MARRIAGE UNDER THE CIVIL CODE OF ETHIOPIA

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Under the Civil Code of Ethiopia, marriage is a monogamous union, as indeed it has always been in Christian Ethiopia; it is the voluntary union of one man and one woman to the exclusion of all others. The Code contemplates three types of marriage: (1) civil marriage, (2) religious marriage, and (3) customary marriage. A marriage in Ethiopia may take place in any one of these formalities, but the effects of the marriage, both as regards the personal relationship between the husband and the wife and as regards their property are the same in all three types of marriage; this is so also in regard to customary marriages so that, although a marriage may have been solemnised according to the custom of the husband or of the wife, the effects of the marriage are governed by the provisions of the Code and not by the customary law under which the marriage was solemnised.

A civil marriage is one which is celebrated before an officer of civil status. A religious marriage is one which is celebrated according to the rites of the religion of both parties or of one of them, whether such religion be that of the Ethiopian Orthodox Church, the Catholic Church or the Greek Orthodox Church or the religion of any other Church or belief. A customary marriage is one which is celebrated according to such rites as are considered by the custom of the community to which the spouses belong or to which one of the spouses belongs, to constitute a permanent union between the man and the woman. Under the Civil Code the kind of marriage formerly known as "be damoz" is no longer recognized, but the Code provides for what is called "an irregular union" which is, as we shall see later, a state of fact between a man and a woman which is given limited juridical acknowledgement.

I - CONDITIONS COMMON TO ALL FORMS OF MARRIAGE

Conditions

Before any marriage can be celebrated in any one of the three formalities mentioned above, there are certain conditions which must be fulfilled. These are the following: age, consanguinity and affinity, bigamy and consent.

1. *Age:* A marriage may not be contracted by a man who has not attained the age of eighteen years and by a woman who has not attained the age of fifteen years. A dispensation from this condition may be granted by His Imperial

Majesty, or by a person specially appointed by Him; but such dispensation cannot be granted except for a period of two years – that is, under such dispensation marriage may be possible for a man who is not under sixteen years and a woman who is not under thirteen years (Art. 581).

2. *Consanguinity and affinity:* These are impediments to a marriage; a marriage is prohibited between persons who are related by consanguinity or affinity (Art. 582 and 583). Art. 584 prohibits also a marriage between persons who would be related by consanguinity or affinity if in fact there exists a natural bond of filiation which is commonly known but which has not been legally established. The concepts of consanguinity and affinity are defined in Art. 550 *et seq.*

3. *Bigamy:* A marriage cannot be contracted between two persons one of whom is still bound by the bonds of a previous marriage. (Art. 585).

4. *Consent:* As in any other contract, the consent of the parties is necessary for a valid marriage. Such consent must be free, that is, not extorted by violence, and must not be affected by any error of substance. The consent must be given by the spouses personally at the time fo the celebration of the marriage. The spouses cannot be represented by another person for the giving of the consent; thus, as a rule, marriage by proxy is not permissible, but a dispensation from this may be given by the Advocate General for a good reason (Art. 586). In the case of a marriage of a person who is minor, the consent of the minor himself and of the representative of the family is necessary. In the case of a judicially interdicted person, the consent to the marriage must be supported by an authorisation given for that purpose by the Court (Art. 588 and 369).

Consent is vitiated by *violence* or by an *error of substance.* A consent which has been extorted by violence is not a free consent and therefore no consent at all. It is not any kind of violence which vitiates the consent; under Art. 589 (2) consent is vitiated when as a result of violence or duress used by somebody a person gives his consent to the marriage with the object of protecting himself (or herself) or one of his descendents or ascendants from the threat of a *grave and imminent evil;* such evil may be moral or material. Such evil must be of a serious nature and must be one which cannot be avoided or forestalled by lapse of time. If the evil is not grave or not imminent, the violence which induced a person to give consent to a marriage does not vitiate the consent. A consent is not vitiated when it is given as a result of reverential fear towards an ascendant or some other person; that is, consent given because of respect due to an ascendant (*g. e.,* father, grandfather, or grandmother) or some other person who, though not an ascendant, stands *in loco parentis* is not vitiated. (Art. 89 (3).

A consent is vitiated by an error of substance when one of the spouses gives the consent to the marriage while under a mistake as to certain matters concerning the other spouse. Art. 591 gives a *restrictive* enumeration of the matters which amount to errors of substance sufficient to vitiate the consent. These are as follows:

(a) error as to the identity of the spouse; or

(b) error as to the religion of the spouse; or

(c) error as to the state of health or bodily conformation.

The Civil Code limits the error when it is with regard to the *identity of the spouse;* the Code makes it quite clear that the error must be as to the *physical identity* of the spouse. The words used by the Code solve the many questions that arose under other Codes, *e. g.*, the French Civil Code (Art. 180 (2) and the Italian Civil Code of 1865 (Art. 105) where the words used were "erreur sur la personne" and "errore nella persona." The question discussed was whether "personne" and "persona" meant only the physical identity of the spouse, or whether it included also the essential qualities of the personality of of the spouse, such as the virginity of the future wife or the conviction of a serious offence under the Penal Code. Under the Civil Code of Ethiopia, the error is limited to the mistake as to the *physical identity* of the spouse and we may quote the example given by Pothier: "Par example, si me proposant d'épouser Marie et croyant contracter avec Marie, je promets la foi de marriage à Jeanne qui se fait passer pour Marie." Under the Civil Code of Ethiopia, therefore, a mistake as to the social status or the financil means of the spouse or any other mistake as to the qualities of the spouse does not vitiate the consent.

There is *error as to religion of the spouse* vitiating the consent only when the religion of the spouse is different from that of the spouse who is the victim of the error; thus, there is no error of substance sufficent to vitiate the consent when a man who professes the religion of the Ethiopian Orthodox Church thinks that the woman he is marrying professes the Greek Orthodox Church when in fact she professes his religion.

As to error *regarding the state of health,* this is limited to cases where the spouse, belived to be healthy, suffers from leprosy; there is also error sufficient to vitiate the consent when a spouse was under a mistake regarding the requisite organs of the spouse necessary for the consummation of the marriage, that is, to have natural sexual intercourse. Thus, the fact that the spouse was suffering from a venereal disease would not by itself amount to an error of substance sufficient

to vitiate the consent unless as a result of such disease the affected spouse was incapable of consummating the marriage.

