

Personal Status Law of 1959

Personal Status Law No. 188 of
1959 and its amendments

Personal Status Law (1) In
the name of the
people, the

Sovereignty Council, after reviewing the interim constitution and based on what was presented by the Minister of Justice and
approved by the Council

of Ministers. The following law is valid

Article One: 1 -

The legislative texts in this law apply to all issues that these texts address in their wording or content. -2 If there is no legislative text that can be applied, then the
ruling shall be made in accordance with the principles of Islamic Sharia that are most appropriate to the provisions of this law. -3 In all of this, the courts are guided
by the provisions approved by the judiciary and Islamic jurisprudence in Iraq and in other Islamic countries whose laws are close to Iraqi laws.

Article Two: 1 -

The provisions of this law apply to Iraqis, except for those excluded by a special law. -2 The provisions of
Articles 19, 20, 21, 22, 23 and 24 of the Civil Code shall apply in the event of a conflict of laws in terms of location.

Chapter One: Marriage

Chapter One: Marriage and engagement

Article Three: 1 -

Marriage is a contract between a man and a woman who is legally permissible for him, and its purpose is to establish a bond of
shared life and offspring. -2 If the marriage contract is concluded, both parties shall be bound by the provisions
imposed upon it when it is concluded. 3- The promise to marry, the reciting of Al-
Fatihah, and the engagement are not considered a contract. 4- It is not permissible to marry more than one woman except with the permission
of the judge. In order to grant permission, the following two conditions must be met: that the
husband must have financial sufficient to support more
than one wife (2). A- B- That there is a legitimate interest. -5 If there is fear of unfairness between wives, polygamy
is not permissible, and this is left to the judge to determine. 6 - Anyone who concludes a marriage contract with more than one woman in contravention of what was mentioned in
Paragraphs 4 and 5 shall be punished by
imprisonment for a period not exceeding one year or by a fine not exceeding one hundred dinars, or both. -7 As an exception to the provisions of paragraphs 4 and 5 of this article, it is permitted

Chapter Two: Elements and Conditions of the Contract

Article Four: Marriage

is concluded with an offer - confirmed by language or custom - from one of the contracting parties and acceptance from the other, and the agent takes his place.

Article Five: Eligibility

for a marriage contract is achieved by the fulfillment of legal and Sharia conditions by the two contracting parties or their representatives.

Article Six: 1 - The

marriage contract shall not be concluded if it lacks one of the conditions for its contracting or validity set forth in the following: A- Union of the Council of Offer and

Acceptance. B- Each of the contracting parties hears the other's words and understands that they are intended to contract the marriage. C- Acceptance of the offer. D- Testimony of two witnesses who have legal capacity to the marriage contract. E- That the contract is not dependent on an unrealized condition or event.

2 - The marriage is concluded in writing from the absent person to whomever wants to marry her, on the condition that she reads the letter or reads it to the two witnesses, hears his words, and witnesses that she has accepted the

marriage to him. -3 The legitimate conditions required within the marriage contract are considered to be fulfilled. -4

The wife has the right to request annulment of the contract when the husband does not fulfill what was stipulated in the marriage contract.

Chapter Three: Eligibility

Article Seven: 1 - To

be eligible for marriage, one must be of sound mind and have completed eighteen years of age

(4). 2 - The judge may authorize the marriage of one of the mentally ill spouses if it is proven by a report that his marriage does not harm society and is in his personal interest if the other spouse explicitly accepts the marriage.

Article Eight: 1 - If

a person who has completed fifteen years of age requests marriage, the judge may permit him, if he is proven to be eligible and physically fit, after the approval of his legal guardian. If the guardian refuses, the judge will ask him for his approval within a period determined by him. If he does not object or his objection is Not worthy of consideration. The judge has authorized the marriage. 2. The

judge may authorize the marriage of a person who has reached fifteen years of age if he finds it absolutely necessary. Giving permission is conditional upon achieving legal maturity and physical ability (5).

Article Nine: 1 - No

relative or non-relative has the right to force any person, male or female, to marry without his consent. A forced marriage contract is considered invalid if consummation is not consummated. Likewise, no relative or non-relative has the right to prevent someone who is eligible. To marry, in accordance with the provisions of this Marriage Law. 2 - Whoever

violates the provisions of Paragraph (1) of this Article shall be punished by imprisonment for a period not exceeding three years, and by a fine, or by one of these two penalties, if he is a first-degree relative. If the violator is not one of these, the penalty shall be imprisonment for a period not exceeding ten years, or imprisonment for a period not less than three years.

-3 The Sharia Court, or the Personal Matters Court, must notify the investigating authorities to take legal action against the violator of the provisions of Paragraph (1) of this Article. It may arrest him to ensure his presence before the aforementioned authorities, and anyone who has been subjected to coercion or prevention has the right to report directly to the investigating authorities in this regard (6).

Chapter Four: Registering and proving the marriage contract

Article Ten: The

marriage contract shall be registered in the competent court without a fee in a special registry in accordance with the following conditions:

1 - Submitting an unstamped statement that includes the identity of the contracting parties, their age, the amount of the dowry, and the absence of a legal impediment to the marriage, provided that this statement is signed by the contracting parties and authenticated by the mayor of the locality or village or two recognized residents.

