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Panel 4: De facto union of cohabitation/ Uniones convivenciales o estables

Supporting Documents

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DE FACTO UNION (COMMON LAW MARRIAGE)IN EL SALVADOR

Mauricio Roberto Calderón Castro

Since 1859 in the Civil Code, still in force, non-marital union was not defined in the law, but it could be inferred from Article 283 of the Civil Code, "referring to concubinage as one of the reasons for forced recognition of the natural child", so that through jurisprudence it was determined that concubinage should be understood as those sexual relations between persons who were not free to marry, in addition it was required that the woman to declare paternity had to be proven that she was honest.

Until the year 1994, when the Family Code came into force, it regulated that marriage and non-marital union would be the means to constitute a family, and defined non-marital union as "that constituted by a man and a woman who, without legal impediment to marry each other, live together freely, in a singular, continuous, stable and notorious manner, for a period of one or more years".

The law confers on declared cohabitants the same rights as spouses.

The minimum period for recognition of a non-marital union is one or more years, but it must be requested within three years from the date of the breakup or death of one of the cohabitants.

Acording de law, the legal requirements to stablish a stable union or non-marital union are:

Heterosexuality

Nuptial capacity (over eighteen years of age, unmarried)

Living together freely for one or more years

Continuous and stable

Singular

Notorious

In addition: If the couple being pubescent, they meet the requirements and have a child in common.

The obligations and duties towards the cohabitant and the children are the same as for spouses: loyalty, respect, assistance, immaterial duty, custody, support and education of children, cohabitation.

Legally it is not possible to adopt the surname of the cohabitant, but Notarially it is possible to establish the identity of a woman, specifying that she can also be known with the surname of the cohabitant and use both names indistinctly.

In order to exercise the rights recognized in the Family Code, is necessary to enter into a stable union agreement, a request for a declaration of cohabitation must be filed jointly in Court, where a Judge will authorize it, if it meets the legal requirements explained above.

In that case, the property regime adopted by the non-marital union is that of profit sharing, and each partner retains the ownership of the assets he/she had before the beginning of the union; but it can be modified at any time, prior to the dissolution of the existing regime.

It should be mentioned that the old Civil Code had an arrangement-like figure called the "esposales", which was the promise of marriage mutually accepted, subject to honor and conscience, but without obligation before the law.

Also, in El Salvador, is not possible to have a stable union between people of the same sex because one of the requirements established by law is heterosexuality; even same sex unions are not considered as a family by the Constitution of the Republic.

Non-marital unions legally established enjoy the protection of the State.

Constitutionally, El Salvador defines the family as "the fundamental basis of society" and establishes that it shall have the protection of the State and that the legal foundation of the family is marriage, which must be encouraged by the State, but the lack of marriage shall not affect the enjoyment of the rights established in favor of the family.

In addition, family relations resulting from the stable union of a man and a woman are regulated.

This brings us to the Family Code, which defines the family as the permanent social group, constituted by marriage, non-marital union or kinship, being the obligation of the State its protection, integration, welfare, social, cultural and economic development.

A curious situation that occurs in El Salvador is that after many years of being in a stable union, many couples get married and

divorce quickly. The fact of having a signed commitment in a document, makes couples consider the spontaneity of a de facto union, finalized.

In that sense, a stable union can be converted into a marriage, because one of the requirements to declare a de facto union is "not to have impediment to contract marriage".

The requirements for both, therefore, would be the age of majority (18 years old), not being united by marriage, being in full use of reason.

And finally,

To dissolve the stable union declared by a Judge, judicial intervention is necessary, in the same manner indicated for divorce, it means: by mutual consent, by separation of more than one year or by being intolerable the life in common; with the same rights established for the spouses in case of divorce, i.e.: division of assets, recognition of children, personal care, visits, child support, use of the home, etc.

