

CURRENT ISSUES

CIVIL CODE ARTICLES 758-761: SIDE ISSUES

(Paternity claims barred by Article 761 of the Civil Code: The problem of substitute remedies.)

INTRODUCTION

Some members of the Ethiopian legal profession are concerned about the severity of our codified law of filiation which has been comprehensively restated in *Workinesh Bezabih v. Yidenekou*, recently decided by the Supreme Imperial Court and reported in Volume I of the Journal of Ethiopian Law (1964) at page 17. Rather than adding to that luminous opinion, this note is concerned predominantly with certain side issues raised by the situation of a deserving mother-claimant who does not satisfy the strict conditions required by Article 758 of the Civil Code for a judicial declaration of the paternity of her child. The text below constitutes a succinct analytical exploration of the following question:

What remedies, if any, may still be available in such a situation with respect to (1) paternity, (2) damages, and (3) aliments?

PATERNITY

There are no remedies with respect to a declaration of paternity under Article 758 of the Civil Code in circumstances other than those of rape or abduction. Article 761 expressly prohibits the consideration of other circumstances, e.g., seduction or admission (see also the prohibitions under Article 721 of the Civil Code). Remedies, if any, available to a claimant denied recovery under Articles 758-761 of the Civil Code may lie *not* with respect to a declaration of paternity, but with respect to offences, faults, or acts which are not grounds for a declaration of paternity.

Consequently, we have to explore, *outside* the domain of declaration of paternity, the possibilities of giving redress to a claimant failing or likely to fail in her suit for a declaration of paternity of her child. There is ample scope for such redress and precedents in its favour exist abroad. Some remedies may lie clearly in Tort (see the discussion below under *Damages*), while others are argued for, with scant clarity, by the protagonists of "alimentary" or "quasi-alimentary" redress (see the discussion below under *Aliments*).

DAMAGES

If the defendant's conduct, not amounting to abduction or rape (Articles 558 and 589 of the Penal Code), constitutes a seduction in terms of Article 596 of the Penal Code or constitutes any other penal *offence*, a claim for damages can be based on Article 2035 of the Civil Code.

If, without amounting to an offence, the defendant's *fault* merely consists of conduct contrary to good morals, a claim for damages can be based on Article 2030 of the Civil Code in its Amharic and French versions. The English version of this Article is wrong in that "offence" should read "fault" and "public morality" should read "good morals." Article 2030 will allow damage-redress whenever the case of a mother-claimant denied recovery under Articles 758-761 shows a minimum of merit. But fornication alone, without other blamable conduct, is insufficient to ground any claim (Article 721 of the Civil Code).

In appropriate cases, *moral* damages may be awarded over and above the material ones on the basis of either Article 2107 or 2114 of the Civil Code in the Amharic-French versions. The English version of both seems wrong:

- (a) Article 2107 (compare 2038) deals with a "repulsive" variation of what should perhaps be termed battery rather than assault.
- (b) Article 2114, in the French version, speaks not of assault but of "atteinte à la pudeur" and (apart from rape) of "acte contraire à la pudeur." It also quite clearly contemplates moral reparation, which the English version does not. Article 2114 requires a penal conviction prior to damage-awards. So the French master-versions of the Civil and Penal Codes might have to be collated to find the penal counterparts for this provision, without which its object, moral damages, cannot be attained. Such counterparts should presumably be sought in Articles 590-595 of the Penal Code dealing with "sexual outrage."

Where the defendant's illegal or immoral conduct (e.g. an unfair seduction) was due to his intent to injure, Article 2106 (compare 2032) of the Civil Code may alone suffice to ground a claim for moral damages.

