

THE DISTORTION OF AFFECTION IN BRAZILIAN LAW IN CONTRAST TO THE ABOLITIONIST CRITIQUES OF THE FAMILY



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ABSTRACT

The celebrated principle of affectivity, a legal value that has recently risen to the status quo in Family Law, mainly as the foundation for the protection of new family arrangements and socio-affective parenthood, now faces criticism, not only for its incriminated use in jurisprudence but also for presenting itself, for a long time and now even more, as the focus of the central clashes of the theories that found the movement for the abolition of the family. The research proposed in this article is based on the investigation of affect in family relationships, seeking to understand how, at first, having it as a legal principle revolutionized what is understood as family in law – and all the rules unfolding from this perspective. In a second moment, its decline was investigated, since it began to serve interests other than those primarily defended. And, finally, the research was able to unveil its real nuances in the context of the 'postmodern' and neoliberal society, when the analysis took place from the unsettling perspective of the Abolitionist Movement of the Family.

Keywords: Principle of affection. Family Law. Abolition of the family. Progressive Neoliberalism.

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METHODOLOGY

The methodology in this study begins with qualitative bibliographic research - doctrinal and jurisprudential - as well as scientific articles, lectures, documentaries, podcasts and journalistic articles on the subject. The research advances with the conceptual-critical and dialectical analysis of the information collected, always in a reflective and interdisciplinary way, making it possible to build the premise that affection, in Family Law, serves other interests more than the constitutional dictates of the dignity of the human person. The hypothesis was worked out in its nuances and finally confirmed at the end of the study as will be seen below.

THE FAMILY AND THE LEGAL VALUATION OF AFFECTION

Affection, which was once relegated only to individual subjectivity or even considered dispensable, whether in society or by Brazilian Law, began to have relevant contours with the changes that occurred in Brazilian society since the Civil Code of 1916, through the Federal Constitution of 1988, arriving at the Civil Code of 2002 and, finally, reaching its possible reform whose processing of the Bill is already a reality in the Federal Congress².

At the beginning of the twentieth century, Brazil was still a predominantly agrarian society, families were formed as a rule not by affective bonds, but by other interests. Marriage was the only legitimate source for the formation of the family in a society marked by strong macho traits and under the direct influence of the Catholic Church³. The family was formed with very specific objectives, marriages were arranged for patrimonial issues or moralistic accommodations, affection being almost an accident along the way since marriage constituted a strong institution, indissoluble and with its own moral rules.

In the course of well-delineated existences with unequal roles protagually fixed, the woman existed to marry, reproduce and take care of the domestic home, while the man had the role of provider, supporting the woman and the children, and this is where culturally all personal fulfillment resided. Thus, the family was summarized in a productive and

² On January 31, 2025, the Federal Senate received the proposal that updates the Civil Code, Bill 4/2025, filed by Senator Rodrigo Pacheco. According to the Senate's website, "a commission of jurists created by the president of the Senate, Rodrigo Pacheco, has completed the revision of the text in force, in an attempt to bring it to the present day." Available at: <https://www12.senado.leg.br/noticias/infomaterias/2024/04/codigo-civil-conheca-as-propostas-de-juristas-para-modernizar-a-legislacao> Accessed on 22.03.25

³ On marriage: *"Not only law but also custom and religion prevail in it: all three groups of norms are contained in its domain and, as will be seen, one of the most salient characteristics of the history of the institute is the struggle waged between the State and the Church to obtain exclusive competence to regulate it."* (Ruggiero, 1999)

reproductive unit, since the more children, the more hands for the crop, the more arms to ensure sustenance, the real focus of the great mass.

Any form of filiation, kinship or relationship not so established meant social discrimination, as well as discrimination of the Church and also of the legal system⁴, which was deeply rooted in these traditions and brought equally discriminatory norms, such as the treatment given by the Civil Code of 1916 to the child out of wedlock, said to be illegitimate. There was no possibility of dissolving the conjugal bond, the legislator and the Church did not allow it, much less did society accept it, so the institution was maintained at the expense, in most cases, of the dignity of its members.

Gradually, the context changed, the great world wars made the darkest facet of the human trajectory emerge, making it imperative to rethink the protection of life, so human rights were enshrined in Western countries and the dignity of the human person was raised to a supreme value (Pereira, 2023). On the other hand, to guarantee human rights, states have promulgated guarantor constitutions, aiming to promote social well-being through state tutelage. As a result, the focus of Private Law is no longer on heritage, turning its spotlight on the human person and his or her dignified existence.

In parallel, revolutionary minorities became relevant in the political scenario and the search for material equality became a matter of order that, even still under construction, caused significant changes in the legal order, starting from the Federal Constitution of 1988 reaching the Civil Code of 2002 and leading to an expressive legislative production of microsystems such as the Consumer Protection Code, Statute of the Child and Adolescent, Statute of the Elderly and Statute of Persons with Disabilities.

The advancement of technology has also had a direct impact on private life, requiring attention from the legal system, that is, the possibility of family planning from the emergence of contraceptive methods, the possibility of assisted reproduction, whether heterologous or not, and also the evolution of DNA testing, enabling accuracy and biological filiation.

Women, before the home, were able to go to the labor market, not on an equal footing with men, but it was possible to say that the rigid roles in the family structure were shaken. Their personal fulfillment is no longer found in marriage and reproduction. But how can we say equality if marriage was "until death do us part" and only the man exercised

⁴ CC/16 - Art. 332. Kinship is legitimate, or illegitimate, according to whether or not it proceeds from marriage; natural, or civil, according to whether it results from consanguinity, or adoption.

paternal power? Understandably, it was only the man who could decide on the administration of the family patrimony, on the residence and destiny of the children, it was not a union, but a subordinate position from which there was no possibility of emancipation.

The immutability of the marital status came against the social yearnings for equality and the constant search for happiness in contention. The post-industrialization society, globalized and focused on large urban centers, lives a much more complex reality than the agrarian society of yesteryear, the desires go beyond production and reproduction through established relationships.

Despite the social transformations and even our Federal Constitution/88 guarantee, the Civil Code/02, in force, remains rooted in liberal bourgeois bases. It is known that he was born old, that he was directly influenced by the Napoleonic Code, whose system of norms was closed and positivist. Miguel Reale brought advanced clothing in relation to the predecessor diploma of Clóvis Beviláqua, CC/1916, however its wording was finished in the 1960s, still in a traditional social context.

It turns out that the process was too long, starting in parliament in 1975 until its publication in 2002, that is, it took more than 25 years in this process while the reported transformations were erupting around it, making the diploma that had not even been born already obsolete.

What is certain is that adaptations were made to the original wording for publication, in view of the paradigmatic structural change from the Federal Constitution. As an example of adaptation, the adoption of the system of general, open clauses was seen, to be materialized in each case, such as objective good faith. Thus, axiological connections have become possible to the extent that legal principles, embodied in open clauses, no longer serve only to fill gaps, but mainly as rules just like the legal norms in force.

