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3. The Family Law in Mexico, and treatment of maintenance.

SUMMARY: I. Introduction. II. Unborn Child's Right Conceived. III. Legitimate Filiation, Legitimacy and Recognition. IV. Proof of Parentage. V. Maintenance Obligation. VI. Principles of Maintenance. VII. Participation of the Judge and Prosecutor of the Family. VIII. Bibliography.

"The lawyer in his daily work has to do the journey, sometimes in seconds, from the concepts of paradise, the purgatory of the rules and to hell of reality"

Dr. Cipriano Gómez Lara

I. Introduction

This paper deals with the issue of family law in the Mexican legal system in relation to the maintenance obligation:

The old conception and the modern state, is organized legally under the rule of law, resulting in the trilogy and conjugated inseparable from individual, family and state. Thus, states that what affects the man affects the family and, consequently, the state and society, therefore, when it disintegrates or violated the ties that underpin human society, they decrease in so that the state is weakened.

The importance of the family is not already being discussed, it has been said so many things, as that is the basic cell of society, the legal rules affecting public and private law that provide them with unique characteristics and momentous. We recognize that it is urgent truly comprehensive policy around it and no doubt there are governments who claim to be working on actions to achieve this end, on the other hand, my question goes beyond the formal and the government, then what we do as individuals to respect and enforce this comprehensive policy? Which put emphasis to the development of human relationships family through legal regulation and protection for members of her?. As mentioned by the lawyer Lee Riocerezo, stating that "governments seem to address the people, but have forgotten all about the family of the People."¹

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¹ Vecchio, Giorgio. *Filosofía del Derecho*, traducción revisada por Luis Legaz y Lacambra, 9a de, Barcelona Bosch,

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The social dynamic has generated further family breakdown, irresponsibility in parenting practices and the increased rate of violence and insecurity put family and children in a vulnerable situation. We can not overlook that in the world there is a serious economic and social crisis, so it is essential that the family and the right to live fully, because they are essential and allow us to move forward and overcome the serious problems we face in the world and in Mexico. Raise awareness in society about the importance of the rights of children and adolescents by disseminating the principles and standards through the media would be the duty of all governments.

The ethical content of family law, as has been noted by Ruggiero, is clearly manifested as in any other legal field as much as it influences, religion, morality and so-called morality. Before the family law is a body of ethics, to the extent that the law often appropriates of ethical precepts to make them legal precepts².

This same ethical content is also emphasized because, despite the legal regulation of family relations, the actual behavior of its members are generally produced outside the law and by other types of drives and motivations that explain the acute observation of Carbonnier: "In marriage the law is not the essence, the right, the accident."³ Thus, it has rightly been said that the law only comes into operation in family relationships, when there are serious crisis in coexistence in spontaneous or when it has become impossible. According to del Vecchio, the moral is that which arises from an ethical principle determined by an established order of needs, in turn, by human nature, an order which has its practical value as it manifests in us as an idea, a feeling justice which we can call and enables the institutionalization of the legal order to locate its base of support in the conscience of every individual and social groups⁴.

The legal duty is a strict coordination emanating from a legal standard and therefore requires us to act a certain way. However, the legal duty can not go beyond human dignity. We are thus, to human dignity, the cornerstone of any ethical system; it is geared towards the animus, is that response or reaction to a need⁵.

If one accepts the existence of natural rights, primary and derivative. The first are those that protect the basic goods of human nature as the right to live would then derivatives arising from the primary rights, such as the right to food derived from the right to life⁶.

In Mexico, our Constitution was promulgated in 1917, states in Chapter One individual rights of citizens within these guarantees provides protection to the family in Article 4, being in the

1990, p.p. 514-515.

² Muñoz, Sabate, Luis et al... Introducción a la Psicología Jurídica, México, Trillas, 1980. p. p.145-154.

³ Hervada, Javier. Introducción Crítica al Derecho Natural, Pamplona, Universidad de Navarra 1981.p.92-94.

