

# Family Mediation as a Mechanism for Safeguarding the Right to Psychological Integrity of Children and Adolescents Emotionally Abandoned by Parents or Legal

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## Abstract

The right to psychological integrity of children and adolescents is a direct expression of the personality rights, especially in the context of family relationships. Emotional neglect by parents or legal guardians constitutes a silent violation of these rights, with profound and lasting impacts on the emotional development. Considering the increasing judicialization of family conflicts and limited effectiveness of the traditional justice system in promoting appropriate and effective solutions, this research aims to analyze family mediation as a mechanism for realizing the right to psychological integrity of emotionally abandoned children and adolescents. The research will analyze the psycho-legal implications of non-compliance with the duty of family life, parental responsibility from the perspective of comprehensive protection and the social-affective function of parenthood, and will investigate the role of mediation as a mechanism for resolving family conflicts. The study adopted the deductive method, a comparative procedure, and an interpretative, systematic, and critical legal method, based on national and international bibliographical research. Ultimately, it is hoped to demonstrate that family mediation provides an opportunity to rebuild family bonds and promotes the realization of the right to psychological integrity for children and adolescents emotionally abandoned by their parents or legal guardians.

## Keywords

Emotionally Abandonment, Adolescent, Child, Psychic Integrity, Family Mediation

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## 1. Introduction

The comprehensive protection of children and adolescents is one of the pillars of the Brazilian legal system, expressly provided for in the 1988 Constitution of the Federative Republic of Brazil and the Children and Adolescent Statute (Estatuto da Criança e do Adolescente—ECA). Among the fundamental rights guaranteed, the protection of mental integrity stands out, directly related to family life and affection, considered essential to the full development of children and adolescents. For the purposes of this paper, emotional abandonment will be understood as the omission of parents or legal guardians in providing adequate emotional support, affection, and presence necessary for the healthy psychological development of children and adolescents, even when material needs are met. In turn, psychological integrity refers to the preservation of the individual's emotional stability, self-esteem, and identity formation, ensuring conditions for the free development of personality without harmful interference or neglect. These operational definitions establish the analytical framework that guides the subsequent sections of this study.

However, Brazilian social reality reveals a worrying scenario: countless cases of emotional abandonment by parents and legal guardians, constituting not only a moral failing but also a violation of the legal duty of care and presence. Such neglect, often naturalized, inflicts severe psychological damage on children and adolescents, whose subjectivity is still in its formative stage.

The 1988 Constitution of the Federative Republic of Brazil, by enshrining human dignity as a foundation of the Republic, imposes on families the duty to guarantee not only material subsistence but also the emotional support necessary for the healthy development of their children. In this sense, emotional abandonment directly violates personality rights, especially with regard to identity formation, self-esteem, and a sense of belonging.

The justice system's traditional response to these family conflicts, often emotional and subjective in nature, has been marked by an overly judicialized and formal approach. The historically entrenched culture of litigation reinforces an adversarial logic that contributes little to restoring broken family bonds or effectively protecting the emotional rights of children and adolescents.

For a long time, access to justice was interpreted solely as access to the Judiciary Power, within a model centered on the judge as the sole authority to resolve conflicts. This reductionist view, while still prevalent, has been increasingly challenged in the light of the need for more humane, dialogue-based solutions that are sensitive to the complexity of family relationships.

In this context, family mediation emerges as a transformative instrument, capable of expanding the notion of access to justice by promoting active listening, mutual recognition and co-responsibility among those involved where, unlike the imposing logic, it seeks to restore dialogue and rescue, whenever possible, the affective dimension of parental relationship.

The emotional neglect, when not addressed appropriately, is one of the factors

that can lead to the perpetuation of trauma and compromises the mental health of children and adolescents. More than a conflict resolution technique, mediation should be understood as a tool for care and prevention of psychological harm. At this point, it is also important to recognize that affection, while not imposed by a court decision, can be encouraged and rebuilt through restorative practices that respect the time and emotional limits of each party. Mediation, by placing the individual at the center of the process, promotes ethical listening, serving as a bridge of communication between the parties and the humanization of justice.

This paper analyzes family mediation as a mechanism for realizing the right to psychological integrity of emotionally abandoned children and adolescents. It begins with a critique of the excessive judicialization of emotional conflicts and proposes a reflection on alternatives capable of promoting more empathetic and restorative justice. To this end, the psychological impacts of emotional abandonment, parental responsibility as a legal and moral duty, and the role of mediation as a way to rebuild family relationships and protect children and adolescents will be addressed.

