Family Functions as a Guide for Legal Solidarity

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Abstract

The understanding of family has undergone constant changes over time; one of the explanations that have been given is the functional type. From this perspective, multiple explanations are proffered in which social and economic changes have great weight; however, it may be observed that there are some typical duties that have not been modified and which serve to hold the members of each family responsible for the performance of their duties. In short, it will be seen that family functions relate to the family, which is a legal entity, with a dynamic interpersonal relationship, which develops a complex relationship that evolves between nature and culture, between the private and public spheres, between the individual and the group.

Keywords: Family, Family functions, Protection, Guide.

1. Introduction

The subject of family crops up again and again whenever the desire to examine realities that have undergone profound change arises. The family unit has effectively changed in modern times and can be constituted and structured in a variety of ways. Movements that have in some way affected that process of change have sprung up in this regard right across Europe, albeit at different times. Reference is made to a menu of variations on family life, from which to choose the desired variation. Families range from matrimony, with or without children, common law couples, single parent families,

Having thus established the parameters in which current Family Law must operate it is important to note that the connection between the subjective and the human/familiarity cannot be set aside without denying the primary function of Law, namely, to protect and to promote personal identity. Law provides a channel for social freedom and guarantees the outcomes sought by citizens through the allocation of responsibility. Seen from those viewpoints, if homes are to be organised according to the social, political, moral and/or religious principles of family members, then the family is provided space as freedom to develop its personality and its inherent rights as well as an intimate space in which the boundaries between public and private action are specified. A sense of privacy therefore becomes a social value and family privacy a protective barrier (Béjar, 1995).

Also the purpose of this article is to highlight the fact that certain specific governing or guideline criteria are in fact necessary before one can establish cases in which it would be admissible to treat the genders unequally. Those criteria, insofar as women's rights are concerned, consist of the need to overcome a situation of inequality which arises due to cultural and social reasons. An analysis of the different types of feminist movements follows, concluding that feminism implies two types of hypotheses.

On one level feminism can be said to be a theory for equality; on another level it is a theory which turns around the objectivity of Law, although it does, in both cases, challenge classical political and judicial theses. Attempts to establish functional family types come from methodological inspirations, such as the historic and culturalist ones (Burgess, Donati, Michel, Roussel and Straver), which agree with the co-evolution of social indicators.

These appreciate their succession and coexistence over time; the classist (Barthez, Betaux, lefaucheur, Menahem, etc.), which considers the family as mediation and expression of the class system or relations produced by themselves; and the systematic (Farber, Kantor and Read, Olson, Reiss, etc.), which originates in structures and processes where the group operates in a transclassist and transhistoric way characteristic of a collective action. Each of these perspectives provides a link between the social and the family model (Kellerhals, 1987: 153-179).

A milestone was marked by the Industrial Revolution; it greatly influenced the changes in family structure as from this time on the family would not be extensive and share the work. The mutation is the result of the process of social differentiation and functional specialization of the modern age, from the moment that the family ceases to perform some of the economic and educational functions that it historically had to focus on being a carrier of affective services (Dallos and McLaughlin, 2002).

2. The functions of family

In this regard, the fact that, at present, the family is smaller, less cohesive and stable has a great influence. In contrast to the legal tradition that identifies family and marriage, the idea that the family experience is the result of an act in terms of relationship is being implanted. However, today the family continues to perform some essential functions for the individual and among its members a strong interaction prevails with a view to the common good. What has changed is the way the functional content is exercised, which makes it very difficult to see to what extent the State´s action is subsidiary and principal. Family functions are eminently social, so social functions can be deployed in: generative action, the fitness of its members, the maintenance of order within the family and outside the family, maintaining family morale and motivation to perform tasks in and outside the family, the production of goods and services necessary to maintain the family unit and the socialization of children (Beck-Gernsheim, 2002). Such functions are outlined, in turn, in: The union of sexes as a personal complement, and procreation as a means of continuing the species. If the family is the biological link for the conservation, propagation and development of the species, the children are the result of the union of the parents and the expression of man's desire for perpetuity. At this point, it should be noted that in the family relationship the affection aspect has gained ground over procreation and survival. Its goal is happiness and parenthood is seen as a personal and free decision which is weighed by the burdens and sacrifices it means. Consequently, it is argued that the family should be organized privately; the sexual act should be separated from procreation and marriage, and parenthood should be seen as an option to which the couple is entitled, restricted to the area of privacy (McGoldrick, Carter, and García-Preto, 2011).

