



CHAPTER 37

Affectivity: new relationship paradigms in the hyperconnected world

  10.56238/pacfdnsv1-037

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ABSTRACT

Introduction: the family evolved and changed its paradigms, transforming itself into measures that accentuate relationships linked to feelings of affection, happiness and family love, valuing relationships anchored in affection. Initially, it highlights the

transformations that have taken place in family concepts and then analyzes the importance of affectivity in family relationships, because the principle of affectivity was instituted to deal with these new standards instituted and supported by the country's legal system. Objectives: to demonstrate some benefits of using technological resources in affective relationships. Methodology: the article adopts the deductive method, a process of information analysis that using logical reasoning and deduction to reach a conclusion about family relationships and affectivity with depth and legal basis, treated by scholars on technological evolution and its implications in family relationships. Considerations: the importance of innovation of familiar concepts in today's world is verified, but that society must be cautious with the relationships built through technological platforms.

Keywords: Family, equality, technolog, Affection.

1 INTRODUCTION

With the promulgation of the 1988 Federal Constitution, the concept of family was expanded, directly influencing the affective relationships between parents, children and affective unions. Notably, new values were introduced in family relationships, based on the principle of human dignity and affection (LÖBO, 2008).

The study seeks to highlight the transformations of family concepts and the construction of affective relationships in today's world, in which society has experienced considerable changes in the field of family law and, more intensely, in the hyperconnected virtual universe, as well as in the use of technological tools to work, study and relate to each other, especially through dating applications.

A pesquisa terá como base o entendimento de diversos doutrinadores renomados no Direito Brasileiro, a exemplo de Maria Berenice Dias, Carlos Roberto Gonçalves e Maria Helena Diniz, since they address in their works the issue of family relationships and affection with depth and legal basis, in addition to other authors who deal with technological developments and their implications in family relationships.

In order to elucidate this article, some benefits of the digital transformation in affective relationships will be presented, highlighting how affection plays an important role in the construction of new family groups, as is the case of the socio-affective filiation.

At the same time, a critical analysis will be made of how affection has been neglected and even trivialized by the ease of access to information technology and dating apps..

2 THE TRANSFORMATIONS OF FAMILY CONCEPTS

The family structure has been undergoing constant changes, many of them resulting from the evolution of society and the desires of its members, in which the traditional model loses space to new conceptions of family organism. On this point, Hironaka elucidates (2004, p. 222):

Men change. Their social groupings change. Institutions change. Legal institutions change. The family changes. Family relationships change, not to be different, but to play new and distinct roles. A eudemonist family is built, in which the sentimental relations between the members of the group are emphasized: the affective functions of the family are valued and it becomes the people's privileged refuge against economic and social pressures.

In view of the understanding of the changes that are currently taking place in this field, it is clear that the recognition of the coexistence of multiple parental bonds, besides being a possible reality, is also feasible and necessary today. Therefore, the Law and its operators are being increasingly urged to expand their knowledge in research and studies to better understand these new family types, seeking harmonious legal solutions, based on the principles of human dignity, solidarity, family coexistence and interest on behalf of children and adolescents, principles that are intrinsically related to affectivity (BARROS, 2013).

In fact, as society has developed, the family has also undergone profound changes over the years, brought about by the evolution of customs, norms and technology. These changes became more evident with the advent of the 1988 Federal Constitution, which implemented profound changes in the concept of the patriarchal family, establishing new paradigms based on fundamental principles and values. Consanguinity, once absolute, was supplanted by the importance of affection in family relations.

In this perspective, the developments in Family Law, introduced by the Federal Constitution, accelerated the relaxation of traditional and conservative norms and brought, among others: the concept of multi-parentality, the recognition of children born out of wedlock, the recognition by stepfather or stepmother and the homoaffective union, the latter recognized by the Supreme Court in ADI 4277 (LENZA, 2012).

Indeed, after rooting the idea of affection as a fundamental principle of the family, affective relationships have come to represent an advance and greater security within family society. In this scenario, the socio-affective parentage has gradually gaining importance and recognition by law and jurisprudence, ensuring that affective parents have the same rights and duties characteristic of the one granted to the family power and, likewise, guaranteeing children equal rights to consanguineous ones (DINIZ, 2012).