However, we still have in the Civil Code of 2002 an eminently patrimonialist and individualistic basis, concerned mainly with the accumulation of wealth and its maintenance. For this reason, Tepedino (1999) does not hesitate to say that it is a strategic rationality, that is, "an adaptation of laws to previous transformations in society, without worrying about economic, political and cultural reality", he states that even the general clauses, as they were placed – mere formal and neutral structures – do not present expressly defined criteria to express the axiological table of constitutionally enshrined social values. According to the author, this means that the legislator does not participate, but only endorses social transformations, with his back to soiedness.

As a result, contradictions appear throughout the entire civil act. While it rightly opens Book IV - Family Law enshrining marriage as an establishment of "full communion of life, based on the equality of rights and duties of the spouses" (article 1,511), it determines that the separation of property regime is mandatory in the marriage of a person over 70 years of age (article 1,641), and thus under the argument of protecting the property of the elderly flagrantly violates their right to be treated equally, disregarding that he has the cognitive capacity to choose whom to marry, the Federal Supreme Court rightly considered the provision unconstitutional⁵.

In this period of time of processing of the 2002 Civil Code project, in which major legislative changes occurred in Western countries, especially the constitutionality movement from the 90s onwards, a true revolution occurred in *families*. As already outlined, a new social context was formed, from the participation of women in the labor market, through the Divorce Law (Law 6.515/77) and the marital coexistence between people of the same sex.

What we saw was a patriarchal family, based on marriage, inequality between spouses and discrimination against non-biological children, that is, with a positivist vision and a single model, transmuting itself to a plural vision, which transcends pre-established models, which does not presuppose different genders, which does not even need a sexual connotation to exist or which exists only to generate descendants.

The family ceases to be a productive and reproductive nucleus, its two main functions according to Souza and Waquim (2015), to mean a place of affection and mutual solidarity, because people start to relate to achieve personal fulfillment and so it could not be otherwise since we start from the paradigmatic change of constitutional fundamental rights, turning man to the center of the legal system and family relationships, seeking the realization of the dignity of the human person.

The family is spoken of as a means of seeking happiness, its existence is due to its members, to be tutored so that they can experience their existential fulfillment and feel (at least potentially) that the family nucleus portrays and allows the achievement of happiness. It is about the eudaimonistic character⁶ of the family, an idea that results from the

⁵ Thesis of general repercussion of the STF - Topic 1,236: "In marriages and stable unions involving a person over 70 years of age, the separation of property regime provided for in article 1,641, II, of the Civil Code, may be set aside by express manifestation of the will of the parties through a public deed". Available at: <https://portal.stf.jus.br/jurisprudenciaRepercussao/verAndamentoProcesso.asp?incidente=6096433&numeroProcesso=1309642&classeProcesso=ARE&numeroTema=1236>. Accessed on Aug 06. 2024

⁶⁶ Eudaimonism is the doctrine that defines the search for a happy life, both individually and collectively, as

realization of the principle of the dignity of the human person, since a dignified life is a prerequisite for personal fulfillment, for happiness and, in the end, it is what brings legitimacy to state tutelage.

Human beings, in this sense, must be able to develop and determine themselves, choosing their own objectives, being deprived of their self-determination, freedom of choices and protection against state interference in these choices, so that they must be free to choose with whom they want to unite, how they want to do it, whether or not they intend to have descendants, how much they will be and, also, whether the bond is desired to remain or not, thus also seeing here the realization of the fundamental constitutional right to freedom.

In view of this reality, the civil doctrine proposes an open concept of family based on affectivity. Open because it is not unique or absolute in the face of the complex and multifaceted range of socio-affective relationships, trying to list the elements that are essential to it, in order to identify, in the concrete case, if the requirements are present, the existence of a family nucleus to be protected by the state.

Neither the Federal Constitution nor the Civil Code intended to conceptualize the family, and it is correct when one bears in mind that the three models presented in article 226 of the CF/88 – marriage, stable union and single-parent family – do not exhaust the protection of the state. Their presence is by way of example, showing that state tutelage goes beyond the bond that is based on marriage.

It is precisely recognition that the family structure is now based on affection, breaking with patriarchal structures, and that the new approach requires the inclusion of new family arrangements in legal texts (Cardoso, Silva, 2015). In this way, with all the transformations that have occurred in recent decades, there is no longer a single concept, a closed and stagnant standard of what family is (Lôbo, 2024).

In this sense, Paulo Lôbo (2024) further explains that family pluralism means respect for the forms of family constitution that are not formed only by marriage. He states that Brazilian law has started to integrate cohabitation units not previously contemplated, such as stable union, single-parent family, homoaffective unions, among others, as long as they present affectivity, stability and public coexistence are also forms of family constitution.

the principle and foundation of moral values, considering ethically valid all actions that lead the human being to happiness (Albuquerque, 2025). According to Paulo Lôbo (2021), this eudaimonist view is integrated with constitutional principles by valuing the affective dimension as constitutive of the family entity.

Consequently, there will be a family, in the constitutional-contemporary sense, whenever there is a social nucleus of more than one person, based on the affectivity and with the purpose of personal fulfillment of each of its members. From this originate some important conclusions, the first of which is that it is an open concept, therefore accessible to the multifaceted contemporary social reality; Moreover, it can be seen that this concept is materialized in each case to be analyzed, observing the specificity of each family arrangement, being different in each application.

Personal fulfillment, as a vocation of the family, does not pass only through the pure feeling of love, we may be facing a social convenience or a purely economic interest, what really matters is that these are the aspirations of the individual, without however saying that this means unrestricted freedom, since constitutional social values conform, within the civil sphere, not only the contracts, but also the families. A reason that leads to the social function of the family as a means for the development of personality, even if there are family arrangements without love, without affection there will be none, making it clear that love is not a presupposition and affection is, assuming that love and affection are different things.

Many understand it as a synonym, but here it is argued that affection comes before love, it is a first step, since those who have affection for something or someone, feel affection, interest, good will, it is wanting to be close, to live together, but not necessarily love, which consists of something even deeper.