The study seeks to contribute to strengthening a less litigious legal culture, more committed to listening, care and the dignity of individuals as right holders. Only with this paradigm shift will it be possible to guarantee full access to justice in its most appropriate, human-centered, and transformative dimension.

## **2. Causes and Impacts of Non-Compliance with the Duty of Family Life**

The duty to provide family life is an extension of the principle of comprehensive protection provided for in Article 227 of the 1988 Constitution of the Federative Republic of Brazil (Brasil, 1988) and Article 19 of the Children and Adolescent Statute (Law No. 8.069—Brasil, 1990), which establishes family life as a fundamental right in the Brazilian legal system. Its specific right is not limited to the physical presence of parents, since it includes the affective participation and emotional support essential to the healthy development of children and adolescents. When this duty is breached, the consequences extend beyond the family sphere and directly affect the psychological well-being of the children.

Approached by Bauman (2001: p. 9) under the concept of “liquid modernity”, the “fluidity of emotional bonds” weakens the stability of parental relationships. Bonds, once lasting, become ephemeral, unstable, and marked by a lack of commitment, which compromises the continued emotional presence of parents after the end of the marital relationship.

In this context of instability, the breakdown of a marital relationship is often mistakenly attributed to the parental bond. The confusion between the end of a romantic relationship and the end of the bond with children reflects an inability to separate parental and marital roles. This reveals an emotional fragility that directly affects the exercise of responsible parenting, generating estrangement and consequent emotional abandonment.

This lack of a healthy family environment, in turn, compromises the integral development of human beings, directly impacting collective dynamics. [Vieira \(2021: p. 66\)](#) concludes:

[...] without a home—an environment conducive to human development—there is no family, and without family, there is no morality. Consequently, without morality, there is no society, much less a homeland.

Another important factor is the presence of mental disorders or substance abuse by parents. Chemical dependency, for example, tends to significantly compromise the ability to care, be present, and pay attention. The cycle of addiction distances the parents from the family, leading to emotional neglect and, in more severe cases, complete abandonment of their children.

Similarly, undiagnosed or untreated mental disorders directly affect parenting. Conditions such as severe depression, bipolar disorder, or schizophrenia can limit the capacity for emotional interaction, creating barriers to maintaining a stable and safe coexistence. In both cases, the government's lack of psychosocial support for these families also contributes to the persistence of this framework.

As [Hironaka \(2006: p. 29\)](#) observes, the unjustified absence of a father or mother can be understood as a presumed cause of psychological distress, with the potential to compromise the child's growth and development. Such absence is not limited to a lack of affection, but also involves the deprivation of care and protection essential for the individual's full development.

Another relevant aspect is parental alienation, a practice increasingly recognized as a form of psychological violence. When one parent manipulates or distorts the other's image in the eyes of their children, a hostile environment for family life is established. The child, embroiled in conflicts of loyalty, begins to reject one parent, even without concrete reasons, creating an emotional rupture that compromises their emotional development.

In this scenario, it's common for feelings of hurt, frustration, and resentment to transcend the confines of the marital relationship and contaminate other areas of family dynamics. Children, in particular, become the most vulnerable in this process, as they occupy an intermediary position between the ex-spouses, often exposed to conflicts that don't concern them. [Vieira & Cardin \(2017: p. 98\)](#) warns of the need to protect those involved in the parental relationship, who are often used as means of emotional revenge in the face of the breakdown of the romantic relationship.

According to [Engels \(1984: p. 229\)](#), the family is not a natural or fixed institution, but rather a historical construct shaped by economic and social transformations. Affection, as currently conceived, did not occupy a central role in primitive family arrangements, having been progressively subordinated to patrimonial interests with the advent of private property. Engels understands that authentic affective relationships were, to a large extent, restricted by economic logic, and their full realization would only be possible in a society emancipated from class and gender inequalities.

An emotional bond is a fundamental protective element for a child's psychological well-being. A lack of this support can trigger anxiety, depression, insecurity, and relationship difficulties, which negatively impact mental and physical health. Emotional abandonment, although less visible than material abandonment, has profound and lasting consequences.

It is imperative that the State and society recognize family life as a child's right, not just a parental privilege. Recovering the duty of care and affection, through integrated public policies, restorative practices, and encouraging family mediation, is an essential path to preventing psychological harm and promoting a protected, healthy, and human-centered childhood.

