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LAW OF PERSONS AND FAMILY MODULE

FAMILY LAW COMPONENT: 7.5 CREDITS

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INTRODUCTION

The family law deals with family relationships:
The legal relationships between man and woman,
parents and children, persons related by kinship or
marriage relationship (marriage, filiation).

- A. INTRODUCTION (CONTINUED)
- B. The legislative history of the law of family
- ■The decree of May 4, 1895 relating to the Civil Code of the Independent State of Congo governing the matter of persons and the family, had been extended to Rwanda in its large part by the Ordinance of Ruanda-Urundi of August 25, 1936.

- ■The Act of October 18, 1908: called Colonial Charter extended to Rwanda by the Act of August 21, 1924 on the Government of Rwanda-Urundi (Belgian monitor, 1908, p. 5887, s. 4; BORU, 3rd year, No. 1.)
- > It imposed a legal dualism: The Civil Code governed the Europeans and Europeanized indigenous.
- >The custom governed natives between themselves

- ■The decree of July 5, 1948 concerning the search of paternity and obligation of alimony
 ➤In principle the courts' juridictions were established according to the category of people
- ➤ However a child born of a native mother could from that date bring a paternity claim against an alleged father subject to written law.

- ■The Constitution of November 24, 1962
- ➤ after Rwanda became politically independent; the civil Code was extended to all people without adopting any legal provision with this effect.

B. Legislation taken from the development of custom

1. Registration of monogamous marriage for indigenous

■ The decree of July 5, 1948 relating to the registration of monogamous marriage for indigenous in the Congo was rendered executed in Rwanda by the Ordinance of Rwanda-Urundi No. 21/130 of September 5, 1949 (BORU, 1950, p. 155). According to Article 1, this decree applies to marriage celebrated according to customary law or according to both customary norms and rules of a religious cult.

This decree applies to marriage celebrated according to customary law or according to both customary norms and rules of a religious cult. (Article 1).

- This voluntary registration of marriage produced some effects of written law:
- ✓ the rights and reciprocal duties of spouses;
- ✓ the recognition of the husband as head of the household;

√ the obligation for each spouse to contribute to household expenses according to his/her means and condition;

 \checkmark the introduction of the legal separation was also a result of this decree.

It involved the application of criminal law against bigamy and adultery, which did not exist previously.

. Prohibition of polygamy

➤ Polygamy was banned by the decree of April 4, 1950 (B.O, 1950, p. 49). This decree rendered executed in Rwanda by the ordinance of Ruanda-Urundi No. 21/132 of December 11, 1951, BORU, 1951, p. 479).

➤ Under section 1 of this Decree: From January 1, 1951, no one could contract a new customary marriage before the dissolution or annulment of the previous one.

Effects of the Decree of April 4, 1950 on filiation customary marriage produced effects on filiation when it was concluded respecting the conditions determined by the customary law.

- Thus, for marriages contracted before May 1, 1952, date of entry into force of the decree of April 4, 1950 in Rwanda, the problem did not arise.
- >These polygamous marriages are valid and the children are legitimate

3. The Act of October 27, 1988 :

The evolution of the study on the Civil Code has been delayed due to problems related to ongoing conflict between customary law and statutory law.

In this regard, the problems relating to maintenance or the prohibition of polygamy, the confirmation of marital title (inkwano) as a substantive requirement of civil marriage and the equality of children regardless the circumstances of birth may be noted ➤In general, the law of 27 October 1988 summarized the old civil Code (the Decree of 4.5.1895) by making additions or modifications due to changes occurred in Rwandan society.

- . The law n° 32/2016 of 28/8/2016 governing persons and family.
- ➤ This law was enacted in the spirit to eliminate all forms of discriminations against women/wives in decision making on family matters of family council and provided its duties in settlement of family matters, ect..

➤In fact the mentioned family Law of 1988 provided that the husband as a head of family and his position prevailed over that of the wife in case of disagreement. The new law removed all gender imbalances that appeared in the previous law. In addition it defines the notion the scope and duties of a family council in settlement of family matters.

