



Patrimonial rights arising from the stable union upon dissolution during life and due to of death¹

Patrimonial rights arising from the stable union in protection in life and because of death

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SUMMARY

This article is an analysis and reflection on the legal aspects surrounding stable unions, checking the most recent changes in legislation, as well as the legislative evolution of this institute, in particular what has been foreseen regarding property rights in the event of dissolution in life and in the event of the death of one of the companions. To this end, the work adopted an exploratory bibliographic method, focusing on the provisions of the Federal Constitution of 1988, the Civil Code and civil procedure, and the special laws that regulate the subject. The relevance of this research is evident, given the constant social, cultural and political transformations experienced by the family unit, which, it can be said, had its concept expanded on several levels. Added to this, it is extremely necessary to academically explore the concept and general provisions of stable unions, as it prepares students for the reality of civil and family demands that they may assume in the future in the practice of law.

Key words:Federal Constitution of 1988; Civil right; Patrimonial rights; Stable union.

ABSTRACT

This article is an analysis and reflection on the legal aspects around the stable union, verifying the most recent changes in the legislation, as well as the legislative evolution of this institute, in particular what has been foreseen regarding the property rights in case of dissolution in life and in case of death of one of the companions. To this end, the work adopted an exploratory bibliographic method, focusing on the provisions of the Federal Constitution of 1988, the Civil Code and civil procedure, and the special laws that regulate the subject. The relevance of this research is evident, in view of the constant social, cultural and political transformations experienced by the family unit, which, it can be said, had its concept expanded on several levels. Added to this, it is extremely necessary to academically explore the concept and general provisions of the stable union, as it prepares students for the reality of civil and family demands that they may assume in the future in the practice of law.

Keywords:Federal Constitution of 1988; Civil rights; property rights; Stable union.

1. INTRODUCTION

This work consists of an analysis of the most varied legal aspects surrounding a subject that has been talked about a lot in recent times: stable unions. The proposal is to understand the concept of this institute and present its modalities of divorce/dissolution provided for and its general provisions in the Civil Code, Civil Procedure and the Federal Constitution of 1988. In conjunction with this, it was intended to verify the updates The most recent legislation regarding specific procedures on stable unions.

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The social, cultural and moral transformations that led to the gradual overcoming of a conception family conservative, require the legislator to be agile in capturing new thoughts and behaviors around what is called the “family nucleus”. Law is made by humans and for humans. Therefore, a constant review of the forms of family relationships and constitution is a fundamental exercise within the logic of Law, in view of society's expectations of obtaining a solution to conflicts, in this case, those of a family patrimonial nature.

The recognition of a stable union is the understanding of a new form and perspective of constitution familiar. The legislator understood the need to objectively establish which rights and duties arise from a stable union and which legal measures must be taken in situations that, until then, were only foreseen and disciplined in relation to marriage. Among these situations are the hypothesis of the death of one of those who make up the stable union and the so-called dissolution in life, and form the center of this work.

Therefore, this work can be qualified as a production of a bibliographical exploratory nature. graphic, whose development occurred with the establishment of hypotheses unraveled from the descriptive analysis of knowledge already obtained, constituting a deductive approach/inference⁴.

It is logically impossible to mention all the social, cultural, economic and political phenomena that demand urgent adaptation from Law or even its complete transformation in this short space of debate. However, as a guide, it reinforces on this occasion that the research will focus on analyzing stable unions as a new type of family, and as an essential social phenomenon for reviewing what has been produced about property rights and the division of original assets. of the family.

2. FROM THE INSTITUTE OF STABLE UNION BY BRAZILIAN LEGISLATION

It is known that decades ago the relationship between men and women was much more submerged in conservatism of what we see today. This weighed much more heavily on women's lives, compared to patriarchal thinking and way of life. Until 1977, divorce did not exist in Brazil. It was with Constitutional Amendment No. 9 of June 27, 1977, regulated by Law No. 6515 of December 26, 1977, that divorce became possible in the country.

