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The Revised Family Code

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The Revised Family Code Proclamation No. 213/2000

PROCLAMATION No.213/2000

THE REVISED FAMILY CODE
PROCLAMATION OF 2000

Preamble

WHEREAS, the family, being the natural basis of society, shall be protected by the society and the state, and that one of the means of protection is effected by regulating and governing family relation by law;

WHEREAS, it has become essential to make the existing Ethiopian family law in accordance with the socio-economic development of the society and, above all, with the Constitution of the country, and, in particular, realizing that marriage shall be based on the free consent of the spouses, and that it is necessary to provide the legal basis which guarantees the equality of the spouses during the conclusion, duration and dissolution of marriage;

WHEREAS, it has become necessary to amend the existing law in such a way that it gives priority to the well-being, upbringing and protection of children in accordance with the Constitution and International Instruments which Ethiopia has ratified;

WHEREAS, it is found necessary to settle disputes arising in family by a competent organ in a just and efficient manner;

WHEREAS, in order to realize these objectives, it has become essential that a family law be enacted by the House of Peoples' Representatives to be applicable in administrations that are directly accountable to the Federal Government;

NOW, THEREFORE, in accordance with Article 55 (1) of the Constitution of the Federal Democratic Republic of Ethiopia, it is hereby proclaimed as follows:

1. Short Title

This proclamation may be cited as the "Revised Family Code Proclamation No. 213/2000."

2. Effective Date

The Revised Family Code of 2000, as published in a separate volume appearing as Extraordinary Issue No. 1 of 2000 of the Federal Negarit Gazeta, shall come into force as of the 4th day of July, 2000.

Done at Addis Ababa, this 4th day of July, 2000.

NEGASO GIDADA (DR.)
PRESIDENT OF THE FEDERAL DEMOCRATIC
REPUBLIC OF ETHIOPIA

CHAPTER ONE

CONCLUSION OF MARRIAGE

Section 1. General

Article 1. — Various Forms of Marriage.

- 1) Marriage may be concluded before an officer of civil status.
- 2) Notwithstanding the provisions of Sub-Article (1) of this Article, marriage may be concluded in accordance with the religion or custom of the future spouses.

Article 2. — Marriage Concluded before an Officer of Civil Status.

Marriage shall be deemed to be concluded before an officer of civil status when a man and a woman have appeared before an officer of civil status for the purpose of concluding marriage and the officer of civil status has accepted their respective consent.

Article 3. — Religious Marriage.

Religious marriage shall take place when a man and a woman have performed such acts or rites as deemed to constitute a valid marriage by their religion or the religion of one of them.

Article 4. — Marriage According to Custom.

Marriage according to custom shall take place when a man and a woman have performed such rites as deemed to constitute a valid marriage by the custom of the community in which they live or by the custom of the community to which they belong or to which one of them belongs.

Article 5. — Marriage Celebrated Abroad.

Marriage celebrated abroad in accordance with the law of the place of celebration shall be valid in Ethiopia so long as it does not contravene public moral.

Section 2. Essential Conditions of Marriage

Article 6. — Consent.

A valid marriage shall take place only when the spouses have given their free and full consent.

Article 7. — Age.

- 1) Neither a man nor a woman who has not attained the full age of eighteen years shall conclude marriage.
- 2) Notwithstanding the provisions of Sub-Article (1) of this Article, the Minister of Justice may, on the application of the future spouses, or the parents or guardian of one of them, for serious cause, grant dispensation of not more than two years.

Article 8. — Consanguinity.

- 1) Marriage between persons related by consanguinity in the direct line, between ascendants and descendants, is prohibited.
- 2) In the collateral line, a man cannot conclude marriage with his sister or aunt ; similarly, a woman cannot conclude marriage with her brother or uncle.

Article 9. — Affinity.

- 1) Marriage between persons related by affinity in the direct line is prohibited.
- 2) In the collateral line, marriage between a man and the sister of his wife, and a woman and the brother of her husband is prohibited.

Article 10. — Filiation not Established Legally.

The existence of a bond of natural filiation which is commonly known to the community is sufficient to render *applicable the impediments to marriage referred to in Articles 8 and 9*, notwithstanding that the filiation is not legally established.

Article 11. — Bigamy.

A person shall not conclude marriage as long as he is bound by bonds of a preceding marriage.

Article 12. — Representation not Allowed.

- 1) Each of the future spouses shall personally be present and consent to the marriage at the time and place of its celebration.
- 2) Notwithstanding the provisions of Sub-Art. (1) of this Article, marriage by representation may be allowed by the Ministry of Justice where it has ascertained that there is a serious cause and the person who intended to do so has fully consented thereto.

Article 13. — Fundamental Error.

- 1) Marriage concluded as a result of error in consent shall not be valid.
- 2) Consent is deemed to be vitiated as a result of error where such error is a fundamental error.
- 3) Without prejudice to the provisions of Sub-Article (2) of

this Article, the following shall be considered to be fundamental errors:

- (a) error on the identity of the spouse, where it is not the person with whom a person intended to conclude marriage;
- (b) error on the state of health of the spouse who is affected by a disease that does not heal or that can be genetically transmitted to descendants;
- (c) error on the bodily conformation of the spouse who does not have the requisite sexual organs for the consummation of the marriage;
- (d) error on the behaviour of the spouse who has the habit of performing sexual acts with person of the same sex.

Article 14. — Consent Extorted by Violence.

- 1) Marriage concluded as a result of consent which is extorted by violence shall not be valid.
- 2) Consent is deemed to be extorted by violence where it is given by a spouse to protect himself or one of his ascendants or descendants, or any other close relative from a serious and imminent danger or threat of danger.

Article 15. — Judicially Interdicted Persons.

- 1) Any person who is judicially interdicted shall not conclude marriage unless authorized, for that purpose, by the court.
- 2) An application to this effect may be made by the interdicted person himself or by his guardian.

Article 16. — Period of widowhood.

- 1) A woman may not remarry unless one hundred and eighty

days have elapsed since the dissolution of the previous marriage.

- 2) The provisions of Sub-Article (1) of this Article shall not apply where:
- (a) the woman gives birth to a child after the dissolution of her marriage;
 - (b) the woman remarries her former husband;
 - (c) it is proved by medical evidence that the woman is not pregnant;
 - (d) the court dispenses the woman from observing the period of widowhood.

Section 3. Opposition to Marriage

Article 17. — Opposition.

Opposition may be made when marriage is to be concluded in violation of one of the essential conditions of marriage.

Article 18. — Opposition by whom Made.

Opposition to the conclusion of marriage shall be made only by the following persons:

- (a) In case of age, by the parents of the minor, public prosecutor or any other interested person;
- (b) In case of relationship by consanguinity or affinity, by the ascendants of the future spouses, or the ascendants of one of them, or by the brothers or sisters of the future spouses, who have attained the age of eighteen years or by the public prosecutor;
- (c) In case of bigamy, by the person alleging to have had a prior marital relationship with the bigamous spouse or by the public prosecutor;

- (d) In case of judicial interdiction, by his guardian, or by the public prosecutor.

Article 19. — Form and Time of Opposition

- 1) Opposition to marriage shall be made in writing and submitted to the officer of civil status within fifteen days from the notification of the marriage.
- 2) The officer of civil status shall receive the opinion of the future spouses before deciding on the opposition.

Article 20. — Decision on the Opposition.

- 1) The officer of civil status shall decide on the opposition within five days.
- 2) The decision of the officer to celebrate the marriage shall be final.
- 3) Where the opposition is sustained, the officer of civil status shall refuse to celebrate the marriage.
- 4) In such case, the officer of civil status shall give reasons of his refusal and inform same forthwith to the future spouses.

Article 21. — Appeal.

- 1) The future spouses or one of them may petition to the court against refusal under Sub-Article (3) of Article 20.
- 2) Where the court overrules the decision of the officer of civil status, such officer shall celebrate the marriage.

Section 4. Marriage Celebrated before an Officer of Civil status (civil marriage)

Article 22. — Authorized Officer of Civil Status.

Civil marriage shall be concluded before the officer of civil status of the place where one of the future spouses or one of

the ascendants or close relatives of one of them has established residence by continuously living there, for not less than six months prior to the date of the marriage.

Article 23. — Request for Celebration of Marriage.

The future spouses shall inform the officer of civil status of their intention to conclude marriage not less than one month prior to its celebration.

Article 24. — Fixing the Date of Marriage.

Upon receipt of the request, the officer of civil status shall, in consultation with the future spouses, decide the exact date of the conclusion of marriage and publicize same by any appropriate means.

Article 25 — Formalities of Celebration.

- 1) Marriage shall be concluded publicly in the presence of the future spouses and two witnesses for each of the future spouses.
- 2) The future spouses and the witnesses shall declare, under oath, that the essential conditions of marriage are not violated.
- 3) The officer of civil status shall inform the future spouses and their witnesses, before taking oath, of the consequences of their declaration.
- 4) Each of the future spouses shall declare openly to the officer of civil status that they consented to conclude marriage on their own free will.
- 5) Each of the spouses and their witnesses shall sign in the

register of civil status.

- 6) Upon fulfillment of the formalities prescribed above, the officer of civil status shall pronounce them united in marriage and shall issue a certificate of marriage to that effect.

Section 5. Other Marriages

Article 26. — Religious Marriage

- 1) The conclusion of religious marriage and the formalities thereof shall be as prescribed by the religion concerned.
- 2) The provisions of this Code relating to the essential conditions of marriage shall be complied with in religious marriage.

Article 27. — Customary Marriage.

- 1) The conclusion of customary marriage and the formalities thereof shall be as prescribed by the custom of the community concerned.
- 2) The provisions of this Code relating to the essential conditions of marriage shall be complied with in customary marriage.

Section 6. Registration of Marriage

Article 28. — Registration.

- 1) Marriage shall be registered by a competent officer of civil status irrespective of the form according to which the marriage is celebrated.

- 2) The officer of civil status who recorded the marriage in accordance with Sub-Article (1) of this Article shall issue a certificate of marriage to the spouses.
- 3) Any marriage shall have effect from the date of its conclusion.

Article 29. — Record of Marriage.

- 1) Where the spouses have failed to have registered their marriage in accordance with Sub-Article (1) of Article 28, the officer of civil status shall draw up the record of marriage of his own motion whenever he becomes aware of the marriage.
- 2) In such cases, the officer of civil status shall summon the spouses and their witnesses to sign in the record of marriage.

Article 30. — Particulars of the Record of Marriage.

The record of marriage shall show:

- (a) the full names, dates, and places of birth, of each of the spouses and their addresses;
- (b) the full names, dates and places of birth, of the witnesses, and their addresses;
- (c) the form of the marriage, the date on which it has been concluded and the date of its registration.

CHAPTER TWO

EFFECTS OF VIOLATIONS OF ESSENTIAL CONDITIONS
OF MARRIAGE

Article 31. — Age.

- 1) Without prejudice to Sub-Article (2) of Article 7 of this Code, marriage concluded by a man or a woman under the

age of eighteen years shall dissolve on the application of any interested person or the public prosecutor.

- 2) It may no longer be applied for after the age required by law for marriage is satisfied.

Article 32. — Consanguinity or Affinity.

The dissolution of marriage concluded in violation of impediments arising out of consanguinity or affinity shall be ordered on the application of any interested person or the public prosecutor.