By its etymology, the word affection derives from the Latin "*affectus, a, um*" and includes one who is taken by feelings, moved. In the dictionary⁷ we have that affection is the "feeling of affection or inclination for someone; friendship, passion, sympathy" and also an "affectionate connection towards someone or something; want". On the other hand, love comes from the Latin word "*amare*"⁸ in its origin affection, concern and desire for someone. In the dictionary we have love as "the great affection that unites one person to another, or to a thing, and that, when of a selective and selective nature, is often accompanied by friendship and positive affections, such as solicitude, tenderness, zeal, etc.; affection,

⁷ Simple search of the entries love and affection in the Michaelis online dictionary. Accessed on Sept. 11, 2024: <https://michaelis.uol.com.br/busca?r=0&f=0&t=0&palavra=afeto>

⁸ André Comte worked three categories of love: *eros, philia* and *agape*, as if they were three stages. *Eros* is passion, erotic love, linked to conquest and enjoyment. "Eros is the love that takes and consumes." (Ferry, 2013, p. 67). *Philia* is not only feeling friendship but joy when in the simple presence of another. A fraternal love and empathy, a kind of gratuitous love. "It is a love that, unlike eros, essentially rejoices in the presence: it is the presence of the other as such that makes us happy" (Ferry, 2013, p. 68). *Agape* is the love that makes us leave ourselves aside to let the other exist. It is something very similar to charity and piety, but it goes further: it is Grace. "Agape is the intelligence of love, the wisdom of love that consists in leaving all space for the other, letting him be, leaving him free; it is true love." (Ferry, 2013, p. 69)

devotion." From this it is possible to conclude that in order to configure love, it is necessary that the affect is of great importance, and that it is the qualification of the affection that forms love.

Even though we still consider affection as love, definitions of affection are necessary, Maria Berenice Dias (2010, p.10) believes that:

Emotional involvement that removes a relationship from the scope of obligation law – whose core is the will – and leads it to family law, whose structuring element is the feeling of love, the affective bond that merges souls and confuses assets, generating responsibilities and mutual commitments.

On the subject, the points of José Fernando Simão⁹, one of the first authors who defended the principle of affectivity and who will be cited again later when we deal with its developments, are enlightening. For him, the confusion between the concepts is harmful to the legal system, since taking affection for love would require an investigation of the human soul, asking, for example, whether "you love your child" or "what is the measure of your love", in addition to being risky to understand that when love ends, affection ends, and the legal bonds resulting from it, could be undone. The jurist then defines that love and hate, desire for life and death are expressions of affection (Simão, 2015).

It is understood that the affection that is addressed here is the one that exists in the relationship with another and not the potential affection, the focus is on the affect that creates and transforms the family relationship, being able to form bonds beyond the biological factor. So it is affection, as a soul or social fact, that interests the law, it is the social relations of an affective nature that engender conducts that may deserve the incidence of legal norms and, consequently, legal duties (Lôbo, 2024, p.12).

It is not intended, with these considerations about 'love *versus* affection', to achieve the accuracy of what one and the other are, only to understand the close, but also distinct relationship that they have, and to demonstrate how the consideration of affection, including as a requirement for the configuration of the family, has a series of reflections that are much celebrated in Family Law, since it means a more humane posture of state tutelage.

As a direct consequence of the formation of families based on affection, it is possible to understand the existence of non-traditional social arrangements – considered family nuclei because they are built from affection with the purpose of the personal fulfillment of

⁹ José Fernando Simão is a lawyer, director of the advisory board of IBDFAM, professor at the University of São Paulo and the Paulista School of Law and member of the commission of jurists responsible for the reform of the Civil Code in progress in Congress, Bill number 4 of 2025.

their members – such as those formed by people of the same sex, called in this context homoffective families. Other denominations were separated, such as 'homosexuality' which, due to the suffix *"ism"*, referred to the pejorative idea of a disease, as if a disease were and needed a cure, and 'homoeroticism' which referred to the eroticization of this union. On such unions, despite the fact that the legal system is silent, the jurisprudence has taken a position and, since 2011, has recognized the same-sex union as a family entity¹⁰.

Another consequence of the consideration of affection as an integral part of the concept of family is the relevance given to parental responsibility, with affective abandonment being the cause of condemnation in payment of compensation for moral damages. These cases of abandonment occur when a father or mother does not dedicate affection to the child, which is understood in the exercise of the duty of care that implies enhancing the development of the minor, providing him not only with subsistence, but also with the emotional support of continuous monitoring, calling the parents to the effective exercise of their parental responsibility. An emblematic judgment in this regard is Special Appeal 1.159.242/SP¹¹ in which Justice Nancy Andrighi prescribes that "to love is a faculty, to care is a duty", that is, its non-compliance is an unlawful act giving rise to civil liability.

Speaking of affection, it is also worth noting the recognition of filial relations without the biological bond, coined by Villela as early as 1979 as the debiologization of paternity. Whether through the courts or through the voluntary recognition of socio-affective paternity or maternity, a procedure that can be carried out even administratively¹², which sees the real possibility of filial relationships apart from the genetic link with legal protection. The breaking of paradigms takes place by mitigating the dogmatic understanding based on genetic supremacy, an idea that had long prevailed, which led to the discrimination of non-biological children and which became even more influential when the accuracy achieved by the DNA test emerged.

It turns out that the Brazilian reality presents several types of non-formalized bonds that have nothing to do with the biological issue, these are situations that can be covered by

¹⁰ The STF interpreted article 1,723 of the Civil Code in accordance with the Federal Constitution to exclude from it *"any meaning that prevents the recognition of the continuous, public and lasting union between people of the same sex as a family entity understood as a perfect synonym of family."* (ADI 4,277 and ADPF 132). Available at: <https://portal.stf.jus.br/noticias/verNoticiaDetalhe.asp?idConteudo=504856>. Accessed on Sept. 11. 2024.

¹¹ STJ - SPECIAL APPEAL No. 1.159.242 - SP (2009/0193701-9) Available at: <https://www.stj.jus.br/websecstj/cgi/revista/REJ.cgi/ATC?seq=14828610&tipo=51&nreg=200901937>. Accessed on Sept. 09. 2024

¹² Provisions numbers 63/217 and 83/2019 of the National Council of Justice – CNJ.

the solution based on affection and not on genetics. The popular saying "father is the one who creates" has its place well delineated here. Informal adoptions, nicknamed "Brazilian adoption", dates back to colonial times, situations in which a child, whose parents were unable to take care of them for financial or even social reasons, was included in another family, being raised as if he were a son/daughter. Or, on the other hand, when the mother died, the father remarried only registered as his new wife the children he had already conceived with the deceased wife.

The case that brought the greatest relevance to this scenario was the one in which Justice Luiz Fux, in 2016¹³, recognized that socio-affective parenting has the same value as the bond of biological origin, ending up also recognizing the possibility of multiparenthood, that is, the possibility of having two mothers or two fathers, all with the same rights and duties related to family power, both for children and parents. It follows from this that one can have two inheritances, the right to request maintenance from both, as well as to inquire about their care for the minor. Not only that, biological children and socio-affective children must be equally considered for all purposes, deserving dignified treatment whatever their origin.

Finally, but not exhausting the issues arising from affection, we have as relevant the abandonment of guilt in family law. The previous idea was that if the marriage bond came to an end, it was because one of the spouses would be guilty of it, which resulted in penalties such as not obtaining custody of the children, losing the right to alimony and even patrimonial consequences in the division of assets when the legal separation was issued, which still existed¹⁴ at that time.