The legal dissolution of marriage allowed couples, until then de facto separated, to divorce and remarry. It can be said that the essence of a stable union was already experienced by many Brazilians, even before this concept was used, as Tartuce recalls:

A stable union or free union has always been recognized as a legal fact, whether in Comparative Law or among us. It is certain that today, stable unions play an important role as a family entity in Brazilian society, as many people, especially from recent generations, have preferred this form of union to the detriment of marriage. In fact, in a not so remote past what was seen was **the stable union as an alternative for couples who were actually separated and could not get married**, as divorce was not permitted in Brazil as a form of definitive dissolution of the marriage bond. (2017, p.195, emphasis added):

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The historical trajectory of marriage, and later, of the stable union modality, reveals the ways in which families were established over time and the increasingly stronger visibility over

⁴ “Deductive logic seeks to analyze various information in search of a single result, starting from the general to the specific. [...] Through deductive logic we seek knowledge generated in the past and based on this information we identify what is applicable to the specific case, that is, solutions are designed for the future based on the past” (ASRIBEIROS, 2018, s/p).

feminist movements in Brazil. The divorce highlighted the questions that were already being asked about the social configuration of marriage, which, in turn, was (still is, at certain points) a space of female oppression.

It can be said that the emergence of divorce contributed to the liberation of women trapped in marriages characterized by violence, mistreatment, and betrayal. And, considering the best case scenario, divorce brought freedom to those who recognized that this was the smartest option, instead of remaining married by mere convention. Of course, divorce does not always occur in peaceful circumstances, but, generally speaking, its institution was one of the most important in family law.

Having reflected on this, Tartuce discusses the scenario that preceded the de facto recognition of the union stable:

In the case of Brazil, the first norm to address the issue was **Decree-Law 7,036/1944**, which recognized the partner as the beneficiary of compensation in the case of an accident at work in which the partner was a victim, a law that is still applied in practice. Subsequently, jurisprudence began to recognize the rights of cohabitants, treated, before the Federal Constitution of 1988, as concubines. [...] In the past, it was also common to compensate the concubine for domestic services provided. However, with the evolution of time, this practice came to be considered discriminatory not only in relation to the concubine, but also in relation to the partner, and is currently prohibited. (2017, p.195)

In a previous paragraph, it is recalled that patriarchy had and still has strength over relationships between men and women. This decree above highlights how society discriminated against women, giving men complete freedom, and naturalizing male polygamy. However, the 1988 Federal Constitution is the starting point for the evolution of this subject in legislation.

The stable union, as a new and recognized type of family unit, is welcomed by the Constitutional title of 1988, whose text supports the principle and duty of protecting the family in all areas. CF/88 states in its article 226, that the family is the nucleus of society, and that, therefore, it requires special and constant attention and protection from the State, let's see.

Art. 226. The family, the basis of society, has special protection from the State. § 1 Marriage is civil and celebration is free. § 2 Religious marriage has civil effect, in accordance with the law. § 3 For the purposes of State protection, the stable union between a man and a woman is recognized as a family entity, and the law must facilitate its conversion into marriage. § 4 A family entity is also understood to be the community formed by any of the parents and their descendants.

This article is a development of the introductory articles of the constitutional text: les that refer to the fundamental rights of the human person. In other words, the protection of the family is a duty and principle of the Constitutional State of Law that brings with it the assumption of guaranteeing human dignity in its various aspects: the right to housing, food, security, etc.

Starting from the satisfaction of all the social rights mentioned above, when we talk about protecting the family, we talk about the preservation and recognition of a space that has a gigantic social value, as it is in the family that the various ways for individuals to exercise their citizenship are configured. , and consequently, develop individually and collectively. The family is nothing less than the object of research and observation of Family Law, it is from there that knowledge is obtained for the elaboration of public social policies.

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By demonstrating its intimate relationship with the idea of affection and solidarity, and therefore, with ex-subjective human expectations, it is common for family law to be seen by the legal community as a delicate space, and in fact it is. However, it is up to legislators and magistrates to balance the sensitivity of the issue

5 Social solidarity is recognized as a fundamental objective of the Federative Republic of Brazil by art. 3rd, I, of CF/1988, in order to build a free, fair and supportive society. For obvious reasons, this principle ends up having repercussions on family relationships, as solidarity must exist in these personal relationships (TARTURCE, 2017, p.21).

with the protection offered by the constitutional text and Civil Law.

The Civil Code provides for the institution of a stable union, prioritizing the establishment of mandatory requirements for the recognition of a stable union. Let's see.

Art. 1,723. A stable union between a man and a woman is recognized as a family entity, configured in public, continuous and lasting coexistence and established with the objective of establishing a family.

