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Divorce for Cause: Impacts of the Judicial Process on the Life Project of Individuals

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Abstract

The implications of the divorce judicial process in the development of the life project of the parties involved were analyzed. It has a case study design with in-depth analysis of specific situations, with a qualitative approach focused on the understanding of the phenomena, using the technique of documentary analysis. The impact of divorce on the development of the life project is addressed and the principle of Iura Novit Curia is analyzed, which allows the judge to apply the law even if the parties do not request it correctly; in the judgments it is observed that the Supreme Court requires conclusive evidence to declare divorce. Divorce not only breaks the legal bond, but also affects the parties emotionally and socially, the judicial process with cause has a significant impact on the life project of the parties, generating not only the dissolution of the marriage bond, but also emotional and social effects.

Keywords: Divorce, Marital Status, Family, Marriage, Unmarried, Single.

Introduction

Life as a couple is a special stage in which two people, guided by deep love and affection, decide to take the most important step in their relationship, which is marriage. Traditionally, it is understood as the union between a man and a woman, it is still considered as such according to the Constitution and civil regulations. According to Girgis et al. (2019), marriage differs from other forms of relationship because it involves a complete union, which encompasses not only the life and resources of those involved, but also their thoughts and desires and for this bond to strengthen, it is essential that both people are willing to commit, which results in both an emotional and physical connection, allowing the relationship to be strengthened on a spiritual and bodily level.

In Peru, the figure of divorce has had a particular development, where its legal recognition is not born of an in-depth legal debate, but rather of political decisions that surpassed the technical work of the jurists in charge of revising and reforming the old Civil Code of 1852 (Cantuarias, 1991). Although its first steps were taken with Law No. 7894, it was in the Civil Code of 1936 where divorce was definitively established. On the other hand, Piedrahita (2020) mentions that, for a long time, divorce was seen as a threat to the values that sustain life as a couple, such as

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faith, love, and trust. From this perspective, it was thought that its existence weakened the home, affected the children and put the family education at risk, it was also believed that all the benefits that marriage could provide were completely lost with separation, and that the growing divorce in society profoundly damages the image of marriage. affecting not only the couple, but also the family and the community as a whole.

Therefore, when reviewing how divorce is regulated in our civil legislation, it is perceived that, instead of protecting, many times a deeply personal right is violated. This occurs especially with the requirement to establish specific grounds for divorce, which forces spouses to expose very intimate aspects of their lives to third parties. This situation not only invades their privacy, but can also generate unnecessary suffering, despite being a reality that affects many people, so far the legislator has not addressed this problem and the Peruvian courts have limited themselves only to verifying whether the evidence presented is valid to confirm the alleged cause, without considering the emotional and personal impact that this entails (Aranda, 2019).

The legal systems that allow divorce have emerged as a response to changes in the structure of families, which is why they should not be based solely on looking for culprits or justifying separation with specific causes. Rather, it is important to recognize the right of each person to decide, freely and autonomously, to end his or her marriage, without this necessarily depending on the agreement of the other spouse. Therefore, when it is forced to justify the divorce with subjective causes, many times the only thing that is achieved is to intensify the conflicts that already existed before the legal process began. This not only affects the spouses emotionally, but can also cause profound damage to the children, who often end up trapped in a judicial conflict that they do not fully understand, without having clarity about the real reasons behind the separation (Carmona, 2018).

The right to the free development of personality is the capacity of every person, regardless of age, religion or culture, to make autonomous decisions about their life and future. This right can be demanded both before the State and before individuals, and it is the duty of the State to guarantee. However, when one analyzes how the dissolution of marriage is regulated, it is noted that this right is not always respected. For this reason, it is necessary to rethink the forms of legal separation, looking for alternatives that allow the unilateral dissolution of marriage without putting personal freedom at risk, since it is essential to eliminate the legal barriers that were established in a context where marriage was considered almost sacred by society. Today, we must adapt our laws to a more diverse and flexible reality, in tune with the new doctrinal perspectives and the social transformations we are experiencing (Esteves, 2020).