With the inclusion of the affective basis, it is understood that if the affection ends, which is not the fault of any of those involved in the marital relationship, there is no imperative for people to remain together. Even if there is no cause to impute to each other, divorce can take place, and is even a potestative right; if one does not want to, the bond will necessarily be dissolved. If this is no longer a '*locus*' that enhances happiness and individual fulfillment, there is freedom not to remain in it, and there is no need to maintain

¹³ RE 898.060/SC - Topic 622, thesis of general repercussion: Socio-affective paternity, whether declared or not in a public record, does not prevent the recognition of the concomitant filiation bond based on biological origin, with its own legal effects. Available at: <https://portal.stf.jus.br/jurisprudenciaRepercussao/verAndamentoProcesso.asp?incidente=4803092&numeroProcesso=898060&classeProcesso=RE&numeroTema=622>. Accessed on Aug 20. 2024.

¹⁴ The STF considered that, as of EC 66/2010, legal separation is no longer a requirement for divorce, nor does it exist as a faculty in the legal system, a subject of general repercussion 1053. Available at: <https://portal.stf.jus.br/jurisprudenciaRepercussao/tema.asp?num=1053> Accessed on Sept. 11. 2024.

the bond just for the sake of the continuity of the marriage, no longer considered an end in itself.

THE DISTORTION OF AFFECTION WITH THE INFLATION OF MULTIPARENTHOOD

There are so many outings of affection that the doctrine diverges as to whether here we would be facing the value of affection being protected by Family Law or properly a legal principle, the principle of affectivity. On the one hand, the defense of affection as a legal principle is affirmed that it comes from a constructive force of social facts, which has legislative, doctrinal and legal density and that this is what allows its current *sustenance de lege lata*. It would be implicit in the Federal Constitution, explicit in the Civil Code, and would be part of the Brazilian civil-constitutional principled system, removing the patrimonial posture and the intention of procreation only in that of the family, as it deals with the zealous reciprocity between its members (Tartuce, 2021).

On the other hand, the current that understands it as a value states that although affection creates bonds, breaks paradigms and generates legal effects, it cannot be demanded; when imposed it is not sincere and does not have the qualities that are proper to it. Thus, it could only produce legal effects if it arose spontaneously, so that the presence of the biological bond alone would not imply the possibility of demanding affection. The thought rules out compensation for affective abandonment, noting that for non-compliance with the legal duties of alimony, custody and education, the loss of family power is due to the loss of family power (Carnacchioni, 2021). Such a less comprehensive position regarding affection may mean a more judicious application, perhaps a more correct path considering the reports that follow.

On the subject, Paulo Lôbo (2024, p.12) states:

Affection is a social and psychological fact. Perhaps for this reason, and because of the broad normativist training of legal professionals in Brazil, there was so much resistance to considering it from a legal perspective. But it is not affection, as a psychic or social fact, that interests the law. As its proper object of knowledge, social relations of an affective nature that engender conducts that may merit the incidence of legal norms and, consequently, legal duties are of interest. Affection, in itself, cannot be legally obligated, but rather the conducts that the law imposes taking it as a reference. A person cannot be forced by the right to have real affection for another, even between parents and children. However, the law can institute legal duties and impose behaviors inspired by real affective relationships.

In one way or another, doctrine, jurisprudence and society celebrated the changes, reflections of popular desires, however what was seen ahead was the distortion of a

purpose and what was considered a way of materializing fundamental rights became ammunition for selfish interests. As will be demonstrated, the concept of affection has become trivialized to the point of serving to seal even practical situations that have always been rejected by the legal system.

That is why José Fernando Simão, a jurist already mentioned here, made a point of publishing two articles¹⁵ on his Legal Consultant page¹⁶, entitled *"Affection: from legal value to perversion. I made a mistake. And a lot."* Part 1 and part 2. In the texts, the author bluntly acknowledges that he was wrong, first referring the reader to the previous moment, in which the broad defense of this value in family law was seen as correct, but then he unveils two flagrant forms of distortion of the institute, which are increasingly frequent.

First, the distortion of affection was seen when, in RE 898.060/SC - Theme 622, already cited here, a thesis of general repercussion in which the STF affirmed the possibility of concomitant recognition of socio-affective paternity with biological paternity, in the same decision, it was determined that it is a child's faculty to choose whether he wants one or two parents. This faculty opened a loophole so that the child could choose two parents only because then he or she can have two inheritances and two alimony and not because there is genuine affection in the relationships under analysis.

The second misrepresentation dealt with by the jurist was called by him "adverse possession of someone else's child", with three examples being worked out:

One: when already pregnant, the mother gets married with a person other than the biological father and the child is registered as if it were the spouse's, but later the biological father seeks recognition, to which the doctrine solves with the shallow idea that the more the better, three ascendants is better than one, but does this mean the best interest of the child?

Two: a homo-affective couple in which one of the women is the biological mother and the biological father remained present in the child's life having intense contact with her, but the mother's wife, feeling jealous of the father's presence in the woman's life, asks for the recognition of socio-affective motherhood. Would having two mothers serve the child's

¹⁵ Available at: <https://www.conjur.com.br/2023-dez-17/afeto-de-valor-juridico-a-perversao-eu-errei-e-muito/>
<https://www.conjur.com.br/2023-dez-24/afeto-de-valor-juridico-a-perversao-eu-errei-e-muito-parte-2/>.
Accessed on Sept. 12, 2024.

¹⁶ Consultor Jurídico is an independent Brazilian electronic magazine with specialized coverage in news about the Judiciary, Public Prosecutor's Office, advocacy and law. Founded in 1997, it publishes daily reports, interviews and opinion articles on legal topics. Available at: https://pt.wikipedia.org/wiki/Consultor_Jur%C3%ADdico. Accessed on Sep. 12, 2024

interest or the insecurities of the adults around him?

Three: the mother's current husband does not like the previous one, and there is jealousy and competition between them. The stepfather asks for the recognition of socio-affective paternity, after all, what harm could there be for a child in having two parents? But in practice, what exists is a good stepfather who is not a father, given the existence of a father occupying his role. It turns out that appreciation and zeal, on the part of the first-degree ascendant by affinity, should not generate multiparenthood.

A fourth and a fifth examples are added, which cannot fail to be reported here:

Four: in times of search for happiness with ephemeral relationships, a simple courtship can give rise, perhaps as a proof of love, to the request for recognition of socio-affective paternity or maternity, in the same logic as the more parents the better. But, after two or three years, the couple separates and loses contact, what about the child? It is not possible to undo the socio-affective bond, would civil liability for affective abandonment be applicable in case of a bond created by affection?

