

Dialogue between Law and Psychology Analysis of a Case of Interdiction

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Abstract

The objective of this study is to integrate procedural strategies with forensic psychological procedures to reach the declaration of interdiction, with which a journey is made through the legal framework established in the constitution of the Republic of Ecuador and the procedures of forensic psychology, applied in the evaluations made to the subjects that due to different physical and mental pathologies cannot actively exercise their civil rights as citizens; the methodology used is; explanatory, inductive deductive through the presentation of a forensic clinical case. As a conclusion, it is determined that the expertise of the expert psychologist is of utmost importance as an auxiliary to justice to determine an interdiction process. The reader will have the necessary tools put into consideration in this study to arrive at the gathering of key information in the understanding of psychological expertise in the context of an interdiction.

Keywords: *Interdiction; Law; Forensic Psychology; Expert; Interdict*

Justification

It can be spoken within the Latin American or Ibero-American context

Talking about Interdiction, within the Ecuadorian Legal Framework and specifically the Civil Code, implies, as in the Legal Framework of other countries, discussing and marking a core difference between the ability to enjoy rights and the ability to exercise them or "aptitude of a person to exercise rights or contract obligations by himself, without the intervention of another owner, without the ministry or authorization of another person; Some authors define the exercise of rights as: the legal aptitude of a person to introduce modifications in his patrimony by himself" (Bonnecase, 1989). This means that there is a group of subjects who enjoy rights, since these are intrinsic to human nature, but they cannot exercise them by themselves.

In this sense, the exercise of rights as a concept presents complexities, both in the breadth and significance of its meaning, as well as in the impact generated on the person declared interdicted, in all spheres of his life; This despite the fact that, in most cases, this condition is the only possibility that the same subject and his family have to safeguard his assets and sometimes ensure a dignified life for the injunction.

The decision of which subjects are capable of exercising their rights and their consequent obligations and who cannot, ultimately rests with a judge or a group of judges, however; this cannot be taken only based on legal criteria, but in congruence with medical-psychological and/or medical-psychiatric criteria. Hence, judicial authorities need to rely on professionals from these branches; both to establish the parameters that a person must meet in order to be declared an injunction and to make the appropriate decision, already at the time of

the trial. On the other hand, Health professionals who collaborate with judicial entities must prove their expertise and knowledge in the matter of their profession, as well as know the doctrine of Law, related to their performance as experts in their area.

It is inferred, then, that Interdiction as a legal process is closely linked to health criteria and implies a dialogue between social and medical discourses and that in this case, Psychology does not seek to cure but to serve the judicial apparatus, in order to safeguard the rights of individuals and safeguard the assets of those who cannot manage it by themselves; understanding that taking advantage of the condition of these subjects, through coercion, suggestion, blackmail, manipulation or any other mechanism is a form of violence.

In fact, the Constitution of the Republic of Ecuador in Article 66, determines that the State “recognizes and will guarantee people: The right to personal integrity, which includes: a) Physical, mental, moral and sexual integrity. b) A life free of violence in the public and private spheres.

In the case of FAMJ, being a subject with a severe intellectual and physical disability, according to the diagnosis of the CIE 10 (1995), the Interdiction is a mechanism for the protection of their assets and their rights, taking into account that, their mother is an elderly person, her father died a few months ago and the limitations presented by FAMJ, due to his degree of disability, do not allow him to exercise his rights to any degree, except through another person.

Interdiction in Ecuador is a legal mechanism that has gained strength in recent years. Since 2013, Technical Evaluation and Treatment Teams have been implemented in Family Judicial Units, which facilitates the assessment of individuals and therefore Interdiction as a legal process. At present, psychological evaluations in Interdiction cases can be carried out both by a private psychologist expert and by one of the psychologists who are part of these teams, which are free. This helps a lot to the families of the experts, especially financially, since many would not be able to pay the fees of the group of experts (at least two, a psychologist and a neurologist/psychiatrist) who must carry out the evaluations.

Some of the criteria for taking the FAMJ case, within this end-of-course investigation, has to do with its particularities within the Ecuadorian context, since it is rare for people of the FAMJ characteristics to be declared injunctions. Often these subjects die young, before their parents (main caregivers), this as a consequence of the fragility of their health inherent to their condition of disability and in many cases due to the conditions of neglect or little care offered by their families, especially when they are low-income people. This is not the case of FAMJ, whose mother founded the Cerebral Palsy Institute in Quito several years ago, an institution that until now provides medical care and other specialties to people with this pathology and especially to children and their families.

