

Federal Law No. (28) of 2005 On Personal Status

Preamble

We, Khalifah Bin Zayed Al Nahyan, President of the United Arab Emirates State,

Pursuant to the perusal of the Constitution; and:

Federal Law No. (1) of 1972 On the Jurisdiction of the Ministries and the Powers of the Ministers and its amending laws;

Federal Law No. (10) of 1973 On the Federal Supreme Court and its amending laws;

Federal Law No. (6) of 1978 On the Establishment of Federal Courts and the Transfer of the Jurisdictions of the Local Courts in Some of the Emirates to These Federal Courts and its amending laws;

Federal Law No. (17) of 1978 On Organization of the Cases and Procedures of Appeal in Cassation Before the Federal Supreme Court and its amending laws;

Federal Law No. (3) of 1983 On the Federal Judicial Authority and its amending Laws;

The Penal Law issued by Federal Law No. (3) of 1987;

The Civil Transactions Law issued by Federal Law No. (5) of 1985 and its amending laws;

Federal Law No. (22) of 1991 On the Notary Public and its amending laws;

The Law of Evidence in Civil and Commercial Transactions, issued by Federal Law No. (10) of 1992;

The Law on Civil Procedures, issued by Federal Law No. (11) of 1992

Federal Law No. (21) of 1997 on Fixing the Dowry in the Contract of Marriage and its Expenses; and

Acting upon the proposal of the Minister of Justice and Islamic Affairs and Wakfs, the approval of the Council of Ministers and ratification of the Federal Supreme Council;

We have promulgated the following Law:

GENERAL PROVISIONS

Article (1)

1. The present Law shall apply to all facts occurring subsequent to the coming into force of its provisions.

It shall retrospectively apply to divorce attestations and divorce lawsuits that have not received final settlement.

2. The provisions of this Law shall apply to citizens of the United Arab Emirates State unless non-Muslims among them have special provisions applicable to their community or confession. They shall equally apply to non-citizens unless one of them asks for the application of his law.

Article (2)

1. In understanding, interpreting or construing the legislative provisions of this Law, the principles and rules of the Muslim doctrine shall be consulted.

2. The provisions of this Law shall apply to all matters dealt with herein, in words and context. For the purposes of interpretation and completion of their provisions, the doctrinal school of thought from which these matters derived shall be consulted.

3. In the absence of a text in this Law, judgment shall be given in accordance with what is widely known of Malik's doctrine, then Ahmed's, then El Shaffei's, then Abi Hanifa's doctrine.

Article (3)

Unless otherwise provided, the lunar computation shall be adopted in calculating the time limits mentioned in this Law.

Article (4)

In the absence of any text in this Law regulating the procedures of any matter, the provisions of the Civil Procedures Law and the Law of Evidence in Civil and Commercial Transactions shall apply.

Article (5)

The State courts shall have jurisdiction on Personal Status litigations in which citizens, or aliens, having a domicile or residence or place of business in the State, are defendants.

Article (6)

The State courts shall have jurisdiction on Personal Status lawsuits raised against an alien who has not, in the State, a domicile or residence or place of business, in the following instances:

- 1) Where the lawsuit is an opposition to a marriage to be contracted in the State.
- 2) Should the lawsuit concern a claim in rescission or annulment of a marriage, in repudiation or in divorce and the claim is introduced by either a citizen wife or a wife having lost her citizenship, whenever any of the two have a domicile or residence in the State, against her husband who had a domicile, residence or place of business in the State, whenever the husband had abandoned his wife and established his domicile, residence or place of business abroad or had been deported from the State.
- 3) If the lawsuit concerns a claim of alimony to the parents, the wife or the minor whenever they have in the State a domicile, residence or place of business.
- 4) Where the lawsuit concerns the affiliation of a child, having in the State a domicile or residence, or is related to the guardianship on the person or property, whenever the minor or the person to be interdicted has, in the State, a domicile or residence or if the absent had therein his last domicile, residence or place of business.
- 5) Should the lawsuit concern a matter of Personal Status and the plaintiff is a citizen, or an alien having in the State a domicile, residence or place of business, in case the defendant has no known domicile or residence in a foreign country or if the national law is, in the State, the governing law.
- 6) Where there are more than one defendant and one of them has, in the State, a domicile, residence or place of business.
- 7) If he has a domicile of choice in the State.

Article (7)

In instances where the State courts have jurisdiction in accordance with Article (6) of this Law, the court of the plaintiff's domicile, residence or place of business shall be competent otherwise the court of the Capital.

Article (8)

1. The first instance court of restricted jurisdiction, composed of a single judge, shall have jurisdiction to settle Personal Status matters.

2. The authentications' judge shall authenticate the attestations delivered by the court.

The Minister of Justice and Islamic Affairs and Wakfs shall issue a regulation on the procedures to be followed in attestations and their authentication.

Article (9)

1. The court of the defendant's domicile, residence or place of business shall be competent and, in case there are several defendants, the court of the domicile, residence or place of business of one of them shall have jurisdiction.

2. The court of the plaintiff's or defendant's domicile, residence or place of business, or the conjugal domicile, shall have jurisdiction to examine the lawsuits introduced by the children, the wife, the parents or the fostering nurse, as the case may be, in the following instances:

a) Costs, wages and the like.

b) Fostering, visitation and related matters.

c) Dowry, trousseau, gifts and the like.

d) Divorce, divorce in return of money, discharge, rescission and separation between spouses of all kinds.

3. The court of the deceased's last domicile, residence or place of business in the State shall have jurisdiction to verify the evidence of heredity, wills and liquidation of the estate. If the deceased has no domicile, residence or place of business in the State, the competent court shall be the one in whose jurisdiction one of the estate's immovable property is situated.

4. In matters of tutelage, the competence *ratione loci* shall be determined as follows:

a) In matters of tutelage, the domicile or residence of the tutor or the minor; in matters of guardianship, the last domicile or residence of the guardian or that of the minor.

b) In matters of interdiction, the domicile or residence of the interdicted-to-be.

c) In matters of absence, the last domicile, residence or place of business of the absent.

d) In case any of the above-mentioned in paragraphs (a, b, and c) have no domicile or residence in the State, competence shall be given to the court of the claimant's domicile or residence or the court in whose jurisdiction the property of the person to be protected is located.

e) The court which ordered interdiction, withdrawal or cessation of tutorship shall refer the case to the court of the minor's domicile or residence in order to appoint a tutor or guardian in case the domicile or residence of the minor or the interdicted has changed.

5. Should the defendant have no domicile, residence or place of business in the State and it was not possible to designate the competent court, under the foregoing provisions, stated in the above paragraphs, competence shall be given to the court of the plaintiff's domicile, residence or place of business, otherwise to the court of the Capital.

Article (10)

1. Where the law requires an authorisation or approval from the court, or to submit the matter to the judge, the request for the order shall be submitted to the court of the applicant's domicile or residence, unless otherwise provided by law.

2. Every interested person may, within one week from his notification of the order, submit a grievance against such order; the court shall decide to uphold, amend or cancel it and its decision shall be subject to appeal by all means specified by law.

3. The application for appointment of a trustee shall be submitted on a request for the order that has to be notified to the public prosecution and the potential heirs.

Article (11)

Unless otherwise decided by the court, a stay of execution shall not result from the opposition to the implementation of judgments, summary or provisional decisions, the minutes drawn-up or authenticated or the ratified conciliation reports concerning alimony, fostering; or appeal thereof.

Article (12)

In case of applying for the declaration of absence of a person, the litigation shall be directed against the potential heirs of the absent, his proxy, the one appointed to represent him and to the public prosecution.

Article (13)

Where the Court of Cassation quashes the appealed judgment, totally or partially, it shall have to decide on the merits of the case.

Shall be excepted from the foregoing paragraph:

1) Where the appealed judgment has been cancelled on grounds of nullity, due to a reason related to the notification of the initial pleadings, the court shall, in addition to the declaration of nullity, order to return the case to the court of first instance for examination, after notifying the litigants, considering that the appeal against the notification judgment concerns the claims submitted in the case.

2) In case the appealed judgment has decided the non-jurisdiction of the court or the acceptance of an incidental plea that resulted in staying the procedures of examining the case or in upholding the appealed judgment on these two counts and the Court of Cassation quashed the appealed judgment, it has to remit the case to the court that has rendered the appealed judgment unless it decides to transmit to a circuit composed of other judges or to the competent court for review of the case. The court to which the case is transmitted has to abide by the decision of the Court of Cassation in the matter settled by it, unless it is the second appeal, then, should the Court of Cassation quash the appealed judgment, it has to decide on the merits of the case.

Article (14)

1. The defendant or the person to be notified shall be served the notification at his domicile, residence, place of business, elected domicile or wherever he is present and if such notification is not possible, the court may notify him by fax, electronic mail, registered mail with acknowledgment of receipt or by any equivalent means.

2. In case the process server does not find the concerned person at his domicile, or residence he may deliver the notice to any of the persons living with him: spouse, relatives sons-in-law; or if he does not find him at his place of business he may deliver it to his superior at work or one deemed by him as occupying a managerial position. Under all circumstances, the notice should be delivered only to a person who appears to have completed his eighteen years of age and who, in person or through a representative, has no apparent interest in conflict with that of the notified person.

3. If the service processor does not find any of those having the capacity to receive a copy of the notice or if they refuse to sign the original acknowledging receipt or to take delivery of a copy of the notice after verifying his identity or if the place is closed, he must deliver, the same day, the copy to the officer or his substitute in charge of the police station of the domicile of the person to be served, his residence or place of business, as the case may be. In addition, the service processor must address by mail to the concerned person, at his domicile, residence, place of business or elected domicile, a registered letter informing him that the copy has been delivered to the police station.

4. The Court may, by exception to the foregoing paragraph, order the posting of a copy of the notice on the bulletin board and on the door of the concerned person's place of residence, or of the place of his last residence, or, if necessary, by publishing the notice in two dailies, issued in the State or abroad in the Arabic or foreign languages, as the case may be.

5. Where the court has verified that the person to be notified has no domicile, residence, place of business, fax, E-mail or a postal address, it shall notify through publication in two dailies issued in the State or abroad in the Arabic or foreign languages, as the case may be, and the date of the publication shall be considered as the date of notification.

6. As concerns persons who have abroad a known domicile, residence or place of business, copy of the notice shall be delivered to deputy - minister of Justice to be notified to them through diplomatic channels or by registered mail with acknowledgement of receipt.

7. Publication of the notice shall be effective as of the date of notifying the copy, dispatching of the Fax or E-mail, reception of the registered mail with acknowledgement of receipt or as of the date of publication, in accordance with the foregoing provisions.

Article (15)

1. A judgment shall be notified to the condemned person either at his domicile, place of business or residence, otherwise through the means specified in Article (14) of this Law, upon order of the Court that has rendered the judgment or upon request from the party in whose favour the judgment was rendered.

2. The period set for appeal of the judgment shall start the day following the date of its issuance if given in the presence of the parties, or the day following notification of the losing party if the judgment was given in the supposed presence of the parties.

3. The period set for appeal and for further appeal to the Court of Cassation is thirty days for each.

4. The party in whose favour a judgment has been rendered for divorce, separation, rescission, nullity of a contract or declaration of death of the absentee, must notify the judgment to the losing party or the party against whom the judgment was rendered, as if he was present, in order that the periods of appeal start to run.

Article (16)

1. The lawsuit concerning personal status matters shall not be admitted before the court unless it has previously been submitted to the Family Orientation Committee. Are excepted from this provision, matters concerning wills, inheritance and like matters, summary and provisional lawsuits concerning alimony, fostering, guardianship as well as cases that cannot be settled by conciliation such as evidence of marriage or divorce.

2. Where conciliation between the parties takes place before the Family Orientation Committee, it shall be recorded in a minutes signed by the parties and the competent member of the Committee. The minutes shall be sanctioned by the competent judge, enforced as an executory

deed and shall not be subject to any means of appeal except if it is in violation to the provisions of this Law.

3. The Minister of Justice, Islamic Affairs and Wakfs shall issue the implementing regulation organising the work of the Family Orientation Committee.

BOOK ONE. MARRIAGE

Title One. Engagement

Article (17)

1. Engagement is a request and a pledge for marriage but is not considered marriage.
2. Engagement of an impeached woman, even if impeachment is provisional, is prohibited and the engagement of a widow during the period of widowhood may be attacked.

Article (18)

1. Any of the parties may renounce to his engagement and if a prejudice is sustained as a result of an unjustified renouncement, the injured party may claim damages for the prejudice sustained. The person causing renunciation shall be treated as the one who renounces.
2. The party who renounces to the engagement or dies may recoup the dowry paid in kind or, if it cannot be restituted as such, its equivalent at the date of payment.
3. Where the engaged woman purchases a trousseau for the total or part of the dowry then the engaged man renounces to his engagement, she will have a choice either to reconstitute the dowry or hand over its equivalent of the trousseau at the time of purchase.
4. Shall be considered among the dowry, gifts that are considered customarily as part thereof.
5. In case any of the parties unjustifiably renounces to the engagement, and in the absence of a condition or custom, he shall not be entitled to recover any of the gifts offered by him and the other party may recoup what he has offered.
6. Where the renunciation is justified, the renouncing party may recover what he has offered, if it still exists, or its amount at the date of payment, if it has perished or is consummated, but the other party may recoup nothing.

7. In case the engagement is terminated by mutual renunciation of the parties, each one of them is entitled to recover what he offered, if still existing.

8. Where the engagement is terminated because of death or for a reason not attributed to any of the parties, or because of an impediment to marriage, the gifts offered may not be restituted.

Title Two. General Provisions of Marriage

Article (19)

Marriage is a contract that legitimates enjoyment between spouses; its aim is protection and forming a steady family under the husband's care on basis ensuring to the spouses the assumption of its charges with affection and compassion.

Article (20)

1. Spouses are bound by the conditions exchanged except those legitimising the illicit or banning the legitimate.

2. Where the contract of marriage contains a condition that is inconsistent with the foundations of marriage, the contract is void.

3. Where the contract is subject to a condition that is not inconsistent with the foundations of marriage but is in contradiction with its requirements or is considered illicit by law, the condition is void but the contract valid.

4. If neither inconsistent with the foundations of marriage nor in contradiction with its requirements and if not legally banned, the condition is valid and should be fulfilled. In default thereof, the party benefiting of such condition may rescind the marriage, whether he be the husband or the wife, and the former shall be exempted from alimony, payable during the waiting period following the dissolution of marriage, if the defaulter is the wife.