Article 33. — Bigamy

- 1) The dissolution of a bigamous marriage shall be ordered on the application of either of the spouses of the bigamous marriage or the public prosecutor.
- 2) The dissolution mentioned in Sub-Article (1) of this Article may no longer be applied for where the former spouse of the bigamous marriage has died.

Article 34. — Dissolution of Marriage of a Judicially Interdicted person.

- 1) Where a judicially interdicted person has contracted marriage without prior authorization of the court, the dissolution of such marriage may be requested from the court by the judicially interdicted person himself or by his guardian.
- 2) The judicially interdicted person may no longer make an

application for dissolution six months after the date of termination of his disability.

- 3) An application for dissolution by the guardian may no longer be made six months after the day on which the guardian came to know the existence of the marriage or in any case, after the disability of the interdicted person has ceased.

Article 35. — Act of Violence ,

- 1) Whosoever has concluded marriage under the influence of violence may apply to the court to order the dissolution thereof.
- 2) Such an application may not be made six months after the cessation of such violence and, in any case, two years after the conclusion of the marriage.

Article 36. — Error ,

- 1) Whosoever has concluded marriage due to fundamental error, may apply to the court to order the dissolution thereof.
- 2) Such an application may not be made six months after the discovery of such error, and, in any case, two years after the conclusion of the marriage.

Article 37. — Period of Widowhood,

The dissolution of marriage may not be ordered for the sole reason that the period of widowhood specified under Sub-Article (1) of Article 16 has not been observed.

Article 38. — Incompetence of Officer of Civil Status.

The dissolution of marriage may not be ordered solely on the ground of incompetence of the officer of civil status who celebrated the marriage.

Article 39. — Non-Observance of Formalities.

The dissolution of marriage may not be ordered on the sole ground that the formalities of celebration specified under Sub Articles (3) and (6) of Article 25 have not been observed.

CHAPTER THREE

EFFECTS OF MARRIAGE

Section 1. General Rules

Article 40. — Various Forms of Marriage Equivalent.

- 1) Marriage produces the same legal effects whatever the form according to which it has been celebrated.
- 2) No distinction shall be made as to whether the marriage has been concluded before an officer of civil status or according to the forms prescribed by religion or custom.

Article 41. — Consummation of Marriage.

The effects of marriage shall not depend on the real or presumed consummation of the marriage.

Article 42. — (1) Contract of Marriage.

- 1) The spouses may, before or on the date of their marriage, regulate by a contract the pecuniary effects of their marriage.
- 2) They may also specify in such contract their reciprocal rights and obligations in matters concerning their personal relations.
- 3) Such contracts shall not affect mandatory provisions of the law.

Article 43. — (2) Incapacity of Spouses.

- 1) The contract of marriage of a judicially interdicted person

shall be of no effect unless it is entered into by the interdicted person himself and approved by the court.

- 2) A legally interdicted person shall not be subject to incapacity as regards the making of a contract of marriage.

Article 44. — (3) Form of Contract.

A contract of marriage shall be of no effect unless made in writing and attested by four witnesses, two for the husband and two for the wife.

Article 45. — (4) Deposit of Contract.

- 1) A copy of the contract of marriage shall be deposited in the court or with the office of civil status.
- 2) It may be freely consulted by any one of the spouses or by persons authorized by court or by any one of the spouses.

Article 46. — (5) Restrictions to Freedom of Contract.

- 1) The spouses shall not impose an obligation upon third parties by their contract of marriage.
- 2) The contract of marriage shall be of no effect where it simply refers to local custom, religion or law of a country.

Article 47. — (6) Modifications to Contract of Marriage

- 1) Where the interest of the family so requires, the spouses may, by agreement, modify the terms of the contract of marriage and request the court for approval of such modifications.
- 2) The court may approve such modifications where it ascertains that it does not affect the interest of the family.
- 3) Where the modifications are approved by the court under Sub-Article (2) of this Article, a copy of the modified contract shall be deposited in the court or with the office of civil status.

Article 48. — (7) Legal Regime.

In the absence of contract of marriage or where the contract of marriage is not valid under the law, the following provisions shall apply.

Section 2. Personal Effects of Marriage

Article 49. — Respect, Support and Assistance.

- 1) The spouses owe each other respect, support and assistance.
- 2) The contract of marriage shall not derogate such rule.

Article 50. — Joint Management of Family. (1) General Rule.

- 1) The spouses shall have equal rights in the management of the family.
- 2) The spouses shall, in all cases, co-operate, to protect the security and interest of the family to bring up and ensure the good behaviour and education of their children in order to make them responsible citizens.

Article 51. — (2) Inability of One of the Spouses.

- 1) Where one of the spouses is under disability, absent, abandons his family or is away or, for any other reason, is not in a position to give his consent, the other spouse shall alone carry out the duties mentioned in Article 50.
- 2) The spouses shall not agree to the contrary in the contract of marriage.

Article 52. — Children of previous Marriage.

- 1) Each of the spouses shall retain an exclusive right of decision in matters concerning the up bringing of children whom he had before the marriage.
- 2) Any agreement to the contrary shall be of no effect.

Article 53. — Cohabitation.

- 1) The spouses are bound to live together.

- 2) They shall have with one another the sexual relations normal in marriage unless these relations involve a risk of seriously prejudicing their health.
- 3) Any agreement to the contrary shall be of no effect.

Article 54 — Determination of Residence.

The spouses shall jointly decide their common residence.

Article 55. — Separation by Agreement.

- 1) Notwithstanding the provisions of Article 53 (1) of this Code, the spouses may agree to live separately for a definite or indefinite period of time.
- 2) Any agreement made to this effect may be revoked at any time by one of the spouses provided that such revocation is not arbitrary.

Article 56. — Duty of Fidelity.

The husband and the wife owe fidelity to each other.

Section 3. Pecuniary Effects of Marriage

Article 57. — Personal Property of Spouses (1) Property not acquired by Onerous Title.

The property which the spouses possess on the day of their marriage, or which they acquire after their marriage by succession or donation, shall remain their personal property.

Article 58. — (2) Property Acquired by Onerous Title.

- 1) Property acquired, by onerous title, by one of the spouses after marriage shall also be personal property of such spouse where such acquisition has been made by exchange for property owned personally, or with monies owned personally or derived from the sale of property owned personally.

- 2) The provisions of Sub-Article (1) of this Article shall apply only when the court, at the request of one of the spouses, has decided that the property thus acquired shall be owned personally by such spouse.

Article 59. — Administration of Personal Property (1) Principle.

- 1) Each spouse shall administer his respective personal property and receive the income thereof.
- 2) Each spouse may freely dispose of his personal property.

Article 60. — (2) Determination by Contract of Marriage.

- 1) It may be agreed in the contract of marriage that one of the spouses shall administer all or part of the personal property of the other spouse and that he may dispose of such property.
- 2) The spouse who is entrusted with the power of administering the property under Sub-Article (1) of this Article shall, at the request of the other spouse, submit an annual statement of accounts of the management of such property.

Article 61. — (3) Agency.

One of the spouses may freely entrust to the other spouse the administration of all or part of his personal property.

Article 62. — Common Property of Spouses.

- 1) All income derived by personal efforts of the spouses and from their common or personal property shall be common property.
- 2) All property acquired by the spouses during marriage by an onerous title shall be common property unless declared

personal under Article 58 (2) of this Code.

- 3) Unless otherwise stipulated in the act of donation or will, Property donated or bequeathed conjointly to the spouses shall be common property.

Article 63. — Legal Presumption.

- 1) All property shall be deemed to be common property even if registered in the name of one of the spouses unless such spouse proves that he is the sole owner thereof.
- 2) The fact that certain property is personal may not be set up by the spouses against third parties unless the latter knew or should have known such fact.

Article 64. — Income of Spouse(1) Normal Management.

- 1) Each spouse shall receive his earnings.
- 2) The spouses may deposit their respective earnings either in personal or joint bank account.
- 3) One of the spouses shall, at the request of the other spouse, render an account to the latter of the income received by him.

Article 65. — (2) Exception.

- 1) One of the spouses may freely give the other spouse a mandate to receive the income which is due to him.
- 2) The court may, at the request of one of the spouses, authorize such spouse to receive the income of the other spouse and to give receipt thereof.

- 3) Unless other laws provide otherwise, the court may also order the full or partial attachment of the income of either spouse.

Article 66. — Administration of Common Property.

- 1) Common property shall be administered conjointly by the spouses unless there is an agreement which empowers one of them to administer all or part of the common property.
- 2) Where one of the spouses is declared incapable, or is deprived of his right of property management or for any other reason is unable to administer the common property, the other spouse shall alone administer such common property.

Article 67. — Duty to give Notice.

The spouse who performs an act of management in respect of common property is duty bound to inform the other spouse thereof.

Article 68 — (1) Requisite of Agreement of Spouses

Unless provided otherwise by other laws, the agreement of both spouses shall be required to;

- (a) sale, exchange, rent out, pledge or mortgage or alienate in any other way a common immovable property to confer a right to third parties on such property;

- (b) sale, exchange, pledge or mortgage, or alienate in any other way, a common movable property or securities registered in the name of both spouses: the value of which exceeds five hundred Ethiopian birr.
- (c) transfer by donation of a common property the value of which exceeds one hundred Ethiopian birr, or money which exceeds such amount;
- (d) borrow or lend money exceeding five hundred Ethiopian birr or to stand surety for a debt of such amount to another person.

Article 69. — (2) Absence of Agreement.

- 1) Where one of the spouses has entered into obligations in violation of the provisions of the preceding Article, the court may, at the request of the other spouse, revoke such obligations.
- 2) An application for cancellation may not be made six months after the day on which the other spouse came to know the existence of such obligation, or, in any case, two years after such obligation is entered.

Article 70. — Debts of Spouses.

- 1) Debts due by one spouse may be recovered on the personal property of the indebted spouse, and in the absence of such personal property, it may be recovered on the common property.

- 2) Where the debt is incurred in the interest of the household, it shall be deemed to be joint and several debt of both spouses and may be recovered on the common property and on the personal property of either of the spouses.

Article 71. — Debts in the Interest of Household.

The following debts shall be deemed to be debts incurred in the interest of the household:

- (a) debts incurred to fulfill the livelihood of the spouses and their children;
- (b) debts incurred in order to fulfill an obligation of maintenance to which both the spouses or one of them is bound;
- (c) other debts which are acknowledged to be such by the court at the request of either of the spouses or the creditor.

Article 72. — Contribution to Household Expenses.

The spouses shall contribute to the household expenses in proportion to their respective means.

Article 73. — Contracts Between Spouses.

Contracts entered into between spouses during marriage shall be of no effect unless approved by the court.

CHAPTER FOUR

DISSOLUTION OF MARRIAGE

Article 74. — Various Forms of Marriage Equivalent.

- 1) The causes and effects of dissolution of marriage shall be the same whichever the form of celebration of the marriage.
- 2) No distinction shall be made concerning dissolution whichever the form according to which the marriage is celebrated.

Article 75. — Causes of Dissolution of Marriage.

The following shall be causes of dissolution of marriage:

- (a) death of one of the spouses, or declaration of absence, by the court, of one of the spouses;
- (b) dissolution order by court due to violation of one of the essential conditions of marriage; or
- (c) divorce.

Article 76. — Conditions of Decision for Divorce.

Marriage shall dissolve by divorce where:

- (a) the spouses have agreed to divorce by mutual consent and such agreement is accepted by the court; or
- (b) the spouses or one of them made a petition, for divorce, to the court.

Section 1. Divorce by Mutual Consent

Article 77. — Petition for Divorce by Mutual Consent.

