

Ricardo Alex Bruhn Otero

Name change

**UNISAL**

Americana

2009

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Monograph presented as a partial requirement for obtaining the title of Bachelor of Laws 2009 at the Salesian University Center of São Paulo, Americana Unit, Campus Maria Auxiliadora, under the guidance of Prof. Master Alexandre Seiffert Nunes.

UNISAL  
AMERICANA  
2009

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## DEDICATORY

I dedicate this work to my parents, Elya and João, my siblings, André and Lilian, and my girlfriend Juliane, who helped me along this path of study and achieve my goals.

I would especially like to dedicate this to my mother, Elya Bruhn Otero, for her example of commitment, struggle, and honesty. She is to whom I owe my entire life and moral formation, as she has always passed on wisdom and examples of perseverance.

## ACKNOWLEDGMEN

I would first like to thank GOD, who made it possible for me to do this work.

To all the teachers who have contributed to my cultural enrichment throughout these five years of my degree.

In particular, I would like to thank my advisor, Prof. MS Alexandre Seiffert Nunes, for his support, conversations, and discussions during the process of writing this monograph, who shared some of his wisdom, conducting the work in a firm but friendly manner, leaving a significant and positive contribution at this stage of my academic life.

To my classmates and everyone who, directly or indirectly, helped to complete this work.

## SUMMAR

The starting point for this work is a natural person's name. The right to a name is the right to personal identity, distinguishing one in social and legal life. The exercise of rights requires knowing who the holders of the name are. As a rule, it is definitive, and the State regulates its immutability. The Public Records Law regulates and dictates that the name can be replaced by notorious public surnames in case of threats or coercion when investigating a crime.

Everyone has the right to their name and surname, but others cannot use them without permission. Pseudonyms have the same protection as names. In private life, fictitious use is allowed, which is widely used in literature, such as Voltaire (François-Marie Arouet); in sports, such as Pelé (Edson Arantes do Nascimento); and in the performing arts, such as Fernanda Montenegro (Arlete Pinheiro). To use the pseudonym in public life, President Luís Inácio Lula da Silva legally incorporated it into his name.

Other possibilities for changing one's name and surname are authorized by law: misspelled names, ridiculous names, twins, foreign names, commercial names, names at the age of majority (18), and the controversial reassignment of one's sexual status consented to by case law.

Keywords:

- I. Name
- II. Possibility of Changing the Surname
- III. Acquisition and Loss of Surname

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## INTRODUCTION

Given the paramount importance of the right to one's name and its protection, the monograph "Alteration of the Name" deals, as a priority, with the possibilities of altering prenames and surnames in our legislation.

Historical Evolution initially traces the need to adopt a name and surname to differentiate one person from another in ancient times as various peoples, such as the Hebrews, Greeks, Romans, and others, increased their populations.

The second chapter dealt with personality rights, which were incorporated into legislation only in the second half of the 20th century. In this legislation, the name was included in the right to identity, its concept, its legal nature, and its main and secondary elements.

Name is one of the personality rights that makes it possible to identify, individualize, and recognize a person in the family and society. At birth, we are given a name that marks, distinguishes, and labels us, even after death. This name consists of the prename or first name, which the parents freely choose, and the patronymic or surname or family name, which we inherit at birth.

Entitled "Possibilities of Name Change," it examined its immutability under the law, which the State regulates. Allowing it to be changed in certain situations, such as an obvious spelling mistake, a ridiculous name, in witness protection, in the case of twins, in the change of sex, in adoption, by an act of the person concerned in the first year of adulthood, after that, for justified reasons, and the commercial name at any time. Legislation and case law protect against the usurpation of another's name, and its use in any medium must be authorized.

## 1 Chapter I Historical Evolution of Personal Rights

The legal protection of personality rights and the importance of the name have been reflected since ancient times. As Maria Helena Diniz points out:

The recognition of personality rights as subjective rights is relatively recent. However, their legal protection already existed in antiquity, punishing physical and moral offenses against the person through the *actio injuriarum* in Rome or the *dike* categories in Greece.<sup>1</sup>

### 1.1 Historical Evolution

The need for a name has existed since man began to verbalize his thoughts and concepts from the earliest times. As cited by Washington de Barros Monteiro<sup>2</sup>, in *Curso de Direito Civil* and Silvio de Salvo Venosa<sup>3</sup> in his *Direito Civil*.

In these ancient societies, a single name was enough to distinguish one individual from another. Each person had their name and did not pass it on to their descendants. As the population grew, there was a need to supplement this name for better identification.

Hebrews: Among the Hebrews, a single name was used, such as Moses, Jacob, and Esther. Over time, when the tribes began to multiply, individuals began to be individualized by their name linked to their genitor. (Joseph-Bar-Jacob\_Joseph, son of Jacob), and from the name of various tribes as quoted in the Holy Bible, in Exodus 35-v30: "And Moses said unto the children of Israel, The Lord hath called Beseleel the son of URI, which is the son of UR, of the tribe of Judah, by his name".<sup>4</sup>

Jesus himself was known as "Jesus Nazareus," Jesus of Nazareth.

<sup>1</sup> DINIZ, Maria Helena. *Curso de Direito Civil Brasileiro*, 18ª ed. Saraiva, 2002. p.118

<sup>2</sup> MONTEIRO, Washington de Barros. *Civil Law Course*, 40th ed. Saraiva, 2005. p.107

<sup>3</sup> VENOSA, Silvio de Salvo. *Direito Civil*, 5ª ed. Atlas, 2005. p.21

As Silvio de Salvo Venosa quotes:

"The second name was added by custom, alluding to the profession or locality or geographical accident of birth, for example, when not linked to the parent's name."<sup>5</sup>

Greece:

The Greeks initially had a single name. As society grew, they added their father's name to their private name, and later the name of the entire gens, like Rome, which we no longer have.

"In Greece, it was unique and individual (Socrates, Plato, Aristotle). Each person had their name and didn't pass it on to their descendants."<sup>6</sup> teaches Washington de Barros Monteiro.

Silvio de Salvo Venosa quotes:

The Greeks also had a single name at first. Later, as societies became more complex, they began to have three names as long as they belonged to an old and regularly constituted family: one was their private name, the other their father's name, and the third the name of the whole family.<sup>7</sup>

Rome:

At first, the Romans identified themselves by a single name, which was individual and not transferable to descendants. With the increase in the number of people, the gentile was instituted, which was the family name. Later, the cognomen distinguished the various branches of the same gens.

As Washington de Barros Monteiro quotes:

In Rome, the name was quite complex. The elements that made up the name were: a) the gentile name used by all the members and b) the prename or first name of each person. Later, the third element, the cognomen, appeared due to the great development of the gens and the complications arising from alliances.<sup>8</sup>

<sup>6</sup> MONTEIRO, Washington de Barros. *Course in Civil Law*, 40th ed. Saraiva, 2005. p. 107

<sup>7</sup> VENOSA, Silvio de Salvo. *Direito Civil*, 5ª ed. Atlas, 2005. p. 213.

<sup>8</sup> MONTEIRO, Washington de Barros. *Civil Law Course*, 40th ed. Saraiva, 2005. p. 108

The name was initially individual, then became hereditary, but women didn't use it.

At most, single names or names with two elements belonged to the commoners, and slaves had a single name plus the owner's name (Spartacus).

Sílvio de Salvo Venosa cites the example of Limongi França, who explains:

The first name was the same as our first name, the second was the family name, and the third was the gentile name, for example, Publius Cornelius Scupio, which referred to a person from Cornelia, from the family of the Scions, called Publio.<sup>9</sup>

#### Gaul and Lusitania:

In Gaul and Lusitania, Rome adopted the names used there, and after the barbarian invasion, they returned to using the single name. In these places, they began to adopt the surname taken from a geographical accident of the place of birth, profession, and plant, among other things.

With the conquest of Gaul and Lusitania, they adopted the Roman system. After the invasion of the barbarians, they reverted to their custom of the single name, which was still in force among them. However, those of the Christian calendar gradually replaced the barbarian names. As the population became increasingly dense, confusion began to arise between people with the same name belonging to different families.<sup>10</sup>

To distinguish between them, a surname was used, either taken from a personal quality or sign (Bravo, Valente, Branco), from the profession (Monteiro), from the place of birth (Portugal), or an animal, plant or object (Coelho, Cavaleiro, Leite,) when quoting the same author.

This name was initially individual and was not passed on to heirs. Gradually, it acquired its present-day character, passing from father to son. Thus, to differentiate each person's name, the Surname is taken from a quality, sign, person, profession, animal, plant, and most often from the paternal name.

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<sup>9</sup> VENOSA, Sílvio de Salvo. *Direito Civil*, 5ª ed. Atlas, 2005. p. 213.

<sup>10</sup> MONTEIRO, Washington de Barros. *Curso de Direito Civil*, 40ª ed. Saraiva, 2005. p. 108.

Gaul: "The Celtic peoples migrating south delimited a territory called Gaul, comprising present-day France, part of Belgium, western Germany, and northern Italy. Julius Caesar ruled Gaul between 58 and 50 BC."<sup>11</sup>.

Lusitania: "Rome dominated the country in 139 BC, and it is the territory that today covers most of Portugal".<sup>12</sup>

Other people:

When it became necessary to distinguish between families, Arabs, Russians, and Romanians used the paternal name. Among the Germanics, the double name appeared in the 8th and 9th centuries, repeating the name of the father, grandfather, or a quality desired for the child.

As Washington de Barros Monteiro quotes.