De facto unions in the Dominican Republic

Dilia Leticia Jorge Mera

In the Dominican Republic, the Constitution of 2010 establishes: "The singular and stable union between a man and a woman, free from marital impediments, that form a de facto home, generates rights and duties in their personal and patrimonial relationships, in accordance with the law."

Although no specific law has been enacted yet, since 1992 several laws recognize the existence of de facto unions of couples with or without children that lived together under the same roof without being married (Labor Code, Law regarding domestic violence; the Children's Code; Social Security Law).

It wasn't until October 2001 that the Supreme Court of Justice for the first time recognizes the existence of these unions in the framework of a civil liability lawsuit, where the concubine claimed that the company was guilty of the death of her partner in a traffic accident, so her non-pecuniary, emotional and economic damage be repaired. The concubine won the case, the company had to pay for the damages and this ruling established the criteria that should be considered to determine whether a couple is living together in a common-law or de facto relationship:

"a) a 'more uxorio' coexistence, or what is the same, an identification with the coexistence model developed in the homes of families founded on marriage, which translates into a public and notorious relationship, excluding those based in hidden and secret relationships;

b) absence of legal formality in the union;

c) a community of stable and lasting family life, with deep ties of affection;

d) that the union presents unique conditions, that is, that there are no equal ties of affection or formal marriage ties with other third parties simultaneously on the part of the two cohabitants, that is, there must be a monogamous relationship, being excluded from this concept is the de facto unions that were originally perfidious, even when this condition has ceased due to the subsequent dissolution of the marriage bond of one of the members of the consensual union with a third person;"

Although, as said before, no law regulates these de facto unions, there have been attempts to do so. The project to modify the Civil Code defines this unions as follows: "A de facto marital union is the one formed by a man and a woman, suitable for marriage, sustained for a minimum of two years in conditions of singularity, stability and public notoriety." This is yet to be discussed by Congress.

Since 2001, the existence of these couples begins to be recognized in courts, and started to discuss whether the assets that have been produced within that relationship, must be assimilated to a marriage or, on the contrary, to a de facto partnership.

It is important to note in this part, that the mandatory regimen in a marriage, when couples don't chose differently, is the common property regimen.

Former President of the Supreme Court of Justice, Jorge Subero Isa, has written articles regarding the Supreme Court decisions:

"For some years in the civil jurisdiction of our Court of Cassation the criteria that prevailed is that if during a consensual union the concubines contribute resources of a material or intellectual nature in the constitution or promotion of a common patrimony, which in reality is formed between them are a de facto society, which can be established by any means of proof, and subject to the partition rules established in articles 823 and following of the Civil Code. This jurisprudential criterion has varied, as we will see later. "[1]

In a decision dated December 14, 2011, the Supreme Court of Justice changed its criteria when it established:

"Considering that it is, therefore, pertinent to admit that de facto society is also contributed, not only with the promotion of a specific business, or when with any work outside the home goods are contributed to the maintenance of the same, but also when working on housework, a task that is common in our family environment as a woman's own, an aspect that has to be considered from now on by the judges in order to issue a decision in accordance with this social reality and with the constitutional mandate. "

This decision makes references to article 55 paragraph 11 of the Constitution which establishes: "The State recognizes household work as an economic activity that creates added value and produces wealth and social well-being, therefore it will be incorporated into the formulation and execution of public and social policies;"

So, the Supreme Court of Justice established the following: a) What forms in a de facto union is a common property regime; b) There is no need to prove material or intellectual contributions, just a need to prove that there was a de facto union; c) The de facto unions assimilate to a marriage.

But on October 1st, 2020, the Supreme Court of Justice changed completely it's criteria and has established that is not possible to equate a de facto union to a marriage. It says that that interpretation would put an end to "the freedom of the people to design their lifestyle as a

[1] Subero Isa, Jorge. "Presunción irrefragable de comunidad de bienes en las uniones consensuales" http://jorgesuberoisa.blogspot.com/2014/05/presuncion-irrefragable-de-comunidad-de.html (Seen on May 10, 2021, 8:00pm).

concretion of the fundamental right to the free development of the personality established in article 43 of the Constitution", so judges can't jump into an automatic conclusion that there is a common property regime. Each case should be reviewed separately considering all aspects of the cases and that in cases where one of the couples has stayed home, judges "should established, if necessary, in each case, in what percentage this contribution has to be valued."