- 1) Where the spouses have agreed to divorce by mutual consent, such agreement, which shall also regulate the consequences thereof, shall be submitted in writing to the court for approval.
- 2) Notwithstanding the provisions of Sub-Article (1) of this Article, spouses whose marriage lasted for less than six months shall not be permitted to divorce by mutual consent.
- 3) Spouses who petition for divorce by mutual consent are not obliged to state the reason thereof.

Article 78. — Power of the Court.

- 1) Where a petition for divorce is made under Article 77 (1), the court may discuss with the spouses separately or jointly and counsel them to renounce their intention to divorce.
- 2) In the event that the spouses did not show willingness to renounce their intention to divorce, the court may, having regard to circumstances, dismiss them giving a cooling period of not more than three months.

Article 79. — Re-application.

- 1) Where the spouses did not change their intention to divorce within the cooling period given to them under Article 78 (2), they may re-apply to the court to approve their agreement to divorce within six months from the last date of such cooling period.
- 2) Notwithstanding the six months time limit provided in

Sub-Article (1) of this Article, nothing shall prevent the spouses from submitting a new petition for divorce.

Article 80. — Approval of Divorce by Mutual Consent.

- 1) The court shall approve the divorce agreement only when it believes that the agreement is the true expression of the intention and free consent of the spouses and is not contrary to law and morality.
- 2) The court shall also approve the conditions of the divorce agreed between the spouses together with the divorce agreement.
- 3) Notwithstanding the provisions of Sub-Article (2) of this Article, where the agreement of the spouses on the conditions of divorce does not sufficiently protect the interest and well being of their children, or, where it adversely affects the interests of one of the spouses, the court may approve only the divorce agreement and give decisions it may deem appropriate to correct the defects on the conditions of divorce.

Section 2. Divorce by Petition

Article 81. — (1) Petition for Divorce.

- 1) A petition for divorce may be made to the court either by the two spouses conjointly or by one of them.
- 2) The spouses or one of them may state in the petition the reasons for divorce.

Article 82. — (2) Power of the Court.

- 1) Where the petition for divorce is made under the preceding Article, the court shall speak to the spouses separately or jointly with a view of persuading them to renounce the petition for divorce and solve their dispute amicably.

- 2) Where the attempt made under Sub-Article(1) has failed or is likely to fail, the court may direct the spouses to settle their dispute through arbitrators of their own choice.
- 3) Where the spouses did not agree to settle their dispute through arbitration, the court may dismiss the parties by giving them a cooling period of up to three months.
- 4) Where all the efforts made under the preceding provisions have failed, the court shall pronounce divorce within one month from the receipt of the reports of arbitrators, or the end of the cooling period, as the case may be.
- 5) From the time the petition for divorce is brought before it, the court shall forthwith give appropriate order regarding the maintenance of the spouses, the custody and maintenance of their children and the management of their property.
- 6) Where circumstances absolutely require that one of the spouses leave their common abode, the court shall, when giving an order under Sub-Article (5) of this Article, take into consideration the interest of children and the condition of the spouse who may be affected more by leaving their common abode.

Article 83. — Decision on Conditions of Divorce.

- 1) Where the marriage is dissolved by divorce under this section, the court shall request the spouses to agree on the conditions of divorce.
- 2) Where the spouses are not willing to agree or have failed to agree in accordance with Sub-Article (1) of this Article, the court shall, by itself, or through arbitrators, or experts appointed by it, or by any other means it thinks appropriate, decide on the conditions of divorce.
- 3) The conditions of divorce agreed upon by the spouses

or decided by arbitrators or experts shall be submitted to the court for approval.

- 4) After deciding the divorce, the court may postpone the judgment on conditions of the divorce for not more than six months.

Article 84. — Indemnities.

Where the cause of the divorce is imputable to one of the spouses and where justice so requires, the court may order such spouse to make good the damage sustained by the other spouse.

CHAPTER FIVE
LIQUIDATION OF PECUNIARY RELATIONS
BETWEEN SPOUSES

Article 85. — Liquidation by Agreement.

- 1) Without prejudice to the provisions of this Code relating to compensation, where the marriage is dissolved in accordance with the provisions of this Code, the pecuniary relation between spouses shall be liquidated in accordance with the agreement entered into by the spouses or the contract of their marriage.
- 2) In default of a contract of marriage or an agreement, or if these are not valid under the law, the pecuniary relations between spouses shall be liquidated in accordance with the following provisions.

Article 86. — Retaking of Personal Property.

- 1) Each spouse has the right to retake his personal property in kind where he shows that he is the sole owner thereof.
- 2) If one of the spouses proves that any of his personal property has been alienated and that the price thereof has

fallen in the common property, he has the right to withdraw therefrom, beforehand, money or things of value corresponding to such price.

- 3) Where both spouses have such right, each of them shall take their respective share from the common property in proportion to their contribution.

Article 87. — Indemnities.

- 1) Where one of the spouses who has been vested with the power to administer the common property or the personal property of the other spouse in accordance with this law, has performed acts which adversely affect such spouse, or where the spouse who has performed such acts did not have the mandate, or where such acts constitute acts of bad administration, or have been performed in fraud of the right of the spouse making the claim, the court may, at the request of the aggrieved spouse, award damage to such spouse.
- 2) No claim for indemnity based on Sub-Article (1) of this Article may be made by reason of acts which have been performed five years before the dissolution of the marriage.

Article 88. — Unlawful Enrichment.

Unless otherwise agreed, the court may award indemnity to a spouse who proves that the personal property of the other spouse or of the common property has been enriched to the prejudice of his own personal property.

Article 89. — Protection of Creditors.

Where there is a debt incurred by either spouse or both spouses conjointly, and such debt is confirmed by judicial decision, or acknowledged by the spouses, such debt shall be paid before partition of property.

Article 90. — (1) Partition of Common Property.

Without prejudice to the provisions of the preceding Articles and agreements entered into by the spouses, common property shall be divided equally between the spouses.

Article 91. — (2) Rule of Partition in Kind.

- 1) As a rule, partition shall be made in kind in such a way that each spouse receives some property from the common property.
- 2) Where it is not possible to divide such Common Property equally under Sub-Article (1) of this Article, the inequality of shares in kind shall be set off by the payment of sums of money.
- 3) The utmost care shall be taken to give each spouse things which are most useful to him.

Article 92. — Properties which are Difficult to Divide.

- 1) If there is a certain property which is difficult or impossible to be divided and if the spouses do not agree as to who shall have that property in his share, such

property shall be sold and the proceeds thereof shall be divided between them.

- 2) If the spouses do not agree on the condition of sale and, if one of them so requires, the sale shall be made by auction.

Article 93. — Debts of Spouses due after Dissolution of the Marriage.

- 1) If a debt which was to be paid from the common property becomes due after the dissolution of the marriage and after the partition of the property, each spouse shall be liable in proportion to his share.
- 2) If the debt concerns one of the spouses, only such spouse shall pay it.

CHAPTER SIX
PROOF OF MARRIAGE

Article 94. — Certificate of Marriage.

Marriage is proved by producing the certificate of marriage drawn up at the time or after the celebration of the marriage in accordance with the law.

Article 95. — Proof in Default of Certificate of Marriage.

When it is difficult to prove marriage by producing the certificate of marriage due to the fact that the marriage has not been registered or such register has been lost, it shall be proved by the possession of status of spouse.

Article 96. — Possession of Status (1) Definition.

A man and a woman are deemed to have the possession of status of spouses when they mutually consider themselves and live as spouses and when they are considered and treated as such by their family and the community.

Article 97. — (2) Proof of Marriage by Possession of Status.

- 1) Where a person alleging the existence of marriage proves the possession of status of spouse in accordance with the preceding Article, the court may presume that marriage has been concluded.
- 2) The presumption in Sub-Article (1) of this Article may be rebutted by producing any kind of reliable evidence.

CHAPTER SEVEN
IRREGULAR UNION

Article 98. — (1) Definition.

An irregular union is the state of fact which is created when a man and a woman live together as husband and wife without having concluded a valid marriage.

Article 99. — (2) Explanation.

- 1) It is necessary and sufficient in order to have an irregular union that the behaviour of the man and of the woman be analogous to that of married people.

- 2) They need not represent themselves to third parties as being married.
- 3) The mere fact that a man and a woman keep up sexual relations between them, even if repeatedly and notoriously, is not sufficient by itself to constitute an irregular union between such man and woman.

Article 100. — No Bond of Affinity Created.

- 1) An irregular union shall not create any bond of affinity between the man and the relatives of the woman, and between the woman and the relatives of the man.
- 2) The provisions concerning impediments to marriage in the case of affinity shall, however, apply in the case of an irregular union.

Article 101. — Contribution to Common Expenses.

The man and the woman living in an irregular union shall contribute to the common expenses in proportion to their respective means.

Article 102. — Community of Property.

- 1) Without prejudice to agreements entered into between the man and the woman engaged in an irregular union concerning the administration of their property, property acquired during such relation shall be common property provided that the relation has lasted for not less than three years.

- 2) Unless proved to the contrary, properties they have during their cohabitation shall be considered to have been acquired within such relation.
- 3) The man and the woman engaged in an irregular union shall be jointly and severally liable for all debts incurred for their maintenance, or for the maintenance of their children born of such union.

Article 103. — Effects of Community of Property.

Where community of property is created in accordance with Sub-Article (1) of Article 102, matters pertaining to the administration of property, payment of debts, and liquidation of property shall be dealt with in accordance with the provisions of this Code relating to Liquidation of Pecuniary Relations of Spouses (Art. 85–93).

Article 104. — Filiation of Children.

The filiation of children born of an irregular union shall be established in accordance with the provisions of the Chapter of this law relating to Filiation.

Article 105. — Termination of Union.

- 1) A man and a woman engaged in an irregular union may, at any time, put an end to such union.
- 2) Without prejudice to the provisions of Article 102 of this Code, the party who terminates the union shall not be liable to pay damages unless he commits fault.

Article 106. — Proof of Union.

- 1) An irregular union may be proved by the possession of such status.
- 2) A man and a woman may have the possession of the status of persons living in an irregular union when, although they are not married, they behave as such, and when their families and the community consider them living as married couple.
- 3) If one of the parties is capable of proving the existence of the state of fact provided under Sub-Article (2) of this Article, the court shall presume that they live in an irregular union.
- 4) The above presumption may be rebutted by producing any kind of reliable proof.

Article 107. — Other Relations out of Marriage.

- 1) Relations established between a man and a woman out of wedlock or out of an irregular union shall have no juridical effect attached to them.
- 2) Without prejudice to the provisions of this Code relating to Acknowledgement of paternity or Adoption, children born of such relations shall have a juridical bond only with their mother.

CHAPTER EIGHT
SETTLEMENT OF DISPUTES ARISING OUT OF
MARRIAGE AND IRREGULAR UNION

Section 1. General

Article 108. — Applicable Law.

Without prejudice to the procedural provisions provided in this Code, the provisions of the Civil Procedure Code of Ethiopia shall be applicable to disputes arising on matters provided in this Code.

Article 109. — Applicability of Provisions Relating to Liquidation of Pecuniary Relations Between Spouses.

- 1) The provisions of Chapter Five of this Code shall be applicable accordingly notwithstanding that the marriage is dissolved not by divorce.
- 2) When the dissolution of marriage is caused by the death of one of the spouses, the provisions of Chapter Five of this Code shall be applicable accordingly to disputes which may arise between the surviving spouse and the heirs of the deceased concerning the partition of property.