In this context, the need arises to delve into what is the role of the expert psychologist within the legal process of Interdiction? What is the legal and conceptual framework that supports the expert’s work in this legal area? Also, if it is possible to extrapolate this legal mechanism in other cases, related to other pathologies, such as addiction, in which cognitive impairment has other characteristics and under what conditions is it possible to do so?

Based on these questions, the general objective of this research is: To delve into the role of the expert psychologist within the legal process of Interdiction in the Ecuadorian context.

The specific objectives are: Reflect on the legal and conceptual framework that supports the work of the expert psychologist in this judicial process in the Ecuadorian context.

Analyze the possibility of extrapolating the Interdiction in other cases, related to other pathologies, such as addiction, in which the cognitive impairment has other characteristics.

Presentation

This case study is particularly interesting since the expertise as an auxiliary and essential process (preparation of the report and the theoretical conceptualization that integrates the Legal and the Psychological) within the Interdiction trials requires a solid training on the part of the professional Psychologist, both within his specialty and in the Legal area.

In the case of FAMJ, Incapacitation is the only mechanism to guarantee the fulfillment and protection of their rights given their chronological age and their physical and intellectual limitations, as well as the repercussions of incapacitation at the legal level. In the context, it should be explained that this remedy allows, paradoxically, to protect the subject, even if the mechanism implies leaving him legally without the capacity to act, that is, without him being able to exercise his rights by himself, or carry out legal acts.

Through this trial it is intended that the dynamic position of FAMJ is denied within society and the legal system. This is due to the fact that the expert probably meets the essential requirements for incapacitation: at a pathological level, the depth of his mental and physical disorder; chronologically, his pathology, which although not progressive, is chronic and was diagnosed during the first months of life. Additionally, despite the fact that the third criterion is of purely legal competence, due to the seriousness and depth of the expert's problem, it is evident, at a medical level, that he cannot look after his own interests; since his immaturity on an intellectual level and his complications on a physical level are so severe that he cannot even carry out self-care activities without permanent help.

In Ecuador, since the publication of Agreement 767, in the Official Registry dated June 8, 2012, through Executive Decree, the regulatory functions of the Recovery Centers for people with problems of problematic drug use are granted to the Ministry Public Health, a function that was previously in charge of the National Council for the Control of Narcotic and Psychotropic Substances (CONSEP), now the Technical Secretariat for Drugs SETED [1].

This document specifies the parameters of space organization, technical human group to work in the Centers, admission, treatment and discharge conditions of the patients. According to the latest modifications made to it, the only mechanism of internment and access of a drug addict, against her will, in a Treatment Center is through an Interdiction Trial. This implies the demonstration that this pathology "addiction" has profoundly affected the individual and his ability to act; Or else that as a result of the chronic condition, typical of this disorder, the growing and desperate need to consume drugs in greater quantity and frequency, the individual has put his own assets or that of his family at risk. In this second case, the person is declared Interdicted for "Prodigal".

The Constitution of Ecuador is a guarantee, hence, the families of those who suffer from the disease of addiction, find themselves in a dead end. This as a consequence of the fact that as the addiction becomes more severe and chronic, the denial, rejection of the existence of an internal or external unpleasant situation [2] and understood in addictions as a defense mechanism, manifested in reluctance to face the problem in its real dimension and depth, it becomes more rigid and sometimes impossible to address at an outpatient level. At the same time, the life of the addict and that of his family runs more and more risk, due to the dangerousness of the situations and behaviors in which the subject who is a slave to psychoactive substances incurs.

At the Treatment Centers, attrition is very high, when patients have entered voluntarily, the craving [3] or this irrepressible desire to consume drugs, plus the intensity of the physiological, cognitive and emotional symptoms of withdrawal [3], such as this initial period of decontamination of the body to habitual drug use, make the completion of treatment very difficult. In this context, interdiction, in many cases, ends up being the only way out for a chronic addict to carry out a treatment that allows him to quit drugs in the medium and/or long term.

Due to this, it is important to promote, in Ecuador, Interdiction as a legal mechanism that obliges problem drug users, who do not respond to outpatient processes, to carry out an inpatient treatment. This in function of the degree of affectation of the will, the emotions

and the cognition that these subjects present; product of intoxication, physiological habituation and physical and psychological dependence developed over time, as a consequence of habitual and chronic drug use. The aforementioned conditions do not allow the person to realize (disease awareness) of the imperative need to carry out a treatment, and even less, to quit.

Due to the devastating nature of addiction, the life of the sufferer ends up in chaos. Institutionalization, for a certain period of time (at least six months) allows the individual to carry out a basic process, in which, through compliance with norms and rules, sobriety and the performance of various therapeutic activities, conduct is organized, and sanity or sanity is recovered gradually (alcoholics anonymous).

