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Speeches/Documents

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CHAPTER I GENERAL PRINCIPLES

ARTICLE 1

The feudal marriage system which is based on arbitrary and compulsory arrangements and the superiority of man over woman and ignores the children's interests shall be 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, shall be put into effect.

ARTICLE 2

Bigamy, concubinage, child betrothal, interference with the re-marriage of widows, and the exaction of money or gifts in connection with marriages, shall be prohibited.

CHAPTER II THE MARRIAGE CONTRACT

ARTICLE 3

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

ARTICLE 4

A marriage can be contracted only after the man has reached 20 years of age and the woman 18 years of age.

ARTICLE 5

No man or woman shall be 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 to be 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 shall register in person with the people's government of the district or hsiang in which they reside. If the marriage is found to be in conformity with the provisions of this Law, the local people's government shall, without delay, issue marriage certificates.

If the marriage is not found to be in conformity with the provisions of this Law, registration shall not be granted.

CHAPTER III RIGHTS AND DUTIES OF HUSBAND AND WIFE

ARTICLE 7

Husband and wife are companions living together and shall 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 the 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 shall have the right to free choice of occupation and free participation in work or in social activities.

ARTICLE 10

Both husband and wife shall have equal rights in the possession and management of family property.

ARTICLE 11

Both husband and wife shall have the right to use his or her own family name.

ARTICLE 12

Both husband and wife shall have the right to inherit each other's property.

CHAPTER IV 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 shall have the right to inherit one another's property.

ARTICLE 15

Children born out of wedlock shall enjoy the same rights as children born in lawful wedlock. No person shall be 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 by other 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 18.

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, in case its mother marries, the provisions of Article 22 shall apply.

ARTICLE 16

Husband or wife shall not maltreat or discriminate against children born of a previous marriage.

CHAPTER V DIVORCE

ARTICLE 17

Divorce shall be granted when husband and wife both desire it. In the event of either 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 shall 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, shall issue the divorce certificates without delay.

When only one party insists on divorce, the district people's government may try to effect a reconciliation. If such mediation fails, it shall, without delay, refer the case to the county or municipal people's court for decision. The district people's government shall not attempt to prevent or to obstruct either party from appealing to the county or municipal people's court. In dealing with a divorce case, the county or municipal people's court must, in the first instance, try to bring about a reconciliation between the parties. In case such mediation fails, the court shall render a verdict without delay.

In the case where, after divorce, both husband and wife desire the resumption of marital relations, they shall apply to the district people's government for a registration of re-marriage. The district people's government shall accept such a registration and issue certificates of re-marriage.

ARTICLE 18

The husband shall not apply for a divorce when his wife is with child. He 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

The consent of a member of the revolutionary army on active service who maintains correspondence with his or her family must first 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 subsequent period of two years from 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.

CHAPTER VI MAINTENANCE AND EDUCATION OF CHILDREN AFTER DIVORCE

ARTICLE 20

The blood ties between parents and children do not end with the divorce of the parents. No matter whether the father or the mother acts as guardian of the children, they still remain the children of both parties.

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

After divorce, the guiding principle is to allow the mother to have custody of a baby still being breast-fed. 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 shall 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 shall be responsible for the whole or part of the necessary cost of the maintenance and education of the child. Both parties shall reach an agreement regarding the amount and the duration of such maintenance and education. In the case where the two parties fail to reach an agreement, the people's court shall render a decision.

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

Such agreement reached between parents or a decision rendered by the people's court in connection with the maintenance and education of a child shall not prevent 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 re-marries 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.

CHAPTER VII PROPERTY AND MAINTENANCE AFTER DIVORCE

ARTICLE 23

In case of divorce, the wife shall retain such property as belonged to her prior to her marriage. The disposal of other family properties shall be subject to agreement between the two parties. In cases where agreement cannot be reached, the people's court shall 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

After divorce, debts incurred during the period of their married life together shall be paid out of the property jointly acquired by husband and wife 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

shall be held responsible for paying these debts. Debts incurred separately by the husband or wife shall be paid off by the party responsible.

ARTICLE 25

After divorce, if one party has not re-married and has maintenance difficulties, the other party shall render assistance. Both parties shall 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 shall render a decision.

CHAPTER VIII BY-LAWS

ARTICLE 26

Persons violating this Law shall be punished in accordance with law. In cases where interference with the freedom of marriage has caused death or injury, the person guilty of such interference shall bear responsibility for the crime before the law.

ARTICLE 27

This Law shall come into force from the date of its promulgation. In regions inhabited by national minorities, 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 national minorities in regard to marriage. But such measures must be submitted to the Government Administration Council for ratification before enforcement.