbanga y Zungu-Dirwayi (2000), etiquetándolo como un proceso en el que va disminuyendo la motivación para tomar represalias, de forma que concomitantemente se reducen las emociones negativas que se

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experimentan hacia el considerado como agresor. Afirman estos autores que se intercambian las emociones negativas con otras positivas, como la compasión o la benevolencia.

Así, Adam-Karduz y Saricam (2018) demostraron cómo la positividad, el perdón, la felicidad y la venganza están íntimamente relacionadas, de forma que la venganza y el perdón se relacionan de forma negativa, así como la venganza con las otras dos variables. El mismo argumento fue puesto de manifiesto por Garzón-Arañón y Barahona-Esteban (2018), si bien se encontraron que, al menos en muestras españolas, no todos los factores de la escala CAPER variaron por igual con la aparición del perdón.

Se ha discutido bastante acerca de cuál es la funcionalidad de la venganza, qué es lo que “gana” quien se venga (McCullough et al., 2013; Nowak et al., 2016). Pero lo que indica la literatura es que no existe evidencia de que genere un beneficio personal al emisor de la misma (Carlsmith et al., 2008; Elshout et al., 2015; Jackson, Choi y Gelfand, 2019).

Por lo que se refiere a los Tribunales de Familia, algunos autores han trabajado en la línea que concibe la utilización del propio sistema de Justicia como una forma de atacar al otro progenitor (Clemente, Padilla-Racero, Espinosa, Reig-Botella y Gandoy-Crego, 2019), de forma que se produce una agresión individual utilizando el propio sistema, que se convierte en cómplice de la agresión. Esta agresión suele ocurrir en personas que poseen altos valores en los componentes de la triada oscura, pero el predictor fundamental es la elevada puntuación en las variables que implican la desconexión moral (Clemente, Espinosa y Padilla-Racero, 2019), de forma que se cosifica a la persona denunciada, el denunciante la concibe como una persona de la que se tiene que vengar. Los motivos para proceder a vengarse de esa persona suelen tener su origen en que esa persona fue la que cortó la relación entre ambos (Clemente y Padilla-Racero, 2018a), y la forma de vengarse es indirecta, utilizando a los hijos que tengan en común.

De hecho, la venganza suele ser más intensa si la persona que se siente herida es cercana a la que percibe como su agresora, y sobre todo si se trata de su pareja sentimental (Chester y DeWall, 2017; Thau et al., 2007). Es más, cuando la venganza se produce por personas que han sido cercanas desde el punto de vista emocional, además del acoso

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judicial (Clemente, Padilla-Racero, Espinosa, Reig-Botella y Gandoy-Crego, 2019), el agresor utiliza todo tipo de elementos que pueda tener a su alcance, como el empleo de chismes, comentarios hirientes a los conocidos, acciones de coacción como persecuciones, etc. (Elshout et al., 2017; Yoshimura y Boon, 2014)

El agresor se acoge, dentro de esa forma de desconexión moral, al concepto de “violencia virtuosa” (Fiske y Rai, 2014), de forma que perciben que el único camino que les queda es la venganza, y buscan y obtienen el apoyo de personas de su entorno, con lo que la venganza se convierte en una obligación social y moral, incluso amparada por los valores sociales. Esto pone de manifiesto cómo la venganza entre los progenitores suele presentar un carácter de violencia patriarcal, y explica por qué los que se vengan son los varones ya que no pueden aceptar que una mujer decida cortar una relación de pareja. Además, los sistemas de justicia de las sociedades en las que existe una mayor cultura del honor suelen aceptar más las prácticas de los varones de atacar a las mujeres (Aquino et al., 2006; Dietz et al., 2003; Grosjean, 2014; Nowak et al., 2016)

La presente investigación se centra en la venganza que puede producirse por parte de un progenitor contra el otro progenitor tras un proceso de divorcio, determinar hasta qué punto dicha violencia es considerada adecuada por parte de los posibles agresores, cuáles pueden ser los componentes de dicha venganza, y si la ideología de rol media entre la triada oscura y la venganza. Se hipotetiza que en una sociedad como la española, a pesar de que ha habido un gran avance en materia de igualdad entre sexos, se aceptarán de manera permisiva muchos mecanismos de venganza, y que dicha venganza incluirá la utilización de los hijos comunes (hipótesis 1). También se hipotetiza que los procedimientos de venganza utilizando los hijos serán más aceptados por los varones que por las mujeres (hipótesis 2). Con los ítems que integran la venganza se hipotetiza que se puede crear una escala, la escala “R”, y se hipotetiza que poseerá los requisitos adecuados de fiabilidad y validez (hipótesis 3), y que uno de los factores al menos tendrá relación con la manipulación de los menores y otro con la manipulación económica; por lo tanto, si bien se podrá obtener una puntuación global, será posible determinar los componentes de la venganza. Se hipotetiza que la venganza poseerá una alta relación con los componentes de la triada oscura, con los mecanismos de desconexión moral, y con la ideología de rol, por lo que existirá una validez concurrente alta al respecto (hipótesis 4).

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Y por último, se hipotetiza que se puede crear un modelo de mediación en el que las relaciones entre las variables de la triada oscura y la desconexión moral por un lado y la venganza por el otro, estarán mediatizadas por la ideología de rol (hipótesis 5)

4.3.1. Resumen del método seguido

Participantes

Participaron en este estudio 3400 personas, de las cuales únicamente se seleccionaron a 3310, ya que 90 de los cuestionarios no habían sido respondidos de manera íntegra. Todos ellos residían en la región de Galicia, en el noroeste de España. El 46,6% de la muestra eran varones, y el 53,4% mujeres.

Previamente se verificó que todos ellos tenían hijos y que en el momento de responder alguno de ellos era menor de edad y que habían roto con el otro progenitor (con el que al menos tuvieron un hijo), habiéndose visto involucrados en procesos judiciales de familia al no haber acuerdo o en el tipo de custodia o en el régimen de visitas.

La muestra es de tipo incidental no aleatoria, contando con encuestadores que trabajaron altruistamente, al ser alumnos universitarios de varias asignaturas. Para verificar la exactitud de la información recogida por los encuestadores se les solicitó a las personas encuestadas un número de teléfono, y todas las encuestas fueron verificadas volviéndoles a preguntar por algunas respuestas; por lo tanto, se verificó la veracidad de la información recogida. Todas las personas participantes firmaron previamente un consentimiento informado en el que se especificaba el objeto de la investigación, y solicitándoles la aceptación para participar en la investigación. Se les garantizó el anonimato y el tratamiento de los datos de forma que no pudiera ser identificado el encuestado.

Instrumentos

Se aplicaron las pruebas que se detallan a continuación, además de unas preguntas previas para determinar que cumplían con el requisito previo de selección (hijos menores, ruptura de pareja y existencia de problemas judiciales debido a los hijos) y que permitían determinar sus características sociodemográficas:

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La escala MAC-IV de maquiavelismo (Christie y Geis, 1970). De las seis versiones existentes, se utilizó la MAC-IV, ya que es la más utilizada y la de características psicométricas más adecuadas. Esta versión tiene 20 ítems. Nueve ítems pertenecen al subgrupo de Tácticas de manipulación, otros 9 se engloban en el grupo Visión de las personas, y 2 ítems forman parte del grupo Principios de moralidad. Aunque la escala se encuentra dividida en tres subgrupos, cuando se realiza la corrección, los veinte ítems de la escala se puntúan conjuntamente. Tiene formato Likert. Sus propiedades psicométricas para poblaciones españolas han sido recogidas en trabajos como los de Corral y Calvete (2000), Dorna (2003), Montañés-Rada, De Lucas-Taracena y Martín-Rodríguez (2004), o Rodríguez-Villagra, Padilla-Mora y Fornaguera-Trías (2010)

La escala NPI de Narcisismo de Raskin y Hall (1981). Esta escala comprende 40 ítems con formato de respuesta tipo Likert de 6 alternativas. Mide las siguientes facetas del narcisismo: autoridad (8 ítems), exhibicionismo (7 ítems), superioridad (5 ítems), pretensión (6 ítems), explotación (5 ítems), autosuficiencia (6 ítems), y vanidad (3 ítems). Se empleó la versión española del mismo, que ha sido comprobada en sus propiedades psicométricas por García-Garduño y Cortés-Sotres (1998)

La Levenson's Primary and Secondary Psychopathy Scales (LPSP) de Levenson, Kiehl y Fitzpatrick (1995). Esta escala se compone de 26 ítems. Los 16 primeros permiten medir la psicopatía primaria, y los 10 últimos la psicopatía secundaria. La forma de respuesta es tipo Likert con cinco alternativas de respuesta. Un metaanálisis sobre las escalas de psicopatía, incluyendo ésta, se puede encontrar en Salvador, Arce, Rodríguez-Díaz y Seijo (2017), donde se exponen las propiedades psicométricas de la misma.

La escala de ideología de roles sexuales de Moya, Navas y Gómez (1991), basada en los trabajos de Glick y Fiske (1996) sobre sexismo ambivalente, que afirman que existen dos componentes del sexismo: el sexismo tradicional, que denominan hostil, que se refiere a la actitud negativa hacia las mujeres; y el sexismo benevolente, que implica la consideración estereotipada de la mujer en cuanto que las limita a una serie de roles, pero que posee un tono afectivo positivo hacia ellas, y además les atribuye características prosociales. Se utilizó una versión reducida de 12 ítems. Mide las creencias que las personas poseen sobre los roles y las conductas que hombres y mujeres deberían

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desempeñar y sobre las relaciones que los sexos han de mantener entre sí (Expósito, Moya y Glick, 1998). Se ha demostrado cómo ambos tipos de sexismo están correlacionados (Expósito, Moya y Glick, 1998; Glick y Fiske, 1996, 2001)

Se construyó una prueba elaborada *ad hoc* para esta investigación, y que se incluye como anexo del artículo. Se le pide al sujeto que ante cada ítem, piense que le está ocurriendo a él, y debe responder si estaría de acuerdo o no en realizar las acciones que se le señalan. Se seleccionaron 50 acciones, todas relacionadas con disputas entre los progenitores, y con formas de vengarse del otro miembro de la pareja, algunas de ellas utilizando a los menores, e incluso algunas relacionadas con posibles agresiones sexuales con el objetivo de dañar al otro progenitor. Los enunciados fueron creados por un grupo de cuatro expertos, dos psicólogos y dos trabajadores sociales, que eran empleados de los juzgados de familia españoles, y cuyo papel era asesorar a los jueces ante el surgimiento de problemas familiares. Todas las afirmaciones deberían ser aprobadas de manera unánime por los cuatro expertos, siendo seleccionadas de esta manera 38 acciones. El formato de respuesta fue de tipo Likert de 5 puntos, desde totalmente en desacuerdo a totalmente de acuerdo.

4.4. Desconexión moral y comportamiento poco ético contra la expareja en la disputa por la custodia de los hijos

Hasta el momento de la publicación de este artículo, no se había realizado ninguna investigación sobre el papel de la desconexión moral en un entorno judicial o en una disputa de custodia de menores.

Este trabajo ha examinado el papel de la desconexión moral en la probabilidad de hacer acusaciones falsas o tomar represalias contra la pareja en una disputa de custodia de menores. Las estrategias de desconexión moral pueden ser útiles para explicar este tipo de comportamiento poco ético ya que éstas ayudan a reducir el estado aversivo causado por la disonancia provocada cuando los principios éticos del individuo no coinciden con su comportamiento. En la medida en que un individuo tenga la capacidad de disminuir anticipadamente el afecto negativo antes de cometer una transgresión, es más probable que él o ella tenga ese tipo de comportamiento.

En el contexto de una disputa por la custodia de los hijos, las partes pueden sentirse inclinados a comportarse de manera poco ética contra su ex cónyuge y el uso de estrategias de desconexión moral puede facilitar este comportamiento.

No está claro cuántas personas están dispuestas a hacer acusaciones falsas o comportarse de manera poco ética en un tribunal. Por ejemplo, con respecto a la violencia de pareja, ha habido controversia durante mucho tiempo sobre la tasa de falsas acusaciones y se necesita más investigación para aclarar el problema (Mazeh y Widrig, 2016). Solo unos pocos estudios ofrecen una estimación del número de acusaciones falsas. Trocme y Bala (2005) estimaron que en Canadá, el 4% de los casos de maltrato infantil eran intencionalmente falsos y un 31% adicional no tenía fundamento (falso, pero de buena fe o no intencionado); y mientras que bajo las disputas que no son por la custodia de los hijos las denuncias intencionalmente falsas y sin fundamento oscilaron entre el 3% y 31% respectivamente, bajo una disputa por la custodia, los casos intencionalmente falsos aumentaron al 12% y los casos no comprobados al 34%. Al comparar a los progenitores con custodia (generalmente la madre) y sin custodia (generalmente el padre), el estudio encontró que el 15% de las denuncias del progenitor sin custodia eran falsos y el 37% sin fundamento, mientras que estas cifras eran del 2% y el 27% respectivamente

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para el progenitor con custodia. Por tanto, si bien estas cifras muestran que hacer acusaciones falsas no es común, las tasas son más altas en casos de separación de los padres que en otros contextos, particularmente para los progenitores sin custodia, que aún a día de hoy son los padres en mayor medida. Por ello, aunque la tasa de comportamiento poco ético es baja, es conveniente un examen más detallado de las variables involucradas en este comportamiento.

La desconexión moral es una variable clave para explicar el comportamiento poco ético. Según el modelo de desvinculación moral de Bandura (Bandura, Barbaranelli, Caprara y Pastorelli, 1996; Bandura, Caprara, Barbaranelli, Pastorelli y Regalia, 2001), cuando las personas cometen una transgresión que viola sus estándares personales, tienden a experimentar un efecto negativo proveniente de la disonancia cognitiva entre su comportamiento y sus principios. Sin embargo, a menudo encuentran formas de minimizar este efecto negativo mediante el uso de una serie de estrategias cognitivas para reducir el efecto de comportarse en contra de los propios estándares y desconectarse de las sanciones morales de dicho comportamiento. Además, esta desconexión puede ocurrir después de cometer la transgresión o anticipadamente. Si las personas anticipan formas de desconectarse de las auto-sanciones morales de su comportamiento negativo, se sentirán menos culpables y es más probable que cometan la transgresión. Además, las personas que se comportan negativamente, tienden a usar más estrategias de desconexión moral para evitar auto sanciones. Por lo tanto, los mecanismos de desconexión moral son una forma de sesgo egoísta que nos permite comportarnos contra nuestros propios principios sin sentirnos mal por ello. Las personas que se desvinculan mucho de la moral se sienten menos culpables por las transgresiones (Bandura, 2002)

Bandura ha descrito tres tipos de mecanismos de desconexión moral: el primer tipo de mecanismos se enfoca en la transgresión misma, y apunta a redefinir el comportamiento de una manera más positiva y proporcionar autoaprobación para las transgresiones. De acuerdo con Bandura et al. (1996) estas estrategias de reconsideración incluyen los mecanismos de justificación moral (la transgresión es personal o socialmente aceptable y sirve a un propósito superior); comparación ventajosa (el comportamiento se ve en una luz más positiva en comparación con peores transgresiones) y lenguaje eufemístico (el comportamiento recibe una etiqueta más benigna para que suene menos

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negativo). Otros tipos de mecanismos se enfocan en el papel que el individuo ha desempeñado en la transgresión, o trata de disociar sus acciones perjudiciales de sus consecuencias. Incluye las estrategias de desplazamiento de responsabilidad (la responsabilidad recae en otra persona o en las circunstancias); difusión de responsabilidad (las personas reconocen solo una pequeña parte de la responsabilidad o un papel menor en los resultados perjudiciales porque la responsabilidad se comparte con otras personas que participaron) y distorsión de las consecuencias (distorsionar o ignorar el daño causado por su comportamiento o negarse a reconocerlo). El conjunto final de estrategias se enfocan en el receptor de la transgresión e incluye las estrategias de atribución de la culpa (culpar a la víctima o alegar que el receptor provocó la transgresión con su comportamiento) o deshumanización (degradando y atribuyendo al receptor cualidades negativas que hacen que la víctima sea menos que humana e indigno de compasión o consideración)

Entre otras variables estudiadas en relación con las transgresiones, además de la desconexión moral, existe un gran número de investigaciones que se centran en un conjunto compuesto de tres variables: maquiavelismo, narcisismo y psicopatía, definidas como la "tríada oscura" de la personalidad. Conjunta o individualmente, estas variables a menudo se han propuesto como predictores de comportamientos poco éticos (Jakobwitz y Egan, 2006). La "tríada oscura" se ha asociado específicamente a la violencia de pareja (Carton y Egan, 2017). La desconexión moral está significativamente relacionada con una serie de variables asociadas positiva o negativamente a la tríada oscura y las transgresiones. Detert, Treviño y Sweitzer (2008) descubrieron que la desconexión moral se correlaciona positivamente con el rasgo de cinismo y el locus de control casual (lo que lleva a no sentirse responsable de los resultados) y se relaciona negativamente con la identidad moral y la empatía. Además, funciona como un mediador para la relación entre estas variables y el comportamiento poco ético. Moore, Detert, Treviño, Baker y Mayer (2012) también encontraron que la desconexión moral se relaciona significativamente con el comportamiento no ético, la identidad moral, la empatía y el maquiavelismo. Del mismo modo, Egan, Hughes y Palmer (2015) encontraron que la desconexión moral está relacionada con todas las variables en la tríada oscura: maquiavelismo, narcisismo y

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psicopatía. Además, descubrieron que es un mejor predictor de actitudes poco éticas que la tríada oscura.

Dado que la desconexión moral está vinculada al comportamiento no ético en otros contextos, esperamos que ocurra lo mismo en el comportamiento no ético en las disputas por la custodia de los menores. Por ello, algunas de las hipótesis planteadas fueron:

- La desconexión moral sería un predictor significativo de comportamiento no ético en una disputa de custodia de menores.

Moore y col. (2012) encontraron correlaciones más fuertes de las transgresiones autoinformadas con la desconexión moral que con el maquiavelismo. Como argumentan, la desconexión moral puede ser un predictor más fuerte de comportamiento poco ético que otras variables en la tríada oscura, como el maquiavelismo, porque se enfoca en la tendencia general del individuo a desconectarse de las autosanciones que evitarían las transgresiones, mientras que el maquiavelismo aprovecha más comportamientos específicos. Por ello, nuestra segunda hipótesis fue:

- La desconexión moral sería un predictor significativamente más fuerte de comportamiento no ético en una disputa por la custodia de menores que las variables de la tríada oscura.

Por último, existe evidencia de que los hombres muestran niveles más altos de desconexión moral que las mujeres (Bandura et al., 1996; Bandura et al., 2001). Esperamos encontrar resultados similares para nuestra muestra y también examinaremos si los hombres y las mujeres usan el mismo tipo de estrategias de desconexión moral en relación con el comportamiento no ético en una disputa por la custodia de menores. Al respecto se plantearon dos hipótesis:

- Los hombres utilizarán significativamente más estrategias de desconexión moral que las mujeres.
- Habrá diferencias en las estrategias que utilizan hombres y mujeres para desconectarse moralmente de las actitudes poco éticas relacionadas con las disputas de custodia de menores.

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4.4.1. Resumen del método seguido

Participantes

Los participantes en este estudio fueron 1097 adultos españoles que habían participado en un proceso de separación. Se dividieron equitativamente por sexo (50% hombres y 50% mujeres) y su edad promedio fue de 39.95 años (DE = 8.89). Todos ellos eran padres de niños menores de edad que habían experimentado una ruptura en pareja. Esta característica fue importante para nuestro estudio, ya que habían experimentado problemas relacionados con los escenarios descritos más adelante y podrían comprender mejor los matices en ellos en comparación con otros participantes.

Procedimiento

La muestra fue incidental y para recopilar los datos nos ayudó un equipo de estudiantes universitarios. Los encuestados pidieron a los participantes que completaran una encuesta online. Antes de responder a los cuestionarios, dieron su consentimiento informado.

Instrumentos.

Los participantes respondieron a un conjunto de cuestionarios para medir la desconexión moral, el maquiavelismo, el narcisismo y la psicopatía, y a un cuestionario sobre un escenario que representa una ruptura con su pareja sin acuerdo sobre la custodia de los hijos. Este cuestionario preguntaba a los participantes si estarían dispuestos a mentir ante el Juzgado y tomar represalias contra su pareja después de que él / ella presente una queja en el mismo contra el participante.

Escalas utilizadas en función de las distintas variables a medir:

Desconexión moral. Para medir la desconexión moral, utilizamos la escala de propensión a la desconexión moral (PMD) de Moore et al. (2012) que fue diseñado para adultos en cualquier tipo de contexto. Se compone de 24 elementos en una escala Likert de 7 puntos que van desde totalmente en desacuerdo hasta totalmente de acuerdo. Estos ítems miden cada una de las ocho estrategias de desconexión moral propuestas por

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Bandura (Bandura et al., 1996). Además, tiene una baja correlación con las medidas de conveniencia social, por lo que no es propenso a contaminarse por este sesgo.

Maquiavelismo. Para medir el maquiavelismo de los participantes, seleccionamos la escala Mach-IV (Christie y Geis, 1970). Esta escala es ampliamente utilizada en la investigación y tiene propiedades psicométricas adecuadas. Se compone de 20 ítems en un formato Likert de 7 puntos que van desde 7 (maquiavelismo alto) a 1 (maquiavelismo bajo) y 10 de los ítems se puntúan inversamente para evitar sesgos de respuesta. Corral y Calvete (2000) han probado su validez en una muestra española.

Narcisismo. Utilizamos la versión en español del Inventario de Personalidad Narcisista (NPI; García-Garduño y Cortés-Sotres, 1998). Incluye 40 ítems en una escala Likert de 6 puntos, desde "totalmente en desacuerdo" hasta "totalmente de acuerdo".

Psicopatía. Como medida de psicopatía, les pedimos a los participantes que completaran las escalas de psicopatía primaria y secundaria de Levenson (LPSP; Levenson, Kiehl y Fitzpatrick, 1995). Esta escala está compuesta por 26 artículos. Los primeros 16 miden la psicopatía primaria y los últimos 10 miden la psicopatía secundaria. El formulario de respuesta es un tipo Likert de 5 puntos que va desde "totalmente en desacuerdo" hasta "totalmente de acuerdo".