On the other hand, the life project for Suárez et al. (2018) is the way in which a person tries to overcome obstacles, face everyday challenges, seek their well-being, and find ways to love and work meaningfully. It is a process that involves organizing plans to cover emotional, work, and personal needs, in order to reduce discomfort and achieve a full life. From this perspective, each person builds their own path, giving meaning to their existence by constantly integrating aspects such as their professional aspirations, their economic situation, their affective relationships and their social life. This project is not static, it changes over time and adapts to the different moments and experiences that arise in life, and carrying out this process is not easy, since it requires effort, will, autonomy, capacity and commitment. But in doing so, the person traces the path towards their deepest goals, those that give purpose and direction to their life (Papke & Boyer, 2016).

Likewise, divorce for cause represents a critical stage in people's lives, not only because of the

breakdown of the marital bond, but also because of the emotional, social and legal consequences that it entails. The judicial process therefore acquires particular relevance, as it not only defines the end of the marital relationship, but can also significantly influence the way in which each party reorganizes their future life. What is meant to be understood is that the impact of this process goes beyond the legal aspect, touching personal dimensions such as the plans, expectations and individual goals that make up the life project of each party, being so, in view of this problem, the following study objective was proposed, in analyzing the implications of the judicial process of divorce for cause in the development of the life project of the parties involved

In Peru, the 1984 civil code contemplates 13 grounds for requesting divorce, which are grouped into two types; divorce as a sanction and divorce as a remedy. Added to this is the responsibility of divorce by mutual agreement (Reyes, 2019). However, what does not yet exist is an option for divorce without the need to explain the reasons, which is known as uncaused divorce. This absence reveals a traditional vision of marriage that, in many cases, no longer responds to the realities or rights of people today. Flores (2020) indicates that this situation has given rise to an important debate about whether our laws are really in tune with social and cultural changes, as many voices question whether it is appropriate to continue demanding legal justifications to end a relationship that no longer works, especially when what is at stake is the well-being and freedom of those who are part of it.

Methodology

Type of Study

This research was part of a basic study, which according to Ñaupas et al. (2018) is also known as pure research, whose purpose was to generate and share new knowledge. It was based on a philosophical vision that values the love of science as an engine for the advancement of knowledge, and also provided an important basis for future research. In this case, the approach adopted was qualitative, and focused on observing and understanding phenomena or conflicts from an objective perspective. The collection of information was based on a rigorous review, with the aim of interpreting reality and providing possible solutions from praxis, that is, from critical reflection and analysis, without the researcher intervening directly in the observed phenomenon, but always with a clear investigative purpose (Abarca, 2013)(Piña, 2023).

Data collection

The methodological design of this research was the case study, a strategy that allows for an in-depth analysis of a specific situation using detailed and reliable information from various sources (Hernández & Mendoza, 2018). Through this approach, we sought to understand in depth all the characteristics and the particular development of the selected case. This meticulous look made it possible to classify information, identify possible solutions, and establish key data that contribute to a better understanding of the phenomenon studied (Soto & Escriba, 2019). The method used to analyze the data focused on the actions that the researcher had to carry out with the information collected to achieve the established objectives. To obtain the results, a data collection tool was used, which were then processed through the documentary analysis technique, this technique allowed organizing and systematizing the information obtained, facilitating its evaluation in relation to the previously established theoretical and conceptual framework.

Results and Discussion

Divorce As A Sanction

It is a form of dissolution of the marriage bond that is based on the guilt of one of the spouses for having incurred in serious conduct that violates the duties and obligations of marriage, this type of divorce is not based on the simple agreement of the parties or on the loss of affection, but on the imputation of a serious fault to one of the spouses. which makes life in common intolerable. (Cantuarias, 1991)

This type of divorce requires the affected spouse to initiate a judicial process to demonstrate the existence of the fault and its seriousness, the judge after evaluating the evidence can declare the dissolution of the marriage bond and eventually establish compensation or sanction measures in favor of the innocent spouse such as pensions or exclusion from patrimonial benefits (Coronado, 2018).