"Among the Arabs, the distinction between people was also made by adopting the father's name" System that still predominates among them, for example (Ali Bem Mustafá - Ali, son of Mustafá)"<sup>13</sup>

Russians use the particles vitch or vicz in their surnames for men and ovna for women (Alexander Marcovicz - Alexander, son of Mark; Nadia Petrovna - Nadia, daughter of Peter).

Romanians use the particle "escu" (Lupescu, Popescu), and the English use the particle "son" (Stevenson). In the Middle Ages, the double name appeared among people of high status in the 8th and 9th centuries, but it became widespread in the 13th century.

As Washington de Barros Monteiro explains:

"For a long time, the name was on the fringes of the law, being free to change. It was the Amboise Ordinance of 1555 that first denied any change."<sup>14</sup>, and continues:

Positive Brazilian law allowed the change as long as the surname and family name were respected. Law no. 9708, of November 18, 1998, allows the substitution of the surname by notorious public surnames, as long as they are not prohibited by law. The 2002 code deals with the issue by providing the possibility of adding a surname due to marriage or removing it due to legal separation and divorce.<sup>15</sup>

<sup>11</sup> BARSA, Enciclopédia Britânica. Melhoramentos, 1998. p. 120.

<sup>12</sup> BARSA, op.cit., 159.

<sup>13</sup> MONTEIRO, Washington de Barros. *Course in Civil Law*, 40th ed Saraiva, 2005. p. 108

<sup>14</sup> MONTEIRO, Washington de Barros. *Curso de Direito Civil*, 40ª ed. Saraiva, 2005. p. 108.

<sup>15</sup> MONTEIRO, op.cit., p. 108.

Ordinances: They were the basis of law in Portugal and its colonies. The Ordinances of the Kingdom were in force in Brazil until the Civil Code was enacted in 1917.

## 2 Chapter I

### 2.1 Personality rights, their characteristics, and classification

According to Article 1 of the Civil Code, "Every person is capable of rights and duties in the civil order. The mere fact of existing gives a person the possibility of having rights. This is called personality".<sup>16</sup>

The 1988 Constitution recognized that people have the right to Respect for the person is inherent to their personality, understood as the characteristics that distinguish them as human beings but are not easy to explain or translate into words. Respect for the person gained strength and was incorporated into legislation in the second half of the 20th century, especially in the last two decades.

Human beings have long been concerned about government aggression. The so-called rights of Personality are the desire to preserve life, physical and intellectual freedom, name, image, and what he believes to be his honor. "These rights could be called Human Rights."<sup>17</sup> These non-pecuniary rights are not only defended against the actions of public authorities but also against threats and aggressions from other men.

As Sílvio Rodrigues quotes:

Raymond Lindon, in his monograph on the subject (*Les droits de la personnalité*, 1974 page 1), points out that the Code of Napoleon (on which our civil code of 1916 was based), which devoted 191 articles to matrimonial regimes and 20 to dividing walls and pits, did not say a word about the means of defending the patronymic name, nor on the non-patrimonial rights of authors and artists, nor on the rules for putting an end to disagreements between family members over the choice of a grave, or on the violation of domicile, or the secrecy of correspondence or the duty of third parties about the personality of each of us, or our private lives. It was up to case law to fill this gap.<sup>18</sup>

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<sup>16</sup> RODRIGUES, Sílvio. *Civil Law*, 34th ed. Saraiva, 2003.p. 35.

<sup>17</sup> RODRIGUES, op.cit., p.163.

<sup>18</sup>RODRIGUES, Sílvio. *Civil Law*, 34th ed. Saraiva, 2003.p.

According to the same author, the oldest legislative solutions are the Portuguese Code of 1867, the German Code of 1996, and the Swiss Code of 1907, where the rule is to compensate for these losses.

As Sílvio de Salvo Venosa explains:

I have the impression that personality rights were, for the first time, regulated by law, in a systematic way and without using that name, in the Italian Code of 1942. Articles 6, 7, 8, and 9 on the protection of the name and Article 1 on the right to the image are found in the first book on persons and the family, Title 1, on the natural person. These provisions contain the two basic measures for protecting personality rights, i.e., the possibility of judicially obtaining, on the one hand, the cessation of the disturbance and, on the other, compensation for the damage experienced by the victim.<sup>19</sup>

The Brazilian Civil Code has a chapter (11) on "personality rights" to regulate the matter. The Constitutional Charter of October 5, 1988, in Article 5, X, states:

"X- People's privacy, private life, honor, and image are inviolable, ensuring the right to compensation for material or moral damage resulting from their violation."

According to Article 11 of the Civil Code, the fundamental characteristics of personality rights are non-renounceable, non-transferable, unlimited, absolute, imprescriptible, lifelong, and unseizable.

Characteristics: Adriana da Cunha Borges<sup>20</sup> and Carlos Roberto Gonçalves<sup>21</sup> pointed out.

Personality rights are:

Absolute: These are so important and necessary that they impose a duty of abstention on everyone, i.e., all must respect them.

General: They are inherent to every human being born alive.

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<sup>19</sup> VENOSA, Sílvio de Salvo. *Direito Civil*, 5ª ed. Atlas, 2005. p.63

<sup>20</sup> BORGES, Adriana da Cunha. *Preliminary Lessons in Civil Law*, 5th ed. Goiânia, 2008. p.13

<sup>21</sup> GOLÇALVES, Carlos Roberto. *Brazilian Civil Law*, 4th ed. Saraiva, 2008. p.156



Non-transferable: Owners cannot dispose of them by passing them on to third parties. No one can enjoy property, such as life, honor, freedom, etc., on behalf of another. In the case of financial reparation, in the event of an offense, it is passed on to successors—article 943 of the Civil Code.

Renounceable: Their holders do not renounce or abandon these rights, as they are born and extinguished with them.

Unavailability: Unavailability is not absolute but relative. Some personality attributes allow their use to be transferred, such as the image, the copyright, and the organs of the human body (for altruistic and therapeutic purposes).

Imprescriptibility: This characteristic is mentioned because personality rights are not extinguished by use or the passage of time (but the claim for compensation for moral damage contained in personality rights such as life, honor, decorum, and intimacy is subject to limitation periods, as it is patrimonial).

Suitability: cannot be seized (the property consequences of copyright and image rights can be seized).

Unlimited: the number of personality rights is unlimited, although the Civil Code, in articles 11 to 21, expressly refers to only a few).

Lifetime: Personality rights are innate, acquired at conception, and remain with you until you die. However, some rights are protected after death, concerning the deceased, their honor or memory, and their moral rights. It is legitimate to claim damages for injury to personality rights from a surviving consort who is a relative in a direct or collateral line up to the 4th degree, Article 12 of the Civil Code.

Washington de Barros Monteiro states, "They are not objects of transaction, nor does any title transfer them to the successors of their holder."<sup>22</sup>

On the other hand, Carlos Alberto Bittar, on "personality rights," says:

Faced with the need arising from their very condition, the position of the holder, business interests, and technological expansion, certain personality rights ended up entering legal circulation, sometimes admitting their availability.<sup>23</sup>

<sup>22</sup> MONTEIRO, Washington de Barros. *Civil Law Course*, 40th ed. Saraiva, 2005. p. 112

<sup>23</sup> BITTAR, Carlos Alberto. *The Rights of Personality*. 7th edition. Saraiva, 2008. p. 12. BITTAR, op.cit., p.15.

As an example, he cites copyright, which at first was unattainable, can allow the work to be adapted for other media, such as novels in film and soap operas; the right to an image, for a fee, for the promotion of companies and products, by notorious people; the right to the body, such as organ donation in altruistic or scientific situations.

A contract makes certain rights available through appropriate instruments (license, assignment of rights, and other specific instruments). Therefore, third parties can use them under the terms restricted to the respective written agreements.

The different classifications :

Carlos Alberto Bittar<sup>24</sup>, in his book "Rights of Personality," proposes the following classification:

- a. Physical. Refers to material elements of the human structure (bodily integrity).
- b. Psychic. Refers to intrinsic components of the personality (psychological integrity).
- c. Morals. Attributes of the person in society (moral heritage).

A- Physical rights are the right to life and physical integrity (living body, corpse, voice).

B- Psychic rights are freedom, intellectual creation, privacy, and secret.

C- Moral rights: moral integrity (honor, image, personal identity).

A1) Right to life: Life is the most precious human right.

Pablo Stolze Gagliano and Rodolfo Pamplona Filho teach:

"The legal system guarantees the right to life of every human being, even before birth, punishing abortion and protecting the rights of the unborn"<sup>25</sup>

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<sup>24</sup> BITTAR, Carlos Alberto. *The Rights of Personality*. 7th edition. Saraiva, 2008. p. 12.

<sup>25</sup> GAGLIANO, Pablo Stolze; FILHO, Rodolfo Pamplona. *New Course in Civil Law*, 5th ed. Saraiva, 2004.p.158

According to Carlos Alberto Bittar:

"The right to life is a right that is fully endowed with all the general characteristics of personality rights, with emphasis on the aspect of unavailability, since in this field it is a right to life and not a right over life."<sup>26</sup>

A2) Right to physical integrity: This protects the safety of the body and mind.

"The central offense is bodily injury, with actions that offend the bodily integrity or health of others (article 129). Within the scope of health crimes, the following stand out: exposure to contagion of venereal disease (article 130); danger of contagion of serious disease (article 131); danger to the life or health of others (article 132); abandonment of an incapacitated person (article 133); exposure or abandonment of a newborn child (article 134); omission of help (article 135); mistreatment (article 136) and participation in a brawl (article 137).

The right to physical integrity includes the right to the living body, the corpse, and the use of its parts.