Escenarios de custodia. Desarrollamos un relato en el que pedimos a los participantes que se imaginaran a sí mismos en una situación de ruptura con su pareja en la que existe controversia sobre la custodia de sus dos hijos. En este escenario, un experto aconseja al demandado que haga algunas declaraciones falsas en el Juzgado para mejorar sus posibilidades de éxito. Luego, el participante tuvo que responder si emitirían 8 declaraciones diferentes (por ejemplo, "Mi pareja trató mal a mis hijos, los despreciaba y los insultaba"). Se les pidió que usaran una escala de 4 puntos con las siguientes opciones: "Nunca lo haría" (1); "No creo que lo haría" (2); "Podría hacerlo" (3) y "seguramente lo haría" (4). A continuación, se les pidió que imaginaran que dos años después de la ruptura todavía hay un conflicto sobre la custodia de los niños y su pareja ha presentado una denuncia en el tribunal contra ellos. Luego tuvieron que responder en la misma escala si llevarían a cabo 7 acciones de represalia diferentes (por ejemplo, "Dejar de pagar la pensión alimenticia destinada a los niños")

V. DISCUSIÓN

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Los valores básicos en la socialización de los hijos: decir la verdad, querer a ambos progenitores y desear el contacto, también con ambos, están ampliamente arraigados, imbuidos en prácticamente la totalidad de los menores.

Con respecto al influjo de las cuatro variables independientes en los valores de socialización de los hijos hacia sus padres (observación y sufrimiento de malos tratos por parte del menor o ser informado por el progenitor custodio o no custodio de los mismos, sin tener él noción de los mismos; tipo de maltrato: verbal y psicológico o físico; emisor del maltrato: el progenitor custodio o no custodio; y el receptor del maltrato: el otro progenitor o el propio menor) se puede concluir, en primer lugar, que aunque los hijos están socializados en decir la verdad, cuando ésta implica dar cuenta del maltrato psicológico o físico ejercido por uno de sus progenitores (da igual que sea el padre o la madre), este principio se rompe en una amplia mayoría de los casos. El valor decir la verdad en los hijos se quiebra en aras de ocultar el maltrato por parte de uno de sus progenitores. Esto ocurre tanto si los hijos presencian el maltrato de un progenitor hacia el otro como si el referido maltrato les es relatado por uno de los progenitores. Al contrario de lo que las ideas del SAP defienden y difunden, los hijos tienden a ocultar el mal comportamiento de sus progenitores.

La mayor parte de los hijos, cuando viven el maltrato psicológico de un progenitor hacia el otro o hacia ellos mismos, expresan querer más a ambos progenitores. Sin embargo, cuando los hijos son maltratados psicológicamente por el padre, éstos en su mayoría, expresan querer más a las madres que a ambos progenitores. Esta respuesta emocional reactiva sería interpretada por el SAP como patológica.

Aunque los hijos siguen queriendo en mayor proporción a ambos progenitores, en los supuestos de violencia física por parte de los padres a las madres o a los hijos, un alto porcentaje de hijos, cercano a la mitad, expresan querer más exclusivamente a las madres. Como se especificó anteriormente en el supuesto de maltrato psicológico, bajo los parámetros del SAP, esta respuesta emocional se interpretaría como patológica.

El valor de querer a ambos progenitores no se altera debido a las agresiones psicológicas o físicas protagonizadas por éstos, cuando los hijos no las presencian o no las recuerdan. Este valor se ve claramente más influido y alterado por las agresiones

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psicológicas o físicas que los hijos presencian o recuerdan, por lo que se refuta la idea fundamental del SAP sobre la facilidad de manipulación de los menores por parte de las madres para que odien al padre. A los hijos no les influyen en sus vínculos afectivos con sus progenitores las agresiones que éstos les cuentan, sin ellos presenciarlas o recordarlas por sí mismos, ya sean psicológicas o físicas.

Los lazos afectivos de los hijos con sus madres son más difíciles de romper que con sus padres cuando ocurren episodios de maltrato psicológico o físico como los reproducidos en este estudio. En todos los supuestos planteados, un mayor número de hijos expresan querer más exclusivamente a la madre cuando ésta es la agresora, que el que expresa querer más exclusivamente al padre cuando éste es el agresor.

El valor de desear tener contacto con ambos progenitores se sigue manteniendo incluso en las situaciones de maltrato psicológico de un progenitor hacia el otro o hacia el propio hijo. Sin embargo, cuando la violencia psicológica es de del padre contra el hijo o contra la madre, este valor se rompe en un porcentaje muy importante. Si la violencia es del padre contra el hijo, casi la mitad de los hijos quieren estar en contacto exclusivamente con la madre y no con ambos. Cuando la víctima de la violencia psicológica del padre es la madre, casi una cuarta parte de los hijos quieren estar en contacto solo con ella. Esta reacción conductual, analizada y valorada desde las ideas del SAP, sería interpretada en contra de los hijos, al suponerlos alienados o enajenados por la madre para que no quieran visitar a los padres.

También en los casos de maltrato físico de un progenitor hacia el otro o hacia el propio hijo, el valor de desear el contacto con ambos progenitores sigue prevaleciendo. Sin embargo, ha de señalarse que casi la tercera parte de los hijos quieren estar solo en contacto con uno solo de sus progenitores (y no con ambos) si es la madre quien agrede al hijo o es el padre el que agrede a la madre o al hijo. El rechazo de los hijos a la violencia física sobre ellos (da igual el progenitor que la ejerza) así como el rechazo por parte de éstos a la violencia física del padre contra la madre, es clara. Si se sigue la doctrina del SAP, estos hijos serían separados del progenitor con el que prefieren relacionarse para ser entregados al progenitor maltratador.

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Tanto en los supuestos de violencia psicológica como física no presenciada o sufrida (pero no recordada) por el hijo por parte de uno de sus progenitores y relatada a éste por el otro progenitor, la decisión de tener o no contacto de los hijos con ambos progenitores no se vería afectada por estos relatos. Los hijos no son fácilmente manipulables por los progenitores para que rechacen el contacto con el otro, sino al contrario.

El valor desear estar en contacto con uno solo de los progenitores (en el cual no están socializados los hijos) prevalece más en los hijos respecto de sus madres que de sus padres.

Los resultados de esta investigación refutan la hipótesis de que los hijos preservarán el valor de decir la verdad, en el que están socializados, cuando han de informar sobre el maltrato ejercido por parte de uno de sus progenitores. También se refuta la hipótesis de que en los hijos se preservan más los valores querer y desear el contacto con ambos progenitores en los casos de violencia psicológica que física. En algunos supuestos de los planteados, incluso se verifica lo contrario. Se verifica la hipótesis de que los hijos, ante situaciones de maltrato psicológico o físico de un progenitor al otro o a él mismo, dejan de querer y desear estar en contacto con ambos progenitores a pesar de que ambos valores (afecto y deseo de contacto con ambos progenitores) están muy arraigados en los hijos. Se verifica la hipótesis de que los hijos querrán menos y desearán estar menos en contacto con ambos progenitores cuando ellos presencian la agresión de un progenitor al otro o a ellos mismos que cuando tales agresiones les son relatadas. Se verifica que los hijos quieren y desean estar en contacto con ambos progenitores en menor medida cuando ellos son las víctimas directas del maltrato de uno de éstos que cuando lo es el otro progenitor. Y, por último, se verifica que los valores querer y desear estar en contacto con ambos progenitores se preservan más cuando la agresora es la madre, de forma clara, respecto al valor deseo de contacto y respecto al valor querer a ambos progenitores, unas veces se preserva más cuando la agresora es la madre y otras veces cuando el agresor es el padre.

Los datos de esta investigación demuestran que los niños, prácticamente en su totalidad, están socializados en decir la verdad. Este valor de decir la verdad se rompe cuando han de informar sobre el maltrato por parte de uno de sus progenitores,

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ocultándolo. Los niños, en contra de su conducta habitual (decir la verdad), mienten para ocultar el mal comportamiento de un progenitor. Estos resultados son compatibles con los de Popliger, Talwar y Crossman (2011), quienes comprueban que los niños antes de dañar a una persona, optan por formular una mentira. Este hecho contradice la idea central del SAP (presente en su definición) de que los hijos mienten para denigrar a un progenitor. El SAP, además, atribuye a los hijos la falta de remordimientos o culpa en el vilipendio del progenitor (véase Padilla-Racero, 2013, p. 56)

Estudios como los de Gudjonsson, Sigurdsson, Finnbogadottir y Smari (2006) y Perkins y Turiel (2007) demuestran que los menores, por regla general, no mienten. Otro estudio de Clemente y Padilla-Racero (2015a) comprobó que los niños cuentan la verdad, casi en su totalidad, cuando presencian un hecho problemático y se les pregunta sobre el mismo. Los datos de esta investigación, sin embargo, demuestran que cuando uno de los progenitores es el actor de este hecho problemático (el que maltrata dentro de la unidad familiar), los niños tienden a ocultar esta realidad. La conducta de los menores, por tanto, es la opuesta a los comportamientos que el SAP les atribuye.

Por otra parte, esta investigación muestra muy claramente que los hijos no son fácilmente manipulables por ninguno de los dos progenitores ni para que retiren su afecto ni para que rechacen estar en contacto con el otro progenitor. Según nuestros datos, para que este rechazo (de cariño y contacto) lo manifieste un hijo, este hijo tiene que presenciar o sufrir directamente el maltrato por parte del progenitor rechazado. Este dato refuta rotundamente la idea sostenida por el SAP sobre la facilidad de la manipulación de los hijos para que odien al padre por injerencia de la madre, como ya quedó también demostrado con el estudio empírico llevado a cabo por Clemente y Padilla-Racero (2015a). En esta línea, el estudio de Talwar, Arruda y Yachison (2015) demuestra que los menores dicen la verdad, para sentirse bien consigo mismos, aun cuando les pueda conllevar consecuencias negativas, hecho que implica que es difícil convencer con facilidad a los niños para que mientan.

En cuanto a la segunda investigación, cuyos objetivos han sido probar la existencia de un tipo de acoso muy específico, el judicial, y del que hasta ahora la literatura científica no se había pronunciado, y crear un instrumento capaz de medir la

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existencia del mismo así como sus efectos en los sujetos, los resultados de la misma permiten inferir:

El acoso judicial existe, y las víctimas del mismo se sienten humilladas y acosadas tanto por sus denunciantes como por los agentes jurídicos, en concreto por los jueces, los fiscales, los profesionales de la salud y de asistencia social que auxilian a éstos, así como por el propio sistema jurídico.

La variable existente en la literatura más cercana al concepto propuesto de acoso judicial es el de trastorno de estrés postraumático.

Los cuatro componentes del acoso judicial son la agresión directa, el acoso procesal, el desprecio personal y la manipulación de la realidad. Todos son procesos que utilizan los acosadores con sus víctimas, los acosados judicialmente.

Ha sido posible construir un instrumento, compuesto por cuatro escalas, que miden este concepto. Y tanto el instrumento en general como sus escalas integrantes cumplen los requisitos psicométricos pertinentes.

Respecto a la tercera investigación sobre si se produce y se puede medir la conducta vengativa de un progenitor contra el otro en respuesta a la ruptura de la pareja, el estudio realizado arroja los siguientes resultados:

La venganza contra el otro progenitor tras una ruptura de pareja se manifiesta en una medida baja, pero estadísticamente (y socialmente) importante (se verifica así la hipótesis 1). Los porcentajes en los que las personas vengativas suelen atacar a quienes creen que les han atacado pueden llegar incluso a cerca del 10%, si bien en el caso de aquellas acciones que pueden implicar incluso una agresión sexual a los menores dicho porcentaje es mucho menor, siendo algo inferior al 1%.

Los varones son mucho más vengativos que las mujeres (hipótesis 2). Este hecho se manifestó aproximadamente con una diferencia de un 2%, lo cual, sobre unos comportamientos que como máximo se manifiestan en un 10%, supone una diferencia en un 20%.

Se verifica que la venganza no es un concepto unitario, al menos en lo referente a la que se utiliza en los procedimientos de familia. En estos casos, posee tres componentes:

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venganza mediante la utilización del menor, venganza por manipulación de los demás, y venganza mediante manipulación económica. Se cumple así la hipótesis 3, ya que es posible crear una escala, “R”, que cumple los requisitos de fiabilidad (los valores Alpha son muy elevados) y posee una alta correlación con las variables que componen la triada oscura, la desconexión moral y la ideología de rol (es decir, existe una validez concurrente alta al respecto - hipótesis 4 -)

Y por último, se hipotetizó (hipótesis 5) que se puede crear un modelo de mediación en el que las relaciones entre las variables de la triada oscura y la desconexión moral por un lado y la venganza por el otro, estarán mediatizadas por la ideología de rol, y así se ha demostrado.

Los resultados obtenidos permiten dar un paso más a la hora de concebir las estrategias de acoso de algunos progenitores hacia sus exparejas, y situarlas dentro un concepto claramente vinculado a la triada oscura. Esta idea enlaza con los trabajos de Jackson, Choi y Gelfand (2019), que especifican cómo la venganza es un mecanismo alternativo al sistema de Justicia, y da un paso más, al comprobar cómo algunas personas son capaces de utilizar el sistema de Justicia para pervertir su función de “justicia”, y convertirlo en arma de ataque frente a aquellos a los que desea injuriar, idea que ya llevó a Clemente, Padilla-Racero, Espinosa, Reig-Botella y Gandoy-Crego (2019) a crear una escala capaz de medir el acoso judicial. Ya algunas investigaciones previas sobre Psicología y Derecho de Familia han planteado cómo en ocasiones uno de los progenitores provoca daños psicológicos o físicos en sus hijos con el fin de atacar al otro progenitor, y cómo así el progenitor que observa esa maniobra se ve obligado a denunciar al primero, viéndose obligado a probar una agresión que, al ser empleada en la intimidad, suele ser imposible de verificar, por lo que se vuelve contra el denunciante y lo convierte en denunciado (Clemente, Padilla-Racero, Gandoy-Crego, Reig-Botellay Gonzalez-Rodriguez, 2015; Padilla-Racero y Clemente, 2018a, 2018b)

Este trabajo ofrece un dato hasta ahora desconocido, que es el porcentaje de personas capaces de utilizar procedimientos de venganza contra el otro progenitor, y cómo estas acciones de venganza son empleadas sobre todo por los varones, en un porcentaje de más o menos un 20% superior al que se obtiene con las mujeres. Este dato de la mayor predisposición de los varones a utilizar procedimientos de venganza explica

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otro dato importante: cómo la ideología de rol o sexismo es un factor explicativo muy importante (las personas, y sobre todo los varones, de una ideología más machista, tienden a vengarse más, y a utilizar los procedimientos de atentar contra sus propios hijos)

Sin duda la utilización de los propios hijos para vengarse, incluso produciéndoles agresiones sexuales, se relaciona claramente con la triada oscura de la personalidad, así como con los mecanismos de la desconexión moral (Clemente, Espinosa y Padilla-Racero, 2019), utilizando para ellos el fenómeno de la cosificación, de forma que se deshumaniza a la expareja y a los hijos, y se sitúa por encima de ellos la necesidad de vengarse al haber sido humillado. Ya Padilla-Racero y Clemente (2018a) establecieron que tal pensamiento suele tener su origen en que esa persona que se supone que ha ofendido lo hizo al cortar la relación entre ambos, y si fue la mujer, atentó contra el varón, que considera que es quien puede ostentar la capacidad de dejar a su pareja, pero dicha opción no puede detentarla la mujer. Este fenómeno se suele denominar la “violencia virtuosa” (Fiske y Rai, 2014), concepto que coincide con lo que se pone de manifiesto el triste hecho de que cuanto más patriarcal sea una sociedad, más se ataca a las mujeres dentro de una relación de pareja, pero especialmente tras la ruptura de la relación, ya que dicha ruptura es concebida por parte del varón como un acto de agravio.

Otra cuestión importante es que de todos los ámbitos en los que se puede producir la venganza, uno de especial relevancia es el escogido, el de la ruptura de la pareja, ya que como establecieron Chester y De Wall (2017), la venganza es más intensa si la persona que se siente herida es cercana a la que percibe como su agresora, y sobre todo si se trata de su pareja sentimental (Aquino et al., 2006; Dietz et al., 2003; Grosjean, 2014; Nowak et al., 2016). Desgraciadamente los datos de muertes de madres y niños a manos del progenitor varón dan la razón a esta explicación.

Acoso y venganza suelen ir de la mano, y el hecho de que en este trabajo se demuestre que existen tres componentes de la venganza lo demuestra. El que se venga utiliza a sus hijos, manipula a las personas del entorno, y produce un acoso económico. El acoso económico es un claro ejemplo de cómo se utiliza al sistema de justicia, ya que el progenitor con mayores recursos económicos puede pagar procesos judiciales largos y costosos, mientras que el progenitor con pocos recursos tiene grandes dificultades para

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poder defenderse (Clemente, Padilla-Racero, Espinosa, Reig-Botella y Gandoy-Crego, 2019)

De la cuarta investigación, que se ha ocupado de las estrategias de desconexión moral en el contexto del comportamiento poco ético durante las disputas por la custodia de los menores, cabe señalarse:

Esta investigación destaca la desconexión moral como una variable clave en la explicación de acusaciones falsas y actitudes poco éticas. Los resultados verifican la primera hipótesis planteada en el mismo, pues muestran la relevancia de los mecanismos de desconexión moral para explicar el comportamiento poco ético en un entorno específico como las disputas de custodia de menores.

En consonancia con la segunda hipótesis planteada y la investigación previa (Moore et al., 2012), la desconexión moral parece ser un predictor significativamente más fuerte de comportamiento no ético que las variables de la "tríada oscura" que se han asociado con frecuencia a la transgresión. La desconexión moral encierra aspectos globales de la tendencia a ignorar el autocontrol sobre las transgresiones y parece ser un mejor predictor a través de diferentes contextos de comportamiento no ético.

Los hombres de nuestra muestra obtuvieron una puntuación más alta en la desconexión moral que las mujeres, confrontándola con investigaciones anteriores. Resultados similares se han encontrado anteriormente no solo para la desconexión moral (Bandura et al., 1996; Bandura et al., 2001), sino también para variables relacionadas como las de la "tríada oscura" (Muris, Merckelbach, Otgaar & Meijer, 2017)

Finalmente, queríamos explorar si los hombres y las mujeres diferirían en las estrategias de desconexión moral. Los hombres obtienen puntuaciones más altas en cada tipo de mecanismos de desconexión moral. Los mejores predictores para hombres y mujeres son diferentes. Los hombres tienden a justificar su comportamiento como correcto y perseguir con él un propósito superior (justificación moral), a minimizar el comportamiento como menos negativo (comparación ventajosa) o a enmascararlo mediante un etiquetado eufemístico. A su vez, el mejor predictor para las mujeres fueron las estrategias receptoras, centradas en que la víctima por sí misma merece represalias o acusaciones falsas (atribución de culpa) o cómo el receptor es de alguna manera

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defectuoso o despreciable y no merece la misma consideración que otros seres humanos (dehumanización)

VI. CONCLUSIONES

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6.1. Conclusiones

Los resultados de la primera investigación sobre los valores en los que están socializados los niños y cómo influyen en el vínculo de éstos con sus progenitores la aparición de dinámicas de maltrato, indican cómo, por regla general, los niños mienten para ocultar el comportamiento maltratador de ambos progenitores, quieren a ambos padres y desean el contacto con ellos, incluso ante la presencia de malos tratos. Sin embargo, aunque ante la presencia de malos tratos infringidos por uno de sus progenitores, los niños siguen queriendo y deseando el contacto con ambos, un número significativo de niños dejan de querer y de desear el contacto con el progenitor maltratador. Los resultados desbaratan lo defendido por teorías sin evidencia científica como el SAP.

Los datos de este primer estudio demuestran que es muy difícil que un hijo dé cuenta del maltrato existente dentro de su familia. Por lo tanto, en los casos en los que lo hace, la Administración de Justicia debería tener en cuenta su relato o testimonio, huyendo de la asimilación de las ideas del SAP en su práctica habitual.

Este trabajo posee también importantes implicaciones prácticas. Se debe ahondar en las formas de toma de declaración de los menores, y en la formación tanto de los profesionales que realizan las evaluaciones de los menores (fundamentalmente expertos en salud mental) como de los encargados de que se desarrolle el proceso judicial (jueces, fiscales y abogados), para que rechacen prácticas acientíficas de verificación de la evidencia, y se aseguren de que las técnicas de evaluación cumplan con los requisitos pertinentes de científicidad. Toda posible teoría que parta de que los menores mienten para denigrar a un progenitor injustificadamente, debe ser desterrada; esta categoría de teoría prejuzga tanto al menor como a uno de sus progenitores, situándoles en una situación de indefensión judicial. Sin duda, el empleo de teorías y técnicas de evaluación basadas en la evidencia científica redundará en una protección más adecuada del menor, y en una lucha contra la injusticia.

En contraposición a la idea de la manipulación materna como única causa que Gardner esgrime para explicar el rechazo de los hijos a un progenitor (Escudero, Aguilar y De La Cruz, 2008), los datos demuestran que ante situaciones de maltrato psicológico

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o físico, los valores querer y desear estar en contacto con ambos progenitores, que están socialmente tan imbuidos en los hijos, pueden llegar a romperse en gran número de ellos. El maltrato psicológico o físico son causas que explican el rechazo de los hijos a un progenitor.

Los hijos muestran un vínculo más fuerte con las madres, probablemente porque éstas son las que se siguen ocupando, en mayor medida, de la crianza de los hijos. Los resultados de los estudios de Bretherton, Lambert y Golby (2005) aconsejan que los padres varones tengan una mayor participación en la crianza de los hijos.

Esta predisposición de los niños a defender a sus padres, aún cuando éstos tengan un comportamiento reprochable, es totalmente incompatible con las ideas expresadas por el SAP, que sostienen que los niños son manipulados por sus madres y que, por lo tanto, mienten denigrando con facilidad al otro progenitor. Nuestros datos desmienten totalmente dicha posibilidad. Por lo tanto, teorías no basadas en la evidencia, como el SAP, deben ser desterradas dentro del ámbito forense judicial.