⁴ Vecchio, Giorgio. Filosofía del Derecho, traducción revisada por Luis Legaz y Lacambra, 9a de, Barcelona Bosch, 1990, p.p. 514-515

⁵ Muñoz, Sabate, Luis et al... Introducción a la Psicología Jurídica, México, Trillas, 1980. p. p.145-154.

⁶ Hervada, Javier. Introducción Crítica al Derecho Natural, Pamplona, Universidad de Navarra 1981.p.92-94.

first paragraph of literal: "The man and women are equal before the law. This will protect the organization and development of the family "and the same continuous" Everyone has the right to make free, responsible and informed about the number and spacing of their children. "also provides that "every family has the right to enjoy decent and proper housing. The law establishes the tools and support needed to achieve that goal," this purpose shall be borne by the state. In his penultimate paragraph states categorically the responsibility of parents saying "It is the duty of parents to preserve the right of children to satisfy their needs and physical and mental health. The state will provide what is necessary to promote respect for the dignity of children and the full exercise of their rights⁷.

"This constitutional provision at first glance seems to solve all problems concerning the system of family in Mexico, but arguably their combination will state the individual's personality with its economic and cultural situation, they appear the real concerns of families about to their rural or urban that laws should look to achieve harmonious development of man. As stated Jorge Sanchez Ancona "On one hand, we can speak of rural Mexico, with very specific characteristics which significantly affect family dynamics, such as field grinding poverty, alcoholism, child malnutrition, illiteracy, poor health, the need the father to emigrate abroad or cities, making the children work in the field, etc., resulting in rural life too serious a problem that prevents people to solve their material and spiritual needs. But that Mexico depends on many other aspects of Mexico, the urban, large cities, which is industrializing".⁸

II. Unborn Child's Right Conceived

In Mexico as well as our Constitution of the United Mexican States, the Federal Civil Code (CCF)⁹ and the Federal Code of Civil Procedure (CFPC)¹⁰, governing its observance throughout the Republic on matters of federal and, in each state and in the Federal District codes for common order issues including the family system, therefore, our highest law of the country and federal laws cited and local, accept the claim not only human life but a full life, and thus we can say without fear of too broad an interpretation, recognize that both legislative bodies, an absolute respect for the right to life and therefore a respect for human dignity.

The Federal Civil Code provides in Article 22 .- "The legal capacity of natural persons is acquired by birth and is lost by death, but from the moment an individual is conceived, comes under

⁷ Constitución Política de los Estados Unidos Mexicanos. 103a. Ed. Porrúa, México

⁸ Sánchez, Ancona, Jorge. *Familia y Sociedad*, México, Editorial Porrúa, 2008, p78.

⁹ Código Civil Federal, Cámara de Diputados del H. Congreso de la Unión, publicado en el Diario Oficial de la Federación el 13 de abril de 2007.

¹⁰ Código Federal de Procedimientos Civiles, Cámara de Diputados del H. Congreso de la Unión, publicado en el Diario Oficial de la Federación el 30 de diciembre de 2008.

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the protection of the law and he is born for the purposes stated in this Code. "You can say that in this matter of the legal status of unborn conceived, is one of those in the Civil Code was not reduced to monitoring models foreign encodings, but picked up the latest results of the Spanish law and doctrine before it, protecting from conception when the unborn. The same civilian legislature continues to lead the theory of the unborn child (human beings are not born, but conceived) a statement of general type, which is to be given the tone for the entire system. This is how the human embryo has a personality before birth to certain consequences of law and these are mainly: the ability to inherit, to receive bequests and to receive as gifts.

To do this, is required to be conceived and born alive also feasible. Our system is not enough that the conception, at birth have a moment of life, to breathe as required by certain rights, for example, in French, but must live 24 hours, detached from the womb, or should be presented Live at the Civil Registry within 24 hours. The article sets these requirements follow the Spanish system. It has made this provision to avoid litigation for purposes of determining whether there was life on the newborn or was not.