A3) Right to the living body: "The body as a physical projection of human individuality is also inalienable, although the disposal of its parts is allowed, either during life or after death, provided that, justified by the public interest, this does not involve mutilation, and there is no profit motive."<sup>27</sup>

Right to the dead body: "It is the right of the person to decide on the fate of their corpse, and the community must respect their will unless it is contrary to public order."<sup>28</sup> It is up to the person concerned to authorize or not the separation or extraction of organs or anatomical parts while alive and their subsequent use by third parties.

A4) Right to a voice: The voice of the human being, understood as the "Natural emanation of sound from the person," is also protected as a right of personality.

Article 5 (XXVII) (a) of the 1988 Federal Constitution states: "The following are guaranteed under the terms of the law: The protection of individual in collective works and the reproduction of the human image and voice, including in sporting activities".

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<sup>26</sup> BITTAR, Carlos Alberto. *The Rights of Personality*, 7th edition, Saraiva, 2008, p. 71

### B1) Right to freedom:

There have been several approaches to freedom (civil, political, religious, sexual, etc.) with the pronouncement of its distinct components, such as freedom of movement, freedom to work, freedom to exercise an activity, freedom to enter into contracts, freedom of trade, freedom of worship, freedom to organize trade unions, freedom of the press, among others.<sup>29</sup>

Article 5(IV) of the CF/88 guarantees the right to freedom of thought: "The expression of thought shall be free, anonymity being forbidden."

According to the author, human conduct in social life is a choice between lawful and unlawful.

"The vagueness and generality of the legal concept of freedom is, by a pandora's box from which we can draw the broadest interpretations."<sup>30</sup>

Therefore, while freedom is inherent to the human condition, the law prohibits certain acts.

Legal order, for superior reasons of public interest and social coexistence, the same author teaches, and the freedom to act cannot be interpreted in such a way that extreme.

### B2) The right to intellectual creations (scientific, artistic, and literary authorship).

Gagliano and Pamplona Filho define these rights as "the cultural result of human genius in the various areas of knowledge."<sup>31</sup>

Carlos Fernandes Mathias de Souza, quoted by Francisco Amaral, teaches:

Copyright is one of the types of personality rights. They consist of the author's right to attach his or her name to the literary, artistic, or scientific work they have produced and to prevent the fraudulent reproduction, dissemination, or use of that work by other persons.

Other.

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<sup>27</sup> GAGLIANO, Pablo Stolze; FILHO, Rodolfo Pamplona. *New Course in Civil Law*, 5th ed. Saraiva, 2004.p.165

<sup>28</sup> BITTAR, Carlos Alberto. *The Rights of Personality*, 2ªed. Saraiva, 2008.p.91

<sup>29</sup> GAGLIANO, Pablo Stolze; FILHO, Rodolfo Pamplona. *New Course in Civil Law*, 5th ed. Saraiva, 2004.p 173

<sup>30</sup> GAGLIANO, op.cit., p 175.

<sup>31</sup> GAGLIANO, Pablo Stolze; FILHO, Rodolfo Pamplona. *New Course in Civil Law*, 5th ed. Saraiva, 2004.p 178

Article 12 of Law No. 9.610 of 19/02/1998 (on Copyright) explains that the author of a literary, artistic, or scientific work may identify his work by his full civil name, abbreviated, by initials or pseudonyms.

Copyright has two aspects: personal and patrimonial. The personal aspect is the author's right to have his work recognized, and the patrimonial aspect is the right to use, enjoy, and dispose of the productions of the spirit, as well as to authorize their use or enjoyment by third parties (article 29).

B3). Right to privacy: This is a personality right that is enshrined in Article 21 of the 2002 Civil Code:

Art. 21 The private life of a natural person is inviolable, and the judge, at the request of the interested party, shall adopt the necessary measures to prevent or stop any act contrary to this rule.

According to Adriana da Cunha Borges:

"It includes professional, personal, and domestic secrecy. Intimacy is more linked to the body, and privacy is more linked to social relations."<sup>33</sup>

Washington de Barros Monteiro says of Art. 21:

The private life of a natural person is inviolable. Personal taste, the intimacy of the home, friendships, artistic, literary, social, gastronomic, and sexual preferences, existing preventive diseases, medications taken, places frequented, people you talk to and go out with, and even the garbage produced are of exclusive interest to each individual and should remain outside the curiosity, knowledge, intrusion or interference of anyone. This includes the right to confidentiality of correspondence, telephone, and internet communications.<sup>34</sup>

Regarding Rui Stoco, according to Washington de Barros Monteiro, he states that:

"The freedom to live one's life and die one's death. It is one of the fundamental freedoms of body, mind, and spirit."<sup>35</sup>

B4) Right to personal, professional, and domestic secrecy: According to Pablo Stolze Gagliano and Rodolfo Pamplona Filho<sup>36</sup>, secrecy covers three spheres:

<sup>32</sup> AMARAL, Francisco, p.270, apud SOUZA, Carlos Fernandes Mathias, p. 23

<sup>33</sup> BORGES, Adriana da Cunha. *Preliminary Lessons in Civil Law*, 5th ed. Goiânia, 2008.p.15

<sup>34</sup> MONTEIRO, Washington de Barros. *Civil Law Course*, 40th ed. Saraiva, 2005. p.104

<sup>35</sup> MONTEIRO, op.cit., p. 104. apud STOCO,Rui, *Curso de Direito Civil*.

<sup>36</sup> GAGLIANO, Pablo Stolze; FILHO, Rodolfo Pamplona. *New Course in Civil Law*, 5th ed. Saraiva, 2004.p.181

- 1- The secrecy of communications: covers correspondence, telephone, and telegraph.

Criminal protection is provided by Law No. 9.296 of 24-07-1996.

- 2- Domestic secrecy: the secrecy of private life. It is related to the inviolability of the home.
- 3- Professional secrecy: this is the right of a person who has had to reveal a secret because of their professional activity (doctors, priests, lawyers) and not the private life of these professionals.

C1) The right to honor: Honor is associated with human nature; it is one of the most significant personality rights and accompanies the individual from birth until after death. It can manifest itself in two ways:

- a. Objective: A person's reputation corresponds to their good name and social fame.
- b. Subjective: "It's the personal feeling of esteem".<sup>37</sup>

Article 5 (X) of the CF/88 states: "X- the intimacy, private life, honor and image of persons are inviolable, ensuring the right to compensation for material or moral damage resulting from their violation."

The crimes of slander, defamation, and libel (articles 138, 139, and 140 of the Criminal Code) and press crimes provide criminal protection of honor.

C2). Right to image: This includes the right to one's image (physiognomy), which protects the individual against the undue disclosure of their image (image portrait).

C3) Right to identity: The right to personal identity is the right to a name (article 16 CC). The right to a name is absolute. A name is the expression that distinguishes a person.

The legal precepts relating to the name are of public order. It is governed by Law no. 6.015 of December 31, 1973, articles 54 to 63.

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<sup>34</sup> MONTEIRO, Washington de Barros. *Civil Law Course*, 40th ed. Saraiva, 2005. p.104

<sup>35</sup> MONTEIRO, op.cit., p. 104. apud STOCO,Rui, *Curso de Direito Civil*.

<sup>36</sup> GAGLIANO, Pablo Stolze; FILHO, Rodolfo Pamplona. *New Course in Civil Law*, 5th ed. Saraiva, 2004.p.181

## a. General Name Considerations

### i. Concept

A name is an expression that distinguishes a person, animal, or thing. The right to personal identity is the right to a name.

The name can be defined as the external sign by which a person is designated and recognized in the family and society. From a legal point of view, it is of great importance because it is with it that the individual acquires property, participates in associations, opens bank accounts, and takes out identity documents.

When discussing a civil name, we must remember the full name in the civil registry.

The name mentioned in Art. 16 of the Civil Code 2002 comprises the surname and patronymic. The pseudonym is referred to in art. 19 is the name chosen by the person for exercising an activity common in the environment. Artistic and literary and has the same protection as the real name.

The name given to a person is one of the main personality rights, as it is the way to identify, individualize, and recognize a person.

This is why the name is inalienable, imprescriptible, and legally protected.

Article 16 of the Civil Code states: "Everyone has the right to their name, including their first and last names."

The importance of the name is on the same level as civil capacity, status, and other rights inherent to personality. We can't imagine a human being in social life who doesn't have a name. We receive it at birth and keep it until after our death.

At birth, we receive a name, like a brand, which distinguishes us and labels us in society. After death, the name remains in the tombs and the memories of the people who loved us.

The importance of our name is so notorious that firms are required to have a name,

ships, streets, squares, geographical features, cities, in other words, the nouns that distinguish the things around us.

Parents, therefore, have a huge responsibility when choosing their child's name, which will determine whether or not they are successful.

Through public law, the State finds an identification factor for exercising stability and security; through private law, the name is essential for exercising rights and fulfilling obligations.

Because of this importance, the state ensures the permanence of the name, allowing it to be changed only under certain conditions.

In the artistic world, the name is protected by Law No. 9,610/98 of 19-2-1998, article 12 states that all publicity must indicate the actor in the work.

Article 12: To identify himself as the author, the creator of the literary, artistic, or scientific work may use his civil name, complete or abbreviated to its initials, a pseudonym, or any other conventional sign.

Silvio de Salvo Venosa teaches:

"In general, it can be said that an individual's name is their individualizing factor in society, integrating their personality and indicating, in general, their family origin."<sup>38</sup>

According to Carlos Alberto Bittar:

"The name, together with the voice and image, fulfills two essential functions: it allows the individualization of the person and avoids confusion with another. The essential right is the name, but accessories such as pseudonyms, nicknames, and hypocoristic names are also protected."<sup>39</sup>

Sílvio de Salvo Venosa explains:

As a personality right, the name has its characteristics: unavailability, inalienability, imprescriptibility, non-transferability, and non-renounceability. We have seen that *it is an* obligatory attribute of every human being and that, in our environment, it is, in principle, immutable, subject to exceptions<sup>40</sup>.