2 - The statement shall be accompanied by a medical report confirming the spouses' safety from contagious diseases and health contraindications and other documents required by law. 3 - The contents of the statement are recorded in the register and signed with the signatures or thumbprints of the contracting parties in the presence of the judge, authenticated by him, and the spouses are given proof of marriage. 4 - The content of the recorded arguments shall be acted upon according to their principles without evidence, and they shall be enforceable with regard to the dowry, unless they are objected to in the competent court. 5 - Every man who contracts his marriage outside the court shall be punished by imprisonment for a period of not less than six months and not to exceed one year, or by a fine of not less than three hundred dinars and not more than one thousand dinars. The penalty shall be imprisonment for a period of not less than three years and not more than Five years, if another marriage is concluded outside the court while the marriage is established (7).

Article Eleven: 1 - If someone acknowledges to a woman that she is his wife, and there is no legal or legal impediment and she believes him, her marriage to him is proven by his acknowledgment. -2 If the woman acknowledges that she married so-and-so and he believed her during her life and there was no legal or legal impediment, the marriage between them is confirmed. If he believed her after her death, the marriage is not valid.

Chapter Two

Chapter One: Taboos and the marriage of kitabi women

Article Twelve: It is a condition for the validity of a marriage that the woman is not legally mahram to the one who wants to marry her.

Article Thirteen: The reasons for prohibition are divided into two categories: permanent and temporary. The permanent are kinship, intermarriage, and breastfeeding, and the temporary are the combination of more than four wives and no. The heavenly religion, divorce three times, the right of others to marry or wait, and the marriage of one of the mahrams while the wife takes care of the other (8).

Article Fourteen: 1 - It is forbidden for a man to marry a lineage between his mother, his grandmother, even if she is high, his daughter, his son's daughter, and his daughter's daughter, even if she is low. And his sister, his sister's niece, his brother's niece, even if she descends, his paternal aunt, his maternal aunt, his paternal aunt, and his maternal paternal aunt. -3 It is forbidden for a woman to marry

Article fifteen:

It is forbidden for a man to marry the daughter of his wife with whom he consummated the marriage and the mother of his wife with whom he contracted the marriage contract. The wife of its origin, even if it is high, and the wife of its branch, even if it is low.

Article Sixteen: Anyone who is prohibited by kinship or marriage is prohibited by breastfeeding, except for what is legally excluded.

Article Seventeen: It is permissible for a Muslim to marry a Christian woman, and it is not permissible for a Muslim woman to marry a non-Muslim man.

Article Eighteen: The conversion of one of the spouses to Islam before the other is subject to the provisions of Sharia regarding the continuation of the marriage or the separation of the spouses.

Part Three: Marital rights and their provisions

Chapter One - Dowry (9)

Article Nineteen: 1 - The wife

is entitled to the dowry specified in the contract. If he is not named or denied at all, she gets the same dowry. -2 If the suitor delivers to his fiancée money calculated as a dowry before the contract, and then one of the parties refuses to conclude the contract or one of them dies, then what was delivered in kind can be recovered, and if it was consumed, then in exchange. 3 - The provisions of a gift apply to gifts.

Article Twenty: 1 - The

dowry may be accelerated or postponed, in whole or in part. If this is not stipulated, custom follows. 2 - The period specified in the contract for entitlement to the dowry lapses upon death or divorce.

Article Twenty-One:

The wife is entitled to all the dowry called upon consummation or upon the death of one of the spouses, and she is entitled to half the dowry called divorce before consummation.

Article Twenty-Two:

If the band signs after entering into an invalid contract. If the dowry is specified, then the lesser of the two dowries - the specified amount and the equivalent - is required. If it is not specified, then the equivalent dowry is required.

Chapter Two: Alimony for the wife

Article Twenty-Three: 1 -

Maintenance for the wife is obligatory for the husband from the time of the valid contract, even if she is residing in her family's house, unless the husband demands that she move to his house and she refuses without right. -2 Her refusal is considered a right as long as the husband does not pay her the full amount of her dowry or spend

Article Twenty-Four: 1 - The

maintenance of a non-disobedient spouse is considered a debt owed by her husband for a period not exceeding one year from the time he refrained from spending on her (10). 2 - Alimony includes food, clothing, housing and its supplies, medical fees to the extent known, and service for the wife who has a caregiver (11).

Article Twenty-Five: 1 - There is no

alimony for the wife in the following cases: A- If she leaves her husband's house without permission, and without a legal reason. B- If you are imprisoned for a crime or debt. C- If she refrains from traveling with her husband without a legitimate excuse. 2 - The wife is not obligated to obey her husband, and she is not considered disobedient if the husband is abusive in requesting compliance with the intention of harming her or restricting her. The following are considered to be arbitrary and harmful in particular: A- The husband's failure to provide his wife with a legal home that is commensurate with the social and economic status of the spouses. B- If the prepared legal home is far from the wife's place of work, such that it is impossible to reconcile her domestic and job obligations. C- If the furniture prepared for the legitimate home does not belong to the husband.

If the wife is sick with a disease that prevents her from obeying the husband. 3 - Dr-

The court must be patient in issuing a ruling regarding the wife's disobedience until we determine the reasons for her refusal to obey her husband. -4 The court must rule on the wife's disobedience, after it has exhausted all its efforts to remove the reasons that prevent compliance. 5 - Disobedience is considered one of the reasons for separation, as follows:

A- The wife has the right to request a separation, after (two years) have passed from the date on which the ruling of disobedience became final, and the court must order the separation.

In this case, the deferred dowry is forfeited. If the wife has received all of the dowry, she is obligated to return half of what she received.

B - The husband may request a separation, after the ruling of disobedience has acquired the degree of finality, and the court must rule the separation and oblige the wife to return what she received from her immediate dowry, and her deferred dowry is forfeited, if the separation occurred after consummation, then the deferred dowry is forfeited, and the wife is

obligated to return half of what she

received, if she I have received all the dowry. 6 - The separation, according to Paragraph (5) of this Article, is considered an irrevocable divorce.

