

THE 1950 MARRIAGE LAW

GENERAL PRINCIPLES

Article 1.

The feudal marriage system based on arbitrary and compulsory arrangements and the supremacy of man over woman, and in disregard of the interests of the children, is abolished.

The new democratic marriage system, which is based on the free choice of partners, on monogamy, on equal rights for both sexes, and on the protection of the lawful interests of women and children, is put into effect.

Article 2.

Bigamy, concubinage, child betrothal, interference in the remarriage of widows, and the exaction of money or gifts in connection with marriages, are prohibited.

THE MARRIAGE CONTRACT

Article 3.

Marriage is based upon the complete willingness of the two parties. Neither party shall use compulsion and no third party is allowed to interfere.

Article 4.

A marriage can be contracted only after the man has reached twenty years of age and the woman eighteen years of age.

Article 5.

No man or woman is allowed to marry in any of the following instances:

(a) Where the man and woman are lineal relatives by blood or where the man and woman are brother and sister born of the same parents or where the man and woman are half brother and half sister. The question of prohibiting marriage between collateral relatives by blood (up to the fifth degree of relationship) is determined by custom.

(b) Where one party, because of certain physical defects, is sexually impotent.

(c) Where one party is suffering from venereal disease, mental disorder, leprosy, or any other disease which is regarded by medical science as rendering a person unfit for marriage.

Article 6.

In order to contract a marriage, both the man and the woman should register in person with the people's government of the district or township in which they reside. If the proposed marriage is found to be in conformity with the provisions of the law, the local people's government should, without delay, issue marriage certificates.

If the proposed marriage is not found to be in conformity with the provisions of this law, registration should not be granted.

RIGHTS AND DUTIES OF HUSBAND AND WIFE

Article 7.

Husband and wife are companions living together and enjoy equal status in the home.

Article 8.

Husband and wife are in duty bound to love, respect, assist, and look after each other, to live in harmony, to engage in productive work, to care for their children, and to strive jointly for the welfare of the family and for the building up of the new society.

Article 9

Both husband and wife have the right to free choice of occupation and free participation in work or in social activities.

Article 10.

Husband and wife have equal rights in the possession and management of family property.

Article 11.

Husband and wife have the right to use his or her own family name.

Article 12.

Husband and wife have the right to inherit each other's property.

RELATIONS BETWEEN PARENTS AND CHILDREN

Article 13.

Parents have the duty to rear and to educate their children; the children have the duty to support and to assist their parents. Neither the parents nor the children shall maltreat or desert one another.

The foregoing provision also applies to foster parents and foster children.

Infanticide by drowning and similar criminal acts are strictly prohibited.

Article 14.

Parents and children have the right to inherit one another's property.

Article 15.

Children born out of wedlock enjoy the same rights as children born in lawful wedlock. No person is allowed to harm them or discriminate against them.

Where the paternity of a child born out of wedlock is legally established by the mother of the child or by other witnesses or material evidence, the identified father must bear the whole or part of the cost of maintenance and education of the child until the age of eighteen.

With the consent of the mother, the natural father may have custody of the child.

With regard to the maintenance of a child born out of wedlock, if its mother marries, the provisions of Article 22 apply.

Article 16.

Neither husband nor wife may maltreat or discriminate against children born of a previous marriage by either party and in that party's custody.

DIVORCE

Article 17.

Divorce is granted when husband and wife both desire it. In the event of the husband or the wife alone insisting upon divorce, it may be granted only when mediation by the district people's government and the judicial organ has failed to bring about a reconciliation.

In cases where divorce is desired by both husband and wife, both parties should register with the district people's government in order to obtain divorce certificates. The district people's government, after establishing that divorce is desired by both parties and that appropriate measures have been taken for the care of children and property, should issue the divorce certificate without delay.

When one party insists on divorce, the district people's government may try to effect a reconciliation. If such mediation fails, it should, without delay, refer the case to the county or municipal people's court. In dealing with a divorce case, the county or municipal people's court should, in the first instance, try to bring about a reconciliation between the parties. In case such mediation fails, the court should render a decision without delay.

