

HUMAN RIGHTS
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Draft Uniform Personal Status Law

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Draft Uniform Personal Status Law

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KAFA (Enough Violence & Exploitation) is a feminist, secular, Lebanese, non-profit, non-governmental civil society organization seeking to create a society that is free of social, economic and legal patriarchal structures that discriminate against women.

KAFA aims to eliminate all forms of gender-based violence and exploitation since its establishment in 2005. It seeks to realize substantive gender equality through the adoption of different approaches, such as:

Advocacy for law reform and introduction of new laws and policies; influencing public opinion, practices and mentality; conducting research and training; and empowering women and children victims of violence, and providing them with social, legal, and psychological support.

Our focus areas are:

- 1) Family violence;
- 2) Exploitation and trafficking in women, especially in migrant domestic workers and women in prostitution;
- 3) Child protection, particularly from sexual abuse and gender-based violence.

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Rationale

Freedom of belief is enshrined and given absolute status in article (9) of the Lebanese constitution, which states that “there shall be absolute freedom of conviction. While acknowledging God the Almighty, the State respects all creeds and religions. It guarantees and protects the free exercise of all forms of worship, on condition that public order is not interfered with.” It also guarantees “respect for the personal status and religious interests of persons of every religious sect.”

The misapplication of this article has led to religious communities having an exclusive power over personal status matters, and impeded the issuance of a common civil law. So, sect rights took primacy over citizen rights, and they increased given the reduced State control and unjust laws imposed on citizens in the name of God, thereby rendering people incapable of reviewing those laws, also in the name of God. This has corrupted the system turning it into an obstacle to the emergence of the values of citizenship as essentially the relationship between an individual and the State through the rule of law.

The Lebanese constitution does not tolerate such interpretation, nor does it permit such practices, and does not cover State or sect corruption.

The Lebanese constitution recognizes the people’s absolute freedom of belief, and grants the different religious communities a set of rights that safeguard, rather than abolish, individual rights and freedoms, and ultimately does not eliminate the role of the State. The Constitutional Council has set boundaries for religious communities, stating that “although Article 9 gives religious communities personal autonomy to manage their own religious affairs and interests, it does not obscure the right of the State to enact various laws relating to the organization of their status in accordance with the provisions of the Constitution [...] The right of the State to legislate is a

sovereign right [...] The power of legislation is an inherent and absolute authority and has been limited by the Constitution to solely one body, Parliament [...] It is Parliament's purview to regulate the status of religious communities without prejudicing, or replacing, their autonomy."

The Constitutional Council has also adopted the following non-negotiable legal principles:

- The right of religious communities to manage their affairs independently.
- The right of the State to legislate and regulate the work of religious communities in accordance with the Constitution.
- The right of the State to enact legislation is a sovereign right. The preamble to the Constitution (para. D) defines the bearer of sovereignty, stating that "the people are the source of authority, they shall exercise these powers through the constitutional institutions."
- The inherent absolute power of legislation shall be confined to Parliament.

This means that no reference can obscure the right of the State to enact legislation in accordance with the provisions of the Constitution. It should be noted that the principles of human rights are enshrined in the Constitutional provisions. On 12 September 1997, the Constitutional Council issued Resolution No. 97/1 which clearly states that the provisions of the preamble to the Constitution have equal weight as any other provision in the body of the Constitution; given that adherence to the principles of human rights is stipulated in the preamble.

The Constitution, having declared in Article 9 the State's neutral position towards religious communities, has declared in its preamble Lebanon's commitment to human rights as a reference point, which constitutes bias towards the people, and calls for revisiting current laws and policies accordingly.

Article 1 of the Universal Declaration of Human Rights states that "All human beings are born free and equal in dignity and rights. They have endowed reason and conscience and should treat each other in a spirit of brotherhood." Article 2 states that "Everyone shall have the right to enjoy all the rights and freedoms set forth

in this Declaration, without discrimination of any kind, in particular discrimination on grounds of race, color, sex, language, religion or opinion, whether political or otherwise. Political, national or social origin, wealth, birth or other status.”

Based on the above, we, Lebanese men and women, would like the State to regain its role and establish a unified personal status law in accordance with the principles of human rights. We no longer want to submit to the sectarian law for many reasons:

- The status of women under sectarian laws runs counter to the most basic of human rights enshrined in the Universal Declaration of Human Rights. These laws treat women as incompetent persons who are incapable of determining their own fate or participating in the determination of their children’s fate. Additionally, a wife may be found legally ‘recalcitrant’ under these laws if she fails to obey her husband. Some of these laws keep women trapped inside their marriage, leaving them at the mercy of the temperament of their husbands who have absolute control over their marital fate. In addition to the discrimination that women experience thanks to an entrenched patriarchal system that places women in a subordinate class in society, these laws entail discrimination among women and children. Some women can get a divorce while others are deprived of this right. For some women, the age of maternal custody is 17 whereas others are denied custody of their children as they reach the age of two. These laws must also take into account the child’s living needs as child support varies from one sectarian law to another, although all children live under the same living and economic conditions.
- Women have been marginalized and unjustly treated by the sectarian laws, which reflect the patriarchal hierarchy of society that prevailed in past centuries. These laws continue to impose an unjust structure and curb all modern social, intellectual and cultural transformations that aim to create an equal and just society that needs the energy of all its members to develop and grow.
- Women, having become aware of their rights, are no longer satisfied with injustice and marginalization.
- Citizens must engage directly with the State, not through confessions.
- We need a scalable personal status law that keeps up with the times and responds to citizen needs in view of the existing objective reality, rather than stereotypes and preconceptions.

- As the State alone has the right to regulate public affairs and to enact legislation informed by the Constitution and constitutional principles, legislation must therefore be independent of any religious beliefs.
- Being part of a family where equality and justice prevail among its members provides a route not only to individual happiness and stability, but also to nation-wide democratic education.
- A human rights-based law would strike a balance between individual rights and freedoms, on the one hand, and family stability, on the other. Family cohesion shall not constitute grounds for the centralization of power and violation of the rights and freedoms of family members, particularly women.
- A law based on human rights principles and international conventions is our choice for respecting the rights of the individual, family and society.