This is very tedious for people who have to deal with withdrawal symptoms, leading to early abandonment of treatment. In this sense, if the patient is declared an injunction, the family can make the decision to continue in the treatment process even in the face of the subject's refusal.

According to the World Drug Report (2015) developed in Vienna, the prevalence of drug use remains stable throughout the world; It is estimated that a total of 246 million people, just over 5 percent of those aged 15 to 64 years worldwide, used an illicit drug in 2013. It is estimated that 27 million people are problem drug users, and almost half inject them. An estimated 1.65 million people who inject drugs were living with HIV in 2013. Men are three times more likely than women to use cannabis, cocaine and amphetamines, while women are more likely to abuse opioids prescription and tranquilizers (WHO, 2015).

In Ecuador, opioids are smoked in most cases, their consumption is increasing, especially in the coastal provinces and the age of onset is increasingly early, with the consequent repercussions on a personal, family and social level that this implies. In most cases, the refusal of those who consume this and other drugs to undergo treatment for cessation is outright (the only possibility being because the outpatient treatment failed) and the families are powerless in the face of a problem, which is devastating.

Yury Fedotov in 2015 pointed out that although drug use is stable worldwide, only one in six problem drug users has access to treatment. "Women in particular appear to face barriers to treatment, while one in three drug users globally is female, only one in five drug users in treatment is female". Additionally, he also stated that more work was needed to promote the importance of understanding and addressing drug dependence as a chronic disease that, like other chronic diseases such as diabetes or hypertension, requires long-term treatment and long-term care. "There is no quick and easy remedy for drug dependence and we have to invest in the long term in solutions based on medical evidence" [4].

According to the fourth national study on drug use in the population aged 12 to 65, carried out by the National Council for the Control of Narcotic and Psychotropic Substances (CONSEP), approximately 9 out of ten interviewees stated that they agree that alcohol is harmful and drug use creates health problems. Similarly, eight out of ten interviewees indicated that they agree with the statements that there is a relationship between drug use and crime and that drug use transforms people into criminals.

The same study, regarding the assumption that if their children would use drugs, eight out of ten interviewees believed that they would seek professional help or go to a drug recovery center, as shown in table. The Interdiction process would facilitate the admission and permanence in cases of non-voluntariness.

Although the FAMJ case is not one of Interdiction regarding a chronic problem of drug use, a rare procedure in these cases in Ecuador, the structure is similar and allows me to delve into the psychological and legal concepts that support this procedure. legal and clarify the role of the psychologist, as an expert in these cases, in addition to the arguments on which the expert report should focus.

Clinical case

Process description

Identification data

Name: FAMJ

Date of birth: Latacunga, May 14, 1967

Age: 49 years

Instruction: Special education (Institute of Cerebral Palsy)

Occupation: None

Home address: Pedro Cando N59-117 y Tufiño sector La Kennedy, Rumiñahui neighborhood

Phone: 2808-546/0993990393.

Objective of the Study

Determine the nature and percentage of Mr. FAMJ's disability, in the context of an interdiction trial, in accordance with the provisions of the Ecuadorian Civil Code; Regarding this legal procedure and its implications at the legal level for the expert.

Methodology

The technical tools used to carry out this evaluation were:

- **Semi-structured expert psychological interview, (applied to the caregiver):** "The fundamental evaluation technique in forensic psychology is the semi-structured expert interview, which allows to approach in a systematic but flexible way, the psychobiographical exploration, the examination of the current mental state and the relevant aspects in relation to the objective of the expert opinion" [5].
- **Criteria for the international classification of impairments, disabilities and handicaps:** It systematically classifies any functional state associated with health states, provides a unified and standardized language that serves as a reference point to describe human functioning and disability as important elements of health [6].
- **General scale of graduation of difficulties for the accomplishment of the tasks/actions of the activities of the daily living:** Scale proposed by the World Health Organization to grade deficiencies, disabilities and Handicaps [7].
- **Scale of limitations on activity (BLA):** Values limitations in activities and restrictions on participation [7].
- **NIH scale:** Scale that allows evaluating patients with acute cerebrovascular accidents) American Academy of Neurology Practice Committee: stroke disease management tools. National Institutes of Health Stroke Scale.
- **Gross motor scale:** It was designed to measure quantitative aspects of gross motor function and its transformations, after an intervention process, especially in children with cerebral palsy (CP).
- **Documents examined:** A disability certificate, granted by the National Council of Disabilities (CONADIS), in which it is specified that the expert has a visual disability of 95% (in the possession of his main caregiver, his mother, who states that other documents are they have misplaced him).