5. Should any of the spouses conditions in the other a specific attribute but the contrary was revealed, the party requiring such attribute may ask for rescission of the marriage.

6. Disavowal negates the effect of any condition unless it is written in the registered contract of marriage.

7. The right to rescind a contract is foreclosed if forfeited by its owner or if he expressly or impliedly accepts the contrary. Shall be considered an implied acceptance, the lapse of one year

following the occurrence of the violation with knowledge thereof and in case of irrevocable divorce.

Article (21)

1. As a condition for the binding effect of a marriage, the man must be suitably qualified to deserve the woman, but only at the formation of the contract. The woman and her tutor are entitled to ask for the rescission of the contract on grounds of lack of such qualification. The contract shall not be affected by the disappearance of such qualification thereafter.

2. If the engaged persons are of inadequate age, i.e. the man's age is double the age of the woman, or more than that, the marriage shall take place only with the consent and knowledge of the parties thereto after securing the authorisation of the judge who will withhold it unless there is an interest in such marriage.

Article (22)

Fitness in religion is the measure of aptitude for the husband but, aside religion, custom shall determine the other grounds of aptness.

Article (23)

1. Aptness is a right to both the woman and her fully capacitated tutor.

2. The remote, in rank, among tutors may not object for lack of aptitude except in case of inexistence of the nearest tutor or his incapacity.

Article (24)

If the man alleges his aptness or uses deceitful devices to give this impression or if it was made a condition in the contract and it was thereafter revealed that he was not apt, both the wife and her tutor are entitled to ask for rescission.

Article (25)

The right to ask for rescission is forfeited if the wife is pregnant, if a year has elapsed since knowledge of the marriage or by previous consent of the one who has the right to ask for rescission.

Article (26)

The tutor may not ask for rescission on grounds that the dowry is below that paid in equal condition.

Article (27)

1. Marriage shall be officially recorded but, in consideration of a certain fact, it may be established by other means of proof admitted by the Sharia.
2. Marriage is conditioned upon the submission of a medical report from a competent medical Committee formed by the Minister of Health, certifying that the spouses are free of any disease that the law considers a ground for separation.
3. The recording of the marriage shall be done by the authorised representatives of the religious authority. The Minister of Justice, of Islamic Affairs and Wakfs shall issue a regulation in their respect.

Article (28)

1. The tutor may not conclude the marriage of the insane, the imbecile or persons in their status without the authorisation of the judge and the fulfilment of the following conditions:
 - a) Acceptance of the other party to marry him after he has been informed of his condition.
 - b) His disease is not transmitted to his progeny.
 - c) His marriage is in his interest.
2. The fulfilment of the two conditions (b) and (c) shall be verified by a report drawn up by a competent Committee to be formed by the Minister of Justice, Islamic Affairs and Wakfs in coordination with the Minister of Health.

Article (29)

A male prodigal having attained the age of majority or one whose prodigality accrued later may engage in marriage but the tutor may object to the portion of the dowry in excess of the customary limit. Shall be excepted the foreclosure of financial rights resulting from marriage.

Article (30)

1. Capacity to marriage is completed by reason and maturity. The age of maturity is 18 years, completed unless the person concerned matures earlier in conformity with the law.

2. Whoever matures before reaching the age of eighteen may not marry unless he obtains the authorisation of the judge and after verifying the existence of an interest.
3. Should the person having completed the age of eighteen request marriage but did not succeed in obtaining the approval of his tutor, he may raise the matter before the judge.
4. The judge shall fix a period for the tutor, after his notification, to appear before him to hear his argument. Should he fail to appear, or his opposition to the marriage is not convincing, the judge shall celebrate the marriage.

Article (31)

Whoever gets married, according to Article (30), shall acquire capacity in all what relates to the marriage and its effects, with the exception of forfeiture of his pecuniary rights resulting from marriage.

Article (32)

The tutor, in marriage, is the father then the agnates by themselves according to the succession order: son, then brother, then uncle. Should two tutors be equal in degree of kinship, the marriage that was concluded according to the conditions set forth by any of them shall be valid. The one authorised by the engaged female shall be appointed.

Article (33)

The tutor must be a male of sound reasoning, fully capacitated, not prohibited on account of pilgrimage and Muslim if tutorship is to be given to a Muslim.

Article (34)

Should the most closely related tutor be interruptedly absent, his place of living unknown or impossible to be contacted, tutorship shall pass to the one following him in rank with the judge's permission and, in case of prevention of marriage, tutorship shall pass to the judge.

Article (35)

The judge is the tutor of whoever has no tutor.

Article (36)

The judge may not marry his ward for himself, his ascendant or descendant.

Article (37)

1. Proxy in marriage is possible.
2. The proxy may not marry for himself his principal unless it is so provided in the procuration deed.
3. Should the proxy go beyond the limits of his authority, the contract is suspended.

Title Three. Elements and Conditions

Article (38)

The elements of a marriage contract are:

- 1) The two contracting parties (the husband and the Tutor).
- 2) The Object.
- 3) Offer and Acceptance.

Chapter I. The Spouses

Article (39)

The tutor of the capacitated woman shall proceed with her marriage, with her consent and the religious authorised official shall obtain her signature on the contract.

The contract is invalid in the absence of a tutor. If marriage has been consummated the spouses shall be separated and the affiliation of the born child is established.

Article (40)

As a condition for the formation of marriage, the woman must not be permanently or provisionally prohibited to the man.

Chapter II. Contract Text

Article (41)

Offer and acceptance are subject to the following:

- 1) The word “marriage” must be expressly used therein.
- 2) They must be of immediate fulfilment and not indicating a future time. Consequently, the marriage shall not be concluded if made subject to an unrealised condition, or if the contract is carried for a future date or the marriage is temporary.
- 3) The acceptance should meet, expressly or impliedly, the offer; the parties maintaining their capacity until the formation of the contract.
- 4) Unity of the meeting of the parties: in their presence, the acceptance should verbally occur immediately following the offer and, between absents, the acceptance should be during the meeting in which the letter is read before witnesses or they be informed of its contents or by informing the emissary. The acceptance shall not be late as to the offer if they are not separated by what amounts to rejection.
- 5) Maintenance of the validity of the offer until the issuance of the acceptance. The offeror has the right to withdraw his offer until the issuance of the acceptance.
- 6) Each of the contracting parties has to hear the words uttered by the other, being aware that the objective is marriage although he did not understand the meaning of such words.

In case of incapacity to express oneself, writing shall be the substitute and, if impossible, then a significant sign would suffice.

Chapter III. Prohibitions

Section 1. Permanent Prohibitions

Article (42)

Due to kinship, a person is prohibited to marry:

- 1) his ascendant to the highest degree;
- 2) his descendant to the remotest degree;
- 3) descendants of the two parents or one of them, to the remotest degree;
- 4) the first category of the descendants of one of the grandparents.

Article (43)

Due to affinity, a person is prohibited to marry:

- 1) one who was the spouse of one of his ascendants, to the highest degree, or one of his descendants, to the lowest degree;
- 2) ascendants of the husband, to the highest degree;
- 3) descendants of his wife in a consummated marriage, to the lowest degree.

Article (44)

A person shall be prohibited from marriage to his adulterous descendant, to the lowest degree or his daughter proscribed for adultery.

Article (45)

A man shall be prohibited to marry the one he cursed as adulterous, after completion of the curse.

Article (46)

Shall be prohibited from fostering what is prohibited by kinship or affinity excluding what is excepted by law; under the two following conditions:

- 1) Fostering should occur in the first two years.
- 2) Fostering should reach five different feedings.

Section 2. Temporary Prohibitions

Article (47)

Shall be temporarily prohibited:

- 1) Grouping, even during the waiting period, between two women, should one of them, supposed by a male, he would have been prohibited to marry the other.
- 2) Grouping more than four women.
- 3) The wife of another person.
- 4) A woman in her waiting period from another man.
- 5) A repudiated woman whose repudiation is not retractable, the repudiator may not remarry her repudiator unless after the expiry of her waiting period from another husband who consummated a valid marriage.
- 6) A prohibited woman on account of pilgrimage.
- 7) A non-Muslim woman unless she is a believer in one of the Revealed religions.
- 8) The marriage of a Muslim woman from a non-Muslim.

Chapter IV. Conditions of the Contract

Article (48)

1. The validity of the marriage is subject to the presence of two witnesses, males, of full capacity, sound minded, hearing the words pronounced by the contracting parties and aware that the aim of such words is marriage.
2. The two witnesses must be Muslims but two witnesses from one of the Revealed religions may witness the marriage of a Muslim with a woman of such Revealed religion.

Chapter V. The Dowry

Article (49)

Dowry is what is offered by the husband, in money or property, for the purpose of marriage. There is no minimum limit to it but the maximum is subject to the Law on Dowries.

Article (50)

Notwithstanding anything to the contrary, dowry is the property of the bride, she can freely dispose of it.

Article (51)

1. If the amount of dowry is validly determined in the contract, the amount spelt out is due to the woman.

2. In case it is not determined in the contract, invalidly stated or originally denied, she is entitled to an equal dowry payable to a bride under the same circumstances.

Article (52)

1. Dowry may, in whole or part, be advanced or deferred upon the formation of the contract.

2. Dowry is due by virtue of a valid contract. It becomes certain by a consummation of the marriage, valid privacy or death. The deferred part of it shall become due by death or repudiation.

3. The repudiated woman, before consummation of the marriage, is entitled to half the stated dowry and, if not determined, the judge may adjudge to her a compensation not exceeding half the dowry payable under similar circumstances.

Article (53)

1. The wife may refuse intercourse until the due part of the dowry is paid.

2. Should the wife accept intercourse before receiving her dowry from her husband, it becomes a debt owed by him.

Chapter VI. Mutual Rights

Article (54)

Mutual rights and obligations between the spouses are:

- 1) Legitimate mutual enjoyment of each other within what is allowed by law.
- 2) Lawful cohabitation.
- 3) Good treatment, mutual respect and compassion and preservation of the family welfare.
- 4) Care of the children and their education thus assuring upbringing on a sound basis.

Article (55)

Rights of the wife towards her husband:

- 1) Alimony.
- 2) Non-obstruction to complete her education.
- 3) Non-opposition to visit her ascendants, descendants and brothers.
- 4) Non-interference with her personal properties.
- 5) Non-infliction of bodily or moral prejudice to her.
- 6) Equitable treatment between her and the other wives, in case the husband has taken more than one wife.

Article (56)

Rights of the husband towards his wife:

- 1) Willful obedience.
- 2) House supervision and preservation of its contents.
- 3) Suckling his children from her unless there is an impediment.

Title Four. Kinds of Marriages

Article (57)

Marriage is either valid or invalid and the latter includes the defective and the void contracts.

Article (58)

1. A valid marriage is one in which all basic elements are present, its conditions fulfilled and free of impediments.
2. A valid marriage shall produce its effects upon its formation.

Article (59)

1. A defective marriage is one where some of its conditions are missing.
2. A defective marriage does not produce any effect prior to coitus.

Article (60)

A defective marriage shall, after coitus, produce the following effects:

- 1) The specified dowry or a reciprocal dowry under same circumstances, whichever is smaller.
- 2) Establishment of kinship.
- 3) The prohibition because of affinity.
- 4) Waiting period because of dissolution of marriage.
- 5) Alimony as long as the wife ignores the defectiveness of the contract.

Article (61)

1. A void marriage is the one where one of its basic elements is defective.
2. Unless otherwise provided by this Law, a void marriage shall not produce any effect.

Title Five. Effects of Marriage

General Provisions

Article (62)

1. A woman having reached the age of full capacity is free to dispose of her property and the husband may not, without her consent, dispose thereof; each one of them has independent financial assets. If one of the two participates with the other in the development of a property, building a dwelling place or the like, he may claim from the latter his share therein upon divorce or death.
2. In donations or similar dispositions, between the children or the wives equality must exist unless the judge deems that there is an interest thereto. Should there be no equality, the judge shall bring it into effect and shall exclude it from the succession.

Chapter I. Alimony

Article (63)

1. Alimony includes food, clothing, dwelling, medical care, servicing charges for the wife, if she is performing such services within her family, and all what the conjugal relationship kindly requires.
2. In assessing the amount of alimony, it shall be taken into consideration the possibilities of the debtor thereof, the circumstances of the beneficiary and the economic situation, in place and time, provided it does not fall below the sufficiency level.
3. In adjudging alimonies of all kinds, fostering and dwelling charges and all conditions on which depends adjudging all these, eye-witnessing shall suffice.

Article (64)

1. Alimony may be increased or reduced according to the change of circumstances.
2. Save in exceptional circumstances the action in increment or reduction of the alimony may not be heard prior to the lapse of one year as of the date of deciding it.

3. The increase or decrease of alimony is computed from the date of claim in court.

Article (65)

The continuous alimony has privilege over all debts.

Section 1. Alimony of the Wife

Article (66)

Alimony is due to the wife by virtue of a valid contract if she abandons herself to her husband even inevitably.

Article (67)

Alimony to the wife is due as of the date of refrainment from payment when due as a debt on the husband, independently of a court judgment or agreement. It is not forfeited except by payment or discharge.

A claim for alimony, for a past period exceeding three years from the date of introducing action in court, shall not be heard unless it is imposed by agreement.

Article (68)

The judge shall, upon request of the wife, order to pay her a temporary alimony and his decision shall be executory summarily and by force of law.

Article (69)

Alimony and sheltering, during the waiting period (“idda”), are due to the divorcee in a reversible divorce, in a non-retractable divorce if the divorced woman is pregnant and, if she is not, only sheltering is due.

Article (70)

No alimony is due to the widow during her waiting period because of the death of her husband but she is entitled to live in the conjugal domicile during the said period.

Article (71)

Alimony to the wife is forfeited in the following instances:

- 1) Should she refuse to give herself to her husband or refuse to reintegrate the conjugal domicile without lawful excuse.
- 2) Should she abandon the conjugal domicile without lawful excuse.
- 3) If she forbids her husband to enter the conjugal domicile without a lawful excuse.
- 4) If she refuses to travel with her husband without a lawful excuse.
- 5) If a judgment or decision is rendered by the court, restraining her freedom, in a matter to which the husband is not entitled, and the said judgment or decision is in the process of execution.

Article (72)

1. A wife may go out of her home in the instances that allow her to do so by law, custom or in case of necessity and this is not considered a transgression to the duty of obedience.
2. Shall not be considered a transgression to the duty of obedience her going out to work if he married her while engaged in work, if he accepted, after marriage, that she be employed or if she put it as a condition in the contract and, in this latter case the authorised marriage official has to ascertain the existence of such condition upon contracting. This of course unless the fulfilment of such condition is against the interest of the family.