Errors as to the other spouse, which do not amount to errors of substance sufficient to vitiate the consent under Art. 591 of the Civil Code, may amount to non-serious grounds of divorce, *e.g.*, where one of the spouses is affected by a venereal disease when the other spouse had reason to believe that that spouse was in a good state of health. It is also reasonable to hold, considering the custom in certain parts of Ethiopia, that the fact that the wife was not a virgin at the time of the marriage when the husband considered her to be a virgin would amount to a ground for divorce, but not for dissolution (invalidation) of the marriage on the ground that the consent was vitiated by an error of substance.

Opposition to marriage

In view of the provisions of Art. 560 and of the conditions to be fulfilled before the celebration of any kind of marriage, the law provides that certain persons may make opposition to the celebration of a marriage. Under Art. 592 such opposition may be made by the persons therein mentioned and by no other person, namely -

a) by the representative of the family of one of the future spouses, such representative being the person mentioned in Article 562, or by the guardian of spouse who is a minor; such opposition could be made on the ground of lack of the required age for the marriage or the existence of a bond of relationship by consanguinity or affinity or on the ground that the representative of the family does not approve of the marriage. Where the spouse has been married previously, opposition can be made only by the public prosecutor (Art. 595 (2);

b) by the public prosecutor, as for example, in the case of a marriage between persons one of whom is still bound by the bonds of a previous marriage.

The law does not require any special form for the making of the opposition; it may be made at any time until the celebration of the marriage (Art. 593), Either of the spouses may ask for the withdrawal of the opposition, and if such request is not granted, an appeal will lie to the court; there is no such appeal, however, when the person to whose marriage the opposition is made is a person under twenty years and such opposition has been made by the father or mother of one or the other of the future spouses. If on appeal to the

court, the court has ordered the withdrawal of the opposition, it is not permissible to make again an opposition to the celebration of the marriage between the same spouses. (Art. 595).

A married woman whose marriage has come to an end by any of the causes mentioned in Art. 663 (that is, by death of the husband, or by divorce or by dissolution as a sanction of one of the conditions of marriage) may not contract a new marriage until one hundred and eighty days have elapsed since the day on which the first marriage came to an end. This prohibition to re-marry, however, ceases if a child is born at any time before the expiry of the said one hundred and eighty days. The same prohibition applies to a woman who has been living with a man in an irregular union (Art. 596). The object of the prohibition mentioned in this Article is to avoid any confusion that may arise as regards paternity; the period of one hundred and eighty days is considered sufficient for the existence of a child in the womb conceived from the previous marriage. The court may, however, exempt a married woman from observing the period of widowhood; such exemption would be given when there is no danger of any uncertainty arising as regards paternity as for example, in cases where it is shown that the woman was not capable of bearing children.

II - FORMALITIES FOR THE CELEBRATION OF THE VARIOUS KINDS OF MARRIAGES

A *civil marriage* is celebrated before the officer of civil status of the commune where at least one of the spouses or one of his parents or ascendants has established his residence by continuously living there for a period of not less than six months before the date of the marriage. (Art. 597). The date of the marriage is to be fixed by agreement between the future spouses and the officer of civil status. (Art. 602). The marriage is celebrated publicly in the presence of the future spouses and four witnesses, two for each of the future spouses, such witnesses may or may not be related to the future spouses. (Art. 603). Before the officer of civil status celebrates the marriage, the future spouses and the witnesses have to take an oath stating that there does not exist, to their knowledge, any obstacle to the marriage *(e. g.,* relationship of consanguinity or affinity). When such oath has been taken, the officer of civil status receives from both spouses, one after another, a declaration that they want to take one another as husband and wife. When such declaration has been received by the officer of civil status, he shall pronounce the two spouses husband and wife, in the name of the law. (Art. 604).

When two persons intend to contract a civil marriage, they have to inform the officer of civil status of their intention at least one week before the in-

tended date of marriage. (Art. 599). If during this period it comes to the knowledge of the officer of civil status, or if he has good reason to believe, that there exists an obstacle to the celebration of the marriage, it is his duty to refuse to celebrate the marriage, and he shall inform the future spouses of the reason for his refusal to celebrate the marriage. (Art. 600). Either of the spouses may appeal to the court from the decision of the officer of civil status to refuse to celebrate the marriage; if the court finds that the refusal is not justified, the officer of civil status shall celebrate the marriage, and when the court has so decided the officer may not refuse to celebrate the marriage for any reason whatsoever. (Art. 601).

A *religious marriage* is celebrated according to the formalities prescribed by the religion of the parties concerned. Religious marriages are, as other kinds of marriages, subject to the conditions common to all kinds of marriages under the Code; but religious marriages are also subject to such other conditions as are prescribed by the religion according to which the marriage is celebrated.

The formalities for a *customary marriage* are those prescribed by the rules of the community to which the future spouses belong or to which one of them belongs. In all cases the conditions common to all kinds of marriage must be observed, notwithstanding that according to local custom such conditions are not essential.

When records of civil status (*i. e.*, records for the registration of births, marriages and deaths) are established, the person celebrating the marriage is required to draw up a record of the marriage, and such record will be registered in the records of civil status; proof of the marriage will be possible by producing an extract from such records.

III - SANCTIONS OF THE CONDITIONS OF ALL KINDS OF MARRIAGE

Having established conditions of marriages, the law makes provision for sanctions in case such conditions are not observed. Such sanctions refer

a) to cases where a marriage has been contracted when there existed an obstacle by reason of age, consanguinity, affinity, existing bond by a previous marriage (bigamy), absence of the necessary authority for the marriage of a minor or an interdicted person, period of widowhood; and

b) to cases where a marriage has been contracted with a consent which is vitiated by violence or by error of substance.

In cases under (a) the sanction provided by law consists in

i) the punishment under the Penal Code of the officer of civil status or other authority who has celebrated the marriage and the punishment of the spouses themselves, the witnesses and other persons privy to the celebration of the marriage; and

ii) the dissolution (invalidation) of the marriage.

In cases under (b) the sanction consists in the dissolution (invalidation) of the marriage.

Liability to Punishment under the Penal Code

The officer of civil status or other authority celebrating the marriage is liable to punishment under the Penal Code when he knew or should have known (*i. e.*, after making the inquiries which a diligent public official should make) that there existed an obstacle to the marriage by reason of

a) age (Art. 607);

b) bond of affinity or consanguinity (Art. 610);

c) existing bond by a previous marriage (Art. 611);

d) lack of the necessary authority to the marriage in the case of a person who is a minor or interdicted (Art. 614);

e) consent to the marriage being vitiated by violence (Art. 616 (2).