The comprehensive care of children in order for them to acquire autonomy and come to develop their own personality as an expression of personal and social responsibility, along with mutual aid as a form of reciprocal aid, both physical and moral. In this regard, we must see it as a positive thing that, at present, there is a better balance in the distribution of power and greater responsibility in the education of children, based on mutual support and solidarity. This is because the family is the most suitable natural environment for a person to develop; if the socio-cultural expectations of adults are not in agreement with the content and organization of the personality as it progresses in childhood and adulthood, the result is that the conflict may be personal or with other individuals or social groups (Bloch, 2003).

The family as a unit of economic value because it is an irreplaceable care element and a balancing factor that can´t be ignored in the organization of the State and society. From this perspective, we can say that the family is a center of cooperation between spouses and co-responsibility for children. The result of this cooperation and responsibility are the benefits it brings to society. By this, we mean that the family represents a social relationship that places people in a socio-economic space; aid for subsistence and promotion provided among family members is designed to improve status. It is within the family that the individual makes its largest investment in cooperation (Ermish, 2003). The family as a means of socialization of the individual; with it children assimilate the values, knowledge, customs and social standards to which it belongs. The family is characterized as a group of people united by kinship who share a common history and have a similar socio-economic and cultural status. In this sense, it performs a specifying function in education focused on socialization as training for roles that must be played in society. Culture intervenes in the behavior of children in the manner in which they meet or ignore their needs, but it is in the family where its members live in the home community, learning to interact and share, to recognize what is just, responsible freedom, respect for others, to develop the concepts of authority, organization, understanding and participation in the development of legal consciousness (Parsons and Bales, 2002; Winnicot, 1991).

3. The special role of women

Women´s rights and family questions are currently undergoing changes in that underlying values have been inverted. Major differences can however be observed and different models prevail in the transnational context. There are four separate options, in fact, according to whether one adopts a view based on liberalism/authoritarianism or on egalitarianism/non-egalitarianism: the absolute nuclear family, the egalitarian nuclear family, the birth family and the community family. Women´s rights can be said to revolve around these principles. This essay therefore examines equality with regard to drafting legislation in the light of both dimensions and considers the current tendency to specify the rights of the family. The essay concludes with an analysis of some of those rights and setting out the cultural and ideological, political and economic issues that necessarily serve to question the subject of this study (McGlynn, 2006).

The fact that women are currently gaining equality with men in the eyes of the law and share authority both within the family group and over the children is also significant. An internal process of democratisation has taken place in this regard brought about by a weakening and decentralisation of masculine power. Nevertheless, and despite the fact that this is so, sentiments are still largely seen as a feminine stronghold and the man deemed to represent everything external to the home. While it is true to say that women are now protected under law and although there has been a move toward material equality, this is not yet fully in place. Nevertheless and notwithstanding these points, femininity is still largely seen as the stronghold of sentiment and the man as embodying factors outside the home. Women are protected in so far as their rights are concerned and yet, despite certain material improvement, absolute equality has yet to be achieved (Rolandsen, 2013).