Article Twenty-Six: 1 - The husband

does not have the right to live with his wife, without her co-wife's consent, in one house. -2 The husband

has the right to live with his wife in the marital home and his child from another woman until they reach puberty. -3

The husband must house his parents, or one of them, with his wife in the marital home, and the wife has no right to object to that. -4 The husband

has the right to live with his wife in one house with someone who is legally responsible for their support, provided that no harm comes to her from that (13).

Article Twenty-Seven: The wife's

alimony from her husband is estimated according to their conditions of ease and hardship

Article Twenty-Eight: 1 - Alimony

may be increased or decreased depending on the change in the financial situation of the spouses and

the prices of the country. 2- A claim for an increase or decrease in the imposed alimony will be accepted when an emergency occurs that requires

Article Twenty-Nine:

If the husband leaves his wife without alimony and disappears, is absent, or loses the judge, the judge will award her alimony from the date of filing the lawsuit after establishing evidence of the marriage and the wife's oath that the husband did not leave her alimony and that she is neither disobedient nor divorced, and her waiting period has expired. The judge

authorizes her to borrow in her husband's name.

Article Thirty: If the

wife is insolvent and is authorized to borrow according to the previous article, if there is someone obligated to support her (if she is not married to her), then he is obligated to

lend to her upon request and ability, and he has the right of recourse against the husband only. If she borrows from a foreigner, the creditor has the option to demand the wife or husband,

and if there is no one to lend her and she is unable to work, the state is obligated to support her.

Article Thirty-One: 1 - The judge,

while considering the alimony case, may decide to estimate temporary alimony for the wife from her husband, and this decision shall be enforceable. 2 - The

mentioned decision shall be dependent on the result of the original ruling in terms of its calculation or rejection.

Article Thirty-Two:

The accumulated amount of alimony is not forfeited by divorce or by the death of one of the spouses.

Article Thirty-Three:

The husband has no obedience to his wife in every matter that contradicts the provisions of Sharia, and the judge has the right to award alimony to her.

Chapter Four: Dissolution of the marriage contract

Chapter One: Divorce

Article Thirty-Four:

First: Divorce is the lifting of the marriage contract upon the consent of the husband or the wife, whether she was appointed or delegated by him or by the judge. Divorce does not take place except in the form

designated for it by the Sharia. Second: Agency is not taken into account in social research and arbitration procedures and in effecting divorce

Article Thirty-Five: The following

persons shall not be divorced: 1 - The drunkard,

the insane, the insane, the coerced person, and anyone who lacks discernment due to anger, a sudden calamity, old age, or illness. 2 - The patient is in a terminal illness or in a similar condition that is likely to lead to death, if he dies in that illness or that condition and his wife inherits from him.

Article Thirty-Six: A divorce that is

not finalized, conditional, or used in the form of an oath does not take place.

Article Thirty-Seven: 1 - The husband

has three divorces from his wife. -2 Divorce associated with a number, verbally or by gesture, only one shall take place. 3 - Who has been divorced three times and has shown great dissatisfaction with her husband.

Article Thirty-Eight: 1 - Revocable:

This is what allows the husband to take back his wife during her waiting period from him without a contract, and the return is proven by what proves the

divorce. 2-Bayan: It is of two types:

A- Minor Baynouna - which is when the husband is permitted to marry his divorced woman with a new contract. B- Major Baynouna - which is when the husband is forbidden from marrying his divorced woman whom he divorced three separate times and her waiting period has passed.

Article Thirty-Nine: 1 - Whoever

wants a divorce must file a lawsuit in the Sharia court, requesting its filing and obtaining a ruling on it. If he is unable to return to the court, he must register the divorce in the court during the waiting period. -2 The marriage argument remains valid until it is invalidated by the court. 3 - If the husband divorces his wife and it becomes clear to the court that the husband was abusive in divorcing her and that the wife suffered harm as a result of that, the court shall order, at her request, that the divorced woman pay compensation commensurate with his financial condition and the degree of his abuse, estimated at a lump sum, provided that it does not exceed her maintenance for a period of two years in addition to her other established rights. 15).

Chapter Two: Judicial Separation

Article Forty: Each

spouse may request separation if one of the following reasons exists: 1 - If one of the

spouses harms the other spouse or their children in a way that makes it impossible for the continuation of marital life. Addiction to alcohol or drugs is considered harmful, provided that the state of addiction is proven by a report from a specialized official medical committee. Gambling in the marital home is also considered

harmful. -2 If the other spouse commits marital infidelity. It constitutes marital infidelity

when the husband engages in sodomy in any way. -3 If the marriage

contract was concluded before one of the spouses turned eighteen, without the approval of the judge. -4 If the

marriage took place outside the court through coercion, and consummation was consummated. -5 If the husband marries a second

wife without permission from the court, in which case the wife does not have the right to file a criminal case, in

accordance with Paragraph (1) of Clause (A) of Article Three of the Code of Criminal Procedure No. 1971, with the meaning of Paragraph (6) of Article Three. From this law (16).

Article Forty-One: 1 - Each of the

spouses may request separation when a dispute arises between them, whether before or after consummation. 2 - The court must conduct an investigation into the causes of the dispute. If it is proven that it exists, it will appoint an arbitrator from the wife's family, and an arbitrator from the husband's family - if they exist - to consider reconciling the dispute. If their presence is not possible, the court will assign the spouses to elect two arbitrators. If they do not agree, the court will elect them. 3 - The two arbitrators must strive to reconcile. If they are unable to do so, they submit the matter to the court, explaining to it the party whose negligence was proven. If they disagree, the court will join them with a third arbitrator. If it is proven that the court continues to dispute between the spouses and is unable to reconcile them and the husband refuses to implement, The court distinguished -4a- between them.