Such officer or authority is also liable to punishment under the Penal Code when he celebrates a marriage to which an opposition has been validly made (Art. 619) or to which there was an obstacle by reason of the period of widowhood (Art. 620). It is to be noted that in these two instances the law does not require that the officer or authority knew or should have known of such obstacle; if there was an opposition validly made to the marriage, such opposition would be known, and as regards the period of widowhood this is a matter which can be verified from the records of civil status when such records are established.

The spouses themselves, the persons who have consented to the marriage and the witnesses to the marriage are also liable to punishment under the Penal Code when a marriage has been celebrated while any one of the above mentioned obstacles to the marriage was present. But in the case of a marriage between persons one of whom was under the required age, it is only that person who is liable to punishment (Art. 607 (2); and in the case of a marriage between persons one of whom was a minor or interdicted and there was not

the necessary authority, it is the other party to the marriage who is liable to punishment (Art. 614 (2). It is to be noted that while provision is made in the Penal Code (Art. 615 and 412 *et seq.*) for the punishment of an officer or authority who celebrates a marriage which is forbidden by law, no such provision is made for the punishment of the spouses, the persons who consented to the marriage and the witnesses. The spouse who, being tied by the bond of a valid marriage, intentionally contracts another marriage before the first union has been dissolved or annulled would, of course, be liable to punishment for bigamy (Art. 616 Penal Code). A person who has forced another person, by violence, to give his consent to the marriage is also punishable under the Art. 616 of the Penal Code (see also Art. 568 of the Penal Code).

Sanction of dissolution (invalidation) of the marriage

The other sanction, consisting in the dissolution (invalidation) of the marriage, has effect in the following ways:

a) in the first place, the dissolution of the marriage does not take place without an order of court, to which an application must be made by the persons hereunder mentioned (note that the application for the dissolution of the marriage is made to the court and not to the family arbitrators; the family arbitrators deal with applications for divorce but not with dissolution of the marriage as a sanction to the conditions of marriage);

b) an application for the dissolution of a marriage based on the ground that one of the parties was under the required age or on the ground of the existence of a bond of consanguinity or affinity may be made to the court by any interested person or by the public prosecutor, and when such application has been made, the court must grant dissolution of the marriage. The dissolution may not, however, be applied for when the required age for marriage has been attained by the spouse who was under age at the time of the marriage (Art. 608 and 609);

c) an application for dissolution on the ground of bigamy may be made by either of spouses to the bigamous marriage or by the public prosecutor; but the court will not make an order of dissolution unless it is established with certainty that the spouse of the former marriage was alive at the time of the celebration of the second marriage (Art. 612); as soon as the spouse of the former marriage dies the marriage which was originally bigamous becomes valid, and it is not possible to apply for dissolution on the ground of bigamy;

d) an application for dissolution on the ground of lack of authority to a marriage of a minor or incapacitated person may be made by the minor or interdicted person himself, or by the person who should have consented to the marriage of the minor, or by the guardian of the interdicted person. Such application cannot be made by the minor or interdicted person later than six months after the minor or interdicted person has ceased to be so incapacitated, and by the person who should have given his consent, or by the guardian later than six months from the date on which they came to know of the existence of the marriage;

e) an application for dissolution cannot be made on the sole ground that the period of widowhood has not been observed (Art. 620 (3), or on the sole ground that no consideration has been given to an opposition which has been made. Thus, for example, if an opposition to the celebration of a marriage has been made on the ground that there exists affinity between the future spouses, when in fact there is no such bond of affinity, then the fact that no consideration has been given to the opposition will not be a good ground for dissolution; but if a bond of affinity in fact existed, then the proper ground for dissolution would be this bond.

Dissolution on the ground of consent to the marriage being vitiated by violence or error of substance may be applied for only by the person who is the victim of the violence or error, and such application may be made within six months from the date on which the violence ceased or the error was discovered. And in any case, an application for dissolution of the marriage on this ground cannot be made after two years from the date on which the marriage was celebrated. (Art. 617 and 618).

Sanctions peculiar to the various kinds of marriages

The sanctions so far dealt with refer to conditions which are common to all kinds of marriages, but there are other sanctions which are peculiar to the different kinds of marriages. The sanctions peculiar to civil marriages affect the officer of civil status and the spouses and the witnesses; in no other case have such sanctions the effect of producing the dissolution of the marriage. An officer of civil status who celebrates a marriage when condition of six months residence has not been complied with is liable to punishment under the Penal Code if he knew or should have known that such condition had not been complied with; the spouse and the witnesses are also liable to punishment. The officer of civil status is liable to punishment under the Penal Code if in celebrating the marriage he does not comply with the requisite of publicity

mentioned in Art. 603 or with the formalities mentioned in Art. 604, regarding the oath to be taken by the spouses and the witnesses and the declaration by the spouses that they want to be husband and wife.

The lack of observance of any formalities in a religious and customary marriage is not a ground for the annulment and dissolution of the marriage; the annulment of a religious marriage by the religious authority may, however, amount to a ground for divorce (Art. 623 (2) and Art. 671). The annulment of a customary marriage by the customary authorities is of no legal effect. The only sanction for the non-observance of the conditions and formalities of religious and customary marriages is that the authority which celebrated the marriage may be condemned to pay a fine, and the injured, party may be entitled to damages, such fine and damages being according to the religion or custom concerned. But the court may, notwithstanding the religion or custom concerned, reduce the fine and the amount of damages where such amount is excessive, and the court may also refuse to give effect to the custom under which such fine and damages are payable if it appears that the custom is unreasonable or contrary to equity or to morality. (Art. 624).

IV - EFFECTS OF MARRIAGE

The effects of marriage are of two kinds:

a) personal;

b) pecuniary.

The personal effects of marriage concern the personal relationship between the spouses; the pecuniary effects concern the property belonging to each spouse and to both of them in common. The effects of marriage are the same in all kinds of marriage without distinction between civil, religious and customary marriages. (Art. 625). A marriage produces effects as soon as it is contracted and whether it is consummated or not.