Descriptive analysis and psychopathological exploration

Sociodemographic data

FAMJ is a 49-year-old Ecuadorian single patient who lives with his mother and single sister in the city of Quito, in a house owned by his mother, which has all the basic services and easy access to transportation. The expert is affiliated with Social Security, so his health care is covered in its entirety and with regard to medicines almost in its entirety (depending on the availability of the medication in the IESS pharmacy).

His family is of medium-high socio-economic status, the person in charge of the daily care and assistance of the expert is his mother and his sister María de el frequently collaborates, after the return from her daily work shift.

Current situation

FAMJ has 95% vision loss, understands some very basic rules of behavior and social relationships. He mobilizes with some ease at home, his socialization is limited to his nuclear family and eventually to its extended family. His health does not present complications, beyond the gradual loss of his visual and hearing abilities, which he has presented over time and which has worsened in recent years. As a consequence of this deterioration, their mobility, too, has been affected; FAMJ, today, is more passive than it was in the past and tires quickly. According to the medical controls (his mother refers) his health is currently quite good and the loss at the visual and hearing level, a frequent condition in cases such as those of the expert.

Psychobiography

FAMJ was born after fetal distress for almost 48 hours (a condition referred to by her mother) and the consequent lack of oxygen, due to delayed medical attention, after the rupture of the amniotic fluid. The mother's pregnancy passed without major novelties, and the delivery (given the aforementioned conditions) occurred at term, at home and presented serious complications for both the mother and the newborn. At three months, due, among other symptoms, to the fact that FAMJ presented difficulties in sucking and a very weak cry, he was taken to the doctor and diagnosed with Cerebral Palsy (CP) and Hydrocephalus. This last diagnosis ruled out in time and reason, for which FAMJ only had a valve placed once and it has not been subsequently changed or removed.

Of his evolutionary process, in the psychomotor area, it is known that he has presented difficulties inherent to his condition and small advances, throughout his life, he spoke with difficulty from the age of two, developing language in a very restricted and stereotyped way, not he crawled, walked at 15 years old and until then he moved sitting up, he controlled sphincters from the age of two. In recent years, he has gradually lost his sight and currently hardly sees, which is why he has lost mobility and some acquired skills. He has received various therapies throughout his life and regularly until 2007: neurological, psychological, language, physical, pedagogical, occupational, among others, as well as permanent specialty medical control. At present, this control is carried out twice a year. In childhood the control was more frequent. For the past ten years, his mother has been in charge of doing therapy on a physical level and so on.

Regarding her current functionality, Patricia, her 70-year-old mother, refers that FAMJ needs permanent assistance in almost all her daily activities, to bathe, clean herself, move around, especially in spaces where she is unfamiliar. Few health complications are reported throughout the life of FAMJ other than those related to his condition.

Since the death of his father three months ago, he cries a lot, he is not very expressive, the emotional bond between FAMJ and his father was very close.

From her family history, it is known that FAMJ is the first of three children: María Belén, 48, is the second, lives in her mother's house and shares with her, assisting her brother, FAMJ of hers. Álvaro, 46, is the third and lives in the United States. The relationship between

María Belén and FAMJ is very close, according to references from Patricia, her sister, María Belén is very overprotective, constantly trying to avoid accidents for her brother. The relationship between FAMJ and Álvaro is more distant. Patricia, her mother, says that when she learned the diagnosis of FAMJ, she suffered a lot and that later the therapies and assistance to her son took up practically all of her time. Likewise, for his father Guido, FAMJ's disease was a difficult situation to manage.

Three months ago, Guido died, and this situation hit the family and especially FAMJ, who is very sad, since his death. Patricia refers that FAMJ cries a lot remembering it, since the relationship between them was very close and became even closer in the last fifteen years, after Guido's retirement.

Test scores

General scale of graduation of difficulties for the accomplishment of the tasks/actions of the activities of the daily living

The criteria of the general graduation scale of difficulties for carrying out the tasks/actions of the activities of daily living, is described below:

- **There is no limitation: 0 to 4%:** There are no difficulties in carrying out the tasks, including the more complex ones of the evaluated activity, or this difficulty is insignificant and does not generally require more time to carry out the activity. It may require ordinary market products or small adaptations of the environment that completely or almost completely eliminate the limitation.
- **Mild limitation: 5 to 24%:** Performs most of the activity tasks with mild difficulties. It presents serious difficulties for the accomplishment of the most complex tasks. It requires the use of commercial assistive devices or small adaptations, which do not completely eliminate the difficulty. It requires 25% more time to perform the tasks of the activity. Has serious difficulties or requires the support of another person at least once a month in some of the daily tasks.
- **Moderate limitation: 25 to 49%:** Performs most of the activity tasks with moderate difficulties. It presents serious difficulties for the accomplishment of the tasks of moderate complexity. It requires the use of specific assistive devices or some adaptation in the environment that does not completely eliminate the difficulty. It requires more than 50% of time to carry out the activity. Has serious difficulties or requires the support of another person at least once a week in some of the daily tasks.
- **Severe limitation: 50 to 95%:** Performs most of the activity tasks with great difficulty, including those of moderate difficulty. It requires Specific Assistive Device Products and important environmental adaptations in most of the tasks and actions of the Activity, and the completion time is increased by more than 50%. It requires more than 100% of time to carry out the activity. Has complete difficulty or requires the support of another person at least once a day in some of the daily tasks.
- **Complete limitation: 96 to 100%:** Complete or almost complete inability to carry out most of the tasks and actions of the activity, even the simplest ones. Requires help from another person for most tasks in daily activities.
- **Unspecified:** There is significant difficulty in performing the activity but there is not enough information to rate the difficulty.
- **No applicable:** It is inappropriate to apply the task or action of the activity to the person's situation.

According to this scale, the FAMJ limitation responds to 96% Disability (Complete limitation).

Scale of limitations on activity (BLA)

The scale criteria (BLA) are described below.

Self-care activities	Percentage
Wash up	15%
Body care	7%
Personal hygiene within the excretion processes	20%
Dress	20%
Comer	19%
Drink	7%
Caring for your health	12%

In this section the evaluated scores 90% of Limitations for intellectual and motor activity.

Mobility Activities	Percentage
Change basic body postures	25%
Maintain body position	10%
Walk	10%
Moving inside the house and buildings	15%
Moving outside the home	30%

In this section FAMJ scores 90% of Limitations for intellectual and motor activity.

On-site evaluation (application of Gross motor and NIH criteria)

FAMJ was diagnosed in the first months of life Cerebral Palsy ((CP), ICD 10 (1992) G80), today it still maintains the same diagnosis. In CONADIS, he was diagnosed with visual impairment of 95%. In the physical examination and according to the reagents applied for this evaluation, the evaluated person is aware and alert, the mediate and immediate memory are preserved in relation to his condition. He is partially located in time, space and person, presents bilateral lid topis with visual impairment of 95%, preserved hearing. Moderate dysarthric and scand verbal language responding in agreement to simple topics in a comprehensive manner. Swallowing of preserved solids and liquids with a tendency to eat porridge. Control of bladder and anal sphincters. FAMJ is actively assisted in the activities of daily life by his mother (primary caregiver) and sister (secondary caregiver), including: bathing, brushing, dressing and undressing, among others.

FAMJ handles the basic concepts of body schema and directionality (up, down, with great confusion between right and left); preserved superficial and deep sensitivity, generalized muscular hypotrophy; stiffness and incoordination to perform fine motor movements with a tendency to maintain bilateral claw hands. He is currently assisted walking and as a result of his aforementioned visual impairment, which is progressing gradually. In addition, it is moderately difficult for him to perform motor activities that involve great effort such as going up and down stairs, kneeling and getting up again, standing from a chair, among others. He obeys and executes simple commands such as raising his arms, closing his eyes, touching your head, among others. Patient is collaborative and participatory during the evaluation, in the evaluation an intellectual and physical disability of -97 is obtained %.

Functional analysis, psychopathological model and forensic clinical formulation

The analysis and evaluation model for the case presented in this research work is basically medical, complemented with the Attribute and Behavioral Model, due to the demands of the expert opinion against the judicial requirements. Given that the process that is followed is an Interdiction, due to the pathology suffered by the expert, profound mental retardation, (RMP) ICD 10 F73.9, consequent to cerebral

palsy (CP) ICD 10 G80; and physical and intellectual disability as a result of this complex picture, the techniques of these models are the ones that best meet the requirements of this judgment. The evaluation seeks to show the relationship between these pathologies, the expert's disability and the limitations that this generates, at the legal level, (jurisdiction of the Judge). As the health condition is delicate and the pathology is severe, the repercussions are also delicate and completely incapacitate him to exercise his rights at the legal level and autonomously. In order to reach the conclusions, in situ and correlational observation techniques were applied, the instruments used are specified in the Methodology part.

Diagnostic impression

Cerebral Palsy (CP, ICD 10 G80), from birth.