Article (73)

The obligation of alimony to the wife is terminated upon the occurrence of any of the following events:

- 1) Payment.
- 2) Discharge.
- 3) The death of one of the spouses unless it has been ordered by court decision.

Article (74)

The husband is under obligation to prepare to his wife, at his domicile, a convenient dwelling commensurate with their standing.

Article (75)

The wife shall live with her husband in the dwelling prepared for the purpose and shall move with him from it unless she provided otherwise in the contract or if the purpose of moving is to cause her a prejudice.

Article (76)

1. The husband may accommodate, with his wife, in the conjugal domicile, his parents and children from another woman as long as he is financially in charge of them but provided no prejudice is caused to the wife from such accommodation.

2. The wife may not accommodate with her in the conjugal domicile her children from another man unless they have no other caretaker, they may be harmed from separation or by express or implied agreement of the husband, provided he has the right to go back on his acceptance should he sustain a prejudice therefrom.

Article (77)

The husband may not accommodate with his wife another wife of his unless she accepts provided she can go back on this acceptance whenever it becomes detrimental to her.

Section 2. Kinship Alimony

Article (78)

1. Alimony of the small child who has no financial resources is on his father until the marriage of the girl or until the boy reaches the age at which his fellow-mates earn their living, unless he is a student continuing his studies with normal success.

2. Alimony of the elder child unable to earn his living, because of a disability or other cause, is on his father should the child have no other funds from which his expenses could be drawn from.

3. Alimony of the female is on her father if she divorced or has become a widow, unless she has funds of her own or has a person in charge of her other than the father.

4. Should the child have no sufficient funds to meet his maintenance expenses, the father is under obligation to complete the required amount within the aforementioned conditions.

Article (79)

The suckling expenses of the child are on his father, should the mother be unable to nurture him, and this is considered as alimony.

Article (80)

The child's alimony is on his well-to-do mother if he lost his father, without funds, or if he was unable to support him. The mother may revert on the father for the amount spent in case he improves his financial capacity and the expenditures were authorised by him or by the judge.

Article (81)

1. A well-to-do child, male or female, grown-up or small, must provide alimony to his parents if they have no funds from which they can spend.

2. Should the parents' funds be insufficient for their maintenance, the children are under obligation to cover the shortage.

Article (82)

1. The parents' alimony shall be repartitioned between their children, each in proportion to his ability.

2. Should a child voluntarily spend money on his parents, he may not revert on his brothers.

3. Should the spending take place subsequent to a judgment ordering them to pay alimony, he may revert on each one of his brothers according to what was adjudged, provided he made these expenses with an intention to claim back the excess paid by him.

Article (83)

If the child's earnings are not in excess of his needs and the needs of his wife and children, he shall be under obligation to add his parents, deserving alimony, to his family.

Article (84)

Alimony to each deserving payee shall be the obligation of his heirs from among his well-to-do relatives according to their rank and their shares in the estate and if the heir is insolvent the obligation shall pass to the succeeding heir with due compliance to Articles (80) and (81) of this Law.

Article (85)

Should the persons deserving alimony be several and the payee is unable to satisfy them all, the wife's alimony shall have precedence, then the children's alimony, followed by that of the parents, then the alimony of the relatives.

Article (86)

1. The alimony of relatives, other than the children shall be due as of the date of the claim in court.
2. The lawsuit claiming a past due alimony for the children from their father shall not be heard if it goes back to a period in excess of one year from the date of submitting the claim to court.

Section 3. Alimony to Those Who Have No One to Support Them

Article (87)

The State shall be in charge of the alimony to those having no one to support them.

Article (88)

Alimony of the foundling of unknown parents shall be paid out of his funds, if any, and in case he has no funds and no one benevolently proposed to spend on him, his alimony shall be on the State.

Chapter II. Affiliation

Article (89)

Affiliation shall be established by wedlock, by avowal, presumptions or through scientific methods if bed-sharing is established.

Article (90)

1. The child is born in wedlock if the shortest period of pregnancy has lapsed since the valid marriage and it is not established that carnal knowledge was impossible between the spouses.
2. The affiliation of the child shall be established from suspected copulation if he is born for less than the shortest period of pregnancy after the said carnal knowledge.
3. Affiliation of the born child shall be established to his mother upon evidence of his birth.
4. Once the affiliation is legally established, the action in disavowal shall not be heard.

Article (91)

The shortest period of pregnancy is one hundred and eighty days and the longest period is three hundred and sixty five days, unless a committee of medical physicians formed for the purpose decides otherwise.

Article (92)

1. Acknowledgement of affiliation, even in death-bed, is evidence of consanguinity, unless the acknowledged person is out of wedlock, under the following conditions:

- a) The acknowledged person is of unknown descent.
- b) The acknowledging party is of full capacity, of sound judgment and of free choice.
- c) The difference of age between the acknowledging party and the acknowledged may sustain the veracity of the acknowledgement.
- d) The acknowledged person, of full capacity and sound judgment, approves the acknowledging party.

2. Affiliation is an acknowledgement of consanguinity in lineal descent made by the father of an acknowledged non-adulterous person. Acknowledgement of affiliation by the grandparent is not valid.

Article (93)

Should the acknowledging party be a married woman or a woman in her waiting period, the affiliation of the child to her husband is not established unless he consents or there is corroborating evidence to this effect.

Article (94)

The acknowledgement by the person of unknown descent of his father or mother shall establish consanguinity if approved by the acknowledged or there is evidence to this effect whenever the age difference allows such possibility.

Article (95)

Acknowledgement of kinship, other than consanguinity in lineal descent, paternity or maternity does not bind other than the acknowledging party unless approved or established by evidence.

Article (96)

1. Curse may only be uttered before the court in accordance with the rules as set forth by law.
2. Divorce by curse is permanent.

Article (97)

1. The man may disavow affiliation of the child by throwing a curse within seven days from his knowledge of birth provided he did not acknowledge expressly or impliedly his paternity. Action for malediction shall be submitted to the court within thirty days as of knowledge of birth.
2. Where curse is for the disavowal of affiliation, the latter shall be negated.
3. Should the husband take the oath of malediction and the wife refused to take it, refused to appear before the court or has been absent and it was impossible to give her notice, the judge shall adjudge the negation of affiliation.
4. The affiliation of the disavowed child because of malediction shall, after issuance of the decision negating his affiliation, shall be reinstated if the man retracted his curse.
5. The court may resort to scientific methods to negate affiliation provided it has not been previously established.

BOOK TWO. DISSOLUTION OF MARRIAGE

General Provisions

Article (98)

1. The contract of marriage shall be rescinded if it includes an impediment that is in contradiction with its requirements or the occurrence of something that prevented its legal continuation.
2. Disunion between the spouses occurs by divorce, rescission or death.
3. Prior to deciding disunion between spouses, the court has to endeavour reconciliation.
4. Should the divorced woman marry another man with whom she has carnal knowledge, the number of divorces pronounced by her previous husband shall be considered as non-existent.

Title One. Divorce by Repudiation

Article (99)

1. Repudiation is the dissolution of the valid contract of marriage in the form legally prescribed.
2. Repudiation takes place verbally or in writing and, in case of inability, by an understandable sign.

Article (100)

Repudiation takes place by the husband or his proxy, designated in a special power of Attorney or the wife if her husband gave her complete autonomy of herself.

Article (101)

1. The repudiator must be of sound mind and have free choice.
2. Repudiation done by a man of unsound mind due to a banned substance shall be considered a choice.

Article (102)

Repudiation of the wife may occur only if she is party to a valid marriage and she is not within the waiting period (known as Idda).

Article (103)

1. Divorce subject to a condition precedent to do or depart from something shall not be effective unless there is an intention to divorce.

2. In the absence of an intention to divorce, there is no divorce in case of perjury to an oath.

3. A divorce made verbally, in writing or by sign, whether repeated or in conjunction with a number, shall be construed to be once only.

4. A divorce may not be contingent on the happening of a future event.

Article (104)

Repudiation is either retractable or non-retractable:

1) The retractable repudiation does not put an end to marriage unless after the expiry of the waiting period (Idda).

2) The non-retractable repudiation ends the marriage upon its occurrence. It may take one of the following two forms:

a) Repudiation with right to remarry: The divorcee may not return to the man who divorced her except after a new contract of marriage and a new dowry;

b) Final and decisive repudiation: The divorcee may not return to the man who divorced her except after expiry of the waiting period (Idda) from another husband who had carnal knowledge of her pursuant to a valid marriage.

Article (105)

Every repudiation is retractable except the repudiation completing the third, the one occurring prior to sexual penetration and the one considered by law final and decisive.

Article (106)

1. Divorce occurs through a declaration made by the husband and recorded by the judge.

2. Each divorce occurring contrary to the preceding clause must be confirmed before the court by evidence or avowal. The divorce shall take effect as of the date of the acknowledgement unless a prior date is established to the court. The Sharia rules shall apply to the effects of divorce by avowal.

Article (107)

Upon request of the concerned persons and after divorce, the competent judge issues an order fixing the woman's alimony during her waiting period as well as the alimony of the children, determine the person who has the right to foster the child and the right to visit the fostered child. This order is considered as being of summary execution by force of law and the prejudiced party may appeal this order by all means of appeal prescribed by law.

Article (108)

The husband is entitled to get back his divorcee, should the divorce be revocable and as long as she is within her waiting period. His right thereto is not forfeited even if surrendered. Should the divorcee's waiting period expire, she may return to him by a new contract without the permission of her tutor, if he refuses to give her in marriage to him, provided that her first marriage from him has been concluded with the tutor's consent or by order of the court.

Article (109)

1. Getting back a divorcee occurs verbally, in writing and, where impossible, by sign as well as by action with intent.
2. Retrieval shall be recorded and the wife should be informed of it during her waiting period.

Title Two. Divorce by Agreement (Khul')

Article (110)

1. Divorce for consideration is a contract between the spouses whereby they agree to terminate the contract of marriage against consideration to be paid by the wife or by another person.
2. The amount to be paid as a consideration shall be governed by the same rules as dowry but it is not allowed to agree on forfeiture of the children's alimony or their fostering.

3. Should the consideration to be paid in case of divorce by agreement be not validly determined, divorce shall occur and the husband shall be entitled to the dowry.

4. Khul' is a rescission.

5. By exception to the provisions of clause 1 of this Article, where the husband is unduly obstinate in his rejection and it was feared not to observe God's will, the judge shall decide the "Mukhala'a" (divorce) against an adequate consideration.

Article (111)

Validity of the consideration for such divorce is conditioned upon capacity of the payor and capacity of the husband to divorce.

Title Three. Judicial Separation

Chapter I. Separation on Account of Defects

Article (112)

1. Should one of the spouses find in the other a deep-rooted repulsive or harmful defect such as insanity and leprosy, or those preventing sexual pleasure such as obstruction of genital canals or similar defects, he may ask for the rescission of the marriage whether this flaw existed prior to the contract or occurred later.

2. His right to rescission shall be forfeited if he had knowledge of the defect before the contract or accepted it expressly or impliedly thereafter.

3. However, the wife's right to claim rescission on grounds of defects preventing sexual pleasure shall not, under any circumstance, be forfeited.

4. The court shall examine, in chambers, the case of rescission of marriage on grounds of sexual defects.

Article (113)

Should the defects mentioned in Article (112) of this Law be not susceptible to disappear, the court shall rescind the marriage immediately and without delay.

Where it is likely to disappear, the court shall adjourn the case for an adequate period, not exceeding one year, and in case it does not disappear during this period and the party claiming rescission insists, the court shall rescind the marriage.

Article (114)

Each of the two spouses is entitled to ask for separation in the following instances:

- 1) In case of deceit perpetrated by the other spouse or with his knowledge inducing to the formation of the marriage contract. Intentional silence about a fact is deceit if it is established that the deceived party would not have concluded the marriage contract had he been aware of such fact.
- 2) If it is established by a medical report the sterility of the other spouse, after a marriage that lasted five years and after medical treatment, provided that the claimant has no children and that he is not in excess of forty years of age.
- 3) If the other party is condemned for adultery or a similar offence.
- 4) Where it is established that the other spouse contracted a contagious fatal disease such as Aids or similar, so if it is feared that this disease be contracted by the other spouse or their descendants, the judge must order their separation.

Article (115)

1. The assistance of a medical committee specialised in detecting the defects for which separation is claimed shall be sought.
2. Separation, in this chapter, is a rescission.

Chapter II. Separation Due to Non-Payment of the Due Dowry

Article (116)

1. The wife in a non-consummated marriage shall be adjudged separation due to non-payment by her husband of the due dowry, in the following instances:
 - a) If the husband has no apparent funds from which the dowry could be drawn;

b) If the husband is manifestly insolvent or of unknown status and the period fixed by the judge for payment of her dowry has expired without payment.

2. The wife shall not, after consummation of the marriage, be adjudged separation for non-payment of her due dowry which shall remain a debt on her husband.

Chapter Three. Separation Due to Prejudice and Discordance

Article (117)

1. Each of the two spouses is entitled to ask for divorce due to prejudice that would make the continuity of the friendly companionship between them impossible. The right of each of the spouses thereto shall not be forfeited unless their reconciliation is established.

2. In accordance with Article (16) of this Law, the Family Orientation Committee shall endeavour the reconciliation of the two spouses and, in case of failure, the judge shall propose reconciliation to the spouses. If this reconciliation is not possible and the prejudice is established, the judge shall order divorce.

Article (118)

1. In case the prejudice is not established, the discordance is still continuing between the spouses and the Family Orientation Committee as well as the judge were not successful in reconciling them, the judge shall issue a judgment appointing two arbitrators from among their parents, if possible, after asking each of the spouses to nominate, in the next hearing at most, his arbitrator from among his parents, if possible, otherwise from those who have the experience and ability to reconcile. Should one of the spouses procrastinate in nominating his arbitrator or abstain from attending this hearing, the judgment shall not be subject to any appeal.

2. The judgment appointing the two arbitrators must include the starting and closing dates of their assignment provided it does not exceed ninety days extendable by a decision of the court. The court shall notify the two arbitrators and the parties to the litigation of the judgment appointing the arbitrators and shall ask each of them to take the oath that he will perform his assignment with equity and probity.

