

FAMILY COEXISTENCE CENTRES AS AN ALTERNATIVE FOR THE EXERCISE OF THE RIGHT OF CONSENT BETWEEN MINORS AND THEIR PARENTS.

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ABSTRACT

The great existing problem between families or marriages in which children are involved can have a significant impact on their development this is because at their young age, living such moments where there are fights and separations can affect them significantly especially in the emotional field, since they can cause depression as well as sadness, That is why the Judiciary created the initiative of family coexistence centers where children interact in a supervised environment in addition to being able to be in healthy coexistence with their families. All children have the right to have a better life, which is why this type of centers meet the objective of providing a place where they can feel safe to have a healthy and happy family life, so as not to affect their growth.

Keywords: cohabitation, divorce, family, minors.

Introduction.

The purpose of this document is to make a brief analysis of the Family Coexistence Center that exists in our country, seen as an alternative to carry out the right of coexistence between minors and their parents.

The study carried out here first analyzes the so-called right of coexistence, enshrined in both international and national normative provisions, and then ventures into the processes of supervised coexistence that takes place in family coexistence centers, in which it will seek to know so many positive and negative aspects, as well as the experience in other countries that can help us improve our own systems.

1. -The right of cohabitation between minors and their parents:

In our country in recent years we have seen a very important phenomenon in terms of the rates of decrease and increase of marriages and divorces; according to the information presented by INEGI (2020), from 2000 to 2020, the statistics of couples who contract Civil have decreased considerably, being that for the year 2000 707,422 marriages were registered in contrast to the year 2020 where only 335,563 were registered. For its part, in terms of divorces the phenomenon has gone the reverse, in 2000 52,358 divorces were registered, compared to 2020 where 92,739 were registered; Statistics allow us to visualize a very unfortunate social phenomenon, which has a considerable impact on family relationships, not only between the couple who decides to separate, either through divorce or separation from the concubinage relationship, but also breaks and affects in a primordial way the filial paternal relationships that are generated when the couple has procreated children.

Experience tells us that those who are most affected by a separation process will always be the minors, since normal coexistence with their parents will be affected, even in those cases in which the spouses have agreements to guarantee coexistence.

In an article published in the Revista Pediatría Integral, García Pérez, J. (2018) presents us with an overview of possible consequences on the emotional and social development of minors who have gone through a process of separation from their parents, mentioning between

Other consequences are as follows:

- Poor academic performance
- Worse self-concept

- Difficulties in social relationships
- Emotional difficulties, such as: depression, fear or anxiety, among others.
- Behavioural problems

Given this, it is necessary to consider the importance of the family environment for the development of a minor; The family is the main engine in people's lives, depending on the affective relationships that are generated in it, however, today family models are very varied and although the optimal would be a family relationship where the father and mother are together, the reality is that this model is no longer the common denominator, despite this the need of children and adolescents, to feel protected, loved and cared for by their parents is still present, the State is then guarantor of this right.

The right to family cohabitation is closely related to two very important legal conceptions, namely the concepts of guardianship and custody and the principle of the right concerning the best interests of the child.

Guardianship and custody is a concept of family law that is often compared to parental authority, however, the first refers to the care and protection of parents towards children, highlighting that on some occasions and by judicial order can also be exercised by a person other than parents, parental authority on their part, It is in general the right exercised by both parents over the children from birth, custody is part of the latter, but arises more precisely before the separation of a relationship, the Mexican system establishes both concepts both in the Federal Civil Code and in each of the Civil or Family Codes that govern the Federative Entities.

Although the custody of a minor is a right exercised by only one of the parents, when there is no longer a relationship between them, the person who holds it cannot deny the coexistence of minors with the father who does not enjoy that right, in this regard the National Human Rights Commission has ruled on the damages. that according to this Institution, can generate in the medium, short or long term in the psychological, emotional and Self-esteem of the child and in this sense considers that an unjustified refusal on the part of the father who exercises custody with respect to the one who does not exercise it may be subject to administrative and judicial sanctions.

The rights and obligations arising from parental authority and, where appropriate, custody and custody will always be subject to the principle of the best interests of the child, the Mexican Constitution in its fourth article provides a very clear concept of this principle, by subjecting all decisions and actions of the State for the protection of the rights of children. as established by that law "This principle shall guide the design, execution, Monitoring and evaluation

of public policies aimed at children", so that we can see the importance of this principle when talking about the right to family coexistence of minors with their parents.