There are other important facts to have in mind regarding de facto unions:

a) There is no formality in this unions. It doesn't need to be registered anywhere. The recognition would be made by the courts when one of the concubines brake up and submit their case when there is a disagreement regarding properties issues.

b) Is not possible to adopt the surname of the concubine or cohabitant just because they are living together. For this to happen one of the cohabitants should authorize the use of the last name to the other one, before a Notary, through a legal process;

c) There is no right to inheritance in these unions.

d) Courts have established that de facto unions should be between a man and a woman and also important to say that there is no minimum time to recognize the existence of a de facto union. Is up to the judges to consider what would be a minimum time.

e) It is advisable for concubines to enter an agreement before a Notary, so they can settle down how they are going to manage their own patrimony, as well as duties and obligations during their union, to avoid risks of interpretations before the courts.

f) Children born out of de facto unions have the same rights as children born out of a marriage.

g) Although the Constitution and the jurisprudence have referred to de facto unions as between a man and a woman, there is no prohibition for same sex de facto unions either to get to an agreement regarding their union or even go to court for a judge to decide on their property issues if that's the case.

h) Since courts assimilate de facto unions to marriages and dhild marriage was eliminated in January 2021, it means that courts shouldn't be able to recognize de facto unions between children under the age of 18 or between a child and an adult.

It is obvious that there is a need to regulate de facto unions through a law to guarantee constitutional rights, although I tend to agree with the last Supreme Court decision establishing

that de facto unions should not be equal as marriage, just as Argentinian jurist Aída Kemelmajer de Carlucci says, has said[2]:

“Given that there is a right to family life and not to marry, the legislator cannot apply all the effects of marriage to the coexistence union because that solution implies eliminating the option, autonomy, the choice not to marry, since in a certain way or otherwise the same efforts will be applied " (…) "Dissenting voices are not lacking. For some, protection is notoriously insufficient, given the high margin of coexistence unions that have a source in the vulnerability of one of the members, especially the woman; for others, the regulation is excessive, in as much as the coexistence union is too close to the matrimonial one, practically suppressing the autonomy of the will. "

We still have a road ahead in the Dominican Republic to regulate these de facto unions. Times are changing, society is changing, families are changing and moving internationally. I know that either by law or by court orders, change will arrive, Is just a matter of time.

Santo Domingo, Dominican Republic
May 14, 2021.

[2] Kemelmajer de Carlucci, Aída; Borrillo, Daniel Ángel; Flores Rodríguez, Jesús. “Nuevos Desafíos del Derecho de Familia”. Rubinzal-Culzoni Editores. Buenos Aires, Argentina. 2014. P. 111-112:

STABLE UNION IN THE BRAZILIAN LEGAL FRAMEWORK

Rodrigo da Cunha Pereira[1]

1. WHAT IS A HETERO AND HOMOAFECTIVE STABLE UNION?

The Constitution of the Republic of Brazil (1988) made a major revolution in Family Law, based on 3 basic axes: 1) Men and women are equal before the law; 2) There are no more illegitimate children; 3) No more illegitimate families. And so, it included the Stable Union as one of the forms of family legitimized by the State. The expression *União Estável* came to replace concubinage, which brought with it a discriminatory and pejorative sense.

The Brazilian Civil Code of 1916 was replaced by a new Civil Code in 2002, in force as of January 2003. A chapter on this form of family was incorporated in it:

Article 1.723 - It is recognized as a family entity the stable union between man and woman, configured in public, continuous and lasting coexistence and established with the objective of constituting a family.