§ 1 The stable union will not be established if the impediments of art. 1,521; The incidence of section VI does not apply in the event that the married person is separated in fact or legally.

§ 2 The suspensive causes of art. 1,523 will not prevent the characterization of a stable union.

The art. 1,723 had its text changed due to Senate Bill No. 612 of 2011⁶, with the legal recognition of stable unions between people of the same sex. This fact is extremely relevant, as it reaffirms the principle of equality and freedom of individuals regarding their ways of living and coexisting. The following articles, 1,724 and 1,725 further establish that:

Art. 1,724. Personal relationships between partners will comply with the duties of loyalty, respect and assistance, and of custody, support and education of children.

Art. 1,725. In a stable union, unless there is a written contract between the partners, the partial community of property regime applies to patrimonial relationships, where appropriate.

The stable union will be based on the same principles as marriage, which means that this institution will receive not only legal protection, but also the same social and emotional recognition received by the marriage institution. Men and women in a stable union will have the same conditions of protection and will have the same obligations with regard to children arising from this relationship, whether in educating or providing maintenance.

Therefore, the institute of stable union by some, still called “pure concubinage”, will have all its issues regulated by Family Law. The action to recognize and dissolve the stable union will follow the special rules provided for family actions in the new CPC/15, in its articles 693 to 699 (TARTUCE, 2017).

It is important to mention Law No. 8,971/94, which regulates the issue of partners’ rights to food and inheritance:

Art.1º. The proven partner of a single man, legally separated, divorced or widowed, who has lived with him for more than five years, or has children with him, may make use of the provisions of Law No. 5,478, of July 25, 1968, while not establish a new union and as long as it proves the need. Single paragraph. Equal rights and under the same conditions are recognized for the partner of a single, legally separated, divorced or widowed woman.

2º The people referred to in the previous article will participate in the succession of their partner under the following conditions:

I - the surviving partner will have the right until they form a new union, to enjoy a quarter of their partner's assets, if there are children or common children;

II - the surviving partner will have the right, until a new union is formed, to enjoy half of the partner's assets, if there are no children, although ascendants survive; III - in the absence of descendants or ascendants, the surviving partner will be entitled to the entire inheritance.

3º When the assets left by the author of the inheritance result from an activity in which the partner collaborates, the survivor will be entitled to half of the assets.

This specific provision is in line with what is set out in CC/02, with regard to the property and succession rights of those involved in the stable union. These rights will be protected with the same importance as in marriage. We will discuss the equivalence of these institutes in the following topic.

⁶ Changes the wording of art. 1,723 of Law No. 10,406/02 (Civil Code) to recognize stable unions as a family entity between two people, configured in public, continuous and lasting coexistence and established with the objective of establishing a family; changes the wording of art. 1,726 of the aforementioned Law to provide that the stable union may be converted into marriage, upon request made by the partners to the Civil Registry officer, in which they declare that they have no impediments to marry and indicate the property regime that they will adopt, exempting the celebration, taking effect from the date of marriage registration (BRASIL, 2022, s/p).

2.1 Equating it with marriage for some purposes

The most recent change on the subject was the declaration of unconstitutionality of art. 1,790 of CC/02 by the STF, in 2017. The Federal Supreme Court decided to equate succession between marriage and a stable union (TARTUCE, 2017). Therefore, the rules applied to marriage regarding inheritance rights are applied to stable unions.

The stable union is well defined and based on the Civil Code, and the latest interpretations arising from case law are monitored. The new CPC also contributes to the proposal to equate the institutions of marriage and stable union. Civil Procedure equated stable union with marriage for certain procedural purposes.

Among them is article 144 of the CPC, which prevented the Judge from acting in cases where one of the parties was his spouse or a relative of his spouse up to the third degree. This determination also began to be applied in stable unions. Despite being distinct institutes, the legislator works to ensure that both are achieved equally, and also opens up the possibility of the union being converted into marriage.

The Brazilian Civil Code provides for the possibility of a stable union being converted into marriage, if this is the desire of the partners/cohabitants. This procedure must be requested at the Civil Registry Office for natural persons, in accordance with the law on natural records. If those involved are certain of this decision, the procedure occurs as follows:

Art. 70-A [...] § 1 Once the application is received, the qualification process will begin under the same rite provided for marriage, and it must be stated in the proclamations that it is a question of converting a stable union into marriage.

