

LAW No. 23 of 11th January, 1975.
FAMILY LAW.

THE PRESIDENT
OF THE SUPREME REVOLUTIONARY COUNCIL

HAVING SEEN The first and the Second Charter of the Revolution;

CONSIDERING It necessary to promulgate a law concerning family life of the Somali People in order to create a healthy society;

HAVING HEARD The proposal of the Secretary of State for Justice and Religious Affairs;

HAVING HEARD The deliberations of the Supreme Revolutionary Council and the Council of Secretaries of State;

HEREBY PROMULGATES

the following law:

Article 1

The «Family Law» attached herewith is hereby promulgated.

Article 2

A copy of this law written in the Somali Language and signed by the President of the Supreme Revolutionary Council along with the Secretary of State for Justice and Religious Affairs shall be the original and shall be kept in the Office of the State Counsel.

Article 3

This Law shall come into force as from the 11th January, 1975.

Muqdiscio, 11 January, 1975.

THE PRESIDENT
of the Supreme Revolutionary Council
Major General Mohamed Siyad Barre

SECRETARY OF STATE
for Justice and Religious Affairs
Dr. Abdusalam Sheikh Hussein

FAMILY LAW

BOOK I.

MARRIAGE AND DIVORCE

Part. I.

MARRIAGE

Article 1

Application of the Law

The provisions of this law shall apply to all cases herein provided for. In the absence of a specific provision, the leading doctrines of the Shāfe'i school of law, the general principles of the Islamic law (Shariat) and social justice shall apply.

Chapter I.

PROMISE OF MARRIAGE

Article 2

Promise of marriage and «Bride's money» (Yarad)

1. Any party may promise marriage to the other, but the promisor is not obliged to fulfil the promise. However, the party who does not intend to fulfil his/her promise is obliged to convey his/her intention to the other party in clear terms.

2. Nobody may be compelled to pay Bride's money (Yarad). However he who pays «Yard» on his own volition may not reclaim it if he is responsible for the breach of the promise.

Article 3

Lawful promise

It is not lawful to promise marriage to a woman who is already married or already engaged to another man; likewise it is not lawful to promise marriage to a woman who is within the prohibited degrees of relationship or to a woman who is going through the period of «Iddat».

Chapter II.

CONTRACT OF MARRIAGE

Article 4

Definition and object of marriage

1. Marriage is a contract between a man and a woman having equal rights and duties; it is founded on mutual understanding and reciprocal respect between the contracting parties and its object is to create a united family, recognising that the family is the corner stone of society.
2. The husband is by law the head of the family.

Article 5

Formalities of marriage

Marriage shall be performed before a judge or a person authorised by the Ministry of Justice and Religious Affairs.

2. Where it is not possible to perform marriage before a judge or a person authorized by the Ministry, the marriage may be performed before a person who is well versed in the Islamic law.

3. Somali citizens residing abroad may perform marriage and divorce before the Somali Consular authorities.

4. Marriage shall be registered at the nearest District Court or at the expressly authorized office within 15 days of its performance. However, this period may be extended to 40 days for residents in rural areas.

5. The responsibility for registering the marriage lies upon the person who has performed it.

6. Whoever fails to discharge the duty mentioned above without any reasonable cause shall be punished with a fine of So. Sh. 100.

7. The supervision over registration and imposition of the fine are within the competence of the President of the Regional Court of Appeal.

Article 6

Essential elements of marriage

The essential elements of a marriage are the proposal and acceptance expressed by the contracting parties in the presence of two witnesses.

Article 7

Constraint, drunkenness and insanity

The marriage is not valid if contracted under compulsion whether physical or moral, in a state of drunkenness or by an insane person. However, the marriage of an insane person is valid if contracted upon advice of a panel of doctors.

Article 8

Form of marriage

1. Marriage may be performed by means of a proposal and acceptance expressed by legally competent persons.
2. Proposal and acceptance of marriage may be expressed orally by means of clear and unequivocal words. Both proposal and acceptance must be unconditional and not subject to any fixed periods.
3. The proposal and acceptance must be made in one meeting. The acceptance shall immediately follow the proposal.
4. Proposal may be made in the absence of the person who makes it. In such cases it shall be made in writing or through a special proxy.
5. If the proposal and acceptance cannot be made orally they shall be made in writing, if even that is not possible understandable signs may be used.
6. Proposal is valid until it is accepted.

Article 9

Requisites of witnesses

Witnesses shall be legally competent (major), of sound mind and conscious of the fact that the contract is one of marriage.

Chapter III.

PROHIBITIONS

Article 10

Prohibitions relating to consanguinity

A person is prohibited from contracting marriage with his/her ascendants and descendants, the descendants of his/her parents and the first degrees descendants of his/her grand parents.

Article 11

Prohibition relating to affinity

For reasons of affinity a person is prohibited from contracting marriage with:

- a) A woman who has been the wife of one of his ascendants;
- b) A woman who has been the wife of one of his descendants;
- c) An ascendant of his wife;

- d) A descendant of his wife, if he has consummated the marriage with her;
- e) A descendant of a woman with whom he has had conjugal intercourse following an invalid contract of marriage.

Article 12

Prohibitions relating to fosterage

- 1. Fosterage is as much a prohibition to marriage as consanguinity.
- 2. Fosterage shall not prohibit marriage unless it is proved that the child was breast-fed during the first two years of his life and the suckling took place on five different occasions with each of which the child was satisfied.

Chapter IV

MARRIAGE TO A SECOND WOMAN

Article 13

Conditions

A man may not contract marriage with a second woman unless he is authorized in writing by the competent District Court. The Court shall not authorize such a marriage unless it has ascertained the existence of one of the following conditions:

- 1. Sterility of the wife certified by a panel of doctors, provided that the husband was not aware of the fact before marriage.
- 2. Chronic or contagious disease of the wife, certified by a doctor, provided that the disease is incurable.
- 3. The wife is sentenced to imprisonment of more than 2 years.
- 4. Unjustified absence of the wife from the matrimonial home for a period of more than one year.
- 5. Existence of a social necessity. In this case, the authorization shall be granted by a person so authorized by the Ministry of Justice and Religious Affairs.

Article 14

Other prohibitions

It is forbidden to have as wives two women if between them there is a relationship which would prohibit marriage between them if they were of different sex.

Chapter V.

MARRIAGEABLE AGE AND VOID MARRIAGES

Article 15

Permission to remarry a former wife

1. It is unlawful for a man to remarry his former wife whom he has divorced by means of three «Talaqs» unless her «Iddat» period has elapsed following a valid, voluntary, and duly consummated marriage with another man.