Contract of marriage

Before the celebration of the marriage, the future spouses may execute a contract of marriage to regulate the pecuniary effects of the marriage; in such contract they may also make provisions to regulate the personal effects of the marriage on those points where the law does not make any prohibition. The contract of marriage must be in writing signed by the future spouses; the

presence of four witnesses is necessary, two for the husband and two for the wife; in default of these formalities, the contract of marriage is of no effect. (Art. 629). If one of the future spouses is a minor or a judicially interdicted person, the following requirements are to be observed under Art. 628:

a) in the case of a minor, the consent of the tutor is necessary in addition to the consent of the minor;

b) in the case of a judicially interdicted person, the contract of marriage must be approved by the court.

A person interdicted by law is under no incapacity as regards the contract of marriage, and such contract may be made by him without other formalities than those mentioned above in Art. 629. Under Art. 630, a contract of marriage, when made, should be deposited in the registry of a court or with a notary, and any of the spouses, and any person authorised by the spouses or by the court shall have access to it and may freely examine it. It is important that persons dealing with one of the spouses should know what the spouses have agreed to as regards the pecuniary effects of the marriage, because under Art. 658 the agreement of both spouses is necessary for certain juridical acts.

When a contract of marriage is made, any modification thereto may be made by the family arbitrators on the request of the spouses when the interest of the family so requires; a copy of any modifications made must be deposited in the registry of a court or with a notary so that any person examining the original contract of marriage may be aware of any modifications made later (Art. 632). If no contract of marriage has been made before the marriage and the spouses wish to make one during the marriage, then such contract of marriage is of no effect unless it has been approved by the family arbitrators or by the court. (Art. 633). Where no contract of marriage is made either before or during the marriage, the personal and pecuniary effects of the marriage shall be governed by the provisions of the Code. (Art. 634). A contract of marriage must clearly lay down how the spouses' personal and pecuniary matters are to be regulated, and their wishes cannot be expressed simply by reference to local custom. (Art. 631). If reference in such general terms is made in the contract of marriage, the effects of the marriage, both personal and pecuniary, will be governed by the provisions contained in the Code. As a contract of marriage is a contract between the spouses, it cannot contain provisions affecting third parties; nor may a marriage contract regulate matters which are mandatory under the law (*e. g.*, that the spouses owe each other respect, support and assistance (Art. 636) and the duty of cohabitation. (Art. 640).

Personal Effects of Marriage

Unless the spouses have otherwise agreed in the contract of marriage on matters where the law so allows, the personal effects of marriage are the following:

a) the husband is the head of the family, and the wife owes him obedience in all lawful things which he orders; there are matters in which no such duty of obedience is due by the wife because the law gives certain rights to the wife, *e. g.*, the right under Art. 649 given to each spouse to administer the personal property and to dispose of it. (Art. 635). Under the guidance of the husband both spouses are bound to cooperate in the interest of the whole famly in the moral and material spheres and in bringing up their children. The spouses are also bound by any undertaking made in this respect in the contract of marriage (Art. 637);

b) the spouses owe each other respect, support and assistance;

c) when one of the spouses is not in a position to carry out the duties regarding the management of the family as laid down in Art. 637 by reason of illness, or other disability, or absence or desertion or similar circumstances, the duties shall fall on the other spouse (Art. 638; see also Art. 205);

d) where one of the spouses has children from a previous marriage, the right concerning the education of such children shall be retained exclusively by such spouse (Art. 639);

e) the spouses are bound to live together (cohabitation); marital relationship includes normal sexual intercourse unless such intercourse is seriously prejudicial to health (Art. 640):

f) the husband chooses the common residence, but the wife may appeal to the family arbitrators against a decision of the husband where the choice of the common residence by the husband is arbitrary or contrary to the terms of the marriage contract (Art. 641);

g) notwithstanding the duty of cohabitation (in respect of which the spouses may not agree otherwise in the contract of marriage), the spouses may, during their marriage, agree to live separately for a definite or an indefinite period; an agreement to this effect may be revoked by either spouse at any time provided the revocation is not

arbitrary. Thus, it is possible for two spouses, who cannot because of their religious belief dissolve the marriage by divorce, to agree to separate *a mensa et thoro* (from board and bed) while the marriage still subsists. The Civil Code does not contemplate judicial separation, but it enables the parties to obtain separation by agreement;

h) the spouses owe each other fidelity (Art. 643);

i) the husband owes protection to the wife; the husband may guide and advise the wife concerning her property and general conduct only in so far as this is in the interest of the family; in no case he is entitled to make use of this right in an arbitrary, abusive or vexatious manner (Art. 644);

j) each spouse has the right to carry on such occupation or activity of his choice, and the other spouse can only object to the carrying on of such occupation or activity if it is the interest of the household (Art. 645); the carrying on of trade by married persons is governed by Arts. 16-21 of the Commercial Code;

k) the wife is bound to attend to the household duties when the husband is not in a position to provide servants for the purpose (Art. 646).

The spouses cannot, in the contract of marriage, make any terms which derogate from the effects of marriage laid down in the following articles:

(1) Art. 636 - respect, support and assistance;

(2) Art. 638 - impediment of one spouse in carrying out the duties of the management of the family;

(3) Art. 639 - exclusive right to children of a previous marriage;

(4) Art. 640 - cohabitation;

(5) Art. 643 - duty of fidelity (although it is not specifically mentioned in this Article that the spouses may not derogate from this duty, it must be held that an agreement to the contrary in the contract of marriage is of no effect).

Pecuniary effects of marriage.

In dealing with the pecuniary effects of marriage, it is necessary to distinguish between property which the spouses have at the time of their marriage and property which is acquired by each of them during the continuance of the marriage. Under Art. 653, all property which the spouses have is presumed to be common property, that is, it belongs in common to both spouses. This presumption may be rebutted by one of the spouses proving that it is his personal property, that is, that he is the sole owner thereof. Where there is dealing with third parties, such third parties are not affected by the fact that the property, the subject of the dealing, was personal property and not common property unless such third party knew or should have known of this fact. For example, assume that two spouses have made a marriage contract to regulate the pecuniary effects of the marriage, and such contract of marriage has been deposited in the registry of a court in accordance with the provisions of Art. 630. If a third party deals with the husband with regard to certain property, when in fact such property was personal property of the wife as specified in the contract of marriage, the wife can set up the claim that such property was her personal property, since the third party could have ascertained that it was personal property by perusing the copy of the contract of marriage deposited at the registry of a court.