As far as family matters were concerned, the law provided a contract of marriage including its formation, annulment, divorce and legal separation. Although the decree did not regulate patrimonial consequences of nullity of marriage, divorce and legal separation, it did provide rules concerning filiation and guardianship

Patrimonial aspects of the marriage contract, matrimonial regimes, donations and successions were governed by customary rules until 1999. The first Rwandan written law governing these matters was the law n° 22/1999 of 12/11/1999 to supplement Book I of the civil code and institute Part Five regarding matrimonial regimes, liberalities and successions.

This law of 1999 was replaced by the law n_{\circ} 27/2016 of 08/07/2016 governing matrimonial regimes, donations and successions O.G of 2016.

This law has recently been repealed and replaced by Law n° 71/2024 of 26/06/2024 governing persons and family.

It is worth mentioning that family relations which were regulated by two separate laws: Law n° 32/2016 of 28/8/2016 which governed persons and family and Law n° 27/2016 of 08/07/2016 which governed matrimonial regimes, donations and successions are currently governed by a single law: Law n° 71/2024 of 26/06/2024 governing persons and family.

The latter also regulates patrimonial aspects of a lawful marriage which are matrimonial regimes, family donations, and successions.

PART. I MARRIAGE AND DIVORCE

CHAPTER I. NOTIONS

Section 1. Notions of family, kinship and Relationship resulting from a marriage § 1. Family

- ■The term family can be understood in different ways. In a broad sense, the family is a group of persons descending from a common ancestor. This family includes ascendants, descendents and collaterals. This is the conception of customary law.
- ➤ In the strict sense, the family is composed of the father, the mother and their children. It is called nuclear family.

➤ The Family law, reinstates the extended family in the formalities of marriage and matters relating to the protection of family interests; (Here reference is made to the institution of the Family council and its attribution provided by the law).

- ➤ Family law protects only the nuclear family described in the provisions of article 18 para 1 of the Constitution of the Republic of Rwanda OG n° Special of 04/08/2023: "The family being a natural foundation of Rwandan society is protected by the State".
- ➤ Both parents have a right and responsibility to raise their children." The State puts in place appropriate legislation and organ for protection of the family, particularly the children and mother in order to ensure that family flourishes

§ 2. Kinship

➤In strict sense, the term parent applies to a person's father or mother.

In a broader sense, the term applies to persons who has a parental relationship, meaning the parents in narrow sense (father and mother), grandparents and all their descendents, paternal aunts and uncles, or maternal aunts and uncles, brothers and sisters and descendants.

- The term paternal or maternal kinship refers to a bloodily relationship between a person and the father or the mother. Paternal kinship includes all the parents of one's father. While maternal kinship refers to all parents of one's mother kinship by direct line (Ascendant + descendants),
- ✓ when a person descents directly one from another
 (art. 149 para 1);
- kinship by collateral line (brothers and sisters and their descendants)
- ✓ when persons descend directly from the common ancestor. (art. 149 para 2)

- Legal effects
- ➤ In direct line, kinship always has effect (art 149 (3)):
- Eg.: no legal marriage is possible marriage:
- ➤In collateral beyond the 7th degree Beyond that degree, the legislator considers bloodily relationship to be without any effect. No succession right beyond the 7th degree
- ➤In collaterals, it produces effects inside the 7th degree inclusive (article 149 (4)

- •Calculation of degrees (art 151)
- ➤ the degree of relationship is the number of generations between a person and a particular relative. There is one generation between two successive generations
- •According to article 151 the degree of relationship is calculated, in collateral line by counting the number of generations between the relative and the common ancestor, plus the number of generations between that common ancestor and the given person wishing to establish degree of relationship.

