

Legal implications of polyamory Legal reflexes of polyamory

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SUMMARY

The growing visibility of polyamory, characterized by the practice of maintaining multiple relationships with the consent of all involved, challenges current legal norms, especially in the field of inheritance law. The Brazilian Civil Code, which governs inheritance rules, was drafted based on monogamous relational models, leaving significant gaps when it comes to polyamorous relationships. This scientific work aims to explore how Brazilian inheritance law addresses the complexity of polyamorous relationships. We will investigate the shortcomings of current legislation in recognizing and regulating these relationships and their practical implications for the distribution of assets. The research will address the compatibility of current inheritance rules with polyamorous dynamics and consider the need for possible legislative reforms to ensure justice and equity. Furthermore, the study will include a comparative analysis with international legal systems that have faced similar challenges, offering insights into how Brazil can adapt its legislation. The goal is to propose recommendations for a more inclusive and equitable approach to inheritance law, reflecting the diversity of contemporary relationship forms.

Keywords: Polyamory, Succession, Inheritance.

ABSTRACT

The growing visibility of polyamory, characterized by the practice of maintaining multiple relationships with the consent of everyone involved, challenges current legal norms, especially in the field of succession law. The Brazilian Civil Code, which governs inheritance rules, was drawn up based on monogamous relational models, leaving significant gaps when it comes to polyamorous relationships. This scientific work aims to explore how Brazilian succession law deals with the complexity of polyamorous relationships. We will investigate the shortcomings of current legislation in recognizing and regulating these relationships and their practical implications for the distribution of goods. The research will address the compatibility of current succession rules with polyamorous dynamics and will consider the need for possible legislative reforms to ensure justice and equity. Furthermore, the study will include a comparative analysis with international legal systems that have already faced similar challenges, offering insights into how Brazil can adapt its legislation. The objective is to propose recommendations for a more inclusive and equitable approach to succession law, reflecting the diversity of contemporary forms of relationships.

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1. INTRODUCTION

With the evolution of society in recent decades and the emergence of new forms of relationship, it becomes necessary to rethink the traditional concept of family. The contemporary family structure begins to incorporate new values and principles, seeking to guarantee individual freedom and plurality in the forms of family constitution.

However, this rapid social transformation has faced legal barriers, as the Brazilian legislation, especially the Civil Code of 2002 and the Federal Constitution of 1988, was originally conceived for a traditional family model — the union between man and woman with the aim of establishing offspring, as provided for in article 226, § 3 of the Constitution (BRAZIL, 1988.)

There have been relevant advances, such as the decision of the Federal Supreme Court (STF) in 2011 which recognized same-sex civil unions as family entities, obliging them to notary offices to celebrate this type of union (SENATE, 2011). However, despite being significant, this decision sparked debates on legal certainty, since the Constitution did not expressly provide for this configuration.

One of the biggest challenges faced by the current legal system is the regulation of inheritance issues in non-traditional family contexts, especially polyamorous relationships. The Civil Code is still based on a monogamous structure of coexistence (ROUX, 2023), which can generate uncertainties and injustices regarding the division of assets and the recognition of legitimate heirs.

In this context, it becomes essential to promote an adaptation of legislation to reality in the current social system. Among the possible alternatives, the need to reformulate provisions of the Civil Code, in order to include provisions that explicitly cover the different family configurations, such as polyamory. This may include creating specific cohabitation contracts, capable of regulating the rights and duties of those involved, including in succession issues.

In addition to legislative changes, it is important to promote public policies and actions that raise social awareness that promotes acceptance and respect for different forms of family constitution. These changes must be aligned with the principles and constitutional principles of equality, human dignity and freedom.

Thus, this work proposes to discuss the legal challenges that involve succession and inheritance in polyamorous relationships, seeking viable alternatives to ensure legal certainty and equity among those involved.

2. POLYAMORY

Polyamory is a form of consensual relationship that involves more than two people. people, with mutual knowledge and consent among all involved. The term derives from the combination of the Greek *poli* (many) with the Latin *amor* (love), and became widely used since the 1990s, especially with the popularization discussions on sexual and affective diversity in Western societies (VIEGAS, 2019).

Although the concept is contemporary due to its great exposure on the internet, multiple and consensual relationships have been documented in various cultures and periods historical. The difference is that, in the modern context, polyamory emerges as a ethical alternative to monogamy, based on honesty, open communication and in the constant negotiation of limits between partners (LUQUE, 2023).