ALIMENTS

Can redress be given in the form of aliments or (maintenance,) under Article 808 of the Civil Code? The answer clearly is in the negative, unless the required relationship (in our case paternity) is specifically established in the ways prescribed. These ways are more limited in Ethiopian law than in the French law, which recognizes, for example, seduction or admission as sufficient grounds for a declaration of paternity (see French Civil Code, Article 340, as of July 15, 1955). Two points remain for discussion:

- (a) Even without the establishment of paternity, French courts sometimes impose an alimentary obligation by *circuitous* methods (see *Encyclopedie Dalloz*, Droit Civil, Tome 1, Aliments, No. 63-77), which we shall now illustrate in terms of Ethiopian law. A defendant's conduct not amounting to the formal acknowledgment required by Article 748 of the Civil Code, but otherwise clearly recognizing his probable paternity (statements, acts of supporting the child, etc.) may be alleged to constitute an actionable novation of a non-actionable moral obligation to maintain the child. Moral obligations are recognized as to their defensive effect by Article 2166 (1) of the Civil Code. But we could hardly imply an acceptance and conclusion of their novation in view of the strict requirements of Articles 1682, 1826, and 1828 of the Civil Code. Still more questionable are some French decisions which, even in the absence of such "novations," award compensation in the nature of quasi-alimentary (revisable) obligations in cases of non-established paternity (*Encyclopedie*

Dalloz, ibid., No. 13, including further reference). The aforementioned circuitous methods of alimentary relief are widely criticized as illogical (e.g., *Mazeaud, Leçons de droit civil*, Tome I, No. 963. See also No. 982). They would be exceptionally disruptive in Ethiopia in view of the recent restrictive purposes clearly and mandatorily expressed in Articles 761 and 721 of the Civil Code, and whose change, therefore, lies in the power of the legislator alone by the interpretative canons of the Common Law, the Continental Law and the Ethiopian Law alike (Article 1733 of the Civil Code *a fortiori*: see G. Krzeczunowicz, "Statutory Interpretation in Ethiopia), I Journal of Ethiopian Law (1964) at page 318).

- (b) In Ethiopian law the only effect given to non-legal (notorious) filiation is that of Article 584 of the Civil Code, which does not concern aliments. But Articles 745 and 708 of the Civil Code (concerning irregular unions) greatly facilitate the establishment of presumptive *legal* filiations which do carry alimentary duties in terms of Article 808 of the Civil Code.

CONCLUSION

A mother-claimant who does not satisfy the requirements of Article 758 of the Civil Code has *no* other possibility to obtain a judicial declaration of paternity of her child. Her *substitute* remedies are:

- (a) in fit cases, to claim damages for material and/or moral harm to herself;
- (b) where the intercourse has initiated an "irregular union," to claim aliments for the child (not for herself: see Article 711 of the Civil Code). (since in such case the child "has a father" Article 758 becomes inapplicable even if there was rape). She has no other possibility to recover aliments.