For all the above reasons and because we believe that commitment to the people is central to the public interest, we herein put forward a proposal for a unified personal status law that respects women's rights, supports their will and preference, and empowers them to shape their lives in a way that secures their and their household's wellbeing. Based on other bills and laws in force that respond to the needs of the Lebanese people, this law would also guarantee child rights as its provisions give precedence to the best interests of the child provided for in the United Nations Convention on the Rights of the Child.

Part I: Marriage and its Effects

Chapter 1: General Provisions

Article 1:

The provisions of this law shall apply to:

- a) All Lebanese citizens residing on Lebanese territory
- b) Lebanese citizens who have entered into a civil marriage abroad;
- c) Foreigners residing in Lebanon who are subject to civil law in their country.

Article 2:

A special register called the 'civil registry' shall be established individually within personal status departments in all districts, in accordance with a form to be determined by the Minister of Interior and Municipalities. Marriage contracts signed by the spouses, two witnesses and the competent civil status officer shall be recorded on this form, which is assigned a serial number. All occurrences and changes in the couple's personal status are to be recorded in these registers.

Article 3:

The marriage shall be officiated before the Officer of Civil Status of the district in which one of the spouses resides upon their mutual agreement. **Religious ceremonies may also be held and they shall have no effect whatsoever on the marriage contract, which is the official contract** issued by the Ministry of Interior and Municipalities.

The spouses shall register the contract within a period not exceeding ninety (90) days, subject to a compulsory fine equivalent to double the minimum wage.

Marriage, events and amendments, including births, shall be recorded in the spouses' entry and each shall be assigned a serial number.

The marriage shall be concluded by signing the contract form approved by the Ministry of Interior and Municipalities.

The marriage contract shall be subject to a flat fee applicable to all contracts.

Article 4:

Subject to the provisions of Law 422 of 2002 (Protection of At-Risk Children or Children Violating the Law) and Law 293 of 2014 (Protection of Women and Other Family Members from Domestic Violence), this Law shall be applied before the competent civil courts pursuant to the powers prescribed in the Code of Civil Procedure.

Article 5:

All cases of marriage, divorce and related matters are subject to normal judicial fees. Those fees may be waived provided the litigants prove they cannot afford to pay them, except for claims of alimony, which in all cases are exempt from court fees.

Chapter 2: Marriage

Article 6:

Marriage is an official civil contract concluded between a man and a woman before the Civil Status Officer with the aim of establishing a common life, and is subject to the provisions of this law.

Article 7:

Marriage may not be contracted on Lebanese soil before attaining the full age of eighteen (18) for both parties.

All official departments are prohibited from concluding marriages involving minors. When requested to conclude a marriage contract involving a minor in contravention of the law, the concerned officer must inform the public prosecutor mandated to examine domestic violence complaints according to the rules.

Any person who fails to comply with the reporting obligation shall be subject to detention for a period ranging from three (3) months to one (1) year and a fine of four (4) times the minimum wage. The penalty shall be increased, as per the provisions of Article 257 of the Penal Code, if they conclude the marriage contract in violation of the provisions and conditions of this law.

Article 8:

A marriage may not be contracted:

- if either party has an existing or an unregistered faith marriage to another person
- between relatives in the ascending and descending lines
- between siblings
- between relatives by consanguinity (blood) or affinity (marriage) up to the fourth degree
- between foster siblings.

Article 9:

A marriage contract shall be deemed valid only when the spouses have given their explicit consent in the presence of two witnesses before the competent authority.

A marriage may not be contracted without the presence of the spouses. Proxy marriages and online marriages are prohibited.

If either party is a foreigner who does not understand Arabic, incapacitated or has a disability, then a sworn interpreter or specialist shall be called upon, according to the case.

Article 10:

The contracting parties may add to their contract special provisions to which they shall be bound, such as:

- **Choosing the financial arrangement**
- **Spending.**

The civil status officer shall give the spouses a copy of the marriage certificate, which is recorded in their respective pages in the civil register.

Article 11:

Each of the prospective spouses must present the following documents to the civil status officer:

- An original copy of both the personal and family status records not older than one (1) month
- A certificate of celibacy granted by the town mayor, not older than one (1) month
- A medical certificate pursuant to Law No. 334 of 18 May 1994 (stipulating a medical exam prior to marriage), not older than one (1) month
- A recent clean criminal record certificate, not older than three (3) months
- Written consent of the spouses on the approved financial arrangement
- A marriage declaration document.

However, if either or both spouses are foreign nationals, they should show:

- A valid passport
- Proof of legal residence
- Single status certificate issued by the official authorities in their country of origin, not older than one (1) month
- Marriage declaration document
- A medical certificate, not older than one (1) month
- Written consent of the spouses on the approved financial arrangement.

Chapter 3: Duties and Responsibilities of Spouses

Article 12:

A foreign national married to a Lebanese citizen shall acquire Lebanese citizenship as per the provisions set forth in the Lebanese Nationality Law.

Article 13:

Each spouse shall maintain an attitude of respect for his/her partner's faith or religion, especially in interfaith marriages, and shall protect his/her as well as his/her right to freely exercise his/her religious rites and rituals.

Article 14:

Both spouses shall be jointly responsible for financially maintaining the house, their children, each other, and everyone who resides with them, to the best of their ability. They shall also share household tasks and child-rearing responsibilities, unless otherwise agreed in the marriage contract.

Child maintenance must cover the costs of housing, clothing, education, school activities, medical care and everything a child needs to lead a decent life.

Article 15:

Spouses shall share ownership of movable and immovable property acquired during the marriage. Assets acquired by either spouse by inheritance, bequest or gift may be excluded according to a clause to be agreed upon in the marriage contract.

In all cases, the matrimonial home is considered shared property, and may not be divided or disposed of until the children have completed their education and are capable of earning their livelihood.

Article 16:

Parties to a marriage are entitled to equal rights with respect to ownership, management and investment of real estate and properties acquired during the marriage.