There is an anthropological dimension to the differential evaluation of the sexes and this comes down through parenting models and the universal reality of the sexual/ritual/family co-division of partners. Division of labour according to the sexes brought about a reciprocal state of dependency, in line with the principle of maternity and lesser physical strength of women. Judicial inequality of men and women in marriage was maintained throughout the 19th century and the wife remained subordinate to the husband. Under Common Law the male was to provide for his wife and family. She was subject to the *ius maritale* and her job was to look after her husband and children, run the house and educate her children. Marriage meant the woman was no longer allowed to have her own property nor to enter into contracts on her own accord without the consent of her husband. The Codifications deemed that the husband was the head of the family; he directed matrimonial matters and ruled on family affairs. It was only certain European Legal Regimes, particularly the German circle of Codifications, which attributed certain rights to women (Coing, 1996: 381, 388).

The situation described above has a great deal to do with the traditional notion that one of the basic functions of the family unit is the union between the genders as complementing each other and as a means to ensure procreation of the race. In this sense, if the family can be said to be the biological link to conservation, propagation and development of the species, then children are the outcome of that union between the parents and are the expression of the human being's desire to perpetuate mankind. Aristotle referred to the family by saying that it is the first union between people which arises out of need, between beings that are incapable of living without each other, i.e. union between the male and the female in order to perpetuate the race. That it does not occur as the result of a deliberate proposition but rather because a natural instinct exists in man, just as it does in other animals and plants, one's desire to leave behind one another being of the same race (Aristotle, 2010).

Having remained subordinate for a long period of time, women were soon to begin an intensive socio-political battle and sought to be acknowledged as equal to man in dignity. That example of feminism was based on equality of the sexes and then, later on, there was the 20th century feminism of French origin, which was the product of post-structuralism and Italian feminism that considered that "being a woman" was neither comparable nor subordinate to "being a man". A distinction has been made from that point of view which of itself serves as a root cause of exclusion. For its part, radical feminism sets the two sexes against each other as enemies and looks on all things male as being somehow inferior. It effectively forgets the complementary aspect of sexual duality that comes from the ontological dimension of the person. Neo-feminism promotes male-female equality by equating their rights, given the changed roles and involvement of the female sex in the workforce, while still taking their differences into account (Goldscheid, 2013).

4. Family rights and guarantees

The basic emergency solution is considered to be an exercise that must guide the rule-making procedure, and a prerequisite for achieving man´s freedom. The legal action adopted by the official authorities becomes an integration factor, and behind this legal action there is the development of a social utility that consists of redistributing the resources that a society´s citizens produce (Simon, 2000: 16). In this sense, Luhmann   (1990) believes that the concepts of "function" and "assistance" must be separated, because "in that way the establishment of a policy using the official model of collective responsibility will become acceptable, given that the policy can always be linked to the question of who benefits from it [...]" "The difference between "function" and "assistance" leads to several theories; the distinction between function and assistance within the theory allows it to be understood; it allows its own self-balance". At the same time, Rawls (1999) points out that the political principles are not applied directly to a family´s home life. Instead a series of restrictions are applied on the family in order to ensure that "the fundamental rights, freedoms and opportunities for all its members [...]" are guaranteed. "This means that the principles declare the basic rights of all citizens and family members to be equal".

In this way, the question of guarantees means that there are rights with a greater degree of resistance than others depending on what the authorities have decided (Prieto, 1994: 95 ff.), in fact Guastini (1999: 186) goes as far as to talk of "real rights" and "presumed rights". The existence of one attributive regulation is sufficient to confer rights. On the other hand, the fact that they are promulgated does not mean that they are guaranteed, it is also necessary to have the appropriate mechanisms available for their protection. In short, the "real rights" are "those susceptible to jurisdictional protection, being able to be applied or vindicate themselves before a specific subject". The content refers to a clearly-defined conduct of responsibility, with a subject who is the holder. And the "presumed rights" are "those which do not satisfy any of these conditions".