No hemos de olvidar que esta investigación cuenta con una gran limitación, que es que los participantes no han sufrido maltrato, sino que se ponen en lugar de otros niños que sí lo han sufrido, o que lo ha sufrido uno de los progenitores. De haber trabajado con muestras clínicas, nunca se habría podido disponer de una muestra tan numerosa. Pero sus resultados son indicativos de cómo los niños, por regla general, no mienten, de cómo la gran mayoría aceptan una serie de normas básicas en las que le socializan sus padres (no mentir, querer a sus padres y querer estar en contacto con ellos), y de cómo la aparición de malos tratos rompe esas características. Esto demuestra que para que un niño llegue a expresar que no quiere tener contacto con uno de sus progenitores, o que no le quiere, tienen que haber sucedido hechos muy graves. Y a pesar de ello, los niños pretenden justificar siempre a sus padres, siendo muy difícil que lleguen a admitir la existencia de abusos.

Se debe trabajar en la creación de protocolos que eviten que una persona sea acosada judicialmente, estableciendo una ética en la forma de interrogar a la parte contraria que emplean los abogados, en la forma en la que el resto de operadores jurídicos se dirigen y en cómo se comportan con respecto a las partes en litigio, así como en las

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formas de actuar de jueces y fiscales. La búsqueda de la verdad de los hechos y la impartición de la justicia no debe estar reñida con el respeto a las personas.

Desgraciadamente no es posible comparar los resultados de la investigación sobre la existencia del acoso judicial como otra forma de acoso, más allá del laboral y el escolar, con los de otras anteriores, ya que hasta el momento no se ha trabajado sobre este concepto, ni se ha intentado crear un instrumento al respecto. Se considera por lo tanto que no es pertinente hacer referencia a trabajos anteriores que no tienen que ver centralmente con este estudio.

Somos conscientes de las limitaciones de este estudio sobre el acoso, algunas señaladas a continuación, y que a su vez permiten detectar cuáles deben ser las perspectivas de futuro de futuras investigaciones:

El principal de los problemas de este trabajo consideramos que es la muestra. Primero porque es incidental, y segundo porque su tamaño es bastante limitado. Ha sido muy difícil acceder a las personas que la han compuesto, y ningún organismo judicial nos ha querido facilitar el acceso a los litigantes, por lo que se ha tenido que recurrir a los abogados de familia, que han hecho de intermediarios para que pudiéramos hablar con sus clientes y solicitarles participar. Si en el futuro la Administración de Justicia colaborara, sería factible utilizar muestras más amplias, y con suerte no incidentales. Por otra parte, la mayoría de los integrantes de la muestra son mujeres; consideramos que es algo habitual en las investigaciones sobre procesos de familia, en las que existe una mayor tasa de respuesta en el colectivo de mujeres y muy baja en varones, lo cual puede ser interpretado como una mayor preocupación de aquéllas por sus hijos, denotativo de un deseo de colaborar con cualquier actuación que pueda facilitar una solución a la problemática que afecta a sus hijos. Sin embargo, para futuros trabajos habrá que intentar obtener muestras con mayor número de varones.

El tipo de procedimiento judicial, en función de los argumentos especificados con anterioridad, es de Derecho de Familia. Sin duda futuros trabajos deben enfocarse a otras áreas de aplicación del Derecho.

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Al igual que se comentó en la Introducción que el mobbing y el burnout se pueden considerar dos caras de la misma moneda, futuros trabajos deben dirigirse al estudio de los agresores.

Esta cuanto a la investigación sobre las conductas de venganza utilizando como vehículo o instrumento de la misma a la Administración de Justicia, cabe señalarse que la misma aporta no sólo un avance en la determinación de en qué medida y por parte de quién se utiliza la venganza, sino también de cuáles son los componentes de la venganza, y especialmente es útil profesionalmente al proveer de un procedimiento de medida, la denominada escala “R”, cuyos componentes psicométricos han sido verificados. Esta escala puede ser de gran utilidad para los técnicos evaluadores que auxilien al órgano judicial en los procedimientos de disputa por la custodia de los menores ya que es capaz de detectar la motivación subyacente en las acciones o denuncias de los litigantes. Esta investigación presenta la ventaja de utilizar una muestra amplia, de personas que se han enfrentado a procedimientos judiciales de Derecho de Familia

El estudio sobre la desconexión moral en el contexto judicial que nos ocupa, también tiene notables implicaciones en la práctica de los profesionales de este ámbito. Conocer el papel y el uso de medidas de desconexión moral en conductas poco éticas ayudaría al profesional a mejorar su detección. La medición de la desconexión moral permitiría evaluaciones más precisas del comportamiento de los padres en una disputa por la custodia por los hijos. Además, los programas de intervención basados en la detección del sesgo de desconexión moral podrían diseñarse para reducir conflictos o mediar entre las partes durante una ruptura. Reconocer la gravedad de los comportamientos poco éticos, aceptar la responsabilidad de ellos y humanizar al receptor podría lograrse exponiendo la naturaleza de las estrategias de desconexión moral para que los individuos se den cuenta de que no son racionalizaciones aceptables para el comportamiento no ético.

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6.2. Conclusions

The results of the first investigation into the values in which children are socialized and how the dynamics of child abuse influence their bond with their parents, indicate how, as a rule, children lie to hide the abusive behavior of children, they love both parents and want the contact with them, even in the presence of abuse. However, although in the presence of bad-treatment infringed by one of their parents, children continue to want and desire contact with both of them, a significant number of children cease to want and desire contact with the abusive parent. The results disrupt the defended by theories without scientific evidence such as PAS.

The data from this first study show that it is very difficult for a child to report the abuse in his family. Therefore, in cases where it does so, the Administration of Justice should take into account its statement or testimony, fleeing from the assimilation of the ideas of the PAS in its usual practice.

This work also has important practical implications. It is necessary to delve into the ways of taking statements of the minors, and in the training of both the professionals who carry out the evaluations of the minors (mainly mental health experts) and those responsible for the development of the judicial process (judges, prosecutors and lawyers), so that they reject scientific evidence verification practices, and ensure that evaluation techniques comply with the relevant scientific requirements. Any possible theory that the minors lie to denigrate a parent unjustifiably must be banished, and also prejudge both the child and one of their parents, placing them in a situation of judicial defenselessness. Undoubtedly, the use of theories and evaluation techniques based on scientific evidence will result in a more adequate protection of the child, and in a fight against injustice.

In contrast to the idea of maternal manipulation as the only cause that Gardner uses to explain the rejection of children to a parent (Escudero, Aguilar and De La Cruz, 2008), the data show that in situations of psychological or physical abuse, values wanting and wishing to be in contact with both parents, who are so socially imbued in the children, can break into a large number of them. Psychological or physical abuse are causes that explain the rejection of children to a parent.

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The children show a stronger bond with the mothers, probably because they are the ones that continue to be more concerned with raising children. The results of the studies by Bretherton, Lambert and Golby (2005) advise that male parents have a greater participation in the upbringing of their children.

This predisposition of children to defend their parents, even when they have reprehensible behavior, is totally incompatible with the ideas expressed by the PAS, which argue that children are manipulated by their mothers and, therefore, lie denigrating with ease to the other parent. Our data totally deny this possibility. Therefore, non-evidence-based theories, such as PAS, must be banished within the judicial forensic field.

We must not forget that this investigation has a great limitation, which is that the participants have not suffered abuse, but instead put themselves in place of other children who have suffered it, or that one of the parents has suffered. If I had worked with clinical samples, such a large sample would never have been available. But their results are indicative of how children, as a rule, do not lie, of how the vast majority accept a series of basic rules in which their parents socialize (not lying, loving their parents and wanting to be in touch with them), and how the appearance of abuse breaks those characteristics. This shows that in order for a child to express that he does not want to have contact with one of his parents, or that he does not love him, very serious events must have happened. And despite this, children always try to justify their parents, being very difficult for them to admit the existence of abuse.

It is necessary to work on the creation of protocols that prevent a person from being harassed judicially, establishing an ethic in the way of interrogating the opposing party employed by lawyers, in the way in which the rest of legal operators are directed and in how they act with respect to the parties in dispute, as well as in the ways of acting of judges and prosecutors. The search for the truth of the facts and the delivery of justice should not be at odds with respect for people.

Unfortunately, it is not possible to compare the results of the investigation into the existence of judicial harassment as another form of harassment, beyond work and school harassment, with those of previous ones, since so far no work has been done on this concept, nor An attempt has been made to create an instrument in this regard. It is

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therefore considered that it is not relevant to refer to previous works that do not have to do centrally with this study.

We are aware of the limitations of this work about harassment, some indicated below, and which in turn allow us to detect what the future prospects of future research should be:

The main problem of this work is considered to be the sample. First because it is incidental, and second because its size is quite limited. It has been very difficult to access the people who have composed it, and no judicial body has wanted us to facilitate access to litigants, so we have had to resort to family lawyers, who have made intermediaries so we could talk with your customers and ask them to participate. No doubt if in the future the administration of justice collaborated, it would be feasible to use larger samples, and hopefully not incidentals. On the other hand, the majority of the members of the sample are women; We consider that it is common in family process investigations, in which there is a higher response rate in the group of women and very low in men, which can be interpreted as a greater concern of those for their children, denotative of a desire to collaborate with any action that can facilitate a solution to the problem that affects their children. However, for future work we will have to try to obtain samples with a greater number of men.

The type of judicial procedure, based on the arguments specified above, is Family Law. No doubt future work should focus on other areas of law enforcement.

As it was commented in the Introduction that mobbing and burnout can be considered two sides of the same coin, future works should be directed to the study of aggressors.

Regarding the investigation of revenge behavior using the Justice Administration as a vehicle or instrument, it should be noted that it does not only contribute to the determination of the extent to which and by whom revenge is used , but also of what are the components of revenge, and especially is professionally useful in providing a measurement procedure, the so-called “R” scale, whose psychometric components have been verified. This scale can be very useful for the evaluating technicians who assist the judicial body in the procedures for dispute over the custody of minors as it is able to detect

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the underlying motivation in the actions or complaints of the litigants. This investigation has the advantage of using a large sample of people who have faced family law judicial proceedings.

The study on moral disconnection in the judicial context at hand, also has significant implications in the practice of professionals in this field. Knowing the role and use of moral disconnection measures in unethical behaviors would help the professional to improve their detection. Measuring moral disconnection would allow more accurate assessments of the behavior of parents in a child custody dispute. In addition, intervention programs based on the detection of moral disconnection bias could be designed to reduce conflicts or mediate between the parties during a break. Recognizing the seriousness of unethical behaviors, accepting their responsibility and humanizing the recipient could be achieved by exposing the nature of moral disconnection strategies so that individuals realize that they are not acceptable rationalizations for unethical behavior.

VII. REFERENCIAS

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VIII. ANEXO: ARTÍCULOS PUBLICADOS

Artículo 1: “Influence of intrafamilial abuse in children’s change of values toward their parents”

Influence of intrafamilial abuse in children's change of values towards their parents

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Abstract

The socialization that parents and society exercise on children instills in them a set of values towards parents. Some of these values are not lying, feeling affection for the parents, and wanting to have contact with them. In this work, we attempt to determine whether these values change in the face of intrafamilial abuse. To that end, an incidental sample was used, consisting of 2730 minors aged between 6 to 18 years, who had never suffered abuse. They were asked to put themselves in the place of the main character of a story. The story varied depending on the conditions to be studied: observation and direct suffering or account of the abuse by another, type of abuse (physical or psychological), who perpetrated the abuse (custodian or non-custodial), and who received it (the other custodian or the minor). The results show that, as a rule, children lie to conceal both parents' abusive behavior; they love their parents and want to have contact with them, even in the presence of abuse. Notwithstanding that in the presence of abuse by one of their parents, children still love them and want to have contact with both parents, a significant number of children, however, stop loving them or want to have contact with the abusive parent. These results undermine what is defended by theories like PAS with no scientific evidence, and underline the need to use scientific procedures to test the reliability of minors' testimony based on the idea that children tell the truth.

Key words: child protection, parental alienation, parental alienation syndrome, socialization, values



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1. Introduction

Parents are responsible for their children's socialization, such that they shape their children's minds, instilling in them a set of values or principles. These values have been little researched, but values are what permits social coexistence. In this work, we refer to some of them with regard to their involvement with police and judicial testimony of children in cases of alleged abuses; we are referring to the values of not lying (particularly to the parents), feeling affection for the parents, and wanting to be in contact with them.

The studies on the bond between parents and children, as well as on the relationships between them, prevailed during the 1980s and 1990s, under the notion of the social need for male parents to be more involved in childrearing (Bretherton, Lambert & Golby 2005).

Studies dealing with issues such as the similarities and differences in father-mother-child relationships, the role of arguments between the members of the couple, and—from a more psychological point of view—the role of affection in attachment relationships, the importance of instilling self-control in children, etc., started to emerge. In this regard, we consider very useful the classification established by Gracia, Lila and Musitu (2005), which reflects Rohner's (1975) idea that intercultural research identifies two dimensions of parents' behavior toward their children: acceptance and rejection. Thus, according to Rohner, parents' behavior can be defined as a continuum; at one end are parents who express love and affection towards their children, both verbally and physically; and at the other end are parents with aversive feelings toward their children, and whose practices may be severe and abusive. Rohner defines parental rejection as the absence or the significant withdrawal of warmth, affection, or love towards their children.

Rohner's (Rohner 1975, 1984, 1986, 1998; Rohner & Brothers 1999) research proposes three dimensions of parental rejection: hostility and aggression, indifference and neglect, and undifferentiated rejection.

A long tradition of research has proven that parenting styles characterized by anger, aggressiveness, and rejection are related to mental health issues in children (Gracia, Lila & Musitu 2005).

Gracia, Lila, and Musitu (2005) compared families with dysfunctional parent-child relationships with other groups of families considered normal. The results showed that rejected children were psychologically and socially different from children who maintained an appropriate relationship with their parents (characterized by the parents' expressed acceptance). The rejected children, when compared with the children of the control group, showed significantly more problems. These problematic children's personality was characterized by dependence, low self-esteem, and self-adjustment, emotional instability, and a negative view of the world. These authors' study showed that children's perceived rejection by either the mother or the father or both had a negative impact on their psychological and social adjustment.

The fact that children may easily be influenced to lie cannot be empirically proven. The work by Talwar, Arruda, and Yachison (2015) used both internal (being happy about oneself) and external motivators (others would be happy if the minor tells the truth) to influence children to tell the truth after having committed a reprehensible act. External motivators barely influenced children's truth-telling, but internal motivators did. Most of the children told the truth because they thought that was the way it was meant to be, and they

said they felt happy doing so. This implies that it is very difficult for adults to easily persuade their children to lie. Clemente and Padilla-Racero (2015a, 2015b) have already shown in an empirical study that children, as a rule, do not lie and cannot be easily manipulated. With a sample of 300 children, aged between 6 and 12 years, these authors verified that almost all the children truthfully reported the troublesome facts they witnessed, and moreover, their reports were not influenced by external pressures and mediations.

Emotional expressiveness is a key factor in children's internalization of the main values, and it is transmitted by parents. It consists of what is called affection or, generally, love, the fact of loving one's parents. Accordingly, Barry and Kochanska (2010) reported that parents' emotional expressiveness toward their children is highest early in the child's development, and declines thereafter, whereas children's emotional expressiveness grows increasingly from 15 months old on. Children who express a greater level of positive emotions interact better with other people and inspire greater affection from others.

Whereas emotional expressiveness or affection is an important variable that parents demand and instill in their children, it is subject to cultural variations (Fischer, Harvey & Driscoll 2009).

It is relevant to examine the opposite case, that is, the use of the so-called instrumental lying by parents to promote their children's behavioral compliance. Adults, while instilling in their children the notion that one must never lie, systematically take advantage of lie-telling to manage them (Heyman et al. 2013). This line of research, comparing the possible lie-telling by parents and children, was also studied by Perkins and Turiel (2007), using a sample of 128 adolescents. The findings, similar to those in previous works, show how the acceptance of deception grows increasingly as the minors grow older, but all of them reject lie-telling. Moreover, the most rejected type of lie-telling is that which conceals a crime or breaks the law, and the main reason for telling the truth is moral, the internalization that one must always tell the truth.

As previously pointed out, there is much research in line with the idea that children, as a rule, do not lie. Authors such as Clemente and Padilla-Racero (2015a), Gudjonsson, Sigurdsson, Finnbogadottir, and Smari (2006), or Perkins and Turiel (2007) report that minors, as a rule, do not lie.

Socialization produced in a normalized family instills in the children a series of a priori ideas regarding the parent-children relationship. Three of the main instilled ideas are:

- From a behavioral perspective: not to lie.
- From an emotional perspective: to have positive feelings toward both parents, and even to equally express love for both. That is; to love both of them,
- And also, from a behavioral perspective: to express the desire to maintain contact with both parents, that is: not to cease having contact with both of them.

These three aspects are resistant to change, such that if a parent does not act appropriately toward a child, the child initially tends to maintain a positive feeling toward both parents and will defend the idea of maintaining contact with them. Furthermore, if a minor is asked about a parent's behavior, the minor will tend to tell the truth.

Nevertheless, family dynamics are complex, and, under certain circumstances in family life, these broadly instilled values in children may be altered. Within these family dynamics, parents' separation or divorce deserves special mention because of its great incidence and repercussion in children's lives. If the divorce puts an end to a coexistence in

which there was no intrafamilial violence, after a period of children's adjustment to the new situation, the aforementioned social values of telling the truth and loving and wanting to maintain contact with both parents should not be altered. Unfortunately, some divorces occur in contexts of violence, where one parent abuses the other parent or the children. When this happens, how do the social values instilled in the children change? Will the children tell the truth about the abuse? And will they still love their parents and want to maintain contact with both parents? These aspects are essential to determine the children's custody and communication with their parents after separation or divorce.

In order to determine the parent with whom the minors are going to live and the children's visiting schedule with the other parent (except when there is alternating custody), many judges base their decisions on that subject of psychodynamic theories that asserts that both traditional parental figures—that is, both the mother and the father—are necessary for the child's optimal psychological and social development (Clemente et al. 2015). Within these psychodynamic theories, a crucial concept emerges, whose repercussion are perceptible, like no other, in the proceedings that regulate family separations or divorces: the Parental Alienation Syndrome (hereafter, PAS).

The concept of PAS first appeared in literature in 1985, introduced by the American psychiatrist Richard Gardner, who defined it as “*a child disorder that arises primarily in the context of child-custody disputes. Its primary manifestation is the child's campaign of denigration against a parent, a campaign that has no justification*” (Gardner 1985: 3). According to Gardner, the minor's testimony is false, the result of his or her campaign of vilification or offences against a parent. Therefore, a child's testimony should not be taken into account (as it is considered a falsehood) or it should be interpreted contrarily to what is stated (Clemente 2013; Clemente & Padilla-Racero 2015a, 2015b, 2016; Padilla-Racero 2013, 2016).

The roots, concepts, or assumptions underlying PAS and its implications have been widely studied (Clemente 2013; Clemente & Padilla-Racero 2015a, 2015b, 2016; Clemente et al. 2015; Erard 2016; O'Donohue, Benuto & Bennett 2016; Padilla-Racero 2013, 2015, 2016; Saunders & Oglesby 2016; Shaw 2016). This so-called syndrome has neither been proven nor scientifically acknowledged (Escudero 2008; Escudero, Aguilar & De la Cruz 2008; Escudero et al. 2010; Emery 2005; Emery, Otto & O'Donohue 2005; Nichols 2014). However, due to its widespread outreach (Clemente & Padilla-Racero 2015b), it is granted validity and diagnosed by the court system (Nichols 2014; O'Donohue, Benuto & Bennett 2016). The acceptance of PAS concepts by the judicial system leads to the fact that, in its reports and sentences, a minors' testimony is not granted any credibility (Clemente 2013; Clemente & Padilla-Racero 2015a; Kleinman & Kaplan 2016; Padilla-Racero 2013, 2016; Rozanski 2013; Shaw 2016).

PAS opposes the values instilled in children through socialization—not to lie and to want to maintain contact with both parents (Gardner 1985, 1991a, 1991b, 1998, 2001a, 2001b, 2002a, 2002b). According to this theory, the child is manipulated by the custodial parent, who instills in the child a hatred toward the non-custodial parent, such that the minor states that she/he hates (emotional aspect) and does not want to have any contact (behavioral aspect) with that parent.

This work attempts to verify whether or not a minor, in a situation of severe abuse or a lesser offense, would report it appropriately, would want to maintain contact with both

parents, and would express that s/he loves both of them. That is, when a situation of abuse breaks down the three aforementioned elements instilled in the children by socialization. To that end, four questions will be posed in cases in which one parent has allegedly abused the other parent or the minor: whether the children indeed report the abuse in either case; that is, when the abuse is exerted by the father or by the mother (principle of truth-telling), whether the children express affection for both their parents (principle of expressing affection for parents), and whether they want to maintain contact with both parents (principle of trying to be always in contact with them). It is hypothesized that children will preserve the value of truth-telling when they have to report abuse by one of their parents; that children will give up the values of loving and wanting to maintain contact with both parents when one of them physically or psychologically abuses the other parent or the child him/herself; that children will preserve the values of loving and wanting to maintain contact with both parents if one of the parents tells them about the aggressions (physical or psychological) more so than if they witnessed or suffered those aggressions themselves; that children will preserve the values of loving and wanting to maintain contact with both parents when they (the children) are the target of the abuse less so than when the other parent is the target; also that these principles will be preserved more in the face of a psychological aggression than in the face of a physical one; that when the one who causes the abuse is the custodial parent (usually, the mother), these principles will be more preserved than when it is the non-custodial parent (the father). That is, the results obtained will be quite the opposite of the predictions of the concepts derived from PAS.

2. Method

2.1 Participants

The participants were 2730 minors aged between 6 and 18 years ($M = 12.45$ years, $SD = 2.91$). The male-to-female ratio was equal (50%), respecting this proportion for all the age groups (set up in blocks of two years). The children had never suffered abuse (according to their reports). The sampling was incidental; hence we used the classrooms in the schools whose directors agreed to collaborate.