B- If the separation takes place after consummation, the deferred dowry is forfeited, if the negligence was on the part of the wife, whether she was a plaintiff or a defendant. If

If she has received the entire dowry, she is obliged to return what does not exceed half of it. However, if it is proven that negligence occurred on both sides, the deferred dowry is divided between them in proportion to the negligence attributed to each of them. C- If the separation takes place before consummation and negligence on the part of the wife is proven, she is obliged to return the immediate dowry she received.

Article Forty-Two: If a severance

lawsuit is rejected for one of the reasons mentioned in Article 40 of this law because it is not proven and the decision to dismiss becomes final, and then a second severance lawsuit is filed for the same reason, the court must resort to arbitration, in accordance with what is stated in Article Forty-one.

Article Forty-Three:

First: The wife has the right to request separation, when one of the following reasons

exists: - 1 - If her husband is sentenced to a sentence restricting his freedom for a period of three years or more, even if he has money from which she can spend.

-2 If the husband abandons his wife for a period of two years or more without a legitimate excuse, even if the husband has a known residence and has money from which she can spend.

-3 If the husband does not ask his non-consummated wife to marry within two years from the date of the contract, and the husband's request to marry his wife will not be taken into account if he has not fulfilled her marital rights.

-4 If she finds her husband stubborn or afflicted in such a way that he is unable to carry out marital duties, whether for organic or psychological reasons, or if he suffers from this after consummation of her and it is proven that he cannot recover from it by a report issued by a competent official medical committee, provided that if the court finds that

That is psychological, so she postpones the separation for one year, provided that she enables her husband to control herself during that period.

-5 If the husband is infertile, or is afflicted with infertility, after marriage and she does not have a living child from him.

-6 If she finds, after the marriage contract, that her husband is afflicted with an illness that makes it impossible to live with him without harm, such as leprosy, leprosy, tuberculosis, syphilis, or insanity, or that he has subsequently been afflicted with one of these illnesses or something similar, provided that if the government finds after the medical examination It is hoped that the illness will disappear, so the separation is postponed until that illness disappears, and the wife has the right to refrain from meeting with the husband for the duration of the postponement. However, if the court finds that the illness is not expected to disappear within an appropriate period and the husband abstains from divorce and the wife insists on her request, then the judge rules for separation.

-7 If the husband refrains from spending on her without a legitimate excuse, after giving him a maximum period of sixty days. -8 If it is impossible to collect alimony from the husband due to his absence, loss, disappearance, or being sentenced to imprisonment for a period exceeding one year.

-9 If the husband refuses to pay the accumulated alimony awarded, after being given a maximum period of sixty days by the Enforcement Department. Second: The wife has the right to request a separation before consummation, and in this case the court must order the separation, after the wife returns to the husband the dowry she received and all the money and fixed expenses he incurred that he spent for the purposes of marriage. Third

A- The Iraqi wife has the right to request separation from her husband who resides outside the country due to his nationality belonging to a foreign country if he has been living in the country for a long time.

Abroad for a period of no less than three years due to his prevention or refusal to enter the country.

B- The support of the official authority responsible for the husband's residence abroad for the purposes of this paragraph is considered an alternative to the procedures for notifying him of the statement of claim and the date of the plea, provided that the ruling issued against the husband is

published in one of the local newspapers. Fourth: 1 - The wife of a missing person whose loss has been officially proven may ask the court to separate from her husband four years after his loss. The court must verify the continuation of the loss in the same way in which his loss was proven and then issue a ruling of separation. -2 The wife of the missing person must wait for four months and ten days after the separation ruling (17).

Article Forty-Four:

The reasons for separation may be proven by all means of proof, including hearsay testimonies, if they are frequent, and their assessment is up to the court, with the exception of cases in which the law specifies specific means of proof.

Article Forty-Five:

Separation in the cases mentioned in Articles (forty, forty-one, forty-second, and forty-three) is considered an irrevocable divorce and minor bondage.

Chapter Three (18)

Voluntary Separation (Khula)

Article Forty-Six: - Khula is the

removal of the marriage bond with the word Khula or something similar to it, and it is concluded with an offer and acceptance before the judge, taking into account the provisions of

Article Thirty-

Nine of this law. For the khul' to be valid, the husband must be qualified to effect the divorce and the wife must be his subject, and the khul' constitutes

an irrevocable divorce. - The husband may divorce his wife for compensation more or less than her dowry.

Chapter Five: Iddah

Article Forty-Seven: The wife must

observe the waiting period in the following two cases:

-1 If separation occurred between her and her husband after consummation, whether it was due to a revocable divorce or an irrevocable divorce, minor or major, separation,

abandonment, annulment, or

the option of puberty. -2 If her husband dies, even before consummating the marriage.

Article Forty-Eight: 1 - The waiting

period for divorce and annulment for consummated marriage includes three readings.

-2 If a woman reaches puberty but has not yet menstruated at all, her waiting period for divorce or separation is three full months. 3 - The waiting period for a woman whose husband has died is four months and ten days for the pregnant woman or the pregnant woman. The waiting period is the furthest of the two terms from the time of giving birth and the aforementioned period.

-4 If the husband of a divorced woman dies while she is in the waiting period, then the waiting period for death is considered and the past period is not counted.

Article Forty-Nine: The waiting

period begins immediately after divorce, separation, or death, even if the woman does not know of the divorce or death.