In 2011 the STF - Supreme Federal Court o Brazil extended the effects of the Constitution of the Republic and the Civil Code to same-sex couples:

(…) The 1988 Constitution, using the expression "family", does not limit its formation to hetero-affective couples nor to formal notary, civil celebration or religious liturgy. Family as a private institution that, voluntarily constituted among adults, maintains a necessary trichotomous relationship with the State and civil society. Family nucleus, which is the main institutional locus of concretization of fundamental rights that the Constitution calls "intimacy and private life" (item X of article 5). Equality between hetero-affective couples and homo-affective couples that only gains fullness of meaning if it ends up in the same subjective right to the formation of an autonomous family. Family as a central figure or continent, of which everything else is content. Imperiousness of the non-reductionist interpretation of the concept of family as an institution that is also formed by means other than civil marriage. Advancement of the Federal Constitution of 1988 in terms of customs. (...)[2]

Thus, the stable union in Brazil, as well as the marriage by interpretation of the Supreme Court as of 2011, ceased to be a monopoly of hetero-affectivity. And therefore, there are no differences between a stable homo or hetero-affective union.

Defining a Stable Union is not simple, but we can present a concept that has been a guide to face the issues that arise from this "Marriage-in-fact":

[1] Lawyer since 1983, President of IBDFAM - Brazilian Institute of Family Law; Doctor and Master in Civil Law, author of several books and scientific works in Law and Psychoanalysis.

[2] STF, ADI n° 4277-DF, Rel Min. Ayres Britto, Tribunal Pleno, j. 05/05/2011.

It is the more uxory coexistence, or better, and the loving affective relationship between two people, not incestuous, with stability and durability, living under the same roof or not, with an economic dependency relationship constituting a family without the bond of civil marriage.[3]

2. STABLE UNION AND DATING

One of the difficulties in delineating the concept of Stable Union is that it is often confused with courtship or dating. Dating has no legal consequences. In a stable union the rights are almost identical to those of marriage. There is no deadline to characterize a stable union. On the other hand, a long courtship, by itself, does not mean that it has become a Stable Union. Boyfriends and girlfriends have sex and sometimes even children without planning. One of the elements that help to distinguish one relationship from another, to finally close the equation = family, is whether sexuality turns into conjugality that can be defined as follows:

"It is a more permanent sexual loving link between a couple, that is, a nucleus of sexual affective experiences with a certain durability in everyday life. It is a possible form of shared management of sexuality and affections where different ideologies and practices of conjugal love and gender are expressed and fulfilled positively".[4]

Due to this conceptual confusion, we have made "Dating Contracts".

Although this may be an "anti-dating", it has been widely used in Brazil with the aim of providing greater security that a dating relationship does not make claims of rights.

A curious fact, and one that proves the gap between the male and female world, according to Freud, is that in these relationships men always say they are dating, and women who are living in a stable union. For this reason, Brazilian courts are overloaded with lawsuits in which it is discussed whether that relationship is dating or Stable Union.

3. STABLE UNION AND MARRIAGE - THE REGULATORY PARADOX

In order to protect the economically and historically weaker part, women, laws and regulations stemming from the rights of a Stable Union began to be legislated, which became a paradox: the more it is regulated, that is, the more State interference in these relationships, the more they deviate from their original idea, which is exactly the freedom of not establishing a family, a conjugality without major formalities. In other words, the more it is regulated, the closer it gets to marriage, and consequently it ceases to exist to become almost a forced marriage. On the other hand, the lack of norms can cause

[3] See my Dictionary of Family and Succession Law - Illustrated (Ed. Saraiva) entry *União Estável*, 2nd ed. page 772.

[4] See my Dictionary of my Family Law and Succession Inheritance (ed. Saraiva) entry *Conjugality*, 2nd ed. Page XXX

injustices, since the relationship of affection and the communion of life between two people can result in consequences that deserve regulation, especially to protect the economically weaker party.