Common property remains in the ownership of both spouses, *each having an undivided share,* until the marriage comes to an end by death of one of the spouses, by divorce or by dissolution) and until the property is partitioned between the spouses, or, as the case may be, between the heirs of one of the spouses and the other spouse. It is important to stress that when one of the spouses dies, the other spouse does not take the share of the common property *by succession* but by reason of being co-owner of the common property. The spouses may bring to end the co-ownership of the common property by agreement entered into by them during the marriage in accordance with Art. 633. It is also important to mention that under Art. 660 the common property is subject to certain debts, that is, debts in the interest of the household of the spouses; therefore, when the common property is to be divided between the spouses. These debts must be deducted from the amounts which constituted the capital of the common property. For example, if the only common property of a marriage consisted in the salary earned monthly by the husband (say E$ 600 per month) and the marriage has lasted for a period of 5 years (making a total capital of E$ 36,000) and there were say E$ 500 monthly expenses in the interest of the household (*e.g*, rent, food, clothing, education of children), the common property to be partitioned *is not E$ 36,000* but E$36,000 less E$ 30,000, that is, *E$ 6,000.*

Unless the spouses have otherwise agreed in the contract of marriage, *personal property* consists of the following:

a) property which each spouse had at the time of the marriage;

b) property which each spouse acquires during the marriage by succession or donation:

c) property which is acquired by one of the spouses during the marriage by means of money belonging personally to that spouse, or by means of money which is the proceeds of the alienation of property belonging personally to that spouse or by means of an exchange of property belonging personally to that spouse; as this property is acquired during marriage, a declaration is necessary by the family arbitrators (which declaration is to be made on the request of the interested spouse) that such property is personal property of that spouse (Art. 648 and 652 (2),

Unless otherwise agreed in the contract of marriage, *common property* consists of the following:

a) the salaries and earnings of the spouses;

b) the income from the personal property that each spouse may have; thus, rents from a house or land which is personal property of one of the spouses are common property;

c) property given by donation or by legacy to both spouses jointly.

The administration of personal property is left to the spouse that owns that property, and that spouse may freely dispose of such property. (Art. 649). There is nothing to prevent the spouses from agreeing in the contract of marriage that one spouse may administer all or certain personal property of the other spouse, but in such case an annual statement of account of the administration must, unless otherwise agreed, be given to the other spouse. (Art. 650). Similarly one spouse may appoint the other spouse to act as his agent for his personal property. (Art. 651).

As regards the administration of the common property, a distinction must be made between –

a) salaries, earnings and income from personal property; and

b) common property other than the above mentioned items.

In principal, the husband is the person who administers the common property, but this does not apply to the earnings and salaries of the wife and income from the personal property of the wife, who has the right to administer such property. (Art 656). The wife is also entitled to administer *all common property* when the husband is for the reasons laid down in Art. 638 unable to do

so. Furthermore, the wife may be authorised by the family arbitrators to administer the common property when this is in the interest of the family, as for example when a husband has proved himself incapable of looking after the property in the interest of the household, or when the husband is squandering the common property without regard to his obligations towards the family; the family arbitrators may give this decision at the request of the wife (Art. 656 (3).

Each spouse is entitled to receive his earnings and salary and may have a separate bank account for this purpose and also for depositing the income from the personal property. This is, however, subject to the obligation to give, at the request of the other spouse, an account of all earnings, salaries and income received. (Art. 654). In the interest of the family, the family arbitrators may, at the request of one spouse, authorise the other spouse to receive the salaries and income of the personal property of the other spouse (and give a receipt therefore) and also authorise the attachment of the whole or part of the earnings, salary and income in the hands of the person by whom they are due. Thus, for example, if a husband squanders his money on drink as soon as he receives his salary, the wife may request the family arbitrators to order the attachment of the salary in the hands of the person by whom the salary is payable. (Art. 655).

Although the husband administers the common property, such administration does not entitle him to dispose freely of such property (the same applies when the wife has been entrusted with the administration of the common property). There are some matters in which the *agreement of both spouses* is necessary in dealing with the common property; these are:

a) alienation of common immovable property;

b) alienation of common movable property of the value of more then E$ 500 and alienation of securities (bonds, shares, etc.) registered in the name of both spouses;

c) contracting a loan of more than E$ 100; and

d) donating something worth more than E$ 100 or standing as guarantor for a person for more than E$ 100.

The Code does not require any special formality for the agreement of the spouses in doing any of the above mentioned juridical acts; such agreement may be given in the contract of marriage and it may (it seems) be oral. Nor does the Code specify what the sanction is if a spouse does any of the above juridical acts without the agreement of the other spouse. It is suggested, how-

ever, that the sanction is that the juridical act is to be considered null and void relatively, that is that the nullity may be pleaded by the other spouse who did not give his agreement to the act and by his heirs. The nullity cannot be invoked by the spouse who did the juridical act, and such spouse would remain liable on his personal property towards the person with whom the juridical act was concluded.

Debts of one of the spouses may be recovered from the personal property of that spouse and from the common property, but not from the personal property of the other spouse (Art. 659 (1)). This article mentions "debts due by one spouse" and makes no distinction about the kind of debts; it would seem, therefore, that the personal property of one spouse and the common property would be liable tu the debts of one of the spouses incurred before the marriage and also debts that may be due by a spouse on accepting a succession.

Debts incurred in the interest of the household (such debts are enumerated in Art. 660) are the joint and several liability of both spouses and may be recovered from the personal property of one or both of the spouses and also from the common property (Art. 659). The spouses have the obligation to contribute towards the expenses for the family in proportion to their respective means. (Art. 661). What debts are incurred in the interest of the household are mentioned in Art. 660, namely:

a) debts incurred for the livelihood (food, lodging, clothing and education of the children) of the family;

b) debts to fulfill an obligation of maintenance payable by one or both of the spouses; and

c) other debts which the family arbitrators decide to be such; the family arbitrators may make such decision at the request of one of the spouses or of the creditor.

V - DISSOLUTION OF MARRIAGE

Causes of dissolution

A marriage may come to an end in three ways:

a) by death of one of the spouses;

b) by an order of court dissolving the marriage as a sanction to one of the essential conditions of marriage; and

c) by divorce.

The Code makes no distinction between the various kinds of marriages; all marriages, whether religious, civil or customary, come to an end in one of the said three ways.