There are different ways of structuring polyamorous relationships. In some configurations, all members are equally connected, as in a horizontal network. In others, there are hierarchical relationships, in which a link is recognized main and others considered secondary. The flexibility of this structure, however, requires a high level of emotional maturity, constant dialogue and transparency between participants (VIEGAS, 2019).

It is important to highlight that polyamory is distinct from polygamy, a practice often sometimes associated with religious or cultural traditions and, in general, based on structures hierarchical. Modern polyamory, on the contrary, emphasizes equality between partners, consent and transparency. Confusion between the two terms can lead to unfounded prejudices and hinder the legal and social debate on the recognition of polyamorous relationships (MACEDO, 2016).

The challenges faced by people in polyamorous relationships are diverse. Among Among them, social prejudice, the lack of legal support and insecurity stand out regarding the protection of civil and property rights (TOLEDO, 2017). The lack of specific legislation that recognizes these unions directly impacts areas such as health, social security, succession and inheritance (ALVES, 2024).

In Brazil, although the legislation does not officially recognize polyamorous unions as a family entity, there are precedents that have sparked extensive legal debate. In 2012, in Tupã (SP), a deed of stable union was registered between three people,

first of its kind in the country (G1). However, the National Council of Justice (CNJ) subsequently annulled the registration and ordered that notary offices refrain from carrying out new similar deeds (CNJ, Request for Measures No. 0001459-08.2016.2.00.0000).

SUMMARY. REQUEST FOR ACTION. POLYAMOROUS STABLE UNION. FAMILY ENTITY. RECOGNITION. IMPOSSIBILITY. FAMILY. SOCIOCULTURAL CATEGORY. SOCIAL IMMATURITY OF POLYAMORIC UNION AS A FAMILY. DECLARATION OF WILL. INABILITY TO CREATE A SOCIAL ENTITY. MONOGAMY. STRUCTURAL ELEMENT OF SOCIETY. PUBLIC DEED DECLARATORY OF POLYAFFECTIVE UNION. PREPARATION. SEALING.

1. The 1988 Federal Constitution guarantees the family special protection from the State, encompassing its different forms and arrangements and respecting the diversity of family constitutions, without hierarchizing them.

2. The family is a social and cultural phenomenon with anthropological, social, and legal aspects that reflect the society of its time and place. The forms of conjugal union—both "matrimonialized" and "non-matrimonialized"—are a social and cultural product, as they are recognized as family institutions according to the rules and customs of the society in which they are inserted.

3. Legal-social change begins in the world of facts and is gradually incorporated into law, since cultural change appears first and legislative change comes later, regulating the rights arising from new social conformations arising from customs.

4. The "polyamorous" relationship is configured by the multiple and simultaneous relationship of three or more people and is a topic practically absent from social life, little debated in the legal community and with difficulties of clear definition due to the large number of possible experiences for relationships.

5. Despite the lack of systematization of concepts, the "polyamorous union" – described in public documents as a "model of multiple, joint and simultaneous affective union" – appears to be a species of the "polyamory" genus.

6. The family groups recognized in Brazil are those incorporated into the customs and experience of Brazilians, and the social acceptance of "polyamorousness" is important for the legal treatment of the alleged "polyamorous" family.

7. The diversity of experiences and the lack of maturity in the debate preclude "polyaffectation" as a basis for establishing a family entity in the current state of society and jurisprudential understanding. Unions formed by more than two spouses face strong social rejection, and the few cases in the country do not reflect society's stance on the issue; consequently, the situation does not represent a social change capable of transforming the legal world.

8. Brazilian society has not incorporated "polyamorous unions" as a form of family formation, which makes it difficult to grant such important status to this type of relationship, which still lacks maturity. Specific and case-by-case situations that have not yet undergone the necessary maturation within society are not eligible for recognition as a family entity.

9. In the future, if the "polyamorous union" matures as a family entity in Brazilian society, the matter may be regulated by law designed to address its specificities, because a) the rules that regulate monogamous relationships are not capable of regulating the "polyamorous" love life, which is more complex and subject to conflicts due to the greater number of ties; and b) there are legal consequences that involve third parties outside the cohabitation, transcending the subjectivity of love and the will of those involved.

10. The public declaratory deed is the instrument by which the notary gives



legal framework for the expression of the declarant's will, the content of which must be lawful, since situations contrary to the law cannot be the object of this notarial act.

11. Brazilian society has monogamy as a structural element and the courts reject relationships that present emotional parallelism, which limits the autonomy of the parties' will and prohibits the preparation of a public deed that has as its object a "polyamorous" union.