Excessive regulation ended up making the Stable Union almost a “forced marriage”, which interferes with the freedom of people not to marry, and consequently in the order of hereditary vocation.

According to the Brazilian Civil Code (Article 1.829) the spouse is a necessary heir and receives inheritance differently from the partner (name given to the subjects of conjugality, stable union, who are sometimes also called cohabitants). However, the 2017 Supreme Court of Brazil (STF) decision[5] in all respects the right of succession of spouse and partners.

Currently, the doctrine, to which I join, tries to save some healthy difference between the two forms of constitution of families. Thus, we have discussed whether the partner is a necessary heir, just as the spouse is. In my books I stand for the healthy difference between marriage and a stable union in the sense that the partner is not a necessary heir. In this way, it would be possible, in a will, to exclude the partner from the inheritance. If the partners wish to be necessary heirs, it is enough to choose the way of marriage, and not of the stable union as a way of constituting their family.

4. STABLE UNION AND CONCUBINATE

After the 1988 Constitution of the Republic, “non-adulterine” conjugal relations were called stable union, and the term concubinage was used to describe conjugal relations simultaneous to the other relationship, as established by the Civil Code:

Article 1.727 - Non-casual relations between men and women, who are prevented from marrying, constitute concubinage.

Concubinage has become a pejorative and prejudiced word, especially in relation to women. With this, the doctrine and jurisprudence tend to call such unions of simultaneous families. This is the current and great controversy in Brazil: simultaneous families, that is, those that are constituted in parallel to marriage, or even to another stable union, can be recognized, that is, do they have any rights?

The issue is not a simple one and divides Brazilian doctrine and jurisprudence. After all, thousands of these families live on the margins of legal protection. To recognize them we would be breaking the principle of monogamy. If we did not recognize them, we would be denying the existence of a reality condemning them to legal and social invisibility in the name of morals and good customs, thousands of families.

A state court decision was as follows:

(...) There is still a difficulty for the Judiciary to deal with the existence of double unions. There is a lot of moralism, conservatism and prejudice in matters of Family Law. In the case of the case file, the appellate, in addition to sharing the bed with the appellate, also shared life in all its aspects. She is not a

[5] STF - RE 878.694 (equalization between spouses and partners and RE 646.721 (Stable unions between homosexuals), Rapporteur Luís Roberto Barroso, public on May 10, 2017.

concubine - a prejudiced word - but a companion. For this reason, she has the right to complain about the end of the stable union. To understand the opposite is to establish a setback in relation to the slow and painful conquests of women to be treated as subjects of legal equality and social equality. Denying the existence of a stable union, when one of the partners is married, is an easy solution. The Law remains helpless, in hiding, which part of society prefers to hide. As if a supposed invisibility were able to deny the existence of a social fact that has always happened, it happens and will continue to happen. The solution to such unions is to recognize that it has legal effects, in order to avoid irresponsibility and the illicit enrichment of one partner to the detriment of the other. (...)[6]

In 2020 the Supreme Court by a score of 6 to 5, thus decided:

(...) The pre-existence of marriage or a stable union of one of the cohabiting members, except for the exception of article 1.723, paragraph 1 of the Civil Code, prevents the recognition of a new bond referring to the same period, including for social security purposes, due to the consecration of the duty of fidelity and monogamy by the Brazilian legal-constitutional order".[7]

5. CONCLUSION

Non-adulterous Concubinage in Brazil, which has come to be called the Stable Union since 1988, is recognized in Brazil as a family, legitimate, as much as the family constituted by marriage. One is neither worse nor better than the other. In other words, the Stable Union is not a second-rate family, and the number of people who opt for this "de facto marriage" has grown considerably.

Those who do not make a written contract of stable union, as well as in marriage, mean that they are living by the regime of partial communion of goods. Therefore, if you want a regime different from the legal one, you must make a contract to establish another regime of assets, just as the prenuptial pact in marriage is made to establish a regime different from the regime of partial communion. In addition, all other rights are equal to those of marriage, whether personal or patrimonial, with the exception of the partner who I understand is not a necessary heir.