It is relevant to mention that affection has been widely safeguarded in family relations, to the point that article 1.593 of the Brazilian Civil Code of 2002 states that there can be no discrimination between types of filiation, because "kinship is natural or civil, as it results from consanguinity or other origin" (BRASIL, 2012). Thus, it is clear that the socio-affective recognition is supported by the principle of immutability of the filiation status, because affection is very important in these family relationships, so that currently it is easy to convalidate in the administrative sphere.

In this sense, Souza (2018) states that in 2017, CNJ's (National Justice Council) Proviment No. 63/2017 was published, facilitating the recognition of socio-affective filiation, as transcribed below:

Art. 10. Voluntary acknowledgment of paternity or socio-affective maternity for persons over 12 years of age will be authorized before civil registry officers for natural persons. (Redaction given by Providence n. 83, of 08.14.19).

§ 1º The voluntary acknowledgment of paternity or maternity will be irrevocable, only being able to be deconstituted through a court of law, in the hypothesis of vice of will, fraud or simulation.

§ 2º Those who are eighteen years of age or older, regardless of marital status, may request recognition of paternity or maternity of a child.

§ 3º The socio-affective paternity or maternity cannot be recognized by the siblings among themselves nor by the ascendants.

§ 4º The intended parent must be at least sixteen years older than the child to be recognized.

Art. 10-A. Socio-affective paternity or maternity must be stable and socially externalized. (Included by Provision 83, of 08.14.19)

§ 1º The registrar must certify the existence of the affective bond of paternity or maternity by means of objective verification through the verification of concrete elements. (Included by Providence n. 83, of 08.14.19)

§ 2º The applicant shall demonstrate the affection by all means allowed by law, as well as by documents such as: school register as the student's guardian or representative; enrollment of the alleged child in a health plan or social security agency; official record of residence in the same household; marital relationship - marriage or stable union - with the biological ascendant; enrollment as the applicant's dependent in associations; photographs in relevant celebrations; notarized statement from witnesses. (Included by Providence n. 83, of 08.14.19)

§ 3º The absence of these documents does not prevent the registration, as long as the impossibility is justified; however, the registrar must certify how he ascertained the socio-affective relationship. ([Included by Providence n. 83, of 08.14.19](#))

Thus, it is important to highlight that affection has been preponderant in several types of relationships and in the specific case of filiation, as long as the person interested in recognition complies with the requirements established in the CNJ's Provision, it is possible to have social-affective recognition administratively.

Undoubtedly, throughout history, the concept of family has undergone numerous transformations, seeking to keep up with the evolution of society. With this, significant changes were implemented resulting from the process of modernization, urbanization, technological advances, evolution of customs and norms, among other factors that contributed to engender the great evolutionary leap of the concept, expanding to encompass new family entities, constituted not only by marriage, especially its great importance to society (DIAS, 2017).

According to the prevailing view, relationships are socially based on affection rather than property interest, contributing to the decrimonialization of Family Law. Considering that the social factual realities are what give rise to law, it appears that affection will soon be present in the Brazilian legal system. However, for some scholars, there is already the principle of affection, containing its support in the 1988 Constitution (OLIVEIRA NETO, MEIRELES, 2014).

It is a fact that the family is still considered the fundamental core of society, because it is the first institution that human beings find shelter, security and stability to interact with their peers, developing the bonds of affection, denoting the importance of the development of kinship ties, the harmonious and lasting coexistence, the rules of social coexistence and equal treatment to all members of the family entity (CALDERON, 2017).

On the other hand, it is important to note that society lives in the so-called post-modernity and this, in turn, has brought significant changes, driven by the revolution of technology and globalization and, necessarily, required the family to be understood under a new perspective. However, precisely in this sense and in response to social desires, the 1988 Federal Constitution radically changed the family paradigm (BITTAR, 2005).

Indeed, it is important to note that Article 1, III, of the 1988 Federal Constitution establishes the principle of the dignity of the human person, positively revolutionizing the entire Civil Law, causing what has been called the depatrimonialization or repersonalization of this branch of Law. In this sense, the rules began to be aimed at people first, so that it brought more protection to the family nucleus, leaving the patrimony in second place (CASTRO, 2006).