F73.9 Profound mental retardation 318.2

Forensic discussion

Both the information that the mother provides throughout the evaluation, and the findings of the evaluation refer to a picture of profound mental retardation, secondary to cerebral palsy (CP), detected a few months after the expert's birth. Illness, which according to the mother's report, was a consequence of the anoxia suffered by the child, due to fetal suffering inside her womb, for almost twenty-four hours after the spring water broke and she was able to access to medical attention.

The ICD 10 (1992), in relation to Cerebral Palsy (G.80) refers that it is a permanent and non-progressive disorder that affects the psychomotricity of the patient; It is characterized by a group of psychomotor development disorders, which cause a limitation of the person's activity, attributed to problems in the brain development of the fetus or child. "The psychomotor disorders of cerebral palsy (CP) are often accompanied by sensory, cognitive, communication and perception problems, and sometimes by behavioral disorders" [8].

The disorders present in patients with (CP) are due to a brain injury (brain) that interferes with the normal development of the child. It occurs in the first year of life, or even in the gestation period and can occur up to five years, ICD 10 [8]. In the case of FAMJ, the influence of this disorder throughout its life and in the motor and cognitive areas is evident. Difficulties in ambulation (currently very limited), language, movement in general and intellectual limitations that he presents, which do not allow him to fend for himself, have forced him to depend on another person (permanent caregiver) to subsistence, in this case, his mother.

The dominant damage produced by (PC) in motor functions affects the tone, posture and movement of the person who suffers it. The injury is not evolutionary but its consequences can vary from one child to another. Motor-type disorders affect, in most cases, the oropharyngeal organs and hinder the development of eating and speaking. (Actually, the affection is in the muscular tone of the muscles that make speech and feeding possible, that is why drooling is frequent and the need for a lot of concentration on the part of the child to avoid it) [8].

In the case of FAMJ, in addition to the affectations described above, he presents a F73.9 Profound mental retardation 318.2. His mother reports a gradual loss of some previous achievements, achieved until adolescence, such as walking, although only through familiar places. Currently, FAMJ's ambulation is very restricted and she walks a few steps with help. With regard to language, its development was also limited and the vocabulary acquired very basic and rudimentary, however in recent years this has also been lost. Nowadays it is reduced to sounds and a few words.

According to the ICD 10 [8], the incidence of this condition in developed countries is approximately 2 - 2.5 per thousand births. This incidence has not decreased in the last 60 years, rather it has increased due to the possibility of keeping premature and underweight babies alive, much better than 60 years ago. Hence, the incidence of these cases increases 10 times (from 0.1% to 1%); Through a consensus, a causal relationship has been defined between Acute Intrapartum Events and cerebral palsy (CP).

Cerebral palsy (CP) is a term that groups together a group of different conditions. There may be two people with cerebral palsy (CP) with the same characteristics or the same diagnosis, but the manifestations of the disease will be diverse and different from one to the other, as I mentioned previously. Cerebral palsy (CP) is divided into four types, which describe the mobility problems they present. This division reflects the area of the brain that is damaged. The four classifications are: spastic, athetoid, ataxic, mixed.

The causes that produce cerebral palsy (CP) will depend and vary from one case to another, therefore it cannot and should not be attributed to a single factor, although all develop as a common determinant, the deficient maturation of the central nervous system. Cerebral palsy (CP) can occur both in the prenatal, perinatal or postnatal periods, having the limit of manifestation after the first five years of life:

1. In the prenatal period, the injury is caused during pregnancy and the unfavorable conditions of the mother during pregnancy can influence. These usually cause 35% of cases. Prenatal factors that have been linked to (CP) are maternal infections, especially rubella, radiation, anoxia (oxygen deficiency), toxemia, and maternal diabetes.
2. In the perinatal period, the lesions usually occur at the time of delivery, as by the references of her mother, it happened with FAMJ; 55% of the cases of (CP) usually present in this stage and the most frequent causes are: anoxia, asphyxia, forceps trauma, prematurity, multiple births and in general, any birth that causes suffering to the child.
3. In the postnatal period, the injury is due to diseases caused after birth. It corresponds to 10% of cases and can be due to head trauma, infections, malnutrition or malnutrition, vascular accidents, anesthetic accidents, dehydration, among others.

Regarding Mental Retardation (MR), this is usually associated with cerebral palsy (CP). Children with cerebral palsy (CP) usually have normal structures but neurological abnormalities are common. It is difficult to establish with certainty the direct role of perinatal events in the development of a newborn, although it is classic to attribute to them the etiology of cerebral palsy (CP) and there is mental retardation (MR), especially of a severe and profound degree. More than 50% of cases of cerebral palsy (CP) are due to congenital anomalies of the CNS. And as Penrose [9] points out, birth injury represents a maximum of 1% of the etiology of all subjects with MRI. In this same sense are the investigations carried out by Monleón J [10] in Valencia and Gómez Ferrer and others [11].

