



PEOPLE'S DEMOCRATIC REPUBLIC OF YEMEN

*Second Issue by
General Federation of Yemeni Women
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FAMILY LAW

Law No. (1) for the Year 1974

In connection with the Family

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IN THE NAME OF THE PEOPLE,

I, THE CHAIRMAN OF the Presidential Council

In accordance with Articles 91, 92 and 119 of the Constitution,

and acting upon the submission made, by Brother the Minister of Justice and Waqf,

and with the Consent of the Council of Ministers and the Presidential Council,

I, hereby promulgate the following Law:-

PREAMBLE

Whereas the Authority appreciates the family's role in building up the society and bringing-up its sons so properly as to make of its rising generation elements take keen interest in their homeland and sacrifice their lives for its protection and for building -up the edifice of the United Democratic Yemen which is expressive of the wishes of the working masses .

and whereas the State finds it necessary to organize the family relations in a manner conforming to the principles and objects of the Democratic National Revolution's plan and ending for ever all the old relations which dominated the ties of the Yemeni family and prevented it from taking active part in building up the society,

and whereas the family ties, in all its forms, were not subject to a unified system except the feudal relations which made of the noblest human ties a business house and made the fate of the Yemeni women in the hand of the highest bidder.

and whereas our country workers have expressed their indignation against and condemnation of the vicious state of affairs which prevail in the family tie.

it has been necessary for the Revolution's Authority in the people's Democratic Republic of Yemen to reinforce the struggle of the Yemeni people with this Law- The Family Law-which for the first time, governs the relations of the Yemeni family in a manner which opens for it vast fields of creative work and equal revolutionary relations which lead to the increase of production, development and innovation.

1. This Law may be cited as the "Family Law"

**PART I
MARRIAGE
CHAPTER I**

MARRIAGE AND ENGAGEMENT

2. Marriage is a contract between a man and a woman who are equal in rights and duties, and is based on mutual understanding and respect with the object of building-up the cohesive family which is regarded as the foundation stone of the society.

3. Engagement is an ante-nuptial agreement aimed at providing for both parties wishing to marry, such suitable circumstances as will ensure the establishment of a stable married life. The family of the girl whose engagement is sought shall be forbidden to agree to the engagement without consulting her and obtaining her consent.

4. There may be exchanged during the period of engagement token gifts which shall neither form part of the "Mahr" (payment in consideration of marriage nor be returned incase the engagement is revoked by either the betrother or the fiancée. The authority concerned with the administration of this Law may

determine such maximum value for such token gifts in accordance with the prevailing standard of living and may also determine anything which is not to be deemed as a token gift.

CHAPTER II

MARRIAGE CONTRACT AND ITS

CONDITIONS

5. Marriage shall be contracted with the consent of both parties concerned by means of any words expressing marriage or in writing or by a clear sign made by the person who is unable to speak.

6. Contract of marriage shall not be effective except

(a) by registration with the Marriage Officer (Mazoon);

(b) with the signature of the married couple on the Certificate and Register of Marriage.

7. No marriage shall be contracted unless the man has attained the age of eighteen years and the woman the age of sixteen years.

8. Contract of marriage shall not be valid unless it

is concluded in the presence of two persons who must be of full age and sound mind.

9. No contract of marriage shall be concluded if the difference in age exceeds twenty years unless the woman has attained the age of thirty-five years.

10. Contract of marriage may be concluded by proxy.

11.-(a) Bigamy shall not be allowed except with the written permission of a competent divisional court, which however, shall not grant such permission unless either of the following two reasons is adduced to its satisfaction :-

(i) That the wife is by a medical report, declared barren, provided that the husband was unaware of her barrenness prior to marriage.

(ii) That the wife is, by a medical report, found to be suffering from a chronic or contagious or infectious disease which is incurable.

(b) The written permission of the court shall be effective unless objected to before the court above within one month from the date of its issue.

CHAPTER III

PROHIBITED DEGREES

12. A person is forbidden to marry his roots and branches and the branches of his parents and the first degree of the branches of his ancestors.

13. A man is forbidden to marry :-

(a) the wife of his roots and branch and any woman with whom such root or branch had sexual intercourse and the root of his wife,

(b) the root and branch of the woman with whom he had sexual intercourse. and the root of his wife.