2.2 Instruments

After gathering the minor's sociodemographic variables, an *ad hoc* questionnaire was designed, divided into two parts:

First, the participants were asked to rate on a four-point Likert scale (*totally disagree*, *disagree*, *agree* and *totally agree*) four values that might characterize their relationship with their parents. The values were: "One must tell the truth to everyone," "One must love one's parents," and "One must tell the truth to one's parents." These four items were disguised within a broader set, that is, a total number of eight items were presented. Thus,

we intended to determine the extent to which the children expressed these basic principles.

Afterwards, they were told a story. For the male participants, the story happened to a male, and for the females, the main character was a female. Then they were told that the child in the story had to testify before the judge the following day, and they were asked to put themselves in that child's place to answer the questions.

The description of the children's relationship with their fathers or mothers was manipulated according to the independent variables mentioned in the Procedure section. After reading the story, each minor had to answer four questions (dependent variables).

2.3 Procedure

Four independent variables were manipulated:

A) The minor him/herself witnessing and suffering abuse, or abuse being reported by the custodial or the non-custodial parent, without the minor's knowledge of such abuses. Thus, this variable had two levels: a₁, the minor witnesses and suffers the abuse; a₂, the minor is informed about the alleged aggressions by the custodial or the non-custodial parent, but has never witnessed them (she/he is being convinced by the informing parent). This latter level permits verifying whether or not children are easily manipulated, a basic concept in PAS.

B) Type of abuse. This also had two levels: b₁, verbal and psychological abuse (insults, contempt, and humiliations); and b₂, physical (physical abuse).

C) Emitter of the abuse. Again, this variable had two levels: c₁ (the custodial parent, in our case, female); and c₂ (the non-custodial parent, in our case, male).

D) Recipient of the abuse. Also with two levels: d₁ (the other parent) and d₂ (the minor).

A text concerning the possibility a₁b₁c₁d₁ is presented as a sample below, in this case, to a male respondent:

Manuel lived with his father and his mother. However, his parents have separated, and now he lives only with his mother. He can see his father on Tuesday and Thursday afternoons, and moreover, he can spend a weekend every fortnight with him. Today, Manuel is going to be interviewed so he can tell the Court how his parents treat him, and the possibility of having more or less contact with his parents will depend on the interview. When Manuel lived with his father and his mother, the mother insulted his father, swore at him, did not appreciate his efforts, and constantly ridiculed him before other people.

The children were subsequently asked four questions (dependent variables), the first two related to telling the truth (one about how the father treated the mother, and vice versa): "How does your father treat or used to treat your mother?" (with two response alternatives: *well* or *badly*) and "How does your mother treat or used to treat your father?" (with the same response alternatives as the previous question, *well* or *badly*); the third question was about loving the parents: Who do you love the most? (with three response alternatives: *my mother*, *my father*, *both*); and the fourth question referred to maintaining contact with both parents: "Do you want to see both parents even if you only live with one of them?" (with three response alternatives: *No, I only want to see my mother*; *No, I only want to see my father*; *Yes, I want to see both of them*).

The design was factorial A x B x C x D, 2 x 2 x 2 x 2, non-repeated measures, and post-only measurement. The data were analyzed using the IBM SPSS-22 statistical package. To determine the importance of each basic principle, the mean and the standard deviation were calculated. And to determine the influence of the four independent variables on the dependent ones, a nominal ANOVA was calculated, determining the percentages and their level of significance through a C-test. The level of significance was always 95%.

In the schools whose directors agreed to take part of the study, a letter was sent to the parents through the pupils, asking them to sign an informed consent form for their children to participate in the research. No parent or child refused to collaborate. This research was previously approved by the Ethics Committee of the University of A Coruña (Spain), ref. 31/17.

3. Results

The results obtained will be explained considering the importance that children give to each of the values or basic principles inherent in socialization. The fact of telling the truth to the parents was preceded by a question about telling the truth to everyone. The mean value on a 1 to 4 scale for this first question was 3.16 ($SD = .880$). Regarding telling the truth to the parents, the mean score increased to 3.45 ($SD = .740$). With regard to loving the parents, the mean score was 3.67 ($SD = .610$). Finally, for wanting to maintain contact with the parents, the mean was 3.55 ($SD = 6.53$). All the items obtained a score close to 4 (*totally agree*); therefore, it can be stated that all the participants were socialized in the values under study.

Regarding the influence of the four independent variables on the dependent variables or values, the results of the C-test indicated significance at $p < .05$ in all cases.

The results of the influence of the four independent variables on the dependent variables studied are presented in the Table 1. It has been agreed upon that it is not necessary to present in the text each of the data already included in the Table, since each data will be discussed in the "Conclusions and Discussion" section.

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Table 1: Influence of the observation of the aggression, of the type of violence, of who emits the violence and of who it emits it in the desire of contact of the minors in the values

		a1 him/herself witnessing and suffering abuse							
		B Type of abuse							
		b1 Psychological				b2 Physical			
		C Emitter of the abuse				C Emitter of the abuse			
		c1 Custodial		c2 Non custodial		c1 Custodial		c2 Non custodial	
		D Recipient of the abuse		D Recipient of the abuse		D Recipient of the abuse		D Recipient of the abuse	
		d1 The other parent	d2 The minor	d1 The other parent	d2 The minor	d1 The other parent	d2 The minor	d1 The other parent	d2 The minor
Treatment father to mother	Well	8%	32.52%	88.35%	80.25%	22.22%	48.85%	90.42%	66.67%
	Badly	5.52%	67.48%	11.65%	19.75%	77.78%	51.15%	9.58%	33.33%
Treatment mother to father	Well	90.30%	83.26%	27.18%	41.56%	83.41%	78.08%	18.39%	37.30%
	Badly	9.70%	16.74%	72.82%	58.44%	16.59%	21.92%	81.61%	62.70%
Loving the parents	Mother	23.67%	8.91%	28.15%	56.79%	6.25%	6.87%	41.38%	41.27%
	Father	18.33%	34.82%	5.82%	2.47%	21.87%	37.40%	3.06%	1.26%
	Both	58.00%	56.28%	66.03%	40.74%	71.88%	54.97%	55.56%	5.75%
Contact with	Mother	2.67%	7.52%	21.36%	41.15%	0.89%	3.46%	29.51%	28.57%
	Father	9%	5.16%	4.85%	0.83%	10.67%	29.61%	4.21%	6.35%
	Both	88.34%	77.32%	73.79%	58.02%	88.44%	66.93%	66.28%	65.08%

		a2 abuse being reported by a parent							
		B Type of abuse							
		b1 Psychological				b2 Physical			
		C Emitter of the abuse				C Emitter of the abuse			
		c1 Custodial		c2 Non custodial		c1 Custodial		c2 Non custodial	
		D Recipient of the abuse		D Recipient of the abuse		D Recipient of the abuse		D Recipient of the abuse	
		d1 The other parent	d2 The minor	d1 The other parent	d2 The minor	d1 The other parent	d2 The minor	d1 The other parent	d2 The minor
Treatment father to mother	Well	58.40%	86.87%	89.39%	78.70%	58.82%	77.97%	82.14%	61.47%
	Badly	41.60%	13.13%	10.61%	21.30%	41.18%	22.03%	17.86%	38.53%
Treatment mother to father	Well	86.4%	79.80%	78.79%	50.93%	89.08%	71.79%	47.86%	48.36%
	Badly	13.6%	20.20%	21.21%	49.07%	10.92%	28.21%	52.14%	51.64%
Loving the parents	Mother	22%	22%	18.32%	21.30%	10.09%	15.25%	20%	20.49%
	Father	19%	9%	6.11%	6.48%	7.56%	15.25%	3.57%	6.56%
	Both	83%	69%	75.57%	72.22%	82.35%	69.50%	76.43%	72.95%
Contact with	Mother	15.32%	9%	9.92%	5.55%	2.52%	6.78%	.86%	10.66%
	Father	7.26%	3%	.87%	3.70%	1.68%	6.78%	1.43%	3.28%
	Both	77.42%	88%	83.21%	90.75%	95.80%	86.44%	90.71%	86.06%

4. Conclusion and discussion

The basic values of socialization in children—telling the truth, loving both parents, and wanting to maintain contact with both parents—are deeply rooted and instilled in practically all the minors.

Regarding the influence of the four independent variables in the socialization values of children toward their parents, we can conclude, firstly, that even though children are socialized to tell the truth, when this truth implies reporting the psychological or physical abuse perpetrated by either one of the parents, this principle is broken in a great majority of cases. The value in children of telling the truth is broken for the sake of concealing the abuse by one of their parents. This occurs both when children witness the abuse by one parent toward the other and when they are informed about the abuse by one of their parents. Conversely to the PAS ideas defended and spread, children tend to conceal their parents' hostile behavior.

Most children, when they experience a parent's psychological abuse toward the other parent or themselves, state that they love both parents. In these cases, the value of loving both parents is still confirmed. However, when children are psychologically abused by the father, they usually state that they love their mother more than they love both parents. This reactive emotional response would be interpreted by PAS as pathological.

Even though children still love both parents in a higher proportion, in the cases of physical abuse by the fathers toward the mothers or the children, a high percentage of children, almost one half, state that they love their mothers more. As previously specified, in the case of psychological abuse, and according to PAS criteria, this emotional response would be interpreted as pathological.

The value of loving both parents is not altered by parents' physical or psychological aggressions when the children did not witness or cannot remember the aggressions. This value is clearly more influenced and altered by psychological or physical aggressions that the children did witness or can remember; therefore, the essential PAS idea about the ease with which mothers manipulate children to make them hate their fathers is refuted. Affective parent-child attachments are not influenced by the physical or psychological aggressions parents may report to the children if they did not witness them or cannot remember them.

Affective mother-child attachment is more difficult to break than father-child attachment when psychological or physical abuse occurs, like the cases described in this study. For all the cases reported, the number of children who stated they love the mother more when she was the aggressor was higher than the number of children who stated they love the father more when he was the aggressor.

The value of wanting to have contact with both parents is maintained even in the face of a parent's psychological abuse of the other parent or the child. However, when the psychological violence is exerted by the father against the child or against the mother, this value is reduced in a very significant percentage. If the violence is exerted by the father against the child, almost half the children want to maintain contact with the mother exclusively, but not with both parents. When the mother is the victim of the father's psychological violence, about one fourth of the children want to maintain contact only with the mother. This behavioral reaction, analyzed and evaluated from the PAS viewpoint, would

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be interpreted against the children, presuming them to be alienated or disturbed by the mother so that they do not want to visit the father.

Also, in cases of a parent's physical abuse of the other parent or of the child, the value of wanting to maintain contact with both parents still prevails. However, it must be noted that almost one third of the children want to maintain contact with only one of their parents (and not with both) if the mother abuses the child or the father abuses the mother or the child. Children's rejection of violence against themselves (no matter which parent exerts it), as well as their rejection of physical abuse of the mother by the father, is clear. According to PAS doctrines, these children would be separated from the parent with whom they prefer to maintain contact and assigned to the abusive parent.

In both the cases of psychological and physical violence, either unwitnessed or suffered (but not remembered) by the child, exerted by one of the parents and reported to the child by the other parent, the children's decision about maintaining contact with both parents would not be affected by these reports. Children are not easily manipulated by their parents into rejecting contact with the other parent, quite the contrary.

In the face of the same facts, whether psychological or physical violence, witnessed or informed, except for the case of the mother's psychological violence against the father and for all the cases of physical violence witnessed or suffered directly by the children, a greater number of children choose to maintain contact with the mother exclusively when she is the aggressor than the children who choose to maintain with the father exclusively when he is the aggressor.

For most of the case studies posed, a larger number of children state that they want to maintain contact exclusively with the mother than those who state they want to maintain contact exclusively with the father. Only in one case did the children state they want to maintain contact with both parents to the same degree. The value of wanting to maintain contact with only one of the parents (in which case, the children are not socialized) prevails with regard to the mothers more than it does regarding the fathers.

The results of this research refute the hypothesis that children will preserve the value of truth-telling in which they are socialized when they must report abuse by one of their parents. The hypothesis, that children's values of loving and wanting to maintain contact with both parents are preserved more frequently in cases of psychological violence than in physical violence, is also refuted. In fact, the opposite is verified in some of the cases posed. We verified that, in the face of situations of psychological or physical abuse by one parent against the child or the other parent, children will stop loving and wanting to maintain contact with both parents, although both values (affection and wanting to maintain contact with both parents) are deeply rooted. We verified the hypothesis that when children witness the aggression of one parent against the other or when they are the victims of the aggression, they will love and want to maintain contact with both parents less frequently than when they are informed about such aggressions. We verified that children love and want to maintain contact with both parents to a lesser extent when they are the direct victims of abuse by one of the parents than when the victim is the other parent. And lastly, we verified that the values of wanting contact and of loving both parents are sometimes more preserved when the mother is the aggressor, and other times when the father is the aggressor.

PAS determines that when a minor rejects a parent and refuses to maintain contact with that parent, it is due to the other parent's manipulation (Clemente 2013; Clemente & Padilla-Racero 2015a, 2015b; Padilla-Racero 2013, 2016). To support this premise, Gardner asserts that children are unscrupulous liars, capable of persisting in a lie just to harm a third party and that, moreover, they can be easily manipulated.

The data of this research shows that practically all children are socialized to tell the truth. This value of always telling the truth is broken down when they must report abuse by one of their parents. Acting against their normal behavior (telling the truth), children lie in order to conceal a parent's hostile behavior. These results are consistent with those of Popliger, Talwar, and Crossman (2011), who reported that children, rather than hurting a person, choose to tell a lie. This fact runs counter to PAS's main idea (present in its definition) that children lie to denigrate a parent. PAS also states that children feel no remorse or guilt when vilifying a parent (see Padilla-Racero 2013: 56). The data gathered in this study show that is very difficult for a child to report family maltreatment. Therefore, when the child does so, the justice system should take the child's account or testimony into account, thus avoiding the assimilation of PAS ideas in its regular proceedings.

Studies such as those by Finnbogadottir and Smari (2006) and Perkins and Turiel (2007) show that, as a rule, minors do not lie. Another study by Clemente and Padilla-Racero (2015a) found that almost all children tell the truth when they witness a troublesome fact and are asked about it. The data of this research, however, show that when one of the parents is the protagonist of the disturbing fact (the one who abuses in the family unit), children tend to conceal this reality. Thus, minors' behavior is quite the contrary to the behaviors that PAS attributes to them.

Furthermore, this research clearly shows that children are not easy to manipulate by either parent, not even to make them refuse to maintain contact with the other parent. According to our data, for a child to express this rejection (of affection and contact), he or she must directly witness or suffer abuse by one of the parents. This data outright refutes the idea supported by PAS about how easily the mother manipulates children to make them hate the father, which has already been refuted through the empirical study carried out by Clemente and Padilla-Racero (2015a). In this line, the study of Talwar, Arruda, and Yachison (2015) proves that minors tell the truth, in order to feel good about themselves, even though it may lead to negative consequences for them, a fact that implies that it is difficult to convince children to lie.

Unlike the idea of maternal manipulation as Gardner's only reason for children's rejection of a parent (Escudero, Aguilar & De La Cruz 2008), the data show that, in the face of situations of psychological or physical abuse, the values of loving and wanting to maintain contact with both parents, which are usually so strongly instilled, may break down in a large number of these situations. Psychological or physical abuse can explain children's rejection.

In 1991, Gardner introduced the exception clause (Escudero, Aguilar & De la Cruz 2008), adding to his definition of PAS that when there is abuse, PAS is not applicable (Gardner 1991a, 199b, 1998, 2001a, 2001b, 2002a, 2002b), but the fact remains that the evaluators who assess issues related to child custody and visitation are very cautious when determining possible abuse, and in most cases, they determine that when considering a minor's allegations of abuse by a parent, what underlies this is PAS. This is decided without

applying a scientific protocol that can determine whether there is actually any kind of abuse (Clemente & Padilla-Racero 2015b).

Children show a stronger bond with their mothers, probably because the mothers are the ones who, to a greater degree, still nurture the children. The results of studies by Bretherton, Lambert, and Golby (2005) advise fathers to become more involved in child care.

PAS, which is a psychodynamic theory, states that children need both traditional parental figures for their appropriate psychological and social development. Children's contact with both parents prevails over the interest of protecting them from abuse by one of the parents (Clemente et al. 2015). However, research has since shown that parenting styles based on anger, aggressiveness, or rejection are related to children's mental health issues or psychosocial adjustment (Gracia, Lila & Musitu 2005).

We note that this research has a huge limitation. That is, the participants had not suffered abuse, but they assumed the role of other children, one of whose parents had maltreated the other parent or the child. It would never have been possible to obtain such a large group in a clinical sample. But results indicate that children, as a rule, do not lie, that most of them accept a series of basic rules in which their parents socialize them (not to lie, to love their parents, and to want to maintain contact with them), and also that maltreatment does break down those values. This shows that, when children state that they do not want to have contact with one of their parents, they must have experienced very serious events. Despite this, children always try to justify their parents, and it is very difficult for them to admit the existence of abuse.

Another of the limitations that we want to highlight is that for the realization of this study we have used a design selecting four independent variables and four dependent variables, so we consider that future studies should study the influence of other variables and expand the number of studies. . On the other hand, it is necessary to complement the results of this research with investigations of another methodological nature; on the one hand, with qualitative work, and on the other, with studies that allow the data to be analyzed using multivariate statistical techniques. In the future, we intend to investigate following these guidelines.

Children's willingness to stand up for their parents is completely inconsistent with the ideas formulated by PAS, which assert that children are manipulated by their mothers and therefore, they lie. Our data completely refutes such a possibility. Thus, non-evidence-based theories, such as PAS, must be banished from the judicial forensic framework.

This investigation allows us to answer the questions about the change of values that minors may experience, but not about what age it should be considered appropriate for a minor to be questioned by the justice system. Previous research has shown that children can and should express their opinion from the moment they have adequate verbal fluency, which is usually from 3-4 years, but their statements must be collected by specialized psychologists in legal psychology who deal with children (Clemente & Padilla-Racero 2015a). Even more difficult to answer is the possible question regarding the existence of an age for a minor to be interrogated in the courtroom itself. We believe that those authors who claim that a child should not face a statement in the courtroom are the most appropriate, since the emotional impact that such an appearance can imply can be very strong (Clemente & Padilla-Racero 2015a; Clemente et al. 2015).

This work has also important practical implications. It is necessary to delve deeper into the statement taking of minors and into the training both of the professionals who evaluate the minors (basically, health professionals) and those in charge of the development of the judiciary process (judges and attorneys), so that they will reject non-scientific practices of evidence verification, and ensure that the assessment techniques fulfill the pertaining requirements of scientificity. Any theory that is based on the concept that minors lie to unjustifiably vilify a parent should be banished, and furthermore, this concept prejudices both the minor and one of the parents, leaving them in a situation of judicial helplessness. Undoubtedly, the use of theories and evaluation techniques based on scientific evidence will lead to a more appropriate protection of the minor, and a struggle against injustice.

Compliance with ethical standards

- Disclosure of potential conflicts of interest: The authors declare that they have no conflict of interest.
- Research involving Human Participants: The procedures performed in this study were in accordance with the ethical standards of the institutional Ethic Committee of the University of A Coruña (Spain) and with the 1964 Helsinki Declaration and its later amendments or comparable ethical standards. This article does not contain any studies with animals performed by any of the authors
- Informed consent: Informed consent was obtained from all individual participants included in the study.
- The authors declare that the research was conducted in the absence of any commercial or financial relationships that could be construed as a potential conflict of interest.
- All authors have contributed equally to the development of this research and to the elaboration of the manuscript. All authors agree with the final version of this manuscript and assume responsibility for it.
- There are no financial disclosures from any authors.
- As part of the encouragement of open research practices by the International Association of Relationships Research (IARR), the authors have provided the following information: This research was not pre-registered.
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Information in German

Deutscher Titel

Der Einfluss von innerfamiliärem Missbrauch auf den Wertewandel von Kindern gegenüber ihren Eltern

Zusammenfassung

Die von Eltern und Gesellschaft initiierten Sozialisationsprozesse erziehen Kindern eine Reihe von Werten im Umgang mit ihren Eltern an. Einige dieser Werte sind beispielsweise: nicht zu lügen, eine Zuneigung zu den Eltern zu verspüren und Kontakt zu ihnen haben zu wollen. In dieser wissenschaftlichen Arbeit wird versucht zu untersuchen, ob sich diese Werte bei innerfamiliärem Missbrauch verändern. Zu diesem Zweck wurde eine Stichprobe von 2730 Minderjährigen im Alter zwischen 6 und 18 Jahren, die noch nie missbraucht wurden, herangezogen. Sie wurden gebeten, sich in die Hauptfigur einer Geschichte hineinzusetzen. Die Geschichte variierte je nach den zu untersuchenden Bedingungen: Beobachtung und direktes Erleiden oder Erzählung des Missbrauchs durch andere, Art des Missbrauchs (physisch oder psychisch), wer den Missbrauch begangen hat (erziehungsberechtigter oder nicht erziehungsberechtigter Elternteil) und wer dem Missbrauch ausgesetzt war (der andere Elternteil oder das Kind). Die Ergebnisse zeigen, dass Kinder in der Regel lügen, wenn es darum geht das missbräuchliche Verhalten von einem der beiden Elternteile zu verbergen. Sie lieben ihre Eltern und möchten Kontakt zu ihnen haben, selbst im Falle von Missbrauch. Ungeachtet dessen, dass einige Kinder bei Misshandlung durch einen ihrer Elternteile, beide Eltern immer noch lieben und Kontakt zu ihnen haben wollen, hört eine signifikante Anzahl von Kindern auf, den missbrauchenden Elternteil zu lieben oder Kontakt zu ihm haben zu wollen. Diese Ergebnisse falsifizieren, was von Theorien wie PAS ohne wissenschaftliche Beweise behauptet wird und unterstreichen die Notwendigkeit der Verwendung wissenschaftlicher Verfahren, die auf der Idee fußen, dass Kinder die Wahrheit sagen, zur zuverlässigen Untersuchung der Zeugenaussagen von Kindern.

