

Family Institution and Marriage Regime

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ABSTRACT: Accompanying the man throughout his life, the family proved to be one of the oldest and most stable forms of human community, which ensures the perpetuation of the species, the evolution and the continuity of the social life. Many approaches understand the family as a basic social form, based on marriage, which consists of the husband, wife and their descendants.

The family is the basic cell of society, it is the one that makes man go from selfishness to altruism, the place where tribulations and joys are shared. The family is the first divine settlement, founded by God for man in heaven. The family is the fundamental institution in all societies. So it is a relatively permanent social group of individuals linked by origin, marriage or adoption.

KEYWORDS: family, family functions, matrimonial regime

Introduction

The family was, is and will be the basic cell of the society, it is the first social institution with which an individual has contacted him from his birth until his death. If we didn't know the rules, the basic rules of the family, then we couldn't even live in society. However, we do not know much about the family institution. Most of us know only one type of family, the one imposed by the European Christian world. On the other hand, this limited knowledge does not allow us to understand the complexity and universality of the family institution. It is certain that the family represents, in any society of the present or of the past, the most important social institution. For this reason, her analysis is an essential one in knowing the social life.

Thus, the family is a group of people who are related on the basis of blood, marriage or adoption (Rasfoiesc.com 2019). These 3 types of connections are also the three forms of relationships on which families can be based.

Blood ties are defined based on the direct relationship between the offspring between children and parents, based on birth and also on all relatives who have consanguineous relationships.

Marriage is, in its turn, a social institution, which plays a fundamental role in establishing a new family group. Marriage is the mechanism of society meant to organize or organize, control the many human relationships arising from the physical fact of bisexuality (Urantia.ro 2019).

Adoption is also an institution that concerns access to a family and, although it seems a relatively new institution, it is, in fact, very old. In family analysis as a social institution it is necessary to mention its main functions that it holds in society:

1. The function of sexual regulator;
2. The reproduction function;
3. Socialization function;
4. Affective function;
5. The status function;
6. Protective function;
7. Economic function.

Family institution

We understand that the family institution, without diminishing its importance in today's society, is no longer a conservative institution, but one that is increasingly adapted to the transformations of democratic and open society. The family is increasingly integrated into the dynamics of society, increasingly conditioned by economic and social changes, influencing, in turn, the global evolution (Popescu 2010, 1-10). Changes in the last decades in Western society have given rise to the idea

that we are in front of a new civilization, different from the previous one, called industrial, postindustrial, postmodern, second modernity or reflective modernity, late, radicalized. The institutions that developed in modernity have continued and continue to assume the functions of the family, which were provided once by the family institution. For example:

1. Economically;
2. Cultural;
3. Education;
4. Solidarity.

The development of the sphere of services promoted the activity of women outside the house and favored the emancipation of women both socially and at family level. Individualization, economic independence and personal autonomy have determined individuals I, in particular, to be less willing to sacrifice for family unity. Women have begun to assert themselves and become more actively involved in the labor market, as well as advocating for equality between women and men. All this, as well as the employment of women in the labor market, have contributed to a reassessment of gender roles, but also to an economic collaboration from equal perspectives between women and men. Change, instability, diversity become characteristics of daily life. Bauman (Zygmunt Bauman was a Jew, sociologist and Polish philosopher) talks about "the tourist syndrome, which would characterize the life of the individual in contemporary times, faced with instability on all levels: they frequently change their work place, their residence, their friends, life partner, finds a "tourist" through his own life (Popescu 2010). The contemporary man has for his own life the detachment of the traveler who is in a place that does not belong to him.

The institution of the family goes through a period not just successful for it, a period of change, the changes were more expressive in nature: a family in which decisions are increasingly made in common, in which the domestic, parental, couple roles are negotiated, economic, a freer family, more strongly connected and integrated into society. The essential transformations that the Romanian family has undergone can be reduced to the model of a democratic family inside and more open to the outside.