14.-(1) (a) Whatsoever is prohibited by reason of consanguinity and affinity is prohibited by reason of fosterage.

(b) Fosterage shall not be a bar to marriage unless it occurs within the first two years(immediately following childbirth) by not less than five separate breast-sucks, each suck, however little or much its quantity may be being sufficient for the suckling.

(2) There will be no effect from the consummation of marriage between the prohibited degree defined in sections 12,13 and 14 of this Law.

15. No Man shall marry the wife of another man or marry another man's divorcee or widow who is undergoing the term of "Iddat" (period during which she is forbidden to re-marry).

CHAPTER IV

EFFECTS OF IMPROPER MARRIAGE

16. The following effects only will ensue from a marriage the conditions of which, as prescribed by this Law, are not duly fulfilled:

(1) paternity of children;

(2) Affinity prohibition;

(3) "Iddat" (to be observed by a woman)on separation or on death (of husband)

CONJUGAL HOME, MAINTENANCE

AND "MAHR"

17. Expenses in respect of marriage and the conjugal home requirements shall be borne by both husband and wife according to their means.

18. The amount of "Mahr" whether prompt or deferred, shall not exceed one hundred Yemeni Dinars.

19. No other amounts whatsoever shall be paid in consideration of marriage otherwise than is provided for by sections 17 and 18 of this Law.

20. Both husband and wife share their joint life expenses after marriage, but where either of them is unable to do so the other spouse shall be liable for maintenance and for shouldering the burdens of the married life.

21. The court shall, on dealing with maintenance cases, take the financial considerations of both parties into consideration.

22. Both the father and the mother shall, according to their means, bear the maintenance of their children and where either of them is unable to do so it shall be incumbent upon the other to bear such maintenance alone.

23. Children shall continue to be maintained until the girl marries or works and the boy completes his studies, starts work or attains the level at which his equals earn their living.

24. A well-off son or daughter shall maintain his or her parents who are poor or who are idle of work provided they do not obstinately choose to remain idle.

PART II

JUDICIAL SEPARATION

25. (a) Unilateral divorce is prohibited.

(b) No divorce shall be effective or be notarized except with the leave of a competent divisional court, and such court shall not grant such leave unless the matter was first referred to the peoples Committee and after failure of all attempts to reconcile the married couple and is satisfied that the divorce is justified by reasons which render it impossible for the married life and the happy union to continue.

26. The court shall not grant leave for more than one divorce at a time.

27. Every divorce shall be reversible except the one completing the third divorce.

28. A reversible divorce shall not give immediate effect to the termination of marriage, and the husband shall have the right to return wife during the term of

“Iddat” and obtain a Return Certificate from the Marriage Officer “Mazoon” provided the wife agrees to such return.

29.-(1) The husband or the wife shall have the right to make an application to the court for the termination of the conjugal relationship for any of the following reasons:

(a) If the other spouse is suffering from an incurable disease rendering the conjugal union impossible, provided that such disease is supported by an official medical report and that applicant was unaware of such disease prior to marriage.

(b) In the absence of either of the two spouses for a period exceeding three consecutive years; but if the absent person returns during the term of “Iddat” the conjugal tie may then be restored.

(c) If the well-off spouse of the two refuses to maintain the other who is badly off, the judge shall grant such well-off spouse a reasonable respite not exceeding three months, and if maintenance is not provided the court shall separate them.

(d) Where there is proof of harm done by either of the two spouses to the other, or of serious discord

between them to the extent that it has become impossible for the married life to continue and the court has failed to reconcile them.

(2) The wife shall have right to apply for judicial separation if the husband has married another wife in accordance with section 11 of this Law.

30- (a) If the court finds that the husband was the cause of the discord which resulted in the divorce and that the wife would suffer misery and distress, it may award the divorcee reasonable compensation which shall in no circumstances, exceed maintenance for one year.

(b) If the court finds that the discord was caused by the wife, it may award the husband a reasonable compensation which shall in no circumstances, exceed the amount of the “Mahr”.

PART III

EFFECTS OF THE SEVERENCE OF THE

TIE OF MARRIAGE “IDDAT”

31. The “Iddat” of a divorced woman who is not pregnant is ninety days.

32. The "Iddat" of a woman whose husband died is four months and ten days.

33. The "Iddat" of a pregnant woman continues until delivery or miscarriage of her baby.

34. The term of "Iddat" starts from the date of divorce, death or judicial separation.

35. "Iddat" is not stipulated before consummation of marriage except in the case of death.