Article 110. — Dispute Between Spouses.

The court may, when it deems necessary, sit in camera while consulting with the spouses either jointly or separately or when examining witnesses, as the case may be.

Article 111.— Decision.

Where circumstances require that it is necessary for the protection of the reputation of the spouses and their family, the court may confine itself to stating the existence of sufficient causes for the divorce without writing details of the case in its decision.

Article 112.— Appeal.

No appeal shall lie solely on the judgement of the court deciding divorce.

Article 113.— Custody of Children.

- 1) The court shall, when deciding the dissolution of marriage, also decide as to which spouse shall have custody of the children, care of their education, health, maintenance and the rights of the parents and the children to visit each other.
- 2) When giving decision under Sub-Article (1), the court shall take into account the income, age, health, and condition of living of the spouses as well as the age and interests of the children.
- 3) The court may, on application and taking into account the change of circumstances, revise or reverse its decision given under this Article regarding the custody and maintenance of the children.

Article 114.— Irregular Union.

The provisions of this section shall also be applicable to the extent they are relevant, to cases concerning irregular union.

Section 2. Power of the Court

Article 115. — Existence of Valid Marriage.

Only the court is competent to decide whether a marriage has been concluded and whether such marriage is valid.

Article 116. — Irregular Union.

Only the court is competent to decide whether an irregular union has been established between a man and a woman.

Article 117. — Divorce and Its Effects.

Only the court is competent to decide on divorce, decide or approve the effects of divorce in accordance with Article 83 of this Code.

Article 118. — Disputes Arising out of Marriage.

- 1) Without prejudice to the provisions of Article 117, disputes arising out of marriage shall be decided by arbitrators chosen by the spouses.
- 2) Any party who is dissatisfied with the decision of arbitrators may appeal to a court having jurisdiction.
- 3) The court, having examined the petition, may approve, amend or reverse the decision of arbitrators. Such decision of the court shall be final.

Section 3. Arbitration

Article 119. — Appointment of Arbitrators.

- 1) Where the spouses have decided to settle their dispute through arbitration in accordance with Article 82 (2) of this Code, they shall appoint one or more arbitrators and submit, within fifteen days from the date they were told to do so, the names of those arbitrators to the court.
- 2) On receiving the list of arbitrators or when the arbitrators appear before it in accordance with Sub-Article (1) of this Article, the court shall make a record forthwith and give direction as to how thereconciliation has to proceed and to submit the result of the arbitration or the attempt of reconciliation within three months.
- 3) Notwithstanding the provisions of Sub-Article (2) of this Article, the court may, where it deems necessary, examine the progress of the arbitration and make orders for submission of periodical reports thereon.

Article 120. — Additional Time.

Without being restricted by the provisions of Article 119, where the court is of the opinion that the spouses may settle their dispute through arbitration, it may, having regard to the progress of the arbitration, give additional time of not more than one month.

Article 121. — Responsibility of Arbitrators.

- 1) The arbitrators shall make an effort to reconcile the spouses and to make them renounce their petition for

divorce.

- 2) Where the arbitrators have concluded that the dispute cannot be solved except by divorce, they shall report the result of their attempt to the court without delay.
- 3) The arbitrators shall have no power to give any order or decision concerning the spouses except persuading them to resolve the issue through arbitration.

Article 122. — Failure to Submit Report.

- 1) Where the arbitrators have failed to submit reports in accordance with Articles 119 and 121 of this Code, the court shall close the case.
- 2) Where the spouses or one of them have petitioned the court to reopen the case within one month from the date of the closure of the case by stating the reasons for not submitting the report and that the issue has not been settled through arbitration, the court may reopen the case and give appropriate decision.
- 3) The closure of the case under Sub-Article (1) of this Article may not prohibit the spouses or one of them from submitting a new petition and request for their case be reconsidered.

CHAPTER NINE
FILIIATION

Section 1. Ascertainment of Paternity and Maternity

Sub-Section 1. General Provisions

Article 123. — Legal Rules Mandatory.

Unless the law expressly authorizes, the legal rules concerning the ascertainment of paternity and maternity shall not be derogated by agreement.

Article 124. — Maternal Filiation.

Maternal filiation is ascertained from the sole fact that the woman has given birth to the child.

Article 125. — Paternal Filiation.

- 1) Paternal filiation results from the maternal filiation when a relation provided for by the law has existed between the mother and a certain man at the time of the conception or the birth of the child.
- 2) It may result from an acknowledgement of paternity made by the father of the child.
- 3) It may also result from a judicial declaration.

Sub-Section 2. Presumption of Paternity

Article 126. — Presumption of Paternity of the Husband

A child conceived or born in wedlock has the husband as father.

Article 127. — Generality of Presumption.

- 1) The provisions of Article 126 shall apply whatever the manner in which the maternal filiation of the child may have been established.
- 2) They shall also apply when the record of birth of the child does not indicate the husband as the father of the child or when it indicates that another man is the father of the child.
- 3) In such cases, the record of birth shall merely be corrected.

Article 128. — Duration of Pregnancy.

- 1) A child shall be deemed to have been conceived in wedlock if he is born more than 180 days after the celebration of the marriage and within 300 days after its dissolution.
- 2) No proof to the contrary shall be admitted.

Article 129. — Absence of the Husband.

The provisions of this Code concerning presumption of paternity shall not apply to a child born 300 days after the day indicated, as the date of last news, in the judgement declaring the absence, of the person presumed by law as the father.

Article 130. — Irregular Union.

- 1) A child conceived or born during an irregular union has as father the man engaged in such union.
- 2) The provisions of Articles 127 and 128 concerning the generality of presumptions and the duration of pregnancy shall apply to the presumption provided in this Article.

Sub-Section 3. Acknowledgement of Paternity

Article 131. — (1) Principle.

When the father of the child is not determined by applying the provisions of the preceding Articles, the paternal filiation of the child may be established by an acknowledgement of paternity.

Article 132. — (2) Definition.

An acknowledgement is deemed to be made when a certain man made a declaration that he considers himself the father of a certain child merely conceived or born.

Article 133. — (3) Form.

An acknowledgement of paternity results from the declaration made by a man before an officer of civil status or by a Will he made in writing or by a document attested by any competent authority that he is the father of the child.

Article 134. — Representation.

- 1) The declaration shall be made personally by the father of the child even though he is a minor.
- 2) The mandate to make such a declaration shall only be given by a special power of attorney approved by the court.
- 3) It may be made personally by a person subject to judicial interdiction or in his name by a legal representative, with the permission of the court.

Article 135. — Death of the Father.

If the father of the child is dead or is not in a position of manifesting his will, the acknowledgement of paternity may be made, in his name, by one of his parents.

Article 136. — Non-Admission by the Mother.

- 1) The acknowledgement of paternity shall be of no effect unless it has been acknowledged, to be well founded, by the mother of the child.

- 2) If the mother of the child is dead or is not in a position of manifesting her will, the acknowledgement of paternity may be accepted by the maternal grandfather or grandmother of the child.
- 3) In default of maternal grandparents, it may be accepted by another maternal ascendant or by the guardian of the judicially interdicted person.

Article 137. — Majority of the Child.

An acknowledgement of paternity shall be of no effect unless it has been accepted by the child himself when it is made after the latter has attained majority.

Article 138. — Condition of Acceptance.

The acknowledgement of paternity shall be deemed to be accepted where the persons mentioned in Articles 136 and 137 have not raised any protest against such acknowledgement within one month after they came to know of it.

Article 139. — Death of the Child.

The acknowledgement of paternity may not be made after the death of the child unless the latter has left descendants.

Article 140. — Revocation.

- 1) The acknowledgement of paternity may not be revoked.
- 2) A minor who has acknowledged a child may revoke such acknowledgement for so long as he is incapable and within one year following the cessation of his incapacity, unless his guardian consented to the acknowledgement.
- 3) This right of revocation may be exercised by the minor only. It may not be exercised by his legal representatives nor by his heirs.

Article 141. — Annulment.

- 1) Acknowledgement of paternity may be annulled on the ground of violence.
- 2) It may not be annulled on the ground of error or fraud unless it is decisively proved that the child could not have been conceived of the person who made the acknowledgement.

Article 142. — Several Acknowledgements Prohibited.

Where an acknowledgement of paternity has been made in regard to a child, no other acknowledgement of the child by another man shall be permitted unless the first acknowledgement has been annulled.

Sub-Section 4. Ascertainment of Paternity by Judicial Declaration

Article 143. — (1) Judicial Declaration of Paternity.

Where, after applying the preceding Articles, the father of the child is not ascertained, a judicial declaration of paternity may be obtained under the following conditions;

- (a) in the case where the mother has been the victim of abduction or rape at the time of conception of the child;
- (b) in the case where, at the time of conception of the child, the mother has been the victim of seduction accompanied by abuse of authority, promise of marriage, or any other similar act of intentional deception;
- (c) in the case where there exist letters or other documents written by the claimed father which unequivocally prove paternity;
- (d) in the case where the claimed father and the mother of the child have lived together in continuous sexual relation, without having a legally recognized relation, in the period regarded by law as the period of pregnancy.

- (e) in the case where the person claimed to be the father of the child has participated in the maintenance, care and education of the child in the capacity of a father.

Article 144. — (2) Action for Judicial Declaration of Paternity.

An action brought for judicial declaration of paternity, based on the provisions of the preceding Article shall be of no effect under the following conditions:

- (a) In the case where the mother of the child had sexual relationship with another man in the period regarded by law as the period of pregnancy unless it is proved by medical or other reliable evidence that such man is not the father of the child;
- (b) In the case where the claimed person could not be the father of the child for he was absent or has been a victim of accident during the period regarded by law as the period of pregnancy.
- (c) In the case where the person claimed to be the father of the child decisively proves by blood examination or other reliable medical evidence that he could not be the father of the child.

Article 145. — No other Cases.

A judicial declaration of paternity shall not be demanded or made except in the cases specified under Article 143 of this Code.

Section 2. Legal Conflicts in Regulating Paternity

Article 146 — Regulation of Paternity (1) Principle.

When, on applying the preceding Articles, a child must be attributed to several fathers, a regulation of paternity may be made by agreement between the persons to whom the paternity of the child is thus attributed by the law.

Article 147. — (2) Form.

- 1) The agreement by which the regulation of paternity is made shall be attested by three witnesses and approved by the court.
- 2) Except in the case of force majeure, the mother of the child shall be heard in person.

Article 148. — Legal Presumption.

Failing regulation of paternity, the following two presumptions shall be applied successively, where appropriate;

- (a) the child shall be attributed to the husband of the mother in preference to the man who has an irregular union with the mother;
- (b) the child shall be attributed to the husband or the man with whom the mother is living at the time of the birth, in preference to the husband or the man with whom she was living at the time of the conception.

Article 149. — (1) Assignment of Paternity by Agreement.

- 1) Where the child is born within 210 days from the conclusion of the marriage or the commencement of the irregular union, the husband or the man who is living with the woman may, by agreement, assign the paternity of the child to another person who declares that he is the father of the child.
- 2) Where the child is born more than 210 days after the dissolution of the marriage or the cessation of the irregular union, the husband or the man who lived with the mother shall have the right provided in the preceding Sub-Article.

Article 150. — (2) Form.

- 1) The agreement on the assignment of paternity shall be attested by three witnesses and approved by the court.
- 2) Except in the case of force majeure, the mother of the child shall be heard in person.