The right to family coexistence has been enshrined in various international and national legal systems.

Article nine, point three, of the Convention on the Rights of the Child of the United Nations General Assembly states:

"(3) The participating States shall respect the right of a child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis, unless this is contrary to the best interests of the child."

From this legal system we can deduce as a premise, that the coexistence between minors and their parents is a fundamental right of the child and responds to the need for protection of the best interests of the child, as mentioned above, however, it is necessary to ask what are the mechanisms that the Mexican State has generated to guarantee full compliance with this provision? The answer to this question can give us an approximation to the object of study of this document.

In accordance with the previous regulations, article 23 of the General Law on the Rights of Children and Adolescents establishes the following

.' Children and adolescents whose families are separated shall have the right to live together or maintain personal relations and direct contact with their relatives on a regular basis, except in cases where the competent court determines that this is contrary to the best interests of the child, without prejudice to the precautionary and protective measures issued by the competent authorities in the respective proceedings, in which the right to a hearing of all parties involved, especially children and adolescents, must be guaranteed."

Article 283 of the Federal Civil Code makes clear reference to the right to family coexistence and the obligation of the judge to ensure compliance with it: "In any case,

protect and ensure respect for the right to live with the parents, unless there is danger to the minor."

From the aforementioned legal systems we can rescue some important characteristics of the Law of family coexistence:

- 1.- It is a right subject to the principle of the best interests of the child, so that in any judicial procedure where family coexistence is in conflict, the judge must rule in favor of the most convenient for the minor.
- 2.- It is a right that brings with it an obligation for the parents, in such a way that it is considered a right-duty.
- 3.- The State is the guarantor of ensuring compliance with this right through various normative provisions.
- 4.- In principle, the right to family coexistence must be exercised voluntarily and by common agreement between the parents, but otherwise it will be the jurisdictional authority who ensures compliance.

2.- Supervised coexistence.

While it is true, when the rupture of a relationship in which children have been procreated occurs, the ideal would be that both parents aware of the importance of the filial relationship, agree in a climate of dialogue and respect a regime of coexistence, the reality perceived in thousands of matters processed in the different family courts of our In the country, they show us that this agreement is not always given in an easy way, being then the task of the judge to guarantee this right.

In family life, people learn some meanings and a large part of the symbols that allow them to exercise their thinking capacity, so it is possible to modify their repertoire by using it in action and interaction based on the interpretation of the situation. (Pérez et. al. 2008)

When there are justified reasons why cohabitation cannot take place in a normal manner, the judge must decree the measures he deems appropriate for the protection of the minor, recalling the principle of the best interests of the child.

Supervised cohabitation is an extraordinary way by which the family relationship between parents and children can be continued, as long as there are causes.

justified that motivates the judicial decision to decree it, but what can we call justified cause?, the Family Code of the State of Yucatan establishes in its article 364 the following:

The judge may order that cohabitation be supervised provided that:

- I. Consider that there is a danger to the physical or mental integrity of the child or adolescent;
- II. There is a history of family violence against the child or adolescent,
- III. It deems it appropriate in the best interests of the child or adolescent.

In the State of Tabasco and in several legal systems of other states, family regulations are still governed by a civil code and in this regard there is no provision that clearly indicates to us, as in the previous order, the cases in which a supervised coexistence must be given, leaving a legal loophole that can often be a reason for controversy, so that the judge must issue a decision considering various evidentiary elements that prove without any doubt the need for supervised coexistence, since in principle a normal coexistence should be the most appropriate for a Infant, taking into account that it even allows coexistence with the extended family.

3- The Family Coexistence Centers :

As mentioned in previous lines, it is the obligation of the State to guarantee compliance with the right to coexistence between parents and children, however, for many years for the Family judges guaranteeing this right was a rather difficult task, especially in cases of supervised coexistence, as narrated by Judge Hector Samuel Casillas Macedor, in his presentation on the future of Family Coexistence Centers, before the creation of These, supervised coexistence had to be generated in the facilities of the courts, parks or shopping centers, supervised by the actuaries of the family court, making the development of these meetings something truly difficult for all parties involved.