Article 337 reads: - "For legal purposes only born fetus is deemed that, entirely detached from the womb, he lives four hours or is presented alive to the Civil Registry. Lacking any of these circumstances, no one can ever sue on parenting. "

The civil law family or family law concerns the regulation of all links established by virtue of kinship, marriage and cohabitation, and we can distinguish between family law and family law personal property on the basis of marriage or concubinage and causing the effects of personal relationships as custody, guardianship, paternity, adoption etc.. and property relationships as the maintenance obligation, family heritage and the consequences of such assets arising from such relationship.

III. Legitimate Filiations, Legitimacy and Recognition

Generally considered in the doctrine that the state (civil - political) of a person is given legal status stored in the relationship with the family, the state or the nation. In the first case, bears the name of marital or family status and is decomposed into the different qualities of child, parent, spouse or relative by consanguinity, affinity or adoption. In the second case, the state is called the political and precise position of the individual or legal person on the nation or the state to which it belongs, to determine the qualities of domestic or foreign.

The marital status of people can be qualified as a legal situation with all the features of legitimacy for the normative assumptions made establishing itself or as a de facto situation, which has no legitimacy whatsoever, but nevertheless therefore, confers on its holder a behavior,

treatment, fame and position similar to legitimate state.

Legitimate filiation. Our law requires that the child is conceived during the marriage of the parents, not simply born of the marriage, therefore, the legitimate child can be born when the parents' marriage is already dissolved by death the husband, divorce or annulment, and in those three cases, their legitimacy is determined by virtue of his conception, birth ever. Besides the natural and legitimate descent, in our law there is also entitled, which is one that corresponds to the children being conceived before the marriage of their parents, he or they are born during the celebration recognized before, during it, or subsequently enacts its conclusion as

Articles 355 and 356, as is noted in our Mexican law for children born in the above cases have the same rights and obligations in relation to parents. But the law is not confined only to the recognition and the right of legitimate or legitimated children born but also protects those illegitimate children born to parents as before mentioned, who are not married to one another, or outcome of any relationship or adulterous affair, so long, the mere appearance of the parent that recognition is given to the registrar, judge, in deed, in his will, or by judicial confession and expresses, in this case being the father or mother have been forced to a proceeding brought before the court, so the article reads: "369 .

Recognition of a child born out of wedlock shall be made in any of the following ways: I. Under the heading of birth, before the Civil Registry Judge; II. By special act before the same judge; III. By deed; IV. Per will; V. For direct judicial confession and expresses the substantive legal standard. Thus it transpires that the children born out of wedlock and children whose parents never contracted marriage are not legitimate, but if recognized by law with the same rights and obligations between each other, under the express recognition of the parents of his paternity of the children.

Federal law does not escape the pursuit of parenthood to get find out the origin of the children on parents (affiliation), given the needs that arise every day, has become more frequent investigate this, especially in the case of identity of children, which becomes an implicit and very personal right of the child, using the following orders of the CCF-382.-The Art of paternity of children born outside marriage is permitted:

- I. - In the cases of abduction, rape or rape, when the time of the crime matches the conception;*
- II. - When the child is in possession of the state of the alleged child father;*
- III. - When the child has been conceived during the time the mother lived under the same roof with the alleged father, husband and wife living;*
- IV. - When the child is in their favor as prima facie evidence against the alleged father.*

Art.384.-Possession of state, for purposes of Section II of Article 382, be justified by showing

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ordinary means of proof, he has been treated by the alleged father or his family as a son of the former, and it has provided their livelihood, education and development.

IV. Proof of Parenthood

In principle, the marital status of people only checked with the records of the registrar, to justify the filiations of legitimate children of marriage, legitimate and recognized rule is required in the first cases the departure of his birth and the minutes of marriage of their parents, and the third single from his birth records to prove the relationship, taking with it a claim on the estate, food, exercise parental authority, adoption or guardianship where appropriate, to invoke and require the effects of the marriage and to obtain certain benefits in cases of absence.