Article Fifty: The divorced

woman must pay for the waiting period of her living husband, even if she is disobedient, and there is no maintenance for the waiting period of death.

Chapter Six: Childbirth and its consequences

Chapter One: On Lineage Article

Fifty-One:

The child of each wife is attributed to her husband under the following two conditions:

- 1 The minimum period of pregnancy must have passed since the marriage contract.
- 2- That the meeting between the spouses is possible

Article Fifty-Two: 1 - Acknowledging

the filiation - even in the event of death - of an unknown parentage proves the lineage of the confessor to him if he is born like him to like him. -2 If the applicant is a married woman or a woman in waiting period, the lineage of the child from her husband shall not be proven except by his confirmation or evidence.

Article Fifty-Three:

An acknowledgment of paternity or maternity by someone of unknown parentage confirms parentage if the person declaring it is true and he is born like him for like him.

Article Fifty-Four: Acknowledgment of

lineage other than filiation, paternity, and motherhood does not apply to someone other than the one who acknowledges it unless he is certified.

Chapter Two: Breastfeeding and Custody Article Fifty-

Five: The mother must breastfeed her

child except in cases of illness that prevent her from doing so. Article Fifty-Six: The fee for breastfeeding the child is the responsibility of the person responsible for his expenses, and this is considered in exchange for his food.

Article Fifty-Seven: 1 - The mother has

the right to custody and upbringing of the child once the marriage is established. After separation, unless the child in custody is harmed by that. 2 - The custodian must be a sane and trustworthy adult capable of raising and maintaining the child, and the divorced mother's custody does not lapse upon her marriage. In this case, the court decides the right of the mother and father to custody in light of the interests of the child in custody (19).

- 3 If the custodian disagrees with the person who is obligated to support the child in custody regarding the custody fee, the court will determine it. Custody fees are not awarded as long as the marriage exists, or the wife is in waiting period following a revocable divorce.
- 4 The father has the right to look into the affairs, upbringing and education of the child in custody, until he reaches ten years of age. The court may authorize the extension of custody of the child, until he reaches the age of fifteen, if it proves to it, after referring to the specialized medical and popular committees, that it is in the interest of the child to do so, provided that he does not spend the night except with his custodian.
- 5 - If the child in custody has reached fifteen years of age, he has the right to choose to reside with whoever of his parents or one of his relatives he wishes until he reaches eighteen years of age, if the court grants him maturity in this choice.
- 6 - The custodian, whose custody has been terminated by a ruling, may request the return of the child in custody from the person who has been ruled to receive the child in custody from her. If it is proven that the child in custody was harmed during his stay with him.
- 7 In the event that the child's mother loses one of the conditions for custody or dies, custody shall be transferred to the father, unless the child's interest requires otherwise. Custody is then transferred to whomever the court chooses, taking into account the interest of the child.

-8 If there is no parent qualified for custody, the court shall place the child in custody in the hands of a custodian or a trustworthy custodian. It may also place him in the nurseries prepared by the state when available. If the father of the child loses one of the conditions of custody, then the child remains with his mother as long as she maintains the conditions of custody, without his relatives - 9a - - women or men - having the right to dispute it until he reaches the age of majority.

B - If the child's father dies, the child remains with his mother, even if she marries a foreigner from Iraq, on the condition that: 1 - The mother adheres to the remaining conditions of custody. 2 - The court must be convinced that the child will not be harmed by staying with the mother. -3 - When the marriage is concluded, the stepfather undertakes to take care of the child and
C- If the stepfather breaches the pledge stipulated in (3) of Clause (B), this will be a reason for the wife to request separation.

Chapter Seven: Maintenance of descendants, ascendants, and relatives

Article Fifty-Eight: Every person spends on his own money except the wife, who spends on her husband.

Article Fifty-Nine: 1 - If the son does not have money, his expenses are borne by his father unless he is poor and unable to support and earn money. 2 - The maintenance of the children continues until the female is married and the boy reaches the point where he earns like him, unless he is a student. -3 The eldest son is unable to earn a living by virtue of the younger

Article 60:

-1 If the father is unable to provide for the child, someone who is obligated to support him in the absence of the father shall be assigned to provide for the child.

-2 This alimony is a debt owed by the father to the spender, who can return it to him if he is able.

Article sixty-one:

A wealthy child, whether old or young, must provide for his poor parents, even if they are able to earn, unless the father shows his insistence on choosing unemployment.

Article sixty-two:

The maintenance of every poor person who is unable to earn must be paid by his wealthy relatives who inherit from him in proportion to his inheritance from him.

Article Sixty-Three: Alimony will be paid to relatives from the date of the claim.

Chapter Eight:

On

Guardianship, Chapter One: The Will (20)

Article Sixty-Four: The will is a disposition of the estate in addition to what is left after death, requiring ownership without compensation.

Article Sixty-Five:

1 - A will shall not be considered except with written evidence signed by the guardian or stamped with his stamp or thumb impression. If the will is real estate or movable property whose value exceeds five hundred dinars, it must be authenticated by a notary public. -2 It is permissible to prove a will by testimony if there is a material impediment that prevents obtaining written evidence.

Article sixty-six:

A will regulated by the competent courts and departments is enforceable if it is not objected to by the concerned parties.

Article Sixty-Seven: The

legatee must be legally eligible to donate and own what he has bequeathed.

Article sixty-eight:

The recommended person must:

-1 He must be alive, in fact or by estimate, at the time of the will and at the time of the testator's death. The will is valid for legal persons, charitable organizations, and institutions of public benefit. -2 He must not be a murderer of the testator.

Article Sixty-Nine: The legatee

must be capable of ownership after the death of the testator.