### **3. Parental Responsibility from the Legal-Social Perspective of Comprehensive Protection**

Parental responsibility is a legal institution that reflects parents' obligation to support, raise, and educate their children, ensuring their full development. In the Brazilian legal system, this obligation is enshrined Article 229 of the 1988 Constitution of the Federative Republic of Brazil, which establishes that parents have the duty to support, feed, educate, and raise their children (Brasil, 1988). Article 22 of the Child and Adolescent Statute (Law No. 8.069—Brasil, 1990) reinforces that it is the family's duty to ensure that children and adolescents, as a matter of absolute priority, have their right to family life effectively exercised.

From a legal perspective, parental responsibility implies not only the fulfillment of material duties, such as support, but also the active exercise of parenting, which involves affection, protection, and the promotion of the integral development of children and adolescents. This understanding expands the traditional concept, recognizing that family life is an essential element for the formation of the identity and dignity of children.

From a philosophical perspective, family life is fundamental to the construction of a child's identity, which occurs through contact with others and the establishment of lasting emotional bonds. The personality formation is closely linked to how an individual understands themselves and assigns meaning to their own existence. In this context, Martin Heidegger's (2005: p. 29) philosophy provides a significant reflective basis for understanding the consequences of emotional abandonment. The author states that:

The mode of determining being, legitimate within certain limits—such as the definition of traditional logic that has its foundations in ancient ontology—cannot be applied to being. The impossibility of defining being does not dispense with the question of its meaning, on the contrary, precisely for that reason it demands it.

The concept of “man”, from a philosophical perspective, is directly linked to socialization and the formation of subjectivity, which occurs primarily within the family nucleus. It is in this space that individuals learn to understand themselves and the world, developing values, emotions, and social skills. The absence or fail-

ure of parental responsibility undermines this process, compromising the child's personal and social identity. In the family context, this insight underscores that a child's identity and sense of self are not predetermined, as they are actively shaped through emotional bonds and interactions. Emotional abandonment disrupts this process, hindering the child's ability to develop a coherent and meaningful understanding of themselves.

For [Gonçalves \(2008: p. 68\)](#), the protection of personality rights finds its only real limit in the presence of the "other", that is, another subject equally entitled to rights. Without this counterpoint of otherness, legal protection risks expanding disproportionately, encompassing subjective claims that may sometimes be questionable or even aberrant in values. The notion of otherness is essential to balance the protection of personality, preventing it from becoming an instrument for legitimizing excessive or unfounded claims.

[Erikson \(1971: p. 229\)](#) also emphasizes the importance of interpersonal recognition and the development of self-worth in family relationships. The children develop their sense of self through acceptance and interaction with their parents, who act as essential references.

The personality development and the capacity for emotional self-regulation are directly influenced by the family environment. Parental responsibility must be exercised comprehensively, considering the child as a subject with rights and not just an object of material care. Emotional care and active presence are essential for the development of resilience and autonomy.

In the legal-social field, holding parents accountable for failing to fulfill their obligations encompasses both protective measures and the promotion of public policies to support families. State intervention aims to ensure the effective exercise of parenthood, whether through family mediation, psychosocial support, or educational initiatives, seeking to prevent irreparable harm to the child.

In *Leviathan*, [Thomas Hobbes \(2019: p. 6\)](#) justifies the existence of the State based on the need to protect individuals from the insecurity of the "state of nature". With the social contract, individuals transfer to the sovereign the duty to ensure peace and fundamental rights. From this perspective, the emotional abandonment of children and adolescents by their parents or legal guardians represents, in a way, a violation that demands the State's action as a guarantor of human dignity. The public authority has not only the legitimacy but also the legal duty to intervene to protect these developing individuals, guaranteeing them minimum conditions for the full exercise of their personality rights, as defined by Brazilian legal system.

[Vilela \(2016: p. 82\)](#) offers an important reflection on the legislative heteronomy of the state in parental relationships, especially regarding grandparents' visitation rights, based on the principle of the best interest of the child. As Vilela points out, the emotional bond established between grandparents and grandchildren should be recognized as a legitimate expression of the family bond, possessing legal relevance, as it contributes to the emotional and effective development of the child,

integrating protection into their integral development. The application of the legal provisions requires careful and judicious interpretation. In this context, the essential role of legal doctrine stands out, establishing parameters that give value to constitutional principles, especially the principle of the best interest of the child. Likewise, it is essential that judges provide clear and consistent ground for their decisions.