Five: at the end of the relationship, the claim for recognition of socio-affective maternity or paternity is judged to be valid, but the focus is not on the minor, the undeclared claim is to maintain or resume the broken marital bond, in the hope that the mandatory contact will be a breach for approximation.

The trivialization of the institute creates strange situations such as these.

The problem we face is the idea that the child will have more rights if he has two fathers or two mothers, but this is not true. On a daily basis, decisions and care will then be thought out and organized by three or maybe four responsible persons, the equation is not simple and generates more complications than solutions. Situations such as the school to attend, if the child will follow any religion, what contours education will have, how will food or contact with other relatives be, considering that there will be at least six grandparents. The agreement between those involved cannot be presumed just because they are obliged to make decisions together. On the contrary, the more actors, the more difficult the consensus, not least because many social, cultural and economic factors are involved.

If consensus is difficult, it becomes necessary to resort to the judiciary at all times to resolve conflicts that should be decided without disturbance in the domestic sphere. Once again, the advantage for the child's development in this increasingly complex context is questioned. The indiscriminate use of affective foundation, makes us lose focus on what really matters, a home that serves the full development of each of its members, especially

the smallest, most vulnerable, so susceptible to the direct influences of their educators.

In this scenario, José Fernando Simão (2023) also correctly concludes that the "inflation of affection is perversion", because if, on the one hand, the institute is used, without parsimony, on a mere whim to use someone else's child, on the other hand, the fear of taking care of someone else's child is worshipped to avoid the construction of an eventual affective bond and its legal effects.

This disenchantment with the precept under study, added to the unbridled search for happiness, leads us to a deeper reflection, would all this not be the result of the individualism characteristic of neoliberalism? That is, a reflection of a broader context, which absorbs contours related to politics and the global economy? The criticism can be ventilated based on the abolitionist movement of the family, as we will see later.

THE ABOLITIONIST MOVEMENT OF THE FAMILY

Analyzing a movement that proposes the abolition of the family requires the help of researchers from the social aspect, so in this study the argumentative foundation is based mainly on Sophie Lewis and Melinda Cooper¹⁷, who unveil disturbing points about the traditional family.

The proposal to end the family may seem strange, an initial estrangement is natural and even necessary. Natural because it is not a custom to question premises set, because putting in check the place where we think we are safe, where we come from and where we belong, can generate fear and insecurity.

And estrangement is also necessary, who presents us with this question is Sophie Lewis (2023) who, by analogy, understands that this estrangement resembles the breaking of the walls of the *polis*, in which nothing can be seen with dust on the horizon. It happens that what was previously stabilized is dislocated and, in this moment of estrangement, the important thing is to wait, to let the dust settle, so that new limits present themselves, expansive or not. From this point of view, what is in vogue in the movement, once the dust

¹⁷ As stated on the University of Pennsylvania website, Dr. Sophie Lewis is a writer and independent visiting scholar at the University of Pennsylvania's Center for Feminism, Queer, and Transgender Research. Sophie is also a faculty member at the Philadelphia branch of the Brooklyn Institute for Social Research. Available at: <https://gsws.sas.upenn.edu/people/sophie-lewis>. Accessed on: 26 Mar. 2025. According to the Australian National University website, Melinda Cooper is an Australian sociologist and political theorist whose work focuses on the recent history of capitalism and its intersections with the politics of class, gender, and race. She holds a PhD from the Université Paris Vincennes-Saint-Denis, as well as a professor of sociology at the <https://researchportalplus.anu.edu.au/en/persons/melinda-cooper> University of São Paulo. Accessed on 26 Mar. 2025.

has settled, is not its total extinction, but the scathing sociological criticism that is made from the moment we think about the reason for the existence of the family.

Since the idea of a self-sufficient community called Phalanstery, idealized by Charles Fourier, a nineteenth-century French utopian socialist – little observed in practice but which proposed to abolish the family once and for all by implanting intentional communities – the existence of a social organization in biological nuclei has been questioned.

Tracing a historical line of the abolitionist movement, after the phalansteries it was Karl Marx who began to criticize bourgeois marital relations as a way of preserving property, within the context of his Marxist theory. Then, science took the lead with positivism and rationality, so that issues that were of a religious nature were treated objectively, without questioning the family structure.

This structured family, however, is deeply shaken by the sexual revolution of the 1960s and 1970s, which shook social and cultural standards, provoking a conservative reaction and giving rise to the current neoconservative political strand. This was followed by the sexual issue suppressed for many years by the military dictatorship and only around the 1990s did the theme become a social center.

At that time, however, the abolitionist movement of the family was only concerned with maintaining itself, being driven only in the 2000s by feminism, the main movement that alters the family to this day. Finally, what we have contemporaneously are radical abolitionists clashing with others who are more reformist, resulting in family assimilationism and intersectionality, issues that we will deal with later.

As seen, abolitionist ideas of the family are nothing new, throughout history movements such as feminism and maxsimo have already inquired about its extinction as a means of oppression of women and workers and its end as the only possible form of emancipation.

The abolitionist movement in contemporary times, under study here, in a different way from the previous questions about the family, proposes the abolition of the family as a limiting structure and, on the other hand, wants the expansion of thought to a different concept of what family is. In order to break away from a rupture that does not allow us to go backwards, it is a provocation of philosophical construction¹⁸, which does not focus on the family itself, but only on the hegemonic idea of family, seeking to specifically question the

¹⁸ The movement is provocative: it aims at the abolition of the limiting structure to achieve the expansion of an understanding, for a philosophical construction that involves recognizing and redistributing (Fraser, 2001).

configuration of the neoliberal-based family that serves as a support for the capitalist economy (Lewis, 2023). In this way, we will deconstruct some pillars of its support so that it is possible to see the family from another perspective, outside the socially pre-stipulated standards.

The first necessary distinction is the one that relates family with love and happiness, not necessarily this combo comes together. Sophie Lewis (2023) tells us that, contrary to common sense, in the family what is most often encountered are disagreements, oppression of all kinds, and, above all, insecurity. Proximity makes it easier for the worst of existence, such as feelings of selfishness and prejudice, to emerge or that, even latent, they make the life of the members more difficult when together.

What has been said about the eudaimonist family, with the potential for full development of its members, is strongly opposed by this social critique, and it is certain from this perspective that what keeps the members together is not happiness, it is often a social, financial or both imposition.

For Judith Butler (2015), what unites people is precariousness, a condition that, unlike vulnerability, which is of an ontological order, is produced by operations of power, the result of the contingencies that involve the being in the relationships it crosses. This happens because people are susceptible to, for example, suddenly losing everything or becoming rich, facing bad weather, feeling insecure. It is this precarious situation that makes individuals unite, to better face uncertainty, that is, it is a political/economic determinant that makes people come together in families.