Article Seventy: A will

of more than one-third is not permissible except with the approval of the heirs, and the state is considered an heir to those who have no heirs.

Article Seventy-One:

A will is valid for movable property only with a difference in religion, and it is also valid with a difference in nationality, on the condition of reciprocity.

Article Seventy-Two: The will

is invalidated in the following cases:

-1 By the testator retracting what he recommended, and retracting is not considered evidence that equals the strength of what was proven by the will. -2 By losing the testator's legal capacity until his death. 3 - The testator disposes of the legatee in a way that removes the name of the legatee or most of his attributes. -4 The destruction of the bequest or its consumption by the testator. -5 The sign of the testator who has the will after the death of the testator.

Article Seventy-Three: The

provisions of Articles 1108 to 1112 of the Civil Code shall be taken into account in the will.

Article Seventy-Four: 1 - If a

child dies, whether male or female, before the death of his father or mother, he is considered to be alive upon the death of either of them, and his entitlement from the inheritance is transferred to his children, whether male or female, according to the Sharia rulings, as it is considered an obligatory will. Provided that it does not exceed one-third of the estate. -2 The obligatory will, in accordance with Paragraph (1) of this Article, is preceded by other wills and in collection of one-third of the estate.

Chapter Two: Preaching

Article Seventy-Five: A bequest is

for someone else to appoint another person to review what he has bequeathed after his death.

Article Seventy-Six:

The guardian must have legal and legal capacity.

Article Seventy-Seven: 1 - If the

guardian accepts guardianship during the life of the testator, it is binding on him and he does not withdraw from it after the death of the testator unless he is given the right

to choose. -2 If the guardian returns the guardianship while the testator is alive and with his knowledge, the guardianship

Article Seventy-Eight: 1 - If the

testator appoints more than one guardian, it is not permissible for any of them to act alone, and if he acts, his act may not be executed except with the permission of the

other. 2 - The action of one of the two guardians shall be carried out without

the permission of the other in the following:

A- What does not differ according to differences of

opinion. B- What does not involve

receiving or receiving money. C- There would be no harm in delaying it. -3 If the testator stipulates that the

guardians be alone or meet, then what he stipulates shall be followed. -4 If the guardians disagree, the judge will force them to meet

Article seventy-nine:

Every condition stipulated by the testator in his will is obligatory for the testator to adhere to it unless the condition is contrary to Sharia and the law.

Article Eighty: The

guardian is responsible for the funds under his guardianship and is not liable except for his transgression or negligence.

Article Eighty-One: If a person

dies without appointing a guardian, the judge may appoint him in the following circumstances:

-1 If the deceased had a debt and had no heir to prove it and collect it. -2 If

he owes a debt and has no heir to pay it. -3 If he has a will

and there is no one to execute it. -4 If one of the heirs is

minor and has no guardian.

Chapter Three: End of the will

Article Eighty-Two: The guardian's

mission ends in the following cases: 1 - The death

of the minor. 2 - He

reaches eighteen years of age unless the court decides to continue guardianship over him.

-3 The guardianship returns to the father or grandfather after

it is removed from him. 4 - The end of the work for which the appointed guardian was appointed or the expiry of the period specified for

appointing the temporary

guardian. 5- Accepting

his

resignation. -6 Loss of his eligibility

Article Eighty-Three: 1 - The

testator may remove the will from the guardianship, even if this is without his obligation. 2 -

The judge may not remove the chosen guardian except for a legitimate reason. If he is incapable, someone else will be appointed to him. However, if his inability appears completely, he will be replaced by someone

Article Eighty-Four: The guardian

is removed in the following cases: - 1 - If

he is convicted of a felony or misdemeanor involving moral turpitude.

-2 If he is sentenced to a sentence restricting freedom for

one year or more. -3 If a judicial dispute or a family dispute occurs between him or one of his ascendants or descendants or his spouse and the minor, which may harm the interests

of the minor. -4 If the court finds that the guardian's actions or negligence threaten the interest of

the minor. -5 If it appears in the

accounts of

Chapter Nine: In the

provisions of inheritance, the trustee is

Article Eighty-Five: The guardian is

removed if he loses one of the eligibility conditions from the date of his criticism of him.

Article Eighty-Six: A- There are

three pillars of inheritance:

-1 - The inheritor: he is the deceased.

-2 The heir: He is the living person who deserves the

inheritance. -3 Inheritance: This is the property of the deceased that

the heir takes. B- There are two reasons for inheritance: kinship and

valid marriage. C- There are three

conditions for inheritance: - 1 - The death of

the testator, whether actual or legal. - 2 - The life of the

heir after the death of the testator. -3 Knowledge

Article Eighty-Seven: The rights

related to the estate after the death of the deceased are four, some of which take precedence over the other:

1 - Preparing the deceased in a legal manner. -2

Paying off his debts and getting all of his money out.

3- Implementing his commandments and receiving a third of what

remains from his wealth. -4 Giving the rest to those who deserve

Article Eighty-Eight: Those

entitled to the estate are the following categories: 1-

Heirs by kinship. -2 He is

based by lineage. -3 The

legatee collects money. -4 Bait al-Mal.

Article Eighty-Nine: Heirs by

kinship and how they are inherited: 1 -

Parents and children, even if they are descended from one male, the

share of two females. -2 Grandfathers, grandmothers, brothers, sisters, and children

of brothers and sisters. -3 Uncles, aunts, sisters, maternal uncles, aunts, and relatives.

-4 A full sister is considered the same as a full brother in blocking.