There are three main sources of family law: kinship, marriage and concubinage.

The relationship really means a legal status because it is a permanent situation that is established between two or more persons by virtue of consanguinity, marriage or adoption to rise steadily set of legal consequences. By the simple fact performed the marriage between men and women born between them and the families of both what we call our right relationship by marriage, so defined in Article 294 of the code: "The relationship by marriage is that marriage is contracted, between male and relatives of the woman and between women and male relatives "and that of adoption, the law that determines who are the subjects bound by the family relationship.

However, blood kinship Article 298 says "The straight line is ascending or descending ascending is that which binds a person with your parent or trunk from which it came, down is that which binds the parent with whom it originated. In this situation we have blood ties are always attached to parents in relation to children, and these in relation to parents, leaving grandparents included.

Marriage is proved by the record that contains the simple will of the parties to contract with the authority of the registrar, and it is indisputable that the institution is fundamental to the legal organization of the legitimate family, maintaining his links with the consequences that derive from kinship, in cases of legitimate filiations and legitimacy. Divorce, in turn, presents itself as an institution related to marriage, and even if from the legal point of view involves the dissolution of that link, it has been necessary that the law governing this issue before they do serious causes and possible cohabitation of the spouses. This branch of civil law is characterized as a system requirement, which is exceptionally allows individuals to modify the legal implications arising directly from the law.

We consider that our current Civil Code tends to give effect to cohabitation, similar and comparable to marriage, or indeed the state to sustain a marital relationship that exists between a

man and woman in marriage free cohabiting for 5 or more years, not only benefits to children born of these, but these benefits includes the concubine in return for this the same rights of a child to receive food and even to receive an inheritance.

V. Maintenance obligation.

In Mexico, the food allowance, is that by which a person is provided satisfiers of their needs both physical and intellectual and moral order that can survive and fulfill his destiny as a human being, surpassing the simple acceptance of food.

It is recognized that an obligation-right economic content that allows humans to obtain their livelihood on the biological, psychological and social, its implementation depends on the circumstances in which they are both the debtor and the creditor. It may be an obligation to give or to do as satisfied by the provision of a pension or by conducting a series of activities aimed at providing a decent life and enable food to the creditor, if feasible, so that in a moment determined to fend for himself. The object of the obligation is therefore on the amount of money allocated as a pension, as the means to meet the requirements of the creditor¹¹.

The Supreme Court's Office has argued that food is on public order and social interest is inappropriate to grant the stay against the payment of food and food that prevents the creditor to receive the necessary protection for their livelihood.

Galindo Garfias food defines debt as "the duty is carried out by members of a family, provided each other, the food necessary for life, health, and where appropriate, education", adding that since the morally, born of the concept of charity, and from the standpoint of law, the one belonging to a family group.¹²

The same author shows us clearly the social, moral and legal obligation in question: characters that are not observable, in general, in other obligations. He says it is socially while society is interested in the livelihood of members of the family group is moral because the emotional ties that bind it to certain people's moral obligations to look after those who need help or assistance, and is finally legal assistance because through coercible right is fulfilling this obligation to ensure the creditor meeting their food requirements through the courts established by law¹³.

The civil law family or family law concerns the regulation of all links established by virtue of kinship, marriage and concubinage, and the consequences of such assets arising from these links:

Through the relationships that originated the relationship, they understand not only the

¹¹ Corno, Gerard. Droit Civil, tomo II, La famille, Paris, De Motchretien, 1984. pp.195.

¹² Galindo, Garfias, Ignacio, Derecho civil, 2a de., México, Porrúa, 1976 pp. 447 y ss.

¹³ Ibidem.