In Peru, sanction divorce is regulated as a punitive measure directed at the spouse considered responsible for having caused the marital breakdown, this figure is based on the serious or repeated breach of conjugal duties, attributable to one or both parties. In order to establish it, it is necessary to determine whether the cause attributed by one of the spouses to the other is duly justified. This conception is based on the ideological premise that divorce constitutes an exceptional situation and that marriage must be preserved due to the social interest it represents; in this sense, the legislator has the power to establish subjective or inculpatory causes that, by significantly affecting conjugal cohabitation, justify the dissolution of the marriage bond (Gómez, 2015).

Divorce Remedy

The approach to divorce as a reparative measure implies recognizing that deep ruptures can arise in the marital relationship, which justify the termination of the bond, under this concept, divorce represents an alternative to a deteriorated marital situation in which the spouses do not achieve, or are not willing to sustain the ethical and vital commitment implied by the shared life project proposed by marriage (Mallqui, 2005).

Within the approach of remedy divorce, it is held that, either by joint decision or at the initiative of only one of the spouses, the common life is definitively terminated with the intention of closing a relationship that, although formally continuing, is already dissolved in practice. This model does not seek to identify the specific causes of the breakdown of marriage or to attribute blame, since what is relevant is to verify the non-existence of a true union between the parties. It is characterized by its impartial comprehensive approach, dispensing with the analysis of the reasons that originated the separation.(Bossert & Zannoni, 2006)

Peruvian legislation contemplates the remedy divorce as a manifestation of the definitive breakdown of the marriage, allowing it to be requested before the judicial body when both spouses agree to it, as occurs in cases of consensual separation and subsequent divorce. According to the approach of Vari (2007), the inclusion of the cause based on the impossibility of continuing life together responds to an objective logic within this figure. Such objectivity is reflected in the fact that it is not intended to analyze the reasons for marital deterioration, but only to verify at the factual level that cohabitation has been taken invisible.

The purpose of divorce is not to resolve the specific prejudices that may have arisen as a result of the marital breakdown, but rather to end a bond that can no longer be maintained. However, it is relevant to consider the application of the civil liability regime, as it offers a way to mitigate the adverse effects that could arise from the separation, thus ensuring some protection and balance for the party that is most affected by the dissolution of the marriage.

Uncaused Divorce

The dissolution of marriage through divorce without the need to invoke grounds is characterized by not requiring any justification for its request, in this form of termination of the conjugal bond, it is not essential to prove specific faults or attribute responsibility to either of the spouses. The only thing that is considered sufficient is the unilateral or joint decision to terminate the marital relationship, this route seeks to facilitate access to divorce by promoting individual freedom and reducing complex procedures, by eliminating the requirement to prove guilt or to wait a long period for approval (Melo & Rodríguez, 2023).

It should be noted that, in order for the dissolution of the marriage to proceed by way of divorce, the reasons invoked must be demonstrated before the judicial authority, which will evaluate the facts and issue a ruling in accordance with the grounds expressly contemplated in the country's current legal regulations. It should also be noted that the Peruvian Civil Code does not contemplate as a valid basis for divorce the simple expression of the will of only one of the spouses.

The model of unjustified divorce is proposed as a more agile alternative, in accordance with the principle of procedural celerity, considered essential to guarantee an effective administration of justice. Due to its configuration, this procedure implies a reduction in costs and contributes to minimizing the emotional impact on those who depend on the family environment. By allowing the dissolution of deteriorated relationships without being unnecessarily prolonged, this mobility avoids the prolonged wear and tear of ties. Consequently, it represents a substantial renewal of the traditional legal approach to divorce, overcoming outdated conceptions that no longer respond to the needs of today's societies at the national and international levels (Crespo, 2023).

The Principle of *Iura Novit Curia* in the Divorce Process

The principle called *Iura novit curia*, which literally translates as "judge knows the law", expresses the obligation on the judge to correctly apply the normative framework to the specific case, regardless of whether the parties have precisely invoked the corresponding rules or the legal gaps. This postulate prevents the judge from excusing himself from resolving a conflict by alleging ignorance of the norms or absence of specific regulations. Thus, it is established that it is the duty of the magistrate to know and properly use the legal system at the time of issuing his decisions, this principle constitutes a central element of the judicial process, since it ensures that all controversy is resolved based on the applicable law, guaranteeing the fairness of the decision as well as legal certainty for those involved (Prado & Zegarra, 2019).