By: George Krzeczunowicz
Professor of Law,
Haile Sellassie I University

ጊዜያዊ ፡ አከራካሪ ፡ ጉዳዮች ።

የፍትሐ ፡ ብሔር ፡ ቍጥር ፡ ፯፻፶፰ ፡ ፯፻፷፩ ።

ከጆርጅ ፡ ክሸቸኖቪች ፡

በቀዳማዊ ፡ ኅይለ ፡ ሥላሴ ፡ ዩኒቨርሲቲ ፡ የሕግ ፡ ፕሮፌሰር ።

(አባትነት ፡ በፍርድ ፡ የሚገለጥበት ፡ ኹነታ ፡ በቍጥር ፡ ፯፻፷፩ ፡ ተወስኗል ።

አባትነትን ፡ በፍርድ ፡ ከማስታወቅ ፡ የተለየ ፡ ሌላ ፡ መድኃኖችን ፡ ለማስገኘት ፡ የሚያጋጥሙ ፡ ችግሮች) ።

በፍትሐ ፡ ብሔር ፡ ሕግ ፡ ተደንግጎና ፡ የጠቅላይ ፡ ንጉሠ ፡ ነገሥት ፡ ፍርድ ፡ ቤት ፡ ወይዘሮ ፡ ወርቅነሽ ፡ በዛብኸና ፡ እቶ ፡ ይደነቁ ፡ በተካሰሱበት ፡ ጉዳይ ፡ በቅርብ ፡ ጊዜ ፡ ፍርድ ፡ ሲሰጥ ፡ የሕጉን ፡ መንፈስ ፡ አብራርቶ ፡ እንደገለጠው ፡ [የኢትዮጵያ ፡ ሕግ ፡ መጽሔት ፡ ሸሊዩም ፡ ፩ (፲፱፻፶፰ ፡ ዓ. ም.) ፡ ገጽ ፡ ፲፯ ፡ ይመለከቷል] የዝምድና ፡ ሕግ ፡ የከረረ ፡ ኹኖ ፡ በመገኘቱ ፡ በአንዳንድ ፡ የኢትዮጵያ ፡ የሕግ ፡ ተመራማሪዎች ፡ ዘንድ ፡ ዐሳብ ፡ አሳድሯል ። የዚህ ፡ መግለጫ ፡ ዋና ፡ ዐሳማ ፡ ፍርድ ፡ ቤቱ ፡ በሰጠው ፡ በቂ ፡ ማብራሪያ ፡ ላይ ፡ ተጨማሪ ፡ መግለጫ ፡ ለመስጠት ፡ ሳይኾን ፡ በቍጥር ፡ ፯፻፶፰ ፡ የተወሰኑት ፡ ኹነታዎች ፡ ባለመፈጸማቸው ፡ የልጅዋን ፡ አባት ፡ በፍርድ ፡ ለማሳወቅ ፡ ያልቻለች ፡ እናት ፡ በሌላ ፡ ረገድ ፡ የሚኖራትን ፡ ሕጋዊ ፡ መድኃኖች ፡ ለመመርመር ፡ ነው ።

በዚህ ፡ ጽሑፍ ፡ የሚከተሉትን ፡ ጥያቄዎች ፡ ባጭሩ ፡ እንመረምራለን ፡- (፩) ስለ ፡ አባትነት ፡ (፪) ስለ ፡ ካሳ ፡ (፫) ስለ ፡ ልጅ ፡ ማሳደጊያ ፡ ቀለብ ፡ ረገድ ፡ ምን ፡ ዐይነት ፡ መድኃኖች ፡ ሊኖር ፡ ይችላል?

(፩) ስለ ፡ አባትነት ፡-

የልጅ ፡ እናት ፡ ልጅ ፡ በተጸነሰበት ፡ ወራት ፡ የመጠለፍ ፡ ወይም ፡ የመደፈር ፡ ሥራ ፡ ካልደረሰባት ፡ በቀር ፡ በፍትሐ ፡ ብሔር ፡ ሕግ ፡ ቍጥር ፡ ፯፻፶፰ ፡ መሠረት ፡ አባትነት ፡ በፍርድ ፡ እንዲገለጥ ፡ ለማድረግ ፡ አይቻልም ። ከነዚህ ፡ ከኹለቱ ፡ ኹነታዎች ፡ የተለየ ፡ ሌላ ፡ ኹነታ ፡ ሊኖር ፡ እንደማይችል ፡ ቍጥር ፡ ፯፻፷፩ ፡ በግልጽ ፡ ያስረዳል ። (እንዲሁም ፡ በቍጥር ፡ ፯፻፷፩ ፡ የተወሰነውን ፡ ይመለከቷል) ። ለምሳሌ ፡ በተንኮል ፡ ወይም ፡ በሌላ ፡ ዘዴ ፡ የግብረ-ሥጋን ፡ ተግባር ፡ እንድትፈጽም ፡ የማሳሳት ፡ ኹነታ ፡ ቢያጋጥም ፡ ወይም ፡ የተወለደው ፡ ልጅ ፡ የኔ ፡ ነው ፡ ብሎ ፡ በቃል ፡ ብቻ ፡ የማመን ፡ ኹነታ ፡ ቢያጋጥም ፡ አባትነትን ፡ በፍርድ ፡ ለማሳወቅ ፡ ሕጋዊ ፡ ዋጋ ፡ አይኖረውም ፡ ማለት ፡ ነው ። እንዲት ፡ አመልካች ፡ በቍጥር ፡ ፯፻፶፰-፯፻፷፩ ፡ መሠረት ፡ መድኃኖች ፡ ለማግኘት ፡ ካልቻለች ፡ አባትነትን ፡ በፍርድ ፡ በማስታወቅ ፡ ሳይኾን ፡ ምናልባት ፡ በሌላ ፡ ረገድ ፡ መድኃኖች ፡ ሊኖራት ፡ ይችላል ፡ እንደኾነ ፡ መመርመር ፡ ይኖርብናል ። ከውጭ ፡ አገር ፡ ሕግ ፡ የፍርድ ፡ ቤቶች ፡ ውሳኔ ፡ እንደምንረዳው ፡ አባትነትን ፡ በፍርድ ፡ ከማሳወቅ ፡ የተለየ ፡ መድኃኖች ፡ ለማስገኘት ፡ የሚቻልበት ፡ ብዙ ፡ ሕጋዊ ፡ መንገድ ፡ አለ ። ለምሳሌ ፡ እንዳንድ ፡ ኹነታዎች ፡ በጥፋት ፡ ሳይ ፡ የተመሠረተ ፡ ኅላፊነት ፡ በመፍጠር ፡