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links between parent and child or parent-child relations, but also the ones that extend to blood kinship straight or collateral kinship by marriage and kinship adoption.

Therefore we discuss the issue on the right to food, is a direct result of kinship. Hence it is thought that ethically and legally, the parents are required to solve or contribute to meeting those needs with those with whom you have a close bond within the family.

In family law the concept of food involves a broad generic formula that includes clothing, housing and assistance in sickness and in relation to minors adds the duty of their education. In confirmation of the above the text of Article 308 of the Civil Code provides: "The food include food, clothing, housing and assistance in cases of illness. For children food also includes the expenses for primary food education, and to provide some trade, art or profession honest and appropriate to their gender and personal circumstances. " The above concept is broad and general, as it is applied, to any person in which there is some relationship in relation to the person liable for all children born to married parents, divorced parents of children recognized the fruit born of concubinage and as children born to parents of result of an adulterous relationship recognized by them, shall be required to contribute in proportion to their assets and income to food for their children until they reach the legal age of majority, and even coming to this, guardianship law, extending the obligation to minister to provide food and what is necessary to continue studying while having a job or profession, to the extent and the possibility of parents.

Notwithstanding the foregoing, we must remember that Article 314 of the Civil Code makes clear that the maintenance responsibility includes not provide capital to the children to practice the craft, art or profession to which it is dedicated.

VI. Principles of Maintenance

In relation to everything stated above we will discuss the eleven principles of maintenance unique¹⁴.

First: Reciprocity, It is recognized that food giver has to turn the right to receive them. The parent who has provided all the necessary elements for the subsistence of their children, when is appropriate and determined by the need, is in a position to demand maintenance of their descendants. In this regard, Article 301 of the CCF (FEDERAL CIVIL CODE) provides: the maintenance responsibility is reciprocal. The parent who gives the maintenance obligation has the right to demand it.

In confirmation of the reciprocity law for the food, the following provisions of the CCF have:

¹⁴ Baqueiro, Ancona, Edgard et al. Derecho de Familia, México, editorial Oxford, 2007, pp. 31 y ss.

Art. 303: Parent are required to give food to the children.

Art. 304: Children are obliged to provide food to the parents.

Art. 307: The adopter and the adoptee are obliged to provide food, in cases that have the father and children.

Second: Alternate, this concept entails an alternative rule, that allows to other relatives to claim food, where the parent is unable to meet his burden. Therefore, when parents are missing or there is failure to them, then the grandparents, on both lines, subsidiary or alternatively will have to face this obligation. The same applies in the reverse situation, when correspond to children to provide food to the parents.

In confirmation of the principles we have discussed, will see the complete text of the following devices in CCF:

Art. 303: Parent are required to give food to the children. In the absence or inability of parents, the responsibility lies with the other ancestors, on both lines, which they were closest in degree.

Art. 304: Children are obliged to provide food to the parents. In the absence or inability of the children, the responsibility lies with the descendants in the nearest degree.

Art. 305: In the absence or inability of the ascendants or descendants, the responsibility lies with the father's brothers and mother in the absence of these, only the siblings of the mother, and in default of them, only the siblings of the father. Missing relatives referred to the above provisions is the duty of food minister collateral relatives within the fourth degree

Art. 306: The siblings and other collateral relatives referred to in the preceding article are obliged to provide food to children, while they reach the age of eighteen. Also have to feed their relatives within the fourth degree, who are incapacitated.

Verify that the legislature has not directed that the maintenance obligation to operate as a subsidiary or an alternative when the closest relative, and therefore, preferential or principal debtor fails to comply with its cargo, but has limited this lack of compliance to the criterion of failure, which we believe is contracted to insolvency.

Third: Incorporation by Alternative Compliance, This feature of the right food is also very unusual, as the oblige may meet the burdens that the law imposes, not necessarily with direct cash payment of alimony, but through the incorporation of the creditor to his family. The rule containing the provision quoted follows the alternative hypothesis at Article 309 of the CCF, which provides: The food required to meet the obligation to allocate a competent pension creditor food, or incorporate the creditor into the family. If the creditor objects to be incorporated is for the judge, according to circumstances, decided how to minister to fix food.