2. Any person who violates the above mentioned provision shall be punished with imprisonment up to six months and fine up to So. Sh. 1000.

Article 16

Marriageable age

A person may freely contract marriage at the attainment of his/her 18th year of age. A woman who has attained the age of 16 years, but not 18, may contract marriage with the consent of her guardian. However the Court, in cases of necessity, may exempt the contracting parties from the observance of the age limits.

Article 17

Guardian's Consent

If the guardian refuses to give his consent to the marriage of his ward who has reached 16 years of age but not 18, the Judge or the person authorized by the Ministry of Justice and Religious Affairs shall assume the guardianship upon himself and shall perform the marriage according to her wishes.

Article 18

Marriage by Proxy

In the marriage contract the bridegroom may be represented by another person.

Chapter VI.

MARRIAGE GUARDIANSHIP

Article 19

Guardianship

1. Girls who have not attained the age of majority may be represented in the contract of marriage by her father and in his absence by her mother, her grandfather, her elder brother and then her uncle.

2. The guardian shall be of age, of sound mind and honest.

3. In the absence of the above-mentioned persons, or in case none of them wants to take the guardianship upon himself, or they are at a distance of more than 100 Km. from the place of marriage, the Court or the person so authorised by the Ministry of Justice and Religious Affairs shall assume the guardianship.

Article 20

Choice or appointment of guardian

1. If there are more than one relatives of the same degree, guardianship is entrusted to the relative chosen by the girl.

2. If the girl does not choose her guardian, the Court shall appoint a guardian.

Article 21

Escape from guardian's authority

Whoever, for the purpose of contracting marriage, takes away a girl who has not attained the age of majority to a place more than 100 Km. from her guardian's residence in order to escape from his authority, shall be punished, where the act does not constitute a more serious offence, with fine from So. Sh. 200 to So. Sh. 1000, or with imprisonment for a period not exceeding 3 months.

Chapter VII.

VALID, VOID AND IRREGULAR MARRIAGES
AND THEIR CONSEQUENCES

Article 22

Valid, void and irregular marriages

1. A marriage may be either valid, void or irregular.
2. A valid marriage is that which contains all its essential elements and whose conditions have been observed according to this law.
3. A marriage is void if it does not fulfil the following conditions in addition to those provided in Article 7.
 - a) if the contracting parties are legally incapable;
 - b) if it has taken place without witnesses;
 - c) if the woman is under any of the interdictions specified in articles 10, 11, 12 and 14 of this law;
 - d) if the woman is married to another man or she is observing the period of her «Iddat».
4. A marriage is irregular if any of the conditions provided in this law, other than those mentioned in the preceding paragraph, have not been observed.

Article 23

Legal effects of void and irregular marriage

1. The effect of a void marriage is that it creates no civil rights or obligations between the parties.
2. An irregular marriage produces the following effects:
 - a) Legitimacy of the children.
 - b) Prohibitions on grounds of affinity.
 - c) «Iddat» following a divorce or death.

Chapter VIII.

DOWER (Mahr)

Article 24

Obligatoriness, determination and limit of Dower (Mahr)

1. The bride is entitled by law to dower.
 2. the Dower shall be determined at the time of marriage.
 3. The maximum limit for Dower is So. Sh. 1000 or its equivalent in kind.
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Article 25

Advance and postponement of Dower

It is lawful to pay in advance or postpone the dower fully or in part, upto a fixed time.

Article 26

Remission of Dower

A wife who has attained the age of majority and is of sound mind may relinquish the whole dower «Mahr» or part of it.

Article 27

Dower and Divorce

In case divorce occurs before consummation of the marriage, the woman is entitled to half the dower specified in the marriage contract.

Chapter IX.

MARRIAGE EXPENSES

Article 28

Contribution to Marriage Expenses

Both the spouses shall contribute towards the marriage expenses and the exigencies of the matrimonial home in proportion to their financial capabilities.

Article 29

Joint property and personal affects

1. The house furniture is the joint property of husband and wife.
2. On the rescission of the contract such property shall be divided equally between husband and wife.
3. However, husband and wife shall each have exclusive right over their personal affects.

Chapter X.

MAINTENANCE

Article 30

Definition of Maintenance

Maintenance consists of alimony, clothes, housing, services, rearing of children, medical expenses and all that is necessary for the welfare of the family.

Article 31

Obligation of maintenance and its formalities

1. Both husband and wife shall share the expenses of the matrimonial home in proportion to their incomes; but in case one of them is not in a position to contribute, the other is obliged to bear all the expenses himself/herself alone.

2. In case of a dispute between husband and wife, the court may seek the opinion of persons having knowledge of the dispute and decide in the way it deems proper.

3. If either the husband or wife fails to fulfil his/her obligation regarding maintenance, he/she is bound, provided that he/she is not absolutely destitute, to pay his/her share.

4. If either the husband or the wife finds it impossible to obtain maintenance from his/her partner due to reasons other than the latter's indigence, the Court shall fix the maintenance debiting it against the defaulting partner and authorizing the other to contract debts upto the amount fixed above.

5. The creditor is entitled to claim restitution directly from the party against whom the Court has passed a decree.

Article 32

Provisional maintenance

1. Where a maintenance claim and its conditions are entertained by a Court, it may fix for the party suing a provisional amount until a final decision on the case is reached.

2. Such a decision is immediately enforceable.

Chapter XI.

DUTY OF COHABITATION

Article 33

Cohabitation

1. Husband and wife are obliged to cohabit with each other except in cases where cohabitation becomes impossible or there is a mutual agreement to contrary.

2. The wife is obliged to follow her husband, provided that there is no legal impediment to that.

PART II.

DISSOLUTION AND RE-ESTABLISHMENT OF MARRIAGE

Article 34

Ways of dissolution

The marriage contract ceases with divorce (talaq), dissolution (faskh) or death of one of the spouses.

Chapter I.

DIVORCE (TALAO)

Article 35

Revocable and Irrevocable divorce

1. Divorce (Talaq) is of two kinds: revocable and irrevocable.

2. Revocable divorce does not bring to an end the marriage link until termination of the «Iddat» period.

3. Irrevocable divorce brings the marriage to an end at the moment it occurs.

4. Any divorce (talaq) is revocable, with the exception of that which occurs before consummation of the marriage and the one with the pronouncement of the third «talaq» which completes the former two.