Chapter 4: Spouses' Duties Towards Their Children

Article 17:

Children shall be registered in each parent's individual record and shall bear the family name of the father and the mother.

Article 18:

Parental authority is the custody or joint guardianship of the father and the mother over minor children. Parental authority aims to secure the best interests of the child. Under parental authority, parents shall jointly take all measures to protect the child and his/her interests, ensure his/her safety, provide him/her with education, and do all it takes to respect his/her humanity. Both spouses shall generally take care of the children in material, moral, physical, psychological and rights-based aspects, particularly to avoid any adverse consequences that may result from marital conflicts.

Decisions concerning the children shall be taken in consultation with them.

If the child is competent for decision-making, decisions regarding him/her shall be taken only after consulting him/her and obtaining his/her prior approval of these decisions. A child is deemed competent when s/he reaches the age of fifteen (15), unless s/he has a special health condition that has impaired his/her judgment.

The couple shall undertake to give priority to their children's best interest during their cohabitation.

Article 19:

The parents shall consult with each other before making important decisions such as those about education, school placement and extracurricular activities, and health issues such as periodic vaccination and giving consent on medical treatment and surgical operations.

Article 20:

Parental authority shall be shared between the spouses during their cohabitation and even after separation, for whatever reason, unless the court handling the matrimonial dispute decides that different procedures would better serve the minors' welfare.

Article 21:

If either spouse dies leaving minor children, the surviving spouse shall be legally responsible for them. In the event both parents pass away, the Personal Status Court shall decide to appoint a legal representative for the children.

Article 22:

Child maintenance is a joint and shared obligation of both parents to the best of their ability, unless otherwise agreed in the marriage contract. The maintenance must cover the costs of housing, clothing, education, school activities, medical care, and whatever the child needs to lead a decent life.

Article 23:

Both parents shall be responsible for raising the children and making important decisions together. If one of the parents is absent or suffers from an illness that prevents him/her from taking part in decision-making, the other parent shall make the decisions alone.

Article 24:

Both spouses shall live together with their children in the marital home, in a safe and stable environment. If any disagreement occurs between the spouses, this disagreement should not affect the right of the children to stay in the marital home with the custodial parent. The other party shall not cease to spend on the household, until the competent court decides the measures to be taken.

Chapter 5: Dissolution of the Marriage/Divorce/ Mutually Agreed Separation

Article 25:

A valid marriage shall be dissolved by:

- The death of one of the spouses
- Marriage annulment
- Divorce

Article 26:

The marriage shall be void if it entails any of the defects of vitiated consent according to the Code of Obligations and Contracts.

It shall be void if it fails to conform to the formal validity rules prescribed in this law.

It shall be void *ab initio* if entered into when either party has an existing marriage to another person.

Marriage nullification takes effect retroactively, where it is considered to be invalid from the beginning as if it had never taken place, without prejudice to the rights of others, notably the children.

Article 27:

De facto separation is a consensual separation of spouses where they cease to live together but remain married.

Article 28:

In the event of *de facto* separation, the two parties shall undertake to ensure the children's best interests and protect their rights. They shall also respect each other's dignity and not disclose any of their personal information.

Article 29:

During consensual separation, the two parties shall continue to carry out the duties assigned to each of them, especially towards the children:

- Access and Visitation rights: It is a basic child right for all children and a key factor for their stability by continuing to contact their parent who no longer resides in the marital home, unless this contact constitutes harm to them.
- Maintenance: Both spouses shall continue to spend according to what they agreed upon, or as determined by the court.

If the separation lasts for three (3) years or more, either party has the right to file a divorce suit.

Article 30:

Divorce may only be granted upon a ruling by the competent civil court. It shall

become fully effective as of the date it is recorded in the respective civil registry held by the Personal Status Officer.

Article 31:

Either or both parties may file for divorce if they find marital cohabitation no longer possible.

Divorce may also be granted on the following grounds:

- Marital infidelity
- Domestic violence
- A prison sentence of more than three (3) years for committing a heinous crime
- *De facto* separation for more than three (3) years.

In cases where divorce is granted for any of the abovementioned reasons, the aggrieved party is entitled to claim compensation.

Article 32:

Both spouses have the right to file for divorce together in a joint petition, upon a divorce agreement to be signed before a notary.

If the spouses have children, they must specify their accommodation and maintenance arrangements in detail in the divorce agreement.

The court may also validate the will of the two parties in the children's best interests.

Article 33:

A divorce decree dissolves the bond of matrimony between the married couple where they regain their freedom. However, the decree does not take effect towards others until the date it is recorded in the respective civil registry at the personal status departments.

The effects on the minors, for their part, shall be determined by the court that issued the divorce decree.

Article 34:

When filing a divorce or annulment lawsuit, the Personal Status Court of competent territorial jurisdiction, in the court's chambers, shall fast-track duly in force decisions on all that relates to temporary measures to protect the interests of children in terms of custody, child support and residency.

Child custody is the duty of caring for children and securing a normal life for them.

Joint physical custody shall be shared by the parents, where the child stays with his/her mother at the family home. For reasons that could lead to adverse physical or psychological effects on the child, the court may decide otherwise with a view to the child's best interest and after consulting with him/her to determine his/her choice, if his/her age permits.

Chapter (6): Establishing Filiation

Article 35:

The filiation of children born out of wedlock shall be established by voluntary acknowledgement of the parents. A written declaration shall be included in the birth certificate as per the rules of registration of personal status documents, or in an official notarized affidavit.

A voluntary acknowledgement shall take effect only in relation to the person from whom it emanates.

Article 36:

While contracting a marriage, if one of the spouses acknowledges parentage of a child born out of wedlock to someone other than his/her spouse before the conclusion of said contract, and while he/she was under the age of eighteen, such acknowledgement shall be fully acknowledged.

However, such acknowledgement shall have no effect if it is made more than five (5) years after the child reaches legal adulthood.