Article (119)

The two arbitrators have to find out the reasons of discordance and deploy efforts to reconcile between the spouses. Abstention from any of the spouses to attend the arbitration sitting,

whenever notified of the date fixed for it, or the next sittings if set at different intervals, shall not affect the progress of the arbitrators work.

Article (120)

In case the arbitrators fail to reconcile the spouses:

- 1) Should the offence be entirely from the husband's part and the wife, or both parties are claiming separation, the arbitrators shall decide a non-retractable divorce without prejudice to the rights of the wife resulting from marriage and divorce.
- 2) In case the offence is entirely from the wife's part, the arbitrators shall decide divorce for a consideration deemed adequate by them and payable by the wife.
- 3) Where both parties participated in the offence, the arbitrators shall decide separation without consideration or with one in proportion to each one's share in the offence.
- 4) If the case is not clear as to who is the offender among them and if the husband is the claimant, the arbitrators shall recommend dismissal of his case; but if the wife or both of them are claiming separation, the arbitrators shall decide separation between them without consideration.

Article (121)

1. The arbitrators shall submit to the judge their reasoned decision that shall include the extent to which each of the spouses offended the other.
2. The judge shall render his judgment in accordance with the decision reached by the arbitrators if they agreed, otherwise, he shall appoint others or join to them a third as the umpire. The court shall ask the arbitrator or the umpire to take an oath that he will perform his duties with equity and probity.

Article (122)

In the case of divorce due to prejudice, the prejudice shall be established by the legal means of proof and by the court judgments rendered against one of the spouses.

The hearsay testimony is accepted if the witness explained, or it was understood from his statement that the prejudice is widespread in the spouses' life environment as decided by the court.

A hearsay testimony to negate the prejudice is not accepted.

The testimony of a male or female witness, except the testimony of an ascendant against a descendant or vice-versa, shall be accepted if the witness fulfils the conditions set forth by law for testimonial evidence.

Article (123)

Where the wife asks for divorce, before consummation of marriage or legal privacy, and she deposited the amount received as dowry, the gifts obtained and the amount spent by the husband because of marriage, but the husband abstained from doing so and in case the judge did not succeed in reconciling them, he shall order separation against consideration (Khul').

Chapter IV. Separation for Abstention from Support

Article (124)

1. If the present husband abstains from supporting his wife and he does not have apparent funds from which he can pay, within a short time, the due alimony, the wife may ask separation.

2. Should he allege to be insolvent but with no evidence as to his allegation, the judge shall order immediate divorce. If he keeps silent as to his being solvent or insolvent and insists on non-support, even if there is evidence of his insolvency, the judge shall grant him a respite of not more than a month after which, if he does not comply with his duty of support, the judge shall order divorce.

Article (125)

1. In case the husband is absent in a known place:

If he has apparent funds, the alimony judgment shall be enforced on these funds.

Where he has no apparent funds, the judge shall warn him and grant him a respite not in excess of one month to which shall be added the prescribed period of distance and, in case he does not execute his duty of support or does not bring the alimony, the judge shall order divorce after expiry of the respite.

2. If he is absent in an unknown place, in a place difficult to reach or missing and there is also evidence that he has no funds from which alimony could be withdrawn, the judge shall order divorce.

Article (126)

The husband may avoid divorce by submitting evidence of his solvency and his ability to pay the alimony. In this case, the judge shall grant him the respite prescribed in Article (125) of this Law.

Article (127)

The husband may retrieve his wife, while she still is in her waiting period, if there is evidence of his solvency and he shows his readiness to support his wife by paying the usual alimony, otherwise the retrieval is not valid.

Article (128)

If the lawsuit for non-support is brought to court more than twice and it is established to the court the non-support in each and the wife asks divorce for non-support, the judge shall order a non-retractable divorce.

Chapter V. Separation Due to Absence and Disappearance

Article (129)

The wife is entitled to claim a judicial divorce due to the absence of her husband who has a known domicile or residence even though he has funds from which alimony can be drawn. She will get a judgment in satisfaction of her claim only after warning him: either to reside with her or have her move to live with him or divorce her and provided he is given a delay of not more than one year.

Article (130)

The wife of the disappeared, whose residence is unknown, is entitled to ask for a judicial divorce and she will be granted relief only after investigation and search for him and the lapse of one year as of the date of filing the claim.

Chapter VI. Separation for Imprisonment

Article (131)

1. The wife of the incarcerated, who is condemned by a decisive judgment to a penalty restraining his liberty for a period of three years or above, is entitled to ask the court, after the lapse of one year of his imprisonment, to divorce him irreversibly even though he has funds from which she can spend.

2. Where the wife is also incarcerated but has been freed alone, she may ask for separation, after the lapse of one year of her release, under the same conditions mentioned in Clause 1 of this Article.

3. In both the preceding instances, judgment for the wife is conditioned upon the non-release of the husband during the examination of the case and that the remaining period of his incarceration be not less than six months.

Chapter VII. Separation for “Ila’ ” and “Zihar”

Article (132)

The wife is entitled to ask for divorce if her husband swore not to have sexual relations with her for four months or more, unless he has such relations before the expiry of the four months. Divorce, in this case, is non-retractable.

Article (133)

The wife is entitled to divorce on grounds of “Zihar”.

Article (134)

The judge shall warn the husband to expiate from “Zihar” within four months from taking the oath. Should he refuse without giving a reason, the judge shall order a non-retractable divorce.

Article (135)

In examining the divorce case, the judge shall decide which provisional measures he deems appropriate to take in order to secure alimony for the wife and the children and all that relates to the fostering and visiting of children upon request of any of the spouses.

Title Four. Effects of Separation

Chapter I. The Waiting Period (Al Idda)

Article (136)

“Idda” is an obligatory waiting period during which the wife remains without marriage, as a result of separation.

Article (137)

1. The waiting period starts as of the occurrence of separation.
2. The waiting period, in case of doubtful copulation, starts as of the last sexual intercourse.
3. Waiting period in marriage shall begin from the date of separation, divorce or death of the husband.
4. In case of ruling divorce, separation, rescission, nullity of the contract or judicial declaration of death of the disappeared, the waiting period starts as of the time the judgment becomes final.

Article (138)

1. The duration of the waiting period, for the woman whose husband from a valid marriage died, even before consummation of the marriage, is four months and ten days unless she is pregnant.
2. The waiting period for a pregnant woman ends upon delivery or miscarriage.
3. In a consummated marriage resulting from a void or suspected contract, if the husband dies, the woman shall have to undergo the waiting period of the divorcee to clear her uterus.

Article (139)

1. There is no waiting period prior to consummation of marriage and valid privacy.
2. The waiting period for the non-pregnant divorcee:
 - a) Three purities for those who have their menstruation and she is to be believed at the expiry of this period within a reasonable time.

- b) Three months for those who did not have at all their menstruation or those who have reached the menopause and their menstruation stopped. Should the latter see menstruation prior to the expiry of the period, the waiting period shall be resumed for three purities.
- c) Three months for extended blood secretion if the woman has no known menstrual cycles but if she recalls having such cycle it shall follow it in computing the waiting period.
- d) The shorter period between three purities and one year without menstruation for those whose menstruation stopped before reaching the age of menopause.

Article (140)

In case the husband divorces his wife from a valid consummated marriage by his unilateral will without a request from her, she is entitled to a compensation other than the alimony paid during the waiting period depending on the financial status of the husband provided it does not exceed a one-year alimony payable to those in similar condition. The judge may order that it be paid by instalments depending on the degree of solvency or insolvency of the husband. In assessing the amount thereof, the prejudice sustained by the wife shall be taken into consideration.

Article (141)

1. Should the husband die and the wife is in her retractable divorce waiting period, she passes to the widowhood waiting period and the lapsed period shall not be taken into account.
2. Should the husband die while the woman is in her waiting period for repudiation or rescission, she shall complete it and is not bound by the death waiting period unless repudiation took place during the last illness, then the longest of the two periods shall be taken into account.

Chapter II. Fostering

Article (142)

Fostering is to safekeeping the child, educate and ward him in a manner that does not contradict the tutor's right of tutelage over the person of the child.

Article (143)

The fosterer must satisfy the following conditions:

- 1) sound judgment;
- 2) having attained the age of maturity;
- 3) fidelity;
- 4) ability to raise the fostered child and provide for his maintenance and care;
- 5) safety from dangerous contagious diseases; and
- 6) not previously condemned for a crime against honour.

Article (144)

In addition to the conditions mentioned in the above Article, the fosterer must:

- 1) If a woman:
 - a) Be not married, in a consummated marriage, to a man not related to the fostered child, unless the court decides otherwise in the interest of the child.
 - b) Be of the same religion as the fostered child, with due compliance with Article (145) of this Law.
- 2) If a man:
 - a) He must have around him a woman able to be a fosterer.
 - b) Be related to the fostered girl with such close kinship prohibiting him to marry her.
 - c) Be of the same religion as the fostered child.

Article (145)

Should the fosterer be a mother of a different religion than that of the fostered child, her fosterage shall be forfeited unless the judge deems otherwise in the interest of the fostered child provided the period of fosterage ends upon his completing the age of five whether the child is a boy or a girl.

Article (146)

1. Fosterage of the child is a right to the mother, then to the females, within the prohibited degrees of kinship, giving preference to those from the mother's side over these from the father's side taking into consideration the closest degree from both sides, with the exception of the father, and the judge shall in his decision consider the interest of the fostered child. In deciding who is the fosterer, the following order shall be observed:

- a) The mother.
- b) The father.
- c) The grandmother, from the mother's side, and upwards.
- d) The grandmother, from the father's side and upwards.
- e) The sisters, giving preference to the full sister, then to the stepsister from the mother's side, then the stepsister from the father's side.
- f) The daughter of the full sister.
- g) The daughter of the stepsister from the mother's side.
- h) The aunts from the mother's side, in the same order as the sisters.
- i) The daughter of the stepsister from the father's side.
- j) The daughters of the brother in the same order as the sisters.
- k) The aunts from the father's side, in the above order.
- l) The mother's aunts from the maternal side, in the above order.
- m) The father's aunts from the maternal side, in the above order.
- n) The mother's aunts from the paternal side, in the above order.
- o) The father's aunts from the paternal side, in the above order.

2. Where no fosterer is found among the above women, or if none is qualified, fosterage shall pass to the male agnates, in the same order followed in inheritance, giving preference to the paternal grandfather and his ascendants (provided the sequence is not interrupted by a female ascendant) over the brothers.

3. If none of the above exist, the right to fosterage passes to the males, within the prohibited degrees of kinship with the child other than the agnates, in the following order: the maternal grandfather, the stepbrother from the mother's side, the son of the maternal stepbrother, the unilinear uncle from the father's side, then the maternal uncles by giving preference to the

consanguineous, then the unilinear uncle (his mother's stepbrother) from his father's side, then the unilinear uncle (his mother's stepbrother) from his mother's side.

4. Should fosterage be refused by those entitled, male or female, the right passes to the next entitled who shall be notified thereof by the judge and if he refuses or keeps silent for fifteen days, the right passes to the next in rank.

5. Under all circumstances, is not entitled to fosterage, in case of difference in sex, whoever is not within the prohibited degree of kinship with the child, whether male or female.

6. Unless the judge deems in the interest of the fostered child, the mother, in case of litigation, is entitled to fosterage.

7. In case of difference between the spouses and where the mother leaves the conjugal domicile, even if the bond of marriage has not been dissolved, the mother or the father may apply to have the children join him/her and the judge shall decide in accordance with the children's best interest.

Article (147)

In the absence of the two parents and in case the fosterage is not accepted by those entitled to it, the judge shall choose the adequate person from among the relatives of the fostered child or others or one of the institutions qualified for this purpose.

Article (148)

1. The father or else another tutor of the fostered child must look after his affairs, discipline, orientation and education.

2. Whoever is in charge of the fostered child's alimony must provide the rent of a dwelling for a woman fosterer unless the latter owns a dwelling in which she resides or affected for this purpose.

3. The female fosterer is not entitled to remuneration if she is the wife of the fostered child's father or is in her waiting period during which she is entitled to alimony from him.

Article (149)

The fosterer may not travel with the fostered child outside the State except with the written approval of his tutor. Should the tutor refuse to give his consent, the matter shall be submitted to the judge.

Article (150)

1. The mother, during her wedlock or during her waiting period after a retractable repudiation, may not travel with her child or move him from the conjugal domicile without the written approval of his father.
2. The mother may, after the waiting period, take the child to another city within the State in case this move does not affect his education, is not prejudicial to the father and does not cost him unusual effort and expense to be informed about the fostered child's condition.

Article (151)

1. Should the fosterer be other than the mother, she may not travel with the child without a written authorisation from his tutor.
2. The tutor, whoever he is, or another person, may not travel with the child during fosterage without a written authorisation of the fosterer.
3. The fosterage of the repudiated mother may not be forfeited just because the father moved to a city other than that in which the fosterer resides, unless the move is for the purpose of settling, is not prejudicial to the mother and the distance between the two cities does not allow the mother to see the fostered child and return the same day by the usual transportation means.

Article (152)

The fosterer's right to fosterage is forfeited in the following instances:

- 1) Derogation to one of the conditions stated in Articles (143) and (144).
- 2) In case the fosterer elects a domicile in another city thus making it difficult for the tutor to attend to his duties.
- 3) Should the person entitled to fosterage keep silent and do not claim this right for a period of six months without excuse.
- 4) Should the new fosterer live with the one whose fosterage has been forfeited for a reason other than physical disability.

Article (153)

Fosterage shall be reinstated to the one from whom it was forfeited whenever the cause of it has disappeared.

Article (154)

1. Where the fostered child is under the fosterage of one of his parents, the other is entitled to visit and be visited by the child and accompany him wherever decided by the judge provided he fixes the place and time and the person in charge to bring the fostered child.
2. Should one of the parents of the fostered child pass away or be absent, the fostered child's relatives, to a degree prohibiting marriage, may visit him as decided by the judge.
3. If the fostered child is with other than his parents, the judge shall designate the person entitled to visit him from among his close relatives.
4. The judgment shall be enforced coercively should the person with whom the fostered child lives refuse to execute it.
5. The Minister of Justice, Islamic affairs and Wakfs shall issue a regulation determining the procedures to see, deliver and visit the fostered child provided these do not take place in police stations or prisons.

Article (155)

In case the persons entitled to fostering are more than one and they are all of the same degree, the judge shall choose the one that is best for the child.