According to [Rodrigues and Alvarenga \(2021\)](#), in addition to the family models expressly provided for by the law, other family arrangements implicitly contemplated by the 1988 Constitution of the Federative Republic of Brazil ([Brasil, 1988](#)) also require state protection based on the principles of human dignity, freedom, equality, pluralism, and affection. In this context, Family Law has been progressively rethought and reformulated, guaranteeing legal relevance precisely to affection, considered an essential element for structuring family relationships. Affection, in turn, manifests itself through acts that represent the emotional relationship, such as cohabitation, continuity, publicity, and the intention to form a family, whether conjugal or parental.

For [Calderón \(2023: p. 35\)](#), the family constitutes a sociological, social, and cultural manifestation that precedes any legal categorization. Because it is a dynamic and constantly changing phenomenon, the law must consider its complexity and plurality when proposing norms to regulate it, under penalty of imposing models that do not reflect the reality experienced by individuals. The affection, once marginalized in family relationships, has acquired increasing relevance to the point where it can no longer be ignored by the legal system. Furthermore, because they involve intimate and subjective aspects, personal relationships require sensitivity and flexibility from the law, ensuring that regulations respect the particularities of each family arrangement.

Parental responsibility transcends the private sphere and becomes a collective duty, as society must ensure the conditions for families to fulfill their role. This involves access to health services, education, social assistance, and programs to prevent violence and emotional abandonment.

The reflection on parental responsibility from the legal and social perspective of comprehensive protection reinforces that the right to family life cannot be dissociated from the duty of emotional and educational care. The protection of the rights of children and adolescents requires an ethical and legal commitment that values the family as a primary space for human development and citizenship formation.

#### **4. Mediation as a Mechanism for Reconstructing Affective Bonds**

Mediation is an alternative dispute resolution method that can take different forms depending on the context in which it is applied. In Brazil, the 125/2010 Resolution of the National Council of Justice ([Conselho Nacional de Justiça—CNJ, 2010](#)), established mediation as a public policy, encouraging its use as an

effective alternative to traditional judicial proceedings. This regulation reinforces the importance of mediation in providing more humanized solutions suited to the peculiarities of conflicts.

Among the various models, family mediation stands out for its specificity in addressing disagreements involving emotional and cohabiting relationships within the domestic sphere. This modality is particularly suitable for situations in which emotional bonds need to be rebuilt, prioritizing cooperation over confrontation.

Traditionally, family conflicts were mostly resolved by the courts, with the State acting as an arbitrator by imposing decisions. In cases involving harm to the mental health of children and adolescents, the judicial response is usually limited to awarding compensation for mental damages, which, while significant, are insufficient to repair damaged emotional bonds or prevent future conflicts.

In this scenario, family mediation emerges as an alternative response, as it allows the parties involved to engage in structured dialogue, assisted by an impartial third party—the mediator. This model facilitates the joint development of solutions, respecting the uniqueness of each case and fostering mutual understanding between parents and children or legal guardians, which is essential for effectively rebuilding emotional bonds.

In practical terms, family mediation usually unfolds in structured stages. It begins with an initial stage of preparation, in which the mediator explains the objectives, principles, and voluntary nature of the process. Next, the opening session allows each party to present their perspective and expectations in a safe and impartial environment. In the exploration stage, the mediator facilitates dialogue to identify the underlying interests, emotions, and needs behind the conflict. This is followed by the negotiation stage, where possible solutions are jointly constructed, seeking agreements that balance rights, responsibilities, and the emotional well-being of children and adolescents. Finally, the process culminates in the formalization of agreements, which may later be homologated by the judiciary to ensure legal effectiveness. These steps, while flexible and adaptable to the peculiarities of each case, provide a roadmap that helps transform confrontation into cooperation and restore affective ties.

It is important to distinguish the objectives of family mediation from those of family therapy. While both address emotional dynamics within the family, family mediation primarily aims to resolve conflicts and facilitate agreements between parties, fostering cooperation and communication. In contrast, family therapy is a clinical intervention that focuses on psychological treatment, aiming to address emotional and behavioral issues through professional therapeutic techniques.

The dialogue promoted by the family mediation is an essential tool for restoring fragile family relationships. Through open communication and acknowledging the need and feelings of both parties, an environment conducive to conflict resolution is created, reducing resentment and fostering empathy.

Family mediation is characterized by several fundamental elements, such as an

informal environment, which encourages free expression by all parties; active participation, in which everyone has a voice; and a focus on cooperation, which prioritizes consensual and sustainable solutions in the long term.