Thinking about political and economic determinants, we see that the family has never been a form of resistance to capitalism, on the contrary, as Melinda Copper (2017) teaches us. The fact is that as long as there is inheritance there will be no contract between equals, this is the way wealth is maintained in the same family nucleus. However, this does not mean that the family remains exactly the same, it changes according to the time and does not have the same function for different classes, but for capitalism its existence is essential.

Thus, due to the plasticity of capitalism, new, non-traditional family arrangements are not rejected. The format called extended family, multigenerational, in which the man and the woman work and in general the divorced grandparents or uncles take care of the children, results not from noble feelings such as affection, but from the fact that housing has become increasingly expensive, and it is necessary for people to be united, either by distributing wealth or by sharing debts. which is what happens the most.

Life expectancy has increased and with that we have older seniors, capable not only of taking care of young children, but also, many times, of adding to the budget of the nucleus with their pensions. In this context, when children grow up, becoming young adults, they no longer face an autonomous life, since they are very expensive in isolation, they live with their parents and grandparents until they are 20 or 30 years old, they do not want to live alone or form another family nucleus so soon. As can be seen, they choose to be together because this way they can face, with better living conditions, the precariousness that plagues them, reducing possible risks.

It is clear that new forms of kinship are possible, including those that do not result from genetics, but kinship itself is not abolished, continuing to be required by the State. This even acts to reduce losses, after all, those individuals who are not in the family will need care in old age or because of illnesses and will have no one to count on, a relevant weight that the State does not want.

The same thought can be developed regarding unions between people of the same sex. Accepted by the State, and today protected by it, not necessarily because they mean an expression of affection, but because of a series of strategic factors. First, because in the elderly phase they could be considered a state expense, a burden that does not fall to the administration within the neoliberal State, which does not intend to be responsible for the care, a private attribution, specifically of women.

Second, because, in fact, it does not matter with whom they relate, it matters that together in a same-sex union, they mean a large slice of market promotion. Good consumers, most of the time without children, being able to dedicate themselves more deeply to professional projects, being more successful, with better salaries and lower expenses, capable of consuming more and better than traditional middle-class families.

As a result, they are good taxpayers and good consumers, a portion that is then relevant from an economic point of view, accepting, maintaining and supporting them is a strategic positioning.

Third, if we use the legitimacy brought by affection, they can be accepted by the more conservative portions, in the sense of an adaptation to the moralistic cultural system. The connection with affection can mean a form of standardization, of having a malleable consumerist mass of maneuver and not a reflection of the genuine freedom of being able to choose one's partner. There is a lot of talk about the principle of freedom, not just formal, but what kind of freedom is this in which its exercise presupposes affection, an eminently

spontaneous feeling, which loses its essence if forced?

From this perspective, one can also question the change in the adjective, the union between two people of the same sex, previously a homosexual relationship, now homoaffective, a sign that acceptance necessarily passes through the presence of affection, the union is now possible because within a redesigned pre-established limitation.

In the initial petition that reached the STF and which resulted in the jurisprudence that recognizes the union between people of the same sex as a family entity, already mentioned above, the arguments are stability, the possibility of joint health insurance, common property, common loan, that is, it is not about affection, the valid and sufficient argument was economical. The concern is that spouses depend on each other and not on the state.

It is emphasized that in many of these relationships, exactly what is wanted is to be in the same molds as the bourgeois nuclear family, being considered socially as much as such families, without distinction. This phenomenon is what we call "family assimilationism", in the sense of removing promiscuity because they are assimilated to heterosexual couples to the extent that they relate to each other out of affection. What this phenomenon certainly demonstrates is the strength of the imperative of the family structure as a determinism that reaches even individuals who are on the margins of the traditional family organization.

In this sense, it is worth bringing the idea of intersectionality that sustains that the classic conceptualizations of oppression within society (such as racism, sexism, machismo, ableism, xenophobia, homophobia and transphobia for example) do not act independently of each other, but interrelate, creating a system of oppression that reflects the "intersection" of multiple forms of discrimination.¹⁹

Here we can begin to identify the oppressions suffered, interrelate them to each concrete situation, but how to reach the driving cause of them? A first step in this direction are these deconstructions that we seek to trace in this study, questioning the family structure itself.

Returning to the eudaimonist idea of the family, to assume that happiness springs naturally from marriage is a social and cultural trap. From an early age, individuals are led to believe in a certain future: with marriage and children if they are women, with the work of care being theirs; with the work and support of the family as a man and, both, with the

¹⁹ Available at: <https://pt.wikipedia.org/wiki/Interseccionalidade>. Accessed on Jan. 15. 2024.

certainty that together, as a family, they will achieve success (read wealth and happiness).

Thus, a woman who reaches her thirties without children and without a husband means a social failure, even if she achieves success in the job market. This happens because, even though the feminist movement has achieved relative success and today women can occupy a place in the market, what we actually see is that they have only accumulated functions, continue – because their ability to care is understood as natural – managing the home, taking care of children and any kind of vulnerable family members such as the elderly or sick and, In addition to all this, they still face the same working hours as men.

Female success today means being able to handle all this, so much so that the choice not to marry or not to have children is still constantly questioned and, strangely, it is also questioned when women give up their work for their duties with the house and children. Clearly there is a veiled demand that it cumulatively fulfill all functions, on the grounds in the abstract that it is free in its choices as much as man.

If women choose not to have children, against the current, they are soon questioned about who will take care of them in old age, as if it were certain that the children will bear this burden. It is assumed that there will be reciprocity, that a person with children will not face loneliness. The decision of a family and whether to have children or not ends up going through the fear of loneliness, selfish thinking and unrelated to affection.

In the same sense, far from affection and in a reductionist way, parents because they have autonomy in raising their children, feel as if they were property. And what we actually see is the reproduction of values in the following generations, since what is introjected into the parents is passed on by them even involuntarily, by example, perpetuating the same ideas of care as the exclusive attribution of the woman, the man as the provider and the family as the only form of individual progress and happiness.

For children, in turn, the idea prevails that they should be grateful for life, for care and that they should be with their parents. The social-cultural construction in question clashes when one realizes that this home may be in palperritic conditions or that there may be violence of all kinds and, worse, both at the same time: why then should this child feel resigned by remaining in this nucleus?

The question is related to the conclusion that there would be a genetic lottery, because this child, at birth, does not know if he will be born into a family with good financial and/or psychological conditions. In many cases, resignation can subject the child to

conditions that are very far from what is intended in the family, far from being a place capable of providing the development of the potentialities of this child who was unlucky in this draw of life.

According to the neoliberal vision, the State would guarantee basic conditions of support that allowed this individual to progress as much as his effort, that is, he would not be determined to suffer. However, do these basic conditions exist? Are they the same for everyone? Even with them, does effort mean success? The social factors influencing this calculation are much more complex than can be predicted and the equation does not add up.