3. Relationship by marriage

A. Notions

According to Article 152, the Relationship by marriage exists in direct line or collateral. In direct line it exists between a person and ascendants of his/her spouse as well as the latter's descendants born out of wedlock. It exists in collateral line between a person and the collaterals of his/her spouse. This relation also exists between a person and spouses of persons related to him/her by marriage.

. The effects of relationship by marriage

Under the provisions of article 153, the relationship by marriage does have any legal effects It does not create prohibitions or rights except in case specifically provided by law.

creates prohibitions based on Marriage (Art. 169). Thus marriage is forbidden between a person and her or his in law parents,

CHAPTER II: THE MARRIAGE SECTION I. General concepts

§ 1. Definitions and legal nature of marriage

Pursuant to article 195 governing persons and family "the civil monogamous marriage contracted upon mutual consent before the public administration is the only marriage recognized by the law. Such a marriage is publicly officiated by the civil registrar of the domicile or the residence of the intending spouses (...)."

However, in case the civil registrar at sector level is not available for any reason, the marriage is celebrated by his/her direct supervisor. When it is established that the latter is not available to celebrate the marriage, they must appoint another civil registrar within his/her jurisdiction to celebrate that marriage. The celebration of marriage for Rwandans living in foreign countries occur in the Rwandan embassy in that country.

In fact, the rules of civil law provide mandatory conditions, effects and dissolution of Marriage. The Rwandan family law recognizes monogamous marriage and prohibits then polygamy and bigamy

The legal nature of marriage

- •Marriage has two meanings: a contract or an institution:
- ✓ Marriage is a contract by which a man and a woman commit themselves freely in a community of sustainable life.
- ✓It requires the agreement between parties. The provisions of the art. 195 also focuses on consent in the formation of marriage.

However, the contact of marriage denotes some particularities because the autonomous will of the parties can freely neither determine effects marriage nor decided on its dissolution nor introduce other conditions for its formation.

- The marriage taken as an institution: marriage creates a status of spouses. It is the ground of the family and the basis for the children's legitimacy.
- > Therefore, the marriage is somehow a social institution that goes beyond the individual wills of the spouses.

>A marriage is a right

According to article 16 of the Universal Declaration of Human Rights, marriage is a fundamental right. This article says "From the marriageable age, a man and a woman, without distinction as to race, nationality or religion, have the right to marry and to found a family. They have equal rights from the marriage, during marriage and at its dissolution ".

The International Covenant on Civil and Political Rights, to which Rwanda is a party, also recognizes individuals' right to marry and to found a family "(ratified by Decree no 8 / 75 of 12.2.1975, Official gazette, 1975, p. 230).

■The Constitution of the Republic of Rwanda adopted these principles in Article 17 and article 195 of the law governing persons and family recognize monogamic civil marriage, celebrated in accordance with the law before the civil status officer.

Therefore, in the context of monogamous marriage any other union celebrated prior the dissolution or annulment of a previous marriage should be regarded as illegal and prejudicial to public order.

Attitude of legislature in respect to extramarital relations

A. General concepts

■The marriage celebrated before the civil status officer is the only form of marriage recognized by the Rwandan laws.

•Extra-marital relationships are considered immoral and illegal. The mere fact of cohabitation does not produce legal effects. For example, unmarried partners have no matrimonial regimes no reciprocal duties etc.

. Sanctions

1. Civil sanctions

Married persons who engage in concubinage commit adultery which is punishable by divorce or legal separation (articles248 and 274 (2)). Children born out of marital relationships are called illegitimate children and their parenthood is established upon the procedures of recognition, petition for paternity or maternity conducted in the ways prescribed by law.