The circumstances under which a marriage comes to end by divorce apply to all types of marriages. In the first place, Art. 664 lays down that repudiation by one of the spouses does not amount to divorce; also divorce by mutual consent of the spouses is prohibited by Art. 665. There is divorce only when the provisions of the Code have been complied with. A divorce can be granted only on the grounds laid down by law; these grounds are classified into (a) serious grounds and (b) other grounds. The application for divorce is to be made not to the court but to the family arbitrators (Art. 666), *i. e.* the persons mentioned in Art. 725. The jurisdiction ot the court is only subsidiary to the powers given to the family arbitrators; it is subsidiary in the sense that the court is competent to decide whether a divorce has been pronounced or not (Art. 729). This means that the court is the final authority for declaring that the family arbitrators have pronounced a divorce in accordance with the law, but (except in the circumstances hereunder mentioned) the court is not competent to deal with an application for divorce unless the matter has first been submitted to the family arbitrators. The court may take cognizance of an application for divorce only when the arbitrators have failed to give their decision within the period of time laid down by law, (Art. 668 and 678) or within a reasonable time. (Art. 737).

A petition for divorce to the family arbitrators may be made only by one of the spouses or by both spouses, and by nobody else, and if one of the spouses dies before any decision has been taken, the divorce proceedings come to an end and cannot be continued by the heirs of the deceased spouse or other interested persons. (Art. 666). The conditions under wich a divorce may be granted and the effects of the divorce depend on whether the spouse who petitions for divorce establishes a serious ground of divorce of which the other spouse is guilty (Art. 667); thus Art. 690-695 deal with the pecuniary effects of a divorce granted on other, non-serious grounds. If the petition for divorce is based on serious grounds that are established, the family arbitrators are to give their decision within one month from the date of the petition (Note: Art. 668 mentions the period of "three months" in the English translation. In the original Amharic text of the Code, this period is also stated to be three months).

The serious grounds of divorce are of two kinds:

a) those attributable to the fault of the spouse, and
b) those which are independent of the will of the spouse.

In the first class are mentioned:

a) adultery,

b) desertion from the conjugal residence for a period of two years in circumstances where the whereabouts of the deserting spouse are not known. (Art. 669).

In the second class are mentioned:

a) confinement in a lunatic asylum for a period of not less than two years;

b) absence judicially declared (Art. 670); and

c) declaration of nullity of a religious marriage by a religious authority. (Art. 671).

As regards the declaration or nullity of the marriage by a religious authority, this ceases to be a serious ground of divorce when the spouses, being aware of the pronouncement of annulement, continue to live together. It may thereafter amount only to a non-serious ground of divorce. As regards the other serious grounds of divorce which are attributable to the fault of the spouse, these cease to be serious grounds of divorce when the innocent spouse has forgiven the fault, and such forgiveness shall be conclusively presumed when, after the culpable conduct has ceased, no petition for divorce has been made within six months. (Art. 672).

Where a petition for divorce has been made on grounds which are not serious, then it is the duty of the family arbitrators to try to bring a reconciliation between the spouses, and for this purpose they may make such recommendations as they consider proper to bring about the reconciliation. (Art. 676). If they fail to bring about a reconciliation, then they should try to persuade the spouses to agree on the conditions of divorce (such as regards the pecuniary effects of divorce, maintenance, and the custody of the children). If the spouses reach such an agreement, the family arbitrators will then give a judgment in accordance with the terms and conditions contained in the agreement (Art. 677), subject always to the decision of the court that a divorce has been pronounced under Art. 729. Where the spouses are not reconciled or do not reach an agreement as to the conditions of divorce, the family arbitrators must pronounce divorce within a period of one year from the date of the petition, which period of one year may be extended to a period of five years by the spouses. The spouses may so agree either before or after the marriage. (Art. 678).

When a petition for divorce has been made to the family arbitrators on grounds which are serious, or non-serious, the family arbitrators may, pending the decision to be given, give such provisional orders as may be necessary to protect the spouses and the children. Thus they may make orders regarding

the maintenance of the spouses and the children, the administration of the property of the spouses, the place of residence of the spouses (Art. 674); any provisional orders so made are subject to revision or to cancellation at any time for good cause shown. (Art. 675).

When the family arbitrators come to give their final decision, they shall give a judgment which pronounces the divorce. In such judgment the family arbitrators should also give orders as to the custody of the children born of the marriage and orders as to the liquidation of the personal and common property of the spouses in accordance with the rules set out in Art. 690-695. Where questions arise out of the pronouncement of divorce which could not be dealt with in the original judgment, the family arbitrators may give an additional judgment to regulate the matters which have arisen after the divorce. Such supplementary judgment may be given not later than six months from the date of the original judgment. (Art. 680). In making any orders regarding the custody of the children (that is, whether the children should be with the father or with the mother) and also regarding their maintenance, the interest of the children is the paramount consideration. The family arbitrators should decide these questions having regard only to the welfare, both material and moral, of the children. If there is no serious reason why children should not be given to the custody of the mother, children of the tender age of five years and under should be entrusted to the mother. Any order made as regards the children is subject to revision at any time where the interest of the children so requires. Thus, if a child has been entrusted to the mother, who at a later time begins to lead an immoral life, the order may be revised, and if the father is fit to take custody of the children, such custody will be given to him. An application for revision of an order regarding children is to be made to the family arbitrators by the father or mother or any other ascendant of the children. (Art. 681 and 682).

Liquidation of pecuniary relations between the spouses on dissolution of marriage

The liquidation of the pecuniary relations between the spouses is an important consequence of the dissolution of the marriage by any one of the three above mentioned ways. The liquidation has, however, different aspects according to the way by which the marriage is dissolved, that is, whether by death, by divorce, or as a sanction to the conditions of the marriage. The principles governing the liquidation are always the same independently of the kind of marriage (civil, religious or customary) that is involved.

a) Liquidation on dissolution of the marriage as a result of death of one of the spouses.

If the spouses have made a contract of marriage governing the manner in which the property of the spouses, personal or common, is to be divided, then the liquidation shall take place in accordance with such contract. If no such contract between the spouses exists, the liquidation shall take place in accordance with the principles as laid down by law. (Art. 683).

The first principle is that each spouse may retake the property which is shown to be his personal property. (Art. 684). If one of the spouses can show that his personal property has been alienated and the proceeds thereof have gone in to the common property, then such spouse shall be entitled to withdraw from the common property money or other things equal to the value of the price at which the personal property had been alienated. If both husband and wife are entitled to withdraw such money or things, then the wife (or her heirs, as the case may be) shall have preference to withdraw first. (Art. 685). The wife is given this preference because as a rule the husband is the spouse who administers the common property.