Article 151. — Representation.

- 1) The agreements mentioned in this section shall be concluded by the interested parties themselves where they have attained the age of majority and are not judicially interdicted.
- 2) A mandate to conclude them may only be given by a special power of attorney approved by the court.

Article 152. — Revocation.

The agreement on the assignment of paternity shall not be revoked.

Article 153. — Annulment.

- 1) The agreement on the assignment of paternity may be annulled on the ground of violence.
- 2) It may not be annulled on the ground of error or fraud unless it is decisively proved that the child could not have been conceived of the person who has declared to be the father.

Section 3. Proof of Filiation

Article 154. — Record of Birth.

Both the paternal and the maternal filiation of a person are proved by his record of birth.

Article 155. — Proof in Default of Record of Birth.

In default of a certificate of birth, filiation is proved by the possession of the status of child.

Article 156. — Possession of Status (1) Definition

A person has the possession of the status of child when he is treated by the community as being the child of such man or woman.

Article 157. — (2) Proof by Possession of Status.

- 1) Where the possession of the status of child is proved in accordance with the preceding Article, the court shall take presumption that the child is born of such man or woman.
- 2) The presumption under the preceding Sub-Article may be rebutted by proving that the child could not be born of such man or woman.

Article 158. — Action to Claim Filiation.

- 1) In default of possession of the status of child, filiation may be proved by witnesses or by any other evidence.
- 2) The action to claim filiation may not be instituted except with the permission of the court.
- 3) Such permission shall not be granted unless there are presumptions or indications resulting from concrete facts enabling the court to grant permission.

Article 159. — Inadmissibility of Action.

No permission to institute the action to claim filiation shall be

granted where the person whose filiation is to be established has already another filiation resulting from his birth certificate and corroborated by possession of a status in conformity with such certificate.

Article 160. — Person to Institute the Action. .

- 1) The action to claim filiation may be instituted by the child, by his guardian or by his heirs.
- 2) It may also be instituted by those who claim to be the father or the mother of the child.

Article 161. — When to Institute the Action.

- 1) The child may institute the action to claim filiation at any time during his life.
- 2) The parents or guardians of a child may institute it only during the minority of the child.
- 3) The heirs may not institute it unless the child died before the age of twenty years and within one year after his death.

Article 162. — Person Against Whom Action Instituted.

- 1) Where the action to claim filiation is instituted by the mother, it shall be made against the child.
- 2) In other cases, it shall be instituted against the mother or her heirs.

Section 4. Contestation of Filiation and Disowning

Sub-section 1. Contestation of Filiation

Article 163. — Principle.

The maternal filiation of the child may be contested at any time by any interested person.

Article 164. — Admissibility of Action.

- 1) The action to contest filiation may not be instituted except with the permission of the court.
- 2) Such permission shall not be granted unless there are presumptions or indications resulting from concrete facts enabling the court to grant permission.

Article 165. — Inadmissibility of Action.

Where the filiation of the child results from the certificate of birth and is corroborated by a possession of status, permission to institute an action to contest filiation may not be granted.

Article 166. — Person Against Whom Action Instituted.

- 1) The action to contest filiation shall be instituted against the person whose filiation is contested or against his heirs.
- 2) The mother and, where necessary, the father of the child shall be joined as parties in the proceedings.

Sub-Section 2. Disowning

Article 167. — Principle.

The paternal filiation of a child may be contested only by means of an action to disown.

*Article 168. — No Sexual Intercourse with the Mother
(1) Principle.*

The person to whom the law attributes the paternity of a child may disown such child by proving decisively that he could not have had sexual intercourse with the mother during the period between the 300th and 180th day before the birth of the child.

Article 169. — (2) Legal Presumption.

- 1) The spouses shall be deemed to have had no sexual intercourse with one another during the time when they actually lived separately following a petition for divorce made by one of them or in consequence of an agreement concluded between them.
- 2) Proof to the contrary by any means is admissible.

Article 170. — When Paternity is Impossible (1) Principle.

The person to whom the law attributes the paternity of a child may disown such child by proving decisively that it is absolutely impossible that he could be the father of the child.

Article 171. — (2) Admissibility of Action.

- 1) The action to disown based on the preceding Article may not be instituted except with the permission of the court.
- 2) Such permission shall be granted when there are presumptions or serious indications resulting from sufficient and reliable facts enabling the court to accept the action.

Article 172. — (3) Presumptions and serious Indications.

- 1) The presumptions and serious indications may consist of physical characteristics of the child recognized by science to be incompatible with those of the father.
- 2) They may also result from the fact that the woman has concealed the birth of the child or her pregnancy to the man under circumstances which are apt to create doubts as regards his paternity.

Article 173. — (4) Adultery or Admission of the Mother.

The adultery of the mother or her admission that the child has another father are not sufficient, by themselves, to constitute serious circumstantial evidence.

Article 174. — Plaintiff in the Suit.

- 1) Only the person to whom the paternity of the child is attributed by legal presumption may institute an action to disown.
- 2) No action to this effect may be made by the mother or by a man who claims the paternity of the child or by the public prosecutor or by the child himself.

Article 175. — Judicially Interdicted Person.

- 1) An action to disown may, with permission of the court, be instituted by the judicially interdicted person himself.
- 2) The action may, with the same permission, be instituted in the name of the interdicted person by his guardian.

Article 176. — Time (1) Principle.

- 1) An action to disown shall be instituted by the man to whom the paternity of the child is attributed by law within 180 days following the day he knew or he should have known the birth of the child.
- 2) Where the maternal filiation is established by an action to claim a status, the action to disown shall be instituted within 180 days from the judgement deciding on the action to claim a status having become final.

Article 177. — (2) Exception.

- 1) Where the person to whom the paternity of the child is attributed by law dies or becomes incapacitated within the time fixed by law for instituting the action to disown, one of his descendants, in his stead, may institute an action to disown.
- 2) In default of descendants, the right to disown may be exercised by his father, or mother, or in their default, by one of his ascendants.
- 3) In default of ascendants, it may be exercised by one of his brothers or sisters, to the exclusion of any other heir or representative.

Article 178. — Inadmissibility of Action.

Disowning shall not be allowed where it is proved that the child has been conceived by means of artificial insemination with the written consent of the husband.

Article 179. — Defendant in the Suit.

- 1) The action to disown shall be instituted against the child or, where he is dead, against his heirs.
- 2) The mother of the child shall be joined in the suit.
- 3) Where the child is minor, he shall be represented by a tutor ad hoc appointed by the court for this purpose.

CHAPTER TEN
ADOPTION

Article 180. — Adoptive Filiation. (1) Principle.

Adoptive filiation may be created by an agreement between a person and a child.

Article 181. — (2) Effects.

Without prejudice to the provisions of Article 182, an adopted child shall, for all purposes, be deemed to be the child of the adopter.

Article 182. — (3) Saving Clauses.

- 1) Adoption shall be of no effect with regard to the ascendants or collaterals of the adopter who have expressly opposed the adoption.

- 2) The opposition referred to in Sub-Art. (1) of this Article shall be of no effect unless it is registered in a court registry within one year from the approval of the agreement of adoption by the court.

Article 183. — Relationship of the Adopted Child with the Family of Origin.

- 1) The adopted child shall retain his bonds with the family of origin.
- 2) The same shall apply to the spouse and the descendants of the adopted child.
- 3) Wherever a choice has to be made between the family of adoption and the family of origin, the family of adoption shall prevail.

Article 184. — Age of Adopter.

- 1) Any person whose age is not less than twenty-five years may adopt.
- 2) Where an adoption is made by two spouses, it is sufficient that one of them be of the full age of twenty-five years.

Article 185. — Age of the Adopted Child.

Any person who is less than eighteen years of age and under guardianship may be adopted.

Article 186. — Adoption by Married Person.

- 1) Where the adopter is married, an agreement of adoption may not be made unless the two spouses conjointly adopt the child.
- 2) The provisions of Sub-Art. (1) of this Article shall not apply where a person adopts the child of his or her spouse.
- 3) Nor shall it apply where one of the spouses is not in a position to manifest his will.

Article 187. — Adoption of Child Merely Conceived.

- 1) A child merely conceived may be adopted.
- 2) Notwithstanding the provisions of Sub-Art. (1) of this Article, the adoption agreement may be revoked unilaterally at the will of the mother within six months following the birth of the child.

Article 188. — Children of adopter.

- 1) The existence of children of the adopter shall not constitute an obstacle to adoption.
- 2) Notwithstanding the provisions of Sub-Art. (1) of this Article, the court, before approving the adoption, shall take into consideration the effects of the existence of children of the adopter on the well being and interest of the adopted child.

Article 189. — Impossibility of Adoption by Several Persons.

- 1) No child may be adopted by several persons unless these are two spouses.
- 2) However, in the case of death of the adopter, a new adoption is possible.
- 3) Where a child has been adopted by two spouses and one of such spouses dies, the child may be adopted by the new spouse of the survivor.

Article 190. — Parties to the Agreement.

The agreement of adoption shall be made between the adopter and the guardian of the adopted child.

Article 191. — Consent of Parents of the Adopted Child.

- 1) Both the father and the mother of the adopted child must give their consent to the adoption where they are alive and known.
- 2) Where one of them is dead, absent, unknown or incapable to manifest his will, the other parent shall give his consent.
- 3) Notwithstanding the provisions of Sub-Art. (1) of this Article, where one of the parents is not willing to give his consent and the child is ten and above years of age, the court may approve the adoption upon hearing the opinion of the other parent and of the child.
- 4) Where the child has no ascendant capable of giving his consent, the court may approve the adoption agreement taking into account the interest of the child.

Article 192. — Government or private Orphanages.

- 1) Government or private orphanages may give any child under their custody to adopters.
- 2) The above mentioned orphanages shall, before giving the child for adoption, provide sufficient information to the government organ having authority to follow up the well being of children as to the identity of the child, how the orphanage received him, and about the personal, social and economic position of the adopter.

Article 193. — Where the Adopter is a Foreigner.

- 1) Where the adopter is a foreigner, the court may not

approve the adoption unless an authority empowered to follow the well being of children, after collecting and analyzing relevant information about the personal, social and economic position of the adopter, gives its opinion that the agreement is beneficial to the child.

- 2) Notwithstanding the provisions of Sub-Art. (1) of this Article, where the court thinks that the agreement is not beneficial to the child, it may disregard the opinion of the authority and reject the agreement.
- 3) Where the court finds that the information provided by the concerned authority is insufficient, it may order the authority to conduct further investigation and submit additional information. It may also order other individuals or organizations to provide any relevant information in their possession or to give testimony.

Article 194. — Power of the Court.

- 1) An agreement of adoption shall be of no effect unless it is approved by the court.
- 2) Before approving the agreement of adoption, the court shall decisively verify that the adoption is to the best interest of the child.
- 3) Without prejudice to the provisions of Articles 192, 193 and Sub-Art. (2) of this Article, the court, before approving the agreement of adoption, shall take the following into consideration:
 - (a) the opinion of the child about the adoption;
 - (b) the opinion of the guardian or tutor of the child if he has not previously given his consent;

- (c) The capability of the adopter to raise and take care of the child;
 - d) where the adopter is a foreigner, the absence of access to raise the child in Ethiopia;
 - e) the availability of information which will enable the court to know that the adopter will handle the adopted child as his own child and will not abuse him.
- 4) The court shall take special care in investigating the conditions provided in Sub-Art. (3) (e) of this Article, where the adopter is a foreigner.