የካሳ፡ መድኅን፡ ሊያስገኙ፡ ይችላሉ፡ (ከዚህ፡ በታች፡ ካሳ፡ የሚለውን፡ ክፍል፡ ይመለከታል) ። እንዲሁም፡ የልጅ፡ ማሳደጊያ፡ ወይም፡ መስል፡ የኾነ፡ ቀለብ፡ የመቀበል፡ መድኅን፡ ሊያስገኝ፡ የሚችል፡ ኹነታ፡ ሊኖር፡ ይችላል፡ ብለው፡ በመጠኑ፡ የሚከራከሩ፡ አሉ፡ (ከዚህ፡ በታች፡ ቀለብ፡ የሚለውን፡ ክፍል፡ ይመለከታል) ።

(ደ) ካሳ ፡-

የተከሰቱ፡ አድራጎት፡ የመጥለፍ፡ ወይም፡ በግብረ፡ ሥጋ፡ የመድፈር፡ (ወንጀለኛ፡ መቅጫ፡ ሕግ፡ ቍ፡ ፩፻፶፰) ተግባር፡ ኹኖ፡ ባይቁጠርም፡ በወንጀለኛ፡ መቅጫ፡ ሕግ፡ ቍ፡ ፳፻፶፯፡ መሠረት፡ የማሳት፡ ተግባር፡ ኹኖ፡ ከተገኘ፡ ወይም፡ ማንኛውም፡ ዐይነት፡ የወንጀል፡ ተግባር፡ መኾኑ፡ ከተረጋገጠ፡ በፍትሕ፡ ብሔር፡ ሕግ፡ ቍ፡ ፳፻፶፰፡ መሠረት፡ ካሳ፡ ለመጠየቅ፡ ይቻላል ።

የተከሰቱ፡ አድራጎት፡ ወንጀል፡ ሳይኾን፡ ከመልካም፡ ጠባይ፡ ውጭ፡ ኹኖ፡ ከተገኘ፡ በፍትሕ፡ ብሔር፡ ሕግ፡ ቍ፡ ፳፻፶፰፡ መሠረት፡ ካሳ፡ ለመጠየቅ፡ ይቻላል ። የልጅዋን፡ አባት፡ በፍርድ፡ ለማሳወቅ፡ ክስ፡ የምታቀርብ፡ እኛት፡ በቍ፡ ፳፻፶፰-፳፻፶፯፡ መሠረት፡ መድኅን፡ ካጣችና፡ ጉዳዩም፡ በቂ፡ የመታመን፡ ዋጋ፡ ያለው፡ ኹኖ፡ ሲገኝ፡ በቍ፡ ፳፻፶፰፡ መሠረት፡ ካሳ፡ ልታገኝ፡ ትችላለች፡ ማለት፡ ነው ። አድራጎቱ፡ በሕግ፡ የማያስወቅስ፡ ከኾነ፡ ከጋብቻ፡ ሥርዐት፡ ወይም፡ ከጋብቻ፡ ውጭ፡ በግብረ፡ ሥጋ፡ መገናኘት፡ ብቻውን፡ ተጠያቂ፡ የሚያስደርግ፡ በቂ፡ ምክንያት፡ ሊኾን፡ አይችልም ፤ (የፍትሕ፡ ብሔር፡ ሕግ፡ ቍ፡ ፳፻፶፰፡ ይመለከታል) ።