Where the personal property of one spouse or the common property has been adversely affected by reason of acts performed by the other spouse, then that spouse is entitled to compensation or damages if:

a) the spouse who performed the act had no right to perform that act; or

b) the act performed amounts to bad administration or was an act in defraud of the rights of the other spouse.

An example of (a) would be where the husband performs any of the juridical acts mentioned in Art. 658 (in respect of which the agreement of both spouses is necessary) without the agreement of the wife. The principle of damages for any such act is mandatory and the spouses cannot enter into an agreement to avoid such obligation. The principle also has effect notwithstanding that the liquidation has taken place and one of the spouses has given a receipt for the settlement. (Art. 686). The claim for indemnity or damages may, however, be brought only in respect of acts which have been performed not more than three years before the date of the death of the spouse. (Art. 687). A spouse is also entitled to an indemnity if he can show that the personal property of the other spouse has been enriched or increased in value to the detriment of his personal property or of the common property. (Art. 688). Thus, if a husband borrows money belonging personally to the wife to improve a house which belongs personally to him and before his death he was not able to repay the loan, the wife would be entitled to an indemnity.

The common property, after deducting all liabilities to which the common property is subject (*e. g.*, debts incurred in the interest of the household) is to be divided equally between the surviving spouse and the heirs of the deceased spouse. The spouses may in their contract of marriage or by any other agreement stipulate that property is to be divided not equally but in different shares. (Art. 689). In this connection the question arises whether any stipulation which is to have effect on the death of one of the spouses is contrary to Art. 1114 of the Code; no judicial pronouncement has yet been made on this point.

b) Liquidation on dissolution of marriage by divorce.

The manner in which personal and common property is to be liquidated on the grant of divorce is one of the matters on which the family arbitrators must give their decision. In giving such decision, the family arbitrators must follow the principles laid down in this respect in Art. 690 to 696. Generally speaking, the liquidation is to take place as in the case of liquidation on dissolution by death. (Art. 690). But in addition to this principle the Code lays down certain rules which cannot be altered by the contract of marriage or by any other agreement made between the spouses before the divorce. (Art. 690 (2).

Where presents have been given on the occasion of the marriage or by reason of the existence of the marriage, the family arbitrators may order that such presents be returned. This applies when a request is made by the person who made the present, whether such person is one of the spouses who gave presents to the other spouse or other persons; where the person who made the present is dead, the request may be made by the heirs. The family arbitrators may terminate any benefits that may have been promised or made to the spouses or to one of them on the occasion of the marriage or in consideration of the marriage. (Art. 691). Thus, if a person has promised to pay one of the spouses a monthly sum or given to one of the spouses a house in usufruct as a marriage settlement, the family arbitrators may terminate such benefit given to the spouse.

In dealing with the common and with the personal property, the family arbitrators have to consider whether there is a serious or non-serious ground for the divorce, and also whether or not the ground of divorce is imputable to the fault of one spouse.

Where the ground of divorce is serious and imputable to the fault of one spouse, then the spouse who is at fault may be ordered to give up the whole of the common property to the innocent spouse and also to give up to the innocent spouse a portion of his personal property not exceeding one third of

such personal property. Such penalty may be imposed apart from the restitution of the presents as laid down in Art. 691. The penalties may never be applied against the innocent spouse. Nor may they be applied where the ground of divorce, although serious, is not imputable to the fault of the spouse; in such cases the liquidation shall take place as in the case of dissolution of the marriage by death.

Where the ground of divorce is not serious, the abovementioned penalties (*i. e.*, restitution of presents - Art. 691, and the award of the common property and of a portion of the personal property – Art. 692) may be ordered only against the person who has made the petition for divorce. (Art. 694). This provision is intended to discourage petitions for divorce when the petition is not based on one of the serious grounds. Where the ground for divorce is not serious, the petitioner for divorce will know that he cannot benefit financially from the grant of a divorce.

Although the family arbitrators should apply the penalties mentioned, they have a discretion in the manner in which such penalties are to be applied. The rules laid down as regards penalties (Art. 691 and 692) are not to be followed blindly by the arbitrators; they may apply them or not apply them, and apply them in full or in part, according to their discretion. In using this discretion, there must be good reason, and such reason should be indicated in their decision. In deciding whether to apply the rules in full or in part or not to apply them at all, the family arbitrators should take into consideration the circumstances in which the petition for divorce has been made, the degree of the fault of the guilty party, the conduct and behaviour of the innocent spouse and the motive for the petition and the moral background for the petition. (Art. 695).

c) Liquidation on dissolution of marriage for causes other than death or divorce.

Art. 696 lays down the rules for the liquidation of the property of the spouses on the dissolution of the marriage as a sanction to the conditions of marriage. These rules are as follows:

a) that the principles mentioned in Art. 690-695 are only to be taken as a guide, and are in no way binding on the court;

b) that the court is to make its decision according to the equity; and

c) that in applying equity the court is to take into consideration particularly the good or bad faith of the spouses or of one of them, the interest

of the children (if any) of the marriage, and, if any third party has performed any juridical act between the date of the marriage and the date of the dissolution of the spouses, the interest of such third parties who have acted in good faith.

It is to be noted that in cases of dissolution as a sanction to the conditions of marriage, the question of dissolution of the marriage and the consequent liquidation of the property is one for the court and not for the family arbitrators.

VI - IRREGULAR UNIONS AND OTHER RELATIONSHIPS

Irregular Union

The Civil Code does not recognise the kind of marriage formerly known under customary law as "be damoz". The Civil Code does, however, give legal recognition to the fact of a man and a woman living together as husband and wife; to this fact the Code gives the name of an irregular union. Such union produces certain legal effects, but an irregular union is not a marriage, and its effects are very different from those produced by a lawful marriage. The essence of an irregular union is that no marriage has been performed with the formalities recognised by law for a valid marriage. An irregular union is simply a state of fact which gives rise to certain limited consequences.

There is an irregular union within the meaning of the Civil Code only when a man and a woman live together and behave as if they were husband and wife. It is not necessary that they represent themselves to others as being married, provided they conduct themselves in their daily life *as if* they were husband and wife. The fact that a man and a woman meet frequently and have sexual relations repeatedly and even notoriously (that is, that this is well known to others) is not enough to make the relationship amount to an irregular union with the legal effects of such union. (Art. 709).