Article 37:

Filiation of a child born out of wedlock to one of the parents may be declared by the competent court in the following instances:

- a) In case of abduction or rape, if the abduction or rape occurred in the period of conception.
- b) In case of seduction by means of fraud, such as abuse of authority and promise of marriage, and if there is written proof of paternity pursuant to the provisions of Article 242 of the Civil Procedure Law.
- c) In cases where letters or other documents exist, written by the alleged father or mother, that contain an unequivocal declaration of paternity.
- d) If paternity is proven through DNA examination.

Article 38:

The action shall only be brought by the child. While the child is a minor, his/her mother or father, even if they are minors, may bring the action.

If the action has not been instituted while the child is a minor, the child may bring it within five years after he/she reaches legal adulthood.

The same period shall apply to paternity denial actions.

Chapter (7): Adoption

Article 39¹:

Adoption is a contract where the adopted child acquires the rights and obligations of a birth child under this Law.

Religious difference shall not constitute any obstacle to adoption.

1- Lebanese Democratic Party, Draft Law, articles (80), (81), (82), (85)

Article 40:

A prospective adoptive parent must be an adult male or female, who enjoys his/her civil rights, has good moral character and a sound mind and body, and is in a position to manage the affairs of the adopted child.

An adoption application may be approved only if the following requirements are met:

- The prospective adoptive parent must be financially capable of supporting the adopted child
- There must be no financial interest between the adopter and the adoptee
- The age difference between them shall not be less than 18 years and not more than 40
- The adoptive parent must inform the adopted child about his/her biological parents and allow him/her to contact them, when he/she reaches adulthood, under the supervision of the adoptive parent or the court.

Article 41:

The adoption shall be concluded upon a constitutive order by the competent civil court in the Council Chamber, before the prospective adoptive parent and his/her spouse if married, and in the presence of the personal status officer; after having verified that he/she is eligible and has met the legal requirements, and having listened to the parties concerned, and obtained the necessary consents.

The Personal Status Court shall refer the valid and enforceable adoption order to the Personal Status Department within thirty (30) days from the date of its issuance, and the aforementioned department shall register the court order in its records.

Article 42:

An adopted child shall bear the family of the adopter, and shall have the rights of a birth child.

Impediments to marriage shall continue between the adoptee and his/her blood relatives, and new intra-family prohibitions shall arise between the adoptee and his/her relatives.

Part II: Inheritance And Bequests

Article 43:

The assets and rights of a deceased person shall be transferred to his/her lawful heirs or to the persons specified in the will according to the following provisions.

Chapter (1): Inheritance by Law (A): Opening the Estate and Eligibility

Article 44:

The estate shall be opened and the inheritance shall be due upon the actual or legally presumed death of the inherited.

Article 45:

The opening of the estate shall take place at the deceased's last domicile regardless of the place where the property is located.

A wife who is not legally separated from her husband shall be considered as residing at the place of domicile of her husband, and the minors at the residence of their legal or appointed guardian; in case they do not have a legal or appointed guardian, they shall be considered domiciled at the place where the whole estate or where its major portion is situated. As for the residence of a missing person, it shall be the last domicile he/she had before his/her disappearance.

Article 46:

In order to inherit from the deceased:

1. The heir must have been alive as of the date of the deceased's death or by the date he/she is deemed to be dead by judicial ruling.
2. The heir must be eligible for inheritance.
3. There must be no legal impediments to inheritance from the deceased.

Article 47:

The following shall not be eligible for inheritance:

1. A fetus not born within three hundred (300) days following the deceased's death
2. A stillborn baby.

If two or more people who have intertwined estates die in the same accident, the court shall determine the timing of their deaths according to the circumstances of the accident, the age of the deceased, their health condition, and other considerations.

Where the order of their death is uncertain, all those who died in the same accident shall be deemed to have died at the same time, and their respective estates shall be passed to their surviving heirs.

Article 48:

Difference of nationality shall be no bar to inheritance between Lebanese and foreign nationals, unless the law of their country of origin prohibits Lebanese nationals from inheriting from them.

If the foreigner's law prescribes certain limitations to the right of inheritance, the foreigner shall only be entitled to whatever his/her law authorizes Lebanese nationals to inherit.

Article 49:

Difference of religion shall constitute no bar to inheritance.

Article 50:

The following shall be disqualified to inherit:

1. Anyone who has feloniously and intentionally killed, or attempted to kill, the inheritor, any of his/her descendants or predecessors, or his/her spouse, or who has been engaged in or incited this homicide.
2. Anyone who has made slanderous accusations or testified falsely against the inheritor for committing an offense that is punishable by death, unless the inheritor has pardoned the offender by a written document.

Article 51:

The share of the excluded heir shall be transferred to the other eligible heirs, each having a portion of his/her share. If there are no other eligible heirs, the estate shall be passed on to the deceased's nearest descendants, who would have replaced him/her if he/she had died before the deceased.

The assets passed on to the descendants of the disqualified heir shall lie beyond the reach of his/her legal authority and he/she shall not be entitled to inherit them upon their death.

Article 52:

The disqualified heir shall return to the estate whatever assets he/she has received since the death of the inherited, and must also return the proceeds he/she has earned since the date of death.

B) Degrees of Inheritance, and Inheritance Shares

Article 53:

The estate shall be distributed among the heirs after settling the following:

1. The deceased's burial expenses
2. The deceased's debts
3. Assets bequeathed in the deceased's will.

Article 54:

The heirs shall be categorized into three classes:

1. Heirs of first degree, namely: children and their descendants.
2. Heirs of the second degree, namely: father, mother and their ancestors
3. Heirs of the third degree, namely: brothers, sisters and their descendants.

Article 55:

The deceased's children and their descendants shall inherit their parents and ancestors without distinction among the children or between males and females.

If the descendants are all heirs of the first degree, they shall share the estate equally among them.

Should there be among the deceased's children some who have died before him/her, his/her descendants shall replace their father/mother in the deceased's estate and receive the share that would have been transferred to their father/mother had he/she been still alive. This share shall be equally divided among them.

The right of representation set forth in the previous paragraph shall apply to the inheritance of descendants regardless of their order.

Article 56:

If the deceased has no descendants, the estate shall be distributed equally between his/her parents.