Article 195. — Irrevocability of Adoption.

- 1) Adoption may not be revoked for any reason other than that provided in Sub-Art. (2) of this Article.
- 2) Where the adopter, instead of looking after the adopted child as his own child, handles him as a slave, or in conditions resembling slavery, or makes him engage in immoral acts for his gain, or handles him in any other manner that is detrimental to his future, the court may revoke the adoption.

Article 196. — Petition for Revoking the Adoption.

- 1) The adopted child, a government organ authorized to follow up the well being of children, or any other interested person, may petition to the court for revoking the adoption on the basis of the preceding Article.
- 2) When a petition is submitted to it under Sub-Art. (1) of this Article, the court shall, before summoning the adopter

to appear before it, determine whether the grounds for the petition are real and sufficient to warrant revocation.

CHAPTER ELEVEN

OBLIGATION TO SUPPLY MAINTENANCE

Article 197. — Subject Matter of the Obligation.

The person bound to supply maintenance under Article 198 of this Code shall supply to his creditor the means to feed, lodge, clothe, and to care for his health and education, as the case may be, in a decent manner having regard to social conditions and local custom.

Article 198. — Persons Between Whom the Obligation Exists.

- 1) Without prejudice to the provisions of Article 49 (1), an obligation to supply maintenance exists between ascendants and descendants, and between persons related by affinity in the direct line.
- 2) An obligation to supply maintenance likewise exists between brothers and sisters.

Article 199. — Where there is no Obligation.

The obligation to supply maintenance shall not subsist between relatives by affinity unless the marriage which created the affinity is dissolved by death.

Article 200. — Condemnation of Creditor.

The creditor shall lose his right for maintenance where he has committed or attempted to commit a criminal act on the life or property of the debtor, or of ascendants, or descendants, or of the spouse of the latter.

Article 201. — Conditions for the Existence of the Obligation.

The obligation to supply maintenance shall not exist unless the person who claims its fulfillment is in need and not in a state of earning his livelihood by his work.

Article 202. — Mode of Fulfillment of Obligation.

- 1) The obligation to supply maintenance shall, as a rule, be fulfilled by means of a maintenance allowance paid by the debtor to the creditor for maintenance.
- 2) The amount of such allowance shall be fixed by taking into consideration the needs of the person claiming it and the means of the person liable thereto.

Article 203. — Possibility of Revision.

The decision which fixes the amount of the maintenance allowance or residence of the creditor for maintenance may be reviewed at any time upon the demand of the debtor or of the creditor.

Article 204.—Place Where Allowance Paid.

The maintenance allowance shall, to the extent possible, be paid at a place convenient to the creditor.

Article 205. — Arrears (1) May not be Assigned or Attached

- 1) The arrears of a maintenance allowance may not be assigned or attached.
- 2) Notwithstanding the provisions of Sub-Article (1) of this Article, they may, even before they fall due, be assigned in favour of institutions of assistance which provide for the needs of the beneficiary of the allowance.
- 3) The provisions of Sub-Article (1) of this Article shall not apply regarding persons who have supplied to the

beneficiary of the allowance what was necessary for his subsistence.

Article 206. — (2) No Accumulation.

All arrears which have not been received or claimed within three months from their falling due shall cease to be due unless the creditor proves that such arrears were necessary for his subsistence.

Article 207 — Creditor may be taken into Debtor's House.

- 1) The debtor for maintenance may offer to discharge his obligation by taking the creditor for maintenance into his house.
- 2) Where there is a disagreement under Sub-Article (1) of this Article, the court shall give appropriate decision having regard to all the circumstances.
- 3) The debtor for maintenance may never be compelled to take into his house the person entitled to claim maintenance.

Article 208. — Plurality of Debtors (1) Principle.

Where several persons are liable to supply maintenance to a creditor for maintenance, the latter may claim maintenance from any one of such persons.

Article 209. — (2) Recourse.

- 1) Where there are several persons liable to pay maintenance, the debtors who have paid the allowance shall have recourse against those who have not paid their shares.
- 2) Where a dispute arises under Sub-Article (1) of this

Article, the court may condemn the latter to repay the whole or part of the allowance, taking into account their means and their degree of relationship by consanguinity or by affinity with the person claiming maintenance.

Article 210. — (3) Order of Debtors.

The persons who are liable to supply maintenance under Article 198 of this Code shall finally bear their liability in the following order:

- (a) in the first place, the spouse;
- (b) in the second place, the descendants, according to their degree;
- (c) in the third place, the ascendants, according to their degree;
- (d) in the fourth place, the brothers and sisters;
- (e) in the fifth place, the descendants by affinity, according to their degree;
- (f) in the sixth place, ascendants by affinity, according to their degree.

Article 211. — Agreement Between Co-Debtors.

- 1) The debtors for maintenance may validly agree, as regards their reciprocal relations, that maintenance shall be supplied to their common creditor by one of them.
- 2) If the creditor for maintenance has adhered to such agreement, he may not make a claim against the other debtors to obtain maintenance unless he has a serious reason for not respecting such agreement.

Article 212. — Case of Adoption.

- 1) The adopted child, his spouse and his descendants may

not claim maintenance from the family of origin of the adopted child unless the adoptive family is not in a position to supply such maintenance.

- 2) The adopted child shall not be bound to supply maintenance to the ascendants of the family of origin unless the latter cannot claim maintenance from another member of their family.

Article 213. — Funeral Expenses.

- 1) Whosoever is bound to supply maintenance to a person shall pay the funeral expenses of such person.
- 2) The person who has incurred such expenses may claim repayment from the debtor for maintenance.

Article 214. — Particular Agreements.

Any particular agreement providing for exceptions to the provisions of this Chapter shall be of no effect.

CHAPTER TWELVE

MINORS

Section 1. General Provisions

Article 215. — Definition.

A minor is a person of either sex who has not attained the full age of eighteen years.

Article 216. — Disability of Minors.

- 1) A minor, as regards the proper care of his person, shall be placed under the authority of a guardian.

- 2) In matters concerning his pecuniary interests and the administration of his property, a minor shall be represented by his tutor.
- 3) The minor shall not perform juridical acts except in the cases provided by law.

Article 217. — Proof of Age

- 1) The age of a person shall be established by his certificate of birth.
- 2) In the absence of certificate of birth the age of a person shall be decided by the court based on reliable documents or by the testimony of not less than two witnesses.

Article 218. — Principle to be followed by Competent Authorities.

Any decision rendered on cases based on this Chapter shall be appropriate to the proper care and well being of children.

Section 2. Organs of Protection of Minors

Article 219. — Authority of Parents.

The father and the mother are, during their marriage, jointly guardians and tutors of their minor children.

Article 220. — Default of one of the Parents.

- 1) In case of death, disability, unworthiness or removal of one of the parents the one who remains shall alone exercise such functions.
- 2) The mother shall exercise such functions where the father of the child is unknown.

Article 221. — Divorce of Parents.

- 1) Where the spouses decide to divorce by mutual consent in accordance with Article 77 of this Code, they shall decide by agreement regarding the tutor and guardians of their children.
- 2) Where, in any case of divorce, the spouses did not agree on the tutorial and guardianship of their children, the court which decides the divorce shall also decide the tutor and guardian of children.

Article 222. — Testamentary Guardian or Tutor (1) Principle.

- 1) The surviving parent of a minor may, by a last Will, stipulate who shall be guardian or tutor of the child after his death.
- 2) The surviving parent may also restrict the powers of the guardian or tutor, or subject the exercise of such powers to specified conditions.

Article 223. — (2) Conditions for Appointment.

The right referred to in Article 222 shall appertain to the father or mother of the minor only where he or she exercised during his or her lifetime the functions of guardian or tutor of the child, or where he or she had been relieved of such functions at his or her request.

Article 224. — (3) Application to the Court.

The restrictions or conditions imposed by the father or the mother on the powers of the guardian or tutor may, where the interest of the minor so requires, be revoked or modified by the court.

Article 225. — Relatives Called to Exercise the Functions of Guardian or Tutor (1) Order to be Followed.

Where the child no longer has his father and mother, and in default of a valid appointment made by the survivor, the functions of guardian or tutor of the child shall devolve, by virtue of the law, on the following persons:

- (a) ascendants of the child;
- (b) in their default, the brothers or sisters of the child who have attained majority;
- (c) in their default, the uncle or aunt of the child.

Article 226. — (2) Possible Modification of such Order.

- 1) Any relative of the child by consanguinity or by affinity may apply that the functions of guardian or tutor of the child be accorded to him instead of the person who should perform such functions by virtue of Article 225.
- 2) Such application shall be made to the family members mentioned under Article 225, or, in the absence of agreement, to the court.
- 3) Such application shall be made within two months from the day on which the guardian or tutor has been vested with his functions.
- 4) The application shall be allowed or dismissed based solely on the interest of the child.

Article 227. — Where there is no Relative Enabled in terms of law.

- 1) Where by applying the preceding Articles, a child remains without a guardian or tutor, the functions may be entrusted to such person as may be appointed by the court.

- 2) In deciding such case the court may take cognizance of the matter or on the application of any interested party whether he is a relative of the child or not.
- 3) A government organ who has the authority to follow up the security of children may also lay the matter before the court.

Article 228. — Appointment by the Court (1) Relative of the Minor, by Consanguinity or Affinity.

The court shall appoint, as far as possible, as guardian or tutor a near relative of the minor, by consanguinity or affinity, fit to perform such functions and willing to perform them.

Article 229. — (2) Institution of Assistance.

The functions of guardian or of tutor may, where necessary, be entrusted by the court to an institution of assistance established for such purpose.

Article 230. — Assimilated Cases.

Where a person is not in a position to exercise the functions of guardian and tutor by operation of the law or for any other reason, he shall be deemed to be not existing for the purpose of the preceding Articles.

Article 231. — Identity of Guardian or of Tutor.

- 1) As a rule, the person to whom the care of the person of the minor has been entrusted shall at the same time be his tutor.
- 2) The appointment of a guardian or of a tutor of the child, made by the surviving father or mother or by the court shall apply to both functions, unless the contrary results from the circumstances of the case.

Article 232. — Right given to Father and Mother.

The father or the mother may, where they think fit, appoint a tutor to the child, reserving to themselves the functions of guardian.

Article 233. — Right given to the Court.

The court may for good cause appoint as tutor a person other than the guardian, where it has the right to make such appointment.

Article 234. — Tutor “ad hoc” (1) Conflict of Interest between Tutor and Minor.

- 1) Where there is conflict of interest between the tutor and the minor, a tutor “ad hoc” shall be appointed to the latter by the court.
- 2) The appointment of a tutor “ad hoc” shall be made on the application of the tutor or one of the ascendants, or brothers or sisters of the minor who has attained majority.

Article 235. — (2) Conflict of Interests of Several Minors.

- 1) The provisions of Article 234 shall apply where there is a conflict between the interests of several minors of whom the tutor is the common representative.
- 2) The conflicting interests shall in such cases be settled between the tutor and the tutor “ad hoc”

Article 236. — Commencement of Functions.

- 1) The functions of guardian and of tutor shall commence from the appointment of the guardian or the tutor by virtue of the law or by the decision of the court.

- 2) No liability shall be incurred by the guardian or tutor so long as he is not aware of the circumstances under which such functions devolve on him.

Article 237. — Compulsory Nature of Functions.

The functions of guardian or tutor of the minor are compulsory for the person who is vested with them.

Article 238. — Application for Exemption.