From a different point of view, the direction that the measures must take relates to the institutionalization of the relationships between the couple, between the relatives and the children, and between the collaborators who try to assign each individual with a position in society and transfer "immaterial" goods. Other guidelines are the social transfer ones which deal with earned income or distribution. They may be directed, in general, to offering information, guidance, social cooperation and a home help service; and they may be precise, and focus on the family and children, young people, the elderly, the disabled, drug addiction, crime prevention, women, homosexuality, ethnic minorities and other marginalized groups (Various authors, 1993). Therefore, we realize that State cooperation towards the family does not simply focus on welfare and economy, and aim to encourage an increased birth rate. The instruments establish consistent transfer regulations for financial transfers, with regard to the fiscal ambit, Social Security, social assistance..., and also regarding the availability of infrastructures and services. At present, the family policy is more "indirect" than "direct", it is not directed at families, and it distributes goods between "customers", "patients" and "consumers" (Donati, 1990: 51 ff.).

5. Actions of the State

The State must ensure and promote the initiative of the family and the exercise of its rights and duties, completing or substituting them should there be any partial or total impossibility, or should the legal obligations not be adequately met. It is clear that the Public Administration is mainly responsible for creating social policy in Europe, however, for some time, the growing needs and the disparity of resources in a globalized, yet fragmented world, where the ways of life are very different, lead to significant changes, considering solidarity and equality principles valued according to the degree of freedom they present, promoting family participation and association in social aspects which affect them, both as subjects of primary services and as active, transactional subjects (Donati, 1990: 53 ff.). Under these guidelines, a new legal-political model in which the family would continue to receive assistance gains strength, but it´s implication in the development of the public sector would be significantly greater, differentiating and balancing all concurrent types of cooperation, with the aim of securing an harmonizing formula. It can be drawn from what we have said up till now that from the alternative development of the Welfare State model, important legal changes have come into being. These changes take shape in various points: a) the use of new legal regulations, characterised by their vagueness and imprecise meaning, which is the case of the standards and general clauses which can take on a different meaning in the areas of legislation, and Administration; and b) the change means going from a formalist legal reasoning towards a finalist legal reasoning which is oriented towards principles.

This question links directly with the dynamic emanating from the Welfare State, given that the State takes on new function and acquires a central role which was not that of serving as an arbiter of the liberal Rule of Law, which is why the Law connected to it is a Law for which the logical deduction of legal consequences takes a back seat (Julios-Campuzano, 2007: 47-84). The aforementioned paradigm is exceeded by a plural reality, both in the legal framework and in the social, political and economic one, where each of these spheres is not isolated from the rest, but there are intimate implications and connections between them. All of this means that the simplicity of modernity is broken (Jenson and Sousa Santos, 2000: 35 ff.).

In broad terms, the action of the legal models in which the State has a cooperative role has the effect of transferring money from high incomes to lower incomes; from families with fewer members, older children and fewer problems, to larger families, with young children and more problems, especially in the case of one-parent families, families in which the head of the family is unemployed or disabled, and in the case of a disabled or orphaned child; and from single adults to families. The content depends on the State´s principles, the institutional structures, the economic-social situation and the cultural tradition. Its limits include the principle of equality, the prohibition of arbitrariness and the right to assistance and/or sufficient benefits for needy situations, that ought to be progressively re-evaluated to compensate for losses of purchasing power (Schultheis, 1991: 7 ff.).

In virtue of the question posed, in this study we will try to determine the legal-political nature of the methods adopted by the official authorities to protect family rights, looking primarily at the area of the European Union. Having completed a comparative analysis that expounds the common and differential aspects, we will consider the importance of guarantees when it comes to talking about family "rights" and the State´s "duties", and we go on to propose a model that meets basic needs in an absolute and effective way, and which simplifies the current "polysystem".

From a global point of view, "family policies" should exist for the good of the family unit and serve to strengthen it, and, at the same time, they constitute an area of personal fulfillment which increasingly requires a higher quality of life (Dumon, 1987: 121 ff.). Zimmerman (1995) defines the aforementioned policy as one which incorporates family welfare as a rule, that is, "one that introduces a family perspective at a political level, and which is evident when both defining the objectives and studying the results". The abovementioned measures bring about social equilibrium, owing to the fact that in a society that places great importance on production, and that has a structure which creates private needs, there is pressure to obtain the maximum income possible in each unit (Millard, 1995).