Article 36

Formalities of divorce

1. The right of divorce (talaq) belongs to the husband subject to the authorization by the competent court.
2. The Court may authorize a divorce only after referring the case to a conciliation committee appointed by it and upon ascertaining that it had failed its attempted reconciliation between the husband and wife.
3. In case of failure in the attempted reconciliation, the committee shall transmit its findings to the court within 60 days of its appointment.
4. The Court shall not authorize more than one «talaq» at a time.

Article 37

Re-establishment of marriage relationship

A revocable divorce shall not end the marriage relationship immediately; the union may be re-established during the period of «iddat».

Article 38

When revocable divorce becomes irrevocable

Once the «iddat» period lapses the revocable divorce becomes irrevocable and the man may remarry his former wife only by means of a new marriage contract.

Article 39

Irrevocable divorce

Irrevocable divorce namely the divorce which occurs with the pronouncement of the third «talaq» which completes the other two, ends the marriage relationship immediately and the man may not remarry his former wife unless the conditions specified in Article 15 are fulfilled.

Article 40

Divorce by dumb person

A dumb person may divorce in writing or through understandable signs.

Article 41

Validity of divorce

For a divorce (talaq) to be valid, the husband should be of age and of sound mind. A divorce by an insane person, a minor and a person under compulsion shall be invalid.

Chapter II.

DISSOLUTION OF MARRIAGE

Article 42

Dissolution (faskh)

1. Dissolution (faskh) means the rescission of the marriage contract brought about by the court.
2. Dissolution has the same legal effects as revocable divorce.
3. A suit for dissolution of the marriage shall deprive the husband of his right of divorce.

Article 43

Cases of dissolution

1. Both husband and wife are entitled to file a petition for dissolution of the marriage in any of the following cases:
 - a) If one of the spouses is suffering from an incurable disease which does not allow cohabitation or even if possible, it causes harm, on condition that the fact is proved by a medical certificate and that the petitioner was not aware of it before marriage;
 - b) If the whereabouts of one of the spouses are not known for more than 4 consecutive years; but if the missing person reappears before the dissolution judgment is delivered, the dissolution petition shall be rejected.
 - c) If one of the spouses, though able to provide, habitually refuses to provide maintenance to the other spouse who is actually in need of such maintenance.
 - d) If both husband and wife do not own anything and therefore none of them is able to meet the maintenance obligations, the Court shall decide the case only after 6 months from the date the dissolution petition was filed.
 - e) If disagreement between the spouses has become so serious as to make conjugal life impossible. In this instance the court shall follow the procedure laid down in Article 36.

- f) Perpetual impotency or sterility of one of the spouses.
- g) If one of the spouses is sentenced to imprisonment for a period exceeding four years, provided the petition of dissolution is submitted after the imprisoned spouse has completed his sentence.
2. The wife is entitled to apply for dissolution of the marriage if her husband has been authorized, according to Article 13, to contract another marriage and on condition that no children were born.

Article 44

Maintenance

Where Divorce (talaq) or dissolution (faskh) results through the fault of the husband, the Court shall order him to maintain his former wife for a period not less than three months and not more than one year.

If the divorce or dissolution results through a fault on the part of the wife the Court shall order her to pay to the husband a sum not less than her dower.

Chapter III.

PRESUMPTION OF DEATH

Article 45

Declaration relating to presumption of death

Presumption of the death of a missing person is declared by the Court after four years of his disappearance; as to members of the Armed Forces who disappear in the course of military operations, the Ministry of Defence shall issue a decree relating to presumption of death four years after such disappearance.

The Court shall declare the presumption of the death of a missing person after four years of his disappearance.

Article 46

«Iddat» after the presumption of death

After the declaration by the court or a decree of presumption of death is issued by the Ministry of Defence, the wife shall observe the «Iddat» of death from the moment the declaration is made or the decree is issued.

Article 47

Dissolution and re-establishment of marriage relationship

1. The declaration or decree specified in the preceding articles shall bring about dissolution of the marriage.
2. If the missing person re-appears or is known to be alive during the period of «Iddat», the marriage relationship shall be re-established automatically.
3. Once the «Iddat» is over, dissolution of the marriage becomes final.

Chapter IV.

« I D D A T »

Article 48

Duty to observe «Iddat»

The woman is obliged to observe the period of «Iddat» in the following cases:

- a) dissolution (faskh) of a consummated marriage;
- b) divorce (talaq) revocable or irrevocable following a consummated marriage;
- c) death or where the death of the husband is presumed even if it took place before consummation of marriage.

Article 49

When «Iddat» is not mandatory

Iddat except in the case provided for in paragraph (c) of article 48, is not mandatory if marriage has not been consummated.

Article 50

Duration of «Iddat»

1. The Iddat of a woman who is not pregnant lasts 90 days.
2. The Iddat of a pregnant woman lasts until delivery or abortion.
3. The Iddat of a widow lasts 4 months and 10 days.
4. The «Iddat» begins from the date of divorce (talaq) or death of the husband or dissolution (faskh) of marriage.

Article 51

«Iddat» after divorce or death

1. In case the death of the husband occurs while the woman is observing the Iddat following a revocable divorce, she shall pass to the Iddat for death and the previous period shall not be calculated.
2. If the husband dies during the period in which the woman is observing Iddat following an irrevocable divorce, she shall complete the Iddat for divorce and shall not pass to the Iddat for death.

Article 52

Maintenance during Iddat period

The husband shall continue to provide maintenance to his wife during the period of Iddat, if he was previously obliged to do so.

BOOK II.

CHILDREN AND MAINTENANCE

Part 1.

RELATIONSHIP

Chapter 1.

PATERNITY

Article 53

Pregnancy period

The minimum pregnancy period for the the purpose of establishing paternity is 180 days and the maximum is one solar year.

Article 54

Presumption and evidence of paternity

1. Paternity of the child is established if the following conditions exist:
 - a) If the marriage contract lasts more than the minimum pregnancy period;

- b) If there is no proof of the impossibility for the spouses to have met because of an actual impediment which lasted from the time of the contract to the time of the child-birth or that such impediment occurred after the contract and lasted twelve months or more. In case the impediment ceases, the pregnancy period is calculated as from the day the impediment ceased.
2. If any of the above conditions does not exist, paternity is not proved, unless acknowledged by the father.

Article 55

Paternity during and after «Iddat»

1. If a woman during her period of «Iddat» following a revocable divorce gives birth to a child, the paternity of the child is established in the man who divorced her.
2. If she delivers a child after the period of «Iddat» is considered to be over because its term has expired or because the woman admits that the period is over, paternity is considered to be proved if the woman has given birth to her child within 180 days of the presumed date of the expiration of the Iddat; in such cases unless the husband proves otherwise, child-birth is considered to be an evidence of his return to his wife (Raj'aa) and the Iddat period shall continue.