Article (156)

1. The right of women to fosterage of a child shall end upon his reaching the age of eleven years, if a male, and thirteen years, if a female, unless the court deems that extending this age to the age of maturity, for the male, and up to her marriage, for the female, is in his/her best interest.
2. Unless the interest of the fostered child otherwise require, the women fosterage shall continue in case the child is of unsound mind or suffering of a disabling illness.

Article (157)

1. Without prejudice to the provisions of Article (149) of this Law, the tutor may keep with him the passport of the fostered child, except in case of travel, where he should hand it over to the woman fosterer.
2. The judge may order to maintain the passport in the hands of the fosterer should he notice an obstinateness from the tutor's part to refuse delivering it to the fosterer in case of necessity.
3. The woman fosterer may keep the originals, or true official copies of the birth certificate and any other evidential documents, pertaining to the fostered child, as well as his identity card.

Article (158)

Court decisions concerning the affiliation and protection of the child and delivering him to a custodian as well as the separation between spouses and like matters pertaining to personal status shall be enforced coercively even through the use of force and forced entry of homes. The official in charge of execution shall, in this respect, follow the instructions given to him by the judge of execution in the court of the place of execution. The judgment, whenever required, shall be re-executed.

The judgment rendered against the wife to follow her husband may not be executed coercively.

BOOK THREE. CAPACITY AND TUTORSHIP

Title One. Capacity

Chapter I. General Provisions

Article (159)

Every person has capacity to contract unless this capacity is withdrawn or limited by a law provision.

Article (160)

Is considered as a minor:

- 1) The fetus.
- 2) The insane, the imbecile and the prodigal.
- 3) The missing person and the absentee.

Article (161)

Is considered devoid of capacity:

- 1) The undiscerning minor.

2) The insane and the imbecile.

Article (162)

Is considered lacking capacity:

- 1) The discerning minor.
- 2) The prodigal.

Article (163)

Minor's affairs shall be attended to by his representative called, as the case may be, Tutor, Guardian (which includes the named guardian and the one appointed by the judge) or curator on the minor's property.

Chapter II. Provisions Relating to the Minor

Article (164)

A minor is discerning or undiscerning.

The undiscerning minor, according to this Law provisions, is the one who did not complete seven years of age.

The discerning minor is the one who has completed seven years of age.

Article (165)

Without prejudice to the provisions of Articles (30) and (31) of this Law:

- 1) The verbal acts of disposition of an undiscerning minor are absolutely null and void.
- 2) The verbal financial acts of disposition of a discerning minor are valid if purely beneficial to him; void if absolutely detrimental.
- 3) The verbal financial acts of disposition of a discerning minor that are vacillating between being beneficial or detrimental depend on authorisation.

Article (166)

1. The tutor shall authorise the minor who has completed eighteen years of age to take possession of the whole or part of his property to manage it.
2. The court may, after hearing the guardian, authorise the minor who has completed eighteen years of age to take possession of the whole or part of his property to manage it.

Article (167)

The authorised minor, whose acts are included in the authorisation, is considered as one who has attained the legal age of maturity.

Article (168)

In case the discerning minor completes eighteen years of age and finds himself capable of sound judgment but the guardian refused to authorise him to take over the management of part of his property, he may submit the matter to the judge.

Article (169)

The minor authorised by his guardian shall have to submit to the judge periodical accounts of his acts.

Article (170)

Should the interest of the minor so require, the judge and the guardian may cancel or limit the authorisation.

Chapter III. Majority

Article (171)

Every person attaining the age of majority, enjoying his mental abilities and not interdicted has full capacity to exercise his rights provided for in this Law.

Article (172)

A person shall attain the age of majority when he completes twenty one lunar years of age.

Article (173)

After attaining the age of majority, the minor is entitled to ask the guardian to account for his acts during the period of guardianship.

Chapter IV. Capacity Impediments

Article (174)

Capacity impediments are:

- 1) Insanity: The insane is a person who has lost his mental faculties continuously or at intermittent intervals. Imbecility is treated the same way as insanity.
- 2) Prodigality: The prodigal is a spendthrift person.
- 3) Illness leading to death: It is the illness which impairs the human being from continuing his usual activities and death is most likely to occur within one year. Should he remain in the same condition for one year or more, without deterioration, his acts are similar to those of a sound person.
- 4) Shall be considered as an illness leading to death circumstances where the person is surrounded by danger of death and where perishing is prevalent in such circumstances even though he is not ill.

Article (175)

1. Financial acts of the insane are valid if in a state of consciousness and void after putting him under guardianship.
2. Acts of the imbecile subsequent to his interdiction shall be governed by the provisions applied to the acts of the discerning minor.
3. Acts of the imbecile prior to his interdiction are valid unless they are the result of illicit exploitation or connivance.

Article (176)

Acts performed by a person on his deathbed, or in a similar state, are governed by the Islamic doctrine as provided for by Article (2) of this Law.

Article (177)

The interdicted is entitled to file in person a lawsuit to remove the interdiction.

Title Two. Tutelage

Chapter I. General Provisions

Article (178)

1. Tutorship: It is tutelage on the person and on property.

A) Tutelage on the person:

It is the care of whatever is related to the person of the minor, his supervision, protection, education, teaching, orientation and proper raising; this includes consent to his marriage.

B) Tutelage on property:

It is the care of all what concerns the property of the minor, its safe-keeping, management and investment.

2. Tutelage includes: guardianship, curatorship and judicial procuration.

Article (179)

With due compliance with the provisions relating to the marriage of a female stated in Article (39) of this Law, shall be subject to tutelage the minor until he reaches the age of majority, as well as the insane and imbecile of full age.

Chapter II. Tutor Conditions

Article (180)

1. The tutor must be of sound mind having attained the full legal age, trustworthy able to perform the tutelage requirements.
2. The tutor on the person must be trustworthy on the person of the minor, able to attend to his affairs and of the same religion as the minor.

Chapter III. Tutelage on the Person

Article (181)

1. Tutelage on the person is for the father, then to the agnates from the father's side by order of their inheritance.
2. In case several persons are entitled and they are all in the same degree, of the same strength of kinship and they are equal in maturity, tutelage shall be to the eldest; and if they are different in maturity then the court shall choose the best among them.
3. Where there is no one entitled, the court shall appoint a tutor on the person from among the minor's relatives, if any is qualified, otherwise from among others.

Chapter IV. Withdrawal of Tutelage on the Person

Article (182)

Tutelage must be withdrawn from the tutor on the person in the following instances:

- 1) If he satisfies no more some of the tutelage conditions provided for in this Law.
- 2) If he perpetrates with the person under his tutelage, or with others, the crime of rape or ravishment or has led him to prostitution or any similar criminal offence.
- 3) If the tutor has been condemned though a final judgment in an intentional misdemeanour or felony perpetrated by him, or by others, against the person under his tutelage, or a lesser offence.

4) If the tutor is condemned to detention for a period in excess of one year.

Article (183)

1. Tutelage may be withdrawn from the tutor on the person, totally or partially permanently or provisionally, in the following instances:

a) In case the tutor has been sentenced to a penalty restricting his freedom for a year or less.

b) Should the person under tutelage become exposed to severe danger to his safety, health, honour, morality or education due to mistreatment by the tutor or bad example, because of the tutor's bad reputation, addiction to alcohol or narcotics, or absence of care.

It is not necessary, in this case that the tutor be sentenced to a penalty because of what is mentioned above.

2. The court may, instead of withdrawing tutelage, in the above instances, entrust the minor to a specialised social institution together with the continuity of the tutor's tutelage.

Article (184)

In the cases mentioned in Articles (182) and (183) of this Law, the court may on its own motion, or upon request of the investigation Authority, entrust the minor provisionally to a trustee or to one of the specialised social associations until the tutelage matter is settled.

Article (185)

In case the tutelage is withdrawn as concerns some of those under his tutorship, it should be withdrawn from the others as well.

Article (186)

Should the court decide to withdraw tutelage from the tutor on the person of his ward, to limit it or stop it, tutelage shall pass to the one following in rank if he is qualified.

In case he refuses or is not qualified, the court may entrust tutelage to whomever it deems qualified, even if he is not related to the minor, or entrust it to one of the specialised social associations.

Article (187)

In cases other than those where tutelage must be withdrawn, the court may reinstate, in whole or in part, tutelage to the tutor on the person of the minor upon his request and provided six months have elapsed since the disappearance of the cause of withdrawal.

Chapter V. Tutelage on Property

Article (188)

Tutelage on property is for the father alone then to the guardian named by him, if any, then to the grandfather from among the agnates, then to the guardian named by him, if any, then to the judge. None of these may renounce to his tutorship without authorisation of the court.

Article (189)

The Property donated as a gift to the minor shall not be included in the tutelage should the donator so provide.

Article (190)

The minor's property and its accessories may not be leased or donated otherwise such acts shall be void and shall entail liability and guaranty.

Article (191)

The tutor may not dispose of a real estate owned by the minor in such a way as to transfer title thereto or establish a real right thereon without the authorisation of the court and for reasons of necessity or evident interest as estimated by it.

Article (192)

The tutor may not borrow money to the benefit of the minor unless he is so authorised by the court and without prejudice to the provisions of the Islamic Sharia.

Article (193)

The tutor may not, without the court's authorisation, lease an immovable property owned by the minor for a period extending beyond one year after attaining the age of majority.

Article (194)

The tutor may not continue a trade that devolved to the minor without the authorisation of the court and within the limits thereof.

Article (195)

The tutor may not, without the authorisation of the court, accept a donation or a will for the minor if they are charged with obligations.

Article (196)

1. The tutor shall make a list of the minor's property owned by, or devolving to him, and shall deposit this list with the Clerks' Office of the court of his domicile within two months from the beginning of the tutelage or from acquiring title by the minor of the property.

2. The court may consider the non-submission of the list or the delay in submitting it as exposing the minor's property to danger.

Article (197)

The tutor, by authorisation of the court, may spend on himself from the minor's funds, if the latter has a duty to provide alimony for the former. He may also spend from these funds on those supported by the minor.

Chapter VI. Withdrawal of Tutelage on Property

Article (198)

Should the property of the minor be exposed to danger because of the tutor's misdealing or for any other cause, the court has to withdraw or limit the tutelage.

Article (199)

The court shall order the cessation of tutelage should the tutor be considered absent or incarcerated by virtue of a judgment sentencing him to a penalty restricting his freedom for a period of one year or less.

Article (200)

The judgment withdrawing tutelage on the person of the minor shall result in its forfeiture or cessation as concerns his property.

Article (201)

Where tutelage is withdrawn, limited or stopped, it shall not be reinstated except by judgment of the court after ascertaining that the reasons therefore have ceased to exist.

Article (202)

The request for reinstatement of tutelage, that had previously been rejected, shall not be accepted unless after the expiry of one year from the date of the final judgment of rejection.

Chapter VII. Dealings of the Father and Grandfather

Article (203)

Tutelage of the father on his minor son's property shall be for the purpose of safekeeping, administration and investment.

Article (204)

Tutelage of the father includes his minor grandsons in case their father is interdicted.

Article (205)

Dealings of the father are supposed to be valid, namely in the following instances:

- 1) Contracting in the name of his son and disposing of his property.

- 2) Trading for the account of his son but he shall not persevere in this trade except in case of evident benefit.
- 3) Acceptance of the licit donations for his son's benefit if it is devoid of any prejudicial obligations.
- 4) Spending from his son's funds on those his son is obligated to support.

Article (206)

Dealings of the father are contingent upon the authorisation of the court in the following instances:

- 1) In case he purchases the property of his son for himself, his wife or any of his other children.
- 2) If he sells to his son his property, the property of his wife or of his other sons.
- 3) If he sells his son's property to invest the proceeds for his own account.

Article (207)

1. The father's dealings are void if it is established that he miscarried them or if they are devoid of any interest to the minor.

2. The father is considered liable, in his funds, in case of a gross mistake that caused prejudice to his son.

Article (208)

Tutelage of the father shall be withdrawn from him if it is established to the judge that the minor's property have been exposed to danger as a result of his father's dealings.

Article (209)

The provisions of this section, applicable on the father, shall apply to the grandfather.

Chapter VIII. Termination of Tutelage

Article (210)

Tutelage ends when the minor attains the legal age of majority unless the court decides to continue tutorship on him.

Article (211)

In case the tutelage on the person ends, it shall not be reinstated unless there exists one of the causes of interdiction.

Article (212)

Upon termination of tutelage, the tutor, or his heirs, has to return the property of the minor to him through the competent court.

Chapter IX. The Guardian

Article (213)

1. The father may appoint a guardian of his choice on his minor son, on the fetus in gestation or on the minor children of his interdicted son. This is also possible for the donor, in the case provided for in Article (189). The guardianship shall be submitted to the Court for confirmation.
2. The father or the donor may, at any time, relinquish his choice.
3. The choice, as well as the relinquishment, must be established by a formal or informal paper.
4. Should the minor or the fetus on gestation have no guardian or a grandfather from among the agnates, the court shall appoint a guardian.
5. The guardian shall not dispose of the property of the fetus in gestation until its birth alive at which time he will deliver the property to his legal tutor.

Article (214)

Whenever the minor's interest so require, the judge shall appoint an ad hoc or a provisional guardian.

Article (215)

The guardian, whether chosen or appointed by the judge, must be equitable, capable, trustworthy, enjoying full capacity, of the same religion as the person under his custody and able to discharge the duties of guardianship. The following persons, namely, may not be appointed guardians:

- 1) The person whom the father decided, prior to his death, to deprive from nomination as long as this deprivation is based on strong reasons which the court, after investigation, deems that it justifies this decision. Privation shall be established by a formal or informal paper.
- 2) The person who, himself, one of his ascendants, descendants or spouse, is in judicial litigation with the minor; or the person who is in a state of animosity with the minor or his family should this be detrimental to the interest of the minor.
- 3) The person sentenced to a penalty limiting his freedom for one of the crimes against morality, honour or honesty. Nevertheless, the lapse of a period of five years may lead, in case of prejudice, to disregard this condition.
- 4) The person who has no legitimate means of living.
- 5) The person whose tutelage on another minor has been withdrawn or his guardianship revoked.

Article (216)

The guardian shall be bound to observe the conditions and the duties entrusted to him in the guardianship deed, unless they are in violation of the law.

Article (217)

The guardian may be a male or female, physical or juristic person, one or several, independent or in conjunction with a supervisor.