36.-(a) If the husband dies during the "Iddat" of the woman in consequence of a reversible divorce she shall observe the "Iddat" for death, and the past period of "Iddat" shall not be counted.

(b) If the husband dies during the "Iddat" of the woman in consequence of an irreversible divorce shall will not be found to perform the "Iddat" for death, but she shall complete that "Iddat" for divorce.

**PART IV
CHILD BIRTH AND ITS EFFECTS**

CHAPTER 1

PATERNITY

1. PATERNITY BY A VALID MARRIAGE

**(A) PATERNITY OF CHILD DURING
MARRIAGE**

37. The period of pregnancy shall not be less than one hundred and eighty days and not more than one calendar year.

38.-(a) paternity by husband, of child born of a valid marriage shall be established on the following two conditions:--

(1) Lapse of the minimum pregnancy period from the date of contract of marriage.

(2) If there is no clear proof that the two spouses did not meet, such as when either of them has been absent in a distant country for more than the pregnancy period.

(b) In the absence of either of the above two conditions, paternity of the child by the husband shall not be proved unless acknowledged or claimed by the husband.

(B) PATERNITY OF CHILD AFTER

SEPARATION OR DEATH OF HUSBAND

39. If a divorced woman or a woman who is bereaved of her husband does not admit the lapse of her "Iddat" paternity of her child shall be proved if she is delivered of the child within one year from the date of divorce or death, but shall not be proved where the period is more unless claimed by the husband or heirs

40. Paternity of the child of a divorced or widowed woman who admits the lapse of the "Iddat" shall be proved if her child was born within a period of one hundred and eighty days from the date of such admission and within one year from the date of divorce or death.

II. PATERNITY BY AN IMPROPER MARRIAGE

41. (1) Paternity by the man shall be proved if the child was born of an improper marriage one hundred and eighty days, or more, after the consummation of marriage.

(2) If childbirth occurs after "Mutaraka" (abandonment) or after separation, paternity shall not be

established unless the child birth was within one year from the date of "Mutaraka" or separation.

42. If a woman after having sexual intercourse with a man gives birth to a child whether within the minimum or the maximum period of pregnancy, paternity of child by such man is proved.

III ACKNOWLEDGEMENT OF RELATIONSHIP

43. Acknowledgement, even in death-bed, of filiation of a person of unknown parentage shall be proof of parentage by the person making such acknowledgement if the difference in age between them admits of such filiation.

44. Acknowledgement of a person as father or mother shall be proof of parentage if the acknowledged person agrees, and if the difference in age between them admits of such parentage.

CHAPTER II

CUSTODY

45. A person shall be entitled to have custody unless he is of full age, of sound mind and able to take

care of the child and look after its affairs.

46. (1) A male child upto the age of ten years and a female child upto the age of fifteen years shall remain in the custody of the mother even if she has married, and the court may, in all cases, decide otherwise if the mother, or in case she is married, her husband is found according to the facts of the case as supported by a social research to be completely unqualified to have the custody.

(2) The court shall, in all cases, have regard to the interest of the child whose custody is to be had.

47. Right to custody shall be restored if the cause of its forfeiture ceases to exist.

48. No person who has been declared qualified for custody shall have right to take the male or female child outside the Republic except with the leave of the court.

PART V

FINAL PROVISIONS

49.-(a) Any person who concludes, ratifies or contributes towards concluding or ratifying any contract of marriage contrary to the provisions of

this Law shall be punished with a fine not exceeding two hundred Yemeni Dinars or with imprisonment for a term not exceeding two years or with both such punishments.

(b) Any person who contravenes any of the provisions of this Law shall be punished with a fine not exceeding one hundred Yemeni Dinars or with imprisonment for a term not exceeding one year or with both such punishments.

50. The Minister of justice and waqfs shall make resolutions for the enforcement and interpretation of the provisions of this Law.

51. Any provisions inconsistent with the provisions of this Law are hereby repealed.

52. This Law shall take effect forthwith

53. This Law shall be published in the

Official Gazette

SALEM ROBAYA ALI

Chairman of the presidential Council

Presidency;

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