In 2000 at the initiative of Dr. Juan Luís González A. Carrancá, who at that time served as presiding magistrate of the Superior Court of Justice of the Federal District,

The first Family Coexistence Center was created in this city, located in the Cuauhtémoc Delegation and endowed with minimum resources for its operation. From that first experience, little by little other states have been added, however, the creation of these spaces is far from being a reality in most of the national territory, it is currently considered that there are about 23 centers of family coexistence throughout the country.

Mata Martínez (2018), in her series of articles published regarding the Coexistence Center, points out that these are "suitable neutral spaces to favor the fundamental right of the child to maintain relations with their families, when in a situation of separation and / or divorce or foster care, or in other cases of interruption of family coexistence, the right of access is suspended or is Difficult or conflictive compliance. In addition to facilitating the meeting of the child with his non-custodial parents and / or the biological family guaranteeing his interests", the concept provided by the author allows us to establish some essential characteristics of these centers:

- 1.-To be suitable neutral spaces, that is, with an infrastructure adequate enough to guarantee coexistence in a healthy environment.
- 2.- To act as mediators to guarantee family coexistence, which implies having the effective and trained personnel to assist in the solution of those situations that prevent an adequate family coexistence between the non-custodial parent and their children.
- 3.-These centers must facilitate coexistence not only with the parent but also with the biological family.
- 4.- Family Coexistence Centers should only be used in extraordinary cases that merit their intervention.



<https://sintesis.yoporlajusticia.gob.mx/2019/11/05/centro-de-convivencia-familiar-de-ecatepec/>

According to most of the regulations issued for the regulation of CECOFAM, these come into operation mainly in the following cases:

- 1.- When the custodial parent prevents the cohabitation of the other parent, at the request of the latter through a family dispute.
- 2.- When the minor refuses to live together, as long as it does not go against his safety.
- 3.- In situations of risk due to family violence, in these cases it is necessary to work previously with the minor before arriving at coexistence directly with the parent.
- 4.- When the housing conditions of the parent are not ideal to generate an adequate environment of coexistence.

It is important to mention that in the same way these centers have had the experience of intervening in many cases of parental alignment, in which it is one of the parents who prevents coexistence, being fully trained to identify this type of situation and assist in judicial processes when necessary as experts in the matter.

We currently live in a society based on constant information, the importance of this is that it is the means to try to understand each other, for this reason communicating does not only have to do with the relationship between people. (Gil et. al. 2022)

The family is the first source to instill values in the home, essentially from the parents as a role model and as the main responsible for the behavior and conduct of the child, in the practice of these a being is built from childhood to adulthood, transmit values in the family nucleus and that the children have a lifestyle adopting b We have habits of coexistence and emphasizing that the material is not the most important thing in life and emphasizing the spirit part of the human being. (Sources, 2010 cited in Veloz, 2019)

In some states, such as the State of Tabasco, CECOFAM are also used as drop-off points for minors to live with the extended family of the non-custodial parent, as established by the Article Two of the Regulation of the Family Coexistence Center of the Judicial Power of the State of Tabasco:

'Article 2.- The purpose of the Family Coexistence Centre of the Judiciary is to provide an adequate space for the cohabitation between parents and children decreed by the judicial authority, in addition to supervising the correct development of these and the delivery reception of minors connected with it'

This family coexistence center depends directly on the Council of the Judiciary of the Judicial Power of the State, has a schedule of attention from Friday from 4:00 p.m. to 8:00 p.m., Saturdays from 10:00 a.m. to 6:00 p.m. and Sundays from 10 :00 a.m. to 4 :00 p.m.

It currently attends 120 supervised cohabitations, that is, matters that come from a judicial procedure filed in a court and 177 external cohabitations, that is, those that take place from Friday to Sunday, according to what the judge marks.

Although we cannot deny that the Family Coexistence Center is a great tool that allows us to fulfill such an important right for the lives of children and adolescents in our country, they still face a large number of challenges:

First of all we see that most of these centers find themselves with a large number of cases in follow-up, causing a kind of saturation and this is that being barely 23 centers throughout the country, it is undoubtedly very difficult to ensure that all families have access to it. to them, clearly adding the lack of budget on the part of the state governments, being the case that many of these Centers do not even have their own facilities and are lacking a normative regulation that adequately organizes their operations.