Article 56

Paternity following irrevocable divorce or husband's death

Paternity is proved if the woman delivers during the period of Iddat following an irrevocable divorce or after the husband's death, provided that the child's birth occurs within twelve months of the date of the irrevocable divorce or the husband's death.

Article 57

Paternity in defective marriage

In an irregular marriage the paternity is proved if the woman delivers the child before the relation is interrupted or separation takes place after six months and within twelve months of the actual conjugal intercourse.

Article 58

Paternity not established

Paternity is not established if it is decisively ascertained that the man is sexually impotent or cannot procreate children due to a physical or pathological impediment; in case of a controversy, the court shall avail itself of the opinion of experts.

Chapter II.

MATERNITY

Article 59

Proof of maternity

The maternity of a child is established in the woman who gives birth to the child; establishment of maternity entails all its material and moral consequences.

Chapter III.

ACKNOWLEDGEMENT OF PATERNITY

Article 60

Acknowledgement of paternity

Acknowledgement of paternity, even if it is made at the point of death, in favour of a person of unknown descent, establishes the paternity of the child in that man, on condition that the difference of age between the two allows it.

Article 61

Consent to acknowledgement

Acknowledgement of paternity or maternity establishes descent on condition that the person in favour of which the acknowledgement is made consents to it, and the difference of age between the two allows it.

Chapter IV.

CUSTODY OF MINOR (HADANA)

Article 62

Mandatory breast-feeding

The mother is obliged to suckle her child if it is not possible to foster it differently for whatever reason.

Article 63

Custody (hadana)

Custody of a child is the proper rearing, educating, cultivating good morals in it without prejudice to the specific rights of the guardian.

Article 64

Fitness for custody (hadana)

1. The mother is entitled to the custody (hadana) of her male child until he has completed the age of ten years and of her female child until she has attained the age of fifteen years. In case of her marriage to another man she may continue with custody of the children provided that the father consents.

2. If the mother dies or there is a legal impediment, the custody of the child shall pass to the father or some other relative.

3. In the absence of the above mentioned persons or in case of their unfitness, the Court may entrust the child's custody to another person or a relative of the child taking into account the interest of the child.

4. The court may restore the custody of the child to the mother or any of her relatives on the disappearance of the legal impediment.

Article 65

Requisites of the person entitled to custody

The person who has the custody of the child must look after the interests of the child and should be of age and of sound mind.

Article 66

Choice of the person entitled to custody

In case there are more relatives in the same degree entitled to the custody of the child, the court shall choose the one who is in the best interests of the child.

If they are more than one the one who does not take any remuneration shall be chosen.

Article 67

Marriage of the person having custody

If the person having custody of the child gets married with a person other than a relative of the child, he/she loses his/her right to the custody. This provision shall not however apply to the widow having the custody of her child.

Article 68

Right of custody cannot be waived

The right of custody of the child cannot be waived but it extinguishes with the termination of the period of custody.

Article 69

Termination of period of custody

1. The right of a woman to custody of the child ceases when the girl reaches 15 years of age and the boy 10 years.
2. The court may allow continuation of the custody of the boy or girl beyond the above fixed limit whenever it believes that they are not in a position to get along by themselves.
3. The period of custody terminates when the child attains the age of 18 years.

Article 70

Extension of the period of custody

If at the end of the period of custody the minor, whether male or female, is ill or insane, it is his/her mother who shall take care of him/her and keep him/her, even if he/she has surpassed the age of majority. If there is no mother, the Court may entrust him/her to the person it deems to be the most suitable for the purpose.

Article 71

Taking the child abroad

1. The person who has custody of the child may not take him/her outside the Republic except with the consent of the guardian.
2. In case of disagreement between the person who has the custody of the child and the guardian, the court shall decide.

Article 72

Right of access to the child

1. Where the child lives with one of its parents the one who has custody shall not deny the other the right of access to the child or from keeping the child for a short period.
2. Such a right belongs only to parents. In case of controversy, the Court shall decide.

Article 73

Suspension of right to custody

Force may not be used to have access to the child. However, if the parent who has custody denies the other the right of access the court may deprive the former of his right to custody for a period not exceeding one month.

Part II.

MAINTENANCE

Article 74

Right to maintenance

Relatives, with the exception of ascendants and descendants, shall not be entitled to maintenance.

Article 75

Maintenance of children

1. If the child has no property of its own it shall be maintained by its parents who are well of.
2. Maintenance of children by their parents shall continue.
 - a) In the case of daughter until she gets married or being of age she has found a job which enables her to maintain herself.
 - b) In the case of the son until he attains the age of majority.
3. If the son has attained the age of majority but is unable to work because of some illness or because he must pursue his studies the parents shall be obliged to maintain him.
4. During the period of maintenance children are subject to parental authority.
5. In case of dissolution of the marriage contract, for whatever reason, maintenance of children shall be regulated according to articles 31 and 32 of this law.

Article 76

Maintenance of parents

1. A wealthy son or daughter is obliged to maintain his/her parents if they are not in a position to maintain themselves.
2. If the children are more than one they shall contribute towards the maintenance of their parents in proportion to their incomes.

Article 77

Rights and duties of the poor

1. A poor person not obliged to maintain others is the person who does not own property the value of which is more than that which is considered according to customs to be sufficient for his legitimate needs and the needs of his children, for the settlement of debts over-due or about to mature nor has he any profession or any other source of income from which he could meet the exigencies mentioned herein.

2. A poor person entitled to be maintained by others is the person who is unable to procure for himself what is necessary for his maintenance or who is not able to procure enough for his living.

Article 78

Rights and duties of the well-to-do

1. A well-to-do person obliged to provide maintenance is the person who owns property the value of which is more than that which is considered according to customs to be sufficient for his own legitimate needs and the needs of his children, for the settlement of debts overdue or about to mature or who has a profession or any other source of income the proceeds of which are more than what is needed to cover the exigencies mentioned herein.

2. Immovable property and capital if they are the only sources of income shall not be considered to be in access of the needs mentioned in the preceding paragraph; nor the residential house whose value or area is just enough for him and his children to live in.

Article 79

Order of priorities

1. If more than one person are entitled to maintenance and the person obliged to maintain them is not able to provide maintenance to all of them priority shall be given to the wife, then the children and then the parents.

2. If more than one person is legally obliged and all of them are able to fulfil their obligation, each of them shall pay his/her share to each of the entitled persons.