Article (218)

1. In case the guardians are several, none of them may unilaterally take any action unless the testator has defined to each his competence. So, if guardianship is for a number of guardians jointly, none of them may dispose without the approval of the others. Nevertheless, any of them may take the necessary or urgent measures or those exclusively to the interest of the minor, dispose of whatever is exposed to perishing if action is delayed, or dispose of undisputed items such as restitution of deposits that unquestionably belong to the minor.

2. In case of difference between the guardians, the matter shall be submitted to the court.

Article (219)

Guardianship is binding when expressly or impliedly accepted and the guardian may not abandon it if accepted expressly or impliedly except through the competent court.

Article (220)

Should the father appoint a supervisor to control the acts of the guardian, the supervisor must act accordingly in the minor's interest and he shall be accountable to the court.

Article (221)

The conditions required from the supervisor are the same as those required from the guardian.

Article (222)

1. The provisions applicable on the supervisor as to his appointment, removal, accepting his resignation, remuneration and liability for default are the same as those governing the guardian.

2. The court shall decide the termination of supervision whenever the reasons thereto ceased to exist.

Article (223)

The guardian has to administer, to upkeep and to invest the minor's property and shall, to this end, deploy the necessary care.

Article (224)

The acts of the guardian shall be under the control of the court; he is under obligation to submit to it periodical accounts for his acts concerning the administration of the property of the minor and of those who are in his condition.

Article (225)

The guardian may not perform the following acts without the authorisation of the court:

- 1) Disposal of the minor's property by means of selling, buying, bartering, partnership, pledge or any other act of disposition transferring title or establishing a real right.
- 2) Disposal of the bonds and shares or part thereof, as well as valuable movables or those which are not perishable unless they are of trifle value.
- 3) Transfer of the minor's debts or accept the transfer on him if he is indebted.
- 4) Investing the minor's property for his account.
- 5) Borrowing money in favour of the minor.
- 6) Renting the minor's real estate.
- 7) Acceptance or rejection of conditional grants.
- 8) Spending from the minor's funds on those whose alimony is due on the minor unless such alimony is established by an enforceable judgment.
- 9) Payment of the matured obligations on the estate or on the minor.
- 10) Acknowledging a right against the minor.
- 11) Compromise and arbitration.
- 12) Filing a lawsuit if the delay in filing it is not prejudicial to the minor or results in the forfeiture of one of his rights.
- 13) Withdrawal of a suit and waiver of legal means of appeal.
- 14) Selling or leasing the minor's property for himself, his spouse or one of their ascendants or descendants or to one whom the guardian is his representative.
- 15) The amount spent for the minor's marriage such as dowry or the like according to the regulations in force.
- 16) Education of the minor if he is in need to alimony.
- 17) Expenditures required by the minor to start a specific profession.

Article (226)

It is forbidden to the Body in charge of the minor's affairs or any competent official therein to purchase or lease, for himself, his spouse or one of his ascendants or descendants, any of the

properties owned by the minor; as well as to sell to the minor any property owned by the said Body or its representative, his spouse or any of his ascendants or descendants.

Article (227)

Guardianship shall be without remuneration unless, upon the guardian's request, the court decides to fix him a salary or compensation in consideration of a specific work to which the guardian asked to be paid a customarily accepted remuneration.

Chapter X. Termination of Guardianship

Article (228)

The duties of the guardian shall terminate in the following instances:

- 1) His death, total or partial incapacity.
- 2) Upon evidence that he is missing or absent.
- 3) Acceptance of his request to abandon his mission or if he has been discharged therefrom.
- 4) Impossibility to discharge the guardianship's duties.
- 5) Considering the minor of full capacity or upon his attaining the age of majority.
- 6) Removal of interdiction from the interdicted.
- 7) Recovering capacity by the minor's father.
- 8) Death of the minor or the interdicted.
- 9) Termination of the duty for which the guardian was appointed to discharge or expiry of the period of his appointment.

Article (229)

Where the minor reaches the age of majority insane or not apt to be entrusted his property, the guardian has the obligation to inform the court to consider extending guardianship after his becoming of full age.

Article (230)

Discharge of the guardian shall be decided by the court in case:

- 1) any cause of disqualification for guardianship arises even if this cause existed when he was appointed; or
- 2) of mismanagement or negligence or if his maintenance as a guardian constitutes a danger to the interests of the minor.

Article (231)

1. Upon termination of his task, the guardian has to deliver the minor's properties and all related accounts and documents to the concerned person, under the supervision of the court, within a period not exceeding thirty days therefrom. Moreover, he has to deposit with the Clerks' Office at the competent court, within the said period, a copy of the accounts and the report evidencing the delivery receipt of the properties. In this respect, the court shall observe, when necessary, the provisions concerning criminal liability.

2. Shall be void, any undertaking, clearance or discharge obtained by the guardian from the minor who has reached the age of majority within one year from the date of ratification of the accounts by the court.

Article (232)

Should the guardian pass away or be interdicted or declared absent, his heirs, his legal substitute or the person taking possession of the property, as the case may be, must forthwith inform the court thereof in order to take the necessary measures to protect the minor's rights and hand over the minor's property and submit the relative accounts.

Title Three. The Absent and the Missing

Article (233)

1. The absent is the person whose domicile or residence is unknown.
2. The missing is the person of whom it is not known whether he is alive or dead.

Article (234)

In case the absent or the missing has no proxy, a judicial proxy shall be appointed to administer his property.

Article (235)

An inventory shall be made of the property of the absent or the missing person upon appointing the judicial proxy and the property shall be administered in accordance with the administration of the minor's property.

Article (236)

The status of the missing ends:

- 1) If the life or death of the missing person is established.
- 2) If a judgment is rendered declaring the death of the missing person.

Article (237)

1. Under all circumstances, the judge must search, by all means, for the missing person in order to ascertain whether he is alive or dead before adjudicating his death.

2. The judge shall declare the death of the missing person if there is evidence of his death.

3. The judge shall adjudicate the death of the missing person, one year after he is declared missing upon request of the concerned persons, in cases where perishing is prevalent, or four years in ordinary circumstances.

4. The properties of the missing person who has been declared dead shall not be allocated unless after the lapse of fifteen years from the date he is declared missing.

Article (238)

The day on which the judgment, declaring the missing person dead, is rendered shall be considered the date of his death.

Article (239)

Should the missing person be declared dead then appears alive:

- 1) His wife returns to him in the following instances:
 - a) If her second marriage is not consummated;
 - b) In case her second husband knows that her first husband is alive.
 - c) If the second husband married her during her waiting period.
- 2) He can claim his estate from his heirs except the portion that perished.

BOOK FOUR. THE TESTAMENT

Title One. General Provisions

Article (240)

A testament is an act of disposition of the succession after the death of the testator.

Article (241)

A testament can be absolute, at term after death, subject to a valid condition precedent or subsequent.

Article (242)

Should the will be subject to a condition contrary to the Sharia aims or to the provisions of this Law, the condition is void but the will is valid.

Article (243)

The will is enforceable within the limit of one-third of the testator's estate, after paying the rights thereon and is valid beyond this third, within the limits of the share of the major heir who accepted it.

Article (244)

Any act of disposition taken in articulo mortis as a gift or by favouritism shall be governed by the provisions applicable to wills regardless of the characterisation given to it.

Title Two. Basic Elements and Conditions of a Will

Chapter I. Basic Elements

Article (245)

The basic elements of a will are: The wording, the testator, the legatee and the bequeathed property.

Article (246)

A will is formed by words or in writing and if the testator is unable to so express himself then by a recognisable sign.

Article (247)

Where a will is denied, the lawsuit concerning a will or revocation thereof shall not be heard except through the means of proof admitted by law.

Article (248)

1. A will is valid if made by a person having the capacity to donate, even if it is done in articulo mortis, with due compliance with the provisions of Articles (174) and (176) of this Law.
2. The will of an interdicted for prodigality or carelessness is valid if made for good deeds with authorisation of the court.
3. The testator may amend or revoke a will totally or partially.
4. Disposal of the bequeathed property by the testator is considered a revocation of the will.

Article (249)

The will is valid if made to a person qualified to own the object of the legacy even if he is of a different religion.

Article (250)

A will may not be made to an heir unless approved by all other major heirs; it is then executable on the share of the one who consented.

Chapter II. Conditions of Validity of a Will

Article (251)

1. A will is valid if made to a living specific person or to a fetus.
2. A will is valid if made to a limited or unlimited class of people.
3. A will is valid if made for charity purposes admitted by law.

Article (252)

1. A will made to a specific person must be accepted by the beneficiary, after the death of the testator or during his life provided this acceptance continues after his death.
2. Should the beneficiary be a fetus, a minor or an interdicted, acceptance of the will has to be made by the one who has the curatorship on his property, as he may reject it after securing the judge's authorisation.
3. A will to an unspecified person does not need acceptance or rejection by any one.
4. Acceptance on behalf of Bodies, institutions and foundations shall be given by their legal representatives who may reject the will after securing the approval of the judge.

Article (253)

1. Acceptance of the will has not to be given immediately after the death of the testator.
2. Silence of the beneficiary for a period of thirty days subsequent to his knowledge of the will shall be considered as an approval thereof.

So, if the testament is charged with an imposition, the above period shall be extended to fifty days unless there is an acceptable reason for its waiver.

Article (254)

The testator has the complete capacity to revoke the will totally or partially.

Article (255)

Should the beneficiary die prior to the death of the testator without accepting or rejecting the will, it shall devolve to his heirs unless it is charged with impositions.

Article (256)

1. The specified beneficiary shall own the object of the legacy as of the date of death of the testator provided he accepts the will.

2. The heir of the beneficiary, who died prior to partition, shall substitute him.

3. In case there is more than one beneficiary, the object of the legacy shall be equally apportioned between them, unless otherwise provided by the testator.

4. The living of the twins shall take the entire legacy should the other be born dead.

Article (257)

1. A will bequeathed to a class of people, undeterminable in future, shall include those among them who exist upon the death of the testator and those who shall exist in future.

2. The number of the unspecified class shall be limited by the death of their fathers or there is no hope left for the living among them to have off-springs.

3. In case it is hopeless for any of the beneficiaries to exist, the legacy shall return to the succession.

Article (258)

The existing persons of the unspecified class shall benefit of the legacy and their shares therein shall change on each birth or death.

The proceeds of the legacy shall be divided among the existing of the undetermined who cannot be restrictively enumerated.

Article (259)

The object of the legacy shall be sold to the undetermined if it is feared that it be lost or devaluated and the sale proceeds shall be used to purchase what can be of benefit to the beneficiaries.

Article (260)

1. The subject matter of the will, for legally admitted charity purposes, shall be spent to the benefit thereof.
2. The proceeds of the legated property to expected institutions shall be paid to the most similar one until it legally comes into existence.

Article (261)

The legacy must be the property of the testator and the object of the will be legitimate.

Article (262)

1. The legacy may be general or specific.
2. The general legacy shall include all the assets of the testator, present and future.

Article (263)

The general will shall be executed up to one-third of the succession.

Article (264)

1. The specified legacy may be a real estate or a movable, fungible or non-fungible, naked property, interest, usufruct in land or chattels for a definite or unspecified period.
2. Whoever legates a specified thing to a person then legates it to another, it shall be divided between them unless there is evidence that meant to revoke the will made to the first.

Chapter III. The Legacy of Usufruct and Loaning

Article (265)

1. Where the value of the specified legacy, whose usufruct or use of it has been legated, is less than one-third of the succession, the land shall be delivered to the beneficiary to benefit from it according to the will.

2. If the value of the specified property which usufruct or use has been bequeathed and if the consideration for the usufruct for the specified period is more than one-third the succession, the heirs shall have the choice either to ratify the will or to give the beneficiary the equivalent of one-third the succession.

3. If the legacy is for usufruct for the whole life of the beneficiary, the will shall be assessed as per the value of the corpus of property.

4. A will is valid if made as a loan of a fixed sum granted to the beneficiary and shall not be enforceable for the portion of this amount in excess of one-third of the loan except with the consent of the heirs.

Article (266)

The beneficiary of a will granted the usufruct of a specified property shall be entitled to use it or exploit it even contrary to the purpose specified in the will provided it does not adversely affect the corpus of the property.

Chapter IV. Legacy Equal to the Share of an Heir

Article (267)

If the legacy is equal to the share of a specified heir from among the testator's heirs, the beneficiary shall be entitled to the same share of this heir plus his share in the estate.

Article (268)

If the legacy is the share of an undetermined heir among the testator's heirs or equal to his, the beneficiary shall be entitled to the share of one of the heirs over and above his share in the estate,

in case the heirs have equal shares, and the share of the heir who has the smallest share over and above his share in the estate, if they have not equal shares.

Article (269)

The beneficiary of a share equal to that of an heir, whether male or female, shall be entitled to his share up to one-third and the portion in excess of this one-third shall be taken from the share of the major heir who consented to the will.

Chapter V. Voidance of the Will

Article (270)

A will is void in the following instances:

- 1) Express or implied revocation of the will by the testator.
- 2) Death of the beneficiary during the life of the testator.
- 3) Rejection of the will by the beneficiary during the life of the testator or after his death.
- 4) Murder of the testator by the beneficiary whether the latter is the author, accomplice or accessory of the crime provided that, upon perpetrating the crime, he was of sound mind having reached the capacity required for criminal liability regardless of whether the killing took place prior or subsequent to the will.
- 5) Perishing of the specified subject matter of the bequest or its entitlement by a third person.
- 6) Apostasy from Islam of the testator or the beneficiary unless he returns to it.

Article (271)

Should the beneficiary become an heir to the testator, his entitlement to the will shall be conditional upon the approval of the other heirs.

Chapter VI. The Mandatory Will

Article (272)

1. Whoever dies or is considered dead by decision of the court and has grandsons from his son or his daughter and this latter died before or with the testator, the grandsons shall be entitled to a mandatory will for one-third of the estate within the following limits and conditions:

- a) The mandatory will for these grandsons shall be equal to their share that their father would have inherited from his father had he survived him, provided it does not exceed one-third of the estate.
- b) The above-mentioned grandsons shall not be entitled to a mandatory will if they inherit their ascendant, grandfather or grandmother, or if this ascendant did not bequeath to them or grant them in his lifetime, without consideration, an amount equal to their entitlement under the mandatory will. In case he bequeathed to them below this amount it must be completed and if more than the said amount, the excess shall be considered a voluntary will. Should he bequeath to some of them only, the others shall be entitled to the mandatory will, each according to his share.
- c) The right to the mandatory will shall be to the children of the son or the daughter or their descendants, without limitation and regardless of their number, the male's share shall be twice the share of a female. The ascendant shall disinherit his own descendants only and the descendant shall only be entitled to the share of his ascendant.