For parents, both those who enjoy custody and custody and those who do not, the transfer to these

centers, involve very important economic expenses, in addition to conflicts for the time they must allocate for coexistence with their children, since being decreed on previously established days and hours can generate labor problems for them.

In minors, supervised coexistence carried out in the centers is far from being a normal and real coexistence with their parents, most of them are dedicated in any case to play

In the facilities with other children who are in the same situation, and although this is not all bad, the reality is that it is not possible to comply with the spirit in which these spaces were created, to this is added that the child does not live with his extended family, losing very important affective ties and in those cases in which the minor refuses living with their non-custodial parent turns out to be a truly terrifying experience for them.

At the international level, family coexistence centers are called family meeting points, the main experiences are found in European countries such as France, Belgium, Spain and Germany.

The family meeting points in these countries aim to:

- 1.- Guarantee the regime of visits established by judicial disposition between minors and their parents.
- 2.- Guarantee the safety of the minor in the development of coexistence with his parents.
- 3.-Generate official, neutral and reliable information that can be used as evidence in a process in family matters.
- 4.- Facilitate the meeting of the child with the non-custodial parent, through a differentiated intervention model.
- 5.- Attention and psychological follow-up to minors.
- 6.- Facilitator of dialogue to establish agreements between parents .
- 7.-Constitute itself as an impartial third party that supervises and guarantees the best interests of the minor in terms of their parent-child relations.

These meeting points of coexistence have quite innovative transversal intervention models, as is the case of Spain, who define the work of their meeting points as a social service, provided by the State to guarantee minors the right to develop in an adequate family environment, in addition to being governed by guiding principles Of utmost importance:

- The best interests of children and adolescents
- Autonomy
- Temporality
- Subsidiarity
- Family intervention
- Parental responsibility
- Neutrality
- Impartiality
- Multidisciplinary personalized attention
- Professionalism and specialization
- Confidentiality
- The principle of quality
- The gender perspective
- Interdepartmental and inter-institutional coordination
- Security
- Information to beneficiaries and users

The Spanish transversal intervention model has the characteristic of promoting the coexistence of the child with his parent until reaching the point where supervision is no longer necessary, to achieve this, the intervention is developed in various stages, in which involve different types of specialists, trained to guide and assist the parent and the child throughout the process, being a planned model but of equal forms with great flexibility to adapt to each family situation.

The intervention process is initiated by a referral from a family trib, once the file is received by the family meeting point, the evaluation and analysis of the case is carried out, so that a coexistence plan can be generated. personalized for each family, which will be followed for a maximum of 18 months and will pursue as its main objective the reestablishment of the link between the child and his parent to

Subsequently, by themselves continue with the coexistence, throughout the process the intervention plan is constantly reviewed and adequate.

The experience of this meeting point and many others that exist in European countries, are of utmost importance to improve our centers of coexistence, unfortunately in our country the intervention model is a linear model, which in most begins with the judicial referral, the summons of the parents and the minor in the center, a brief tour of the facilities and explanation of their functions and the beginning of the coexistence. This process leaves out the planning that must be carried out in advance to carry out the coexistence, in addition to this is added the fact that supervised coexistence can be prolonged in time, having cases of more than 6 or 8 years of with experience in these centers, for all this it is very important to rethink the structures and models of the Family Coexistence Centers 22 years after their implementation in our country.

Conclusions

Today the family remains a fundamental basis of society and currently faces many challenges, the State as guarantor of the rights of individuals is obliged to protect at all times the best interests of the child, especially in those cases in which its progenitors are unable to do so.

The centers of family coexistence are a response to the increase of fractured families that in the modern world we have, being regulated by the legal norm, they try to be the space suitable to carry out in a supervised and adequate manner the continuity of the parent-family relationship, when it is impossible for various reasons.

Although in our country we already have approximately 23 coexistence centers, we still have a very long way to go; it is necessary to pay attention to the need for these spaces, provide them with a budget and some autonomy so that they can achieve the objectives for which they were created, taking up the experience that countries such as Spain and England can give; In the same way, it is necessary to recognize that the correct functioning of the CECOFAM is not based on the adequate infrastructure but on intervention models that really contribute to

The treatment of emotional problems that are generated in minors before the rupture of the relationship of their parents.

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