Schlagwörter: Kinderschutz, Eltern-Kind-Entfremdung, elterliches Entfremdungssyndrom, Sozialisation, Werte

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Artículo 2: “Institutional Violence Against Users of the Family Law Courts and the Legal Harassment Scale”



Institutional Violence Against Users of the Family Law Courts and the Legal Harassment Scale

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The term harassment is often used to refer two contexts, the workplace and school, but not the legal system itself. Long drawn-out litigation in the Family Law Courts often produces a surreptitious phenomenon of violence toward one of the litigating parties, who become victims of the legal system itself. The aim of this study was to determine whether legal harassment could be detected and measured in the Spanish Justice System using an innovative Legal Harassment Scale (LHS). This hypothesis was substantiated by the data obtained using a new 32-item psychometric instrument with a global index: the LHS, consisting of four factors: Direct Aggression, Procedural Harassment, Personal Contempt, and Manipulation of Reality. The estimated reliability and validity of the LHS was satisfactory, both in terms of the global score, and for each of the four factors distributed along the normal curve. The results of this study are discussed in terms of the limitations of the study and in relation to future lines of research aimed at ensuring that the legal system respects and safeguards the rights of the parties involved in litigation, and that no party falls victim to legal harassment.

Keywords: family law, legal harassment, legal system, scale, violence

INTRODUCTION

What is legal harassment? Legal harassment or abuse was defined by Vollans (2010, p. 5) as follows: "Court-related abuse and harassment is the use of ongoing litigation through judicial and quasi-judicial systems to continue to harass and abuse." This abuse can affect all parents and is often focused on legal proceedings involving custody issues. We will start by highlighting some studies involving the legal system in general, and subsequently we will refer to the case of custody. In this paper we will use the terms "legal system" and "justice system" interchangeably.

Few studies have examined this context, yet many of the users of the justice system feel victimized by the system itself, either as plaintiff or defendant, though the effect of harassment is often more acute in the former. Unfortunately, to our knowledge, there are no studies on harassment in the legal system with the exception of a few studies that bear some relation and will be examined below. In all societies, there are disadvantaged groups, who are scorned both by society and the justice system (Athwal and Burnett, 2014). Members of specific alienated groups, primarily submerged in the underground economy, are "disappearing" due to low-level harassment

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both by society and the justice system itself, which either fails to act or, when it does, it is “low key,” leaving criminals to go unpunished (Athwal and Burnett, 2014).

According to Stotzer (2014) meta-analysis of 33 studies examining how the justice system treats its users, strikingly, the justice system stigmatizes both litigating parties (i.e., the plaintiff and the defendant). This study highlights that those who transgress the law suffer harassment, illegal detention, assault, and an overall lack of protection from the justice system because the perpetrators are the very agents of the justice system and law enforcement agencies. Similarly, victims also suffer harassment and discrimination by agents of the justice system and law enforcement agencies. In short, the law enforcement agencies and the justice system harass both victims and aggressors.

Moreover, the way in which victims are dealt with by the justice system affects their mental health. A study of 1562 United States Army reservists who had suffered sexual abuses in the army revealed that when they were treated fairly by the justice system and their statement was taken correctly and respectfully, the victim's mental health improved, in particular, posttraumatic stress levels (Bell et al., 2014). Conversely, mental health declined in those individuals who felt they had been treated disrespectfully by the justice system. A study undertaken on a prison population found similar results (Smith, 2012). In short, we hypothesize that, in general, the mental health both of victims and aggressors improves when they feel they have been treated fairly and respectfully by the justice system. Conversely, we also hypothesize the inverse relationship on mental health occurs if victims feel they have been treated unfairly and disrespectfully.

A plausible explanation for this discrimination, from a legal point of view, can be found in the concept of “legal consciousness” (Silbey, 2005). In general, this theory draws a clear distinction between the theoretical concept of the law and its day-to-day functioning. Thus, the application of the law is claimed to be iatrogenic (i.e., individual application of the law often has adverse effects on victims). This author raised the issue of why people are willing to allow a legal system to exist that preaches equality, but systematically produces inequality.

In the area of mental health, the issue researched in the current study has not been investigated (i.e., the types of harassment the justice system exerts on parents confronting each other in family court proceedings). We will now examine the case of legal harassment within family law procedures.

Our society has been recognizing different forms of violence, especially those perpetrated against women, with the current most frequent forms being mobbing, domestic violence, and sexual abuse (Epstein and Goodman, 2018). These authors also raised other social and cultural forms of acts against women, highlighting the lack of credibility granted to women's reports. This is especially worrisome when we refer to the legal system, because when a woman reports that she or her children suffer abuse, she is much less likely to be believed than are men (Epstein and Goodman, 2018). We are thus faced with a paradox, because, on the one hand, laws are designed to protect women from abuse and, on the other hand, if women report abuse, they face a system which, being social, generates the defects found in society as a whole, and therefore it devalues their stories, often refusing to

defend women with the laws created for this purpose (Epstein and Goodman, 2018).

This lack of credibility granted to women's reports is manifest both in the legal system and in the social services derived thereof (Epstein and Goodman, 2018). Unfortunately, some fathers have even murdered the mothers and kidnapped and sometimes killed their children (Jaffee et al., 2003; Saunders, 2009; Rivera et al., 2012). It seems obvious that, faced with this situation, the courts must take extra measures to avoid serious consequences. The study of Rivera et al. (2012) shows that mediation can be a negative and revictimizing experience for women who have suffered abuse by their ex-partner. In a qualitative study carried out with 22 survivors of domestic violence who tried to negotiate safe children agreements after the separation, Laing (2016) reaches similar conclusions. The legal system's attempt to support shared custody and mediate to achieve agreements between the parents at times clashes with the fathers' accusations of the mothers' Parental Alienation Syndrome (PAS), and their desire to conceal and silence domestic violence. This increases women's secondary victimization. Therefore, mediation can be harmful for mistreated mothers and their children.

Regarding how the justice system becomes the harasser of women, abusers can use the justice system as a form of control of the other person and a form of harassment (Vollans, 2010). Thus, the court becomes an instrument for the abuser to be able to continue harassing the victim. But the fact that the abuser continuously forces the victim to litigate not only makes the victim relive a prior situation of abuse but it also attacks the victim economically. Both Vollans (2010) and Rivera et al. (2012) refer to the fact that many abusers are charismatic, charming and present very well in front of judges and experts, such that they convince these decision-makers that they (the abusers) are the real victims.

The report of Vollans (2010) proposed the goal of documenting the problem of abuse and harassment related to the courts. These authors cite a series of ways for abusers to use the justice system to attack and harass victims, which conform to the provisions of the law. This is one of the reasons why it is called an invisible form of abuse. This violence is invisible first because it occurs within intimate environments (home, for example), and secondly because society itself does not conceive it as such (for many people it is impossible to think that social institutions generate violence). As the system becomes a complicit in abusive behavior, the report by Vollans (2010) is very enlightening. This violence is invisible first because it occurs within intimate environments (home, for example), and secondly because society itself does not conceive it as such (for many people it is impossible to think that social institutions generate violence). The report by Vollans (2010) investigated the presence of 22 criteria that were selected for referring to court-related abuse or vexatious proceedings.

This harassment is sometimes achieved through the allegations of PAS, to which we will refer below. In this way, the family court becomes an invisible form of harassment.

The ways used to discredit mostly women's testimony are primarily exhibited by the judges, because the judges ignore women's reports of abuse and violence and consider them

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inconsistent, because they are not familiar with the symptoms derived from a traumatic situation, and especially those of a post-traumatic stress disorder (Epstein and Goodman, 2018). Judges and legal officers may not understand the severe mental health consequences that such traumatic situations produce. Thus, the judges and legal officers likely wonder if there are hidden motivations underlying the victims' requests for help (Epstein and Goodman, 2018). In this way, some female victims also become revictimized by the legal system. In addition, the devaluation of their abuse experience and testimony makes victims wary to appeal to the justice system, which is supposed to protect them.

There is some evidence that family courts award the custody of minors to abusers, increasingly separate children from their mothers who wish to protect them, and these awards increase when the mother alleges child sexual abuse (Meier and Dickson, 2017). In addition, judges routinely do not recognize domestic violence or child abuse, they do not understand the consequences of abuse, and seek to maximize the fathers' access to their children, whether or not they abuse their children (Meier and Dickson, 2017). It would be logical for the judge or the prosecutor to explore these allegations in order to determine whether the complaint is unfounded; however, in many cases, both the judges and the professionals who make up the teams that advise the legal system, entertain allegations of PAS (Meier and Dickson, 2017).

The study of Meier and Dickson (2017) on how PAS allegations affect the custody of fathers and mothers yields troubling data. In 72% of the cases in which PAS was legally claimed, the judge awarded custody to the father and removed the child(ren) from the mother. This percentage rose to 100% if the mother argued that the father was sexually abusing the children. It is also interesting, that if there was any suspicion of the mother's mental impairment, in 50% of the cases, her custody is removed. Meier and Dickson (2017) conclude that the family courts manifest prejudice against women who report abuses by fathers; thus, family courts are potentially hostile places for mothers. Women run a significant risk of losing custody and the courts are especially punitive toward women and children who present complaints of sexual abuse.

All this is related to the meaning that judges grant to the concept of "the child's best interests," a question studied, among others, by Clemente et al. (2015), as well as by Naughton et al. (2015). In the case of this second group of authors, the analysis is performed according to the use of cognitive and heuristic schemas employed by judges. These authors argue that, like many people, judges idealize the concept of family unity, which itself is conceived as a nuclear family. The knowledge that there has been domestic violence goes against that idea and, in order to find coherence with the first idea, judges minimize, normalize, and trivialize such violence, considering its existence irrelevant. Thus, if a mother claims the existence of violence, she is assumed to be mentally ill or "crazy" for inventing a reality that does not exist. In general, therefore, these authors claim that the judges' values act as a framework to explain their decision making.

The current study develops a new scale to measure a specific type of harassment, legal harassment, which injures parties involved in custody litigation. The victims, children, and parents,

who struggle to defend the best interests of their children and to protect them from parent violence or sexual abuse. Thus, a new instrument was designed to measure legal harassment, and its impact on both of the litigating parties. The instrument has several factors, thus a further aim of this study was to estimate the reliability and validity and the factors.

MATERIALS AND METHODS

Participants

An incidental sample was taken with the following inclusion criteria: all subjects were involved in ongoing litigation either as plaintiff, defendant, or both. Only litigations in the Family Law Courts were included in study, as they are long, drawn-out processes, especially litigations over child custody and visitation rights, which may be extended on until the child reaches the legal age of adulthood (18 years). Due to this circumstance, many of the subjects were both plaintiffs and defendants, although most were the latter. The sample consisted of 209 parents, 72.9% were women, with a mean age 40.28 years (range: 18–59), who had been involved in child custody litigation for more than 12 years (range: 2–12 years). The data were recollected between January and December 2017, in Galicia (NW Spain).

Procedure

An *ad hoc* 78-item scale – called "the battery" – was designed, using situations related to harassment in the legal system. The initial items of the scale (the battery) were obtained with the collaboration of three experts, all of them psychologists who worked for the Justice System, and who had extensive experience in the follow-up of cases in which the litigant parties had been appealing to the court of justice for years. A factorial analysis was performed to reduce the number of items of the scale in order to design the Legal Harassment Scale (LHS).

The responses to the LHS were rated on a Likert-type scale, ranging from 0 (strongly disagree) to 4 (strongly agree). The application instructions were as follows:

"You have been involved in legal proceedings for some time. Read each of the statements below, indicate if the statements are applicable to you in your legal proceedings: I strongly disagree (0), I agree a little (1), I agree moderately (2), I agree a lot (3) I strongly agree (4). Thank you for cooperation."

In addition, three extensively used tests were employed to determine the validity of the LHS:

- The 8-item Spanish version (Bobes et al., 2000) of the Top 8 Scale of Davidson and Colket (1997), which measures the frequency and severity of the symptoms of the posttraumatic stress disorder. Responses are rated on a 5-point Likert-type scale ranging from 0 (not at all frequent) to 4 (extremely serious).
- The Maslach Burnout Inventory, MBI (Maslach and Jackson, 1986), consisting of 30 items measuring three dimensions (Emotional fatigue, Depersonalization, and Personal accomplishment), and a global index estimate.

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Responses are rated on a 5-point Likert-type scale ranging from 0 (never) to 4 (every day).

- The Symptom Checklist of Derogatis SCL-90-R (Derogatis and Cleary, 1977a,b), consisting of 90 items measuring the following dimensions: Somatization, Obsession-Compulsion, Interpersonal sensitivity, Depression, Anxiety, Hostility, Phobic anxiety, Paranoid ideation, and Psychoticism. This scale also calculates global psychosomatization indices. The adapted Spanish version (Derogatis, 2001) was used (see Derogatis et al., 1976; Derogatis and Cleary, 1977a,b). Responses are rated on a 5-point Likert-type scale ranging from 0 (not at all) to 4 (very much or extremely).

In this work, we shall refer to harassment in the sense of a term in which psychological violence is exerted against people. Thus, we excluded physical violence. We consider that it is necessary to investigate the violence that the justice system directs against its users, as this is the main idea of this work.

Each participant completed the 78-item self-administered battery, plus all the tests mentioned above. Each test was performed individually. Therefore, data collection was extended for one year. Participants who completed the test were contacted through lawyers who acted as intermediaries. We think that the sample is of great interest, and given the mentioned difficulties, fairly large. Participants who informed their lawyers that they would participate were contacted by phone, and a visit was scheduled, if possible at the University, or if not, at their home. All signed an informed consent. The questionnaires were self-administered; the surveyor only clarified doubts and made sure that all the questions were answered.

After gathering the participants' responses to the initial 78 scale items, factorial analysis was performed using principal components analysis of the correlation matrix (eigenvalues higher than 1), and varimax rotation (maximum variance, such that the first factor yields a higher loading than the second one, and so on successively). Scale reliability was tested using Cronbach's alpha coefficient; concurrent validity was determined with the Pearson correlation with the three aforementioned tests; kurtosis and asymmetry were calculated by determining the fit on the normal curve.

All the information was gathered anonymously. At no time were the participants requested to give any identification data.

Approval for this study was requested from the Ethics Committee of the Universidad de Coruña (Spain) and obtained (Protocol No. 32/17). All the participants were informed about the objective of the investigation and, before completing the questionnaires, they signed an informed consent. In the consent form, they were ensured of the confidentiality and anonymity of their data. They were also requested to set a personal code so that, should they decide to cancel their consent within 2 months, their data could be deleted. However, no one refused to participate, and all signed the consent.

The IBM SPSS (Statistical Package for Social Sciences), version 22.0, was used for data analysis. Previously, the data were recorded in Excel, and the data of the questionnaires were confirmed.

RESULTS

Analysis of Statistical Properties of the Legal Harassment Scale (LHS)

The Kaiser-Meyer-Olkin (KMO) measure of sampling adequacy was 0.941. Bartlett's sphericity test was also calculated, obtaining a chi-square of 5820.670 ($df = 496, p = 0.001$). As the KMO value is very close to 1, the relation between variables is very high; that is, the test is very good. Regarding Bartlett's sphericity test, as the value is <0.05 , the null hypothesis was accepted; that is, factor analysis can be applied.

Firstly, an exploratory factor analysis was performed, finding that only four factors had an eigenvalue greater than 1, and they explained a minimum of 5% of the variance. Next, confirmatory factor analysis was conducted, specifying four factors, which was the test incorporated in the manuscript.

The results obtained revealed four factors. The first factor explained 20.626% of the variance, the second one explained 18.013%, the third one explained 15.280%, and the fourth one accounted for 13.589% after rotation (before rotation: 44.888, 13.845, 5.255, and 3.521%, respectively). That is, taken together, the four factors explained 67.508% of the variance.

Table 1 shows the factorial loadings of each item on each factor. Items are listed according to the size of the loadings. The eight items with the highest loadings on each factor were considered representative. An item was only included on a factor if it had a loading higher than 0.40, and was pure (only loading above 0.40 on one factor).

The analysis of the items of each factor determined the name assigned to the factor. Thus, the first factor, Direct Aggression, refers to harassment suffered through direct aggression, which normally occurring outside the courtroom such as in family settings and/or the workplace. The second factor, Procedural Harassment, refers to acts of harassment during legal proceedings, in particular in the courtroom by ridiculing victims under cross-examination and their testimonies. The third factor, Personal Contempt, refers to harassment or contempt through omission, for instance, ignoring a victim. The fourth and last factor, Manipulation of Reality, encompassed items concerning the disregard or undermining of the victim's positive aspects while exaggerating negative aspects.

The items were randomized for subsequent presentation to other subjects. The randomized scale is shown in Supplementary Appendix 1. A column indicates the factor to which each item belongs. Table 2 presents the fit of the global legal harassment score and of the four factors to the normal curve, as well as the percentages.

The four factors were confirmed to be independent by examining the values of the covariances, which were practically zero, indicating that, in effect, the factors did not correlate with each other. The statistics of each factor and of the global scale were as follows: Direct Aggression, ranged between 0.00 and 3.88, arithmetic mean of 1.26, and standard deviation of 1.14; Procedural Harassment ranged between 0.00 and 3.63, arithmetic mean of 1.05, and standard deviation of 0.87; Personal Contempt ranged between 0.00 and 4.00 points, arithmetic mean of 1.68,

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TABLE 1 | Factorial analysis after rotation solution of the Legal Harassment Scale.

Statements	F I: 20.626	F II: 18.013	F III: 15.280	F IV: 13.589
1. I get written threats or telephone calls to my house	0.926			
2. I get verbal threats or intimidating gestures	0.917			
3. They try to hurt me physically to intimidate me	0.837			
4. They make indecent and cruel jokes about me	0.789			
5. I get verbally insulted	0.775			
6. They try to alienate me from my family and friends	0.739			
7. My accuser treats me as if I were mentally ill or implies I am	0.711			
8. They damage my home and/or my place of work	0.708			
9. The judge and/or lawyers no longer address me directly		0.825		
10. In general, I am legally ignored, and my version of the facts are ignored		0.813		
11. They do not give me the chance to speak		0.700		
12. When I make any legal applications to the courts, they normally refuse my requests or hinder me with drawbacks		0.679		
13. They do not give me the chance to explain anything, when I begin to say anything, they cut me off by asking me questions		0.677		
14. The judge and/or the prosecution interrupt me when I am speaking and do not let me finish what I want to say		0.665		
15. I get legally attacked without any consideration		0.618		
16. Negative confidential reports are issued about me, without being notified or given the opportunity to defend my self		0.607		
17. They ask me very specific questions to make me nervous and frustrated so I contradict myself			0.742	
18. I am forced to discuss things that make me nervous			0.725	
19. They try to put me under pressure by asking a barrage of questions			0.701	
20. I feel defenseless against their arguments			0.651	
21. I am forced to give very personal information			0.644	
22. They force me into litigation so I incur legal fees and expenses in order to harm me			0.620	
23. They put pressure on me by revealing intimate personal details			0.588	
24. I am forced to respond to absurd questions			0.578	
25. They underplay or belittle my efforts, achievements, successes, and merits				0.756
26. They disregard my skills and abilities				0.743
27. They exaggerate my faults and errors				0.700
28. My actions are under strict supervision				0.655
29. They maliciously distort everything I say				0.556
30. My decisions are always undermined or challenged				0.517
31. I get ferocious and unjust criticism or am mocked about aspects of my private life				0.491
32. They provoke me so I react emotionally				0.474

and standard deviation of 1.03; Manipulation of Reality ranged between 0.00 and 4.00 points, arithmetic mean of 1.93, and standard deviation of 1.13; and the Global Scale ranged between 0.00 and 3.53 points, arithmetic mean of 1.48, and standard deviation of 0.87.

Reliability, Validity, and the Fit to Normality of the New Scale

The reliability of the proposed scale was calculated using Cronbach's alpha coefficient, both globally and for each of the factors. The results indicated high reliability, with the highest consistency being observed in the global scale (0.960), and the lowest in Factor II (0.896), which, nonetheless, almost reached 0.90. Factors I (0.939), III (0.918), and IV

(0.936) obtained high reliability. Thus, the global scale and its factors were highly reliable. Intra-class correlation coefficients were calculated, reaching a value of 0.429 for individual measurements, and of 0.960 for the mean measurements. The *F*-test with true value 0 (25.24, both for individual measurements and for mean measurements) was highly significant ($p < 0.001$).

We also calculated composite reliability for each of the scale factors. Specifically, we calculated the KMO indices of each scale, as well as the Chi-square values. For the Direct Aggression scale, the KMO index value was 0.92, and the chi square was 1400.08 ($df = 28, p = 0.000$). For the Procedural Harassment scale, the KMO index value was 0.89, and the chi square was 782.92 ($df = 28, p = 0.000$). For the Personal Contempt scale, the KMO index value was 0.91, and the chi square was 783.38 ($df = 28,$

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TABLE 2 | Scores for the Legal Harassment Scale.

Percentage	Average score Factor I (direct aggression)	Average score Factor II (procedural harassment)	Average score Factor III (personal contempt)	Average score Factor IV (manipulation of reality)	Average score global scale
5	0.000	0.000	0.000	0.000	0.137
10	0.000	0.125	0.250	0.375	0.312
15	0.125	0.125	0.625	0.625	0.481
20	0.125	0.250	0.750	0.875	0.656
25	0.250	0.250	0.875	1.000	0.843
30	0.375	0.375	1.000	1.125	0.968
35	0.500	0.393	1.125	1.268	1.093
40	0.625	0.625	1.325	1.500	1.218
45	0.750	0.750	1.381	1.750	1.312
50	0.875	0.875	1.625	2.000	1.406
55	1.125	1.000	1.750	2.125	1.625
60	1.375	1.250	2.000	2.375	1.718
65	1.525	1.481	2.125	2.500	1.787
70	1.875	1.500	2.250	2.625	1.987
75	2.250	1.625	2.375	2.750	2.062
80	2.500	1.775	2.500	3.000	2.187
85	2.625	2.000	2.966	3.375	2.425
90	2.900	2.125	3.125	3.500	2.843
95	3.625	2.750	3.500	3.750	3.087
99	3.875	3.625	4.000	4.000	3.531

$p = 0.000$). And for the Manipulation of Reality scale, the KMO index value was 0.91, and the chi square was 1055.25 ($df = 28$, $p = 0.000$). In the corresponding factor matrix of each factor, the items loadings of Factor I ranged between 0.922 and 0.686, with a mean of 0.811; the items of Factor II ranged between 0.836 and 0.601, with a mean of 0.705; the items of Factor III ranged between 0.907 and 0.590, with a mean of 0.763; and the items of Factor IV ranged between 0.927 and 0.580, with a mean of 0.775.