This principle arises from the fundamental right that all people have to effective judicial protection, and this not only means that anyone can access a court, but also implies that that person receives a real answer; a judgment that resolves the substantive conflict and that, in addition, can be enforced. To achieve this, the judicial process must be structured with tools that allow the substantive right to be adequately addressed (Marinoni, 2007). Among these tools is the principle *iura novit curia*, this principle gives the judge, as a representative of the state, the responsibility to know and apply the law, beyond what the parties allege. In other words, legal

norms exist regardless of whether or not they are mentioned by those who participate in the process, and the agreement between them cannot create or modify what the law provides (Montero et al., 2014).

It is especially reasonable to apply the principle of *Iura Novit Curia* in divorce proceedings on grounds, since the same conduct may fit into different grounds provided for by law, which means that, in these cases, if the plaintiff makes a mistake in identifying or naming the correct ground, the judge who has the duty to know and apply the law can correct it without affecting the development of the process. In Peru, the existence of two approaches within the divorce regime is recognized; one of a subjective nature, which seeks to identify the fault of one of the spouses and another objective, which is based simply on the fact that the life together has been broken. In this context, our legislation regulates both divorce and separation of bodies under the same system of grounds, as these are detailed in Article 333 of the Civil Code (Portugal, 2018)

Jurisprudence on Cases of Divorce on Grounds

Cassation No. 4018-2019

The supreme court, in reviewing this divorce case, decided to declare unfounded the lawsuit filed by one of the spouses, who alleged a *de facto* separation as a reason to dissolve the marriage. This decision was due to the fact that, throughout the process, the plaintiff could not clearly or consistently show that he had really been separated from his partner for the minimum time required by law, which is more than two continuous years. During the trial, the applicant offered changing versions about the date of the alleged separation, first saying that it occurred in 1997, then stating that it was more than four years ago, and also provided different addresses of the other party, which generated more doubts than certainties. These contradictions and the lack of evidence to support them did not allow the judge to have the necessary security to declare the divorce on this ground. Despite this, the Superior Chamber had considered the claim valid, but did not correctly evaluate the evidence or accurately apply the corresponding procedural rules. For this reason, the Supreme Court decided to annul that decision and, acting as a second instance, upheld the judgment of the first court that had rejected the request

Cassation No. 2694-2018

In a divorce case on the grounds of impossibility of living together, where one of the spouses argued that he could not continue living with his partner because he had been unfaithful and had an extramarital relationship, so he requests a divorce in order to consolidate his new relationship. However, the Supreme Court made it clear that one cannot pretend to ignore infidelity and, for one's own benefit, ask for a divorce on the grounds of impossibility of living together. Therefore, Article 335 of the Civil Code was applied, which establishes that neither of the spouses can base their divorce petition on facts that have caused it. In this case, divorce only occurs on that ground when the marriage no longer has a harmonious or voluntary cohabitation and for it to be valid, it has to be correctly validated in court. According to the Third Civil Cassation Plenum, this cause is considered inculpatory, that is, it implies that one of the parties has acted in a reprehensible manner, and this position reflects the idea that, when a marriage is irretrievably broken and only causes more suffering, the fairest thing to do is to dissolve it, always acting responsibly and fairly.

Cassation No. 34-2021

This case involves a divorce process on the grounds of *de facto* separation, where the plaintiff

alleges that they have been separated since 2010. The main controversy lies in the accreditation of this separation and whether it meets the legal requirements to proceed with the divorce, especially in terms of the time elapsed and the proof of cohabitation or absence. In the first instance, they had rejected it, after not having proven that the separation had lasted longer than the legally required period and that there was no conclusive evidence to prove that fact. The Court of Second Instance then revoked that decision, concluding that the evidence showed that the spouses had been separated since 2010 and that the error in the mention of the domicile did not affect the validity of the proof of removal from the marital home. This chamber considered that if the legal deadlines had been exceeded and that the marriage was dissolved. Finally, the Supreme Court, after reviewing the case, concluded that the evidentiary assessment was correct and that the declaration of separation was well-founded and the decision was based on the coherence and plurality of the evidence.