## ii. Legal Nature

Miguel Maria de Cerpa Lopes<sup>41</sup> teaches:

"Doctrine on the subject is divergent. While some authors consider it pertinent to public law, others place it in private law. The best-known conceptions are as follows":

- a. Theory of absolute personal rights (Kohler, Roquin, and Spencer) (Vanpré).

<sup>38</sup> VENOSA, Sílvio de Salvo. *Direito Civil*, 5ª ed. Atlas, 2005. p. 212.

<sup>39</sup> BITTAR, Carlos Alberto. *The Rights of Personality*, 7th edition, Saraiva, 2008, p. 12

<sup>40</sup> VENOSA, Sílvio de Salvo. *Direito Civil*, 5ª ed. Atlas, 2005. p. 215.

<sup>41</sup> LOPES, Miguel Maria de Serpa. *Civil Law Course*, 9th ed. Saraiva, 2000. p. 173



The categories of rights in rem and personal rights cannot encompass the complexity of subjective rights, so they believe that a third category is necessary - that of the rights of personality itself, which are considered to be absolute, within which the name is included, taken as an individual right of the highest degree.

b. Negativist theory (Savigny, Lhering and Bevilacqua)

For the negativists, the name does not have the characteristics of a right and does not deserve legal protection.

Negativists believe that a property right over the visible being is not possible.

The negativist theories, despite the intellectual greatness of their creators, did not prosper.

c. Civil police theory (M. Planiol)

Justified by the need to identify individuals. According to this theory, the name was merely a distinctive and external sign of the person's status.

d. Property Theory.

Although it has been used for a long time in French jurisprudence, it does not stand up as a form of property right because it would only be seen from an economic point of view, a characteristic foreign to the name.

e. Name theory - a "sui generis" private right

The name has the character of an obligation and a right. As a right, it is one of the attributes of personality, and as an obligation, it is a social factor that identifies the individual.

As Francisco Amaral explains:

"The legal precepts regarding the name are of public order. That's why they are non-derogable. They are governed by Law No. 6.015 of October 31, 1973, articles 54 to 63."<sup>42</sup>

As Adriana da Cunha Borges teaches:

The name is an important attribute of the natural person, like civil capacity and status. It is eternally and indissolubly linked to the person in all individual, family, and social life events through all legal acts.<sup>43</sup>

<sup>40</sup> VENOSA, Sílvio de Salvo. *Direito Cível*, 5ª ed. Atlas, 2005, p. 215.

<sup>41</sup> LOPES, Miguel Maria de Serpa. *Civil Law Course*, 9th ed. Saraiva, 2000, p. 173.

<sup>42</sup> AMARAL, Francisco. *Civil Law*, 6th Renovar, 2006, p. 271.

### iii. Elements of the Name

The public aspect of the right to a name stems from the fact that it is linked to the registration of natural persons (law no. 6.015/73, articles 54, n. 4, and article 55) in which the state regulates principles such as the immutability of the name (law no. 6015, article 58) with exceptions (law no. 6.015/73 articles 56, 57, 58), justified and authorized by a judge.

The individual aspect is manifested in the individual's right to be called by him or herself to defend him or herself against abuses committed by third parties, even unintentionally (art. 17 of the Civil Code). With this, objective honor is also protected, where without authorization, others are prohibited from using it in commercial advertising (art. 18 of the Civil Code) or to obtain political, artistic, religious, or electoral gain. This legal protection also extends to pseudonyms by artists or literary writers, such as Oi Cavalcanti (Emiliano de Albuquerque Mello).

Law no. 6.015, of December 31, 1973, art. 55, states: "Civil registry officers shall not register names that are liable to expose their bearers to ridicule. When the parents disagree with the official's refusal, the official shall submit the case in writing, regardless of the collection of any fees, to the decision of the competent judge."

In the 1916 code, there was no technique because the name meant the full name. They understood there was no right to a name because it was not exclusive, and family surnames were enough to individualize people. Thus, each author began to classify the elements integral to the name.

Article 16 of the current code states: "Everyone has the right to a name; according to Maria Helena Diniz, two elements make up the name: first name and last name.

In aristocratic countries, the name can be linked to a title of nobility to identify members of noble families.

In addition to these elements, which are essential because they derive from the law, there are other secondary elements that our rights are not aware of, as Sílvio de Salvo Venosa explains:

There are also ecclesiastical titles that are legally irrelevant, such as priest, monsignor, and cardinal. There are also official identity titles, such as senator, judge, and mayor, and academic and scientific titles, such as doctor and master.<sup>44</sup>

<sup>43</sup> BORGES, Adriana da Cunha. *Preliminary Lessons in Civil Law*, 5th ed. Goiânia, 2008.p.14.

<sup>44</sup> VENOSA, Sílvio de Salvo. *Direito Civil*, 5ª ed. Atlas, 2005.p.216

## 1. First name

A person's name is attributed to them when they register their birth. Article 16 of the Civil Code states: Everyone has the right to their name, including their first and last names."

The first name is the first name of each person, and its purpose is to distinguish between members of the same family. It can be single (John, Mary), double (Richard Alex, Andrew Philip), triple, or quadruple, common in royal families (Caroline Louise Marguerite, Princess of Monaco). The name is individual and can be chosen "ad libitum," i.e., freely by the parents, as long as they don't expose their child to ridicule. Law no. 6.015 of 31.12.1973, on Public Records, in its article 55, sole paragraph, prescribes:

"Civil Registry Officers shall not register names susceptible to expose their bearers to ridicule. When the parents disagree with the officer's refusal, the officer shall submit the case in writing, regardless of any fees, to the competent judge for a decision."

This rule also applies to notorious public surnames that can replace surnames *and* the combination of an entire name when ridiculous. The official will proceed in the same way.

Siblings and twins cannot have the same first name unless it is a double or a different full name, as proclaimed by Law No. 6.015/73 in Article 63 and its sole paragraph.

Article 63 of this law states:

Article 63. In the twins' case, the birth order shall be stated on each twin's special entry. Twins who have the same first name must be registered with two different full names so that they can be distinguished.

Sole paragraph. Siblings to whom the same name is to be given are also obliged to have a double name or a different full name.

## 2. Last Name

The second fundamental element of the name is the surname, name of family name, cognomen, or patronymic (used in the 1916 code). It is the sign that reveals filiation, origin, and transmissible by succession. As with the name, it is, in principle, unchangeable (Law 6.015/73 article 56). They can come from the paternal surname, the maternal surname, or both.

According to the law, surnames can be simple (Silva, Souza) or compounds (Paes de Barros). You can often find the connecting particles in the surnames de, do, da, das. In the Middle Ages, the particle "de" denoted place or origin: João da Mata.

José Roberto Neves Amorim, quoted by Sílvio de Salvo Venosa, teaches:

The name, in truth, is a composition of the prename plus the family name or surname or patronymic, with the possible variations of simple or compound, with or without agnomen, with or without particles; that is, it is a whole and not just the designation of filiation or lineage, as the public records law would have us believe in articles 56 and 57<sup>45</sup>

Maria Helena Diniz adds:

Family surnames are acquired "ipso iure" with the simple fact of birth, as their registration in the relevant register is purely declaratory. The recognized child (Law 6015/73 art. 59 and 60) will receive the surname of the person who recognized him/her, with the paternal surname prevailing if it is recognized by both the father and the mother. About the unrecognized child, the maternal surname prevails<sup>45</sup>

However, the surname can come from legal acts such as adoption, marriage, or the act of the person concerned. In adoption, the adopted child cannot keep the names of their blood parents but must add that of the adopter (Civil Code art. 1626). The adoptee or the adopter can also request a change of name (article 1627 of the Civil Code).

Marriage gives either of the spouses the right to add the other's surname to theirs (Civil Code, article 1565 §1). "If the marriage is dissolved by direct divorce or conversion, the spouse may keep their married name; unless, in the second case, the judgment of judicial preparation provides otherwise (Article 1571 of the Civil Code, § 2)".

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<sup>45</sup> AMORIM, José Roberto Neves, *Civil Law*, p.217, apud VENOSA, Sílvio de Salvo. *Course in Brazilian Civil Law*, p.186.

<sup>46</sup> DINIZ, Maria Helena. *Curso de Direito Civil Brasileiro*, 18th ed.Saraiva,2002.p.125

An unmarried, separated, or widowed woman who lives with an unmarried, separated, or widowed man may use the latter's family name if she lives with him or if they have lived together for more than five years, provided that he agrees to this (Law 6.015/73, article 57 §2 and 3).

According to Maria Helena Diniz:

This annotation must be made by addition, as Law 6515, which introduced divorce among us, does not allow the substitution of the woman's patronymic for the man's, but rather the addition of the man's patronymic. It is understood that as the law has put the term in the feminine, it only contemplates the woman.<sup>47</sup>

### **3. Secondary Elements of the Name**

#### **a. Agnome**

We also find the particles "son," "junior," "grandson," and "nephew," which serve to distinguish relatives with the same name, called "gnome," which must be part of the civil register.

#### **b. Nickname**

A nickname or epithet is given to someone because of a particular trait, for example, Tiradentes, Pelé. Nicknames are so attached to a person's personality that they can be added to their name. Our president added his name to Luis Inácio Lula da Silva. Some nicknames take on the status of a commercial name, such as Pelé.

#### **c. Hypocoristic**

Hypocoristic is the name given to a person to express affection, such as Tião (Sebastião) Zé (José).