ጉዳዩ፡ እግባብ፡ ያለው፡ ኹኖ፡ ሲገኝ፡ በፍትሕ፡ ብሔር፡ ሕግ፡ ቍ፡ ፳፻፶፰፡ ወይም፡ ፳፻፶፯፡ መሠረት፡ የኅሊና፡ ካሳ፡ ለመስጠት፡ ይቻላል ።

(ደ) ቀለብ ፡-

የፍትሕ፡ ብሔር፡ ሕግ፡ ቍ፡ ፳፻፶፰፡ መሠረት፡ በማድረግ፡ የልጅ፡ ማሳደጊያ፡ ቀለብ፡ ለማግኘት፡ ይቻላል፡ ይኾን? ሕጉ፡ በሚያዘው፡ መሠረት፡ አባትነት፡ ካልተረጋገጠ፡ ቀለብ፡ ለመስጠት፡ ሕጋዊ፡ ግዴታ፡ የለም ። ቀለብ፡ ሊያስሰጡ፡ የሚችሉ፡ ሕጋዊ፡ ኹነታዎች፡ በኢትዮጵያ፡ በጠባቡ፡ የተወሰኑ፡ ሲኾኑ፡ ለምሳሌ፡ በፈረንሳይ፡ አገር፡ የግብረ-ሥጋ፡ ሥራ፡ ለመፈጸም፡ ማሳት፡ ወይም፡ ልጄ፡ ነው፡ ብሎ፡ ማመን፡ (የፈረንሳይ፡ ፍትሕ፡ ብሔር፡ ሕግ፡ ቍ፡ ፫፻፵፯፡ እ. ኤ. አ. ፲፩/፯/፶፮፡ ዓ. ም. ይመለከታል)፡ በፍርድ፡ አባት፡ ሊያሰኝ፡ የሚችል፡ በቂ፡ ኹነታ፡ ነው ። በዚህ፡ ረገድ፡ ኹለት፡ ጉዳዮች፡ መመርመር፡ ይኖርብናል ።

(ሀ) አባትነት፡ በፍርድ፡ ሳይገለጡ፡ የፈረንሳይ፡ ፍርድ፡ ቤቶች፡ በዘወርዋራ፡ መንገድ፡ ቀለብ፡ የመስጠት፡ ግዴታ፡ እንዲኖር፡ ያደርጋሉ፡ (እንሳይክሎፔዲ፡ ዳሎዝ፡ ድርዋ፡ ሲቪል፡ ቶም፡ ፩፡ አሲመ፡ ቍ፡ ፳፫-፳፯) ።

የኢትዮጵያን፡ ሕግ፡ መሠረት፡ በማድረግ፡ እነዚህ፡ የፈረንሳይ፡ ፍርድ፡ ቤቶች፡ የሚጠቀሙባቸው፡ ዘዴዎች፡ እንዴት፡ እንደኾኑ፡ በምሳሌ፡ እናስረዳለን ። በፍትሕ፡ ብሔር፡ ቍ፡ ፳፻፶፰፡ መሠረት፡ አድራጎቱ፡ ሕግ፡ በሚያዘው፡ ሥነ፡ ሥርዐት፡ መሠረት፡ አባትነትን፡ እንደ፡ ማወቅ፡ ሊያስቁጥር፡ የሚችል፡ ባይኾንም፡ አባት፡ ነው፡ ሊያሰኝ፡ የሚችል፡ ግምት፡ የሚያሳድሩ፡ አድራጎቶች፡ (ለምሳሌ፡ አባት፡ ነኝ፡ ብሎ፡ የእምነት፡ ቃል፡ መናገር፡ ወይም፡ ለልጁ፡ የማሳደጊያ፡ ቀለብ፡ መስጠትን፡ የመሳሰሉ፡ ተግባሮች) ሲኖሩ፡ በሕግ፡ የማያስገድደውን፡ የኅሊና፡ ግዳጅ፡ ወደ፡ ሕጋዊ፡ ግዳጅነት፡ ይለውጡታል፡ ለማለት፡ ይቻላል ።