An analysis of cases on the implications of the judicial process of divorce on grounds in the development of the life project of the parties

Dossier	Causal	Duration of the Process	Separation Time	Unjustified delays	Case analysis
00804-2021-0-2208-JR-FC-02	De facto separation	14 months.	About 16 years old.	There are no delays in the process, and the judge considered that the parties never had obstructive conduct.	In this case, there was evidence of a clear and reasoned application of divorce in accordance with art. 333 of the Civil Code. It is also highlighted that the judge prioritizes the factual reality of the prolonged separation and the absence of a desire for reconciliation by both. On the other hand, the judge also correctly delimits the legal effects of divorce as the end of marital rights.

<p>01111-2022-0-2208-JR-FC-02</p>	<p>Adultery</p>	<p>4 and a half months.</p>	<p>A separation period is not specified.</p>	<p>No delays were reported in the process, since the procedural stages were completed within the deadlines.</p>	<p>The case found that the plaintiff presented evidence of the defendant's extramarital affair and in view of that the judge concluded that adultery was sufficient to declare the dissolution of the marriage, since it was acted in accordance with the legal framework in force. However, he knew how to adequately weigh the personal situations of both parties.</p>
<p>01523-2021-0-2208-JR-FC-02</p>	<p>Abandonment of home and inability to live together</p>	<p>16 months.</p>	<p>More than 6 years passed.</p>	<p>No delays were observed in the process and the parties do not incur in misconduct and the judge decided to exonerate them from the payment of costs and costs.</p>	<p>The court verified that there was a marital bond between the parties and that the defendant left the home and that as a result of an extramarital relationship she had a child. In view of this, the judge concluded that the legal prerequisites are configured to declare the dissolution of the marriage bond,</p>

					both for abandonment and for making it impossible to resume life together.
00957-2022-0-2208-JR-FC-02	Adultery	2 years and 4 months.	It lasted for almost 4 years.	There were no delays in the judicial process. This indicates that the process was carried out with adequate normality.	This case reflects a situation of marital breakdown motivated by a serious cause that is adultery. The judge concluded that the dissolution of the marriage should take place based on the legal provisions of the CC, which establishes the nullity and dissolution when conduct that affects the fidelity of the spouse is proven, due process was also respected, guaranteeing the right to effective jurisdictional protection.
02506-2023-0-2208-JR-FC-02	De facto separation	15 months.	The time was more than 20 years.	There was no type of delay attributable to the parties, but a process was shown in accordance with the procedural	In the case, an adequate application of the legal framework is shown by requiring the legal requirements to the cause of the divorce invoked,

				stages.	although it should be noted that the separation was marked by reasons of abuse and abandonment of home, the process opted for a civil treatment of the divorce. The court acts diligently in admitting the processing of the sentence.
01656-2021-0-2208-JR-FC-02	Impossibility of living together	3 and a half months.	A period is not accredited.	There are no delays in this case, the procedure was carried out continuously, which means that it was partly due to the fact that the defendant did not answer the claim.	It is noted that the plaintiff tried to substantiate his request for divorce by alleging acts of violence coming from the defendant. For this reason, it was shown that the injured party was not the one who filed the lawsuit for violence, but the defendant, thus contravening one of the essential principles of this ground, which can only invoke the impossibility of living together the aggrieved spouse, not the one who caused the conflictive situation and

					after that they declared the lawsuit unfounded.
01729-2021-0-2208-JR-FC-02	Physical and psychological violence	9 months	Since 2019 she has made the decision to separate, after having denounced him for acts of violence.	There were no delays in the process, the processing was continuous and the delays are compatible with the normal development of the process.	The judge used the procedural principles referring to the burden of proof and the evaluation of the evidence, pointing out that protection measures are preventive in nature, so they cannot be considered as conclusive evidence of the existence of violent acts in the context of divorce proceedings. Likewise, the absence of a criminal conviction against the defendant was taken into account, as well as the lack of other evidence.
02002-2021-0-2208-JR-FC-02	De facto separation	10 months	It has a period of 11 years.	There were no delays in the development of the process, the court complied	In this case, de facto separation is configured as an objective cause and the judgment includes subjective