#### **d. Pseudonyms**

In literary, artistic, political, and religious circles, "war names" or pseudonyms identify a person, often taking precedence over their first name.

Person.

Article 19 of the Civil Code states that pseudonyms enjoy the same protection as names.

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<sup>47</sup>DINIZ, Maria Helena. *Curso de Direito Civil Brasileiro*, 18th ed. Saraiva, 2002. p.187

Article 19: "Pseudonyms adopted for lawful activities enjoy the same protection as names."

Literary writers and artists often identify themselves by pseudonyms (e.g., George Sand, Oi Cavalcanti, Marc Twain ).

Carlos Roberto Gonçalves explains:

Although these designations are not the civil name of those who use them, they are part of their personality in the exercise of their literary or artistic activities, and due to the valuable interests linked to their authorial identification, the legal projection of the name extends to the pseudonym. Its importance in identifying its bearers in the world of the arts is undeniable, as long as it is constant and legitimate, even if it has not achieved notoriety.<sup>48</sup>

The protection of the name thus extends to pseudonyms, providing the right to compensation in the event of misuse, including in commercial advertising, or to obtain political, artistic, electoral, or religious gain.

<sup>24</sup> **Chapter 111**

#### **a. Possibilities of Changing the Name.**

Originally, article 58 of Law no. 6015 of December 31, 1973, on Public Records, stated that the name was immutable. Still, the sole paragraph allowed for rectification in the event of an obvious graphic error and its change in the case of the sole paragraph of Article 55, which prohibits the registration of names that may expose their bearer to ridicule. Law no. 9.708 of November 18, 1998, gave new wording to this provision.

Washington de Barros Monteiro explains:

The name will be definitive, although notorious public surnames may replace it. "This expression includes the special names by which a person becomes known" <sup>49</sup>

Silvio de Salvo Venosa announces:

"The possibility of replacing the name with a notorious public surname meets the Brazilian social trend, opening an important gap in the rule that imposed the immutability of the name, which is now relative." <sup>50</sup>

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<sup>48</sup> GOLÇALVES, Carlos Roberto. *Brazilian Civil Law*, 4th ed. Saraiva, 2008.p.122.

<sup>49</sup> MONTEIRO, Washington de Barros. *Curso de Direito Civil*, 40ª ed.Saraiva,2005.p.111.

<sup>50</sup> VENOSA, Sílvio de Salvo. *Direito Civil*, 5ª ed.Atlas,2005.p.218

According to the authors, Washington de Barros Monteiro and Sílvia de Salvo Venosa, case law has already made exceptions and has understood that the name that should appear in the register is the one that the person is known by and not the one that appears in the register. This rule is valid for surnames that are now allowed as surnames.

Carlos Roberto Gonçalves teaches:

"Public surnames used to be added between the first name, which was immutable, and the last name. Now, however, they can replace the surname with another that is known as "<sup>51</sup>

Law No. 9,807 of July 13, 1999, included the sole paragraph, "The replacement of the name will also be admitted due to founded coercion or threat resulting from collaboration with the investigation of a crime, as determined in a sentence by a competent judge, after hearing the Public Prosecutor's Office."

The original wording of Article 58 provided for a change of name due to an obvious spelling error. Although this provision has been repealed, rectifying the name due to a spelling error is a general rule. This rectification is based on articles 109 and 110 and paragraphs of law no. 6.015/73 (an administrative procedure carried out at the registry office, with the opinion of the Public Prosecutor's Office and a ruling by the judge).

The law does not allow a person registered as Antônio to be called João (this would be dangerous to social interests), but it does allow the correction if she is registered as Amrique when the correct spelling would be Henrique or she is registered with a diminutive name (Teresinha for Teresa).

Thus, if the name change is intended to rectify a mistake, not for a mere whim, malice, or an unmentionable objective, such as hiding one's identity, the legislator cannot reject the request.

There can also be a change of name in the case of adoption, as Article 1627 of the Civil Code states:

Art.1627 "confers on the adoptee the surname of the adopter, and may determine the modification of the surname, if a minor, at the request of the adopter or the adoptee."

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<sup>51</sup> GOLÇALVES, Carlos Roberto. *Brazilian Civil Law*, 4th ed. Saraiva, 2008.p.128

Therefore, it is understood that changing one's name is optional, while changing one's surname will be compulsory in the event of adoption, and the adopters' family name will be included in the birth register.

Article 56 of Law No. 6.015/73 states: "The interested party, within the first year after reaching the age of civil majority, may, in person or by proxy, change their name, provided that it does not affect family names, and the change shall be registered and published in the press."

Thus, in the first year, upon reaching the age of majority, the person concerned can change their name, as long as it doesn't affect family surnames and there is a justifiable reason. They can add their mother's or grandparents' surname and make deletions, translations, or transpositions.

To do this, you can add your mother's surname or your stepfather's surname to your name, make translations to transform single surnames into compounds, or double surnames into single surnames, unless it is a famous name, such as Marco Aurelio or João Bastista, as long as you respect the family surname.

Maria Helena Diniz teaches:

However, it has been understood that minors do not need to wait until they reach the age of majority to change their ridiculous name, correct a spelling mistake, or include the name of their maternal family, as long as they are represented or assisted. However, to add new middle names, such as inserting a surname by which they have become known or adding the names of their grandparents, they will have to wait for a limitation period of one year after reaching the age of majority. After this period, the change can only be made by exception and with good reason, by "judicial" decision.<sup>52</sup>

#### **i. Graphical error**

In the case of a graphic error, there is a clear spelling mistake on the person's birth certificate. This rectification will neither add to nor subtract from the constituent elements of the name; it will simply correct what has been misspelled.

To correct the error, the interested party must request a court ruling showing the seriousness and evidence of the error. For example, "Osvarado," when the correct word is Osvaldo, or "Ulice," when, in fact, it is Ulisses.



Spelling errors will be corrected at the registry office where the seat is located using a petition from the interested party. The registry office official will receive the petition and forward it to the Public Prosecutor's Office for consideration by the district judge using a summary procedure.

Carlos Roberto Gonçalves explains:

The rectification of the name, in this case, is based on article 110 and paragraphs of Law 6015/73 (Public Records Law), which provide for a summary procedure in the registry office itself, with the opinion of the Public Prosecutor's Office and a sentence from the judge. [...] This includes cases where a male person is registered under a female name and vice versa.<sup>53</sup>

## ii. **Exposure of the bearer to ridicule**

As Silvio de Salvo Venosa says:

If the registrar raises doubts, the judge must prevent the registration of names that expose their bearers to laughter, ridicule, and the mockery of society. Not only can the name be ridiculous, but also the combination of the whole name.<sup>54</sup>

The sole paragraph of article 55 of Public Records Law No. 6.015/73 prescribes:

Registry officers shall not register names likely to expose their bearers to ridicule. When the parents do not agree with the official's refusal, the official shall submit the case in writing, regardless of any fees, to the decision of the competent judge.

The matter is difficult to interpret and resolve because the term ridiculous is subjective, and the person concerned must prove the vexatious situation to which they are exposed.

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<sup>52</sup> DINIZ, Maria Helena. *Curso de Direito Civil Brasileiro*, 18th ed. Saraiva, 2002. p.190.

<sup>53</sup> GOLÇALVES, Carlos Roberto. *Brazilian Civil Law*, 4th ed. Saraiva, 2008. p.127

<sup>54</sup> VENOSA, Sílvio de Salvo. *Direito Civil*, 5ª ed. Atlas, 2005. p.220

According to Maria Helena Diniz:

A case of an objection raised by a registrar, based on article 55, sole paragraph, of law 6015/73, to prevent the civil registration of a newborn "Titilola," but his objection was dismissed because parents have the right to choose their child's name, and, in addition, it does not characterize the exposure to the ridicule of its bearer, although it is unusual, because it comes from the Yoruba language, a language spoken by African peoples, coming from Senegal, [...], meaning Titi continuously and Lola, honorable. The child's name is linked to the tradition of their parents, and if they feel ridiculed in the future, there is nothing to stop them from changing it.<sup>55</sup>

Walter Ceneviva, in the Law of Public Records, when discussing the exposure of the name to ridicule, teaches that "it is a subjective notion that discrepancies people and their convictions. The official will act with moderation, respecting these convictions, only hindering the choice when it is aberrant from normality."

As quoted by Sílvio de Salvo Venosa:

Although the law takes great care with civil registration, the press has published a list of curious names in the archives of the former I.N.P.S., which would allow them to be changed through the courts without any doubt. Here are a few names: Antonio Dodói, Antonio Manso Pacífico de Oliveira Sossegado, Antônio Noite e Dias, Antônio Treze de Julho de Mil Novecentos e Dezessete; Céu Azul do Sol Poente; Dezêncio Frederico de Oitenta e Cinco; Graciosa Rodela; Inocência Coitadinho; João da Mesma Data; João Cara de José; Casou de Calças Curtas; João Pinto Molhadinho; Lança Perfume Rodometálico da Silva; Leão Rolando Pedreira; Manuelina Terebentina; Capitulina de Jesus do Amor Divino; Maria Passa Cantando; Neide Navinda Navolta Pereira; Pedrinha Bonitinha da Silva; Remédio Amargo; Restos Mortais de Catarina; Rolando Pela Escada Abaixo; Sossegado de Oliveira; Último Vaqueiro; Um Dois Três de Oliveira Quatro; Vitória Carne e Osso.<sup>56</sup>

<sup>55</sup> DINIZ, Maria Helena. *Curso de Direito Civil Brasileiro*, 18th ed. Saraiva, 2002. p.188.