After divorce, if both husband and wife desire the resumption of marriage relations, they should apply to the district people's government for a registration of remarriage. The district people's government should accept such a registration and issue certificates of remarriage.

Article 18.

The husband is not allowed to apply for a divorce when his wife is pregnant, and may apply for divorce only one year after the birth of the child. In the case of a woman applying for divorce, this restriction does not apply.

Article 19.

In the case of a member of the revolutionary army on active service who maintains correspondence with his or her family, that army member's consent must be obtained before his or her spouse can apply for divorce.

Divorce may be granted to the spouse of a member of the revolutionary army who does not correspond with his or her family for a period of two years subsequent to the date of the promulgation of this law. Divorce may also be granted to the spouse of a member of the revolutionary army, who had not maintained correspondence with his or her family for over two years prior to the promulgation of this law, and who fails to correspond with his or her family for a further period of one year subsequent to the promulgation of the present law.

MAINTENANCE AND EDUCATION OF CHILDREN AFTER DIVORCE

Article 20.

The blood ties between parents and children are not ended by a divorce of the parents. No matter whether the father or the mother has the custody of the children, they remain the children of both parties.

After divorce, both parents continue to have the duty to support and educate their children.

After divorce, the guiding principle is to allow the mother to have the custody of a breast-fed infant. After the weaning of the child, if a dispute arises between the two parties over the guardianship and an agreement cannot be reached, the people's court should render a decision in accordance with the interests of the child.

Article 21

If, after divorce, the mother is given custody of a child, the father is responsible for the whole or part of the necessary cost of the maintenance and education of the child. Both parties should reach an agreement regarding the amount and the duration of such maintenance and education. Lacking such an agreement, the people's court should render a decision.

Payment may be made in cash, in kind, or by tilling land allocated to the child.

An agreement reached between parents or a decision rendered by the people's court in connection with the maintenance and education of a child does not obstruct the child from requesting either parent to increase the amount decided upon by agreement or by judicial decision.

Article 22.

In the case where a divorced woman remarries and her husband is willing to pay the whole or part of the cost of maintaining and educating the child or children by her former husband, the father of the child or children is entitled to have such cost of maintenance and education reduced or to be exempted from bearing such cost in accordance with the circumstances.

PROPERTY AND MAINTENANCE AFTER DIVORCE

Article 23.

In case of divorce, the wife retains such property as belonged to her prior to her marriage. The disposal of other family property is subject to agreement between the two parties. In cases where agreement cannot be reached, the people's court should render a decision after taking into consideration the actual state of the family property, the interests of the wife and the child or children, and the principle of benefiting the development of production.

In cases where the property allocated to the wife and her child or children is sufficient for the maintenance and education of the child or children, the husband may be exempted from bearing further maintenance and education costs.

Article 24.

In case of divorce, debts incurred jointly by husband and wife during the period of their married life should be paid out of the property jointly acquired by them during this period. In cases where no such property has been acquired or in cases where such property is insufficient to pay off such debts, the husband is held responsible for paying them. Debts incurred separately by the husband or wife should be paid off by the party responsible.

Article 25.

After divorce, if one party has not remarried and has maintenance difficulties, the other party should render assistance. Both parties should work out an agreement with regard to the method and duration of such assistance; in case an agreement cannot be reached, the people's court should render a decision.

BY-LAWS**Article 26.**

Persons violating this law will be punished in accordance with law. In cases where interference with the freedom of marriage has caused death or injury to one or both parties, persons guilty of such interference will bear responsibility for the crime before the law.

Article 27.

This law comes into force from the date of its promulgation.

In regions inhabited by minority nationalities in compact communities, the people's government (or the military and administrative committee) of the greater administrative area or the Provincial People's Government may enact certain modifications or supplementary articles in conformity with the actual conditions prevailing among minority nationalities in regard to marriage. But such measures must be submitted to the government administration council for ratification before enforcement.