				with the procedural stages within the ordinary period by law.	elements expressed in the answer to the claim, such as violence and infidelity on the part of the plaintiff. For this reason, the judge dismissed the existence of damage to the defendant on the grounds that her separation allowed her to preserve her emotional stability and that no specific damage was proven.
02127-2021-0-2208-JR-FC-02	Physical and psychological violence	8 months	Their definitive breakup was on June 1, 2021, after an assault.	There was an attributable delay, which was the defendant's failure to absolve the defendant's transfer within the legal period.	The case reveals a common problem in family violence processes: likewise, there is a correct application of procedural guarantees when analyzing the facts denounced based on clinical and documentary evidence. Based on the defendant's default, although it slowed down the process at the beginning, it did not prevent a fair solution for the plaintiff from

					being reached. For this reason, the judge complied with guaranteeing the conflict with legal evidentiary grounds.
01926-2022-0-2208-JR-FC-02	Impossibility of living together.	3 months	In this case there is no specific period.	The process proceeded in an orderly manner within the reasonable timeframes for a civil case.	These processes on the grounds of impossibility of living together are not so simple, since the difficulty is to judicially prove the effective breakdown of the conjugal relationship. In this case, the plaintiff alleged facts such as verbal aggression, but did not provide police reports, which diminishes the force of the allegation. The judge's ruling is consistent with the constitutional protection of marriage and family, which seeks to avoid dissolutions and promotes separations based on grounds.

Board 1. Implications of the judicial process of divorce for cause in the development of the life

Table 1 analyzes 10 judicial cases of divorce for cause in which different grounds invoked are examined, so it is noted that a correct application of the legal framework was used in most of the processes, especially in those that revolve around objective grounds such as de facto separation. These cases are usually resolved without unjustified delay and reflect judicial decisions focused on the factual reality of a marital relationship that has been broken for years, prioritizing the principle of autonomy and dignity of the parties.

However, processes linked to more subjective causes, such as the impossibility of living together or family violence, face greater evidentiary challenges, therefore, it is evident that the lack of prior complaints or criminal sentences can limit the judicial recognition of situations of violence or abuse, even when the separation has already occurred. In this sense, the judicial process appears as a tool that, although legally structured, does not always manage to capture the complexity of marital conflicts and their psychosocial impacts. Likewise, there is a relevant implication in terms of procedural times, although most cases do not present delays attributable to the judicial system or the parties, some reveal obstacles such as the procedural default of a spouse or the absence of conclusive evidence, which end up affecting both the duration of the process and the emotional and economic well-being of the parties.

It is evident how the judicial process of divorce, beyond its legal resolution, directly influences the life project of the parties, affects their emotional stability, their ability to reorganize their family relationships and, in certain cases, their possibility of accessing a life free of violence. For this reason, one of the main challenges of the judicial system is to combine legal rigor with an interpretation that is more sensitive to people's reality. According to López (2008), divorce not only marks the formal dissolution of the marital bond, but also represents a vital reconfiguration that affects each of the parties emotionally, socially, and economically. Therefore, the analysis carried out has shown that, when the judicial process is not handled with the due guarantee approach, it can generate additional obstacles instead of facilitating a just transition to new stages of life.

Currently, there are decisions of the Constitutional Court that recognize that marriage, in addition to being a civil contract, is a profoundly human bond, which can be transformed over time. However, it has also been established that divorce can only be requested by the spouse who has not caused the events that led to the breakup and this is because the law seeks to protect a legitimate purpose; which is to promote the stability of marriage as the legal basis of the family and to ensure that both spouses fulfill their duties. In this sense, only those who have respected these commitments would have the right to initiate the divorce lawsuit (Arango & Estrada, 2020).