የኅሊና፡ ግዳጅ፡ መከላከያ፡ ሊኾን፡ እንደሚችል፡ የፍትሐ፡ ብሔር፡ ሕግ፡ ቀጥር፡ ጀቪሕጃጃጃ (፩) ያማልዳል ። ኹኖም፡ የፍትሐ፡ ብሔር፡ ሕግ፡ ቀጥር፡ ጀቪሕጃጃጃ፡ ጀቪሕጃጃጃ፡ እና፡ ጀቪሕጃጃጃ፡ የሚያዘትን፡ በመዝለል፡ የኅሊና፡ ግዴታን፡ ወደ፡ ሕጋዊ፡ ግዴታነት፡ ለውጦ፡ ለመቀበል፡ ይቻላል፡ ለማለት፡ አዳጋች፡ ነው ። አንዳንድ፡ የፈረንሳይ፡ ፍርድ፡ ቤቶች፡ አንዳንድ፡ ዐይነት፡ ግዴታ፡ በሌላው፡ መተካት፡ ወይም፡ ማደስ፡ (ኖቪሺን) ባይኖርም፡ አባት፡ ነው፡ ሊያሰኝ፡ የሚችል፡ ኹነታ፡ ባልተረጋገጠበት፡ ጊዜ፡ እንደ፡ ቀለብ፡ የሚሰጥ፡ ካሳ፡ ለመቀረጥ፡ እንደሚቻል፡ ያመለክታሉ፡ (ኤንሲክሎፔዲ፡ ዳሎዝ፡ ቀ። ፲፫፡ እና፡ በውስጡ፡ የተጠቀሱትን፡ ጥቅሶች፡ ጭምር፡ ይመለከቷል) ። ይህ፡ ዐይነት፡ ውሳኔ፡ በኢትዮጵያ፡ ሕግ፡ ትክክለኛ፡ ፍርድ፡ መኾኑ፡ ያጠራጥራል ። በፈረንሳይ፡ አገርም፡ ሲኾን፡ ለከሳሽ፡ እናት፡ የልጅ፡ ማሳደጊያ፡ ቀለብ፡ የማግኘት፡ መድገን፡ ለማሰገንት፡ ፍርድ፡ ቤቶቹ፡ የሚጠቀሙባቸው፡ ዘዴዎች፡ ትክክል፡ አይደሉም፡ የሚል፡ ትችት፡ ይሰማል ። (ለምሳሌ፡ “ማዞድ፡ ሌሶ፡ ዴ፡ ድርዎ፡ ሲቪል፡ ቶም፡ ፩፡ ቀ። ፱፻፷፫፡ እና፡ ቀ። ፱፻፹፯፡ ይመለከቷል) ። በቅርብ፡ ጊዜ፡ ታውጆ፡ በወጣው፡ የፍትሐ፡ ብሔር፡ ሕግ፡ ቀጥር፡ ፯፻፷፩፡ እና፡ ፯፻፷፩፡ ግልጽና፡ አስገዳጅ፡ በኾነ፡ ገይሉ-ቃል፡ የተነገረውን፡ በመዝለል፡ በእነዚህ፡ ዘዴዎች፡ ለመጠቀም፡ በኢትዮጵያ፡ በጣም፡ አስቸጋሪ፡ ይኾናል ። በጋራ፡ ልማድ፡ ሕግ፡ (የኩመን፡ ሎው)፡ በአህጉራዊው፡ ኤውሮጳ፡ ሕግ፡ (ኩንቲኔንታል፡ ሎው) እና፡ በኢትዮጵያ፡ የትርጉም፡ ደንብ፡ መሠረት፡ ሕጉን፡ ለመለወጥ፡ ሥልጣን፡ ያለው፡ የሕግ፡ ምክር፡ ቤት፡ ብቻ፡ ነው ። (የፍትሐ፡ ብሔር፡ ሕግ፡ ቀጥር፡ ፩፻፷፫፡ “በአርርቲኖሪ” — እንዲያውም፡ ከዚያ፡ በጠነከረ፡ ወይም፡ በክረረ፡ ምክንያት — ትርጉም፡ እንዲሁም፡ በ፲፱፻፶፯፡ ዓ. ም. በኹለተኛው፡ የኢትዮጵያ፡ ሕግ፡ መጽሔት፡ ገጽ፡ ፫፻፲፩፡ ላይ፡ ከጂ. ክሽኾኖቪች፡ “ስለ፡ ኢትዮጵያ፡ የሕግ፡ ትርጉም፡” የተጣፈውን፡ ይመለከቷል) ።