§ 2 In the case of a request for conversion of a stable union by mandate, the power of attorney must be public and with a maximum term of 30 (thirty) days.

§ 3 If the request is successful, the certificate of conversion of the stable union into marriage will be drawn up, regardless of judicial authorization, dispensing with the act of celebrating the marriage.

§ 4º The record of the conversion of the stable union into marriage will be drawn up in Book B, without indicating the date and witnesses of the celebration, the name of the president of the act and the signatures of the partners and witnesses, noting in the respective term that It involves converting a stable union into marriage.

§ 5 The conversion of the stable union will depend on overcoming legal impediments to marriage, subject to the adoption of the patrimonial property regime, in accordance with the precepts of civil law.

§ 6 The marriage certificate converted from the stable union will not contain the start date or the period of its duration, except in the case of a previous electronic certification procedure for the stable union carried out before a civil registry officer.

§ 7º If the request is valid, the death of the party during the course of the qualification process will not prevent the drawing up of the conversion certificate **from stable union to marriage**. (emphasis added)

It is important to highlight that the conversion of a stable union into marriage requires the same requirements met by the interested parties at the time of formalizing the stable union. Obviously, any irregularity in the formalization of the stable union is the first obstacle to its conversion into marriage. According to the Public Records System Law (2022), in the event of death during the process, there will be no impediments to complete the conversion of the stable union into marriage.

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Regarding this last point, the living partner as well as the heir children will not be harmed with regard to their inheritance and patrimonial rights. If this were not the case, the legislator would be trampling on a constitutional principle, that of guaranteeing the survival of those who remained, and who, perhaps, depended on the deceased or who collaborated with the acquisition of family assets. This measure is

7 Extraordinary Appeal 878.694/MG from the Federal Supreme Court, by the Rapporteur and Minister Luís Roberto Barroso (TARTUCE, 2017).

doubling of what the Constitution foresees as duties of the State, among them, the guarantee of housing, food, security and, as already mentioned, the preservation of the family in all its forms.

2.2 The constitution of the stable union by notary

Formalizing a stable union is simple, the couple can go to the Public Natural Persons Registry Office with a declaration⁸ stable union or a private contract with the presence and signature of two witnesses. This procedure does not necessarily require the presence of a lawyer. However, amidst doubts, it is natural that many couples prefer to hire a professional to form a stable union.

The private contract contains the same clauses present in the stable union certificate, what is new is that to issue the private contract certificate the couple must have a notarized signature, have no financial impediments and present two adult witnesses and legally capable to participate in the act (2002), according to the provisions of art. 226 of CF/88.

2.3 The dissolution of the recognized and not formally recognized Stable Union

The matter is governed by the Public Records Law, the Civil Code and the new CPC/2015. Since it is considered a legitimate family unit, the stable union will be disciplined within the scope of family law, contrary to what would occur in cases of impure concubinage – an outdated expression, but still used as a reference to establish the differences with the stable union (TARTUCE, 2017). The dissolution of the union, whether it has been formalized or not, will depend on the existence of some requirements. The following paragraphs will address cases where dissolution will not occur through deed.

2.4 Dissolution of the Stable Union before the registry office

The recent law nº 14,382/22, which provides for the electronic system of public records, determines that the recognition and dissolution of a stable union may occur through a public deed at the Civil Registry Office and of natural persons where the partners reside or where their last residence. The art. 94, in its 1st, 2nd and 3rd paragraphs, respectively, also determine that:

§ 1 The registration, in Book E, of a stable union of married people, even if de facto separated, cannot be promoted, except if separated judicially or extrajudicially, or if the declaration of the stable union results from a final and unappealable judicial sentence.

§ 2 Foreign sentences recognizing a stable union, extrajudicial terms, private instruments or public deeds declaring a stable union, as well as the respective terminations, drawn up abroad, in which at least one of the partners is Brazilian, may be taken to registration in Book E of the civil registry of natural persons in which any of the partners has or had their last residence in the national territory.

§ 3 For registration purposes, foreign sentences recognizing stable unions, extrajudicial terms, private instruments or public deeds declaring stable unions, as well as the respective cancellations, drawn up abroad, must be duly legalized or apostilled and accompanied by Sworn translation.

In summary, the stable union can be dissolved or recognized by public deed, a procedure that also applies in cases of sharing of assets between ex-partners, as long as they respect the same.