To determine the concurrent validity of the scale, Pearson correlations were calculated between the overall LHS scores and its four factors with the scores of the SCL-90-R, the TOP-8, and the MBI. The LHS showed significant positive correlations of 0.01 or higher with all the global scores of these tests. High scores on the LHS correlated significantly with high levels of psychosomatization, posttraumatic stress, and burnout. Thus, the LHS can be considered to show satisfactory concurrent validity.

Correlations were also determined for each of the LHS factors with the SCL-90, MBI, and TOP-8 factors (Table 3). The correlations for between Direct Aggression and the global scores of all of the scales were highly significant. In comparison, Procedural Harassment only correlated significantly with the global MBI score, and two of its subscales: Emotional fatigue and Personal accomplishment. Similarly, Personal Contempt only correlated significantly with the global MBI score, and three of its subscales. As for Manipulation of Reality, similar to Factor I, it correlated significantly with all of the global scores of the other questionnaires, and with many of the subscales. In short, all of the factors correlated significantly with burnout, and Direct Aggression and Manipulation of Reality also did so with psychosomatic symptomatology and posttraumatic stress.

Finally, the normality of the scale and of the four factors was determined. Asymmetry and kurtosis values showed adequate normality.

Hence, it was possible to measure legal harassment, and to obtain a global index as well as an index for each of its four components. Thus, the scale fulfills the relevant statistical requirements.

DISCUSSION AND CONCLUSION

This work creates a scale of legal harassment, which is produced within the procedures of family law. This scale is made up of four factors: Direct Aggression, Procedural Harassment, Personal Contempt, and Manipulation of Reality. Direct Aggression refers to actions that take place outside of the legal realm, usually within the area of their families and their work, involving attacks on justice system users. Procedural Harassment is similar to the former, but it takes place within the courtroom or during the various legal proceedings (i.e., interrogations, statements, etc.), such that the person who has become a victim is ridiculed. Personal Contempt refers to actions in which the victim is ignored, despised, or treated with contempt. Finally, Manipulation of Reality refers to the fact that the victim's abusers (judges, prosecutors, and lawyers of the opposing party) present a distorted image of the victim, exaggerating or even inventing negative aspects, and concealing or misrepresenting the positive aspects, turning them into negative ones. In this way, the victim is completely stigmatized, and the institution allows and encourages this mistreatment, which we have termed institutional harassment.

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TABLE 3 | Pearson's correlations between LHS and other tests.

	Factor I: direct aggression	Factor II: procedural harassment	Factor III: personal contempt	Factor IV: manipulation of reality	Overall score
Somatization (SCL-90-R)	0.27**			0.14*	0.16*
Obsession-Compulsion (SCL-90-R)	0.20**			0.16*	0.16*
Interpersonal sensitivity (SCL-90-R)	0.23**			0.17*	0.17*
Depression (SCL-90-R)	0.18**			0.17*	0.15*
Anxiety (SCL-90-R)	0.28**			0.17*	0.20**
Hostility (SCL-90-R)	0.31**			0.16*	0.20**
Phobic anxiety (SCL-90-R)	0.21**				
Paranoid ideation (SCL-90-R)	0.26**	0.14*	0.14*	0.27**	0.26**
Psychoticism (SCL-90-R)	0.17*				
Global SCL-90-R	0.25**			0.18*	0.19**
Emotional fatigue (MBI)	0.39**	0.20**	0.28**	0.35**	0.38**
Depersonalization (MBI)	0.38**		0.15*	0.29**	0.29**
Personal accomplishment (MBI)	0.37**	0.20**	0.26**	0.34**	0.37**
Global burnout	0.40**	0.19**	0.27**	0.36**	0.38**
TOP-8	0.34**			0.25**	0.24**

**Correlation is significant at 0.01 (bilateral). *Correlation is significant at 0.05 (bilateral).

We draw from the idea that harassment can be produced by the legal system as a whole. The judge, insofar as he or she must direct and order the process, is a part of the legal system. Normally the judge has the power to limit or allow the prosecutor and the counsel of the opposing party to harass one or both of the parties. For this reason, the scale we propose not only refers to the actions of harassment exerted by judges, but by all the parties involved in the legal procedure of custody.

This scale allows us not only to measure the degree of institutional harassment exercised by the legal system on its users, but also to determine the extent to which it is higher or lower in each of the four specified components.

Given the high correlation between the LHS scores, which was created with variables that have been regularly used to determine people's mental health – and specifically the existence of posttraumatic stress – it can be concluded that legal harassment, besides being another form of harassment, negatively affects people's mental health. To be attacked within a legal process implies an attack on the mental health of those who are harassed from within the system.

The most similar work to our line of research is the meta-analysis that has examined how people are treated within the justice system (Stotzer, 2014). However, it did not deal with the issue researched herein, that is, the harassment the justice system exerts on parents confronting each other in family court proceedings.

We are aware of the limitations of this work, some identified below. The main problem of this paper is the sample. Firstly, because it is incidental, and secondly because its size is quite limited. It is necessary to point out that, although the size of our sample may seem small, as it was not possible to examine more than one subject at a time, the difficulties to get participants in a legal family process are considerable. It was very difficult to gain access to the people who formed it, and no legal body was willing to facilitate access to the litigants. Therefore, we had to resort to the family lawyers, who acted as intermediaries so that we could

contact their clients and request their participation. No doubt, if the administration of justice would collaborate in the future, it would be feasible to use larger samples, and hopefully not incidental ones. Not in vain, the consultation of previous works shows that many of the investigations that have been carried out use a qualitative methodology, or they resort to sentences or news, instead of interviewing the people involved in the process.

The majority of the members of the sample are women. We believe that this is commonplace in family processes research, in which there is a greater response rate in the group of women. However, for future work, we will attempt to obtain samples with a higher number of males.

On the basis of the arguments specified above, the type of legal proceedings is family law. At least, in Spanish law, family processes, and therefore custody, are settled in two courts, the so-called Family Courts and Courts of Violence against Women. We believe that in the future, it would be interesting to use this distinction, but in both cases, violence and custody issues are treated.

We want to stress that in a subject like this, two sides of the same coin need to be considered. Thus, future work should be aimed at the study of both victims and aggressors, and perpetration and victimization experiences of both should be measured. We again note that the aggressor population is difficult to access. Therefore, research designs and strategies that allow obtaining data from both victims and aggressors on the subject should be used.

We believe it is very important to work on the creation of protocols that prevent the legal harassment of all parties by imposing ethical guidelines for the way lawyers question the opposite party, in the way other legal professionals address parties, and the behavior of the judges and prosecutors (Vollans, 2010; Rivera et al., 2012; Naughton et al., 2015; Laing, 2016; Meier and Dickson, 2017; Epstein and Goodman, 2018). The formation of protocols for the treatment parties in court proceedings is necessary and urgent. The search for the truth of the facts and

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the delivery of justice should not be incompatible with fair and respectful treatment of parties.

It is necessary to take into consideration that we are addressing issues of family law where there are children of a couple that has separated. When these parents come to the justice system in such circumstances, it is because the parents have failed to agree, or have been unwilling to do so. Revenge can be a motivator for the parties and should be measured in future work.

Until now, judges have been considered to be responsible for issuing fair decisions, but their organization of the process of oral hearings and of treatment of users in the process has received little attention. Not taking this issue into account can lead to serious injustice toward users of the legal system, and even to mistreating them, especially in family law.

COMPLIANCE WITH ETHICAL STANDARDS

The procedures performed in this study were in accordance with the ethical standards of the institutional Ethic Committee of the University of A Coruña, Spain (ref. 32/17) and with

the 1964 Helsinki declaration and its later amendments or comparable ethical standards. Informed consent was obtained from all individual participants included in the study.

AUTHOR CONTRIBUTIONS

All authors have contributed equally to the development of this research and to the elaboration of the manuscript. MC, DP-R, and PE specially have participated in the design and analysis of the data. MG-C and AR-B specially have participated in the elaboration of the report. All authors have participated in the preparation of psychological tests, in the elaboration of the data matrix, in the elaboration of conclusions and discussion, and agreed the final version of this manuscript.

SUPPLEMENTARY MATERIAL

The Supplementary Material for this article can be found online at: <https://www.frontiersin.org/articles/10.3389/fpsyg.2019.00001/full#supplementary-material>

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Artículo 3: “Revenge among parents who have broken up their relationship through Family Law Courts: its dimensions and measurement proposal”



Article

Revenge among Parents Who Have Broken up Their Relationship through Family Law Courts: Its Dimensions and Measurement Proposal

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Abstract: This work analyzes inter-parental revenge after a breakup process, as it relates to the dark triad of personality, moral disengagement, and sex role ideology. Our objective was to test a predictive model for revenge based on these variables. Additionally, a scale to measure revenge among parents was developed. A sample of 384 participants who had minor children, had broken up their relationship, and had undergone or were undergoing problematic judicial procedures regarding their children completed a survey. They answered to measures of the dark triad of personality (Machiavellianism, narcissism, psychopathy); moral disengagement strategies; sex role ideology, and revenge. An instrument (the R scale), with adequate reliability and validity was developed to test revenge. Results show that revenge behaviors are perpetrated by 1 to 5% of participants. Revenge has three components: revenge through the child, revenge through economic manipulation, and revenge by cutting off communication. Results also show that for males, but not for females, sex role ideology mediates the relationship between the components of the dark triad, moral disengagement, and revenge. This paper aims at providing some insight for the protection of minors from manipulation by means of the Family Courts.

Keywords: moral disengagement; measurement; parent–child relationships; dark triad; revenge

1. Introduction

Revenge is one of the main causes of the perpetration of crimes. It even becomes the root cause of the crimes of stalking and sexting, for example, but it also explains most homicides [1]. It is a global phenomenon, and it manifests in practically all societies and it endures over time, so that it is sometimes practiced even though years have elapsed since the occurrence of the event that was considered injurious by a person or group. Revenge manifests in very different ways according to whether it is carried out by a single individual or a group [2]. It is more intense when at the individual level. In group revenge, there must be entitativity, which serves to unite the group.

One of the possible definitions of revenge is provided by Jackson, Choi, and Gelfand [3], who consider it as an aggression, and therefore a behavioral response emitted by an individual or a group. It is based on the perception of an injustice suffered by the individual or group—which becomes the aggressor—and it is directed against the person that the aggressor identifies as the cause of the injury suffered. Therefore, although revenge is behavioral, it is essential for the person seeking revenge to have a perception of having been hurt, and to perceive that the harm they believe they have suffered is not involuntary [4,5]. This may be why revenge and anger are usually closely related [6], and why anger is a good predictor of revenge [7]. The relationship between anger and revenge has resulted in research relating the three variables that currently make up the so-called dark personality triad

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(dark triad) to revenge. This research found evidence of the relationship between narcissism and revenge [8–10].

Revenge has been conceived as an alternative mechanism to the justice system. Some authors state that the justice system has not "subjectively" restated the alleged victim [3]. However, in cases of conflict between parents (Family Law,) this resource is used even if the Justice System also intervenes, as is specified below [11,12]. Perhaps one of the characteristics of revenge is that it may be carried out despite the Justice System's actions and this may be due to the fact that the future aggressor considers that the harm done must be directly repaired, regardless of the actions of the law and society. This leads to the conception of revenge as something that must be harmful, aimed at inflicting pain on others, and it is accompanied by rancor, a concept that is excluded from penal codes, but not from personal ones.

The idea of revenge, and especially when directed to harm, is opposed to that of forgiveness, a concept that is more religious than psychological, and which has been addressed particularly by positive psychology [13,14]. The concept of forgiveness has not been well-defined from a psychological point of view, even though Casullo [15] had already addressed it and created a scale (CAPER), retaking the concept used previously by Kaminer, Stein, Mbanga, and Zungu-Dirwayi [16], and labeling it as a process in which the motivation to retaliate decreases, along with the negative emotions felt toward the person considered to be the aggressor. These authors also state that negative emotions turn into positive emotions, such as compassion or benevolence. Thus, Adam-Karduz and Saricam [13] showed that positivity, forgiveness, happiness are all positively related to one another, and the three correlate negatively with revenge. The same argument was defended by Garzón-Arañón and Barahona-Esteban [14].

The functionality of revenge and what the retaliator "gains" has come under much debate [17,18]. However, the literature indicates that there is no evidence that revenge generates any personal benefit for the avenger [3,19,20]. As far as Family Courts are concerned, some authors conceive the use of the Justice System itself as a way of attacking the other parent [21], such that an individual aggression takes place using the very system, which becomes an accomplice of the aggression. Such aggression usually occurs in people who obtain high scores in the components of the dark triad, but the main predictor is a high score in the variables that imply moral disengagement [22]. Both moral disengagement and the components of the dark triad are part of what Moshagen, Hillbig, and Zettler [23] called the "dark personality factor," which is the general tendency to disregard other people's well-being in favor of self-interest, independently of the fact each one of the traits that make up the dark factor may have other specific effects. These people's reasons for revenge usually originate in the fact that the other partner was the one who cut off the couple relationship [12], and indirect revenge is sought, using the children they have in common. This perspective is interesting from the viewpoint of forensic psychology, as parents who score high on the Judicial Manipulation Scale created by Clemente, Padilla-Racero et al. [21] are prone to manipulate their children, occasionally committing physical and sexual aggression and sometimes even provoking the child's death, as a way of seeking revenge on the other parent.

In fact, revenge tends to be more intense if the supposedly injured party is close to the person perceived as the aggressor, especially if this person was his or her romantic partner [24,25]. Moreover, when revenge is carried out by people who were emotionally close, in addition to judicial harassment [21], they use all kinds of elements within reach, such as gossip, hurtful remarks to acquaintances, coercive actions such as persecutions, etc. [26,27]. The aggressors seize the concept of "virtuous violence" [28], as a form of moral disengagement, such that they perceive that the only way left for them is revenge. Furthermore, they seek and obtain the support of people from their environment, so that revenge becomes a social and moral obligation, even protected by social values. On the other hand, it has been argued that the Justice Systems of societies in which there is a greater culture of honor tend to tolerate the male practices of attacking women [18,29–31]. This process of revenge has a limit, which commonly takes place when the retaliator's target is more powerful than the avenger, although frequently the opposite is what happens; that is, the avenger (besides believing he or she has suffered harm) is usually the one with more power [29,32].

This research focuses on one parent's revenge on the other parent after a divorce process, in an attempt to determine the extent to which such violence is considered appropriate by potential avengers, the possible components of such revenge, and whether sex role ideology mediates between the dark triad and revenge.

It is hypothesized that one of the main components of revenge will include the utilization of the common children (Hypothesis 1). Another hypothesis is that the cognitive indicators related to the dark personality factor (moral disengagement, narcissism, psychopathy, and Machiavellianism) will predict favorable attitudes toward revenge (Hypothesis 2). Finally, it is hypothesized that sex role ideology plays a different role in revenge for men and women. Through a mediation model, we can explore the relationship between the variables of the dark factor and revenge and determine whether this relationship is mediated differentially by sex role ideology in men and women (Hypothesis 3). Additionally, we predict that revenge behaviors allow the possibility of creating a scale, the "R" scale. The psychometric properties of this scale are verified.

2. Materials and Methods

2.1. Participants

Participants in this study were 384 individuals, all of them residing in the region of Galicia, in northwestern Spain. Concerning sex, 31.8% of the sample were male and 68.2% were female. The average age was 43.4 years ($SD = 6.96$), ranging from 27 to 62 years. With regard to the level of studies, 1.6% of people had no studies, 11.7% had primary or secondary studies (practically all had secondary studies), 44.5% had high school studies, and 42.2% had university studies. It was previously verified that all participants had children and, that at the time of completing the scale, one of the children was a minor, that they had broken up with the other parent (with whom they had at least one child), and that they had been involved in judicial family processes because they had not reached an agreement about the type of custody or the visitation schedule. Concerning the children, 57% of the participants had one child, 35.3% had two, and 4.7% had three. All these data indicate that the sample's social and demographic characteristics are very similar to those of the Spanish population.

The sample was non-random and incidental. The surveyors were university students of several subjects, who worked altruistically. To verify the accuracy of the information collected by the surveyors, respondents provided a telephone number, and they were contacted and asked about some of their responses. All participants previously signed an informed consent, in which we specified the purpose of the investigation and requested their participation and permission to publish their data, preserving their anonymity. They were guaranteed anonymity, and the data were processed so that the respondent could not be identified.

2.2. Material

In addition to the above questions to determine that participants met the selection prerequisites (minor children, couple breakup, and the existence of legal problems because of the children), the following tests were applied to determine their sociodemographic characteristics.

The MAC-IV Machiavellianism Scale [33]. This version has 20 items rated on a 7-point scale. Nine items belong to the subgroup of Manipulation Tactics, 9 are included in the group of People's Views, and 2 items are part of the group of Moral Principles. Although the scale is divided into three subgroups, when scoring, all 20 items of the scale are added. Its psychometric properties for Spanish populations have been widely evaluated [34–37]. Sample items are: "The best way to deal with people is to tell them what they want to hear" or "Most people are basically good and kind" (reverse scored). Its mean reliability score in the original study was 0.79.

The Narcissistic Personality Inventory (NPI) by Raskin and Hall [38]. This scale comprises 40 items rated on a 6-point Likert type response format. It measures the following facets of narcissism: Authority (8 items), Exhibitionism (7 items), Superiority (5 items), Entitlement (6 items), Exploitation

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(5 items), Self-sufficiency (6 items), and Vanity (3 items). Sample items are "I have the skill to influence others" or "I will be a success." The reliability score provided by the authors is 0.72. We used the Spanish version of the scale, whose psychometric properties were verified by García-Garduño and Cortés-Sotres [39].

Levenson's Primary and Secondary Psychopathy Scales (LPSP) of Levenson, Kiehl, and Fitzpatrick [40]. This scale is composed of 26 items. The first 16 items measure Primary Psychopathy, and the last 10 measure Secondary Psychopathy. The scale is rated on a 5-point Likert type format. In the original study, the alpha coefficient for primary psychopathy was 0.82 and for secondary psychopathy 0.63. A meta-analysis of psychopathy scales, including this one, can be found in Salvador, Arce, Rodríguez-Díaz, and Seijo [41]. Sample items are: "Success is based on the survival of the fittest; I'm not worried about losers" (primary psychopathy) and "I don't plan anything very far in advance" (secondary psychopathy).

The of Sex role Ideology Scale of Moya, Navas, and Gómez [42] is based on the works of Glick and Fiske [43] on ambivalent sexism, which indicates two components of sexism: traditional sexism, called hostile sexism, which refers to a negative attitude toward women; and benevolent sexism, which implies the stereotyped consideration of women that constrains them to a series of roles, but that has a positive affective tone toward them, and also attributes prosocial characteristics to them. A reduced 12-item version was used. It explores people's beliefs about the roles and behaviors that men and women should perform and about the relations that the sexes should have with each other [44]. Its reliability ranges from 0.71 to 0.82. Sample items are: "Although some women like to work outside home, it should be the man's responsibility to provide economic support for the family" and "It is natural that men and women perform different tasks".

Scale of moral disengagement. To measure moral disengagement, we used the Propensity to Morally Disengage (PMD) scale of Moore, Detert, Treviño, Baker, and Mayer [45] which was designed for adults in any type of context. It comprises 24 items rated on a 7-point Likert scale ranging from strongly disagree to strongly agree. The items measure each of the eight moral disengagement strategies proposed by Bandura Barbaranelli, Caprara, and Pastorelli [46]. Examples of items in the scale are: "It is alright to lie to keep your friends out of trouble" or "In contexts where everyone cheats, there's no reason not to." In the original study [45] authors report a reliability of 0.90. Furthermore, it has a low correlation with social desirability measures, so it is not prone to be contaminated by this bias.

We elaborated an ad hoc test for this research, which is included as an annex. Subjects are asked to think about what is happening to them before reading each item, and they are requested to respond whether or not they would agree to carry out the actions described. Fifty actions were selected, all related to disputes between parents and ways of taking revenge on the other member of the couple, some of them using the children, and some even related to possible sexual aggression with the aim of harming the other parent. The statements were created by a group of four experts, two psychologists and two social workers, who were employees of the Spanish Family Courts, and whose role was to advise the judges about the emergence of family problems. All statements had to be unanimously approved by the four experts, who selected 38 statements. The response format was a 5-point Likert type scale, ranging from totally disagree to totally agree.

2.3. Procedure

The surveyors located the potential participants, requesting their cooperation in two shopping centers in the Spanish region of Galicia. Surveys were collected on eight weekends. The people who agreed to participate were asked to sign an informed consent and were then requested to complete the questionnaires. They were thanked for their collaboration after they finished filling in the psychological tests.

This research was approved by the Ethics Committee of the corresponding author's University (Project Identification code 04/19). It complies with the Helsinki criteria and with the ethical principles of the American Psychological Association (APA).

2.4. Statistical Analysis

First, we calculated the reliability scores for the scales in the study. We also checked for gender differences using *t*-tests. As for the questionnaire developed for this study, we examined the frequency of agreement with the actions described and carried out exploratory (EFA) and confirmatory (CFA) factor analyses to test its internal structure. Additionally, we checked the resulting factors' and the scale's reliability. Finally, a SEM model was estimated to verify the effect of the variables that make up the dark personality factor on revenge, using as a mediator sex role ideology. The participants were divided by sex to examine the possible effects of sex on the relationship between variables. To obtain an indicator of the dark factor, we created a variable in the SEM from all the relevant variables used in the study: Machiavellianism, Psychopathy, Narcissism, and Moral Disengagement. Although the dark factor has been described not only based on these variables, it is a robust construct and its predictive capacity is maintained even if important indicators are eliminated [23]. As chi-square is influenced by the sample size [47] and the size of the model [48], for CFA, we used other statistics to measure the goodness-of-fit, such as the comparative fit index (CFI), the standardized root mean square residual (SRMR), and the root mean square error of approximation (RMSEA). Zero-order correlations were calculated for all the variables in the model, which also served as an indicator of the concurrent validity of the revenge scale.