The refusal by the creditor to be incorporated into the debtor's domicile, can be varied and

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for various reasons, leaving the burden of proof to that effect to the creditor. However it may happen that the debtor be incorporated in the domicile of the creditor fails to comply with what is necessary to provide for the subsistence of the debtor, leaving the burden of proof also to the creditor.

Fourth: Proportionality, in this statement we find a new feature of maintenance, whose nature we can locate within the concept of equity.

In other words, the burden should have a fair food and a healthy balance ratio between two external events: one is the possibility, and another is the need. This requires addressing two concepts involving two different situations, because the possibility is contracted economic capacity and the need is contracted to the demands of having certain satisfactions. There is an implicit correlation that is crucial mandatory, so that equity points to a specific formula for such a measure, which produces the necessary balance in this account.

The legislator articulates a complementary foresight in this matter, to anticipate changes and modifications on account of the binomial proportion, inflation-devaluation. For this, besides including the basic rule of proportionality that we noted at the beginning of this section, in Article 311 of the CCF adds: *Determined by agreement or by court, the maintenance obligation will have a minimum automatic increase equivalent to the percentage increase in daily minimum wage in force in Mexico, unless the debtor demonstrates that their income did not increase in equal proportion. In this case, the pension shall be adjusted to increase food that actually had obtained the debtor. These precautions must always manifested by court or by agreement.*

Even with the clarity of the earlier text transcript and interference by the courts, does not exclude that in daily practice this is not fulfilled as originally intended by the legislature, because the automatic increase in pension foods must be obtained in advance from the judge, who respecting the rights of the debtor, gives freedom to manifest whether or not opposed to increasing the pension, if the debtor opposes the increase in alimony entity must show the judge that their INCOMES have not increased in proportion.

However, there are new rules that the legislation referred to does not, but the country's supreme court has considered valid and binding through various case law, and has brought to family court order for your application. And this is precisely the rule set, provide maintenance on percentages, which is much more modern than the minimum wage, and more fair if we might say, because this concerns only a fixed monthly amount, and its variation is much more complex precisely because of the many indices that can be inflationary in the economic zone, and to be requesting this increase many times as necessary to the judicial authority.

This does not happen when the pension is determined on percentages or percentage, for when the judge sets the pension on the basis of this rule, the board includes every income to take

this or may have in the debtor's future, the board does not freeze, and if instead the board may increase or decrease automatically as actual income and net considers the debtor, without previously ask the judge.

There are two additional rules regarding the proportionality of food, namely:

Article 312: If there are several that should give alimony and all we had the possibility to grant, the judge split the amount between them in proportion to its assets.

Article 313: If only some of the obligation we had the possibility of maintenance, they shall be divided between the amounts of food, and if only one we had the chance to give the board, only one discharges the obligation of the pension.

It follows that according to income and economic possibilities of each of the debtors, their payment and obligation will be reflected in a different way, but in an equitable and proportional to the debtor, excluding those who could not comply.

Fifth. Waiver and intransigibilidad. As the statement of these principles it entails, the subject of food is imbued with the ideas of public policy. Therefore does not operate the principle of autonomy. Thus, both from the standpoint of the creditor and the debtor can not validly waive that right, or obligation. It is clearly stated in the following provisions of the Federal Civil Code.

Art.321. The right to receive food is not waivable, or can be traded. And in the same sense Art.2950 states: the transaction will be null: V. On the right to receive food. However, there is an exception in this area which is covered by the following device: Art 2951. Can be no compromise on the amounts due for food either.

This means that treatment can only be overdue pensions and falls, not the future, may be that the amount of such pensions owed is reduced by the creditor, but under the premise of a pre-treatment between the parties.