Whether an irregular union exists is a matter of proof, and such proof consists in the possession of status; such status means that the families of the man and woman and their neighbours consider that such man and woman are living as married when in fact they are not married. (Art. 718). The proof of possession of such status may be made by witnesses who are reliable, and the possession of status may similarly be contested by witnesses. In default of such evidence, status may be proved by an act of notoriety. (Art. 719 and 720).

An irregular union *does not* create -

a) an obligation between the man and the woman to maintain one another;

b) any common property between the man and the woman;

c) any right of succession between the man and the woman (Art. 711, 712 and 713).

An irregular union does not create a bond of affinity as in the case of marriage; but in the interest of public policy (ordre public), the relatives of the man and of the woman are precluded from marrying in the same way as if the man and woman living in an irregular union were lawfully married. (Art. 710).

In one respect an irregular union is equivalent to a lawful marriage, and that is with regard to the paternity and maternity of children born from the union. In this respect, the rules that apply to children born from a lawful marriage apply to children born from an irregular union. (Art. 715).

An irregular union may be terminated at any time by the man and by the woman without any formalities whatsoever. The family arbitrators have no power to deal with matters arising out of an irregular union; in all disputes arising out of an irregular union it is only the courts who are competent. (Art. 730). If it is the woman who terminates the union, she is not liable to pay the man any compensation or indemnity, nor is she liable to return to the man whatever the man may have provided for her during the union. If it is the man who terminates the union, the woman has under Art. 717 the right to claim an amount corresponding to the expenses necessary for her maintenance for a period of three months Amharic version; (this period is stated as six months in the English translation. In the original French text of the Code this period is stated to be six months).

Other relationships outside wedlock

Under the Civil Code, the only relationships between a man and a woman which are given a legal standing are (a) marriage and (b) irregular union. As regards marriage, there are three kinds of marriages and no others, these are the civil, the religious and the customary marriage. It is to be recalled that under Art. 3347, all customs in force before the coming into force of the Code are repealed (except in cases where such customs have been preserved

by the Code). Art. 721 stresses the point that relations between a man and a woman have no effect whatsoever unless such relations arise from a lawful marriage or from an irregular union. As relations which arise between a man and a woman outside a lawful marriage or outside an irregular union have no legal effect whatsoever, no person may, in any proceedings, raise the point that there are relations between a man and a woman. Thus, as we shall see later, a child born from a woman who is legally married to a man has as his father the husband of that woman, and it is only the father who can disown that child. Under Art. 721 (2), it will not be possible for any person who may be interested in so stating to state that, in fact, the mother of the child had relations with another man, because such relation would not be a relation arising from a lawful marriage or from an irregular union.

As regards children born from a relation between a man and a woman outside a lawful marriage or an irregular union, Art. 721 (3) lays down that such children have relations in law only with the mother. This principle does not apply where the child has been acknowledged by the natural father in accordance with the provisions of Art. 746-757 or where the child has been adopted by some other person, in which case the child would have a juridical bond not only with the mother but also with the father who has acknowledged him or with the person who has adopted him.

VII - CONFLICTS IN CASES RELATING TO MARRIAGES, DIVORCES AND IRREGULAR UNIONS

Art. 722 *et seq.* of the Civil Code lay down rules as to the manner in which disputes that arise out of betrothals, marriages and irregular unions are to be settled. The courts have sole jurisdiction in deciding whether there has been a valid betrothal, whether a marriage has been celebrated, and if so whether it is a valid one, and whether an irregular union has been established between two persons (Art. 722,724,730). The courts have also sole jurisdiction to decide all matters that arise out of an irregular union; but in cases of disputes that arise from a betrothal or a marriage, such disputes should in the first instance be dealt with by the family arbitrators.

In the case of disputes arising out of a betrothal or the breach of a betrothal, the arbitrators are the persons who were witnesses to the betrothal and, where witnesses have been designated to be first witnesses, the arbitrators shall be such witnesses. There is nothing to prevent the parties, at the time of the betrothal or at a later stage, to designate other persons to be arbitrators (Art. 723).

In the case of disputes that arise during the marriage, the family arbitrators a rethepersons who have been witnesses to the marriage, and, if some persons have been designated to be first witnesses, the arbitrators shall be such first witnesses. The spouses may at the time of the marriage, or at a later stage (*e. g.*, when the dispute actually arises) designate other persons to be arbitrators for the purpose of the that dispute. (Art. 725). The family arbitrators are also the persons initially competent to deal with disputes that may arise on the dissolution of the marriage by death. (Art. 726). If any dispute arises not out of the marriage but after a divorce has been pronounced, the dispute will be submitted to the same arbitrators who have pronounced the divorce. (Art. 728). The Code does not make any specific provision for the case where a divorce was pronounced by the court because the family arbitrators could not come to a decision within the time allowed by law; (see Art. 737); but in such cases the dispute arising from the divorce should be submitted to the court. Disputes arising from an irregular union are to be submitted to the court. (Art. 730l).

The number of arbitrators should as a rule be two for each spouse. Where an arbitrator is dead or is not in a position to decide the dispute without delay, he shall be replaced in the same manner as he was appointed; thus if an arbitrator was appointed by one of the spouses or was a witness for one of the spouses, that spouse may appoint another person to replace that arbitrator. If there are the necessary number of arbitrators, but one refuses to act as an arbitrator or is dismissed by the court, the court may appoint another person to replace him. (Art. 733). The arbitrators may amongst themselves decide, by majorty, to nominate one or more additional arbitrators to enable them to fulfil their duties in deciding the dispute. (Art. 732). If the spouses have agreed to appoint arbitrators to decide on any dispute and they cannot agree amongst themselves as to the appointment, such appointment shall be made by the court. (Art. 734). Where a spouse who is required to appoint an arbitrator fails to do so within fifteen days from the date on which he has been requested to do so by the other spouse, the appointment of the arbitrator will be made by the court on the application of the interested spouse. (Art. 735). If the arbitrators fail to make a decision within the time specified by law or within a reasonable time, the court may, on the application of one of the spouses, take cognizance of the dispute and decide it (Art. 737). this jurisdiction of the court is, therefore, only subsidiary in the sense that the court can take cognizance of the dispute arising out of a marriage only when the arbitrators have failed to come to a decision. The decision of the family arbitrators is subject to appeal to a court and the court may impugn the decision only when it is shown that the decision of the family arbitrators was affected by corruption or fraud, or when the decision is obviously unreasonable, *e. g.*, where the family arbitrators have not followed the rules laid down in Art. 690-695.