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FACULTY OF LAW

DEPARTMENT: CIVIL LAW

MASTER STUDIES

THEME:

LEGAL POSITION OF THE FAMILY IN KOSOVO AFTER THE 2000S

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Introduction

Master Thesis “Juridical Position of the Family in Kosovo after the 2000s” is the result of a continues research, based on firsthand sources and the documents published by the government of the Republic of Kosovo, which thanks to the technology of information are accessible, as well as in books and publications regarding this problem.

The conducted research has revealed that the above mentioned subject in its inclusion it is treated fragmentary or very generally, family as an institution is treated more generally and not for its position in the Republic of Kosovo. Starting from these premises, this theme presents a possibility to solve a scientifically unconsumed problem as much as we know so far, as such, appropriate to serve as a master thesis.

One of the institutions that in science have had some difficulties in its definition was undoubtedly the family institution. It is known that family is a central institution in the family right and that it is the most ancient cell of the social organization. This fact obliges that within the theme to also focus on the definition of its notion, types, functions, planning, the family right and for the juridical position of the family, as well as for the principle of national and social protection of the family.

The purpose of choosing this theme is the research that as much as possible to analyze the notions of family and the family right in general. The purpose was to offer the readers concrete knowledge for the family institutions. We can say that many of the addressed reasons may be unfamiliar for the readers. To meet the requirement of treatment of this theme, previously we have tried to deal with all the issues that have to do with the family and without limitation:

introduction of readers with the notion of family, phases of its development

to clearly be seen the sorts of family, its divisions and function

to analyze how does the family issue stands in the legal dispute

to analyze the legal position of the families in Kosovo based on the legislation regulating this field

Conclusion

With the study of the family in general, and its legal position in particular have dealt many researchers. These researchers have given different definitions regarding the family definition. Family is the central institution in the family right and it is the most ancient cell of the social organization, it is the natural and fundamental nucleus of society and as such has the right of protection. Family as an institution has had many transformations passing from one form to the other throughout history. Regarding the historical development, family is divided in matriarchal, patriarchal and contemporary families. According to studies we have done we came to a conclusion that family is one of the oldest institutions in human history which has had an important role in society, and as an organization itself it has gone through many stages of development.

Types of families are different depending on which aspects we take them. If we take the type according to the foundation than families are divided in: Marital families where family is related through marriage, extramarital families which is a community lifestyle of parents and children that were born illegitimate. This family is established with the illegitimate birth of children therefore it is called an extramarital family, family by adoption is established with legal acts artificially between the adopter and the adoptive. Family has important functions and among them we emphasize: the function of human reproduction, economic function, growth function and education of children, social function etc.

We have another division of the family according to the number of members and we divide it into: great families which is the wider and biggest shape of the family that is known so far in legal literature, medium family which is a lifestyle form of people that are between the great and small families. Medium family consists of a smaller circle of members than in great family. These members come from a common leader of the family with people born to the third generation and the small family which is a lifestyle community of parents and children and eventually the spouses of children as well. Small family is considered a modern family.

In the second chapter is discussed the family right as a branch of law. The family right which deals with the study of family has an indisputable connection with other sciences such as social sciences, medical sciences, history sciences, psychology science, economic sciences and law sciences. The family right is also related with the civil right where it was part of it. As parts treaded in a special manner are the children but also the woman where the legislation in force in Kosovo starting from the constitution to laws and administrative instructions they treat these categories enough but in practice we have a diversity of treatment of these categories. Even though these categories are well protected by law, we still have as a phenomenon the "Domestic Violence" which is manly directed towards women as a verbal, physical and sexual violence and towards children as well as a verbal and physical violence. For the prevention of these negative phenomena the courts have to be more efficient.

These are described for families in general without excluding the Kosovan family and are related with other sciences as well, while regarding the legal position of the family in general and in particular of the Kosovan family we can say that they have a special importance.

Legal norms starting from the constitution of the republic of Kosovo, the family law of Kosovo but with some articles from other laws such as the law against domestic violence, the law of litigation procedure etc. they put the family in a not very well legal position. These legal norms regulate family relationships starting from the engagement, marriage, adoptions to the prohibition of domestic violence.

Engagement as an institution in Kosovo for the first time is regulated with legal norms and explains very well all obligations of the spouses, and it defines the engagement in this way: Engagement is the mutual promise of two persons of the opposite sex to get married in the future.

Marriage as well is another institution that is treated in the family law in Kosovo. It is defined in this way: it is a legally registered community between two persons of the opposite sex through which they freely decide to live together with the aim of creating a family.