And why do we still get together as a family? In addition to the legitimizing power of affection, within the culture and in the legal scenario, as we have seen, there is still more: the biological argument – strong by the scientific current – that the family should be united due to the genetics that bind them. They are all social imperatives that continue to push and keep the family (not always united, not always happy) but reunited.

The same genetic/biological issue also supports the idea that mothering is only an attribute of the mother, because generating and breastfeeding would be the basis of a greater bond between mother and child and would germinate in women this innate capacity for the care of their child and for care in general. The gift, vocation or aptitude for care would be genuine of the feminine gender, so that mothering is not a verb to be conjugated by the masculine. The reasoning is that it founds the division of tasks based on gender, that it requires women to keep working inside and outside the home, in double or triple shifts, that it requires them to have children and that men take the burden off their upbringing.

Who loses the day of work when their child falls ill? And what is astonishing is the fact that this is not even questioned or questionable, it is taken as a natural obviousness and a different situation does not even cross the minds of those involved. On the one hand, we have limitations in the exercise of the profession, the consequences of which translate inclusively into lower wages or the loss of jobs, and, on the other hand, an unquestionable freedom, so we do not see an equality of autonomy, which would perhaps bring a possible substantial equality.

On the other hand, mothering as an exclusive characteristic of the feminine is a field of study in several areas and has been put in check. The 2020 documentary "Babies in

Focus",²⁰ which follows the development of 15 babies, presents in the episode entitled "Love" how the bond of affection and care between parents and the newborn is born biologically. The analysis was based on the biology of bonding in the first months of birth based on the analysis of the level of oxytocin (a hormone released when we feel pleasure) and the size of the tonsils (activated when we are alert) of mothers and fathers²¹ when their children were born, reaching that they were the same for both. This was a surprise since it was expected that women would be the highest level. They found that the instinct for care, indicated by the levels of oxytocin in the body and the characteristic of the activated tonsils, increases in proportion to parent-child coexistence, the greater the involvement in routine daily care, feeding and hygiene. In other words, care does not depend on gender, the greater the coexistence, the greater the affection regardless of whether this caregiver is a man or a woman. The conclusion was that paternity is also biological and is as profound as motherhood can be, even in the case of no genetic identity, such as in adoption.

In the same line of thought, Judith Butler (2012) shows us that gender is a construction, a performative construction. For her, identity, especially that of sex and gender, is constructed by discourse, always in process. So, if it is a construction, the binary division between male and female is not natural and does not relate to the genital. From what can be concluded, if gender is a construction and the bond is formed from the very exercise of the function of caring, the verb *maternar* is not to be conjugated only for the feminine, exclusivity is not biological, it is an aptitude that can be worked on like any other.

From all this it can be seen that there are many reasons to conclude that the family is in crisis, the nuclear and traditional family is not the real family, this in itself imposes the criticality deserving of the present deconstructive analysis based on the abolitionist movement of the family. Among so many points to be considered in this context that combines law and sociology, we see that affection as a legitimator of the family has fragile sustenance.

²⁰ The documentary series follows the daily lives of 15 babies to try to understand how human development works from birth to the first year of life. Gathered around this question, a group of scientists investigates the discoveries and transformations that mark early childhood, such as the initial bond with parents, the introduction of food, the first words and the first steps. The production also brings intimate accounts of each family, thus seeking to obtain more details about the behavior and evolution of newborns. Available at: <https://www.netflix.com/br/>, accessed on Jan. 15. 2024.

²¹ The study was carried out not only with heterosexual couples, but also with homosexuals and even single fathers or mothers.

CONCLUDING NOTES

Society is changing, with it the family, for many, conservatives, the crisis needs to be stopped by replacing what used to exist, but others see it differently, as expansion and progress.

In the current clash between neoconservatives and neoliberals, on the one hand we have neoconservatives arguing that family values are basic/natural principles and, in the face of the increase in divorces and new family arrangements - such as homosexual unions, it is considered that the family is in crisis, proposing its salvation with the restoration of moral values, with a resumption of standards, a political position in which the State imposes and protects a rigid structure based on religion. Thus, defending a family organized according to traditional standards, which takes care of the inactive, capable of leading to good economic fluency, is a salutary issue.

On the other hand, for neoliberalism, of a pragmatic nature, the family in progress is a consequence of the free market and serves to guarantee the maintenance and transmission of property. The defense of the family is important since a healthy and stable family nucleus is necessary in the system that is explained by meritocracy and in which the State does not provide direct assistance, protecting only what is essential for its proper functioning. This is how the argument of care as a private attribution, the responsibility of families, especially women, is sustained.

This is not about debating left or right, this work does not lend itself to that. The focus is to see the family in a more mature way, bringing arguments to face the issues raised such as the absence of happiness in families, the confrontation of the genetic lottery, children as property and how to deprivatize care. Why restrict happiness to the family? Other forms of happiness or social encounters are possible.

It turns out that the State wants to bring everything into the family form, delimit values and maintain the family in X or Y form. Even when it accepts relationships between people of the same sex or when it also supports other family arrangements justified by affection, what it does is to consecrate a neoliberal selfish individualism and ensure the maintenance of this nucleus, that takes care of individuals from birth until they can serve in the labor market, for this purpose constantly consuming everything that capitalism presents to it as a way to achieve happiness in its planned obsolescence.

It is important that Bauman (2001) helps us about consumerism, he coins the terminology liquid modernity, because we would be in contemporaneity in a constant fluid,

dynamic and flexible adaptation, in which happiness is given to us by superfluous consumption. He also explains to us that calling it postmodernity at the present time would not be the most appropriate because there is no rupture, but only the transformation of a structure that is continuous and that still maintains its untouchable capitalist core, but more adapted and voracious. Nothing has been overcome to say that the moment is no longer what is called modernity, for him it is still modernity, but more fluid.

If there is no rupture, the plasticity of capitalism and the liberal State, now neoliberal, stands out. In order to adapt and reinvent oneself in order to maintain oneself, accepting new family arrangements is beneficial, in addition to promoting an image of concern with the protection of freedom and equality, based on affection (that is, it achieves social legitimacy for its acts of privatization of care), it guarantees nuclear forms as a mass of maneuver of consumption and a source of labor supply. Welfare itself, in fact, is one more form of economic control of the family.

Neoliberalism is strategic, it does not need to have coherence, intending to dismantle the welfare state. It surpassed the New Deal, which is why it is different from liberalism and especially in the 1980s, when it allies itself with the left, it assumes a progressive bias. There is no commitment to society and family values are consistent with market values.

As Nancy Fraser (2001) teaches us, once again the most important facet of capitalism stands out, the capacity for metamorphosis of this progressive neoliberalism, which on the one hand allies itself with the left recognizing new families and gender equality while negotiating some rights of social minorities with them, while on the other hand flirting with the neoconservatives to maintain certain parameters as seen in the defense of affection with fruits such as the family assimilationism.