<sup>56</sup> VENOSA, Sílvio de *Salvo. Direito Civil*, 5ª ed. Atlas, 2005. p.220

### iii. Witness Protection

Law No. 9807 of July 13, 1999, provides a complete name change to protect victims or witnesses in special protection programs because they have collaborated in investigations or criminal proceedings. After hearing the Public Prosecutor's Office in a summary procedure and secrecy, the competent judge requests the change.

This change extends to the spouse, ascendants, descendants, and dependents who regularly live with the victim or witness.

Maria Helena Diniz teaches:

Once the change has been granted, it must be registered in the original birth register, and the competent bodies will provide the documents resulting from the change. Once the coercion or threat that caused the change of name has ceased, the protected person can apply to the courts to return to the previous situation, with the change to the original name, in a petition that will be forwarded by the Deliberative Council and will have the prior opinion of the Public Prosecutor's Office. Thus, for reasons of well-founded coercion or threat resulting from collaboration with the investigation of a crime, the substitution of the name will be allowed, as determined by a decision of the competent judge, after hearing the Public Prosecutor's Office (Law no. 9807/99, art. 57, paragraphs 1 to 5, and Law no. 6015/73 art. 57, paragraph 7 and art. 58, sole paragraph).<sup>57</sup>

Law No. 9,807 of July 13, 1999, also added the following paragraph to Article 57 of Law No. 6015/73:

Paragraph 7. When the change of name is granted due to well-founded coercion or threat resulting from collaboration with the investigation of a crime, the competent judge shall order that a mention of the existence of the sentence granting the change be recorded in the original register, without recording the changed name, which can only be done using a subsequent order, which will take into account the cessation of the coercion or threat that caused the change.

<sup>57</sup> DINIZ, Maria Helena. *Curso de Direito Civil Brasileiro*, 18th ed. Saraiva, 2002. p. 189

#### iv. Notorious Public Surname

Some people have nicknames by which they have become nationally known, and failing to adopt them could harm their identification in society.

Carlos Roberto Gonçalves teaches about this:

Law no. 9708 of 18-11-1998 gave article 58 of the Public Records Law the following wording: "The surname shall be definitive, although it may be replaced by notorious public surnames. In the first part, the new wording follows, in principle, the previous rule, prescribing that the name shall be definitive to avoid any undesirable changes for the security of legal relations."<sup>58</sup>

"Case law has already allowed the official name to be replaced by the name in use" because the immutable name, according to the courts, is the one that has been put into use and not the one on the register."<sup>59</sup>

Carlos Roberto Gonçalves continues:

The "notorious public" surnames, however, were only added between the unchanging first name and the last name, as happened with Luís Inácio "Lula" da Silva and Maria da Graça "Xuxa" Meneghel, for example. Now, however, they can replace their surname if they wish. Edson Arantes do Nascimento, for example, could be renamed Pelé Arantes do Nascimento, according to the same author.<sup>60</sup>

#### v. Coming of Age

Article 56 of the Public Records Law allows the interested party to change their name administratively and by court decision within the first year after reaching the age of majority (18), or earlier if they have been emancipated (LRP, article 40), provided that the surname or "family names" are not changed (once the petition has been received, the registry office official will submit the documents to the Public Prosecutor's Office and the judge for consideration).

The most common is to add another first name or middle name. Such as grandparents' surnames, maternal surnames, translations, transforming simple names into compound names and vice versa (excluding famous names). The interested party may also include a surname or nickname, justified by the understanding that the name used must prevail over the registration.

<sup>58</sup> GOLÇALVES, Carlos Roberto. *Brazilian Civil Law, 4th ed.* Saraiva, 2008.p.128

<sup>59</sup> GOLÇALVES, op.cit., p. 128.

<sup>60</sup> GOLÇALVES, Carlos Roberto. *Brazilian Civil Law, 4th ed.* Saraiva, 2008.p.128

To change a ridiculous name, correct a spelling mistake, or include the name of the maternal family (as it is the right of children to bear the surname of both parents), it is not necessary to wait until the first year of adulthood, as long as you are represented or assisted.

Once the one-year limitation period has elapsed after reaching the age of majority, these changes can still be made, no longer administratively with a request made at the registry office but by "exception and with reasons" in an action for rectification of the name after a hearing by the Public Prosecutor's Office and a sentence by the judge.

As Washington de Barros Monteiro explains:

The person concerned may change their name in person or through a proxy within the first year after reaching the age of majority, provided it does not affect their family name. The change will be registered and published in the press.

Therefore, the person concerned can add other elements to their name, such as their maternal or grandparent's surname; they can make deletions, translations, and transpositions. They are only obliged to stop at the family name, which cannot be changed; after the surname, it can be the most typical element of the name.<sup>61</sup>

According to Silvio de Sálvio Venosa:

"It is not necessary for minors to wait until they reach the age of majority to change their ridiculous name, which they can do assisted or represented. Likewise, a spelling mistake can be rectified at any time (article 58)."<sup>62</sup>

After this period (any subsequent change of name, only by exception and with good reason) will only be allowed after a hearing with the Public Prosecutor's Office and a sentence from the Judge by Article 57 of the Public Records Law.

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<sup>61</sup> MONTEIRO, Washington de Barros. *Civil Law Course*, 40th ed. Saraiva, 2005, p.113

<sup>62</sup> VENOSA, Silvio de Salvo. *Direito Civil*, 5ª ed. Atlas, 2005, p.234

According to Pablo Stolze Gagliano and Rodolfo Pamplona Filho :

Likewise, in this case of spontaneous change, family surnames must be kept, which also limits the possibilities of changing the name, with the most common being the incorporation of maternal or grandparents' surnames, translations of foreign names, or transformations of simple surnames into compound ones or vice versa.<sup>63</sup>

Article 40 of the Public Records Law clarifies that the courts must rule on all name changes.

Art. 40: Apart from the rectification carried out in the act, any other rectification may be carried out in compliance with the judgment under the terms of articles 109 to 112.

#### **vi. In Adoption**

The Civil Code regulates adoption in articles 1618 to 1629. The Statute of the Child and Adolescent in article 47 of Law No. 8,069 of July 13, 1990, paragraph 5, states that "the sentence shall confer on the adoptee the name of the adopter and, at the adopter's request, may determine the modification of the name."

Carlos Roberto Gonçalves teaches :

There can also be a change of surname in the case of adoption, as Article 1627 of the Civil Code states that the decision granting adoption "confers on the adoptee the surname of the adopter, and may determine the modification of his or her surname, if a minor, at the request of the adopter or the adoptee." In this case, the change can be total, covering both the surname and the first name.

The name change will be granted by the judge who rules on the adoption request and must be included in the court order. Changing the name by one's deliberation during registration is not lawful.

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<sup>63</sup> GAGLIANO, Pablo Stolze; FILHO, Rodolfo Pamplona. *New Course in Civil Law*, 5th ed. Saraiva, 2004.p.123

## **b. Other possibilities for changing your name**

### **i. Foreign names**

There is a jurisprudential trend towards accepting and granting translations. There is, however, no prohibition in our country on giving foreign names to Brazilians born here.

The foreigner's name will be the one on their travel document (law no. 6815 of 19-08-1980 article 31) and can be changed:

1. if you are proven wrong

11. If it has a pejorative meaning or exposes the holder to ridicule, Ili. If it is difficult to pronounce and understand.

However, translating the names of foreigners who settle in Brazil and wish to translate their names for better acculturation is not allowed, for example, Joseph for José.

Carlos Roberto Gonçalves explains:

"But only the surname will be changed, as the surname represents the sign or family lineage. If the request is refused, there will be recourse in the Federal Court."<sup>64</sup>

### **ii. Gender reassignment**

According to Sílvio de Salvo Venosa:

That after gender reassignment surgery, the magistrate's care when granting the change of name must take into account psychological and social reasons because keeping the name of the other sex is cruel, "and is not in line with the principles of Social Justice."<sup>65</sup>

According to Maria Helena Diniz :

As a rule, this name rectification has only been allowed in the case of intersexuals. No law addresses the issue of adapting the name of a transsexual in the civil registry.

In 1992, in the 7th Family and Succession Court of São Paulo, the Civil Registry Office registered the rectification of the name "João" to "Joana," stating in the field for sex, "transsexual," not admitting the registration as "woman." The Judiciary decided this way because otherwise, the transsexual would qualify for marriage, misleading third parties because all the characteristics of the female sex are not present in her body (proc.n.621.89).<sup>66</sup>

Maria Helena Diniz continues:

"With the entry into force of Law No. 9708.98, amending article 58 of Law No. 6.015.73, the transsexual who has undergone surgery would have a legal basis for changing his or her name, replacing it with the notorious public surname by which he or she is known in the environment in which he or she lives."<sup>67</sup>

Silvio Rodrigues explains:

According to the definition given by a committee of specialists set up by the São Paulo Medical Association, a transsexual is an individual with a psychosexual indication opposite to their external genitalia and a compulsive desire to change them. At the same time, a homosexual is, first and foremost, an effeminate person, somewhat resigned to their gender.<sup>68</sup>

After that, according to Carlos Roberto Gonçalves:

Several decisions have been handed down allowing transsexuals to change their name and gender in the civil registry:

The Federal Constitution of 1988, in its article 5, X, includes among the individual rights, the inviolability of intimacy, private life, honor, and the image of people. a legal basis for authorizing the change of legal sex of a transsexual who has undergone sex reassignment surgery since it is clear that he is embarrassed every time he identifies himself as a person of a different sex from the one he appears to be.<sup>69</sup>

<sup>64</sup> GOLÇALVES, Carlos Roberto. *Brazilian Civil Law*, 4th ed. Saraiva, 2008.p.130.

<sup>65</sup> VENOSA, Sílvio de Salvo. *Direito Civil*, 5ª ed. Atlas, 2005.p.228.