3. If they are not able to pay all the shares in respect of maintenance, the provision of para. 1 above shall apply.

Article 80

Commencement and termination of maintenance

Maintenance shall commence as from the date on which the right accrues. It shall be considered a debt and shall not extinguish unless satisfied or remitted.

Article 81

Compensation

Maintenance of the son by his father shall not be compensated by the debt owed to the father by the foster-mother.

BOOK III.

GUARDIANSHIP, CURATORSHIP AND POWER OF ATTORNEY

Part I.

GUARDIANSHIP

Article 82

Guardian

Guardianship of the minor and his property shall be vested in the father, his mother, his grandfather and then the legatees of one of them.

Article 83

Duties of the Guardian

The guardian shall look after the minor's property, administer it and take care of its disposal according to this law.

Article 84

Prohibition to donate the property of the minor

The guardian may not donate the property or its proceeds belonging to the minor. Should anybody donate the property or the proceeds thereof, the act shall be null and void and the donator shall be liable for it.

Article 85

Disposal of the property of a minor

The guardian may not use the minor's property to his own advantage or to the advantage of his wife or her relatives except upon the authorization of the Court. Likewise the guardian may not mortgage the minor's property against his/her personal debt.

Article 86

Loan of property

The guardian may not loan the property of a minor nor borrow it except with the consent of the Court.

Article 87

Termination of guardianship

Guardianship shall terminate when the minor attains majority, provided that the Court does not order its continuation.

Article 88

Withdrawal or limitation of guardianship

If the minor's property is endangered due to mal-administration by the guardian or due to any other reason, the court may withdraw the guardianship or limit its scope.

Article 89

Restitution of minor's property

The guardian or his heirs are bound to restitute to the minor his property at the moment he attains the age of majority; as regards the property which they have disposed of, they shall be liable to account for the value the property had at the moment it was disposed of.

Part II.

CURATORSHIP AND POWER OF ATTORNEY.

Chapter I.

CURATOR OF THE MINOR

Article 90

Requisites of the curator (Wasi)

The curator shall be legally competent, suitable to the task and of good reputation. In particular, a person cannot be appointed as curator if:

- a) he has been convicted for a serious offence;
- b) he is known for his bad habits or has no legal means of subsistence;
- c) he has been previously deprived of the minor's guardianship, or has been deprived from the curatorship of the minor;
- d) he has a judicial dispute with the minor; or if his ascendants, descendants or wife have a judicial dispute with the minor; or in case there is hostility between him and the minor or, when there are grounds for fear that the interests of the minor might be jeopardised.

Article 91

Appointment of curator

Both the father and the grandfather may choose a curator (wasi) for the minor, and may at any time withdraw their appointment. The curatorship is to be referred to the Court for confirmation.

Article 92

Appointment of curator by the Court

If a curator has not been chosen for the minor, it is the court that shall appoint him.

Article 93

Appointment of more than one curator

1. In case of necessity it is lawful to appoint more than one curator. In such cases they shall act jointly and not separately.
2. In case of conflict among the curators, the dispute shall be referred to the court for decision.

Article 94

Duties of curator

The curator receives the minor's property in order to administer it and take care of it. In doing so he shall take care of it in such a way as if he were a paid attorney.

Article 95

Limitations to the activities of curator

The curator is forbidden to perform the following unless with the consent of the Court:

- a) to dispose off the minor's real estate or mortgage it;
- b) to dispose off movables or cash money, with the exception of what is necessary for the ordinary administration thereof;
- c) to borrow or lend money which belongs to the minor;
- d) to rent real estate belonging to the minor for a period of more than three years, if not to the advantage of the minor;
- e) to rent real estate belonging to the minor for a period of more than one year from the date he attains the age of majority;
- f) to waive rights and claims, and to accept judgements which could be appealed against on good grounds, or withdraw a well grounded appeal after lodging it;
- g) to rent the minor's property to his advantage or his wife, or any of their relatives or a person for whom the curator in an agent.

Article 96

Custody of cash money

The curator shall deposit in the name of the minor with the court or with a bank according to the Court's directions all the money he has in his custody, after putting aside the amount fixed for maintenance and the sum which the court deems enough to cover administration expenses. This must be done within fifteen days of the date on which the money was received, and the curator shall not withdraw anything from that sum unless with the authorization of the Court.

Article 97

Accounts of Administration

The curator shall present to the competent court accounts of his administration corroborated by documents within the 31st December of each year.

Article 98

Remuneration to curator

The curator is not entitled to any remuneration. But the court may, at the curator's request, allot him a salary or grant him remuneration for a specific work.

Article 99

Termination of curatorship

The curator's task shall terminate:

- a) when the minor attains the age of majority, provided that the court does not decide that the curator should continue;
- b) if he is discharged or his resignation is accepted;

- c) if he is deprived of the exercise of civil rights, or his absence is ascertained, or he dies;
- d) when the child dies.

Article 100

Discharge of Curator

The Curator shall be discharged:

- a) if any of the impediments mentioned in article 90 exists, even if existed at the time of his appointment;
- b) if he mismanages the property or neglects it, or his continuance in office is not in the minor's interest.

Article 101

Delivery of goods

The curator shall within thirty days of the termination of his curatorship deliver the property which is in his custody to the competent court.

Article 102

Delivery of goods by heirs or agent

If the curator dies or is deprived of the exercise of legal rights or is considered as missing, his heirs or his agent are obliged to deliver the minor's property to the competent court.

Chapter II.

CURATORSHIP OF PERSON UNDER DISABILITY

Article 103

Custody of person under disability and appointment of curator

1. The custody of a person who has attained the age of majority but is insane or an idiot shall take effect from the day the disability is discovered. Similar decisions shall be taken in case of foolish persons or persons under fatuity. The custody of the above mentioned persons may be revoked by the competent court.

2. The court shall appoint a curator of the property of the person under disability. The rules provided for the curatorship of minors shall apply to the management of the property of the person under disability.

Article 104

Expenses for medical treatment

The expenses needed for medical treatment of the person under disability shall have priority over every other expense.

Article 105

Curator of the person under disability

Curatorship of the person under some disability shall be entrusted upon the father, then the grandfather and then the person chosen by the court.

Chapter III.

POWER OF ATTORNEY FOR MISSING PERSON

Article 106

Missing persons

The court shall appoint an attorney for the missing person, when his whereabouts are not known for more than one year and where such absence causes prejudice to the interests of the missing person i.e.:

- a) if he has disappeared and it is not known whether he is alive or dead;
- b) if he has no fixed residence or domicile, or if he is domiciled outside the Republic and it is impossible for him to attend personally to his business or to control the person to whom he has delegated the administration of his property.