These reflections give rise to the question of whether or not the family policy should be interpreted as a social policy. Society´s answer is not unanimous, given that for some people the basis of compensation for the economic burdens are the children, and they talk of an independent policy; for others however, it is regarded as that which the official authorities make for the family, and believe it cannot be analyzed separately from the social policy of which it forms part. We adopt the latter posture, based on the fact that the family is an essential social ambit which guarantees that individual personalities be recognized, therefore the State´s actions must recognize that dimension (Landwerlin, 2011).

6. Legal protection

In particular, globalization presents a reference to a social, economic, cultural and demographic process from which Law cannot escape. From this perspective, and starting from the new relationship between the public and private spheres, what stand out are the relevance of deregulation as a reality and the need for the State to continue maintaining its functions, albeit renewed in accordance with the demands of the new scenario in which it operates. But the reality of Law demonstrates a number of problems which need to be overcome through a new understanding of globalization and the implementation of new legal techniques and formulations for the implementation of the cosmopolitanism and multiculturalism (Lansley, 2012: 25 ff.).

From this point of view, the objective which, as I see it, we have to mark out is to find a legal-political method of inclusion and integration in which the rules of the game are established and must be complied with, considering how we should value difference and identity, how they should be married with equality, what is the route to obtaining mutual and equal respect between all the cultural groups, and where we should situate the point of cohesion in a socio-political context (Brysk, 2002; Chiba, 1998: 228-245).

As Fariñas believes, the new form of homogenization implemented by globalization supposes the interested use of the legal principle of formal equality, the sense in which legal universalism and the discourse of liberal and individual laws serve to provide a foundation for formal legitimacy (Fariñas, 2002: 188-189; Gill, 1998: 23-38). In short, to be able to overcome these serious problems, the objective I think we have to set ourselves is to find a model of global Law which is able to carry out an alternative project (Brysk, 2002) to the globalization which we are seeing today. And that, I think, can only be achieved through the discussion of human rights focussed on the commitment of a cosmopolitan democracy.

Once characterised the Comparative Law's method with depth and flexibility limits, we can see that the legal method used may used the deduction, induction and the analogy, however today the fight between the two first does not exist anymore, and its complementary nature is clearly defined. Logic's abstract character turns it into an instrument of Comparative Law, taking on the structure, the statements' and arguments' form when exploring the reasoning or argumentation in the process of settlement, interpretation, application and explanation of Law. Once subscribed that one of the reasons of the approach between Logic and Law has been the belief that the legal system feeds with analytic judgements the judgements of fact and value, the legal system becomes then an object of the theory which tries to clarify the system's building rules and define its general properties. In this sense, the fact of working out the legal language has great strength, as it is the most developed field of prescriptive language (Alchourrón, 1991: 25 ff.; Atienza, 1998: 270).

But at the present the Law has two basic types of regulations: the domestic and the international; the nation-States, societies and legal systems are largely isolated areas that can be analyzed separately; the Law and the theory of modern law are secular, apart from its historical and cultural roots in the Judeo-Christian tradition; the Law of the modern State is rational-bureaucratic and instrumental, has a means to achieve social purposes and has sharp features; the Law is more understandable if you look up and down. From this point of view, the view held by users or customers becomes secondary; the issues that form the core of a legal discipline are first ideas and norms, placing the empirical study of social facts in a secondary role; the Law of the modern State is almost entirely a creation of the North, ie, of European and Anglo-American, which spans almost the entire world with phenomena such as colonialism, imperialism, trade and the postcolonial influences; the study of non-Western legal traditions is a secondary side and not entirely relevant; the fundamental values that are under the modern law are universal, even if the philosophical foundations are very diverse (Nelken and Feest: 2001; Twining, 2005: 599-600).