- (ሰ) በሰዎች፡ ዘንድ፡ በይፋ፡ የታወቀ፡ ኹኖ፡ ሳለ፡ በሕግ፡ ያልታወቀ፡ ዝምድና፡ በኢትዮጵያ፡ ሕግ፡ ሊኖረው፡ የሚችል፡ ውጤት፡ በፍትሐ፡ ብሔር፡ ሕግ፡ ቀጥር፡ ፩፻፹፱፡ ተገልጿል ። ኹኖም፡ በቀጥር፡ ፩፻፹፱፡ የተመለከተው፡ ሕጋዊ፡ ውጤት፡ ቀለብን፡ የሚመለከት፡ አይደለም ። ነገር፡ ግን፡ በፍትሐ፡ ብሔር፡ ሕግ፡ ቀጥር፡ ፯፻፵፩፡ እና፡ ፯፻፷፩፡ ስለ፡ ወደ-ገብነት፡ ኅብረቶች፡ (ከጋብቻ፡ ውጭ፡ በግብረ-ሥጋ፡ ስለ፡ መኖር፡) በተመለከተው፡ መሠረት፡ ሕጋዊ፡ ዝምድና፡ ለመመሥረት፡ ይቻላል ። የዚህም፡ ዐይነት፡ ዝምድና፡ በፍትሐ፡ ብሔር፡ ቀጥር፡ ፩፻፷፩፡ መሠረት፡ ቀለብ፡ የመስጠት፡ ግዴታን፡ ያዘለ፡ ነው ።

ማጠቃለያ ።

የፍትሐ፡ ብሔር፡ ሕግ፡ ቀጥር፡ ፯፻፶፮፡ የሚያዘው፡ ኹነታ፡ ካልተፈጸመ፡ የልጅዋን፡ አባት፡ በፍርድ፡ ለማሳወቅ፡ የምታመለከት፡ እናት፡ ፍርድ፡ ልታገኝ፡ አትችልም ። በምትኩ፡ ሊኖራት፡ የሚችል፡ መድገን ፤—

- (ሀ) ጉዳዩ፡ አግባብ፡ ያለው፡ ሲኾን፡ የግዙፍ፡ (የሚጨበጥ) ወይም፡ የኅሊና፡ ጉዳት፡ ካሳ፡ ወይም፡ ኹለቱን፡ ዐይነት፡ ካሳ፡ አጣምሮ፡ መጠየቅ ፤
- (ለ) ግንኙነቱ፡ የወደ-ገብነት፡ ኅብረት፡ አለ፡ የሚያሰኝ፡ ኹነታ፡ ያስከተለ፡ እንደኾነ፡ እናት፡ ስልጅዋ፡ ቀለብ፡ ለመጠየቅ፡ መብት፡ አላት፡ (የፍትሐ፡ ብሔር፡ ሕግ፡ ቀጥር፡ ፯፻፲፩፡ ለራሷ፡ ቀለብ፡ እንዳታገኝ፡ ያግዳታል) ።