- 1) A person may apply to the court to be exempted from such functions if the performance thereof entails to him particular difficulties or inconveniences.
- 2) The guardian and the tutor may on the same conditions apply to be relieved of the functions assumed by them.

Article 239. — Legal Exemptions.

Notwithstanding the provisions of this Code regarding the appointment of guardian or tutor, the following persons shall not be bound to take up the functions of guardian or tutor, upon a mere declaration on their part, except as regards their own children:

- (a) any person who has completed his sixty-fifth year;
- (b) soldiers in active service.

Article 240. — Obligation to Exercise such Functions Provisionally.

- 1) The guardian or tutor who puts forward an objection or a case of exemption shall exercise his functions until a new guardian or tutor has been appointed.
- 2) The same shall apply to the guardian or tutor whose appointment is impugned.

Article 241. — Termination of Functions.

- 1) The functions of guardian and of tutor shall cease where the child dies, attains majority, or is emancipated.
- 2) They shall cease where the guardian or the tutor dies, or becomes incapable, or unworthy, or is removed.
- 3) They shall cease where a new guardian or tutor is appointed to the minor.

Article 242. — Incapacities (1) Minor.

A minor is incapable of exercising the functions of guardian or of tutor except as regards his own children.

Article 243. — (2) Judicially Interdicted Persons

- 1) A person is incapable of being a guardian or tutor of a minor if he is under a judicial interdiction.
- 2) Where a person, during the exercise of such functions, is judicially interdicted, his tutor shall without delay inform the person who, by virtue of the law, is to replace the interdicted person in those functions.
- 3) In default of such person, he shall apply to the court for another person to be appointed in place of the interdicted person.

Article 244. — Unworthiness.

- 1) A person may be declared by the court unworthy of exercising the functions of guardian or tutor, where, he is sentenced for a criminal offence to a punishment restrictive of personal liberty, or to capital punishment.
- 2) The court may, in passing such sentence, declare the

unworthiness of the convicted person to the extent which it thinks fit, having regard to the circumstances.

Article 245. — Removal. (1) Guardian.

- 1) The guardian of a minor may be removed by the court where the minor does not receive the care which his condition requires, a morally sound education or an instruction which accords with his disposition.
- 2) For this purpose, regard shall be had to the environment in which the guardian lives and all the circumstances of the case.
- 3) The guardian may in particular be removed by the court where the minor has committed a criminal offence and it appears that his behaviour is due to bad education or to lack of education on the part of his guardian.

Article 246. — (2) Tutor.

The tutor may be removed by the court, where it appears that he administers badly the property of the minor, or where he does not comply with the directions validly given to him by the person or authority who entrusted him with such functions, or where his insolvency has been judicially established.

Article 247. — (3) Removal of Ascendants.

- 1) The court shall declare only with extreme caution the removal of the mother or of the father or of the other ascendants as guardians or tutors of their children.
- 2) The court may revise its decision any time on the application of the person who has been removed from the position of guardianship or tutorship.

Article 248. — (4) Procedure.

- 1) An application for the removal of the guardian or of the tutor may be made by any interested person, or by the public prosecutor.
- 2) Before declaring the removal of the guardian or the tutor, the court shall enable the latter to give his reasons.
- 3) Where the court proceeds under Sub-Art. (2) of this Article, it shall give appropriate provisional order whenever it thinks that additional danger may entail to the person or property of the minor.

Article 249. — Duties of the Court.

- 1) Where the court is to appoint or to remove a person as guardian or tutor of a minor, it shall, before making its decision, consult, in so far as possible, the ascendants and the brothers and sisters of the child who have attained majority.
- 2) Where it thinks fit, it may hear the minor himself.
- 3) The court shall decide having regard solely to the interest of the minor and without being bound by the information which it has obtained.

Article 250. — Tutor may not be Remunerated.

- 1) The functions of guardian or tutor constitute a gratuitous office
- 2) A specified amount of compensation may be granted to the guardian or to the tutor where the administration of the property of the minor takes a considerable part of his time.
- 3) Such compensation may only be taken from the income of the minor and may not exceed one third of such income.

Article 251. — Personal Nature of the Functions.

- 1) The functions of guardian or tutor constitute a personal office which does not pass to the heirs of the guardian or tutor.
- 2) The heirs shall be liable only for the mismanagement carried out by the person whom they succeed, within the limits specified in the law of successions.

Article 252. — Duties of Heirs.

- 1) The heirs of the guardian or tutor shall, without delay, inform of his death to the person who is, by virtue of Article 225, to replace him in such functions.
- 2) In default of such person they shall apply to the court to appoint a new guardian or tutor.
- 3) Until they have fulfilled their obligations under Sub-Articles (1) and (2) of this Article, they shall remain liable to the minor and third parties.

Article 253. — Proof of Capacity of Guardian or Tutor.

The guardian or tutor may apply to the court to be given a document enabling him to prove his capacity where necessary.

Article 254. — Analogy with the Tutor.

The provisions of this Code relating to Tutors shall also apply to Tutors “ad hoc”.

Section 3. Powers of the Guardian and of the Tutor

Sub-Section 1. – Care of the Person of the Minor.

Article 255. — Guardian may seek Assistance from Governmental Institutions.

The guardian of the minor may seek assistance from pertinent

governmental institutions in order to carry out the powers vested in him under the following Articles.

Article 256. — Residence of the Minor.

- 1) The guardian shall fix the place where the minor is to reside.
- 2) The minor may not abandon such place without the authorization of the guardian.
- 3) If the minor goes away from his residence without authorization, the guardian may compel him to return thereto.

Article 257. — Health of the Minor.

- 1) The guardian shall watch over the health of the minor.
- 2) In case of sickness of the minor, the guardian shall take the necessary measures for his recovery.

Article 258. — Up bringing of the Minor.

- 1) The guardian shall direct the up bringing of the minor.
- 2) The guardian may take the necessary disciplinary measures for the purpose of ensuring his up bringing.

Article 259. — Social Contacts.

- 1) The guardian shall direct and supervise the social contacts of the minor.
- 2) The guardian may not, except for good cause, prohibit the minor from seeing his ascendants or from corresponding with them.

Article 260. — General and Professional Education.

The guardian shall ensure that the minor be given general

education or professional training commensurate with his age and abilities.

Article 261. — Income of Minor. (1) Principle.

- 1) The guardian shall receive the income of the minor and use it in the interest of the latter.
- 2) He shall not be bound to render an account of such use.

Article 262. — (2) Considerable Income.

- 1) Where the income of the minor is considerable and the guardian is neither the father nor the mother of the minor, the provisions of Article 261 (2) may be set aside by the court.
- 2) In such case, the court shall fix the amount of money and the time of its payment to the guardian for the maintenance and education of the minor.
- 3) The balance of the income of the minor shall remain in the hands of the tutor to be invested by the latter.

Article 263. — (3) Income derived from Work of the Minor.

- 1) Where the minor is above fourteen years of age, he shall receive the income deriving from his work.
- 2) He shall freely dispose of such income in accordance with this law, after making contribution to his own maintenance.

Article 264. — (4) Property Donated or Bequeathed.

- 1) The person who donates or bequeathes property to a minor may order that the income from such property shall not, during the minority of the child, be received and used by the guardian.

- 2) The provisions laid down in the contract of donation or in the Will concerning the administration and use of such income shall be complied with.

Article 265. — Income not Due.

The income of the minor which is not yet due shall not be the subject of an obligation undertaken by the guardian.

Article 266. — Authority of Parents.

- 1) Where the father and mother of the child are both vested with the functions of guardianship, they shall carry out such functions in consultation and cooperation with each other.
- 2) In case of disagreement between the father and the mother and where such disagreement is not solved privately by themselves or through arbitration, the court shall decide in the best interest of the child on the application of either of them.
- 3) Without prejudice to the provisions of Sub-Art. (2) of this Article, no appeal shall lie against the decision of the father and the mother in their capacity as guardians of the minor.

Article 267. — Separation of Parents.

Where the function of guardian is exercised by a single parent only due to separation of parents, the other parent who is not exercising the functions of guardian, the minor's ascendants, or one of his brothers or sisters who has attained majority may apply to the court against the decision taken by the guardian.

Article 268. — *Where the Guardian is not the Parent.*

Where the functions of guardian are exercised by a person other than the father or the mother, one of the parents, any interested person or the public prosecutor may apply to the court against the decision taken by the guardian regarding the up bringing of the child.

Sub-Section 2. – Administration of the Property of the Minor.

Article 269. — *Principle.*

- 1) The minor shall be represented by his tutor concerning his property and his pecuniary interests.
- 2) The tutor shall take utmost care concerning the pecuniary interests of the minor and the administration of his property.

Article 270. — *Inventory and Valuation of Property (1) After the Tutor Assumes his Functions.*

- 1) *Within two months from assuming his functions, the tutor shall proceed to draw up an inventory of and value the property of the minor in the presence of three witnesses.*
- 2) *Where the minor owes him anything he shall state it in the inventory under pain of losing his right thereto.*

Article 271. — *(2) Succession Devolving on the Minor.*

- 1) Where a succession devolves on the minor, the tutor, before accepting such succession on behalf of the minor, shall cause an inventory thereof to be prepared in the presence of three witnesses, which shall specify the value of the succession.

- 2) Where anything is due to him from such succession, he shall state it in the inventory, under pain of losing his right thereto.
- 3) The tutor shall be liable to the minor for any damage arising from the absence of an inventory.

Article 272. — Property of Tutor Merged with that of the Minor.

- 1) The tutor shall take the necessary caution so that the property of the minor is not mixed with that of his own property.
- 2) In particular, he may not deposit or cause to be deposited, in his personal bank account, monies belonging to the minor.

Article 273. — Securities and Articles of Value to be Deposited in a Safe Place.

Securities, articles of value, important documents and other similar things shall be deposited by the tutor in a safe place if no inconvenience for the administration of the property of the minor results therefrom.

Article 274. — Power of the Court.

- 1) Where the tutor is not the father or mother of the child, one of the ascendants, or one of the minor's brothers or sisters who has attained majority may apply to the court to give instruction to the tutor concerning the management of the property of the minor.
- 2) The court shall, after considering the nature of the property of the minor, the ability of the tutor, and the interests of the minor, give instructions it thinks ap-

appropriate concerning the management of the property.

Article 275. — Property Transferred to the Minor by Donation or Succession.

- 1) A person, who donates property to a minor or from whose succession a minor inherits property, may order that the tutor shall follow certain appropriate rules in the administration of such property.
- 2) Where it subsequently appears that the observance of such rules is impossible or prejudicial to the interests of the minor, the tutor may apply to the court to vary them.

Article 276. Commercial or other Enterprises

- 1) Where commercial, industrial or other enterprises form part of the estate of the minor, the court shall, on the application of one of the ascendants or brothers or sisters of the child who has attained majority, instruct a tutor, who is not the father or mother of the child, whether he should liquidate such enterprises or keep them going.
- 2) When giving such order, the court shall have regard to the time for which the tutorship is to last and the abilities of the tutor as well as the interests of the minor.

Article 277. — Alienation of Certain Property.

- 1) The tutor may alienate corporeal chattels, shares and securities belonging to the minor.
- 2) The court may, on the application of any interested person, give to a tutor, who is not the father or mother of the child, instructions concerning such sale, or prohibit

him from effecting it.

Article 278. — Securities to bearer.