<sup>66</sup> DINIZ, Maria Helena. *Curso de Direito Civil Brasileiro*, 18th ed. Saraiva, 2002.p.188

<sup>67</sup> DINIZ, Maria Helena. *Curso de Direito Civil Brasileiro*, 18th ed. Saraiva, 2002.p.189.

<sup>68</sup> RODRIGUES, Sílvio. *Civil Law*, 34th ed. Saraiva, 2003.p.69.

<sup>69</sup> GOLÇALVES, Carlos Roberto. *Brazilian Civil Law*, 4th ed. Saraiva, 2008.p.137.



No law in our code allows transsexuals to change their sex on their birth certificate, along with their name. Case law has already granted transsexuals the right to change their sex with an alteration to their civil registration, as per the case law transcribed below:

Civil registry - rectification - birth certificate - transsexual - change of sex - deferral - the need for surgery to change sex recognized by multidisciplinary medical follow-up - agreement of the state with the surgery that is not compatible with maintaining the sexual status initially included in the birth certificate - denial to the bearer of gender dysphoria of the right to morphological and psychological sex adjustment and consequent redesignation of sexual status and name in the birth certificate that ends up contravening the law. Denial to those suffering from gender dysphoria of the right to adjust their morphological and psychological sex and the consequent redesignation of their sexual status and first name on their birth certificate, which ends up contravening fundamental law - there is no generic interest on the part of a democratic society in preventing the integration of transsexuals - an amendment which seeks to give effect to the commands laid down in articles 1, iii, e 3º, iv appeal by the public prosecutor's office dismissed, the author's appeal upheld to grant the initial request in full, ordering the rectification of his birth certificate not only about his name but also about his sex ".<sup>70</sup>

And another at the Rio Grande do Sul Court of Justice:

Civil registration. Transsexuality. Name. Change. Possibility. Public and notorious surname. The fact that the appellant is transsexual and expresses this orientation on a social level, living publicly as a woman and being known by a nickname, which constitutes a female name, justifies the claim since the registered name is compatible with the male sex. Given these peculiar conditions, the registered name is out of step with the social identity and can lead its user into a vexatious or ridiculous situation. Furthermore, as it is a public and notorious surname, the change is justified. This is in line with Articles 56 and 58 of Law No. 6.015/73 and Law No. 9.708/98.<sup>71</sup>

<sup>70</sup> São Paulo Court of Justice, Civil Appeal n. 209.101-4 - Espírito Santo do Pinhal -1st Chamber of Private Law - Rapporteur: Elliot Akel - 09.04.02 - V. U

<sup>71</sup> Court of Justice of Rio Grande do Sul, 00394904NRO-PROC70000585836, DATE: 05/31/2000, Seventh Civil Chamber, Rapporteur: Sérgio Fernando de Vasconcellos Chaves.

## i. Homonymy

This issue has provoked discussion in practice. The name can be changed when it coincides with a person of ill repute or is named after fictional characters.

Homonymy is a used and accepted justification for changing the word—name, as it causes confusion and damage.

And the request to include the mother's surname, without prejudice to the father's, is granted because it is a child's right to bear the surname of both parents or to add a surname to avoid homonymy.

Carlos Roberto Gonçalves explains:

The inversion of family names has even been accepted, with the father's name being placed before the mother's, since there is no written rule expressly regulating the order in which family names should be placed, but rather an archaic custom that is not compatible with the new constitutional order". He also points out that: "There is nothing to prevent the distinction of names between people linked by kinship from being made through the use of ordinal agnates, as was done by a well-known interpreter of Brazilian popular music, who gave his son the name Roberto Carlos Braga Segundo.<sup>72</sup>

## ii. Twins

As Maria Helena Diniz teaches:

Article 63 of the Public Records Law determines a compulsory change of surname in the case of twins and siblings with the same surname, who must be registered with a double surname or name different, so that they can be distinguished.<sup>73</sup>

This is what Article 63 of the Public Records Law states in full:

**Art. 63:** In the case of twins, the birth order shall be noted on each twin's special birth certificate. Twins with the same first name must be registered with two different full names to be distinguished.

Sole Paragraph. Siblings to whom the same name is to be given will also be obliged to have a double name or a different full name.

<sup>72</sup> GOLÇALVES, Carlos Roberto. *Brazilian Civil Law, 4th ed.* Saraiva, 2008.131.

<sup>73</sup> DINIZ, Maria Helena. *Curso de Direito Civil Brasileiro*, 18th ed.Saraiva,2002.p.191.

#### Wilson de Souza de Campos Batalha:

If twins are born, the order of birth will be declared. The presumptions of the old Luso-Brazilian law no longer prevail: the man was presumed to have been born before the woman; since they were both of the same sex, they were equal in law.

In the case of twins, or non-twin siblings, who have the same name, the entry will indicate a double surname or a different full name to avoid misunderstandings.<sup>74</sup>

### iii. From the trade name

The commercial or professional name may also be added under these conditions by Article 57 §1. The trade name is subject to its regime, which is provided for in commercial legislation. It is divided into names, the company name or corporate name (in which people's names appear) and denominations (with fantasy expressions) are subject, for the same purposes as the civil name, to their registration (governed by Law No. 8934/94 and its regulations in the Public Registry of Companies).

The name is protected by its administrative procedure at the Registry Offices for civil names and at the Trade Boards for commercial names.

The practice of registering the name of a famous person with the INPI (Brazilian National Industrial Property Office). Commercial exploitation as a brand is legitimate when authorized by the interested party.

As Washington de Barros Monteiro explains:

The civil name is not exclusive; no one can prevent another from being registered or using the same name. Exclusivity, however, is inherent to the commercial name, and an ordinary action with a claim for injunctive relief (civil code art. 287) can be brought to force the defendant to refrain from using a certain name belonging to another or likely to be confused with it.<sup>75</sup>

<sup>74</sup> BATALHA, Wilson de Souza Campos. *Comentários à Lei dos Registros Públicos*, 4th ed. Forense, 1999.p.173.

<sup>75</sup> MONTEIRO, Washington de Barros. *Curso de Direito Civil*, 40ª ed.Saraiva,2005.p.116.

**a. Acquisition of surname by legal act (adoption, marriage, and act of the person concerned)**

**iii. In Adoption**

Adoption today is of a single kind, equated to full or statutory adoption under previous law. As a consequence of the severance of the ties of marriage, the adoptee cannot keep the surname of their blood parents.

Kinship as determined in Article 1.626, with the adopter's kinship necessarily added to theirs, as provided for in Article 1.627.

Art. 1.626: Adoption confers the child's status on the adoptee, severing all ties with parents and consanguineous relatives, except for impediments to marriage.

Art. 1627: The decision grants the adoptee the surname of the adopter and may determine the modification of the adoptee's surname, if a minor, at the request of the adopter or the adoptee.

Therefore, the original registration will be canceled, and a certificate will only be provided by court order. The name on the register will include the adopters' surnames and ancestry, and the surname can be changed at the request of either the adoptee or the adopter.

**iv. At the wedding**

In the Civil Code of 1916, a woman needed to take on "her husband's surname" by marriage, and her name had to be entered in the register and on all documents.

The Civil Code of 2002 produced significant name changes due to marriage.

Article 1565 of the Civil Code, paragraph 1, allows either spouse, man or woman, to add the other's name to their own or to keep their maiden name without the law interfering.

According to Law 6015/73 on Public Records (Art. 57 §2 and 3), only single, divorced, or widowed women live with single, divorced men.

Or the widower can add his surname to hers. It is, therefore, understood that this law does not apply to men.

**v. Acquisition by act of the interested party**

The interested party may acquire the surname by their act under the following conditions:

1. Within the first year after coming of age.

After this period, by exception and for good reason.

- lii. Change of name for commercial purposes.

When it causes embarrassment in the commercial sector or professional activity, for example, by avoiding homonymy, the trade name can be changed at any time.

According to the following sentence:

To include the stepfather's name;

TJSE - CIVIL APPEAL: AC 2004209279 SE

Party: Appellant: F.J.M.J.

Party: Defendant: N.C.

Rapporteur: DES.JOSÉ.ARTÊMIO.BARRETO

Judgment:19/04/2005

Judging Body: 2nd CIVIL CHAMBER

Syllabus:

Civil Appeal. Civil Procedure. Action for rectification of registration. Name change after the legal deadline. Reasons too noble to authorize the claim. The consistent material and subjectively praiseworthy reasons put forward by the Appellant to justify the request to change his name to include the name of his stepfather, including without excluding the patronymic of his biological father, are sufficient for the request to be granted.<sup>76</sup>

## b. Loss of surname

While a surname is the designation of an individual chosen by their parents, it indicates where they come from and their family and is transmissible by inheritance acquired at birth.

As Carlos Roberto Gonçalves teaches:

"The surname or patronymic, on the other hand, due to the public policy principle of the stability of the name, should only be changed in exceptional cases."<sup>77</sup> below:

- vi. **Illegitimate filiation:** If the filiation is judicially recognized as illegitimate, one of the consequences is the loss of the surnames corresponding to the person who denied paternity or maternity.
- vii. **Adoption:** The adoptee is released from all ties with their parents.  
  
Recognizing a child means that he or she becomes part of the family group of the parent who recognized him or her, with the right to use the family name of that group.
- viii. **Marriage:** When a woman files or loses a separation action, she loses her husband's surname. When the husband initiates the request or loses the separation action, it is up to the wife to choose to use his surname.

Divorce Law No. 6.515 of 26/12/1977, in its articles 17 and 18, regulates the use of the name in the dissolution of the marital partnership.