⁸ The declaration of stable union is a document that formalizes long-lasting relationships. The document This also establishes some rules to be observed in the relationship, among them, the property regime.

assumptions required in cases of separation or divorce. This procedure does not nullify the possibility of those involved using legal means to resolve conflicts arising from the stable union.

On this subject, CPC/2015 (2015, emphasis added) also regulates that:

Art. 732. The provisions relating to the process of judicial approval of consensual divorce or separation apply, where appropriate, **to the process of approval of the consensual termination of a stable union.**

Art. 733. Consensual divorce, consensual separation and consensual termination of a stable union, **there is no unborn child or incapacitated children and legal requirements are observed**, may be carried out by **public deed**, which will contain the provisions referred to in art. 731.

§ 1 The deed does not depend on judicial approval and constitutes a suitable title for any act of registration, as well as for withdrawing amounts deposited in financial institutions [...] (emphasis added)

The articles above discuss the steps for amicable (consensual) dissolution between the parties in the stable union. However, the procedure is more complex when the presence of the Public Prosecutor's Office is mandatory to protect the interests of minors and incapacitated people. Next, a private topic on the subject.

2.5 The action to recognize and dissolve the stable union in court

The stable union can be dissolved without delay, when the climate between the ex-partners is friendly. Dissolution, as well as recognition, is formalized by means of a deed. There are situations in which this dissolution cannot happen through a public deed, specifically when there are minor or incapacitated children, a pregnant woman or disagreements between the parties regarding the dissolution (QUEIROZ, 2020).

In the specified situations, dissolution will occur through the courts so that issues of interest to everyone involved, the parties and the children arising from the relationship can be decided. Among the issues that must be addressed are the payment of alimony.⁹ Queiroz remembers that:

[...] the right to payment of maintenance **is not restricted to children**, if not because the parties may intend, among themselves, to make payments in this regard – and this normally occurs when one of the parties does not maintain a professional life, by decision of the couple, and necessarily depends financially on the other (2020, s/p) (emphasis added).

It is very important that the stable union has been formalized, since, at the time of its dissolution, the process will occur more fluidly and quickly. It is natural that some couples take a while to formalize their dissolution as they are no longer under the same roof. However, it is recommended that this happens soon, so that they do not suffer the effects if they have children and/or property in common.

3. THE EQUITY EFFECTS ARISING FROM THE STABLE UNION

Tartuce (2017) agrees that the Civil Code is not very clear regarding the property rights of partners in a stable union, especially with regard to the content of art. 1,725 of CC/02: “apply the regime of partial community of assets applies to patrimonial relations, where appropriate”. Despite what the author considers a flaw, it is possible to state that the patrimonial effects arising from the establishment of a stable union are similar to those foreseen in marriage.

It is worth emphasizing that the law did not intend to equate stable union with marriage, as synonymous concepts. Marriage and stable union are distinct institutions as they constitute different legal facts.

What the law intends is the due recognition of the needs presented by each of these

⁹ Bill 420/22 provides that alimony will be at least 30% of the current minimum wage – currently te, this value would be R\$ 363.60 – and it is up to the judge to analyze the exceptions (MACHADO, 2022, s/p).

legal scenarios, dedicating itself to understanding natural social changes over time, starting, above all, from the constitutional principle of human dignity. Therefore, it is from this that the other duties of the State arise: protection of motherhood, health, housing, security, social security, etc., and which, in turn, are inserted in the context of the development and preservation of the family.

Tartuce (2017, p. 216) contributes in a very didactic way about the content of the art. 1,724 of CC/02:

[...] the stable union, as a family entity, **brings personal and patrimonial effects to companions**, provided for in the Civil Code, mainly. [...] The first of these legal commands is art. 1,724 of the CC, referenced above, which establishes the duties arising from the stable union imposed on partners or cohabitants: a) **Duty of loyalty**, which is related to the duty of fidelity, but which cannot be confused with it. This is because fidelity is a result of marriage exclusively. Loyalty is a genus of which fidelity is a species. Thus, by common sense, loyalty includes fidelity, but not necessarily, which depends on an option made by the companions. B) **Duty of respect for other companions**, in a generic sense. w) **Duty of mutual assistance, moral, emotional, patrimonial and spiritual**. d) **Duty of custody, support and education of children**. It is observed that civil law establishes almost the same duties as those provided for marriage (art. 1,566 of the CC). However, it does not mention **to the duty of living together under the same roof, which is dispensable**. Precisely for this reason, Precedent 382 of the STF, widely applied by jurisprudence, continues to have practical application. (emphasis added)

It is noted that art. 1724 lists which moral conducts of behavior are expected to be found in the coexistence of people under a stable union contract. At first, it can be said that these duties are very subjective in nature and that the law would not be able to directly verify whether these assumptions are actually fulfilled.