- 1) A tutor, who is not the father or the mother of the minor, shall alienate securities to bearer, or convert them in registered securities in the name of the minor within three months after they devolve on the minor.
- 2) The court may exempt the tutor from the duties specified under Sub-Art. (1) upon request.

Article 279. — Debts and Claims.

- 1) The tutor shall pay the debts which are due by the minor from the property of the minor.
- 2) He shall receive the capital and income devolving on the minor and give receipt therefor to the person effecting payment.

Article 280. — Investment of Capitals (1) Duty of the Tutor.

- 1) The tutor shall invest monies belonging to the minor where such monies exceed five hundred Ethiopian Birr.
- 2) The court may vary the amount specified in Sub-Art. (1) of this Article.

Article 281. — (2) Time.

- 1) Monies shall be invested within three months from the time they are at the disposal of the tutor.
- 2) The court may vary such period.

Article 282. — Liability.

- 1) The tutor shall be liable to pay to the minor legal interest

on the monies which he has failed to invest.

- 2) He may also be condemned to pay damages, where appropriate.

Article 283. — Income.

- 1) The tutor shall deliver to the guardian of the minor the income of the latter, and where the income is not enough, part of the property, to be used for his maintenance and his education.
- 2) Unless the court decides otherwise such delivery shall be made monthly.
- 3) The conditions of payment may vary by agreement between the guardian and the tutor, or by the decision of the court.

Article 284. — Leases..

Unless they have been entered into with the authorization of the court, leases made by the tutor shall not be binding on the minor three years after he attains majority.

Article 285. — Successions.

- 1) The tutor shall accept on behalf of the minor the successions devolving on the latter.
- 2) The tutor may not renounce a succession devolving on the minor, unless such succession is notoriously insolvent.

Article 286. — Donation.

- 1) The tutor may not refuse a donation offered to the minor unless such donation is not important.
- 2) The tutor may not make any donation on behalf of the

minor other than small presents which may be required by custom.

Article 287. — Prohibition of Undertaking Suretyship.

The tutor shall not pledge or mortgage the property of the minor for the debt of another person.

Article 288. — Compromise.

A tutor may not enter into a compromise agreement concerning the interests of the minor except where the interest in dispute is less than one thousand Ethiopian Birr or with the authorization of the court.

Article 289. — Contracts between Tutor and Minor.

- 1) A tutor may not buy or take on lease the property of the minor, nor may he conclude any other contract with the minor except with the authorization of the court.
- 2) He may not accept the assignment of any right or claim against the minor except with the authorization of the court.

Article 290. — Loans.

A tutor may not contract any loan on behalf of the minor except with the authorization of the court.

Article 291. — Consultation with the Minor.

- 1) The tutor shall consult the minor in all important acts concerning him, unless the latter is less than fourteen years old.
- 2) The consent of the minor shall not relieve the tutor of his liability.

Article 292. — Authorization to Act given to the Minor

(1) Principle.

- 1) The tutor may authorize the minor to conclude only those contracts which, considering his age and his financial position, are to be regarded as acts of everyday life.
- 2) Such authorization may be tacit.

Article 293. — (2) Acts of Everyday Life.

- 1) An act may in no case be regarded as an act of everyday life where for its conclusion the law requires the authorization of the court.
- 2) Nor may an act be regarded as an act of everyday life where it entails on the minor an expense or obligations the value of which exceeds three hundred Ethiopian Birr.

Article 294. — (3) Effect with regard to the Tutor.

The tutor shall stand surety, in favor of third parties, for the obligations, which the minor has assumed with his authorization.

Article 295. — Will.

- 1) The tutor may not make a Will on behalf of the minor.
- 2) A minor may not make a Will before he attains the age of sixteen years.
- 3) The Will made before he has attained such age shall be of no effect, notwithstanding that the minor has not revoked it after having attained the age of sixteen years.

Article 296. — Expenses of Management.

The tutor has the right to the refund of expenses which he personally incurs in connection with the management of the

interests of the minor.

Article 297. — Rendering Report of Management of the Property of the Minor.

- 1) The tutor shall prepare a report concerning the conditions of management and accounts of the property of the minor.
- 2) The tutor shall make available such reports when requested by the ascendants of the minor, or his brothers and sisters who have attained majority acting either individually or jointly.

Article 298. — Applicability.

The provisions of Articles 264-266 of this Code shall apply to tutorship.

Section 4. Sanction of the Rules for the protection of the Minor.

Sub-Section 1. Acts of the Minor

Article 299. — Principle.

The juridical acts performed by the minor in excess of his powers shall be of no effect.

Article 300. — Application for Nullity.

The nullity of juridical acts performed by the minor may be applied for only by the minor, his heirs, or his representatives.

Article 301. — Good Faith of the Person Contracting with the Minor.

- 1) Notwithstanding the provisions of Article 299, contracts entered into by the minor shall be valid where the

contracting party could in good faith believe that the minor had the authorization to conclude them.

- 2) The provisions of Sub-Art. (1) of this Article shall not apply where the other contracting party has taken advantage of the inexperience of the minor.

Article 302. — Repayment.

- 1) Payments made to the minor shall be returned to the extent of the enrichment which remains to his benefit on the day when the action of nullity is instituted.
- 2) In other cases, the minor is not bound to make repayments.

Article 303. — Extra-Contractual Liability and Unlawful Enrichment (1) Principle.

Where the minor had caused damage to another person by his unlawful acts or enriched himself unlawfully, he shall be liable in accordance with the provisions of the Civil Code relating to Extra-Contractual Liability and Unlawful Enrichment.

Article 304. — (2) Mere Statement of Majority.

- 1) The mere statement made by a minor that he is a major shall not deprive him of the right of availing himself of his minority.
- 2) Such statement shall not amount to a fault entailing his extra-contractual liability.

Sub-Section 2.— Acts of the Tutor.

Article 305. — Acts Regularly Performed.

- 1) Acts performed by the tutor, on behalf of the minor, shall

be binding on the minor as though he had performed them himself being a major.

- 2) They shall not be binding on the tutor personally, save an explicit undertaking on his part or in cases provided by law.

Article 306. — Violation of Legal Provisions.

Acts performed by the tutor in violation of legal provisions shall be subject to the provisions of the Title of the Civil Code relating to Agency in the case in which a representative has exceeded his powers.

Article 307. — Third Parties.

- 1) The fact that the tutor has acted contrary to the instructions of the court may not be set up against third parties unless they have or should have known such instructions.
- 2) The provisions of Sub-Art. (1) of this Article shall also apply to those instructions given to the tutor by a person who has donated, bequeathed or left property to the minor.

Article 308. — Tutor “ad hoc”.

The provisions of this Sub-Section shall also apply to the tutor ad hoc.

Sub-Section 3. Liabilities Which May be Incurred

Article 309. — Tutor.

- 1) The tutor shall be liable for the damage which may be caused to the minor due to his mismanagement of property, or the fact that he has not obeyed the instruc-

tions given to him or the fact that he has acted in a case where his interests were in conflict with those of the minor.

- 2) The provisions of Sub-Art. (1) of this Article shall apply to the tutor ad hoc.

Section 5. Cessation of the Disability of the Minor

Article 310. — Causes.

The disability of the minor shall cease where:

- (a) he attains majority; or
- (b) he is emancipated.

Sub-Section 1. Emancipation

Article 311. — Marriage.

Where a minor is married in accordance with Article 7 (2) of this Code, he shall be emancipated by the sole fact of such marriage.

Article 312. — Explicit Emancipation.

- 1) Where a minor has attained the age of fourteen years, his guardian or his tutor or any interested person may apply to the court for his emancipation.
- 2) The court may decide to emancipate the minor after considering his conditions, the reasons applied for, and where it finds that the emancipation is in the best interest of the minor.

Article 313. — Effects.

An emancipated minor shall be deemed under the law to have attained majority.

Article 314.-- Irrevocability.

- 1) Emancipation may not be revoked.
- 2) Emancipation resulting from marriage shall retain its effects notwithstanding that the marriage is dissolved.
- 3) Notwithstanding the provisions of Sub-Article (2) of this Article, the court may give a decision it thinks appropriate concerning the emancipation of the minor where it pronounces the dissolution of the marriage on the ground that the age prescribed by the law for marriage is not observed.

Sub-Section 2. - Rendering of Accounts of Tutorship

Article 315. — Principle

- 1) Where his functions terminate, the tutor shall render an account of his administration to his ex-ward or to the heirs of the latter.
- 2) He shall hand over the property which belongs to him and prepare a statement showing the rights which pertain to him and the debts to which he is bound.

Article 316. — Where there is no Inventory.

- 1) Where the tutor has failed to draw up an inventory when he assumed his functions, or when a succession has devolved on the minor, the minor may prove, by any means of which property his estate or such succession or donation consists.
- 2) Unless the contrary is proved, a certain property shall be deemed to have pertained to the minor where witnesses make an attestation to this effect.

Article 317. — Approval of Accounts.

- 1) The approval of the accounts of the tutorship given by the ward may be revoked by him within one year after it has taken place, so long as the ward has not attained the age of eighteen years.
- 2) The same shall apply to the exemption from rendering accounts granted by the ward to the tutor.
- 3) The provisions of Sub-Arts. (1) and (2) may not be invoked by the heirs of the minor who have attained majority when they themselves have approved the accounts of the tutor or exempted the tutor from rendering accounts.

Article 318. — Limitation.

- 1) Any action of the minor, his representatives or his heirs against the tutor, based on the liability of the latter and relating to acts of the tutorship shall be barred if it is not instituted within five years following the cessation of the functions of the tutor.
- 2) The minor shall retain the right to claim the restitution of his property even after the expiry of the time specified in Sub-Art. (1) of this Article.

CHAPTER THIRTEEN

Miscellaneous Provisions

Article 319. — Inapplicable Laws.

- 1) The following provisions shall not be applicable in the Administrations where this Code applies:

- (a) provisions of the Civil Code of 1960 on Persons (Book One, Articles 198-338);
 - (b) provisions of the Civil code of 1960 on Family and Successions (Book Two, Articles 550-825).
- 2) Any laws, regulations, directives, decisions or practices inconsistent with this Code shall not be applicable on matters provided in this Code.

Article 320. — Rights Acquired Under Repealed Laws.

- 1) Unless otherwise expressly provided to the contrary, legal situations created prior to the coming into force of this Code shall remain valid notwithstanding that this Code modifies the conditions under which such situations may be created.
- 2) Unless otherwise expressly provided to the contrary, this Code shall not change effects arising out of legal situations created under the repealed law prior to the coming into force of this Code.

Article 321. — Registration.

- 1) The Federal Government shall, within six months from the coming into force of this Code, issue registration law applicable to the Administrations where this Code is to be enforced and establish the necessary institutions.
- 2) Until the Office of Civil Status is established in accordance with Sub-Art. (1) of this Article, certificates of birth, marriage, and other relevant certificates issued or to be issued by an appropriate authority of the Administration where this Code is applicable shall be deemed to

have been issued by the Office of Civil status and considered valid.

Article 322. — Pending Family Cases.

- 1) Family cases pending before court prior to the coming into force of this Code shall be settled in accordance with this Code.
- 2) All divorce cases pending before family arbitrators before the coming into force of this Code in accordance with the repealed law regular courts having jurisdiction.
- 3) The courts shall decide these cases in accordance with the provisions of this Code.

Article 323. — Power to Issue Regulations.

- 1) The Council of Ministers may issue Regulations for the implementation of this Code.
- 2) The Administrations where this Code shall be applicable may issue directives and Rules of procedure necessary for the implementation of this Code.