Now, an assumption is that of the trend towards americanization of the continental Law, explained because globalization is given impetus by the needs of the global economy and by the unequal distribution of power. There is dissemination of concepts, figures and practices coming from the United States of America. Although also from this viewpoint, it is worth underlining that it comes from a restructuring of the international legal field, which has its origin basically in the practice of Law carried out by the large American legal firms and by the influence of American legal education on the elites of the Latin American States. But, if we go deeper into the matter in question, this idea of unification which is present in the legal dimension of globalization poses some questions: Do all countries have the political, social and cultural prerequisites to bring this harmonization to a successful conclusion? Can we talk of a genuine harmonization of Law, or rather that there is uniformity of the rules, but not the practice of application? And, in all the fields of Law, are all these tendencies carried out in the same manner? (Flood, 1996: 169-214).

7. Equality and family social rights

We can therefore see that legal standards act as incentives to decision making for future action and laws themselves determine the scope and effects of family relationships in detail. In other words, any agreements reached by dint of the autonomous will of the parties concerned will, in theory, have to adapt to the impediments of the legal system given that legal power is instrumental. The problem arises in that the ethical content of those legal powers, built on religion, ideology, tradition and values, holds great sway and it can be difficult to achieve consensus on issues such as marriage, divorce and child custody. Furthermore, equality in the eyes of the legal rules out any discrimination and attempts to bring about a minimum level of security of material circumstance. The rules regarding equality are general in nature and specify that no-one should be excluded yet, insofar as sharing common assets is concerned, that equality does not suffice as it is neither real nor effective.

The right to social services assistance and to safety is conceived as expressing the family interests and on that basis, therefore, individuals must be dealt with in such a way as to achieve satisfactory togetherness with the other members of the family group (Commaille, 1996; Díez-Picazo, 1984).

The contemporary concept of equality has its origin in the creation of a legal and social order in which the independence of the individual could only be obtained by positioning him under the auspices of the legal power of the State, with the concept of independence being linked to a formal system and economic autonomy. As Rosenfeld highlights, the history of constitutional equality is the result of a long and difficult struggle against feudal status and privileges. This is a dialectical struggle divided into three stages. In the first, difference is a correlate of inequality: "Those who are characterized as different are treated as inferiors or superiors depending on their position in the hierarchy". In the second phase, identity is a correlate of equality: "If certain criteria are met, everyone has the right to be treated equally". Finally, difference is the correlate: "Any person shall be treated in proportion to their needs and aspirations" (Rosenfeld, 1998: 415).

Overall, among the principles governing the functions of the family solidarity may be mentioned. At this point altruism, as an assumption, must be mutual, but it depends on the personality and ethical values of the people who make up the family. Usually, the woman displays more altruistic behavior than men, and the mother more than children; but when the couple is in conflict, this altruism usually disappears completely or partially, as every party looks to their own needs. In turn, solidarity implies being aware of one's own dignity and that of others. The attitude must be guided by estimating the group's distinctive responsibilities. We must accept that these responsibilities go directly from one member to another, and that each one must understand that they come from another more general responsibility, given the concern over the fact that the practices carried out entail an equal interest for all (Cabrillo, 1996; Meil, 2011; Saraceno, 2008).

In addition, reciprocity in the family operates as a balance to freedom and equality because through the structure of family life the person gives and receives, and all this is done in a cooperative regime. Consequently, generational equity states the ability to conduct fair reciprocity between generations present in a certain moment in history, the ability to invest in new generations, transmitting material heritage and the motivations and skills necessary for the production of material, cultural and spiritual resources, and the ability to compensate for the disadvantages that may arise for every newborn member in a larger family (Folbre and Bittman, 2004; Gil Calvo, 1997; 181-200). In this way, social rights constitute subjective rights, representing a programme of distribution of goods through a balance between public, collective and private interests. This results in a singular structure with a special mechanism by which the State has to provide assistance and services, and create, strengthen and promote the conditions allowing individuals and groups to satisfy their needs. Thus their obligations are also related to the prerequisites for exercising positive liberty. The main point of departure is that individuals are moral subjects endowed with dignity. It defends the idea that we all have real capacity for choice and that we all direct our existence towards certain aims in life (Asís, 2000, p. 150).