Article Ninety: Taking

into account the above, the entitlement and shares will be distributed to the heirs by kinship in accordance with the Sharia provisions that were terrifying before the enactment of the Personal Status Law No. 188 of 1959, as well as the remaining inheritance provisions.

Article Ninety-One: 1 - The

husband, along with the heir descendant of his wife, is entitled to a quarter. He is entitled to a half if not. As for the wife, she is entitled to one-eighth if the descendant inherits and a quarter if he does not.

-2 The daughter or daughters, in the event that the deceased's son is not present, are entitled to what remains of the estate, after the parents and the other husband take their duties from her, and she is entitled to the entire estate in the event that none of them are present (24).

Article Ninety-Two: All legislative

texts that conflict with the provisions of this shall be repealed

Council of Rule of
Law.

Article Ninety-Three: This law will

be implemented from the date of its publication in the Official Gazette.

Article Ninety-Four: The Minister

of Justice must implement this law.

Written in Baghdad on the nineteenth of Jumada II, 1379, corresponding to the nineteenth of December, 1959.

Positive reasons

The Shari'a rulings on personal status had not established a single law that collected from the sayings of the jurists what was agreed upon and most appropriate to the temporal interest. The Shari'a judiciary relied in issuing its rulings on the texts recorded in the jurisprudential books, on the fatwas regarding the disputed questioner, and on the judiciary of the courts in Islamic countries.

It was found that the multiplicity of sources of jurisprudence and the differences in rulings makes family life unstable and the rights of the individual unsecured. This was an incentive to think about drafting a law that brings together the most important agreed-upon legal rulings.

For this purpose, committees were formed that attempted to collect the legal rulings, unify them, and emerge from them with a law that brings together agreed-upon opinions.

These committees did not reach an acceptable result in achieving this purpose.

Since the outbreak of the eternal July 14 Revolution, it has made one of its first goals the establishment of a unified law regarding personal status provisions that will be the basis for establishing Building the Iraqi family into its legitimate rights and global independence.

To this end, the Ministry of Justice, by order No. (650) dated 02/07/1959, established a Personal Status Regulations Committee whose principles were derived from the agreed-upon provisions of Islamic Sharia and what the Sharia judiciary in Iraq has settled on. As a result of the committee's work, the draft law was produced, which included the most important sections of jurisprudence in provisions related to personal status, covering issues of marriage, divorce, childbirth, lineage, custody, alimony, wills, and inheritance. The following are the most important provisions that the committee took from the texts of the Civil Code and the laws of Islamic countries, and they were supported by jurisprudence

Sharia law or whether it does not conflict with its provisions:

A - The committee took the provisions of Article 1 of the Civil Code after drafting it in a manner consistent with the principles of Sharia, and made the texts of this law the ones that apply to the issues it addresses in its wording or content. This text did not find the judge's ruling in accordance with the principles of Sharia that was most appropriate to the provisions of the law.

B - The committee established the rule that provisions apply to persons, so that its provisions include all Iraqis, except for those excluded by a special law. Thus, the personal status law is the general law in terms of the principles and provisions it contains, and the other personal status laws are private laws. C - The committee considered that the general rules contained in the Civil Code regarding conflict of laws provisions in terms of location (Articles 19 to 24) are rules that do not contradict the principles of Sharia, and they are regulatory rules that must be taken into account in personal status provisions, so the draft stipulates in its second article that they must be applied. D - The committee saw that the laws of Islamic countries had ruled polygamy in two schools of thought. Tunisian legislation prohibited it absolutely and punished it (Article 18-), and Moroccan legislation limited the prohibition to fear of unfairness (Article 30-). So the committee chose a doctrine intermediate between them, so Article Three prohibited marriage to more than one person. One, except with the judge's permission. To give permission, it is stipulated that the husband must have financial sufficient to support what is more than one, and that there be a legitimate interest. It prohibited marriage with more than one woman if there was fear of unfairness, and left that to the discretion of the judge. It also stipulated a penalty of imprisonment for a period of one year or a fine of one hundred dinars for anyone who violates the law. that. E - In the rulings on divorce, the committee took what was agreed upon regarding the necessity of divorce in its legal form, and did not consider the divorce coupled with the word "three" as anything but one divorce, and legislated the separation of spouses for reasons of ills, discord, harm, and refraining from spending to prevent abuse on the part of the husband in using his right to divorce. . F - The regulations permit the judge to authorize an extension of the custody period if it becomes clear that the child's interest requires doing so, which is what legislation in Islamic countries has taken into account and a fatwa issued recently. G - The regulations consider the child's continued pursuit of education as a reason for alimony. C- The committee also took into account the harmony between the provisions of the Civil Law in the will and the provisions contained in these regulations. I - This is because the difference in the rulings on inheritance, which is one of the causes such as lineage of ownership, has created, as a result of the difference in sects, the disparity in the transfer of the rights of heirs, which requires the unification of its rules. This difference led some of those concerned with the laws and rules of Sharia to impersonate religions and sects, and since the unification of laws and the creation of a stable society One of the goals of the revolution was regarding his rights and duties. It required unifying the provisions of transfer and making them consistent with the provisions of transfer of family lands that were enacted a long time ago and accepted by the people and transactions were settled on them. Therefore, it was Y- decided that these rules stipulated in the law should be taken as a basis for inheritance in real estate and movable property, because they do not differ much. With legal rulings. The committee has endeavored