. Criminal penalties

The extra-marital relationships are criminally punishable under certain circumstances including where they constitute a direct attack on an existing marriage, either by adultery art.136;

bigamy or officiating at bigamy art. 141

➤when undertaken by abusing the will of another person: sexual violence against other spouse art. 137, rape art 134 indecent assault art. 135, child defilement art. 133 etc. See the Law n° 68/2018 of 30/8/2018 OG n° Special of 27/9/2018)

Section 2: Formation of marriage § 1. Traditional pre-marriage ceremonies

The civil marriage may be preceded by traditional ceremonies consistent with the value of Rwandan society including the following:

A. Engagement of two families (Gusaba no gufata irembo)

The preliminary engagement that brings together family of the fiancé for consenting that there is no impediment to the marriage of their children

The giving of the INKWANO/bride price

The ceremonies of engagement and payment of bride price demonstrated the agreement between two families which agree that their son and daughter will be married and that both family will continue to support their marriage.

The alliance between two families is symbolized by the *Inkwano* that the boy's family gives to the girl's family. The *inkwano* certifies the matrimonial alliance between two lineages. It guarantees the reality of the marriage contract and authenticates the paternity *vis-à-vis* the descendants. The customary conception of the *Inkwano* made it a mean of legitimizing the marriage.

However, Art. 196 (2) states that the validity of marriage is not be conditioned by the giving of *Inkwano*. However this law is silent about the nature of the *Inkwano*. It is important to mention that the *disbursement* of *Indongoranyo* was not provided by this law.

- § 2. The conditions required for a valid marriage
- A. The substantive conditions (Art. 169 to)
- 1. The natural conditions of fitness persons of opposite sexes

According to the provisions of the Article 17 the Constitution of the Republic of Rwanda of 2023 and article 195 of the 2024 law governing person and family they require intending spouse to be of opposite sexes for the validity of legal marriage.

b. Age

The provisions of article197 require persons who want to contract a marriage to be 21 years old. However, the new law provides the possibility to get married before 21 years. Article 197 (2) allows an intending spouse who has reached 18 years to be authorized and get married for justified reasons upon written application to the civil registrar at the District level.

- . Conditions of valid contract
- a. The personal consent of the intending spouses
- According to article 17 of the Constitution of the Republic of Rwanda, The spouses' free and full consent is necessary for the formation of marriage.

Article 195 of the law governing persons and family requires that the marriage contract must be concluded upon mutual consents of both spouses. Thus, marriage is perfect after the personal declaration of the prospective spouses before the civil registrar who concludes that they are legally united in marriage. The free consent of spouses should be expressed personally at the time of the marriage.

➤ The marriage is voidable in the absence of spouse's consent. Some persons may give their consent under special conditions including deaf-mutes who can express their consent in writing or by gestures. (article)

➤ The consent must also be free of defects (violence and error and fraud.

➤ Any legal act must fulfill condition of validity Under article 4 of the law on contract. (free consent, legal capacity, licit cause, etc

- >3. The conditions of morality
- a. The impediment of consanguinity or alliance
 For reasons of universal morality, Articles 198 determines
 the impediments to marriage based on kinship and
 relationship by marriage. Their violation leads to the
 incest

- ➤ Then the marriage is prohibited absolutely between ascendants and descendants in direct line. Article 198 1 (a) While in collateral line, the impediments of marriage goes up to the seventh degree.
- ➤ The provisions of article 198, 1 (d-i)prohibit marriage based on adoptive filiation: between the adoptee and the adopter, between the adopter and the adoptee's descendants

➤This is because the adoptee is almost treated as an adoptive parent's child. Similarly, adoptive children or adoptive parents' children and adoptee's children cannot contract a marriage unless authorized by the Civil registrar for serious reasons. (article 199).

➤ Some impediments are based on the alliance, including the prohibition of marriage between a person and her or his in-law parents (Art. 198 1 (c)).

. Impediments based on another marriage

None can contract a second marriage while the marriage is still valid (article 199) ei before the annulment or dissolution of the previous marriage. (article Article 17 of the Constitution of the Republic of Rwanda and 195 of family law recognize only monogamous marriage.

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➤ Penalties are provided against bigamy Article 246 of 2018 CRIMIAL LAW).

The death and divorce are the grounds of the dissolution of the marriage (arts 248and follow) as well as the judgment which declares the death (art 30). The annulment of the marriage is requested in the conditions defined under articles 223 and follow.