Now, speaking of the principle *Iura Novit Curia*, it acquires a fundamental role, where it allows the judge to act with flexibility and knowledge of the law, preventing errors or inaccuracies in the lawsuit from harming the most vulnerable party and this ability to legally redirect the process based on the proven facts is essential to ensure a fair decision. Likewise, in the jurisprudential cases analyzed, they demonstrate that the proper handling of the grounds for divorce is decisive, as, for example, when judges require evidentiary rigor as in the case of de facto separation, but also evaluate with sensitivity and coherence the totality of the evidence, the right to rebuild one's life freely and without undue burdens is protected.

However, there are also challenges, such as the lack of clarity in the application of some grounds,

the disparity in the evidentiary assessment between instances and the possible revictimization of one of the parties, these challenges can slow down the resolution of the process and prevent people from resuming their lives with autonomy, since, in many cases, The duration of the trial and the legal uncertainty generate a negative impact on the work and family stability of the spouses, directly affecting their life plans, their future relationships and their integral well-being.

Conclusions

From the analysis carried out, it is evident that the judicial process for cause has certain implications in the development of the life project of the parties, since it not only implies the dissolution of marriage, but also an emotional, economic and social breakdown that impacts personal and family emotional stability. However, the Peruvian legal system allows for an adequate application of the regulatory framework in objective situations, however, it still faces serious limitations when it comes to subjective grounds; Therefore, these limitations, mainly related to evidentiary difficulties and the absence of approaches sensitive to the reality of the parties, reflect how the judicial process does not always guarantee a fair transition to new stages of life.

On the other hand, there are implications in procedural times, although not in all cases, since in some cases the time and order of the procedural actions are respected. In this case, the process is affected by obstacles such as lack of evidence or procedural default, where the process does not comply with all the procedural actions by law. Therefore, it is reaffirmed that divorce is not only a legal dissolution, but a vital transformation that profoundly impacts the life project of the parties, and that, in addition, the judicial work must be aware that the duration of the process and the lack of adequate protection can revictimize and violate the fundamental rights of those who go through a marital breakdown. affecting their integral well-being and their possibility of building a free life.

Conflict of Interest

The authors declare that there is no conflict of interest.

References

- Abarca, A. (2013). *Qualitative research techniques*. San José: EUNED.
- Aranda, J. (2019). Causal divorce and the right to privacy of the spouse and the family. *Señor de Sipán University*. <https://hdl.handle.net/20.500.12802/8050>
- Arango, P., & Estrada, L. (2020). Conjugal separation: legal and family implications. *Social Work Journal*(28), 73-84. <https://revistas.udea.edu.co/index.php/revistraso/article/view/343992>
- Bossert, G., & Zannoni, E. (2006). *Family Law Manual*. Astrea.
- Cantuarias, F. (1991). Divorce: Sanction or Remedy? *THEMIS Revista de Derecho*(18), 66-72. <https://revistas.pucp.edu.pe/index.php/themis/article/view/10884>
- Carmona, M. (2018). From divorce on grounds to unjustified divorce. *Lex Orbis*, 1(1), 66-78. <https://revistas.ucv.edu.pe/index.php/lexorbis/article/view/1435>
- Cassation No. 2694-2018 (Supreme Court of Justice of the Republic, Permanent Civil Chamber, August 11, 2022).
- Cassation No. 34-2021 (Supreme Court of Justice of the Republic, Permanent Civil Chamber, July 14, 2022).
- Cassation No. 4018-2019 (Supreme Court of Justice of the Republic, Permanent Civil Chamber, November 30, 2023).
- Coronado, L. (2018). Influence of the legal obligation to compensate the injured spouse in the duration