Article 107

Acceptance of power of attorney

If the missing person has left behind a general agent, the Court shall confirm him, if the necessary requisites for curatorship are existent in him otherwise it shall appoint some other person.

Article 108

Termination of absence

Absence terminates with the cessation of its cause or when the death of the missing person becomes known or is declared by a judgement or decree issued by the competent organs.

Article 109

Rules applicable

The provisions established for the curatorship of minors shall also apply to the powers of attorney for a missing person.

Chapter IV.

ADOPTION

Article 110

Condition for Adoption

Persons whose parents are unknown may be adopted by Somali citizens and other permanent residents of age. The ages of the parties must be such as to admit of the adopter being the father of the person adopted. Persons of known parents may be adopted provided that they retain the name of their father.

Article 111

Procedure of adoption

Whoever intends to adopt a person who fulfils the conditions laid down in the preceding article shall submit an application to the District Court of the place in which he resides, stating his irrevocable desire to adopt that person and proving that he is in possession of sufficient means to take good care of him.

Article 112

Court Proceedings

The Court after considering the application on its merits and having heard the person to be adopted shall decide to allow or reject the application. Such decision shall be taken after having heard the opinion of the Attorney General which shall however not be binding.

Article 113

Transmission of decision to the Registrar's Office

In case the application is allowed, it shall be transmitted to the Registrar's Office of the local Government for entering on it, the dates of birth of the person to be adopted and the adopting person. Thereafter the name of the adopting person is added to the name of the person adopted.

Article 114

Effects of Adoption

Adoption creates between the person adopted and the adopting person a relationship similar to filiation. If the adopting person has other children, the adoptee shall share equally with them the rights and duties towards the adopting parent.

Article 115

Supervision of minor

may be legalised by a decree of the President of the Supreme Revolutionary Council.

Article 116

Exceptional cases

In exceptional cases which are not provided for in this law, adoption may be legalised by a decree of the President of the Supreme Revolutionary Council.

BOOK IV.

TESTAMENTARY SUCCESSION

Part I.

THE WILL (WASIYYAT)

Chapter I.

DEFINITION OF WILL AND CONDITIONS OF VALIDITY

Article 117

Definition

The will consists of directions for disposition of one's property after death.

Article 118

Form

The will may be made orally or in writing with words indicating such intention. If the testator is unable to speak or to write, the will may be made through understandable signs.

Article 119

Conditions

For a will to be lawful it must have been made voluntarily. Moreover its aim should not be inconsistent with the law. If the testator is not a muslim, his will is valid on condition that it is not illegal according to the law to which the testator is subject to and does not endanger the Public Order.

Article 120

Conditional Bequest

1. Without prejudice to the provisions of the preceding article, a conditional bequest is valid. If the condition is lawful it shall be observed, as long as the interest it intends to safeguard persists. The condition shall not be observed if it is unlawful or if the interest which it intends to produce dies away.

2. A lawful condition is that which involves an interest of the testator or the legatee or any other person, provided that it is not contrary to or inconsistent with the law.

Article 121

Requisites of the testator

The testator must be of age, of sound mind and free to choose, even though under guardianship because of foolishness or fatuity (safah and ghafiat). The will of an apostate is valid on condition that he reverts to Islam, otherwise it shall be invalid.

Article 122

Requisites of the legatee

1. The legatee must fulfil the following conditions:

- a) he/she is known;
- b) he/she has the capacity to possess;
- c) he/she exists at the time the will is made, if he has been nominated.

2. If he/she has not been nominated it is not necessary that he/she be existent at the time the will is made or at the time of the testator's death.

Article 123

Charitable legacy

It is lawful to bequeath in favour of places of worship, charitable institutions or other pious or cultural organizations, provided that the bequest is not contrary to the principles of the Islamic law (Shariat).

The legacy is spent to meet the cost of the buildings, needs of the poor and other activities carried out by such institutions, provided that it is not contrary to the custom or the directions contained in the will do not establish otherwise. It is lawful to bequeath in the name of God and charitable deeds without indicating any specific place; thus the legacy is spent in beneficence.

Article 124

Conditions for legacy

The legacy is subject to the following conditions:

- a) is something that can be transferred hereditarily, or that can be lawful negotiated;
- b) is something which is useful;
- c) is something existing at the time the will is made and belonging to the testator, in case it has been specifically indicated.

Article 125

Legacy of a specified share

The will establishing for the legatee a specified share of property is valid. If such a share is higher than one third of the inheritance, the will shall not be enforced as to the part exceeding the one third, unless with the consent of the heirs.

Article 126

Will by an insane person

The will by an insane person shall be invalid if his insanity lasts until death. Equally invalid shall be the will where the legatee does not survive the testator.

Article 127

Nullity of the will if the bequeathed goods perish

The will is not valid if the bequeathed goods perish before they pass into the hands of the legatee.

Article 128

Will of a fool or a person under fatuity

The will of a person under disability because of foolishness or fatuity is valid.

Article 129

Bequest to testator's murderer

A legatee, who causes the death of the testator is disentitled to take the legacy if he caused the death intentionally.

Chapter II.

REVOCATION, ACCEPTANCE AND REFUSAL OF BEQUEST

Article 130

Will when revocable

The testator may revoke his will totally or partially, expressly or tacitly. The will shall be considered revoked if any step or action taken, whether customary or otherwise, suggests such revocation. Thus when the testator destroys the subject matter of his bequest or completely alters its nature, a revocation may be inferred.

Article 131

Acceptance or refusal of bequest

The will is subject to acceptance by the legatee expressly or tacitly after the testator's death. If the legatee is an unborn child (janin) or a minor or a person under judicial disability, acceptance or refusal shall be expressed by the person who is the guardian of the property. For charitable institutions, organization and foundations, acceptance shall be expressed by their legal representatives. If there are no legal representatives, the legacy shall pass to such bodies even without acceptance.

Article 132

Acceptance or refusal expressed by heirs

If the legatee dies before expressing his acceptance or refusal, it shall be expressed by his heirs.

Article 133

Time-limit for acceptance or refusal

It is not necessary that acceptance or refusal should immediately follow the testator's death. However, the will shall be invalid if, after having been officially notified, the legatee does not express in writing his acceptance or refusal within ninety days.