Tartuce (2017, p.199) deals with these elements as requirements of a totally subjective nature, justifying the belief that there is “a true general clause for the constitution of a stable union”.

However, the interesting thing is that, by establishing these duties, the law manages to establish the principle that a stable union will only be recognized as such, provided that, essentially, bonds of affection are demonstrable, visible to those around the relationship, perceptible and consistent with the actions carried out between the couple, which deduce the presence of a thought of communion of interests. The absence of reference regarding physical coexistence under the same roof further reinforces what is considered the essence of a stable union.

It is clear that the law also does not make it clear about the duty of fidelity, which initially occurs in marriage. Furthermore, there are aspects of the stable union that the law could not reach. Each couple within a stable union has their own agreements, which may seem permissive to some, and freedom to others.

When dealing objectively with property rights, art. 1,725 of CC/02 determines that the partial community of property regime applies to stable unions, except in cases where the partners themselves decide by contract¹⁰written.

Other important effects of the stable union are provided for in art. 57 of the Public Records Law, let's see.

Art. 57. The subsequent change of name, [...] will be permitted by sentence of the judge to which the registration is subject, archiving the warrant and publishing the change in the press, except in the hypothesis of art. 110 of this Law. (...)

§ 2. A single, separated or widowed woman, who lives with a single, separated or widowed man,

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¹⁰This contract serves to determine what the regime of the stable union will be, ruling out partial communion, without having the power to interfere with norms of a personal nature or public order, as is the case with the characterization of the stable union itself. Precisely for this reason it is null and void *dating contract* who wishes to eliminate the effects of a stable union. [...] the contract in question may recognize the existence, validity and effectiveness of a stable union from a certain point onwards. Such recognition does not rule out the possibility of proving that the stable union already existed before the mentioned period. To be valid and effective before the parties, it is enough that the cohabitation contract was made by private instrument. In fact, the form of the act is free, in accordance with the principle of freedom of forms, established by art. 107 of the Civil Code of 2002. (TARTUCE, 2017, p. 216-217, emphasis added).

exceptionally and if there is a reasonable reason, you may request the competent judge to record your partner's patronymic in the birth registration, without prejudice to your own family surnames, as long as there is a legal impediment to marriage, arising from the marital status of any of the parties or both.

§ 3. The competent judge will only process the request if the partner expressly agrees, and if at least 5 (five) years of life together have elapsed or there are children of the union.

§ 4. The request for endorsement will only take place, when the partner is separated, if the ex-wife has been convicted or has renounced the use of her husband's surnames, even if she receives alimony from him.

§ 5. The amendment regulated in this Law will be canceled at the request of one of the parties, after hearing the other.

§ 6. Both the addition and the cancellation of the endorsement provided for in this article will be processed in secret.

In a didactic way, Tartuce (2017, p.238) summarizes the rights arising from a stable union as follows:

[...] a) Rights and duties similar to marriage – art. 1,724 of the CC. b) Right to sharecropping, applying, where applicable, the rules of the regime of partial sharing of assets – art. 1,725 of the CC. c) Conversion of a stable union into marriage – art. 1,726 of the CC. Food – art. 1,694 of the CC. d) Succession rights – the STF recognized, in 2016 and with seven votes, the unconstitutionality of art. 1,790 of the CC (STF, Extraordinary Appeal 878,694/MG, Rel. Min. Luís Roberto Barroso [...]). e) Application of the same procedural rules provided for marriage – New Code of Civil Procedure, in several articles.

Homoaffective unions receive treatment similar to stable unions, which makes Brazilian legislation on Family Law an advance in the process of recognition and protection for all configurations within the family unit. However, this still occurs in a shy and reading way. Tartuce (2017, p. 236) argues that:

[...] there is strong resistance in the National Congress to the drafting of a law that expressly recognizes that same-sex unions constitute a family entity. [...] With the recent decision of the Federal Supreme Court, a change of perspective on the matter is expected in the National Congress, so that there is no doubt regarding the legal recognition of such unions.