3. Results

3.1. Reliability of the Scales and Gender Differences

Overall, the reliability scores for the scales in the current study were acceptable. The lowest alpha score was for the MAC-IV scale ($\alpha = 0.64$). LPSP global scale showed an alpha score of 0.82, while the alpha for the Primary Psychopathy scale was 0.78 and for Secondary Psychopathy 0.65. The NPI scale showed an alpha of 0.79, Sex Role ideology scale had an alpha of 0.86, and the PMD questionnaire showed the highest reliability ($\alpha = 0.93$). These reliabilities are comparable to those reported by the authors.

We also checked for gender differences in the scales. No gender differences were found for Narcissism, Machiavellianism, sex role ideology, or secondary psychopathy. The only significant differences were found for moral disengagement ($t(382) = 3.89$, $p < 0.001$; males: $M = 2.62$, $SD = 1.14$; females: $M = 2.21$, $SD = 0.89$) and for primary psychopathy ($t(382) = 4.28$, $p < 0.001$; males: $M = 2.64$, $SD = 0.77$; females: $M = 2.31$, $SD = 0.66$).

3.2. Acceptance of Revenge Procedures

The subjects' responses showed that very few subjects would agree to perform the revenge actions that were proposed in the questionnaire, with most participants marking the cell that stated that they would never do that. Results indicate that the behavior that obtained a highest degree of agreement ("Asking for the guardianship and custody of the child just to stop paying alimony to your ex-partner") was accepted by 5.2% of the respondents, whereas the least accepted behaviors (e.g., "Sexually assaulting your daughter, thrusting objects into her anus or vagina, so that she will bleed, but, in the case of the vagina, not too deep so that her hymen will not tear, and then say that she does it herself") would only be carried out by 0.8% of the respondents. This shows that the utilization of children is not accepted by a majority, but it is worrying that 5% of the parents are willing to use their children to take revenge on the other parent, and that there is even about 1% of parents who are willing to sexually abuse them, causing serious damage.

Table S1 shows the degree of acceptance of revenge by item. No significant differences were found between men and women in any of the variables of the Revenge Scale.

3.3. Components of Revenge

Factor analysis was performed to determine whether revenge is a single variable or has several components. First, EFA was performed (principal component and varimax rotation), which yielded three factors. The Kaiser-Meyer-Olkin sampling adequacy measurement obtained a very high value (0.959) and Bartlett's sphericity test was significant, $\chi^2(703) = 22993.00, p < 0.001$. The model explained a global variance of 73.75% and the three factors obtained are detailed below:

Factor I explained 45.27% of the variance. The items that mainly load on this factor refer to forms of revenge that even include the perpetration of sexual abuse, as well as convincing people from their environment, especially relatives on their side of the family, to attack the other parent. It has been labeled "Revenge through children and third parties." It comprises 27 items.

Factor II explained 15.05% of the variance and contains six items. The items related to this factor refer to revenge through economic manipulation. It includes all attempts to avoid providing the economic pension that corresponds to the child, as well as to convince the child of the injustice of having to pay that money. It implies the use of an economic harassment toward the other parent. It has been called "Revenge through economic manipulation."

Factor III explained 13.43% of the variance. It has five items and refers to extreme behaviors that involve cutting off any type of negotiation with the former partner, and also includes threats and cutting off communication with common acquaintances or using all the resources and time needed to take revenge on the ex-partner. It has been called the factor as "Revenge by cutting off communication." Table S2 shows the components of revenge in the "R" scale

These factors were verified through CFA, replicating the structure of the EFA. The CFA for the three-factor model obtained acceptable goodness-of-fit indices (RMSEA = 0.092, SRMR = 0.044, CFI = 0.922). Every item showed significant regression weights for the proposed factors. In addition, a CFA was carried out for the main factor obtained in the EFA (Revenge through children and third parties). In this case, the goodness-of-fit indices were very satisfactory (RMSEA = 0.047, SRMR = 0.017, CFI = 0.991).

3.4. Internal Reliability of the "R" Scale

Although the proposed "R" scale of revenge explains an adequate amount of variance, we wished to determine the correlations between the items of the global scale and the corresponding subscales. For this purpose, the Cronbach alpha index, as well as Friedman's χ^2 and its level of significance, were calculated. As can be seen in Table 1, the values of chi-square were significant. As Table 1 shows, alpha values were acceptable for the scales corresponding to Factors II and III, and very high for Factor I and the total scale.

Table 1. Reliability of the scale and its factors.

	Friedman's χ^2 (df) *	p	α
Total scale	770.32 (383.37)	0.001	0.98
Factor I	159.67 (383.26)	0.001	0.99
Factor II	46.00 (383.5)	0.001	0.84
Factor III	31.57 (383.4)	0.001	0.85

* Chi-square (degrees of freedom).

3.5. Dark Factor, Sex Role Ideology, and Revenge

The SEM indicated that sex role ideology mediated the relationship between the dark factor and revenge in the case of men, but not in the case of women. The model displayed in Figure 1 reveals these sex differences when conceiving of revenge.

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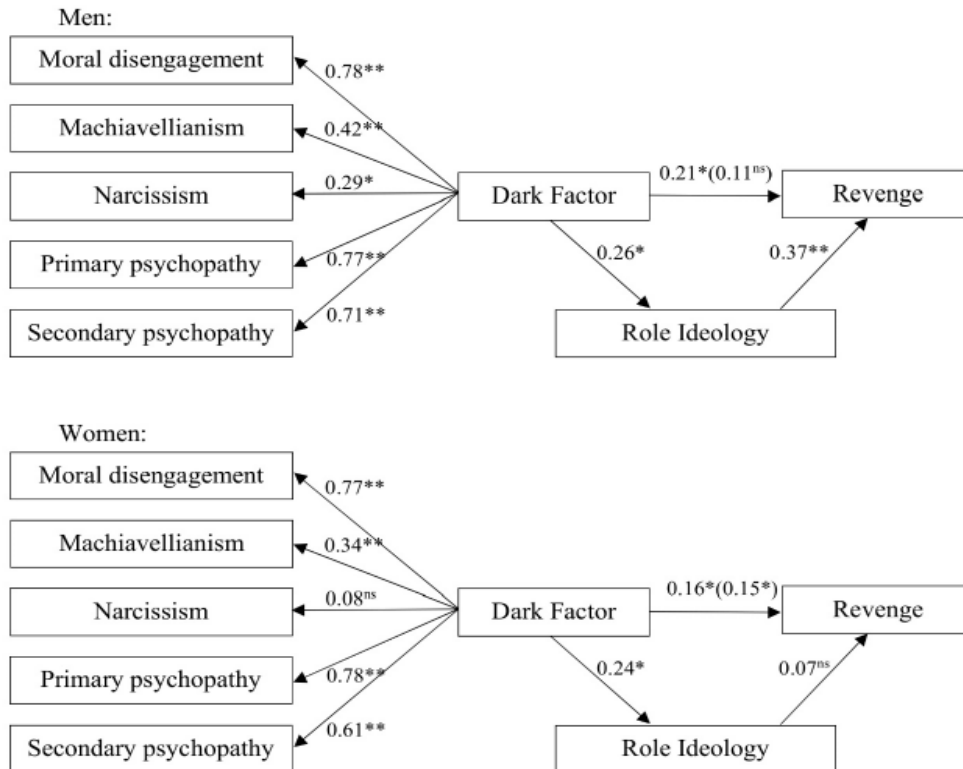


Figure 1. Mediation model for the Dark Factor, sex role ideology and revenge. * $p < 0.05$. ** $p < 0.01$; ^{ns} = non-significant; $\chi^2(18) = 25.28$, $p = 0.12$, root mean square error of approximation (RMSEA) = 0.033, standardized root mean square residual (SRMR) = 0.045, comparative fit index (CFI) = 0.98. Direct effects shown. Total effects in parentheses.

There was a significant total effect of the dark factor on revenge both for men and women. However, in the case of men, we found that the direct effect was not significant (discounting the indirect effects explained by sex role ideology). In the case of women, this effect was not produced, and sex role ideology was not a significant predictor of revenge. In fact, the critical ratios for the differences between the parameters indicate that the relationship between sex role ideology and revenge was significantly different in men and women ($z = 3.23$, $p < 0.01$). There were no significant sex differences in the rest of the parameters of the model. Table 2 shows the correlations between the different variables of the model.

Table 2. Correlations among the variables included in the model.

	Revenge	Role Ideology	Machiavellianism	Primary Psychopathy	Secondary Psychopathy	Narcissism
Role Ideology	0.20 **					
Machiavellianism	0.08	0.22 **				
Primary psychopathy	0.14 *	0.15 **	0.28 **			
Secondary psychopathy	0.09	0.07	0.30 **	0.51 **		
Narcissism	0.03	0.06	0.17 **	0.38 **	0.10 *	
Moral disengagement	0.15 **	0.24 **	0.27 **	0.62 **	0.49 **	0.25 **

$N = 384$. * $p < 0.05$. ** $p < 0.01$.

4. Discussion

The results of this work provide support for the objectives of the study. Revenge against the other parent after a couple break-up is manifest to a low, albeit statistically (and socially) important extent. Although most parents reject revenge, in some cases, around 5% of vengeful people attack those who they think have attacked them. That is, 1 out of every 20 people would not have any qualms about taking revenge on their ex-partner, (although in the case of those actions that involve sexual aggression on the children, that percentage is much lower, somewhat less than 1%).

To a large extent, revenge behaviors involve minor children. In fact, the factor that explains a higher percentage of variance and has a better fit within the CFA is related to the use of the children, which provides support for our first hypothesis. Revenge does not appear to be an unitary concept, at least not as regards family procedures. In these cases, it has three components: revenge through the utilization of the child and third parties, revenge through economic manipulation, and revenge by cutting off communication. Accordingly, we propose the "R" scale as a measure of revenge in family procedures. It shows adequate reliability (very high alpha values) and concurrent validity (correlates with dark factor traits).

We also found that revenge is related to the variables of the dark triad and moral disengagement, through the dark personality factor as expected in the line of our second hypothesis. Finally, it was hypothesized (Hypothesis 3) that a mediation model could be created in which the relations between the variables of the dark triad, moral disengagement, and revenge would be differentially mediated by sex role ideology as a function of sex, and the results support this hypothesis. The proposed SEM model shows that the dark factor, which represents the common tendency to act to the detriment of others to achieve personal goals, is a significant predictor of revenge. Except for narcissism, each of the components used in this study of the dark factor correlate significantly with revenge. However Egan, Hughes, and Palmer [49] already argued that narcissism is the "lighter" factor within the dark triad, and that its correlation with other indicators of negative behavior is not as high as that of Machiavellianism or Psychopathy, so it is not surprising that, in our study, it was not a significant predictor.

On another hand, although there are no differences between men and women in the magnitude or type of vengeful behaviors, the explanation for revenge in each sex differs. For men, sex role ideology explains the relationship between the dark factor and revenge, because it mediates the relationship between the two variables, which does not occur in the case of women. Possibly, men interpret their attitudes of revenge through the sex role ideology, whereas women use other cognitive mechanisms. There is no doubt that revenge is based on behavioral tendencies related to the dark factor, but in the case of men, sex role ideology seems to serve as a vehicle to explain the tendencies of revenge determined by the dark factor as a common core of anti-social attitudes to the detriment of others. These results are not surprising, as sex role ideology includes attitudes of antagonism toward women, which, in this case, seem to channel the negative tendencies of men's behavior. It would be of interest to determine which cognitive variables mediate in the relationship between this common core and revenge in the case of women.

The results allow us to take another step in conceiving of some parents' harassment strategies toward their ex-partners, and place them within a concept clearly linked to the dark triad. This idea is related to the works of Jackson, Choi, and Gelfand [3], who specify that revenge is an alternative mechanism to the Justice System, and this leads to another step, confirming that some people are capable of using the Justice System to pervert its function of "justice" and turn it into a weapon to attack those whom they want to injure. This notion led Clemente et al. [21] to create a scale to measure judicial harassment. Some previous research in Psychology and Family Law has proposed that, sometimes, one parent harms the children psychologically or physically in order to attack the other parent. When the other parent observes this maneuver, he or she is obliged to denounce the ex-partner and forced to prove an aggression that is usually impossible to verify because it is carried out in private. Thereby, the complaint turns against the plaintiff and he or she becomes the defendant [11,12]. The percentage of

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parents who are capable of using revenge procedures against the other parent had not been determined in previous research.

Undoubtedly, using one's own children to take revenge on the other parent, even perpetrating sexual aggression, is clearly related to the dark triad personality, as well as to the mechanisms of moral disengagement, in turn, all components of the dark personality factor [22]. For this purpose, perpetrators use the process of objectification, dehumanizing the ex-partner and the children, and the need to avenge themselves for being humiliated comes before everything else. Padilla-Racero and Clemente [12] established that such a thought tends to originate in the fact that the person who is supposed to have offended did so when breaking up the relationship. If it was the woman who broke off, she attacked the man, who considers that he can leave his partner, but that this option is denied to women. This phenomenon is often referred to as "virtuous violence" [28], a concept that coincides with the sad fact that the more patriarchal a society is, the more the women are attacked within a couple relationship, but most especially after the break-up of the relationship, as this break-up is conceived by the man as a grievance.

Another important issue is that, of all the areas in which revenge may occur, one of the special relevance is that of the couple's break-up because, as Chester and De Wall [24] established, revenge is more intense if the person who feels hurt is close the person perceived as the aggressor, and especially if this person is his or her romantic partner [18,29–31]. Unfortunately, the data on the deaths of mothers and children at the hands of the male parent provide support to this explanation.

Harassment and revenge often go hand-in-hand, and the fact of the three components of revenge found in this work proves this. Avengers use their children, manipulate people in the environment, and carry out economic harassment. Economic harassment is a clear example of how the justice system is used, as the parent with the greatest economic resources can pay long and costly judicial proceedings, whereas the low-income parent has great difficulty to defend him- or herself [21].

Results show that parents capable of lying in court about their partner to the extent of manipulating their children score higher in the dark factor of personality. In particular, they are more morally disengaged and show higher sub-clinical primary psychopathy, since both are the highest loading variables for the dark factor. These variables, together with sex role ideology in the case of men, are good predictors of revenge, as measured by the scale proposed in this study. Thus, the current study provides evidence that these "dark personality" variables are actually related to revenge in a family court setting. As a practical implication, our results may help outline a profile of which dark traits are more closely related to revenge. This evidence may help professionals make decisions based on "dark traits" of litigating parents as they constitute a risk for revenge and illegitimate manipulation of the judicial process. Conversely, other variables like Narcissism contribute less to the core of the dark factor, and are subsequently less related to revenge. It is of paramount importance to scientifically determine who is more prone to be a judicial manipulator and the present revenge scale constitutes a good criterion to test variables that increase this risk.

Some limitations of this study ought to be addressed in future research. Bigger and random samples would help refine the scale. It would also be interesting to test it with parents litigating during data collection, instead of parents recollecting their past experiences, and to be able to contrast revenge scores to actual behavior and third parties reports. However, our current results may contribute to detect parents who pose a risk for their siblings and to better protect the children's welfare.

5. Conclusions

This research presents the advantage of using a broad sample of people who have faced judicial procedures in Family Law and provides not only an advance in determining how much and by whom is revenge used, but also the components of revenge. It is especially useful professionally as it provides a measurement instrument, the so-called "R" scale, whose psychometric properties have been verified. However, it also presents some limitations. The measurement scales used, especially the Mach-IV, have been criticized. The set of tests applied required a long time for completion, and

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the proposed scale could have been confirmed using more rigorous statistical procedures, although it would have been necessary to have larger samples. The fact that the sample is incidental is another important limitation. Nevertheless, we believe that this work provides a significant theoretical and professional advancement.

Supplementary Materials: The following are available online at <http://www.mdpi.com/1660-4601/16/24/4950/s1>. Table S1: Degree of acceptance of revenge by item. Table S2: Components of revenge and the "R" scale.

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Artículo 4.: “Moral disengagement and willingness to behave unethically against ex-partner in a child custody dispute”

RESEARCH ARTICLE

Moral disengagement and willingness to behave unethically against ex-partner in a child custody dispute

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Abstract

The current study examines the role of moral disengagement on the likelihood of making false allegations or retaliating against the partner in a child custody dispute. Moral disengagement strategies can be useful to explain this tendency to harm their partner in a custody dispute, because they help reduce the aversive state caused by the dissonance provoked when the ethical principles of the individual do not match their behavior. An individual that is able to lessen the negative affect anticipated before committing a transgression, would be more likely to engage in it. A sample of 1097 Spanish adults who had experienced a break up with their partner and had children participated in the study. They were evenly divided by sex and their mean age was 39.95 ($SD = 8.89$). They answered to a vignette depicting a child custody dispute during a break up process and answered to a series of questions regarding whether they would be willing to make false allegations or to take retaliatory action against their former partner. They also answered to questionnaires on moral disengagement and the "dark triad" of personality. Results show that moral disengagement is a significant predictor of false allegations and retaliatory action, stronger than any of the variables included in the "dark triad", and predicts willingness to harm the partner beyond the common core of dark traits. We did not find gender differences in inclination to harm the partner, although men are more prone to the use of moral disengagement strategies than women. Still, we found that the type of moral disengagement that better predicts these tendencies is different for men and women. Men significantly favored reconstrual strategies that include moral justification, advantageous comparison and euphemistic labelling, while the best predictor for women are strategies focused on the recipient, like attribution of blame or dehumanization.

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Introduction

To date, no research has been conducted on the role of moral disengagement in a court setting or in a child custody dispute. This study is aimed at examining the role of moral disengagement in individuals involved in a hypothetical separation process involving an argument over

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the custody of the couple's children and the potential differences between men and women. Ex-partners in this context may feel inclined to harm their former spouse and the use of moral disengagement strategies may facilitate this behavior.

It is not clear how many people are willing to make false allegations or otherwise behave unethically in a court setting. For instance, regarding intimate partner violence there has been controversy for a long time about the rate of false and further research is needed to clarify the issue [1]. Only a few studies offer an estimate of the number of false allegations. Trocme and Bala [2] estimated that in Canada, 4% of child maltreatment cases, allegations were intentionally false, and that a further 31% were unsubstantiated (false, but in good faith or not intentional). While under no custody dispute the intentionally false and unsubstantiated cases were 3% and 31% respectively, under a custody dispute intentionally false cases rose to 12% and unsubstantiated cases to 34%. Comparing custodial (usually the mother) and non-custodial parents, the study found that 15% of reports by the non-custodial parent were false and 37% unsubstantiated. In the case of the custodial parent 2% of reports were false and 27% unsubstantiated. So while these figures show that making false allegations is not commonplace, the rates are higher in cases of parental separation than in other contexts, particularly for the non-custodial parent. Specifically, in their reviews of research on child sexual abuse during divorce, Penfold [3] states that 8% to 16.5% of reports are false and Smit, Antokolskaia and Bijleveld [4], found that one out seven cases are unfounded. In a different but related domain, the General Council of the Judiciary in Spain [5] found very low numbers (0.4%) of false reports in intimate partner violence cases. So, although the rate of unethical behavior is low, it warrants further examination of the variables involved in the process.

Moral disengagement is a key variable in explaining unethical behavior. According to Bandura's model of moral disengagement [6,7], when people commit a transgression that violates their personal standards, they tend to experience negative affect coming from the cognitive dissonance between their behavior and their principles. However, they often find ways to minimize this negative affect by using a series of cognitive strategies to reduce the effect of behaving against one's own standards and to disengage from the moral sanctions of such behavior. Furthermore, this disengagement may happen after committing the transgression or anticipatorily. If people anticipate ways to disengage from the moral self-sanctions of their negative behavior, they will feel less guilty and will be more likely to commit the transgression. Additionally, people who behave negatively, tend to use more moral disengagement strategies to avoid self-sanctions. Thus, moral disengagement mechanisms are a form of self-serving bias that allow us to behave against our own principles without feeling bad about it and they help restructuring antisocial behaviors into benign ones. People who are high moral disengagers feel less guilty about transgressions [8]. Individuals use moral disengagement strategies as a mechanism of moral rationalization to convince themselves that their behavior does not violate their moral standards, whether it is a trifle misconduct or a serious crime.

Bandura has described three types of mechanisms of moral disengagement: The first type of mechanisms focus on the transgression itself, and aim at redefining the behavior in a more positive way and providing self-approval for transgressions. According to Bandura *et al.* [6] these reconstrual strategies include the mechanisms of moral justification (the transgression is personally as personally or socially acceptable and serving a higher purpose); advantageous comparison (the behavior is seen in a more positive light compared to worse transgressions) and euphemistic language (the behavior is given a more benign label so that it sounds less negative). Another type of mechanisms focuses on the role that the individual has played in the transgression or his/her personal agency, or tries to dissociate detrimental actions from their consequences. Personal agency allows the individual to refuse acknowledgement of the harmful outcomes of his or her behavior. It includes the strategies of displacement of responsibility

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(responsibility is placed on someone else or the circumstances); diffusion of responsibility (individuals acknowledge only a small part of responsibility or a minor role in the harmful outcomes because responsibility is shared with other people who took part) and distortion of consequences (distorting or disregarding the harm caused by their behavior or refusing to acknowledge it). The final set of strategies focuses on the recipient of the transgression and includes the strategies of attribution of blame (blaming the victim or claiming that the recipient provoked the transgression with his or her behavior); or dehumanization (degrading and attributing to the recipient negative qualities that make the victim less than human and undervaluing of compassion or consideration).

Among other variables studied in relation to transgressions, there is an abundance of research that focuses on a set of three variables: Machiavellianism, Narcissism and psychopathy, defined as the “dark triad” of personality. Jointly or individually these variables have been often proposed as predictors of unethical behaviors [9]. The “dark triad” has been associated specifically to intimate partner violence [10]. Moral disengagement is significantly related to a number of variables associated positively or negatively to the dark triad and transgressions. Detert, Treviño, and Sweitzer [11] found that moral disengagement is positively correlated to trait cynicism and chance locus of control (which leads to not feeling responsible for one’s outcomes) and negatively related to moral identity and empathy. Additionally, it operates as a mediator for the relationship between these variables and unethical behavior. Since empathy is the tendency to be concerned with the feelings and needs of others, and moral disengagement cares about self-serving motives, both dispositions conflict. An individual high in empathy would have a hard time justifying or disregarding negative consequences for others or dehumanizing the targets of their detrimental behaviors, and may in fact inhibit moral disengagement.