Article 134

Partial acceptance or refusal

If the legatee accepts a part of the legacy and refuses some other part of it, the legacy shall be valid as to the accepted part and be invalid as to the refused part. If some of the legatees accept the legacy and some of them refuse it, the legacy is valid for those who have accepted it and invalid for those who have refused it.

Article 135

Refusal expressed before or after the testator's death

If the bequest is refused before the testator's death it is valid. But it is invalid if it is refused after death.

Chapter III.

THE LEGATEE AND THE LEGACY

Article 136

Bequest in favour of existent and inexistent persons

A bequest in favour of a person not in existence is not valid. But it is valid if it includes existent and inexistent persons, provided that the inexistent ones could be counted. If one of the legatees is found at the time of the testator's death or after, the proceeds of the inheritance shall belong to him alone, until the others are found: from the moment they are found they also shall take part in the partition of the proceeds. Each of them shall take a share in the proceeds together with the person who was existent before, until the possibility of the existence of some other entitled person ceases. In that event both the proceeds and the capital shall become the property of all of them and the share of the person who dies becomes part of his inheritance.

Article 137

Legacy of proceeds only

If the legacy bequeathed to the persons indicated in the preceding article consists of proceeds only, and none of the legatees is found at the time of the testator's death, such proceeds shall belong to the testator's heirs. If at the time of the testator's death or afterwards one of the entitled persons is found, the proceeds shall belong to him and to all those who may be found after him, until their progressive disappearance; then the proceeds shall pass on to the testator's heirs.

Article 138

Legacy to persons without specification and limitation

A legacy in favour of persons who are not named and their number not limited is valid. In such cases only the needy among them shall be entitled to the legacy with the exclusion of the others. Partition of the legacy is entrusted to the executor of the will, who shall either make a general partition or a partition in equal shares. The executor of the will shall be appointed by the deceased, failing which he shall be appointed by the court or the person nominated by the court.

Article 139

Bequest to an unborn person

1. A bequest to a child in womb is valid if its existence was known at the time when the will was made and if it is born alive within six months of the date of the will. If the mother is not married it is necessary that the child be born alive within twelve months, otherwise the bequest shall be invalid.

2. If the bequest is in favour of an unborn child of a named person, it is valid if the conditions for the establishment of paternity of the unborn child in that person are fulfilled and the proceeds from the legacy are suspended until the child is born alive; the legacy shall then become the property of the child.

Article 140

Birth of twins or more children

If a woman gives birth to twins or more children at the same time or within less than six months the legacy shall be divided among them in equal shares, unless the will provides otherwise. If one of the children is born dead, the living one or the living ones are entitled to all the legacy.

Article 141

Bequest in favour of heirs and limitations to legacy

1. A bequest to an heir is not valid unless the other heirs consent to it.

2. It is lawful to bequeath in favour of a person who is not an heir if it does not exceed one third of his estate. If the legacy exceeds one third, it is not valid unless the other heirs consent thereto after the testator's death and provided that they have the capacity to donate and understand what they are consenting to.

Article 142

Bequest by indebted person

It is lawful for the debtor whose property is wholly absorbed by debts to leave a will. But the will shall not be executed unless after remission of the debts. If the remission is only partial or the debt does not absorb all the property, the will shall be executed as to the part of the property which is left after payment of the debt.

Article 143

If debts do not exceed the property

If the debt does not absorb all the property and it has been paid wholly or partially from the legacy, the legatee may claim the sum corresponding to the part of the debt which has been paid from the one third of inheritance after payment of the debt.

Article 144

Legacy by person who has credits

If the legacy consists of a fixed amount of money or property and the inheritance consists of credits or some invisible property, the legatee is entitled to receive one third of it and the remaining part shall go to the heirs; and of whatever later comes into light the legatee is entitled to one third until he receives all his share in the legacy. However, if the legacy can be satisfied from the inheritance it shall be accounted for.

Article 145

Legacy of a generic share

If the legacy refers to a generic share of the inheritance, and there is in such share a credit or some invisible money, the legatee is entitled to his share of what is visible in the inheritance and of anything which later on might come into light.

Article 146

Legacy of goods which are lost or are due to others

If the legacy refers to a specific part of the inheritance, or a particular type of goods and they are lost or are due to some other person, the legatee shall not receive anything. If they are lost or due to others only partially, the legatee shall receive one third of what is left if it is possible, otherwise he shall receive his entitled share of one third proportionately.

Chapter IV.

LEGACY OF FACILITIES

Article 147

Legacy of a facility

1. If the legacy consists of a facility to a nominated person for a fixed period of time, of which the beginning and end are mentioned, the legatee is entitled to enjoy it for that period. If such period ends before the death of the testator, the legacy is considered as not made. If it ends after, the legatee is entitled to enjoy the facility for the period after the testator's death. If the period is specified but its commencing date is not mentioned, it is supposed to commence from the date of the testator's death.

2. If the legacy consisting of facility to a specific person is for ever, or for his life time or the period is without limitation, the legatee is entitled to enjoy the facility for all his life.

Article 148

Legacy of facility to unlimited number of persons

1. If the legacy consisting of a facility is in favour of an unlimited number of persons who cannot be differentiated, or it is in favour of a charitable institution and the period is not limited, the legatee is entitled to enjoy the facility for ever.

2. If the legacy is in favour of unlimited number of persons who can be differentiated, the legatees are entitled to enjoy the utility, until their final disappearance.

3. If the legacy is for a period of time whose beginning and end are indicated or if the period is fixed but its beginning and end are not indicated, the rules provided in the preceding article shall apply.

Article 149

Utilization different than that mentioned in the will

If the property whose facility has been bequeathed allows a utilization different from that which has been indicated in the will, the legatee may accordingly utilize it as he deems most suitable, on condition that the property whose facility has been bequeathed to him is not damaged.

Article 150

Profit or proceeds of legacy

If the legacy consists of profit or proceeds from a property, the legatee is entitled to them if they were existing at the time of the testator's death and he shall be entitled to whatever accrues thereafter provided that it does not conflict with the intentions of the testator.

Article 151

Taxes due on the legacy

1. If the legacy of a facility is in favour of someone and the ownership of the property is bequeathed to some else, taxes due on the property and obligations related to the facility shall be the responsibility of the person to whom the bequest of the facility is made.

2. The legacy of a facility shall cease with the death of the legatee whether he has enjoyed it totally or partially; it shall also cease with the purchase by the legatee of the property whose facility he had received, with the waiving of his right in favour of the testator's heirs with or without a reward, and with the passing on of the property bequeathed to others.

Part II.

INHERITANCE

Chapter I.