2. The mandatory will is prevalent to the voluntary wills as to its execution on the one-third of the estate.

3. The murderer and the defector shall be deprived from the benefit of the mandatory will, in accordance with the provisions of this Law on Testaments.

Chapter VII. Wills in Competition

Article (273)

Should the one-third be short of satisfying the wills of equal rank and the major heirs did not approve the portion in excess thereof, the one-third shall be apportioned in equal shares between the beneficiaries. In case the subject matter of a will is a specific thing it will be set off against its price so that the deserving beneficiary shall take his share from the specified object and the others shall take their share from the balance of the whole third.

BOOK FIVE. SUCCESSION AND INHERITANCE

Title One. Successions

Chapter I. General Provisions

Article (274)

Succession is what the decedent leaves, assets and financial rights.

Article (275)

Rights are attached to succession; some have precedence over the others according to the following order:

- 1) Burial expenditures.
- 2) Payment of the decedent's debts due to God or to human beings.
- 3) Execution of wills.
- 4) Distribution of the balance of the succession on the heirs.

Article (276)

Ascertainment of death and succession:

- 1) The person who claims ascertainment of death and succession has to submit an application in this respect to the competent court which shall include statements concerning the date of death, the last domicile of the decedent, names of the heirs and their domicile, the legatees and their domicile and the entire movable and immovable properties of the estate.
- 2) The Clerks' Office shall give notice to the heirs and the legatees to appear before the court at the date to be fixed for this purpose. The judge shall examine the testimony of those he trusts and may add to this the administrative investigations, as he sees fit.
- 3) The ascertainment of death and succession stands as a conclusive evidence unless otherwise adjudicated or if the court decides to stay its conclusiveness. The court shall

issue a certificate of inheritance limiting the heirs and indicating the shares of each in the succession.

Article (277)

The procedures for liquidation of the estate are the following:

- 1) In case the decedent did not appoint an administrator for his estate, any of the concerned persons may ask the judge to appoint an administrator unanimously chosen by the heirs from among them or from others and in case they fail to reach such an agreement, the judge shall choose one after hearing the heirs' statements.
- 2) Special provisions shall be complied with if there is among the heirs an unborn fetus, a fully incapacitated or an heir lacking capacity or an absentee.

Article (278)

Should the decedent appoint an administrator for his estate, the judge must, upon request of one of the concerned persons, ratify this appointment but the administrator may ask to be excused from such nomination.

Article (279)

Upon request of one of the concerned persons or of the public prosecution or even without any request, the judge may dismiss the administrator and appoint another whenever there is a justification for this decision.

Article (280)

1. The court shall enter in a special register the orders of appointment or of ratification of administrators, in case they are appointed by the decedent, or their dismissal or withdrawal.
2. This entry shall produce its effect on those who deal with the heirs as concerns the real estates of the succession.

Article (281)

1. The administrator of the estate shall, after his appointment, take delivery of the estate's assets that he shall undertake to liquidate under the supervision of the judge. He may claim a remuneration to be fixed by the judge.

2. The estate shall bear the liquidation expenses which shall have the priority given to judicial expenses.

Article (282)

The judge shall, when necessary, take whatever is necessary to preserve the estate and order the deposit of cash money and financial securities and valuables at the Treasury of the court in whose jurisdiction the estate's property, totally or the largest part of it, is located until the liquidation is completed.

Article (283)

The administrator of the estate shall spend from the estate's funds:

- 1) The burial expenses.
- 2) A sufficient and reasonable alimony to the needy heir until the liquidation is completed and after obtaining an order of payment from the judge, provided the alimony obtained by each heir shall be deducted from his share in the estate.
- 3) The judge shall settle all litigations arising in this respect.

Article (284)

1. As from the appointment of the estate's administrator, the creditors may neither take any measure against the estate nor continue any measure already initiated except against the administrator of the estate.

2. Whenever so requested by the concerned persons, all measures taken against the decedent shall be stayed until the settlement of all the estate's debts.

Article (285)

Prior to receiving an attestation showing his share in the net assets of the succession, the heir may not dispose of the estate, as he may not take any of the debts due by the estate or compensate a debt on him with one on the estate.

Article (286)

1. The administrator of the estate has to take all measures to preserve its assets and perform the necessary administration acts and represent the estate in the lawsuits and recover the debts in its favour.

2. The administrator shall assume the same liability as that of the remunerated proxy, even if he is not salaried, and the court may ask him to account for his administration at fixed intervals.

Article (287)

1. The administrator of the estate shall invite its creditors and debtors to submit a statement of their rights and of the debts owed by them, within a period of two months as of the date of publishing this notice.

2. The notice must be affixed on the bulletin board, of the court of the last domicile of the decedent as well as the court within whose jurisdiction all or most of the estate's assets are located, and be published in a daily paper.

Article (288)

The administrator of the estate has to deposit with the court which ordered his appointment, within three months from the date of his appointment, an inventory statement of all the rights and dues of the estate as well as an assessment of the value thereof and notify the concerned persons of such deposit through registered mail with acknowledgment of receipt.

The administrator may ask the court to extend this period should he have a justification for such request.

Article (289)

For the purpose of assessing and inventorying the estate's assets, the administrator of the estate may seek the assistance of an expert and he must record all that the decedent's documents may reveal. The heirs have to inform him of all the debts and rights of the estate that came to their knowledge.

Article (290)

Shall be sentenced to the penalty provided for in the Penal Law, for embezzlement, whoever fraudulently appropriated any of the estate's property even if he is an heir.

Article (291)

Any dispute over the accuracy of the inventory shall be submitted, through a lawsuit, to the competent court within thirty days as of the date of depositing the inventory statement.

Chapter II. Settlement of the Estate's Debts

Article (292)

1. Subsequent to the expiry of the delay fixed for contesting the inventory statement, the administrator shall, after securing the permission of the court, pay the undisputed debts.
2. The disputed debts shall be settled after deciding on their accuracy by a decisive judgment.

Article (293)

In case the estate is declared bankrupt or likely to be declared so, the administrator shall stop settling any debt, even if undisputed, until all the litigations concerning the debts of the estate are finally settled.

Article (294)

1. The administrator of the estate shall pay its debts from the rights collected, the cash money included, the price of the chattels comprised therein and, in case they fall short, then from the price of the real estates.
2. Chattels of the estate and its immovable properties shall be sold by auction and in accordance with the procedures and within the delays provided for forced sales in the Law of Civil Transactions, unless the heirs agree otherwise. In case the estate is bankrupted, the approval of all creditors should be secured in the manner agreed upon by the heirs who have, in any case, the right to participate in the auction.

Article (295)

Debts unsecured by real mortgage shall mature upon the death of the decedent and the judge, upon request of all heirs, shall decide that the debts secured by real mortgage have fallen due and shall determine the amount due to the creditor.

Article (296)

After allocating the undue debts that are secured by real mortgage, each heir may pay his share of the debt prior to maturity.

Article (297)

Debtors who have not been paid their dues because their rights do not figure in the inventory statement, and who have no mortgages on the estate's assets, may not have a claim against those who have acquired in good faith a real right on these assets but they may have a claim against the heirs to the extent of what they received from the estate.

Article (298)

Subsequent to the settlement of its debts, the administrator shall execute the decedent's wills and other charges.

Chapter III. Delivery and Partition of the Estate's Assets

Article (299)

Subsequent to the fulfilment of the estate's obligations, the balance of its assets shall devolve to the heirs, each according to his legal share.

Article (300)

1. The administrator of the estate shall deliver to the heirs the property that devolved to them from the estate.
2. Upon the expiry of the period fixed for the disputes concerning the inventory of the estate, the heirs may claim delivery of all or part of the objects and the cash money that are not required for liquidation against submitting a guarantee or without it.

Article (301)

Every heir is entitled to ask the administrator of the estate to deliver to him his share in the estate parcelled out unless the said heir is bound to remain in joint ownership either by agreement or according to a law provision.

Article (302)

1. The estate that is not over covered with debts may be partitioned prior to the payment of debts due on it provided a portion of this estate is allocated for the payment of the debts including these secured by a real mortgage.
2. In case the application for partition is accepted, the administrator of the estate shall make the partition provided it shall not become final unless accepted by all heirs.
3. Should the heirs do not unanimously agree to the partition, the administrator of the estate shall request the court to proceed with it according to the law provisions and the expenses of the partition lawsuit shall be deducted from the shares of the heirs.

Article (303)

The partition of the estate shall be governed by the rules applicable to partition in general and by the provisions of the following Articles.

Article (304)

Should there be among the assets of the estate a property that may be exploited for agriculture, industry or commerce and considered as an independent entity, and if the heirs do not agree to continue the exploitation and the property is not encumbered with any third-party rights, the property as a whole shall be allocated to the heir who claims it if he is the most apt to take care of it and provided its value is determined and deducted from his share in the estate. In case all the heirs have equal aptitudes, the property shall be allocated to the heir among them who gives the highest price provided it is not below the price paid for a similar property.

Article (305)

Unless otherwise agreed, should one of the heirs be allocated, upon partition, a debt on the estate, the other heirs shall not guarantee the debt in case he is declared bankrupt after the partition.

Article (306)

The will allocating the assets of the estate between the heirs of the testator so that the share of each heir, or some of them, is determined, shall be valid.

In this case, it shall be treated as a will to an heir.

Article (307)

Partition to take effect after death may be revoked but it becomes binding upon the death of the testator.

Article (308)

Should partition not include all the decedent's assets upon his death, the property not included in the partition shall devolve as joint property to the heirs in accordance with the rules on succession.

Article (309)

Should one or more of the prospective heirs who have participated in the partition die before the decedent, the parcelled out share allotted to the deceased heir shall devolve in the joint property to the other heirs, in accordance with the rules governing successions, without prejudice to the provisions applicable to the mandatory will.

Article (310)

The partition to take effect after death shall be subject to the rules governing partition in general, except the provisions concerning burdensome contracts.

Article (311)

In case the partition does not include all the estate's debts or included it but the partition was not approved by the creditors, any heir, in case of disagreement with the creditors, may request the court to do the partition and settle the debts provided that the partition mentioned in the decedent's will and the reasons therefore be taken, as much as possible, into consideration.

Chapter IV. Non-Liquidated Successions

Article (312)

If the succession is not liquidated according to the preceding provisions, the ordinary creditors of the estate may implement their rights or what has been bequeathed to them on the real properties of the succession that has been disposed of or has been encumbered with real rights to third parties, if they lay an attachment on these properties in consideration of their rights prior to registration of these transactions.

Title Two. Inheritance

Chapter I. General Provisions

Article (313)

Inheritance is the imperative devolution of the property and financial rights upon the death of their owner to those deserving.

Article (314)

The main elements of inheritance are:

- 1) The decedent.
- 2) The heir.
- 3) The succession.

Article (315)

The causes of inheritance are: marriage and kinship.

Article (316)

Entitlement to succession is subject to the following conditions: Death of the decedent in reality or by judgment; the presence of the heir alive upon the real or assumed death of the decedent; knowledge of the whereabouts of the succession.

Article (317)

Among the causes of debarment from succession, the deliberate murder of the decedent whether the murderer is the principal offender, an accomplice or the one who caused the death. The killing should be without right or excuse and the murderer must be of sound mind enjoying full capacity.

Article (318)

There is no inheritance between persons of different religions.

Article (319)

In case of death of two or more persons who inherit from each other and it is not known who died first, no one is entitled to the succession of the other.

Article (320)

Inheritance may be forced, agnatic or both then cognatic.

Chapter II. Forced Inheritance and Heirs (Fouroud)

Article (321)

1. Forced inheritance: is a fixed share for an heir in the estate.
2. The fixed shares are: one-half, one-quarter, one-eighth, two-thirds, one-third, one-sixth, and one-third of the balance.
3. The forced heirs are: The two parents, the spouses, paternal grandfather or his agnate ascendants, the grandmother who is not related to the decedent by an heir, daughters, the daughters of the son or of his descendants, sisters in the absolute, and the cognate brother.

Article (322)

Those who receive one-half of the estate:

- 1) The husband provided that the wife has no succeeding descendant.
- 2) The daughter provided the decedent has no other child, male or female.
- 3) The daughter of the son or of his descendants provided the decedent has no child or grandchild equal or higher in degree with her.
- 4) The germane sister, if she has no brother, other sisters, a succeeding descendant to the decedent, father or paternal grandfather.

5) The consanguine sister, if she is one and there is no consanguine brother, germane brother or sister, a succeeding descendant to the decedent, a father or a paternal grandfather.

Article (323)

Those who receive one-quarter of the estate:

- 1) The husband in case the wife has a succeeding descendant.
- 2) The wife, even if several, should the husband have no succeeding descendant.

Article (324)

Those who receive one-eighth of the estate:

The wife, even if several, should the husband have a succeeding descendant.

Article (325)

Those who receive two-thirds of the estate:

- 1) Two or more daughters, if the decedent has no sons.
- 2) Two or more daughters of the son, or of his descendants, if the decedent has no direct son, grandson of the same degree as the son's daughters or a grandchild of a higher degree.
- 3) The two or more germane sisters in the absence of a germane brother, a succeeding descendant of the decedent, father or paternal grandfather.
- 4) The two or more consanguine sisters, in the absence of a consanguine brother, a germane brother or sister, a succeeding descendant of the decedent, father or paternal grandfather.

Article (326)

Those who receive one-third of the estate:

- 1) The mother, if the decedent has no succeeding descendant, or if there is absolutely none of the brothers and sisters, unless she inherits with one of the spouses and the father restrictively, then she is entitled to one-third of the remainder.

2) Two or more of the mother's children in the absence of a succeeding descendant of the decedent, a father, a paternal grandfather. This third shall be equally divided between them, male and female.

3) The paternal grandfather, if he concurs with the germane or consanguine brothers or both, if they are more than two, or a corresponding number of sisters, and in the absence of forced heirs.

Article (327)

Those who receive one-sixth of the estate:

1) The father in concurrence with a succeeding descendant.

2) The paternal grandfather, in the following instances:

a) If the decedent has a succeeding descendant.

b) In the presence with him of forced heirs and where his share is less than one-sixth or one-third of the remainder or if nothing is left after they have taken their forced shares.

c) If he has with him a forced heir and more than two brothers or an equal number of sisters, whether germane or consanguine, and his share of one-sixth is better to him than the two-thirds of the remainder.

3) The mother with the succeeding descendant of the decedent or with two or more of the brothers or sisters, in the absolute.