Footnotes

(1) Law No. 188 of 1959 was published in the Iraqi Gazette, No. 280, on 12/30/1959. (2) Returning a divorced woman to her husband's wife is not considered a marriage to more than one wife for the purposes of paragraphs 4 and 5 of Article 3 of the law if the husband had previously contracted his marriage to another woman before returning his divorced woman to her husband's wife. This was stated in Revolutionary Command Council Resolution No. 147 in The divorced husband was also exempted from the requirement to obtain the approval of his department regarding the return of his divorced wife to the laws to which the husband was subject required obtaining this approval before contracting the marriage, and its provisions should apply to marriages that took place before its entry into force. (3) Paragraph 7 was added to the end of Article 3 pursuant to Law No. 189 of 1980/Sixth Amendment Law. (4) Paragraph 1 of Article 7 was canceled and replaced by another text under Law No. 21 of 1978/Second Amendment Law. (5) Article 8 was canceled and replaced by the current text under Law No. 21 of 1978, the Second Amendment Law. Then the aforementioned article was considered its paragraph 1, and Paragraph 2 was added to it under Law No. 90 of 1978, the Twelfth Amendment Law. (6) Article 9 was canceled and replaced by the current text under Law No. 21 of 1978/Second Amendment Law. (7) Paragraph (5) was added to the end of Article (10) pursuant to Law No. 21 of 1978/Second Amendment Law. This amendment shall be implemented thirty days after the date of its publication. (8) Article 13 was canceled and replaced by the current text under Law No. 11 of 1963/First Amendment Law. (9) The woman collects her deferred dowry in the event of divorce, denominated in gold on the date of the marriage contract. This was stated in Revolutionary Command Council Resolution No. 127 of 7/24/1999.

(10) Paragraph (1) of Article (24) was canceled and replaced by the current text pursuant to Law No. 19 of 1999/Sixteenth Amendment Law. (11) Based on the amended Article 1 of the Law on the Divorced Woman's Right to Residence No. 77 of 1983 (the court examining the divorce or separation lawsuit must ask the wife whether she wishes to remain residing after the divorce or separation in the house or apartment in which she used to live. With her husband independently if she is wholly or partially owned by him, or if she is rented by him, the court will decide on this point with the decisive ruling in the case, etc.). (12) Article 25 was abolished and replaced by the current text under Law No. 57 of 1980, the Fourth Amendment Law, provided that it is implemented from the date of its publication in the Official Gazette, and its provisions apply to decisions that have not acquired a final status. Revolutionary Command Council Resolution No. 1357 was issued on 12/1984/ 9 stipulates that the provision of clause (b) of paragraph (2) of Article (25) of the law does not apply to spouses assigned to compulsory military service or reserve service as long as they perform it. This decision shall be implemented from the date of its publication in the Official Gazette, and its effect shall apply to cases in which no final judgment has been issued, and it shall be implemented throughout the period of the war. (13) Article (26) was canceled and replaced by the current text pursuant to Law No. 19 of 1999/Sixteenth Amendment Law. Then Paragraph (4) was added to the same article pursuant to Law No. 22 of 1999/Seventeenth Amendment Law. (14) Article (34) was canceled and replaced by the current text pursuant to Law No. 156 of 1980/Fifth Amendment Law. (15) Paragraph 3 was added to Article 39 pursuant to Law No. 51 of 1995, the Ninth Amendment Law, and it shall be implemented from the date of its publication in the Official Gazette and shall apply to lawsuits in which no final ruling has been issued. (16) Chapters Two, Three, and Four of Part Four of the law were canceled and replaced by the current text pursuant to Law No. 21 of 1978/Second Amendment Law. This amendment included the replacement of Articles 40-45. This amendment stipulated that Chapter Five of Chapter Four should be its third chapter. The phrase (and it constitutes marital infidelity is the husband's practice of sodomy, in any way) was added pursuant to Law No. 125 of 1981/Seventh Amendment Law. Paragraph 1 of Article 40 was canceled and replaced by the current text under Law No. 5 of 1986/Tenth Amendment Law. (17) A third paragraph was added to Article 43 pursuant to Revolutionary Council Leadership Council Resolution No. 1128 on 9/21/1985, and a new paragraph was added to it under the number - Fourth - pursuant to Law No. 8 of 1994, the Fourteenth Amendment Law. Then Clause 3 of Paragraph - Fourth - added by Law No. 25 of 1994 / Fifteenth Amendment Law was cancelled. (18) Chapter Five of Chapter Four is considered a third chapter of the same chapter under Law No. 23 of 1978/Second Amendment Law. (19) Article 57 was canceled and replaced by the current text under Law No. 21 of 1978, the Second Amendment Law, and Paragraph 9 was canceled and replaced by the current text under Law No. 65 of 1986, the Eleventh Amendment Law. Paragraph For the year 1978, the Thirteenth Amendment Law. (20) The phrase (...and inheritance) contained in the title of Chapter One of Chapter Eight of the law was canceled pursuant to Law No. 11 of 1963, the First Amendment Law. (21) Article (74) was canceled pursuant to Law No. 11 of 1963, First Amendment Law, and a new text was added to Article (74) pursuant to Law No. 72 of 1979, Third Amendment Law. This amendment shall be implemented from the date of its publication in the Official Gazette, and its provisions shall apply to the deaths of grandfathers and grandmothers that occur after its implementation. (22) Chapter Nine was added to the law after Article 85, and the sequence of the following articles was amended accordingly pursuant to Law No. 11 of 1963/First Amendment Law. The articles added under the aforementioned amendment law are Articles: 86, 87, 88, 89, 90 and 91. (23) Paragraph (4) was added to the end of Article (89) pursuant to Law No. 34 of 1983, the Third Amendment Law, and this law shall be implemented from the date of its publication in the Official Gazette, and its provisions shall apply to deaths that occur after its entry into force. (24) The text of Article (91), Paragraph (1), was considered the same article, and Paragraph No.