Matrimonial regimes

Corresponding to the above, there is a close connection of the family institution and the changes it has undergone over the years and the matrimonial regimes that have been instituted, applied and in the Romanian society, these have appeared as a need for the individual in context social current. In the absence of concrete data, it is not possible to establish exactly when the idea of organizing / regulating the patrimonial relations between spouses appeared (Nicolescu 2009).

In Romanians, the dotal regime (Dota is the wealth that is brought to the man, on behalf or on behalf of women), to help support the tasks of marriage. (Lege5.ro 2019) characterized by the economic independence of each husband, is the one who would triumph. The existence of the dowry created pecuniary links between the spouses and here we find the origin of the matrimonial regimes, which functioned as a legal regime, in the Romanian law the marriage contracts were not known.

Unlike the millennial institution of marriage, the principle of freedom of matrimonial conventions has appeared relatively recently, only at the end of the sixteenth and the beginning of the seventeenth centuries, when the tendency to consider that legal regimes are not imperative or prohibitive, derogations could be made by way of private conventions (Nicolescu 2009).

The influence of the Germanic peoples on the European continental law is manifest also in the sphere of matrimonial regimes: it is considered that the communitarian regime is of Germanic origin or inspiration, being subsequently "imported" into France and elevated to the rank of legal matrimonial regime of common law.

In the Romanian space, the traditional regime, regulated by the old legions, was the endowment regime, taken over as a conventional regime and in the Civil Code of 1864, which would consecrate, as a legal regime, the separation of goods regime. Along with the will, the dowry sheet represented an extremely important act, which increasingly governed the social life of the

Romanian people. Regarding the matrimonial conventions, it is important to note that they are traditional in our system of law, being regulated also by the laws prior to the Civil Code.

In the current Civil Code we have of 3 distinct matrimonial regimes:

1. The regime of the legal community, regulated in the Civil Code under articles 339-359. Within this matrimonial regime, the assets acquired during the legal community regime by any of the spouses are, from the date of their acquisition, common assets in the devaluation of the spouses; the quality of the common good does not have to be proven; for movable property acquired prior to the marriage, an inventory will be drawn up by the notary public or by private signature before the conclusion, if the parties so agree. In the absence of inventory, it is presumed, until proven otherwise, that the goods are common; regarding the belonging of a good to the community, any of the spouses may request to be mentioned in the land book or, as the case may be, in other advertising registers provided by law; the change of the destination of the common good can only be done through the agreement of the spouses; each spouse may conclude single acts of conservation, acts of administration in respect of any of the common assets, as well as acts of acquisition of the common goods (Avocatdivort.ro 2019).
2. The regime of separation of goods. Under this regime, each of the spouses is the sole owner of the assets acquired before the marriage ends, as well as those which he acquires in his own name after this date; in the case of adopting this regime, the notary public draws up an inventory of his own movable property; in the absence of this inventory, it is presumed, until the contrary proof, that the exclusive property right belongs to the possessor spouse; if the spouses acquire property together, they will be co-owners on shares and not landlords as in the case of the legal community of goods; neither spouse can be held by the obligations arising from acts committed by the other spouse; they will be jointly and severally liable for any of their obligations to cover the usual expenses of marriage and those related to raising and educating children (Avocatdivort.ro 2019).

The regime of the conventional community can be applied when, by marriage agreement, it derogates from the provisions regarding the regime of the legal community; in this variant of matrimonial regime, by convention, the spouses can derogate from the regime of the legal community under certain limiting aspects provided in art. 367 C. civ.: the spouses may include in the community certain goods or debts, they may exclude from the community certain common goods or debts, they may establish the need for the express consent of both spouses at the conclusion of certain administrative acts, they may include the clause or they may provide ways to liquidate the conventional community; unless by marriage agreement, the legal regime chosen by the spouses is supplemented by the provisions regarding the legal community regime (Avocatdivort.ro 2019).

Conclusions

In conclusion, it is necessary to understand that the matrimonial regime is represented by all the legal norms governing the patrimonial effects of the family institution in the current social context and they maintain and sustain in one form or another the family as the basic cell of the society. Matrimonial regimes encompass certain common features that are likely to print a unified nature despite legal controversies

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