If either parent is deceased, his/her descendants shall receive equal portions of the share that would have been given to him/her if he/she had survived. If the deceased's parent has no descendants, the share that he/she would have received if he/she had survived shall go to the other ancestor or his/her descendants.

If both of them have died before the deceased, then the descendants of each of them shall receive the share that would have been given to the deceased if he/she had survived as per the provisions of the previous article.

However, in that case, the right of representation shall be applied only in favor of the descendants of the brother or sister who died before the inheritor, when they inherit with the deceased's surviving brother or sister.

Article 57:

If the deceased leaves behind neither linear descendants, parents, nor descendants to his/her parents, the estate shall go to the grandparents; if any of them is deceased, their share shall be divided equally to their descendants; and if they have no descendants, their share shall go to the grandfather from the same side; and if the grandfather is deceased, then to his descendants.

If the deceased's paternal or maternal grandparents are deceased and have no descendants, the estate shall go to the grandparents from the other side or to their descendants if they are deceased.

Article 58:

Any descendant of the first, second and third degrees, who has several entitlements to inheritance, shall claim all such portions as may stem from all these titles.

Article 59:

If the deceased has descendants, one-sixth of the estate shall go to the deceased's parents, or surviving parent.

Article 60:

If the deceased's spouse concurs with first-degree heirs, he/she shall receive one quarter of the estate. If he/she concurs with the deceased's father, mother, brother or sister, his/her share shall be one-half of the estate. If he/she concurs with the deceased's grandfather or grandmother, his/her share shall be five-sixths of the estate.

If none of the above-mentioned heirs exists, the deceased's spouse shall be entitled to the entire estate.

Article 61:

If the deceased has none of the heirs stated in the previous articles, the estate shall revert to the State.

C) Estates of Missing Persons

Article 62:

A missing person is one who has disappeared with no news of his/her whereabouts and whether he/she is alive or dead.

Article 63:

A missing person shall be declared dead in absentia if at least four (4) years have passed since he/she was reported missing, based upon a petition filed by the interested parties. The Civil Court of First Instance for the missing person's domicile, or the place where he/she was last known to reside, shall rule on the petition. If the said person went missing outside Lebanon, the Civil Court of First Instance in Beirut shall look into the petition.

Article 64:

The court mentioned in the previous article shall, in Council Chamber, declare a missing person legally dead, drawing on various legal methods of proof, such as publishing in local and foreign newspapers when necessary and different media that the court deems useful, and considering clues, notably in cases and circumstances in which the missing person can reasonably be presumed to have perished and the body was never found.

Article 65:

The heirs of a missing person who has been declared legally dead may inherit from the estate. However, they may not claim ownership rights over the estate until five (5) years have passed since the presumption of death order was issued and advertised in local newspapers as well as newspapers in the country where that person may have been.

Article 66:

If an inheritance opens in favor of a missing person, his/her share shall be held for a period of five (5) years dating from the verdict declaring death. At the expiry of that period, the estate share shall be transferred to the legal heirs of de cujus, and his/her inheritance shall revert to the testator's heirs.

Article 67:

If the missing person reappears within five (5) years after he/she has been declared dead in absentia, he/she may recover all estate property in the hands of the heirs; the reserved inherited share and the bequeathed share.

If he/she reappears after this period, he/she may recover whatever remains in the hands of the heirs, without prejudice to his/her right to recover any estate property received by a third party in bad faith.

Chapter (2): Bequests

A) General Provisions

Article 68:

The testator must be of majority age (18 years old), sane and competent to make a bequest.

Article 69:

A bequest may be made to an heir, a non-heir, or a child yet unborn on the condition that the fetus is born alive, provided that he/she has the legal capacity to inherit and is not deprived of the estate.

Article 70:

A will may not be made jointly by two or more persons in one document, whether for their reciprocal benefit or for the benefit of a third person.

Article 71:

A will may not be contested by an heir if he/she had confirmed and willfully executed it while he/she was aware of the grounds for its nullity.

Article 72:

A patient may not make a bequest in favor of the physician who treated him/her during his/her final illness, unless this physician is an heir of the testator.

However, a bequest shall be deemed valid in this case if the money is bequeathed with a view to pay for the services received, and the sum has been determined given the amount of the testator's wealth and the services rendered.

Article 73:

It is not permissible to make a bequest in favor of a foreigner unless the law of his/her country allows Lebanese nationals to inherit him/her, insofar as it allows him/her to make bequests.

Article 74:

A will shall be null and void if made in favor of a person who is legally incapacitated or deprived of his/her inheritance rights, and if it is written under a pseudonym.

Article 75:

Bequests may be made in favor of places of worship, charities and other charitable bodies, and scientific and public institutions of legal capacity.

Such bequests shall be valid, even if the institutions were not legally established on the date of the testator's death, if they acquire legal capacity within one (1) year starting from the day on which the bequeathed amounts become due.

If a year has passed and the institution has not been established or legal capacity has not been fulfilled, the legacy shall be restored to the testator's heirs.

Article 76:

As long as the institution is not legally established, only precautionary measures may be taken to maintain the legacy in the case set forth in the previous article.

Article 77:

Beneficiaries must be appointed by the testator. Any bequest made in such a way where the beneficiary(ies) are not determined upon the testator's death, shall be deemed invalid.

Article 78:

A will may be made to divide the estate among the heirs of the testator, so that each heir is assigned his/her share. If the value of what was assigned to one of them exceeds his/her entitlement to the inheritance, the increase by virtue of the will shall be subject to amendment if it exceeds the amount of the will.

Article 79:

A bequest at corpus may be made to one person and bequest of usufruct to another.

Article 80:

A testator may not bequeath a usufruct that would lead to an asset freeze unless it is a family endowment, which shall not apply to state-owned property in this case. Privately owned assets may be bequeathed for a period during which the endowment is valid where the rules of family endowments shall apply.

Article 81:

A bequest shall be deemed null and void if it entails impossible or illegal conditions.

However, if a condition is not the main reason for making the will, then this condition shall be canceled and the will shall be considered valid.

Article 82:

A bequest may be obligatory.

B) Form of the Will

Article 83:

In Lebanon, a will may be executed in official form before the notary public, or written by hand by the testator.