12. The fact that the declarants affirm their commitment to each other before the notary does not give rise to a new family modality and possession of the public deed does not generate Family Law effects for those involved.

13. Request for action deemed admissible.
(BRAZIL, CNJ, REQUEST FOR ACTION - 0001459-08.2016.2.00.0000, 2018).

Despite the lack of legal support, some couples or "threesomes" have sought extrajudicial alternatives to ensure their rights, such as private contracts, cohabitation agreements and wills (NOGUEIRA, 2018).

Another point of analysis involves personality rights, such as the right to identity, intimacy, honor, and affective self-determination. Denying recognition legally binding on these forms of coexistence may constitute a violation of the principle of dignity of the human person, since it prevents individuals from living according to their relational and affective guidance without discrimination or legal invisibility.

According to data from the Tinder app released in 2023, there was a significant growth in interest in non-monogamous relationship models among young people aged 18 to 25. The platform revealed that 41% of users in this age group are open to or seeking non-monogamous relationships, with an emphasis on relationships open (36%) and polyamory (26%) (G1, 2023).

This scenario points to a transformation in society's affective values contemporary, also requiring a re-evaluation of the legal and cultural norms that still favor only the monogamous family structure.

3. BRAZILIAN LAW ON SUSELS

Succession is the legal institution by which the assets of a deceased person are transferred to their heirs or legatees. This is an essential mechanism for ensure the continuity of property relations and preserve people's rights involved in succession. According to Tepedino (2016), succession plays a role fundamental in the legal organization of the transmission of goods and duties.

Succession can occur in two ways: legitimate or testamentary.

3.1. Legitimate succession

Legitimate succession occurs when there is no valid will left by the deceased. In this case, the assets are distributed according to the order of hereditary vocation established in the Brazilian Civil Code of 2002 (BRAZIL, 2002).

Article 1,829 of the Civil Code defines (BRAZIL, 2002):

The relatives of the deceased are called to the legitimate succession, in the following order:

- I - descendants, in competition with the surviving spouse;
- II the ascendants, in competition with the spouse;
- III - the surviving spouse;
- IV - collaterals.

The rule establishes a hierarchy among heirs, prioritizing descendants (children, grandchildren), followed by ascendants (parents, grandparents), by the spouse and, in the absence of these, by collateral relatives up to the fourth degree (brothers, uncles, nephews, etc.).

The absence of specific legal provisions for non-traditional family entities can cause conflicts in inventories and divisions. In the event of the death of one of the members of a polyamorous relationship without a will, unrecognized partners legally are completely excluded from the legitimate succession, even if they have contributed to the formation of the heritage or maintained prolonged coexistence with the deceased (CAMELO, 2016)

3.2. Testamentary succession

Testamentary succession occurs when the deceased leaves a valid will, for through which he freely decides, within legal limits, on the destination of his assets. Article 1,857 of the Civil Code establishes that the testator may dispose of his assets by will, in whole or in part, in compliance with legal provisions (BRAZIL, 2002).

The will allows the author of the inheritance to indicate heirs outside the legal order, as long as the so-called "legitimate" part is respected, that is, the part of the assets reserved obligatorily to the necessary heirs (descendants, ascendants and spouse, according to article 1,845 of the Civil Code) (BRAZIL, 2002).

The Civil Code provides for three main forms of will (BRASIL, 2002):

- | | | | | | |
|------|--------|-----|------|--------|----------|
| Art. | 1.862: | THE | will | he can | to be: |
| I | | - | | | public; |
| II | | - | | | closed; |
| III | | - | | | private. |

The public will is drawn up by a notary, with reading aloud before two witnesses.

A closed will is written by the testator (or at his command), sealed and delivered to the notary, being opened after death.

A private will is written in the testator's own handwriting or typed, requiring the signature of three witnesses.

Although a will is a valid alternative, it also faces limitations. In particular, the fact that it only allows the disposal of 50% of the assets (available portion) restricts the testator's ability to fully protect his partners in relationships multiple, if there are necessary heirs (VITICOSKI, 2022). Furthermore, wills can be challenged in court, generating long disputes (OLIVEIRA, 2023)

3.3. Inheritance rights of spouse and partner

The surviving spouse has inheritance rights according to the order of vocation of article 1,829. However, the participation of the partner in stable unions has passed by jurisprudential transformations, especially after the recognition of the union stable homosexual relationship as a family entity by the STF (ADI 4277 and ADPF 132, judged in 2011).

