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Iulian Apostu, Familia românească – evoluţie socială şi provocări contemporane, Bucharest, Tritonic, 2016

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Abstract: Publishing the book „Romanian Family – Social Evolution and Contemporary Challenges” justifies its importance from the very beginning, through its scientific quality and the current nature of the topics presented in the book. Further, it becomes a landmark work given the fact that for the Romanian conjugal space, the scientific literature describes the general marital couple, in theoretical terms, framing conjugality in its classic, features of functionality. From this point of view, the novelty of the book derives from the fact that the topics approached are placed in a modern and postmodern context regarding the new structure of conjugal cohabitation, using social and legal arguments up until the legal alternatives for marriage. Therefore, from a different perspective, the new conjugal perspectives developed in Romania more as first tendencies, target the conjugal relationships with contractual attitudes. For this type of conjugality, the relationships between the partners have an individualist orientation, reason for which the legislative is asked to provide specific legal framework that would better secure their patrimony, would establish financial rules for both partners and would ensure easy access to dissolution and sharing goods. This is the reason why, since 2002, Romania has had 3 projects of legalizing the consensual union, starting from the possibility of legally authenticating the relationships between two heterosexual partners and, in the case of the last two legislative proposals, until the possibility of legalizing the relationships between the partners, regardless of their sexual orientation.

Keywords: Contemporary couple, challenges, postmodernity, conjugal structures, relationships.

1. On the Romanian family – social evolution and contemporary challenges

The author shows that the new legislation of the Civil Code has adapted through a series of articles targeting the patrimonial regimes, the

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engagement, the simplification of divorce procedures, etc., therefore developing premises for the new conjugal structures. In this regard, it is interesting to state that, if within the Western space, the first effect of simplifying the divorce procedures had the effect of increasing the rate of divorces, in our country the effects were counterintuitive – decreasing the rate of divorce. This shows that the Romanian society is not prepared for this type of conjugal relationships, and the marital stability in Romania tends to confirm this aspect once again. Our country has one of the lowest rates of divorce in Europe, being clearly oriented towards the nuclear type of family, the modern conjugal relationships and the elements of postmodern legislation, as well as the projects of legalizing the consensual unions have so far demonstrated the low level of usefulness.

In a tristadial approach, the author tries to comparatively expose the three main conjugal systems (traditional, modern and postmodern) in order to better understand the value fluctuations that generate tension between the partners. The evolution from traditionalism to modernity and from modernity to postmodernity has been done progressively, but the assimilation of new valences of role and functionality, as well as those targeting the relationships between men and women has been done gradually and differently. Today, the Romanian social space still highlights traditional structures regarding conjugality, structures in transition towards modernity, or from modernity towards postmodernity. Most of the times, the reluctance to new, primarily specific to the man due to the loss of certain status values, tends to slow down this process of modernization in the role behaviour. In the current social space, the argumentation of the superiority of male status is difficult to justify rationally, which is why the tendency of social argumentation based on social stereotypes becomes a strategy itself. With its pretended social „legitimacy” generated by the fact that they are widely known and very little disputed, the social stereotypes are often used in argumentation: „Who must cook in the family? A: The woman!; Who is the best chef? A: The man!” Therefore, adapting to the equality of conjugal role is atypical – men assume the status values, but not the roles. This antithesis to gender roles is described by the author in other studies as well (Apostu, 2013b; 2016b).

Most of the times, we rather have a modernity of declaration rather than specific facts which define the relationships between the sexes. This stage shows the assimilation of values at an ideological level but, the behaviour itself still needs more time until the „final update”. The social moment of this intermediary stage of developing Romanian conjugal structures is the current one.
From the perspective of modernity, the author explains the functional transformations regarding the nuclear family, the type of relationships between the family subsystems as well as the dilemmas of modernity, especially those that crack the door to postmodern mentalities. In different chapters in the paper, the issue of conjugal infidelity is reminded, being placed both in a legal and a socio-psychological context. This concern for researching conjugal fidelity in the contemporary space was developed by the author in other studies after this book, his conclusions targeting a tendency of desacralization of the conjugal relationships, especially in postmodern mentalities, fidelity having the tendency to become an indicator in evaluating the other (Apostu, 2016a).

The author pays a special attention to the issue of consensual union, as a more vivid preoccupation both for young people and the legal authorities, although the way in which the concept of consensual union or concubinage is understood shows an obvious confusion. The analysis of data collected in the 2002 Census highlights the presence of the phenomenon of cohabitation with a substantial increase right after highschool, around the age of 20 (from 7040 to 51407 people) and a decrease of frequency starting with the average marriage age (from 74407 people in consensual union to 67586 people). However, the frequency of the data rather shows a „concubinage” as a premarital state, than an alternative to marriage. And since the current stage of the research is limiting its approach to the level of identifying relationships of consensual union regardless of the perceptions and their way of manifesting, the authors explains the phenomenon of consensual unions in a socio-legal approach, making a comparison between Romania and France regarding the Romanian legislative proposals and the French legislation the three projects for legalizing concubinage were inspired from.

The authors points out that the deinstitutionalization in behaviours doesn’t seem so obvious in the Romanian space, which places us at a certain distance from the socio-legal framework that allowed Western countries to assimilate behaviours and attitudes specific for certain forms of conjugal manifestation in alternative to the legitimate marriage. Confusing the premarital state with the consensual union was the basis of arguing the need for a consensual union in Romania.

However, the issue of legalizing the consensual union remains a legal concern, but also a social challenge for contemporarity. All the law drafts submitted for legalizing the consensual union were inspired from the legal experience of countries that have authenticated concubinage. Nowadays, Romania has made enough steps in the laborious process of legalization.
What is more, an entire series of elements in the New Civil Code prepared the ground for legalizing concubinage. Today, the arguments against the legalization are based on elements of the community culture according to which the family is the only legal institution accepted by the society (Apostu, 2013a; 2013b).

2. Conclusions

For Romania, legalizing the consensual union the same way was done in Europe, is rather difficult. According to EOS Gallupe Europe (2003), Romania is in the category of countries with the greatest tolerance to legalizing relationships between people of the same sex. However, beyond a type of intolerance which derives from a theological or a general social culture, legalizing the consensual union is also related to the issue of resources. As the European legislations shows, the concubines benefit from a series of tax, patrimonial or succession rights, etc. Or, none of the legislative proposals in Romania offered an image of what the budget costs are regarding the tax or social protection rights that a concubine would benefit from, after legalizing the relationship of consensual union.

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