Moore, Detert, Treviño, Baker and Mayer [12] also found that moral disengagement significantly relates to unethical behavior, moral identity, empathy and Machiavellianism. Similarly, Egan, Hughes and Palmer [13] found that moral disengagement is related to all variables in the dark triad: Machiavellianism, Narcissism and psychopathy. Furthermore, they found that it is a better predictor of unethical attitudes than the dark triad.

Furthermore, Moshagen, Hillbig and Zettler [14] state that most previous research on dark traits has usually been focused on individual traits or small subsets of them, so it is unclear if a specific trait has a unique role in the explanation of behavior or it rather measures a general dispositional tendency. They argue that there is general dispositional tendency that encompasses both moral disengagement and the “dark triad” traits. This broader tendency, namely the Dark Factor of Personality, would not only explain the underlying tendencies common to Moral disengagement, Machiavellianism, Narcissism and Psychopathy, but also other traits like Egoism, Psychological entitlement, Sadism, Self-interest and Spitefulness. All of these traits would be specific expressions of a common core tendency of disregarding others’ outcomes in favor of self-interest or a behavioral bias towards the self [15]. However, we believe that moral disengagement plays a distinctive role in the explanation of unethical behavior, since it places the focus of behavior on avoiding self-sanctions associated with trespassing personal moral standards, whereas the common core of dark traits subsumed in the Dark Factor of personality is also concerned with beliefs that serve as justifications for negative behavior, but from a broader perspective (e.g. cynicism, maximizing personal outcomes despite others or a sense of entitlement or superiority), that comprises justifications for the adequacy or benefits of behaviors that deviate from social or moral norms [14]. In contrast with this common core, moral disengagement focuses specifically on justifying behavior that deviates from personal moral standards so as to avoid the aversive consequences of violating them.

Individuals that disengage from self-sanctions act in self-interest, but they need to rationalize immoral behavior into being moral and cannot simply ignore moral principles when they compete with another desired outcome. Behaviors that are inconsistent with one's own moral principles result in an aversive state of cognitive dissonance that the individual is motivated to avoid. When individuals are motivated towards antisocial behavior their cognitions become distorted in order to build a rationalization that complies with their desired outcome and their personal moral principles. This rationalization works both to convince themselves and to convince others that the behavior is acceptable [16].

Another concern is the difference between genders, both in moral disengagement and in the tendency to harm the partner in a custody dispute. Men are generally found to score higher in moral disengagement [6,7], but are not more inclined to act against their partner or children in related settings [3,17]. Although moral disengagement is positively related to unethical behaviors, gender and other variables play a moderating role, so that gender differences in moral disengagement do not always translate into behavior differences. For instance, Samnani, Salamon and Singh [18] found that men high in moral disengagement showed more unethical behavior than women high in moral disengagement, only when comparing groups with high negative affect. Also, women are more overall more empathetic than men, and gender differences in dark traits are mediated by empathy [17]. Arguably, the relationship between gender, antisocial behavior, moral disengagement or other dark traits is also mediated by empathy. The current study specific goals are examining the relationship between moral disengagement and inclination to harm the partner in child custody disputes; checking whether moral disengagement is a better predictor of unethical attitudes in this setting compared to variables in the dark triad and a general Dark Factor of personality, and examining gender differences in attitudes towards unethical behaviors against their partner and in the use of moral disengagement mechanisms.

Since moral disengagement is linked to unethical behavior in other domains, we expect the same for unethical behavior in custody disputes, and thus our first hypothesis is:

H1: Moral disengagement would be a significant predictor of willingness to harm the partner in a child custody dispute.

Moore *et al.* [12] found stronger correlations of self-reported transgressions with moral disengagement than with Machiavellianism. As they argue, moral disengagement may be a stronger predictor of unethical behavior than other variables in the dark triad, like Machiavellianism, because it focuses on the individual's general tendency to disengage from self-sanctions that would prevent transgressions, while Machiavellianism taps on more specific behaviors. So, our second hypothesis is:

H2: Moral disengagement would be a significantly stronger predictor of willingness to harm the partner in a child custody dispute compared to variables in the dark triad.

Additionally, moral disengagement shares with other dark traits a common tendency related to detrimental behavior, captured by the Dark Factor of Personality [14]. Nevertheless, as stated above, we believe that it is partly distinct from this common tendency. In this sense, we propose a third hypothesis:

H3: Moral disengagement would still be a predictor of willingness to harm the partner in a child custody dispute when controlling for the Dark Factor of Personality.

Our fourth hypothesis regards behavioral differences between men and women. Hamel Desmarais, Nicholls, Malley, Morrison and Aaronson, [19] state that the rates of partner aggression are similar for males and females. Additionally, Penfold, [3] states that men and

women are equally likely to make false accusations of child sexual abuse. We expect these relationships to translate to unethical or harmful behaviors in a court setting.

H4: Attitudes toward unethical behavior in a child custody dispute would not be significantly different in men and women.

Lastly, we expect to find that men show higher levels of moral disengagement than females, and we will also examine whether men and women use the same type of moral disengagement strategies in relation to willingness to harm the partner in a child custody dispute.

H5: Men will significantly use more moral disengagement strategies than women.

H6: There will be differences in the strategies that men and women use to morally disengage from unethical attitudes related to child custody disputes.

Method

Participants

Participants in this study were 1097 Spanish adults who had been involved in a separation process. They were evenly divided by sex (50% men and 50% women) and their mean age was 39.95 years ($SD = 8.89$). All of them were parents of underage children that had experienced a couple break-up. This feature was important for our study, since they had experienced issues related to the scenarios described later and would be better able to comprehend the nuances in them compared to other participants. They were also more representative of the population exposed to custody disputes. The study has the approval of the Social Psychology area at the Department of Psychology at Universidade da Coruña and participants gave their informed consent to participate in the study and for the publication of anonymous raw data.

Procedure

The sample was incidental and to collect the data we were aided by a team of university undergraduates who received course credit in return. Participants were contacted by the surveyors asked to complete an online survey. Prior to answering the measures in the study, they gave their informed consent and were debriefed after completing the questionnaires.

Measures

Participants responded to a set of questionnaires to measure moral disengagement, Machiavellianism, Narcissism, and psychopathy, and to a scenario depicting a break up with their partner without agreement on child custody. The scenario included a questionnaire that asked participants whether they would be willing to lie in court and to retaliate against their partner after he/she files a complaint in court against the participant.

Moral disengagement. To measure moral disengagement we used the *Propensity to Morally Disengage* scale (PMD) by Moore *et al.* [12] which was designed for adults in any type of context. It is comprised of 24 items in a 7-point Likert scale ranging from *strongly disagree* to *strongly agree*. These items measure each of the eight moral disengagement strategies proposed by Bandura [6]. A sample item is "It is alright to lie to keep your friends out of trouble." (Measuring moral justification mechanisms). Additionally, it has a low correlation with social desirability measures so it is not prone to be contaminated by this bias.

Machiavellianism. To measure participant's Machiavellianism, we selected the Mach-IV Scale (NPI) [20]. This scale is the widely used in research and has adequate psychometric

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properties. It is composed of 20 items on a 7-point Likert format ranging from 7 (high Machiavellianism) to 1 (low Machiavellianism) and 10 of the items are reversely scored to prevent response bias. Its validity has been tested in a Spanish sample [21].

Narcissism. We used the Spanish version of the Narcissistic Personality Inventory [22]. It includes 40 items on a 6-point Likert scale, from “strongly disagree” to “strongly agree”.

Psychopathy. As a measure of psychopathy, we asked participants to complete Levenson’s Primary and Secondary Psychopathy Scales (LPSP) [23]. This scale is composed of 26 items. The first 16 measure primary psychopathy, and the last 10 measure secondary psychopathy. The response form is a 5-point Likert-type ranging from “strongly disagree” to “strongly agree”.

Custody scenarios. We developed a vignette in which we asked participants to imagine themselves in a break up situation with their partner in which there is controversy over the custody of their two children. In this scenario, an expert advises the respondent to make some false statements in court to improve his/her chances of success. Then the participant had to answer whether they would issue 8 different statements (e.g. “My partner treated my children badly, despised and insulted them”). They were asked to use a 4-point scale with the following options: “I would never do it” (1); “I don’t think I would do it” (2); “I might do it” (3) and “I would surely do it” (4). Next, they were asked to imagine that two years after the break up there still is conflict over custody of the children and their partner has filed a complaint in court against them. Then they had to respond on the same scale whether they would carry out 7 different retaliatory actions (e.g. “Stop compulsory alimony payments for the children”).

Data analysis

First, we checked the reliability of the measures used in the study and the correlations between the variables analyzed. A series of z-tests were performed to check for significant differences between correlations.

In order to test whether moral disengagement measures different aspects from a Dark common general factor, a bifactor approach is useful [14,24,25]. In a bifactor model, each indicator is specified to load on a first-order general factor and also on a first-order specific factor, so as to capture the common variance shared by all items and the variance explained by the specific factors exclusively. So, specific factors account for the remaining variance not included in the general factor.

Although, we have not tested many of the dark traits that comprise the Dark Factor of Personality, it is a robust construct independent of any particular trait and its predictive capability remains even after removing relevant indicators [14]. So to test the specific role of moral disengagement within the larger construct of the Dark factor, we followed two routes. First we calculated the partial correlation of moral disengagement and willingness to harm the partner in a child custody dispute controlling for the weighted mean of all the indicators of dark traits in the study in order to represent the Dark factor. We also ran a SEM bifactor model using Amos 23.0.0, where all indicators of dark traits loaded on a general factor, used as proxy for the Dark Factor of Personality and also on individual factors representing moral disengagement, psychopathy, Machiavellianism and Narcissism. All these factors were set as predictors of a general factor of willingness to harm the partner behavior in a custody dispute, comprised of all the variables used in the vignettes. Since Chi-square is influenced by sample size [26] and model size [27], both of which are large in our study, we relied on other goodness of fit statistics, like SRMR and RMSEA.

T-tests were also run to examine sex differences. Additionally, regression analyses were carried out for men and women to check which types of moral disengagement strategies predicted

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lying in court and retaliating against the partner and z-scores were obtained to check significant differences between variables in the regression analyses for men and women.

Results

Reliability analyses

The measure of moral disengagement used showed a much higher reliability ($\alpha = .95$) than each of the measures belonging to the dark triad. Machiavellianism ($\alpha = .63$), Narcissism ($\alpha = .78$), psychoticism ($\alpha = .77$) showed less consistent results.

The scale regarding willingness to lie in court showed a high reliability ($\alpha = .93$) and so did the scale for retaliating against the partner ($\alpha = .93$).

Correlational analyses

Moral disengagement was found to be related to both unethical behavior and variables in the dark triad. It showed a significant correlation to Machiavellianism ($r = .53, p < .001$), Narcissism ($r = .23, p < .001$) and psychopathy ($r = .53, p < .001$). As it turns out, moral disengagement is a strong predictor of willingness to harm the partner, even surpassing variables in the dark triad construct, as [Table 1](#) shows.

Following the directions by Steiger [28], we compared correlations with moral disengagement to correlations with variables in the dark triad and found significant differences in every case. Moral disengagement showed significantly higher correlations with lying in court than Machiavellianism ($z = 3.28, p < .01$), Narcissism ($z = 4.24, p < .01$) and Psychopathy ($z = 4.00, p < .01$). Moral disengagement also showed significantly higher correlations with retaliating against partner than Machiavellianism ($z = 3.61, p < .01$), Narcissism ($z = 6.50, p < .01$) and Psychopathy ($z = 3.85, p < .01$). We also compared correlations with moral disengagement to correlations with the Dark Factor score, but differences were non-significant.

Differences with the dark factor of personality

The partial correlations, controlling for the Dark factor estimate, of moral disengagement with lying in court ($r = .11, p < .01$) and retaliating against partner ($r = .14, p < .01$) were significant. These correlations were also significantly different from the zero-order correlations of these variables ($z = 5.43, p < .01$) and ($z = 5.79, p < .01$), showing that although moral disengagement plays a unique role in explaining the target attitudes, there is also an underlying factor that accounts for significant differences.

The bifactor model to test whether moral disengagement had a the distinctive role in the explanation of the willingness to harm the partner in a custody dispute or would rather be

Table 1. Zero-order correlations between unethical judicial attitudes, global moral disengagement score, dark triad variables and D-score.

	Lying in court	Retaliating against partner
Moral disengagement	.33*	.37*
Machiavellianism	.20*	.23*
Narcissism	.16*	.11*
Psychopathy	.17*	.22*
Dark Factor score	.32*	.35*

$N = 1097$.

* $p < .01$.

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subsumed into a more general Dark factor, showed that, although chi-square was significant ($\chi^2(9595) = 27713.6, p < .001$), other fit indices showed an acceptable fit ($SRMR = .055$; $RMSEA = .042$ (90% CI: .041-.042)).

The general Dark factor of personality significantly predicted willingness to harm the partner in a custody dispute ($\beta = .36, p < .001$). Specific moral disengagement was also a significant distinctive predictor ($\beta = -.18, p < .001$) (Note that the loadings in the moral disengagement factor for moral disengagement indicators were all negative, so in fact the factor measured rejection of moral disengagement, so the regression β is also negative). The only other significant factor was Narcissism ($\beta = .10, p < .05$), indicating that the Dark Factor accounted for the variance of Psychoticism and Machiavellianism.

Gender differences

To compare differences between men and women in the analyzed variables, we ran a series of *t*-tests. We found no significant differences between men and women for lying on court and for retaliating against the partner and the overall mean score for participants was rather low ($M = 1.63, SD = .66$ for lying in court and $M = 1.40, SD = .63$ for retaliating against partner, on a 4-point scale). Overall the rates for lying in court and retaliating against partner were rather low. Only 3.9% of the total sample scored 3 or higher in the scale.

The comparison between genders as regards variables in the dark triad showed only significant differences for Machiavellianism, with men scoring higher than women ($t(1095) = 5.35, p < .001$, men $M = 2.91, SD = .39$; women $M = 2.78, SD = .41$). The tests yielded significant results for moral disengagement, with men showing higher scores than women ($t(1095) = 5.44, p < .001$, men $M = 3.27, SD = 1.09$; women $M = 2.90, SD = 1.14$). We checked whether this pattern also appeared for each of the three moral disengagement strategies, and found that for every type, men showed more tendencies to morally disengage than women. Thus, men scored significantly higher in reconstrual strategies ($t(1095) = 6.57, p < .001$, men $M = 3.40, SD = 1.14$; women $M = 2.94, SD = 1.19$), personal agency strategies ($t(1095) = 4.30, p < .001$, men $M = 3.19, SD = 1.17$; women $M = 2.88, SD = 1.23$) and recipient-based strategies ($t(1095) = 4.25, p < .001$, men $M = 3.19, SD = 1.15$; women $M = 2.88, SD = 1.20$). Individually, as Table 2 shows, all moral disengagement strategies correlated significantly with both lying in court and retaliating against the partner.

But in order to check whether there are differences in the strategies that men and women choose in relation to lying in court or retaliating against the partner, we ran regression analyses entering the three types of disengagement strategies simultaneously as predictors of both lying in court and retaliating against the partner.

As regards lying in court, moral disengagement strategies contributed significantly to the explanation of the variance for both men ($R^2 = .13, F(3,510) = 25.82, p < .001$) and women ($R^2 = .11, F(3,585) = 24.72, p < .001$). Controlling for the other strategies, reconstrual strategies

Table 2. Zero-order correlations between unethical judicial attitudes and moral disengagement strategies.

		Reconstrual	Personal agency	Recipient
Lying in court	Men	.36*	.30*	.28*
	Women	.29*	.29*	.31*
Retaliating against partner	Men	.37*	.35*	.31*
	Women	.32*	.36*	.38*

Men ($N = 511$); Women ($N = 586$).

* $p < .01$.

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was the only significant predictor for men ($\beta = .23, t(510) = 4.73, p < .001$), and recipient strategies the only significant predictor for women ($\beta = .15, t(585) = 3.90, p < .001$).

As for retaliating against the partner, we found a very similar pattern. Moral disengagement strategies explained a significant proportion of the variance for both men ($R^2 = .14, F(3,510) = 28.25, p < .001$) and women ($R^2 = .15, F(3,585) = 34.41, p < .001$). We found that reconstrual strategies was the only significant predictor for men ($\beta = .15, t(510) = 3.36, p < .001$). For women, both recipient ($\beta = .14, t(585) = 3.97, p < .001$) and personal agency ($\beta = .10, t(585) = 2.16, p < .001$) strategies were significant.

Next, we checked whether moral disengagement strategies significantly differed between men and women as predictors for unethical attitudes against the partner. Following the procedure recommended by Paternoster, Brame, Mazerolle and Piquero [29] we checked for significant gender differences the regression coefficients. Hence, we obtained the z scores for the differences between betas for men and women for each of the moral disengagement strategies as predictors of unethical attitudes, when controlling for each other. When predicting lying in court we obtained a z -score of 3.09 ($p < .01$) for gender differences in reconstrual strategies, and a z -score of -2.80 ($p < .01$) for gender differences in recipient strategies. We found no significant gender differences for personal agency strategies as a predictor of lying in court. A similar pattern was obtained when predicting retaliation against the partner. Men and women differed significantly in the use of reconstrual strategies ($z = 2.99, p < .01$) and in the use of recipient-based strategies ($z = 2.60, p < .01$), but no gender differences were found in the use of personal agency strategies.

Discussion

The current study highlights moral disengagement as a key variable in the explanation of false allegations and unethical attitudes. Our results, as predicted by our first hypothesis show the relevance of moral disengagement mechanisms to explain unethical behavioral tendencies in a specific setting like child custody disputes. In line with our second hypothesis and previous research [12], moral disengagement appears to be a significantly stronger predictor of willingness to harm the partner in a custody dispute than the “dark triad” variables which have frequently been associated to transgression. Moral disengagement captures global aspects of the tendency to ignore self-control over transgressions and seems to be a better predictor of the inclination to behave unethically against the partner.

The third hypothesis in the study stated that moral disengagement would still be a significant predictor of willingness to harm the partner in a custody dispute when controlling for the Dark Factor of Personality. Partial correlation and bifactor model results support that moral disengagement fits in a broader factor related to self-interested and detrimental behaviors, but it predicts behavior beyond that general factor. What probably makes moral disengagement different from other dark traits is the specific focus on the need to avoid moral self-sanctions and on circumventing one’s own moral principles [16], whereas beliefs associated with common core of dark traits are more focused on justifying deviation from social norms (e.g. beliefs on the adequacy of negative behavior to obtain a goal). The fit indices for our bifactorial SEM model were appropriate, except for chi-square and CFI, although sample and model size explain these discrepancies.

Our fourth hypothesis, in accordance with Hamel *et al.* [19], and Penfold [3] stated that attitudes toward unethical behavior in a child custody dispute would not be significantly different in men and women. Although men are generally commit a higher number of transgressions and antisocial behaviors in other domains, they do not lie or retaliate significantly more than women in this specific setting.

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Our fifth hypothesis regarded gender differences. Men in our sample scored higher in moral disengagement than women, in line with previous research. Similar results have been found previously not only for moral disengagement [6,7], but also for related variables like those in the “dark triad” [17,30,31]. As it turns out, this result seems incongruent with our second and fourth hypothesis, because if moral disengagement predicts antisocial behavior and there are no gender differences in the target behaviors in our study, it follows that there should not be either gender differences in moral disengagement. Perhaps other variables may play a moderating role in this relationship, like empathy or negative affect [17,18] which differentially may influence antisocial behavior depending on gender. In accordance to this, moral disengagement may be a better predictor of unethical attitudes for men, at least as regards custody disputes. However, we have not tested for these possible moderators, which is a limitation in the study.

Finally, we wanted to explore whether men and women would differ in moral disengagement strategies. Although men score higher in every type of moral disengagement mechanisms, the best predictors for men and women are different. Controlling for other strategies, men tend to favor reconstrual strategies and women recipient strategies. Men tend to justify their behavior as correct and following a higher purpose (moral justification), to downplay the behavior as less negative (advantageous comparison) or to sanitize it using euphemistic labeling. In turn, the better predictor for women were recipient strategies, focused on what the victim brought upon himself to deserve retaliation or false allegations (attribution of blame) or how the recipient is somehow flawed or despicable and does not deserve the same consideration as other human beings (dehumanization).

Bersoff [32] states that men engage in unethical behaviors more frequently than women except when it is difficult to employ rationalization strategies to justify transgressions (e.g. self-serving biases are exposed or there is no motivation to use them). In our study, participants might be considered as sensitive to the situations described, since they were related to their personal experiences. However, they had nothing to gain from the hypothetical scenarios, so they were not as motivated to employ self-serving rationalization strategies as they would be in a real setting. This has two main implications. Firstly, interventions aimed at de-activating or exposing moral disengagement biases might be successful in deterring individuals from unethical behavior. On the other hand, results using hypothetical vignettes may not translate fully into real situations, since the utilitarian motivations to make unethical decisions might be weaker.

Another limitation is the correlational nature of the study that does not allow to draw causal explanations for the relationship variables. Future research must focus experimental studies and on studying settings that activate self-serving motivations. Experimental designs, case studies and real realistic situations would allow to examine the actual mechanisms involved in real transgressions. Our attempt at triggering these mechanisms this was using a sample of people who had experienced a break up with their partner and had children. Also, although hypothetical, our vignette depicted a situation of child custody dispute, where there is much to gain or lose, so it contained the features to be an adequate trigger for self-serving motivations.

The current study has also implications for practice. Being aware of the role of moral disengagement in unethical behaviors would help the professional improve their detection by using available measures. Moral disengagement measurement would allow for more precise evaluations of parents in a child custody dispute. Also, intervention programs based on moral disengagement bias detection might be devised to reduce conflict or to mediate between the partners during a break up. Acknowledging the severity of unethical behaviors, accepting responsibility for them and humanizing the recipient might be achieved by exposing the

nature of moral disengagement strategies so the individuals realize that they are not acceptable rationalizations for unethical behavior.

Supporting information

S1 Text. Appendix—Vignette and questionnaires in English and Spanish. (DOCX)

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