Before the STF decision, article 1,790 of the Civil Code was in force, which provided different treatment to the partner in relation to the succession. (BRAZIL, 2002). However, the Supreme Federal Court, when judging Extraordinary Appeal No. 878,694/MG, in 2017, declared the unconstitutionality of article 1,790, equating the inheritance rights of the partner to those of the spouse: "The distinction between regimes is unconstitutional inheritance between spouses and partners" (STF, RE 878,694/MG, Rel. Min. Luís Roberto Barroso, tried on 05/10/2017)

The decision represented an important step forward in the recognition of stable unions as family entity with full inheritance effects, contributing to equality between different forms of family constitution.

The jurisprudential equivalence between spouse and partner in terms of inheritance was a great advance. However, this equality does not extend to multiple unions. Even if there is affection, coexistence and mutual dependence between partners, the fact that only one of them being legally recognized makes the others invisible to the system legal, which weakens the protection of fundamental rights.

4. LEGAL CHALLENGES RELATING TO POLYAMORY INHERITANCE

Polyamory, as a form of relationship that involves more than two people consensual and affective form, it still does not find express recognition in the legal system



Brazilian legal system. This lack of regulation creates significant challenges in the field of inheritance law, especially with regard to the definition of heirs and the division of inheritance of assets after the death of one of the partners.

4.1. Lack of legal recognition as a family entity

In Brazil, article 226 of the Federal Constitution recognizes the family entity as marriage, the stable union between a man and a woman (later extended to unions homosexual couples) and the single-parent family (BRASIL, 1988). However, there is no mention or regulation of simultaneous relationships between three or more people, as occurs in polyamorous configurations.

This absence is reflected in the 2002 Civil Code, which structures the rights of succession based on monogamy (BRASIL, 2002). Thus, only one partner is legally recognized as a spouse or partner, and the other members of the union multiple remain legally invisible, which prevents them from being considered legitimate heirs in intestate succession.

Furthermore, decisions by the National Council of Justice (CNJ) reinforce this limitation. In 2018, in the Request for Measures No. 0001459-08.2016.2.00.0000, the CNJ prohibited registry offices from registering polyamorous unions as stable unions, stating that Brazilian society has not yet incorporated 'polyamorous union' as a form of family formation, a circumstance that makes it difficult to grant legal support to this type of relationship, which still lacks maturity. (CNJ, 48th Session Extraordinary, 06/26/2018)

4.2 Will and cohabitation contracts as an alternative

In the absence of legal support, partners in polyamorous relationships can resort to existing legal instruments, such as the will and the contract of coexistence, in order to protect property rights (NOGUEIRA, 2016).

The will, provided for in articles 1,857 to 1,875 of the Civil Code, allows the testator freely disposes of up to 50% of his assets (available part) to whom wish, including partners not recognized as legitimate heirs (BRASIL, 2002).

This is currently the safest tool to ensure partner participation.

polyamorous in succession (HAAS, 2021).

In addition to the will, it is possible to sign a cohabitation contract, which defines patrimonial rights and duties between those involved. Although this contract does not have specific legal provision for multiple relationships, it can help establish rules

internal, especially if linked to the joint administration of assets or the intention of guarantee economic protection to partners in the event of death (HAAS, 2021).

For greater effectiveness, these instruments must be developed with the assistance of specialized legal, and the will must preferably be made in public form, with registration at a notary's office, which provides greater legal security.

4.3 Legal uncertainty and the need for legislative updates

The lack of standards that recognize polyamorous relationships as entities family members produces legal uncertainty for both those involved and the system judicial, which may be forced to interpret specific cases without normative support adequate.

A recent case that happened in the municipality of Novo Hamburgo, in the state of Rio Grande do Sul, where two women and a man went to court to recognize the polyamorous stable union, and obtained a favorable ruling from Judge Gustavo Borsa Antonello of the 2nd Family and Succession Court of Novo Hamburgo (FENDANDES, 2023).

In his sentence Antonello says:

What is recognized here is a loving union between three people: a man and two women, covered by publicity, continuity, affection and with the objective of forming a family and seeking happiness.

In another case, in 2025, in the municipality of Bauru, in the state of São Paulo, the judge Rossana Teresa Curioni, of the 1st Civil Court of Bauru (1000655-62.2025.8.26.0071), validated a Polyamorous Stable Union Term as a private legal transaction, without recognize family entity (CONJUR, 2025).

In contrast to these two cases, in 2024, in the municipality of Carapicuíba, in state of São Paulo, 4th Civil Court of Carapicuíba denied recognition of union stable polyamorous. (JUSBRASIL, 2023).