4) One or more grandmother and her ascendants provided she is not debarred from inheritance.

5) One or more daughter of the son or of his descendants if she inherits with a single consanguine daughter or with a single son's daughter who is higher in degree, provided there is no son or grandson in a higher or in an equal degree compared to her.

6) One or more consanguine sister with a single germane sister if the decedent has no succeeding descendant, or father, paternal grandfather brother or consanguine brother.

7) A single uterine brother or sister in the absence of a succeeding descendant of the decedent, a father or paternal grandfather; with due observance of Article (347) of this Law.

Article (328)

Those who receive one-third of the remainder:

- 1) The mother with one of the spouses and the father, if the decedent has no succeeding descendant or two or more of the brothers or sisters, in the absolute.
- 2) The paternal grandfather if he is with a forced heir and more than two brothers or an equal number of germane or consanguine sisters, provided the one-third of the remainder is better for him than the one-sixth.

Chapter III. Male Agnates (Asaba)

Article (329)

1. Agnates are entitled to an undetermined share in the estate.
2. Agnates are of three kinds:
 - a) Agnates per se.
 - b) Agnates by others.
 - c) Agnates with others.

Article (330)

Agnates per se are of four directions, one preferred on the others according to the following order:

- 1) Descendants: including sons and grandsons of the son and of his descendants.
- 2) Fatherhood: including the father and the paternal grandfather and his ascendants.
- 3) Brotherhood: including germane or consanguine brothers and their descendants.
- 4) Paternal Uncles: including the paternal uncles of the deceased, whether germane or consanguine, paternal uncles of his father, paternal uncles of the consanguine paternal uncles and his ascendants, whether germane or consanguine, or the germane or consanguine sons of the paternal uncles and their descendants.

Article (331)

The agnate per se is entitled to the estate if there are no forced heirs and is entitled to the remainder, if any, and shall receive nothing if the shares of the forced heirs exhaust the whole succession.

Article (332)

1. Shall have precedence among the agnates the preferred class according to the order stated in Article (330) of this Law, then the nearer degree to the deceased, in case of equality in class, then the closest relative in case of equal degrees.
2. The agnates shall participate in their entitlement to their share in the succession in case they are of the same class and of equal degrees and strength of kinship.

Article (333)

Should the paternal grandfather participate in the succession with the germane or consanguine brothers or both, male or female or mixed, and whether or not there are with them forced heirs, the grandfather shall inherit as an agnatic heir, being considered as another brother to the deceased, unless the one-sixth or the one-third of the remainder is better for him; with due regard to the provision of Article (346) of this Law.

Article (334)

1. Agnates by others:

- a) One or more daughter with one or more son.
- b) One or more daughter of the son or of his descendants, however remote, with one or more grandson, whether he be of the same or of a lower degree than her, if she needs him, and he will debar her if he is of a higher degree.
- c) One or more germane sister with one or more germane brother.
- d) One or more consanguine sister with one or more consanguine brother.

2. In these instances, the male shall inherit double the share of a female heir.

Article (335)

Agnates with others: One or more germane or consanguine sister with one or more daughter or the son's daughter. In this case, she shall be considered as the brother in the entitlement to the remainder and in excluding the other agnates.

Chapter IV. Forced and Agnatic Heirs

Article (336)

Heirs succeeding as both forced and agnates are:

- 1) The father or the paternal grandfather with the daughter or the son's daughter and his descendants.
- 2) The husband, if he is the son of the paternal uncle of the deceased, shall receive his share as a forced heir and his entitlement as an agnate.
- 3) One or more uterine brother, if he is the son of the paternal uncle of the deceased, he shall receive his share as a forced heir and his entitlement as an agnate.

Chapter V. Exclusion And Debarment

Article (337)

1. Exclusion is the debarment of an heir of all or part of the succession because of the presence of another more entitled heir.
2. Exclusion is of two kinds: Debarring exclusion and decreasing exclusion.
3. The excluded from inheritance may exclude an heir other than himself.
4. The prohibited from inheritance does not debar an heir other than himself.

Article (338)

1. The paternal grandfather is excluded by the father and by every agnatic grandfather from whom he originated.

2. The nearest grandmother excludes the remote unless the parenthood is from the father's side then she does not exclude the more remote from the mother's side. The mother excludes the agnatic grandmother, in the absolute, and the father excludes the paternal grandmother. The agnatic grandfather excludes the grandmother if she is his ascendant.

Article (339)

The uterine brothers are excluded by the father, the agnatic grandfather and his ascendants, the son, the grandson and his descendants.

Article (340)

The son, grandson and his descendants exclude the son's daughter who is lower in degree than him and she is also excluded by two daughters or two granddaughters of a higher degree unless she is with one with whom she becomes agnate.

Article (341)

Each of the father, son, grandson and his descendants exclude the brothers and the germane sisters.

Article (342)

Each of the father, son, grandson and his descendants exclude the agnatic sister and she is also excluded by the germane brother and sister, if she is an agnate with others in accordance with the provisions of Article (335) of this Law. She is also excluded by two germane sisters in the absence of a consanguine brother. The consanguine brothers are excluded by each of the father, son, grandson and his descendants, the germane brother and sister if the latter is an agnate with others.

Chapter VI. Reallocation by Increase or Decrease of Shares

Article (343)

Reallocation by increase of shares (Rad'): is the increase in the share of the forced heirs in proportion of their original shares, in case the estate is larger than the total shares.

Article (344)

If the shares of the forced heirs do not exhaust all of the estate and there are no agnatic relatives, the excess shall revert to the forced heirs, other than the spouses, in proportion of their shares. The balance of the estate shall revert to one of the spouses in case there are no agnate relatives or forced heirs or relatives other than the forced heirs and the agnates.

Article (345)

1. Reallocation by decrease of shares: is the decrease in the shares of the forced heirs, in proportion to their shares, in case the shares exceed the common denominator of the estate.
2. The new common denominator shall become the base on which the estate shall be divided.

Chapter VII. Special Problems

Section 1. Al Akdarieh

Article (346)

The presence of the grandfather makes the germane or consanguine sisters agnates and they do not inherit with him as forced heirs except in Akdarieh which is the case of the spouse with a mother, grandfather, germane or consanguine sister.

The father receives one-half, the mother one-third, the grandfather one-sixth; the sister has a forced share of one-half which shall be added to the one-sixth which is the share of the grandfather and the total to be divided between the two, the male receiving the share of two females.

Section 2. Al Mushtaraka

Article (347)

The germane brother inherits as agnates except in Al Mushtaraka which is the case of a spouse, mother or grandmother, a number of uterine brothers and sisters, a germane brother or more.

The spouse receives one-half, the mother or grandmother one-sixth and the one-third shall be divided between the uterine and germane brothers and sisters, the male takes the share of two females.

Section 3. Al Malikiya and Quasi-Malikiya

Article (348)

The grandfather does not exclude the germane or consanguine brother except in Al Malikiya and quasi-Malikiya:

Al Malikiya: a husband, mother, grandfather, uterine brothers, consanguine brother: the husband receives one-half, the mother one-sixth and the rest to the grandfather being an agnate.

Quasi-Malikiya: a husband, mother, grandfather uterine brothers, germane brother: the husband receives one-half, the mother one-sixth and the rest to the grandfather being an agnate.

Chapter VIII. Cognates (Zawi Al Arham)

Article (349)

The cognates are of four kinds:

First Kind:

The daughters' sons and the granddaughters' sons and their descendants.

Second Kind:

Maternal grandfathers and grandmothers and their ascendants.

Third Kind:

- 1) The uterine brothers' sons and their descendants.
- 2) Children of the sisters, in the absolute, and their descendants.
- 3) The sons' daughters, in the absolute, their sons and descendants.

4) The daughters of the brothers' sons, in the absolute, however remote and their descendants.

Fourth Kind:

It includes six groups:

- 1) Uterine uncles, from the paternal side, of the deceased, his aunts, in the absolute, and his uncles and aunts from the maternal side, in the absolute.
- 2) The sons of those mentioned in the above clause and their descendants, the female cousins, germane or consanguineous, of the deceased, their sons' daughters and their descendants as well as the sons of those mentioned and their descendants.
- 3) The uterine uncles of the deceased's father, his aunts from the paternal side, uncles and aunts from the maternal side (relatives of the father); Uncles and aunts, in the absolute, of the deceased's mother (relatives of the mother).
- 4) The sons of those mentioned in the above clause and their descendants, the cousins of the deceased's father (germane, consanguineous or uterine); their sons' daughters and their descendants without limitation.
- 5) Paternal uterine uncles of the deceased's paternal grandfather; paternal uncles of the deceased's grandmother (mother of his father); paternal aunts of the deceased's parents (both sides) and their maternal uncles and aunts, in the absolute, (relatives of the father); paternal uncles and aunts of the grandparents of the deceased's mother; maternal uncles and aunts of the deceased's mother, in the absolute, (relatives of the mother).
- 6) The sons of those mentioned in the preceding clause and their descendants; the deceased's paternal uncles of the germane or consanguine grandfather and their sons' daughters and their descendants; the children of those mentioned and their descendants.

Article (350)

1. In the first kind of cognates, those closer in degree to the deceased shall have precedence and if they are equal in degree, the child of the forced heir shall have precedence over the child of the cognate. If they are all children of a forced heir or if none is so, then they shall participate equally in the estate.

2. In the second kind of cognates, those closer in degree to the deceased shall have precedence and if they are equal in degree, the one from whom descends a forced heir shall have precedence. In case they are all of equal degree without a forced heir among their descendants, or all of them have forced heirs descendants, and if all are of paternal descent or of maternal descent, they shall participate equally and if they are not all of the same parental descent, two-thirds shall be given to those of paternal descent and one-third to those of maternal descent.

3. In the third kind of cognates, those closer in degree to the deceased shall have precedence and if they are equal in degree and among them some are entitled heirs and the others are cognates, the former shall have precedence over the latter, otherwise the closest relative. So, those who descend from both parents are preferred to those descending from either one; those who descend from the father are preferred to those descending from the mother; and if they are all equal in degree and strength of kinship they shall participate equally in the estate.

Article (351)

1. In case all members of the first group of the fourth kind, as stated in Article (349) of this Law, are of paternal descent; i. e. Maternal uncles of the deceased or his aunts, in the absolute; or are of maternal descent; i. e. uterine uncles of the deceased or his aunts, in the absolute, the closest kin shall have precedence. So, the germane shall be preferred to the consanguine or the uterine and who descends from the father is preferred to the one of maternal descent. If they are of the same strength of kinship they shall participate equally in the estate. In case they are of different descents, two-thirds shall be given to those of paternal kinship and one-third for those of maternal kinship. The share of each group shall be divided in an aforementioned manner.

The provisions of the preceding paragraph shall apply to the members of the third and fifth groups.

2. In the second group, the closest degree among them shall have precedence over the more remote even if he is from a different line of descent. In case of equal degrees and same descent, the closest shall be preferred, if they are all descendants of an agnate or a cognate, and if they are different, the agnate shall be preferred to the cognate. In case of different sides of kinship, two-thirds shall be given to those of paternal descent and one-third to those of maternal descent. The share of each group shall be divided between them in an aforementioned manner.

The provisions of the preceding paragraph shall apply to the members of the fourth and sixth groups.

3. No consideration shall be given in case of multiple kinship of a cognate heir except where the line of descent is different.

Article (352)

A male heir shall have the share of two females in the inheritance of cognates except the maternal brothers who shall receive equal shares with the female heirs.

Chapter IX. Succession by Assumption

Article (353)

The share of the missing person in the succession of his decedent shall be frozen on the assumption that he is alive, so if he appears alive he shall take it and if he is declared dead his share shall devolve to his entitled heirs on the date of the judgment.

Article (354)

The conceived child shall be entitled to a share in the succession of his decedent to be reserved for it. This share shall be the shares of two males or two females, whichever is larger, on the assumption that the conceived are twins. The rest of the heirs shall receive the smaller of the two shares. The distribution of the estate shall be adjusted after birth according to the shares provided for in the law.

Article (355)

Should the share reserved for the conceived child be less than his entitlement, the difference shall be taken from the heir in whose share this difference accrued. Where the share reserved is more than its entitlement, the excess shall go to the entitled heir.

Chapter X. Alienation of a Share

Article (356)

1. Alienation is an agreement of the heirs that some of them abandon their share in the estate, of which they have knowledge, to the other heirs against a specific consideration.
2. Should one of the heirs alienate his share to another, the latter is entitled to this share and shall replace him in the succession.
3. Where alienation by one of the heirs to the others takes place and if the consideration has been paid to him from the estate, the shares of the alienator shall be deducted from the total shares and the shares of the others shall remain unchanged. In case the consideration is paid from their own funds and the alienation agreement did not provide for the mode of partitioning of the alienator's share, it shall be divided among them on pro rata of the amount paid by each of them and, if it could not be determined, his share shall be divided equally between them.

Chapter XI. Miscellaneous Matters

Article (357)

1. Should the deceased, while alive, acknowledge the existence of a kinship relation between someone and himself, his acknowledgement does not bind the heirs unless it fulfils the conditions of its validity.

2. In case his acknowledgement concerns someone else and the kinship relation was not established, in accordance with Article (93) of this Law, and he did not retract his acknowledgement, the beneficiary thereof shall be entitled to the whole estate of the acknowledging decedent unless the latter has an heir.

3. If some of the heirs acknowledge to another person the existence of a kinship relation between the latter and the decedent, the beneficiary of such acknowledgement shall share exclusively with the acknowledging heir his entitlement in the estate of the decedent unless he is excluded by him.

Article (358)

The adulterous child shall inherit from his mother and her relatives; his mother and her relatives shall inherit him; likewise for the incestuous child.

Article (359)

The ambiguous bisexual shall be entitled to half of the two shares considering masculinity and feminineness.

Article (360)

The vacant estate shall be a mortmain (Wakf) in his name for the poor, the needy and the students in the Administration of the Public Organization of Wakfs.

Article (361)

Shall be considered void, every fraud to the provisions governing inheritance by way of sale, donation, testament or other dispositions.

FINAL PROVISIONS

Article (362)

Each provision violating or contradicting the provision of this Law shall be abrogated.

Article (363)

The present Law shall be published in the Official Gazette and shall come into force as of the date of its publication.

Promulgated by Us at the

Presidential Palace in Abu Dhabi

On 19th of November 2005

Corresponding to 17 Shawal 1426 H.

Khalifah Bin Zayed Al Nahyan

President of the United Arab Emirates State