In neoliberalism, individualized subjects stand out, whose union occurs out of interest. In this sense, affection and the search for happiness is the ideal, romanticized foundation for this liberal individualism, it morally legitimizes new family arrangements, arrangements that interest the market as consumers and the State in the sense of enabling the privatization of care and providing the workforce. There are so many other deeper issues involving the family that understanding the relevance of happiness in the integrity of the individual implies becoming one more puppet of this capitalist macrosystem that reinvents itself and of the progressive neoliberal State that legitimizes the privatization of care based on the formation of bonds through affection.

When we saw the description of the use of the principle of affection in an excessive,

distorted and unreasonable way, within the very system that celebrated its emergence, what we saw was the greatest expression of what capitalist individualism is, of what is in fact of interest to the State, which is not the protection of the human person.

From the perspective that questions the family and deconstructs its foundations, it is essential to understand that as a cog in a large machine driven by macroeconomic interests, one cannot have a simplistic view and apply affection indistinctly as a legal value, given that any change in the family goes through issues that go beyond immediate happiness in a concrete case, It cannot be ignored, but neither can it be understood that the search for happiness must always prevail.

REFERENCES

1. Albuquerque, F. S. (2025). A família eudemonista do século XXI. Anais do IBDFAM. <https://ibdfam.org.br/assets/upload/anais/268.pdf>
2. Almeida, A. G. M. (2014). Afeto: Uma nova concepção de família. Revista Jurídica ESMP-SP, 5, 255–282.
3. Bauman, Z. (2001). Modernidade líquida (P. Dentzien, Trans.). Rio de Janeiro: Zahar.
4. Bebês em Foco. (2024). Netflix. <https://www.netflix.com/br/>
5. Brasil. (1988). Constituição da República Federativa do Brasil de 1988. Brasília, DF: Senado Federal.
6. Brasil. (2002). Lei nº 10.406, de 10 de janeiro de 2002. Institui o Código Civil. http://www.planalto.gov.br/ccivil_03/leis/2002/110406compilada.htm
7. Butler, J. (2012). Problemas de gênero: Feminismo e subversão da identidade (R. Aguiar, Trans.). Rio de Janeiro: Civilização Brasileira.
8. Butler, J. (2015). Quadros de guerra: Quando a vida é passível de luto? (S. T. de Almeida Lamarão & C. R. Carlini, Trans.). Rio de Janeiro: Civilização Brasileira.
9. Cardoso, A. de S., & Silva, L. B. (2015). O pluralismo nas entidades familiares e os novos modelos de família. Revista Jus Navigandi. <https://jus.com.br/artigos/42679>
10. Carnacchioni, D. (2021). Manual de Direito Civil: Volume único (5th ed.). São Paulo: JusPODIVM.
11. Cooper, M. (2017). Family values: Between neoliberalism and the new social conservatism. New York: Zone Books.
12. Dias, M. B. (2022). Manual de Direito das Famílias (12th ed.). São Paulo: RT.
13. Dias, M. B. (2007, December 15). Adoção e a espera do amor. LFG – Rede de Ensino Luiz Flávio Gomes. http://www.lfg.com.br/public_html/article.php?story=20071214145743212
14. Dias, M. B., & Oppermann, M. C. (n.d.). O direito constitucional ao afeto. Berenice Dias. <https://berenicedias.com.br/o-direito-constitucional-ao-afeto/>
15. Ferry, L. (2013). Do amor: Uma filosofia para o século XXI (V. L. dos Reis, Trans.). Rio de Janeiro: Difel.
16. Fraser, N. (2001). Da redistribuição ao reconhecimento? Dilemas da justiça numa era pós-socialista. In J. Souza (Ed.), Democracia hoje: Novos desafios para a teoria democrática contemporânea (pp. 139–172). Brasília: Universidade de Brasília.

17. Gagliano, P. S., & Pamplona Filho, R. (2022). Manual de Direito Civil: Volume único (6th ed.). São Paulo: SaraivaJur.
18. Lewis, S. (2023). Abolir la familia: Un manifiesto por los cuidados y la liberación (E. Fernández-Renau Chozas, Trans.). Madrid: Traficantes de Sueños.
19. Lôbo, P. (2024). Direito Civil: Famílias (14th ed.). São Paulo: Saraiva.
20. Lôbo, P. L. N. (2021). Família e Constituição: Princípios fundamentais e direitos constitucionais (2nd ed.). São Paulo: Saraiva.
21. Pereira, A. R. (2023). O princípio da dignidade da pessoa humana no ordenamento jurídico. Aurum. <https://www.aurum.com.br/blog/principio-da-dignidade-da-pessoa-humana/>
22. Ruggiero, R. de. (1999). Instituições de Direito Civil (Vol. 2). Campinas: Bookseller.
23. Simão, J. F. (2015, April 12). O afeto em xeque e a jurisprudência do Superior Tribunal de Justiça. Consultor Jurídico. <https://www.conjur.com.br/2015-abr-12/processo-familiar-superior-tribunal-justica-afeto-valor-juridico>
24. Simão, J. F. (2023a, December 17). O afeto: De valor jurídico à perversão, eu errei e muito. Consultor Jurídico. <https://www.conjur.com.br/2023-dez-17/afeto-de-valor-juridico-a-perversao-eu-errei-e-muito/>
25. Simão, J. F. (2023b, December 24). O afeto: De valor jurídico à perversão, eu errei e muito, parte 2. Consultor Jurídico. <https://www.conjur.com.br/2023-dez-24/afeto-de-valor-juridico-a-perversao-eu-errei-e-muito-parte-2/>
26. Souza, M. T. C., & Waquim, B. B. (2015). Do direito de família ao direito das famílias: A repersonalização das relações familiares no Brasil. Revista de Informação Legislativa, 52(205), 115–134.
27. Souza, T. S. P. de, & Hogemann, E. R. (n.d.). Direito fundamental ao afeto. Revista de Direito. file:///C:/Users/fs_ch/Downloads/155-583-1-PB.pdf
28. Tartuce, F. (2021). Manual de Direito Civil: Volume único (11th ed.). Rio de Janeiro: Forense; São Paulo: Método.
29. Tepedino, G. (1997). A disciplina civil-constitucional das relações familiares. In V. Barreto (Ed.), A nova família: Problemas e perspectivas (pp. 47–69). Rio de Janeiro: Renovar.
30. Tepedino, G. (2001). O Código Civil, os chamados microsistemas e Constituição: Premissas para uma reforma legislativa. In XVII Conferência da Ordem dos Advogados do Brasil, Anais (pp. 1–10). Rio de Janeiro: OAB.

31. Vilella, J. B. (1979). Desbiologização da paternidade. Revista da Faculdade de Direito da Universidade Federal de Minas Gerais, 21, 400–418.
<https://www.direito.ufmg.br/revista/index.php/revista/article/view/1156>