Brazilian jurisprudence is still scarce and conservative on the subject. Although some scholars advocate expanding the concept of family entity to contemplate multiple affective relationships, this understanding has not yet been consolidated in higher courts (CAMELO, 2016).

This situation contrasts with cultural changes observed in society. Data released by the Tinder app in 2023, based on a survey conducted with young people between 18 and 25 years old in countries such as the United States, Canada, Australia and the United Kingdom United, indicate that while 52% prefer monogamous relationships, 41% are



open or seeking non-monogamous relationships, including 26% interested specifically in polyamorous relationships. (TINDER, 2023)

These data suggest that there is a shift in relational models, especially among the new generations, which reinforces the need for Law to evolve to keep up social transformations.

4.4. International experiences and impact on the Brazilian legal system

Although Brazil does not yet officially recognize polyamorous unions, there are international examples that can serve as inspiration for a broader debate and grounded on the topic. Some countries and jurisdictions have adopted more progressive in recognizing unconventional forms of family, including the polyamory (TORRES; GONÇALVES, 2025).

In Colombia, for example, a high-profile case occurred in 2017, when a threesome of men managed to register their relationship as a “union patrimonial” before a notary’s office in Medellín. This decision was made possible thanks to the broader interpretation of the concept of family by the Colombian Constitutional Court, which already recognized full rights to same-sex unions (BARBOSA, 2017).

In the United States, although there is no federal legislation that recognizes formally polyamorous unions, some municipalities have moved in this direction. In 2020, the city of Somerville, Massachusetts, passed a law allowing the recognition of relationships between multiple partners for benefits purposes marital status, such as health coverage. Subsequently, the cities of Cambridge and Arlington followed suit, signaling a trend toward greater openness in local level (CNBSP, 2025).

In Canada, although polyamorous marriage is not yet recognized, the Supreme Newfoundland and Labrador Court in 2018 legally recognized three people as parents of a child born into a stable polyamorous relationship, considering the best interest of the child (IBDFAM, 2018).

These experiences demonstrate that it is possible to reconcile the recognition of multiple unions with legal certainty, as long as there are clear rules, good faith between those involved and respect for fundamental rights.

Based on these examples, Brazil could consider similar paths, such as:

The creation of a specific legal category for multiple unions, with effects civil rights limited and regulated by contract; the recognition of property rights and

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inheritance through proof of stable and continuous cohabitation; the adoption of principles of affectivity, solidarity and private autonomy as normative bases to expand the concept of family entity.

In this way, it would be possible to align the Brazilian legal system with the constitutional values of human dignity, equality and freedom, as well as follow the social transformations that are already underway.

5. CONCLUSION

The analysis carried out shows that the Brazilian legal system is not yet fully prepared to deal adequately with complex family relationships current, especially regarding polyamory. Although the Federal Constitution ensures the principle of equality and guarantees rights to all people, the legal system remains anchored in traditional family models, based on monogamy.

However, it is important to highlight that recent court decisions have signaled progress significant in the recognition of inheritance rights for partners in unions polyamorous, demonstrating a tendency of the Judiciary to promote greater inclusion and legal protection for these relationships. These precedents contribute to the construction of legal security, albeit in an incipient and fragmented way.

Legal recognition of polyamorous unions faces legislative resistance, which generates legal uncertainty and patrimonial exclusion for many partners involved in these relations. The lack of specific provisions in the Civil Code, the CNJ's prohibition of formal registration of these unions and also the variety of judicial decisions, in which now recognizes, sometimes denies recognition, highlight the urgency of an update legislative.

Until this adaptation occurs, instruments such as the will and the contract of cohabitation can offer some asset protection to polyamorous partners, although they are not full or definitive solutions.

In view of the social and cultural transformations observed, especially among younger generations, who demonstrate greater openness to diverse relational models, it is essential that the Law keeps up with this evolution.

Therefore, the defense of a legislative reform that recognizes and regulates unions polyamorous is not only a matter of social justice, but also a necessity to ensure legal certainty and protection of the fundamental rights of all citizens, regardless of the family configuration they choose to form.

The transformation of affective relationships is a reality that challenges legal formalism. The resistance to recognizing diverse family structures, such as polyamorous unions, reveals a legal system still constrained by traditional moral values.

However, legislating on these new forms of affection does not mean encouraging or promote a certain relational model, but rather ensure that all citizens have their rights guaranteed, regardless of their intimate choices. The omission legislative, in this case, is also a form of social exclusion.

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