Whoever contract a new marriage in non-compliance with requirements of Article 195 is guilty of bigamy (art. 246 PC). And, anyone who wishes to get married must submit documents certifying the dissolution or the annulment of previous marriage

. The formal conditions

Because of the importance of marriage, the legislature has imposed certain conditions of form. Some are required before the celebration of the marriage whereas others are concomitant to the celebration of marriage.

Publication of proposed marriage

The publications consist of measures to publicize the proposed marriage, so that people who know the existence of some impediments to marriage have time to notify them to the civil status officer.

the civil registrar of the place of the celebration of the marriage shall proceed with the publication of this marriage. The notice for publication must contain all relevant information to the identification of future spouses (intending spouses names, parents, domicile and residence and the civil registrar's office where the marriage will e celebrated article 203. The notice shall be posed at the civil registrar's office and its website.

When the marriage has not been celebrated within four months from the expiration of the publication, the registrar shall proceed to a new publication (article 174). The legislature believes that beyond this time, the public may no longer have the memory of the celebration and no longer provide useful information to the civil Registrar

In principle, the marriage cannot be celebrated before the 20th day following the publication under the provisions of the article 203, (1)However, the Civil Registrar may in case of critical and exceptional circumstances authorize the shortening period of marriage notice or authorize the cerebration without publication. In any case, such circumstances must be indicated in the notice and registered in the margin of the marriage certificate 203 (3).

Required documents to be delivered to civil status officer

Before the marriage, each spouse must submit to the civil registrar documents proving that he or she qualifies to contract a regular marriage.

Those documents are determined by art. 200 and are as follow:

- -a birth certificate of each of the spouses;
- -a certificate of celibacy or a death certificate of first spouse or a copy of judicial judgment for divorce or annulment of previous marriage;
- -Authorization of marriage without publication for justified reasons

. The formalities at the time of the marriage

The celebration of marriage is characterized by its publicity and solemnity.

The marriage is publicly celebrated on the agreed date fixed by the spouses article and the civil registrar at the civil status premises. Article 202.

Presence of adult witnesses

The provisions of article 207 require the presence of representative of the family and two adult witnesses, who enjoy all civil rights, at the time of the celebration of a marriage. These witnesses must, by their presence and signatures confirm the civil status's statements and certify that the facts mentioned in the marriage certificate were actually recorded. The law also requires at least one representative for each family (art. 177).

. Personal appearance of spouses

The solemn nature of marriage requires the personal appearance of the spouses, because their consent is the cornerstone of the formation of marriage. While the custom considered the marriage as a union of two families, article 207 provides the personal conception of marriage. This makes the representation impossible as far as the marriage is concerned. Marriage therefore requires the actual presence of the spouses.

. The celebration of the marriage by the civil status officer (art 207)

3. The marriage certificate

The marriage is certified by a marriage certificate unless the law provides other types of evidence. Art 209. In event the marriage certificate is not obtained for any reasons, it may be replaced by a rendered judgment upon request of any interested person in a competent court where the claimant resides.

§ 3. Sanctions relating to the formation of marriage Criminal sanctions

•The criminal Law provides penalties against the civil status officer or against the spouse who violates the provisions on the formation of marriage.

B. Civil sanctions

1. The preventive civil sanctions

➤ The civil sanction tends to avoid litigations, that is to say, the violation of the law and give rise to judicial proceedings or a stay pending completion of a particular condition

Thus, the civil registrar shall refuse to celebrate the marriage if there is an impediment to it or if the conditions of validity are not met. Similarly, any interested person may oppose the celebration of marriage art.

The civil registrar shall ensure that there is no impediment provided by the law and that all conditions are fulfilled (Article 201). Otherwise he or she draws up an act refusing to celebrate the marriage, and informs the intending spouses article 206 (1). The latter may appeal against that decision to the direct supervisor article 206 (2) If not satisfied with the decision the matter is referred to the competent court.