As already mentioned, in view of the transformations that have occurred in family relations, a deepening of studies was required from the doctrinaire, aiming to understand the significant changes. Tartuce and Simão (2010), teach masterfully that this organization evidences a "trend of personalization of the Civil Law, alongside its de-patrimonialization, since the person is treated before the property. That is, the family entity begins to be seen as a group linked by affection, where its members help each other, and is no longer given that connotation of production and reproduction unit as in the past.

In the same line of understanding, and in a very didactic way, Lôbo (2014, p.173) adds:

The excessive preoccupation with patrimonial interests that marked traditional family law does not find an echo in today's family, marked by other interests of a personal or human nature, typified by a distinct agglutinating and nuclear element - affection. This nuclear element defines the factual support of the family protected by the constitution, leading to the phenomenon that we call repersonalization.

The family nucleus is the place where the person will be fully realized, where his/her dignity will be preserved, because the link between the family members is no longer the accumulation and maintenance of assets, but rather affection, love and mutual reciprocity.

In fact, there is no doubt that there has been a great evolution with regard to filiation in Brazilian law. Based on the former Civil Code, the concept of family was restricted to the union of a man and a woman as individuals able to contract matrimony through marriage.

However, with the evolution of society in recent times, family paradigms have been rethought, modernized and updated, despite the omission of the Brazilian legal system, which is slow and refractory to change and flexibility at the heart of the concept of family, which adopts a pluralistic model.

3 AFFECTIVITY IN FAMILY RELATIONS

The affection is being considered the fundamental pillar for the constitution of a family, while the Civil Law has been undergoing major changes to suit the new form of family constitution. Indeed, the principle of Affectivity was instituted precisely to address these new patterns, since affection adheres new paradigms for family relationships (PEREIRA, 2014).

It is important to note that the principle of Affectivity is implicitly inserted in several provisions in the Brazilian legal system, and has been paving a new family model, as occurs with the plurality of genitors, whether biological or affective. And, despite not being expressed in the Federal Constitution, affection is currently considered the main foundation of family relations, and can be interpreted as the valuation of Human Dignity which is, in turn, the principle mater (PEREIRA, 2006).

However, with the evolution of society and the changes that have occurred, the family scenario has undergone considerable changes and families have been constituted in various ways, always supported by affection, which has been considered, in many cases, as a determining factor in family relations, such as socio-affectionate parentage, in terms of Provision No. 63 of the CNJ, a situation that consists of true multi-parenting.

In this sense, Madaleno (2000, p. 17) states that:

[...] the Constitution changes the object of legal protection and stops extolling, as it had always done in the name of domestic peace, only the conjugal family and starts to give protection to any of the constitutionally accredited family entities, regardless of the formality or informality of their origin and even when constituted by only one of the parents, and any community should be preserved only as an instrument to protect the dignity of the human person.

And, in the same sense, shares Lôbo (2014) that affection is also included in the precepts of dignity, non-intervention of the State in families, so that the citizen has complete freedom to form the type of family entity that best meets their needs and desires. This means that, analyzing precisely article 226 of the Federal Constitution, it is verified that it does not bring the specific type of family to be protected, since the legal effects of protection are for any type of family construction.

However, it is important to note that all changes in this area have caused a significant change in Brazilian Civil Law, although for many authors working on this issue, the "constitutionalization of Civil Law" would be operationalized, especially because the family is not only the biological one, but mainly the one constituted by ties of affection, affection, care and love, and that such relationship is gradually built through the days of living together within the family.

In this sense, Lôbo (2014. p 175) understands that there is a repersonalization of the Law at the moment the State starts to protect the person instead of the patrimony:

The challenge that jurists and the law face is the ability to see the human person in all its ontological dimension and not as a simple and abstract subject of a legal relationship. The human person must be placed as the center of the legal destinations, valuing being and not having, that is, being the measure of property, which starts to have a complementary function.

This means that the individual value of each should be observed before any consideration, valuing the affection between people, because it is clear that, with the evolution of society, the family has been losing the character of patrimonial institution, especially with the industrial revolution and the renewal of the labor market, while marriage is no longer the best way to acquire property.