A will made by a Lebanese national in a foreign country shall be regulated and ratified according to the principles set forth in this law or those by which official instruments are ratified in the foreign country where it is regulated.

Article 84:

A will may be handwritten by the testator who shall sign and date it; in this case, it shall be deposited by the testator per se or his/her proxy at the notary office in an envelope bearing the notary public's imprint in red wax.

Mention of the existence of such a will shall be made in a special register.

If the will is drafted in a foreign country, it shall be deposited with the notary public or the Lebanese Consul.

Article 85:

For wills made by soldiers on the battlefield, an officer ranked lieutenant or above may act in lieu of the notary public. This will shall become completely nullified after three (3) months have passed after the testator's return to a place where it is possible for him/her to make a will according to common procedures.

C) The Disposable Portion of the Will

Article 86:

A will shall be reduced in what relates to the portion that exceeds the reserved shares of the descendants, parents and spouse.

Article 87:

The reserved share of the descendants shall be equal to fifty percent (50%) of the total movable and immovable assets. If all children are alive, they shall equally divide this share irrespective of their number and without gender-based discrimination. If one of them is deceased, his/her descendants shall replace him/her as regards the share he/she would have received had he/she been alive. This share shall be equally divided among them.

Article 88:

The reserved share of the surviving spouse shall be equal to thirty percent (30%).

Article 89:

The reserved share of the parents is set at thirty percent (30%) to be equally shared between them. The surviving parent shall be entitled to the entire share reserved for both parents.

Article 90:

If the descendants concur with the spouse and the parents or one of them, the reserved share shall be thirty percent (30%) for the descendants, ten percent (10%) for the surviving spouse and ten percent (10%) for the parents or to the surviving parent.

Article 91:

If the descendants concur with the spouse and the parents or one of the parents, the reserved share shall be equal to forty percent (40%) for the descendants, ten percent (10%) for the spouse and ten percent (10%) for both parents or for the one surviving the decedent.

Article 92:

If the testator dies leaving a spouse and parents or one of the parents, but no descendants, the share reserved for the spouse shall be equal to twenty percent (20%), fifteen percent (15%) for the father, and fifteen percent (15%) for the mother.

Article 93:

A will that disposes of more than the disposable portion shall be reduced to the disposable amount upon opening the inheritance. Reduction may only be claimed by the heirs having reserved shares, their general heirs, delegates or successors.

Article 94:

For the purpose of determining the disposable portion, the value of the donations made by the testator during his/her lifetime shall be added to his/her net assets, after payment of his/her debts, at their value at the time of donation.

Article 95:

If the object of legacy is a usufruct, an annuity or bare ownership, its value shall be assessed by taking into consideration the legatee's age, health condition and other factors.

Article 96:

If the value of the bequeathed assets exceeds the disposable portion or the remaining part of that portion after deducting the value of gifts among surviving heirs, the reduction shall be done without distinction between general and private wills.

However, if the testator explicitly wishes to execute a will before another, in this case the preferred will shall be executed before the other and shall not be reduced unless the remaining funds are insufficient to secure the reserved share.

Chapter (4): Revocation and Nullity of Wills

A) Revocation of a Will

Article 97:

A testator may revoke his/her will, in whole or in part.

Article 98:

Revocation of a will may occur by placing a subsequent will, an official document, or a letter in the testator's handwriting, to be deposited with the notary public as set forth in Article (55), in which the testator declares to have revoked his/her previous will.

Article 99:

A subsequent will that does not include an explicit revocation of the previously made will shall tacitly nullify all provisions of the previous will that are contrary to or inconsistent with the provisions of the new will.

This implied revocation shall be taken into consideration, even if the new will remains unfulfilled for a reason that is beyond the will of the testator.

Article 100:

If the testator sells the estate specified in a previously made will, the sale shall be deemed a revocation of the will according to the assets sold. The revocation takes force even if the sale is declared void, unless on the grounds of debatable consent or if the assets are returned to the testator.

Article 101:

A will may be revoked judicially, upon the request of an heir or legatee, in the following cases:

1. If the provisions of the will are not fulfilled.
2. If a legatee commits a crime that would make him/her ineligible to inherit the testator in case he/she was his/her heir.

Article 102:

In all the cases set forth in the previous article, an appeal for revocation shall be filed within one year from the date of death or the date the plaintiff knew of facts justifying revocation.

B) Nullity of a Will

Article 103:

A testamentary disposition shall be null and void if:

1. The beneficiary dies before the testator.
2. The testator intended that the disposition takes effect on a condition being fulfilled during the beneficiary's lifetime, but the beneficiary dies before the fulfillment of that condition.
3. The beneficiary returns the bequeathed assets to the testator or is found ineligible to receive them.
4. The entire bequeathed estate perishes before the death of the testator.

Article 104:

In case of failure to dispose of any part of the bequeathed property due to revocation, invalidity or nullity of the testamentary disposals relating thereto, that asset shall revert to the person out of whose share it was withdrawn or who was to have settled it if the will had been executed. The legatee, whether universal or specific, stipulated by the testator, shall equally benefit from that asset.

C) Acceptance of the Will

Article 105:

A will shall bind the legatee who accepts it, expressly or tacitly, after the testator's decease. In case the legatee is a fetus, a minor or a legally banned person, acceptance shall be made by his/her legal or testamentary guardian.

Article 106:

The will may be accepted wholly or partially, as it may be accepted by certain legatees and repudiated by others. In that event, it shall be null for whoever has repudiated it.

Article 107:

Acceptance of a will shall take effect upon the testator's death.

Article 108:

Renunciation of a will before the testator's death shall have no effect.

D) The Executor

Article 109:

A testator may appoint one or more executors for his/her will, provided that the executor(s) has/have unqualified enjoyment of all his/her/their civil rights as well as legal capacity.

If the said person refuses to be an executor of the will, the testator may require to appoint someone else, or to name a certain person to be executing his/her will; in all cases, the powers of the testamentary executor may not thereafter go to his/her heirs.