Sixth. Applicability. That is, you can not miss the food right by the mere passage of time, by virtue of not having exercised the creditor or even temporarily abandoning him. It confirms the statement above, the following Article of the Civil Code Art.1160. The maintenance responsibility of limitations.

Seventh. Preference. This principle gives a graduation hierarchically food law that excluded any possibility of competing with them, and we can ensure that your choice includes any amount that may exist before or after food needs arise, which means that in order to first payment paid food and after all other claims. In the articles on the topic is the express manifestation that strengthens the preference of the right food for the wife and children. Correspondingly, was extended the same right to the husband, his writing is the inspiration of legal equality, politics, economic status of women with men, as set by the economic contribution of spouses to sustain the household, their own food and their children, without prejudice to distribute these loads in the form and proportion

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that they agree and according to their own potential. Hence the text says that those provisions are specified in:

Art.164. The spouses contribute financially to the upkeep of the home, their food and their children, and the education of these in the terms established by law, subject to the charge distributed in such manner and proportion as agreed for this purpose, according to their means. To the above is not required that you are unable to work and is neither own property, in which case the other will address these costs in full.

The rights and obligations arising from marriage are always the same for spouses and independent of their economic contribution to sustaining the family.

Art.165. Spouses and children, in food, have a prior right on the income and assets who has the care of the family economic support and may demand the securing of the property to give effect to these rights.

Eighth. Indefeasible. Closely linked to the concepts we have been discussing, then in principle the right food can not be arrested, so our system recognizes Federal Civil Procedure Article 434. The law clearly protects this right, because in this respect it is noteworthy that for any reason of debts that the creditor has food, the food we receive are likely to be seized to pay its liabilities or any debt which he has, the same happens with respect to debtor may be attached to either the obligation of ministering food.

Ninth. Guarantee. Of course, the legal status of all civil obligations is intended that they will comply with the required assets that should have, but in matter of food, there is also a guarantee that is linked to the preferential nature same statute, because that section 315 of the Federal Civil Code provides a list of persons who may request insurance, namely:

- I. - The creditor food;*
- II.- The ascendancy to keep it under their parental authority;*
- III.- The guardian;*
- IV.- The sisters and other collateral relatives within the fourth degree;*
- V. - The Public Prosecutor.*

Tenth. Incompensabilidad. To recognize this feature, we need to express it the text of Articles 2185 and 2192 Federal Civil Code, which literally says:

Art.2185 .- compensation takes place when two persons meet the quality of debtors and creditors each other and in their own right.

Art.2192 .- The compensation does not take place:

III.- If one of the debts were for food.

The precepts are examined mean that even when creditor food event,-while-debtor of the

obligation, it can not repay the credit to the law that favors him, precisely because of the special features we have been exposing the right.

Eleventh. Grounds for divorce. The lack of ministry between spouses has been the one cause that allows the dissolution of the marriage bond that unites a couple. In addition to the eleven specific characteristics that we discussed in the preceding paragraphs, we must place on record that the maintenance obligation and attend some other complementary aspects of it which is called a casual basis. This is, in divorce proceedings, such as those based on the lack of the ministry of food, procedurally, there is the characteristic of his "provisional" because the voluntary divorce empowers the judge to "provisionally approved" items agreement on the status of minor children or incapacitated to the separation of the spouses and those foods and be given by one spouse to another during the proceedings, issuing the necessary steps on its underwriting.

In the divorce must also empowers the judge-Art. 282. Federal Civil Code for admitting the claim, or sooner if there is urgency, dictates "provisionally" and only for the duration of the trial, the following provisions:

III. Identify and ensure the food they must give food to the debtor creditor spouse and children

Finally, we note that stops the maintenance responsibility.