3.1 The effects of dissolution on life

The dissolution of a stable union follows the same purpose as its constitution, which is to be a simplified procedure. To this end, the Code of Civil Procedure, in its chapter visit and membership. In this sense, Tartuce completes.

In order to speed things up, the summons in the action for recognition and dissolution of a stable union will occur with **at least 15 days prior to the date designated for the hearing (art. 695, § 2.º, of CPC/2015)**. So that there are no doubts about its implementation and given the personal nature of the family's demands, the summons will always be made to the person of the defendant, and postal or notice summons will not be accepted (art. 695, § 3, of the CPC/2015). Furthermore, the parties must be accompanied by their lawyers or public defenders at the mediation or conciliation hearing, so that it is well conducted and guided (art. 695, § 4, of the CPC/2015). (TARTUCE, 2017, p. 205) (emphasis added).

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Therefore, when it comes to the interests of minors, the dissolution becomes more complex, as happens in marriage. There is no doubt about the legitimacy and scope of the law on stable unions, which can be very useful in alleviating the overload of family law demands, as this is a faster and cheaper resource for those involved.

The art. 696 of the new CPC determines that "the mediation and conciliation hearing may be divided into as many sessions as necessary to facilitate a consensual solution. This is without prejudice to

jurisdictional decisions to avoid the perishing of the right”.

Then, art. 697 of CPC/2015 states that “if the agreement is not reached, the then take the rules of common procedure”. In the case of an unfeasible agreement and the involvement of one or more incapacitated individuals, the CPC/2015 provides for the intervention of the Public Prosecutor's Office (art. 698).

According to Tartuce (2017) Here is another situation in which a stable union is equated to marriage. In the case of divorce, the above rule also applies, calling for the presence of the Public Prosecutor's Office in family actions involving the interests of incapacitated individuals. Furthermore, if the incapacitated have been victims of abuse or parental alienation, the judge may take testimony with the presence of an expert, according to art. 699 of CPC/2015.

3.2 The effects of dissolution due to death

Upon the death of one of the parties, the widow and heir children are equal to the property and inheritance rights of the spouse and children in the marriage. In sharecropping¹¹, those involved will discuss the rights arising from the marriage or stable union, and this will depend on the property regime that was adopted.

In this way, the surviving partner will be covered according to the property regime adopted when the stable union was formalized, also respecting the case of the deceased having left a will. The Civil Code makes a special provision regarding the condition of the surviving partner in relation to the dissolution of the stable union, let's see.

Art. 1,831. The surviving spouse, regardless of the property regime, will be guaranteed, without prejudice to their share in the inheritance, the real right to housing in relation to the property destined for the family residence, as long as it is the only one of that nature to be inventoried.

This provision is extremely important, as it guarantees the safety and housing of the surviving partner, who, in some cases, was financially dependent on the deceased. This guarantee once again reflects the principle of preserving the family as the nuclear basis of society, as provided for in the constitutional text.

CONCLUSION

The reflections developed in this work demonstrate that the legal provisions regarding stable unions are efficient in covering and including diverse conflicts in the field of family law. The legislation responsible for regulating stable unions is distributed among the CF/88, the Civil Code, the Civil Procedure Code and some specific laws, which were mentioned throughout the text.

It can be said that the officialization of a stable union is a more simplified procedure than what is seen in marriage. For this reason, stable unions have become increasingly common and adopted by couples. The stable union occurs in a simpler way, however, without prejudice to the rights and guarantees of those involved. Furthermore, it is clear that the preference for a stable union is very justified because it is a lower cost procedure than marriage.

This behavior reveals an interesting trend about current relationships and forms of family formation. The stable union serves the interests of those who adopt it without leaving simplism aside, and without the teammates' concerns about the future being ignored. These transformations result from a psychological and moral transition that began a long time ago, and continues to occur.

The idea of marriage and family has not lost its place in contemporary society, people continue to relate to each other and act towards union, which, as has already been demonstrated, can occur in other ways, not just marriage.

¹¹ [...] is half of all common assets of a couple, and arises from the property regime adopted at the time of marriage or stable union, and is governed by family law (RIBEIRO, 2019).

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