GENERAL PRINCIPLES

Article 152

Death of testator and right to inheritance

The right to inheritance is acquired with death of the testator or with the declaration of death by the court or by the decree of the Ministry of Defence according to the provisions of article 45 of this law.

Article 153

Heir to be alive

1. In order that the right to inheritance may be established it is necessary to ascertain that the heir was alive, even for a moment, after the death of the testator or after the declaration of his death by a court or a decree.
2. An unborn child is entitled to the inheritance if the conditions provided under article 170 of this law are fulfilled.

Article 154

Death at the same time

If two persons die at the same time and it cannot be ascertained who died first, no inheritance rights shall arise amongst them.

Article 155

Deductions from inheritance

1. Before succession takes place, the following deductions shall be made from the inheritance in the order mentioned herein:
 - a) What is enough for the funeral expenses of the deceased;
 - b) What is needed to pay off mortgages or other bonds due on the inheritance;
 - c) What is needed to pay the debts of the deceased;
 - d) Legacies within the limits provided for by the law.All property that may remain after deduction of the above mentioned charges is heritable property.
2. If there are no heirs, the inheritance goes to the State Treasury.

Article 156

Loss of right to inherit

A person who causes the death of another shall not inherit his property.

Article 157

Titles of inheritance

Titles of inheritance are:

1. Relationship;
2. Marriage.

Chapter II.

SHARES OF INHERITANCE

Article 158

Equal rights of the two sexes

In conformity with the principles of the 1st and 2nd Charter of the Revolution females and males shall have equal rights of inheritance.

Article 159

Persons entitled to inheritance

1. After the deductions mentioned in article 155 of this law, persons entitled to inheritance are:

Husband and wife, their children, grandchildren of both sexes, father, grandfathers, mother, grandmothers, full brothers and sisters, brothers and sisters of father and brothers and sisters of mother.

2. If there is no one of the above-listed entitled persons, or if after the partition of the inheritance something of it is left, it goes to the State Treasury.

Article 160

Shares belonging to spouses

1. The widower or widow is entitled to half of the estate in case there are no children or grandchildren.

2. If there are children or grandchildren the widower or widow is entitled to one fourth of the estate.

3. If there are more than one widow, her share of one half or one fourth as specified above shall be equally divided amongst them.

4. If the persons entitled to inheritance are; one of the spouses, he mother and the father, the spouse shall inherit one half of the estate and remaining part of the estate shall be divided equally amongst the mother and the father.

Article 161

Children and grand children

1. If the deceased leaves an only son or daughter, he/she inherits the whole estate.

2. If there are more sons and daughters, the inheritance shall be divided equally among them irrespective of their sex.

3. If there are no children, but there are grand children whether male or female the inheritance shall be divided among them according to the provisions of para. 1 and 2 above.

Article 162

Father's and grandfather's share

1. If the deceased person leaves only his father, he shall inherit the whole estate.
2. If along with the father there are also children and grandchildren of the deceased the father is entitled to one sixth share and the remaining estate shall be divided equally among the children and grandchildren.
3. The grandfather shall inherit his share according to para. 1 and 2 of this article.

Article 163

The mother and the grandmother

1. If the deceased person leaves only his mother, she inherits the whole estate.
2. If along with the mother there are also children and grandchildren of the deceased whether male or female, the mother is entitled to a one sixth share of the estate and the children and grandchildren shall divide equally among themselves the remaining part of the estate.
3. The grandmother shall inherit in the manner provided by paras. 1 and 2 of this article.

Article 164

Shares of Brothers and Sisters

1. If the deceased leaves only a brother or a sister, full or half, he/she shall inherit the whole estate.
2. If there are more brothers or sisters, the estate shall be divided among them in equal shares.
3. If together with one or more brothers or sisters there is the grandfather or grandmother, the latter shall inherit one sixth share of estate and the rest shall be divided equally among them.

Chapter III.

EXCLUSION FROM INHERITANCE

Article 165

Exclusion (Hajb)

1. Exclusion (Hajb) means when a person has the capacity to inherit but does not inherit due to the presence of another heir whose right to inherit has priority over his.
2. Exclusion may be total or partial.

Article 166

Person barred from inheritance

A person barred from inheritance due to some impediment cannot exclude others from inheritance.

Article 167

Father and mother, grandfather and grandmother

1. The father excludes the grandfathers and grandmothers. The mother excludes the grandmothers and grandfathers.

2. «Grandmother» means the mother's mother and the father's mother in the first degree. «Grandfather» means the father's father and the mother's father in the first degree.

Article 168

Brothers and Sisters

Brothers and sisters, full or half are excluded by the father and the mother, the deceased's children and grand children.

Article 169

*Children and grandchildren, the spouses,
Father and grandfathers, mother and grandmothers*

1. The deceased's children exclude the grandchildren.

2. The children or the grandchildren diminish the shares of the following if they exist: Husband and wife, the father, the grandfather, the mother and the grandmother.

Chapter IV.

CHILD IN THE WOMB AND MISSING PERSON

Article 170

Inheritance by the child in the Womb and its conditions

1. The share belonging to a child in the womb shall be reserved when the partition of the inheritance takes place.

2. If a man dies leaving his wife or a woman observing her period of Iddat, the child in her womb shall not inherit unless it is born alive within twelve months from the date of death or separation.

3. The child in the womb shall not inherit from persons other than its father unless any of the following conditions exists:

- a) that it is born alive within twelve months of the date of the death or separation in case the woman is in the period of her «Iddat» due to her husband's death or rescission of the marriage relationship and the testator dies during the period of «Iddat».
- b) that it is born alive within nine months of the date of the testator's death, if the marriage relationship existed at the time of the death.

Article 171

Reservation of the share of the missing person and its conditions

1. The share to which the missing person is entitled to shall be reserved and if he re-appears alive he shall take it.

2. If the missing person has been declared dead by the court or by means of a decree of the Ministry of Defence, and he belonged to the Armed Forces according to the provisions of article 45 of this law, the share reserved for him shall be distributed among the persons entitled to the inheritance at the time of the testator's death. If the missing person reappears alive after his death has been declared he shall recover his share from the persons who had previously received it.

Part III.

FINAL PROVISIONS

Article 172

Penal provision

Whoever violates the provisions of this law for which no penalty is specifically provided and the offence is not serious, shall be punished with imprisonment from six months to three years and fine from Sh. So. 1000 to Sh. So. 3000.

Article 173

Regulations and interpretation

The Secretary of State for Justice and Religious Affairs shall issue Regulations for the proper implementation and interpretation of this law.

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