As provided by Article 320 of the Civil Code:

I. When he who has no means to comply;

II. When food no longer needs food;

III. In case of injury, loss or serious damage inflicted by the food to be provided against;

IV. When the need for food depends on the vicious behavior or lack of implementation of the maintenance work, as long as these causes:

V. If food, without consent to be given food, he leaves the house for unjustifiable reasons.

Under the law of inheritance, we find a general rule in Chapter of wills inoperative, in Article 1370 to provide: "There is no obligation to provide food to people who have assets, but if having them, your product does not equal to the pension should correspond, the obligation is reduced to what is needed to complete it."

This rule is just and confirmatory of the principle of proportionality that we have widely exposed. Notwithstanding the foregoing, Article 1368 of the same Act provides that the testator must leave food to people who are mentioned in the following fractions:

I. The descendants under eighteen respect of which have a legal obligation to provide food at the time of his death;

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II. For the descendants who are unable to work, whatever their age, when there is an obligation referred to in the preceding subparagraph;

III. When the surviving spouse is unable to work and not have sufficient means. Unless otherwise expressly provided by the testator, this right will continue until no marries and living honestly;

IV. in the ascending;

V. The person with whom the testator lived as his spouse

VI. To the brothers and other collateral relatives

Section 1374 defines "the will is futile in that no maintenance is allowed, as provided in this chapter"

Assurance of Food: The law does not stop only to determine the amounts to which the debtor must provide to fulfill its maintenance obligations to the creditor, but also provides for and requires the form to be guaranteed in compliance with same, since in many cases the required resist complying, and if so, the power of the court extends that time to seize all and each of the revenue derived by the debtor of the fruits of their labor, or his property . Also, the debtor may voluntarily or at the request of the judge when it has not reached the anterior end, to guarantee payment of its obligations voluntarily or through a mortgage bond which gives this a private institution to fulfill its obligation.

VII .Participation of the Judge and Prosecutor of the Family

State interference in the legal organization of the family, it can be regarded as a public body that accurate monitoring of the judiciary in different family relationships, with the obligation to submit to that control, which is not only legitimate, but also of opportunity in Mexico also requires multiple instances in which the judicial authority can sometimes provide office and shows us the constant interference of the Attorney General as representative of society in matters of family, with the ability to operate directly in certain cases.

In our Mexican law have the necessary intervention of the court and its authority to sell property of the incapacitated or furnishings, judging not only the need but also the obvious usefulness of the operation, also supports the judicial control to suppress all those acts of exercising parental authority or guardianship of children or disabled persons among other cases.

In Mexico there is a government agency called the Office for the Defense of Minors, the body emerges in 1976 in accordance with the decree published in the Official Journal of January 2nd of that year, she created the Mexican Institute for Children and family that includes among its aims to protect the family and provide legal aid services.

In 1977, under Decree creating a decentralized public agency, the National System for Integral Family Development (DIF), which originates from the merger of the Mexican Institute of Child Welfare, and the Mexican Institute for Children and Family, the Office of Juvenile defense adds to its legal aid services to families, as is known as the Office for the Defense of the child and family. Mexico ratified the Convention on Intercountry Adoption, which came into effect on May 1995, pointing to the DIF (Integral Family Development through its Office for the Defense of Children and Family State of the Republic) as central authorities to the exclusive jurisdiction and subsidiary, respectively¹⁵.

Since its inception, to date, the Office of the Defense of Children and Family makes a direct intervention, and empowered by law for children, and that intervention is satisfied with the care of the state.

Finally I express my concern, as in Mexico and other countries on both legislation and the family, which undoubtedly would think that everything is proceeding smoothly, when the reality is quite the opposite, and every day away from the ideal of every humans. I think likewise, that the problem is not just the structures of government but also of each individual problem, because as mentioned before is a legal-ethical problem where the family has everything to lose. Promoting human values in creating true educational structures, is likely to respond to such problems. The solution is for everyone: individual, family and state.

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¹⁵ Reunión Nacional de Procuradores de la Defensa del Menor y la Familia, Tlaxcala, 1995.

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