Nevertheless the civil registrar can in no way refuse to comply with the court decision. Article 206 (3). This opposition must be given verbally or in writing not later than during the celebration (art. 216 (1)). Intending spouse may appeal against.

This opposition to the direct supervisor of the civil registrar, if not satisfied with the decision, the matter will be referred to the competent court. Article 216 (2-3).

The opposition always suspends the celebration of the marriage article 218.

- The opposition may be motivated by at least one of the following grounds (art.217):
- a)Lack of one of formal or substantive condition;
- b)Existence of any of the prohibition to marriage

The waiver of effects of opposition to the celebration of marriage stop running (art.220)

- a) by court judgment or the decision of the direct supervisor rejecting the opposition,
- b)) where the grounds for opposition no longer exist.

. Damages

They may be made against the civil status officer whose misconduct caused injury to spouse or others.

Nullity of marriage

The nullity of a marriage is decided by the court decision, which means that it is the competence of the judge, not the competence of the civil registrar. The causes of nullity are provided for by the law (no nullity without text) and results from the essence of marriage.

Types of Nullities

The absolute nullity and relative nullity:

a. The absolute nullity (art.223)

The absolute nullity concerns the public order. It can therefore be invoked by any interested person. The action with regard to absolute nullity is lodged by one of the spouses and any interested person (Art. 224)

Are absolutely null and void a marriages contracted by spouses bellow 21 years old without authorization by the civil registrar, in case spouses were in kinship in direct line, or collaterals inside 7th degree inclusive, bigamy, absence of consent either of any of spouses.

However, the nullity for marriage entered into without consent of one of the spouses is not possible in case there has been a continuous cohabitation for at least twelve consecutive months.

Effects if absolute nullity (Article 225)

The marriage is taken as it has never existed since the its celebration.

The court determines duties of parents towards their children (child support and child custody

. Relative nullity (Article 226)

The relative nullity concerns the protection and sanctions the violation of rules adopted for the protection of private interests. We can give as an example: the error on a person, i.e wrong person (substitution of a person), etc. The relative nullity is invoked by the protected person; ex. the nullity based on absence of consent of a spouse may be requested only by the spouse who was a victim of abuse or error.

The causes for relative nullity (Art. 226)

Causes of relative nullity are those that vitiate the consent to marriage (error, fraud, violence/duress), clandestine celebration and incompetence of the Civil registrar, lack of formal conditions
Relative nullity of marriage is impossible in case there has been continuous cohabitation for at least 6 consecutive months from the date the cause for relative nullity was known. (art. 226 (3))

The effects of nullity of marriage

An annulled Marriage is considered never have existed. According to art. 231 the nullified marriage contracted either in good faith or in bad faith grants—to the children from such marriage all rights related to that marriage. They—remain legitimate and enjoy parental duties. The Court decides on the children' custody.

- >Where the marriage was contracted in bad faith its nullity produces effects towards spouse of bad faith from the date of marriage.
- The nullified marriage grants to the spouse who acted in good faith from such a marriage all rights related to marriage. They share assets and liabilities basing on their respective matrimonial regime (article 229).

§ 4. The Effects of marriage

article 234 requires spouses to comply with duties and rights resulting from the marriage what ever matrimonial regime they opt for.

A. The relationship between spouses

1. Equality of spouses

Spouses have the same duties and obligations. (Article 235 (1)).

However, one spouse may solely assume the functions of household administration (art. 238 para 1) only in cases where the other is unable to do so Art. 238 para 2).

B. Rights and duties arising from marriage

The marriage gives rise to rights and obligations of public policy. Any contradicting agreement is void. These are obligations of cohabitation, mutual assistance, loyalty and contribution to the household expenses. Those duties are reciprocal and everyone can enforce and invoke them before the court.

A. Duty of cohabitation

The duty of cohabitation is rooted in marital status. It is based on the obligation of sexual intercourse and on mutual assistance between the spouses. The article 236 requires the spouses to create a community of life with the duty of cohabitation. This community of life is normally established in the domicile, or residence agreed upon by both spouses (art. ...).