Art. 17: If the judicial separation action is successful, the woman will return to using her maiden name.

Paragraph One. The provisions of this article also apply when it is up to the woman to initiate judicial separation on the basis of paragraphs §1 and §2 of Article 5.

§ 2º. In all other cases, the woman has the option of keeping her married name.

Art. 18: If the wife wins the legal separation action, she may renounce the right to use her husband's name at any time.

<sup>76</sup> Court of Justice of Rio Grande do Sul, 00394904NRO-PROC70000585836, DATE: 05/31/2000, Seventh Civil Chamber, Rapporteur: Sérgio Fernando de Vasconcelos Chaves.

<sup>77</sup> GOLÇALVES, Carlos Roberto. *Brazilian Civil Law*, 4th ed. Saraiva, 2008.p.131

Article 1.571 §2 of the Civil Code states that in the dissolution of marriage by direct divorce or by conversion, the spouse may keep his or her surname unless the judgment of judicial separation provides otherwise.

Article 1578 of the Civil Code stipulates that the spouse found guilty in the

In a legal separation action, they lose the right to use the other's surname, provided that the innocent party requests it, the change does not damage their identification in distinguishing their name from that of their children, and the damage is recognized in the court decision.

The spouse found not guilty may renounce the other's surname.

At any time by Article 1578 § 1 of the Civil Code.

In all other cases, the option of keeping the married name will apply (second paragraph).

Article 1565 of the CC, in its first paragraph, admits that

Either spouse can add the other's name to their own, and article 1571, §2 refers to the possibility of the "spouse" keeping their married name in direct divorce and by conversion. It is understood that the man also falls under this law (it is not yet customary for the man to take on the woman's name during marriage). This law does not apply to void or annulled marriages.

As Carlos Roberto Gonçalves explains:

The new Civil Code does not regulate using the partner's name in a stable union or companionship [...] If there is no impediment to the marriage because both are single, for example, one cannot use the other's surname.[...] Because divorce (judicial separation) is no longer an obstacle to celebrating marriage after the institution of divorce in the country.<sup>78</sup>

Ili a) Death: When the marriage ends in death, the widow does not have the obligation but the right to use her husband's surname.

Ili b) Annulment of marriage or void marriage: The wife may no longer use her husband's surname, even if she is not responsible for the annulment.

Ili c) Second marriage: There is no point in keeping the name of the first marriage.

Husband or both.

**3.4.4 Provisional name** When a child is abandoned, the institution or person who takes care of it gives it a provisional name, Limongi França. The civil name of natural persons is explained in Revista dos Tribunais.

Carlos Roberto Gonçalves continues:

In this case, the patronymic is lost for various reasons. For example, the discovery of the real name when the true identity of the abandoned minor becomes known. It is also due to judgments in legal actions, such as paternity investigations. Similarly, the recognition of a minor interned in a charitable home to whom the administration has given certain patronymic provisional.<sup>79</sup>

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<sup>78</sup> GOLÇALVES, Carlos Roberto. *Brazilian Civil Law, 4th ed.* Saraiva, 2008.p.136.



### **i. Legal protection of the name.**

According to the author Miguel Maria de Serpa Lopes, he teaches:

"There are two actions that may arise from the right to a name: a) either the action is aimed at challenging or contesting the use of a name. b) or it is aimed at its vindication or its declaration when challenged"<sup>80</sup>

There are two requirements for challenging the name: that someone uses your name and that this use is illegitimate. It is unnecessary to prove the damage; it results from the fact itself.

Miguel de Serpa Lopes continues:

In the second case, proof of damage is required. "Illicit use, when the name is used in industrial exploitation or works of art or literature, to give rise to a repressive action requires proof of damage to the interest of the holder, although the patrimonial nature of this interest is not considered necessary, as it can be purely moral."<sup>81</sup>

Article 16 of the Brazilian Civil Code states:

Article 16: "Everyone has the right to a name, including first and last names."

Article 17 of the Civil Code states that the name:

Article 17: "It may not be used by others in publications or representations that expose them to public contempt, even when there is no defamatory intent"

Article 18 states that :

Article 18: "Without authorization, you can't use someone else's name in commercial advertising.

Article 19 states that :

Article 19: "A pseudonym adopted for lawful activities shall enjoy the same protection as a name."

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<sup>79</sup> GOLÇALVES, Carlos Roberto. *Brazilian Civil Law*, 4th ed. Saraiva, 2008.314

<sup>80</sup> LOPES, Miguel Maria de Serpa. *Civil Law Course*, 9th ed. Saraiva, 2000.p.335.

<sup>81</sup> LOPES, op.cit., p.336.

Article 16 clearly shows the right to one's name. The next article is protected to prevent the person from being put in vexatious, undesirable, and embarrassing situations, even unintentionally. Any reference to the person's name must be made discreetly so as not to offend them, for example, in a newspaper report.

According to articles 18 and 19, you cannot use someone else's name without authorization, and commercial exploitation must have the people's consent since only the owner can enjoy the profits of their name. Pseudonyms enjoy the same protection.

Quotations from non-profit cultural and scientific works are permitted, provided the authors are duly identified, for example, in this monograph.

Carlos Alberto Bittar says:

Personality rights" that "In the criminal sphere, there are specific criminal offenses, such as usurpation of the name (cp art 144 as regards copyright). In the area of public protection, the use of a false name (articles 307 and 308) or the illegal change of name are the most serious problems<sup>82</sup>

According to Sílvio de Salvo Venosa:

"There is no exclusive right to a civil name. However, as an emanation of personality rights, using a person's name must be protected."<sup>83</sup>

Our Brazilian civil code, from articles 16 to 19, guarantees the right to

Protection of the name, its identifying sign, and its pseudonym, the sign that makes it known.

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<sup>82</sup> GOLÇALVES, Carlos Roberto. *Brazilian Civil Law*, 4th ed. Saraiva, 2008.p.132

<sup>83</sup> VENOSA, Silvio de Salvo. *Direito Civil*, 5ª ed. Atlas, 2005.p.229.

Francisco Amaral teaches:

To protect their name, people have various public and private procedures at their disposal.

As for public proceedings, we have criminal and administrative proceedings pertaining to the rectification, restoration, and supply of Civil Registry entries.

As for private proceedings, we have the action of complaint (the plaintiff demands that third parties respect his right to use his name); an action to contest (also known as an action for usurpation or claim when the holder of the right to the name wants the unlawful use of that name by someone personally to cease); an action for the prohibition of the name when the holder asks for the unlawful use of that name to cease but in an impersonal way; and an action for civil liability (it is always necessary to verify damage caused by offense or usurpation of someone's name).<sup>84</sup>

For the protection of the name in public proceedings, we have those of a criminal nature and those of an administrative nature that rectify and restore civil registry records.

For cases of a private nature, we have the action of complaint, where the plaintiff demands that third parties respect his or her name; the usurpation or claim action, when the owner of the name wants someone to stop the unlawful use of his or her name or claim when it is denied; and the civil liability action, when there is damage, even if only moral.

This name protection also extends to pseudonyms, providing the right to compensation in the event of misuse in commercial, political, artistic, electoral, or religious advertising. It is common for people to become famous without their names being known.

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<sup>84</sup> AMARAL, Francisco. *Civil Law*, 6th Renovar, 2006, p. 233.

## CONCLUSION

The name given to a person is one of the main rights included in the category of personal rights.

In the current Brazilian legal system, we form, acquire, and lose our name in the following ways:

We acquire our name and surname when we register birth in the Civil Registry of Natural Persons (art.54 of Law n.6.015 of 31.12.73, paragraph 4). The official should not register the name if it is likely to expose the bearer to ridicule (art.55, sole paragraph).

Both men and women acquire their spouse's name with marriage by addition, without substitution (Civil Code, art. 1565, paragraph 1).

The partner may request the registration of the partner's surname as long as there is no legal impediment to the marriage (art. 57 of Law 6.015.73, paragraphs 2, 3, and 4).

In adoption, the adoptee is obliged to take the adopter's surname and may change their surname at the request of the adopter or the adoptee (art. 1627 of the Civil Code).

The surname, once immutable, is now definitive. It cannot be changed without cause but can be replaced by notorious public surnames (Art.58 of Law 6.015.73). It can be changed in adoption at the request of either the adoptee or the adopter. It can also be changed when obvious graphic errors are likely to expose the bearer to ridicule at any time. This matter is currently governed by art.110 of Law 6.015.73 without the need to wait until the first year of adulthood, when various changes can be requested, such as middle names, surnames, grandparents' names, as long as the surname is not changed (art.56 of Law 6.015.73).

Twins and siblings with the same name must be registered with a double or different name to be distinguished (Art. 63 and sole paragraph of Law 6.015/73).

Law 9.807 of 13.07.99 (protection of victims and witnesses) provides for a complete name change when it is necessary to protect victims and witnesses in protection programs. This right extends to the spouse, ascendants, descendants, and dependents.

The surname can be changed by adoption or termination of adoption; by marriage, when the spouse renounces the surname (in this case, the innocent spouse) or loses the right to use the surname (in this case, the guilty spouse), according to art. 1.578 of the Civil Code; by changing the father's name and consequently the child's in a paternity investigation or recognition of the child and by the interested party's act for a just reason and through the courts, such as taking the name of the absent father and replacing it with that of the stepfather.

Other possibilities for changing one's name are foreign names, twins, cases of homonymy, gender reassignment, and a commercial name, which is exclusive, unlike the civil name.

"Everyone has the right to their name and surname" (art.16 cc), giving rise to the right to claim it on justified grounds when denied.

Law No. 6.015/73, articles 54 to 63, governs the legal precepts relating to the name, and various public and private processes protect the name.

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