Although family mediation often centers on the parents and the mediator, the child's or adolescent's perspective must be actively included. This can be done through age-appropriate communication or by involving trained representatives to convey their preferences and feelings. Incorporating their voice ensures that the child's best interests remain central, empowering them and reinforcing the restorative and ethical goals of mediation.

The guiding principles of family mediation include the autonomy of the parties, who are free to decide their own agreements; voluntariness, which implies that no one is forced to participate or accept imposed solutions; and mutual respect, which ensures that discussions take place in an atmosphere of civility and consideration.

Family mediation can also be used within the scope of restorative justice, which seeks to repair the damage caused and restore broken or weakened relationships, unlike the adversarial model that seeks only punishment or victory for one party. This approach values shared responsibility and consensual decisions. From a legal perspective, mediation is appropriate and legitimate for resolving family disputes, provided it respects the fundamental rights and guarantees of the parties, especially the comprehensive protection of children and adolescents. It should serve as a complementary instrument, not a substitute for the judicial system, promoting the effectiveness of the right to family life.

Mediation also recognizes the ontological nature of human personality, considering children and adolescents as subjects with full rights and holders of an identity under construction. By fostering dialogue and respect, it contributes to the development of a balanced, healthy personality, capable of establishing positive interpersonal relationships.

Finally, family mediation plays a central role in protecting the psychological well-being of children and adolescents who have been or are affected by emotional abandonment or failure to fulfill the duty of coexistence. By providing safe spaces for rebuilding bonds, it acts preventively to promote the emotional and social well-being of those involved, fostering a more harmonious and functional family life.

However, it is important to recognize that family mediation also has limitations. Its effectiveness depends on the genuine willingness of both parties to cooperate, which may not be present in highly adversarial situations. Moreover, in cases involving severe abuse, coercion, or significant power imbalances, mediation may be inappropriate or even harmful, as it risks reinforcing the vulnerability of the weaker party. In such circumstances, judicial intervention or other protective mechanisms are more suitable to safeguard the rights and psychological integrity of children and adolescents. Recognizing these contraindications does not reduce the value of mediation; it just emphasizes the need for careful assessment of its

applicability on a case-by-case basis.

## 5. Final Considerations

This paper demonstrated that family mediation emerges as an effective and innovative mechanism for rebuilding emotional bonds, especially in contexts where the duty of coexistence is violated. By prioritizing dialogue, sensitive listening, and cooperation between the parties, mediation offers a significant alternative to traditional judicial solutions, which are often marked by adversity and emotional distancing.

Based on the analysis of parental responsibility and the importance of family life, it became clear that protecting the psychological integrity of children and adolescents depends not only on formal compliance with legal obligations, but also on strengthening emotional bonds and recognizing the emotional needs of these developing individuals.

The non-compliance with the duty of coexistence represents a serious violation of personality rights, with profound impacts on the mental, emotional, and physical health of children. Mediation, by providing a safe space for dialogue, can prevent and minimize these harms, promoting the rebuilding of bonds and restoration of family harmony.

Unlike traditional legal proceedings, which are often limited to imposing decisions, family mediation transforms conflict into an opportunity for collective growth, conscious accountability, and the development of solutions that meet the real interests of the parties, especially children.

The mediator's work, guided by neutrality, confidentiality, and voluntariness, creates conditions for families to express themselves freely and build sustainable agreements that respect autonomy and promote the emotional well-being of all involved.

Rebuilding emotional bonds through mediation also contributes to the development of a more balanced and healthy personality in children, promoting their integral development and protecting their right to family life.

For mediation to reach its full potential, it is essential that there is investment in mediator training, adequate structure and the State's commitment to promoting and expanding these services.

The integration of mediation into restorative practices broadens their scope by placing human dignity and the reestablishment of emotional bonds at the center of the process, recognizing the importance of fully repairing the emotional damage suffered.

Although challenging, the widespread implementation of family mediation represents a significant advance in the protection of personality rights, offering a more accessible, efficient justice system that is truly committed to the healthy development of children and adolescents.

Family mediation proves to be an indispensable mechanism for promoting social peace within the domestic sphere, restoring the value of emotional bonds and

building a solid foundation for the full exercise of family life and strengthening the psychological integrity of future generations. Looking ahead, policymakers and practitioners should consider expanding access to family mediation programs, investing in mediator training, and integrating these practices with public policies aimed at preventing emotional abandonment. Further research could explore longitudinal outcomes of mediated interventions on children's psychological development, offering valuable insights into the long-term efficacy of restorative approaches in family contexts.

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### Conflicts of Interest

The authors declare no conflicts of interest regarding the publication of this paper.

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