The marriage not followed by cohabitation for a period of six consecutive months is ground for divorce The same if the either spouse establish that cohabitation will not be fulfilled after celebration of marriage the spouse is entitled to file for divorce (art. 236 (2))

2. The duty of loyalty (Art. 235 (2))

The duty of loyalty has not been set by the legislature, and is often reduced to the abstention from sexual intercourse with another person other than a spouse. Whoever does not fulfill his or her duty of loyalty thereby commits adultery which constitutes a cause of divorce (Article 248, 1°).

The claim relating to adultery or maintenance of a concubine belongs to the offended spouse (art. 136 and 140 Criminal law). Unlike any other offense, the offended spouse may at any stage of the procedure request that the proceedings be terminated when she/he retracts and withdraw the complaint. However in the court, the judge may reject the withdraw of the claim.

3. Duty to help

The article 235 (2) imposes the duty of mutual support as effects of marriage. This obligation is reciprocal. Article 239 emphasizes the obligation of solidarity of spouses by imposing on everyone the responsibility to contribute to household expenses according to his or her abilities and means.

Each spouse has duty of alimony to the other if she/he is in need (art. 239) the performance of this duty is in the limits of the needs of the claimant and the resources of the provider. Art 209.

. The duty to assistance

Marriage entails a duty to assistance, affection, devotion and care (art. 235(2)). In the household, both spouses are required to assist one another, especially when one spouse is in the state of weakness, sickness or pregnancy.

a husband without serious cause willfully abandon his wife for a period exceeding 1year knowing that she is pregnant is liable for a imprisonment of 3 months and lesser than 6 months.

The obligations of spouses resulting from marriage 1. Obligations towards the children

According to article 18 para of the Constitution of the Republic of Rwanda of 2023 provides that parents have the right and duty to educate their children. The article 240 imposes on parents duties to feed, maintain and educate their children born of their marriage. Each spouse can compel the failing spouses to perform his or her obligations.

These duties shall be) carried out in cash or in nature (article 242). The obligation of support between parents and children is reciprocal

D. Failure to fulfill conjugal obligation

If one of the spouses does not fulfill his/her obligations the other spouse may request from the competent court provisional measures that safeguard the interests of the household and particularly those of children. (art. 242).

In case the spouse who might file petition is legally incapable or is seriously sick while the either spouse is his/her guardian, advisor, the legal action may be lodged by any interested person. Article 242 (2)

Such provisional measures may be revisited when the conduct or status of the spouse has changed following the approval of the family council.

. Rights to the patrimony (article 237)

The rights to the patrimony of spouses starts upon celebration of marriage before the civil Registrar in accordance with their matrimonial regime. However, in case of marriage dissolution or annulment of marriage not followed by cohabitation, it has no effect on the property of the spouses, unless it is evident that spouses have joint property.

Duty of alimony between spouse

Spouses owe each other alimony when the either spouse is in need Article 241.

. The marriage of foreigners Marriage between a Rwandan and a foreigner celebrated in a foreign country

A Marriage between a Rwandan and a foreigner celebrated in a foreign country is governed by the law where the marriage is celebrated with respect to the form. With regard to substantive requirements for a Rwandan, by Rwandan law. (art.)

Marriage between Rwandan celebrated in foreign country (art.)

When Marriage between Rwandan celebrated in foreign country in a Rwandan embassy or consulate it is governed by Rwandan law with regard to the form and substantive requirements.

In event there is no Rwandan embassy or representative, it is governed by the law of the country where the marriage is celebrated with respect to the form and by Rwandan law with regard to substantive requirements.

. Recognition of the marriage of Rwandans celebrated abroad

The only marriage recognized in Rwanda is the monogamous marriage legal celebrated abroad and that does not contravene public order and good morals. Otherwise, it is nullifies in accordance of the provisions of the law governing marriage.