Anyway, the Stable Union in Brazil has lived with the paradox of its regulation, with the fine line that was established between courtship and stable union and with the issue, perhaps the most serious of our time, which is the encounter and mismatch with the principle of monogamy in the sense of recognizing or not rights to concubines, or better, to simultaneous unions.

[6] TJMG, Civil Appeal No. 1.0017.05.016882-6 / 003, Rel. Des. ª Maria Elza, public on October 12, 2008.

[7] STF, REx 1.04.5.273, Rel Min. Alexandre de Moraes, public on December 18, 2020.

THE HUMAN RIGHTS NOTIONS AND THE JURISPRUDENTIAL TREATMENT ABOUT THE *DE FACTO* UNION OF COHABITATION IN MEXICO.

Dr. Gustavo Salas R., Ph. D.

The history of civilization is the history of freedom, as Hegel says. (Singer).

Human kind has always struggled to liberate itself from the abuses of power and society -therefore demanding protection by the state.

Any person has the right to conform her family as she pleases -as long as such family conformation were legal.

But legal is not necessarily righteous, since society and the law are often nurtured by the morals of the time: like forbidding the marriage between homosexuals or allowing children marriages, for example.

Then, the aforementioned struggle for freedom has lead society to acknowledge different ways of family conformation, other than the traditional ways established by the law.

Of course, concubinage has been acknowledged since the Roman Right, but as a *more uxorio* union, that is, a stable and permanent union as husband and wife (*more uxorio*). (Margadant).

This link was acknowledged for both women and men and, of course, nowadays is insufficient. So, we have to use another Roman Right institution to understan the *de facto union;* that is: the *affectio maritalis*.

The *affectio maritalis* implies a couple that has the will to live as a married one (with the implied personal and patrimonial rights and obligations) but without getting married.

Is the *de facto union* of cohabitation a human right?

Let's get back to the time of ancient Rome and their gods.

Janus was the god of the two faces. The god of passages that can be used for getting in or getting out.

That could be used as the representation of the two dimensions of the human rights: the active and the passive dimension.

Janus Patulsius was used to invoke the god who faces the passage intended for getting in.

This would be the active dimension of the human rights.

There is the fundamental right for "committing" marriage and, consequently, conform a family.

The doorway that shall be crossed is guarded in this way -in the active way- by the god *Janus Patulsius.*

As a complement of this god of the two faces, we have the passive dimension of the right to get married, guarded by *Janus Clusivius*. This face of Janus points out this other way, to the right *to not get* married -as professor Pedro Talavera says.

Another reference, talking about gods, would be Abraxas, the god of Demian, in the novel by Hermann Hesse.

Demian explains to Emil Sinclair that Abraxas is a god that contains all the light and all the shadows. All good and evil. A dual deity. A doble god. Who also, like the human rights and liberties behold both an active and a passive dimension.

Let us analyze this by remembering the Hohfeld's diagrams.

According to Robert Alexy, every fundamental right must satisfy a logical structure that is conformed by: (Alexy).

A right, which is correlative to a duty of the state or a duty *erga-omnes.*

This right is opposite to a no-right.

The no-right is correlative to the privilege, which is opposite to the duty.

Right ————Correlative ——— Duty
| |
| |
Opposite Opposite
| |
| |
No-right———Correlative ——— Privilege

This no-right is the passive expression of a liberty or a human right.

For example, a person has the freedom of speech, which implies the liberty to express herself (in a legal way) or the liberty to remain silent -the passive dimension of the freedom of speech.

A worker has the right to become part of a worker's Union; that is the active expression of such constitutional right. And, as well, the worker has the right not to become part of a labor Union - the passive dimension of this labor right.

Now, regarding the family's conformation we have the following:

· The fundamental right to conform a family through marriage.