From the Deep Mental Delay F73.9, the DSM IV [12], states that the intellectual coefficient (IQ) of these individuals is less than 20, representing between 1% and 2% of the retarded. The etiology is always organic, producing serious somatic, sensory and neurological alterations, with significant motor impairment. Subjects with Profound Retardation (RMP) normally do not learn anything and cannot handle themselves in life, that is why FAMJ cannot exercise their rights and needs a mechanism that legally allows a guardian to watch over him and his well-being; and can make legal decisions for you. To appoint a guardian the first step is the incapacitation of the subject.

Within the deep mental retardation (RMP), F73.9 the DSM IV (1995 (the one presented by the expert) there is a group of them that only present primitive automatisms and reflexes responding to the sensorimotor phase of purely vegetative life. Somatic problems and diseases and their physical development is usually very poor.

The trainable, as is the case of the expert, can acquire some elementary motor and visuospatial functions, getting to walk or slide in a primitive way with clumsiness and difficulty in controlled and confined spaces. They acquire basic and rudimentary eating habits. They do not develop language or, if they do, as in the case of FAMJ, hardly any simple words, sounds and gestures are counted; they understand very few, very simple commands. Their memory is elementary of very familiar people and places such as the home environments and the closest relatives.

According to DSM IV [12], mental retardation (MR) is a disorder defined by the presence of incomplete or arrested mental development, characterized mainly by the deterioration of the specific functions of each stage of development and that contribute to the global

level of the intelligence, such as cognitive, language, motor and socialization functions. Mental retardation (MR) can be accompanied by any other somatic or mental disorder. In fact, those affected by mental retardation (MR) can suffer from the entire spectrum of mental disorders and their prevalence is at least three to four times higher in this population than in the general population. In addition to this, individuals with mental retardation (MR) are at increased risk of physical and sexual exploitation or abuse. Adaptation to the environment is always affected, but in a protected social environment, with adequate support, it may not be significant in patients with mild mental retardation.

Regarding profound mental retardation (RMP) (F.73), the DSM IV [12] states that the IQ in this category is less than 20, which means, in practice, that those affected are totally incapable of understanding instructions or requirements or to act in accordance with them. Most of these subjects have very restricted or totally non-existent mobility, do not control sphincters and are capable, in the best of cases, only very rudimentary forms of non-verbal communication. They have a very limited capacity to take care of their basic needs and require constant help and supervision.

Guidelines for diagnosis

The intelligence quotient (IQ) is less than 20. Understanding and expressing language is limited, in the best of cases, to understanding basic commands and making simple requests. They can acquire the most basic and simple visuospatial functions such as comparing and ordering, and be capable, with adequate supervision and guidance, of a small participation in domestic and practical tasks. In most cases, an organic etiology can be revealed. Most often they are accompanied by severe somatic or neurological deficits that affect mobility, epilepsy, or visual or hearing deficits. It is also very frequent the presence of generalized developmental disorders in its most serious forms, especially atypical autism, especially in those cases who are able to walk. Includes: Idiocy, Deep mental subnormality, Deep oligophrenia.

In the case of FAMJ, his mental retardation is profound and his limitations are very severe in all aspects, this despite the fact that throughout his life he has received medical attention and constant stimulation, due to the economic possibilities of his family and special dedication on the part of his mother aimed at the optimal development of the expert. In the same way, the activities of daily life are carried out most by other people, with the help of other people and in some cases with the supervision of their mother.

According to the findings obtained through the general scale of Graduation of Difficulties for carrying out the tasks/actions of Activities of Daily Living, FAMJ has a Grade 5 disability: very serious disability. Symptoms, signs or sequelae make it impossible to carry out A. V. D. This class, by itself, implies dependence on other people to carry out the most essential activities of daily life; his disability is 96% at a physical and intellectual level, which implies complete disability and the need for permanent active assistance (currently he is assisted by his mother).

According to the findings obtained in the Baremo (BLA), the evaluated scores 90% limitation in the activity, which corroborates the results of the previous scale, that is, the evaluated presents an almost complete limitation for the development of the activities basic aspects of daily life, both on a motor level and on an intellectual level.

According to the instruments applied in the in situ evaluation (Gross motor and NIH) Francisco who has been evaluated from an early age with cerebral palsy (CP), in the physical examination he is aware and alert, the mediate and immediate memory are preserved in relation to their condition. He is partially located in time, space and person, presents bilateral lid topis with visual impairment of 95%, preserved hearing. Moderate dysarthric and scand verbal language responding in agreement to simple topics in a comprehensive manner. Control of bladder and anal sphincters.