However, nowadays, family models, regardless of the disparity in their formation, play the roles that society assigns to the family, guided by the principles established in the Constitution, such as the dignity of the person, freedom, and equality. This gives more respect to the affection between the members of the family entity and allows each one to pursue their individual goals, without the obligation of fulfilling a specific function as a result of the place they occupy within the family.

In this scenario, although there is currently no state intervention in the choices of individuals, it is up to the State to provide the means to ensure the fundamental conditions for healthy family development, because the traditional family has evolved, and the significant changes have made it more democratic and inclusive.

In this sense, Dias and Gramstrup (2016, p. 56) ponder that,

According to the prevailing doctrine, the view of affection seeks to eliminate any doubt about the possibility of forming family groups that escape the traditional models. This more human and realistic view, which sees in affection the family-forming element, eliminates prejudice and segregation, bringing to the surface the respect that must be had with the new forms of family. In practice, we have the application of the equality principle, as well as respect for difference.

Thus, it is important to note that the principle of affection is supported in the Federal Constitution, so that the scholars from then on began to adjust their understandings on the issue of affection and its contribution in family relationships, since it does not depend on their origin, whether consanguineous or not.

Lôbo (2014, p. 103) when discussing the subject, noted that:

The principle of affection is intertwined with the principles of family cohabitation and equality among spouses, partners and children, which emphasize the cultural and not exclusively biological nature of the family. The evolution of the family "expresses the passage from the natural fact of consanguinity to the cultural fact of affinity.

Therefore, one can affirm that the gradual transformations that society is experiencing, with varied family constructions, are based on affection, although there are indications that many relationships start from a superficial contact through digital platforms, consequently because technology has contributed to affective relationships.

4 TECHNOLOGY AS A TOOL IN FAMILY RELATIONSHIPS TODAY

Technological advancement has been driven in recent decades loaded with the most varied alternatives, both in relation to new forms of communication and information sharing, as well as the numerous benefits provided to society, especially with regard to family relationships, which have been strengthened by affection (ALVES, 2011).

However, it is important to understand the relevance of digital transformation for today's society, since society is living the Fourth Industrial Revolution (SCHWAB, 2016).

In fact, it is from intelligent policies that a technological management is achieved, guaranteeing the provision of services and solutions that promote the notorious social welfare, in view of which, much is discussed about the influence of technology in contemporary relationships.

Therefore, inevitably, in some way, people will be impacted by technology, whether for economic, political, work, artistic, passionate or religious reasons, because these elements have always influenced human relationships. With the constant technological evolution and the several forms of social interaction, the dependence on electronic equipment is more and more urgent, whether as a work tool, for affective interaction, or for other purposes, which has led many people to technological addiction (DUMAZEDIER, 1994).

Hodiernly it is common to use digital platforms to seek a relationship, whether casual or even for a lifetime. These interactions are established by the screens of the devices that broadcast the image of the interested party to the virtual world. It is the recognition and dependence on technology being widely

used as a channel to bring people together. In this sense, a research published in 2018¹ points out that Brazilians are among the users who most connect on social network applications.

In fact, technology has favored great transformations, especially in the last few years, with the Covid 19 pandemic that has ravaged the world. The paradox is that digital technology, which at the same time expands social interaction and the way of relating, encourages loneliness and distancing, since controversial and problematic issues, such as intolerance and foolish discussions are potentiated in digital media. For this reason, technology, which shortens distances, also separates and isolates.

On the other hand, many professions have been created and others reinvented, as well as the emotional relationships that have evolved over the past few years, in such a way that many dating apps have been created and are being used by thousands of people as a way to get closer and, many times, even consolidate relationships that until then were not part of the population's daily life.

It is evident that, with the development of information technology and the facilities made available in applications for contacts and virtual relationships, the lives of people who use these platforms have become more exposed and privacy more vulnerable. In the same proportion, anxiety, mistrust, and tolerance have grown, leading to a decrease in dialogue and understanding between people.