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and processing of the divorce process for "cause of de facto separation", province of La Convention,
Cusco 2009-2012. *Yachay - Revista Científico Cultural*, 6(1), 192-211.
<https://doi.org/10.36881/yachay.v6i01.40>
- Crespo, G. A. (2023). Uncaused divorce. *Ciencia Latina Revista Científica Multidisciplinar*, 7(1), 2297-2319. https://doi.org/10.37811/cl_rcm.v7i1.4592
- Esteves, J. (2020). Uncaused divorce as an ideal alternative for unilateral petition in the dissolution of marriage in the city of Lima during the year 2017-2018. Señor de Sipán University.
<https://hdl.handle.net/20.500.12802/7980>
- Flores, M. E. (2020). Need for regulation of uncaused divorce in the Peruvian Civil Code - Lima, 2020. César Vallejo University.
- Girgis, S., George, R., & Anderson, R. (2020). What is Marriage? What is Marriage? *Ius Humani. Law Journal*, 9(1), 87-137. <https://doi.org/https://doi.org/10.31207/ih.v9i1.226>
- Gómez, E. M. (2015). The legislative models of divorce sanction vs. divorce remedy according to the Peruvian legal system. [Undergraduate thesis, Universidad Señor de Sipán].
<https://hdl.handle.net/20.500.12802/486>
- Hernández, R., & Mendoza, C. (2018). *Research Methodology. The quantitative, qualitative and mixed routes*. Mexico: McGraw-Hill INTERAMERICANA EDITORES.
- Law No. 7894, Divorce by mutual dissent may not be requested except by those of legal age and after three years of marriage. (1934). Congress of the Republic.
- López, K. (2008). Notarial divorce and the division of marital property. Universidad Andina Simón Bolívar. <http://hdl.handle.net/10644/2604>
- Mallqui, M. (2005). *Family Law*. San Marcos.
- Marinoni, L. (2007). Fundamental right to effective judicial protection. *Fore*.
- Melo, J. M., & Rodríguez, E. d. (2023). Divorce without grounds: Mechanism for a dissolution of the marriage bond? *Scientific Code Journal of Research*, 4(E2), 2561-583.
<https://doi.org/10.55813/gaea/ccri/v4/nE2/175>
- Montero, J., Gómez, J., & Barona, S. (2014). *Jurisdictional Law I. General Part*. Tirant lo Blanch.
- Ñaupas, H., Valdivia, M. R., Palacios, J. J., & Romero, H. E. (2018). *Research Methodology. Quantitative - Qualitative and Thesis Writing (Fifth ed.)*. Bogotá: Ediciones de la U.
- Papke, K., & Boyer, K. (2017). Strategic planning characteristics applied to project management. *International Journal of Project Management*, 35(2), 169-179.
<https://doi.org/10.1016/j.ijproman.2016.10.015>
- Piedrahíta, M. (2020). Divorce. *Institutional Journal | UPB*, 21(75), 47-71.
<https://revistas.upb.edu.co/index.php/revista-institucional/article/view/3533>
- Piña, L. S. (2023). The qualitative approach: A complex alternative within the world of research. *Interdisciplinary Peer-Reviewed Journal Koinonia*, 8(15), 1-3.
<https://doi.org/https://doi.org/10.35381/r.k.v8i15.2440>
- Portugal, F. (2018). The principle IURA NOVIT CURIA in the divorce process, analysis from our jurisprudence. *Iuris Omnes*, XX(1), 107-118. <https://csjarequipa.pj.gob.pe/main/revista/xx-no1/>
- Prado, R., & Zegarra, F. (2019). Does the judge know the law? Some controversial aspects in relation to the application of the principle of iura novit curia in civil proceedings. *IUS ET VERITAS*(59), 288-299. <https://doi.org/10.18800/iusetveritas.201902.019>
- Reyes, N. (2019). Decay and dissolution of marriage in Peruvian legislation. *Ius et praxis*, 1(1).
- Soto, E. R., & Escribe Hervis, E. (2019). The case study method and its meaning in educational research. *Editorial Rediech*. <https://doi.org/https://doi.org/10.33010/ed-rediech.1.11>
- Suárez, A. S., Alarcón, Y., & Reyes, L. (2018). Life project: process, end or means in psychological

therapy and psychosocial intervention? *Venezuelan Archives of Pharmacology and Therapeutics*, 37(5), 505-511. <https://www.redalyc.org/articulo.oa?id=55963207012>.
Varsi Rospigliosi, E. (2007). *Divorce and separation of bodies*. Grijley.