Article 110:

A testator may specify the duties of executor of his/her will. If he/she fails to do so, the duties of the executor shall be to administer the estate, pay the debts and distribute the remaining assets of the estate to the beneficiaries as designated by the testator or provided for by law.

Article 111:

If the testator appoints multiple executors of his/her will and they accept the mission, none of them may work alone unless the testator has authorized them to do so. They shall all be jointly accountable for the estate funds.

However, if the testator has assigned a specific task to each of them, they may act independently.

Article 112:

The expenses incurred by the executor for the estate inventory, affixing the seals, sorting out the finances and other charges relative to his/her functions, shall be defrayed out of the estate funds.

Article 113:

The heirs may not administer or dispose of the estate insofar as it is in executorship.

Article 114:

Any actions by affected third parties shall be brought against the executor and the heirs.

Article 115:

The executor shall forthwith notify the heirs of accepting the executorship, provide them with a statement of the contents of the estate and the payable debts, and inform them of the date of estate probate so as to attend its proceedings should a probate be requested.

Article 116:

The executors may seek the assistance of qualified civil servants to open the estate, and the expenses shall be defrayed by the estate.

Article 117:

The heirs may request an annual financial statement from the executor if their mandate is long.

Article 118:

The executor shall be liable for negligence with respect to any damages caused to the estate by his/her acts; in this case, regular proxy liability rules shall apply.

The executor may not be exempt from any liabilities that may arise therefrom.

Article 119:

If the executor's fees are not set out in the will, the executor may charge regular fees.

Article 120:

If an executor breaches his/her duties or becomes ineligible to carry out his/her mission, he/she shall be removed upon legal action by the heirs. However, he/she shall be given an oral hearing before revocation.

Chapter (5): Probating an Estate

A) General Provisions

Article 121:

Probate is the process of gathering the deceased person's assets and, if necessary, distributing or dividing them among the heirs and other rightful claimants.

Article 122:

A probate may be filed in the following cases:

- a) If any of the heirs or beneficiaries or the executor so requests.
- b) If the beneficiaries include minor orphans (i.e. fatherless children), incapacitated, missing or absent persons who have no proxy; or if the heirs are unknown.

Article 123:

An application for probate shall be submitted to the court of first instance of the place where the estate is opened. The application shall be looked into in Council Chamber.

Any person affected by the probate order may file a counterclaim with the court that issued the order.

However, the counterclaim shall not stop the probate process if the probate applicant persists in his/her resolve to bring it to completion and provides surety as a hedge against any prejudice the contesting party may sustain.

In all cases, the court shall decide whether to halt the probate process where substantial grounds are shown. In this case, the court may require a surety guarantee from the contesting party ensuring liability for any damages that may be incurred by the probate applicant.

Article 124:

The process of probating an estate shall be conducted by an expert designated by the judge.

B) Probating an Estate upon the Request of an Interested Party

Article 125:

If any of the heirs or rightful claimants or the executor requests to open a probate of the estate, an inventory shall first be undertaken to determine the assets of the estate funds and assess their respective values. The judge will order the affixing of seals, if the case so requires.

Article 126:

After conducting the inventory and estimating the value of the assets of the estate, the judge shall invite all heirs and known rightful claimants to appear before him/her at a certain date, so that they may submit documentary proof of their rights to the estate and a statement of their acceptance or denouncement of the inheritance. If need be, the judge may accord a time limit to the heirs and legatees to submit that statement.

Article 127:

After the beneficiaries have submitted the documents set forth in the previous article, and in case they have expressly accepted the inheritance, the judge shall ask them whether they wish to remain in joint ownership or prefer liquidation and sharing out of the estate.

If all heirs and rightful claimants express their wish to maintain joint ownership, the judge shall remit the court a report in which he/she shall state that desire, after which the court shall order remittance of the assets of the estate to the beneficiaries therefrom against a receipt to be signed by them.

Assets bequeathed in the will shall be handed to the legatees. The deceased's creditors may apply for seizure of those assets in joint ownership, while maintaining their right to claim from the heirs and beneficiaries payment of the debt of the estate, proportionately to their share in the estate.

Article 128:

In the event that one of the heirs requests liquidation or sharing out, the judge shall decide to publish this application in the official gazette as well as in one or several other newspapers he/she shall designate, and order that a copy of the application be hung in the courtroom and in a place close to the deceased's residence

By that publication, all those who claim a right or a debt to the estate shall be required to declare their claimed right and provide supporting evidence within six months from the date of publication of the announcement in the official gazette.

Article 129:

At the expiry of the time limit set for the declaration of rights and claims, the judge shall draw up a report wherein he/she shall state the claims presented, and convene heirs and claimants to a deliberation session on the possibility of reaching a consensual settlement.

Article 130:

In case a settlement is reached between the heirs and the plaintiffs, the judge shall endorse it by a decision taken in Council Chamber. Otherwise, the judge shall invite each plaintiff to institute his/her action within such a time limit as he/she may set.

Article 131:

If the plaintiff files his/her action within the specified time limit, the judge shall appoint an urgent hearing to adjudicate whether or not liquidation or distribution is to be halted.

In all cases, the heirs may secure the claimed right, and in this event, the probate process shall continue.

Article 132:

In the event that the estate probate is pursued, the heirs may agree on sharing the assets of the estate in the manner they deem appropriate.

Article 133:

If the heirs fail to agree on how sharing out is to be effected, the judge shall lay down a plan for the division with the assistance, if need be, of an expert appointed to this end.

Should the heirs agree to that draft, the judge shall confirm it by a decision pronounced in Council Chamber.

Article 134:

If one of the heirs objects to the draft distribution, the judge shall grant the objector a time limit to present his/her objections, and shall adjudicate the distribution by a final ruling that is open to no ordinary channels of appeal.

Article 135:

If the assets of the estate prove indivisible, they shall be sold by bidding through the delegated judge. If certain assets are divisible while others are not, the former shall be shared out and the others sold by bidding, unless such division should entail serious harm.

Article 136:

The provisions of the law governing the sale of immovable property shall apply, through bidding, to the sale of indivisible landed properties.