· The duty of the state to warrant the exercise of the rights among their members and the acknowledge of the conformation of the family.

· The privilege to establish a marital property system.

· The right to not get married, that is, the *de facto* union of cohabitation.

[Human right to the family's conformation.]

Right ————Correlative ——— Duty
(Marriage) (To warrant the exercise of the rights among their
| members and the acknowledge of the conformation of
| the family)
| |
Opposite Opposite
| |
Right to not———Correlative ——— Privilege
(*De facto* union) (Marital property system)

The *de facto* union of cohabitation is, then, the fundamental right to live as a couple without getting married but under the protection of the Family Right.

This means that the consequences of the *de facto* union cannot be entirely different than those of marriage.

Maybe that is why Nietzsche said that marriage has ended up corrupting concubinage. (Nietzsche).

Now, this fundamental right to not get married has other two dimensions.

The personal and patrimonial dimensions. (Talavera).

The personal dimension consists in the *affectio maritalis,* the constant will for being a couple and to behave as a married one.

This cohabitation conforms the *concubinage,* or the *de facto* union. And has to be permanent and evident under the understanding that when one of the parties no longer wants to remain as a couple, the *de facto* union will cease to exist.

The Mexican jurisprudence first basis for recognizing this kind of family conformation is the non-discrimination principle, by arguing that although there may be distinctions in the rights and obligations between the different civil states, it will correspond in each specific case to determine whether or not the distinctions made are discriminatory.

The other basis is the right to the family's conformation contained in the Constitution, international treaties, as well as laws and jurisprudential interpretations, aimed to protect the stability of the family and regulate the conduct of its members among themselves, and also to delimit conjugal, *de facto* partners and kinship relationships.

In the Mexican legal system, the related personal dimension demands two years of cohabitation in order to generate rightful consequences.

In the case of having children, the time frame would not be considered.

This, in regard of the concubinage through the Mexican Republic.

There are some federal states, like Mexico City, where there is a possibility to inscribe the *de facto* union before the civil registry. In such case, the registration of the *de facto* union will generate the concubinage without the time frame of two years for its legal recognition.

Now, the patrimonial dimension involves the solidarity that comes with marital life, for sharing as a couple the burdens of live.

Then the *de facto* partner who needs alimony, would be entitled to ask for it.

In addition, the *de facto* partners generate inheritance rights between themselves.

The *de facto union* of cohabitation also generates the acknowledge of the couple's rights before third parties; specifically, before the public institutions and their related benefits such as social security.

Although the consequences of the *de facto* union are not entirely different from those of marriage, these are not equal family institutions.

The *de facto* partner would not be entitled to ask for compensation of the assets acquired by the other party during the concubinage.

The Mexican Supreme Court of Justice established that the right of giving up to 50 % of the assets acquired by one of the parties of the marriage to the partner who has worked for the household and in the breeding of children, is not a right entitled to the *de facto* union.

The Supreme Court points out that as there is no patrimonial regime within the legal figure of the *de facto union* of cohabitation, when the liquidation of the assets incorporated or acquired in such relation is arranged, it is not governed by any of the patrimonial regimes of marriage, but by the civil rules.

Now, before we finish, let's get back to the struggle for the conquest of liberties.

Can two people, who live together as couple, renounce to the *de facto* union consequences?

Is it possible to liberate couples from the solidarity involved in the cohabitation, when they don't intend to live as a married couple?

The pandemic has changed not only the point of view of young people regarding to have children -the youth now no longer see reproduction as a goal- but it has also provoked many young people to question about the risk of being sued in an alimony action when they had truly lived as room-mates but without the *affectio maritalis.*

Another question that arises is: does the state has the legitimacy to limit the number of partners to legally conform a family?

In other words, should the polyamorous remain forbidden as it is now in Mexico and many other countries?

These two questions remain unsolved by the Mexican law, for now; anyhow, it is for sure that we will be hearing about this in a not so distant future.