The social rights are paths of legitimation of the political public sphere, and serve to limit the official authority in order to add to its definition and to obtain the support and help it offers in the form of benefits and services. In relation to civil society they serve to defend its members from the official authority and from themselves, to be effective and surpass the natural state, to communicate and establish links between the official authority and the civil society, instead of having the official authority separated from society or a civil society that does not consider the official authority. In short, the purpose of the entire public service must be to ensure the enjoyment of rights and promote them. We draw the conclusion that the actions of the State which we have set out should be modernized and improved constantly, because, given the growing scarcity of many goods and having achieved universal social rights, in many cases the demands are excessive and impossible to meet; and, given the problems that arise when determining the individual who is entitled to State´s action, the decision-making becomes increasingly more complicated (Peces-Barba, 2004; Prieto, 1998: 72-73).

8. Conclusions

Progress in the analysis of human rights is what will make it possible to go deeper into a fairer Law in the era of globalization. In this area, then, a preferential place must be given to legal Science which up till now has preserved a conceptual apparatus of a paleo-liberal type, and there has been no concern to draw up a theory of the guarantees and a Science of the Constitutions which meets the standard of the instances of tutelage expressed by the new and old rights.

Legal Science has had no impact on the creation of a constitutionalism of private Law which imposes limits and guarantees against the abuse of power by economic authorities. And, if we place ourselves in the public sphere, it can be seen that neither has legal Science drawn up, outside the criminal and procedural guarantees which protect our rights of freedom, appropriate guarantees for political and social rights (Ara, 1990: 155-156). Nevertheless, this is not contradicted by the fact that legal Science must be independent and take on spaces which are clearly of non-Law, together with informal dimensions within the current legal dynamics. All of this brings with it the requirement or the opportunity to carry out research which goes deeper into the real structure of the new forms and dynamics of Law (Calvo, 2007).

In short, to be able to overcome these serious problems, the objective I think we have to set ourselves is to find a model of Law which is able to carry out an alternative project. The globalization of Law has two main regulatory dimensions: the degree to which the world is subject to a set of legal rules, and reference to the certainty that human relationships are governed by Law everywhere in the world. Legal rules undergo conversion into obsessive-compulsive rules and become a system that legitimates itself based on its inherently self-generating nature. In addition, the initial concept of legal relations and their components are transformed into a techno-legal order under the influence of a new technical focus. Thus, a new order emerges, characterized by the formation of networks that imply that the globalization of law must centre around commercial and Contract Law, Public Law, protecting human rights and also the growing importance of lawyers, together with the dissemination of contents and legal procedures. All three of these mean that the regulatory authority of the State with respect to these areas is unlimited, although States can decide whether to participate or else to withdraw. In this state of affairs, linear systematicity is forgotten in order to implement a circular system, surpassed by the specification of new concepts (Bobbio, 2009: 449-508; Jenson and Sousa Santos, 2000).

The State intervenes along basic lines to the extent that it is in its interests to preserve the family as an institution. Regulations can be seen as a system providing incentives that have a decisive effect on future actions, although it is law itself that sets down the content and specific scope and effects of the legal-family relationship (Garrido, 2000). Any agreement reached from the autonomous will of the parties must necessarily adapt to the limitations set down under the Legal System, in that legal powers arising out of legal-family relationships are deemed instrumental and are attributed in order to ensure the purposes provided for under that legal system and this cannot be left up to the independent criteria of individual citizens. The degree of difficulty arises from the fact that families have very strong ethics which rely on moralistic and ideological issues, on religion, tradition and a value system.

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