As to the other assets, they shall be sold in accordance with the clauses prescribed in the Code of Civil Procedure governing the sale of distrained assets. However, should there be among the assets of the estate a commercial, industrial or agricultural enterprise, the judge may decide its sale together with all its elements, without distinction between real estate and movable properties, and in accordance with the manner followed in the sale of immovable assets, unless there are serious grounds that make their separation more profitable.

Article 137:

The judge's decisions regarding the method of sale shall not be contested.

C) Probate Involving Unknown Heirs

Article 138:

If the heirs of a deceased person are unknown, the mayor of the deceased's place of domicile shall have to bring such death to the knowledge of the judge who shall decide, in Council Chamber, to probate the estate and appoint an administrator.

Article 139:

After an inventory of the assets has been compiled, the judge shall deposit in an approved bank the ready cash and precious objects that he/she may find among the deceased's assets, and remit the rest of the assets to the administrator who may be required to provide surety. In case there should be among the assets of the estate assets likely to perish, the judge may order their sale and deposit the proceeds in a duly approved bank.

Article 140:

If within a period of five (5) years from the date of death no heir comes forward, the judge shall decide, in Council Chamber, that the assets of the estate revert to the State.

Article 141:

The administrator shall be required to account for the management of the assets of the estate to the judge who shall then decide on fixing his/her remuneration, pay such remuneration and remit the rest of the estate to the State.

Article 142:

If following the escheat proceedings an heir comes forward and establishes his/her right to inheritance, he/she shall have to revert to the State for the recovery of his/her assets.

D) Probate Involving an Absent/Missing Heir(s)

Article 143:

In case the heir or one of the co-heirs should be absent without leaving an agent, the judge may, on testimony of the mayor of the deceased's place of domicile, or a relative of the absentee, decide, in Council Chamber, probate of the estate if he/she deems it useful.

Article 144:

Should there be several heirs, some of whom are absent, assets of the estate shall be handed over, following the inventory, to the heirs present who shall be required to provide, beforehand, surety to guarantee the absentees' share. In case the heirs present refuse to provide the surety, the ready cash and remaining assets shall be handed to a judicial custodian who shall manage them for the account for all heirs and shall retain the share and proceeds accruing to the absentee persons.

This above-mentioned measure is equally taken in case the sole heir is absent or all the co-heirs are absent. A surety may be required from the judicial custodian.

Article 145:

In case the heirs present or one of them should require the liquidation of the estate, and in case it should be possible to know the domicile of the absent heir, the judge may notify the latter of the request for liquidation and grant him/her a time limit

to come forward or have himself/herself represented. In case he/she fails to come forward or have himself/herself represented, the liquidation may take place in the presence of the judicial custodian.

If it is not possible to know the domicile of the absent heir, he/she shall be cited in accordance with the forms prescribed in the Code of Civil Procedure for the notification of persons of unknown residence. In case the absentee heir fails to come forward or have himself/herself represented, the judicial custodian shall represent him/her in the liquidation proceedings.

Article 146:

If none of the heirs requests the liquidation of the estate, and in case the absent heir does not have himself/herself represented, the judge shall decide, in Council Chamber, the sale of such assets as are likely to perish or deteriorate, the sharing out of the price and of the ready cash, if any, among the heirs, as well as keeping the share of the absent heir in a bank. The judge may equally authorize the custodian to participate with the heirs present in the management of the jointly owned remaining assets and to recover proceeds from the share of the absent heir for deposit in the same bank.

E) Probate Involving a Minor or Incapacitated Person

Article 147:

If there should be among the heirs a minor, a parentless orphan or an incapacitated person, the judge may decide that liquidation of the estate be either a matter of course or according to probate information.

Article 148:

In case the minor or incapacitated person has no legal representative, the judge shall designate a guardian as a matter of course.

Article 149:

Following the inventory, the judge shall decide such measures as he/she may deem necessary to safeguard the minor's assets. He/she shall then decide, depending on the requirements of the case, whether or not to proceed with liquidation, unless another heir files for liquidation.

In all cases, the judge shall be at liberty to decide the sale of what he/she may deem necessary to sell from among the assets of the estate, and the conservation of the amount of the share reverting to the minor or incapacitated person in an officially approved bank or to authorize the latter's representative to receive either the whole or part of that share.

Article 150:

In case it should appear to the judge that it is in the minor's or incapacitated person's interest that the estate be liquidated and shared out, the rules provided in Chapter (2) shall then apply. The minor's or the incapacitated person's representative shall stand in lieu thereof in measures concerning him/her, but contracts signed by him/her shall not be carried out before they have been endorsed by the judge.

F) Legal Proceedings Instituted After Probate

Article 151:

In case the estate is probated by agreement among the heirs, or between the latter and the rightful claimants to the estate, that the assets be shared, and that sharing out is effected by mutual agreement, such sharing out, even when endorsed by the judge, shall not preclude application of the provisions of articles (943) and (949) of the Code of Obligations and Contracts.

Article 152:

Legal proceedings introduced by creditors following sharing out by mutual agreement or judicial process may be instituted solely against the heirs and rightful claimants in their individual capacity, each one in proportion to what he/she has taken.

If the case pertains to a landed property within the portion of one of the co-heirs then drawn out of that portion, the guarantee rules provided under Article (948) of the Code of Obligations and Contracts shall then apply to the co-heirs.

Chapter (6): Final Provisions

Article 153:

The provisions of the present law shall not apply to estates opened before its enforcement in what concerns determination of the heirs and assessment of their shares.

Article 154:

Official wills endorsed by an official authority and established before publication of the present law shall remain valid even if the testator dies after publication of the present law.

Article 155:

Probate rules shall not apply to estates opened before enforcement of the present law.

Article 156:

In what pertains to estates subject to the present law, the following shall be abrogated:

1. The Law of 21 February (1328)-1912 regarding transmission of state-owned lands and *waqf* mortmains.
2. All previous provisions pertaining to inheritance, wills and probation of estates.
3. All texts contrary to the provisions of the present law or are inconsistent with its purpose.

Article 157:

The present law shall enter into force upon its publication in the Official Gazette.

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