Although, in fact, affective relationships in the digital age have been driven by the development and popularization of apps, and has contributed greatly to the acceleration of affective relationships in today's world, because technology has already been a tool of many transformations in the development of society, whether in the economy, in work relationships and now in affective relationships (MULLER, 2018).

However, despite the advantages of all the technological advancement involving considerable changes in society, it is important to note that, in family relationships, some characteristics have drawn attention, since the ease in building emotional bonds through technological resources has influenced in such a way that unions have become more superficial, due to less tolerance for conflict, less patience and more immediacy.

This is because technologies provide knowledge and facilities never before experienced, but, equally, it is driving people apart. Although it is attractive and charming, at the same time it is shortening this class of responses, and the logical consequence is the estrangement of people, since it has caused a true social isolation.

It is important to mention that today's society moves with technology, and for this reason the ways of relating go through transformations, because we live in a hyperconnected world. In this way, Bauman (2004) teaches that society is living in the post-modern world, in which love relationships are

¹ Source: Research commissioned in 2018 by Match Group, a company that develops niche apps (e.g. for evangelicals and single parents).

in a slight transition, becoming looser, freer, and more transitory. A world in which people are effectively seeking an ever greater and more pressing need for personal satisfaction. Is it the trivialization of affection in relationships? Or its valorization to allow all people to be happy in their relationships?

In fact, the development of society and the diffusion of the media, the way they are, end up influencing and dictating some rules of relationships, perhaps giving an importance beyond or below the principle of affection, which should be the basis of any relationship, because with just one click it is possible to exclude or insert a person in your group of relationships.

However, with the advent of new information technologies, new ways of relating have been created, but many of them are based on private interests. In this sense, Bauman (2004) emphasizes that the romantic definition of love as "until death do us part" is in disuse, because relationships are increasingly superficial, in which people have sought immediate pleasure instead of a long-lasting relationship.

For Bauman (2004), the emergence of virtual proximity makes human connections simultaneously more frequent, more intense, and more ephemeral. Love connections become too brief and banal to be condensed into bonds. Note that these connections are protected by the possibility of extrapolating and engaging partners beyond the time and action of the typed and read message, which is the opposite of what human relationships practice.

Furthermore, relationships practiced in the virtual environment require less time and effort to be established, and consequently to be broken. There is neither the barrier of distance nor of time to be an obstacle to get in touch.

However, being in contact with someone is not an obstacle to remaining apart. The spasms of virtual closeness end, ideally, with no leftovers or permanent sediment, as a relationship can be ended just by pushing a button. The most important realization of virtual closeness seems to be the separation between communication and relationship.

As already reported, technology has contributed to affective contacts being established very quickly and without much effort, and likewise they can be broken off easily. This is because the post-modern man is marked by individuality, for he has had more care and appreciation for himself than for his neighbor.

5 FINAL CONSIDERATIONS

Given the situation analyzed and presented in this article, it was found that the concept of family has been transformed as social changes occur, and especially the technological ones, causing scholars to position themselves more effectively.

Article 1, III, of the 1988 Federal Constitution established the dignity of the human person and the family is no longer considered a patrimony, because it brought affection to legal protection and currently the family groups are constituted by the bonds of affection, because everything is directly related to affection between people.

It is important to note that, with the changes that have come from the transformations in society, a new type of family emerges, such as multi-parenting, which has made possible the coexistence of the same family nucleus, the coexistence of affective and biological fathers and mothers, and likewise siblings who may be consanguineous or affective.

On the other hand, it is worth mentioning that technology has favored many people to get closer and start an affective relationship through technological platforms, a logical consequence of the reality in which society is living, in which most people are somehow immersed in this digital universe.

However, despite the ephemeral nature of today's affective relationships, it cannot be denied that technology has contributed to the building of many families. Thus, it is imperative to conclude how important and healthy the coexistence of several types of relationships is, especially in today's world and in the acceptance of the most diverse family models, which have human dignity and affection as their pillars.

Finally, it is verified that the transformations in the family concepts have been carefully analyzed and protected by the operators of the law, but society must be cautious with the relationships built by means of technological platforms, so that the values and protection of the several types of affective relationships that have been arduously conquered are not trivialized, because technology must enable the advance of family concepts, as well as their protection and not the opposite.

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