

**Women's Learning Group**



Program Weekly ♦ Fall & Spring  
Designed by Rabbi  
Schachar Orenstein  
Coordinated by Gladys Mooallem  
Everyone is Welcome!

**Spanish Portuguese Synagogue of Montreal**  
Series 29 • Session N° 6 • Fall 2023 • 5784  
Wednesday • November 22 • 10:00 am

**Marital Regimes in Quebec...with a focus on  
the Rights of Unmarried  
Cohabiting Couples**



**Maître Alain  
Murad**

Join **zoom** Meeting  
This is a recurring meeting...join anytime

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Watch previous presentations here: [www.thespanish.org/wlg-youtube.html](http://www.thespanish.org/wlg-youtube.html)

## **BIO:** Alain Murad is

Vice-President, Legal and Secretary of Canadian clothing retailer Reitmans (Canada) Limited where he oversees all of the company's legal requirements. Prior to his time at Reitmans, Alain was a partner in the Montreal office of Davies Ward Phillips & Vineberg LLP practicing in the Corporate/commercial, intellectual property, information technology, advertising and marketing, and privacy law fields. Alain also practiced in the Montreal office of Borden Ladner Gervais LLP, and with the Boston-based law firm, Testa Hurwitz & Thibault LLP. Alain is a

graduate of McGill University's Faculties of Law and Management and Concordia University's Faculty of Commerce. Alain also served as a law clerk to the Quebec Court of Appeal and is a member of the Bars of Quebec and Massachusetts.

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Societies change. For a number of reasons, the momentum of social evolution is forever accelerating, particularly in western societies. For the governing authorities to be in sync with its citizens, a society's rules of conduct, its laws, must reflect those cultural and sociological shifts.

Judicial scholars must, therefore, continually study the laws of their jurisdiction to judge their fairness. Appealing the verdict of a court case is one way in which laws are challenged. The process is ponderous and gradual. Retaining a law in question or revising it entails unbiased understanding of the effects of the law on the people with the civilized purpose of serving justice.

Our very province saw an upheaval in societal norms during the Cultural Revolution of the 1960s. Forsaking the belief in the divinity of marriage was one major consequence of this revolution because the public had lost faith in organized religion, especially in the once-overly-dominant Roman Catholic church. In fact, in all of Canada, it is Quebecers who are most prone to opt for a common-law union in favour of the convention of marriage, WLG guest speaker Maître Alain Murad informed us in this session. Naturally, with time, this approach to relationships has affected the thinking of even the more traditional-minded communities, such as the Greek, the Italian, the Chinese, and the Jewish communities. Laws have to be adjusted to reflect this new reality.

Maître Murad spoke about the sphere of laws in Quebec that administers to the subject of cohabitation, or *de facto* unions, which is known as *Marital Regimes in Quebec and the Rights of Cohabiting Couples*. Under this set of laws, a couple may have lived together for only one year but have a child to be considered in a *de facto* union. Included in such unions are same-sex couples and couples who do not share the same living space.

Lest it be to their detriment, Maître Murad stressed, unmarried couples must be heedful of the fact that unless there is a contract to the contrary, the laws of *Family Patrimony* do not apply to them. Under *Family Patrimony* family property would be divided equally upon divorce, while who the owner of the property is must be validated in cohabiting couples. That is to say, upon separation, division of property and of assets is not clear-cut.

Other significant differences Maître Murad pointed out in which the law does not make requirements upon “divorce” in cohabiting couples

include no legally forthcoming compensation for giving up a career or for taking care of a house and bringing up children and no support payments from one or the other partner. Furthermore, no provision has been legally instituted for situations in which one of the partners becomes incapacitated. What is at present in effect in Quebec is that regardless of the length of the relationship or the number and ages of children involved, the protection offered to married couples does not extend to *de facto* couples. Also, and most unjustly it seems, the rights of inheritance under *Family Patrimony* have no bearing in these relationships. It is absolutely imperative, therefore, that neither partner dies intestate. Maître Murad emphasized the relevance of a will if the surviving common-law partner is to inherit anything.

These laws vary somewhat from province to province, we learned. What is apparent, though, is that because the strict practices that once defined relationships have become fluid resulting in the unmarried couple no longer being stigmatized, the laws across Canada have been challenged. In fact, Maître Murad gave us an example of an Appeal made against *de facto* union laws. The result of this high-profile case was an obdurate defense of the existing laws with one eminent dissenting voice, that of Justice Abella.

Obviously, laws cannot be changed willy-nilly: assiduous consideration must be made to any modification of an existing law. This means that the enacting of amendments and new laws takes time. We are left to wonder if the moral and sociological implications for a community that no longer honours the practice of marriage is, as yet, unclear. Perhaps the deliberation of those possible consequences is precisely what hinders a more expeditious revamping of marital laws to include cohabitation.

Gigi Bitton for the WLG  
Oct. 22, 2023