According to the findings obtained through the instruments applied in FAMJ, and taking into account the assessment guidelines proposed by the International Manual for the Classification of Impairments, Disabilities and Handicaps (WHO, 1980) for the diagnosis of a

deficiency, some basic guidelines proposed in it "The assessment guidelines are not based on the extent of the impairment but on its effect on the ability to carry out activities of daily living FAMJ has an intellectual and motor disability of between 90% - 95%.

Conclusions

- According to the general scale of Graduation of Difficulties to carry out the tasks/actions of the Activities of Daily Living, FAMJ presents a disability of 96% at a physical and intellectual level (Grade 5), very serious, whose symptoms, signs or sequelae make it impossible to carry out activities of daily living and implies dependence on other people to carry out the most essential activities of daily life.
- According to the BLA, the evaluated person presents an almost complete limitation for the development of the basic activities of daily life, both at the motor level and at the intellectual level.
- In the physical examination, FAMJ is conscious and alert, the mediate and immediate memory are preserved in relation to his condition. It is partially located in time, space and person, presents bilateral lid topis with visual impairment of 95%, preserved hearing. Moderate dysarthric and scand verbal language responding in agreement to simple topics in a comprehensive manner.
- According to the assessment guidelines proposed by the International Manual for the Classification of Impairments, Disabilities and Handicaps (WHO, 1980) for the diagnosis of a deficiency, FAMJ presents an intellectual and motor disability of between 90% - 95%.
- The expert presents a picture of profound mental retardation, secondary to cerebral palsy (CP), detected a few months after birth. Disease, which according to the mother's report, was a consequence of the anoxia suffered by the child, due to fetal suffering inside her womb.

Conclusions of the work done

1. Beyond the fact that the expert psychologist acts as an auxiliary entity of the judicial system, his role is very important, since the Legal decision that falls on the Judge is taken based on medical arguments and in the specific case of the task entrusted to the psychologist, psychological arguments, which are the result of a thorough and rigorous investigation process, which must meet criteria of objectivity and impartiality; It also requires the professional expertise, honesty and proven ability to exercise their profession.
2. The training of the expert psychologist must be such that he can remain impartial and objective without being influenced by pressure from any of the parties and transcending economic or other interests that third parties may have. This is in accordance with the levels of vulnerability of the subjects that are evaluated in order to achieve their legal incapacitation or interdiction and with the protective role that the Ecuadorian State has, exposed and guaranteed in the current Constitution in force.
3. According to the texts studied throughout this master and reviewed for the realization of this work, as well as the legal documents of the Ecuadorian context, Interdiction is a legal process that takes place in Ecuador. It is in charge of the Family Judges, who support their decision (verdict) in the analysis they carry out, of the results obtained from a set of tests; among which, and are of vital importance, the psychological and psychiatric and/or neurological expert opinions of the subjects.
4. The Master's Degree led me to reflect in a more profound way, the regulations that regulate the work of the psychologist expert in Ecuador, which to exercise, obtains its accreditation through the Council of the Judiciary. Those responsible for the issuance of

this document are the provincial directors and they do so, after the delivery of specific documentation that accredits the experience and training of the applicant. Additionally, the applicant must carry out an online evaluation. In the same way, the performance of the experts is regulated by the provisions of the Regulation of the comprehensive expert system of the judicial function (resolution no. 0402014) [13] and in the event that an expert incurs in irregularities of any kind, this institution, through of the Disciplinary Control Regime, sanctions it.

5. In the Ecuadorian Civil Code, Interdiction is considered a legal incapacitation mechanism, in cases of chronic drug use and other diseases that could seriously affect the will and other mental faculties for a considerable period of time; however, it is a long and cumbersome process, as well as expensive, especially if the family is the one that bears the expenses of the expert opinions. If this is not done, the family will have to wait a long time to reach a sentence, which allows them to make later decisions. This puts the integrity of the addict and that of his family at risk due to the seriousness of the problem. The lack of speed in carrying out judicial procedures, around the Interdiction, make it difficult for this mechanism to be effective and for individuals to access treatment in crisis situations.
6. By way of conclusion and recommendation at the same time, given the current circumstances of Ecuadorian society, the increase in drug use in children, adolescents and adults, it would be important to review the procedures and protocols that are followed in cases of Interdiction and find a way to streamline them. The purpose, to achieve less desertion of those who decide to do it and a greater number of enforceable sentences in this area. This will make the treatment of people with problematic use of psychoactive substances viable.

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