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GRIGORY SVERDELOV

*Marriage  
and the Family*

*in the*

*U.S.S.R.*

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*Translated from the Russian*

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### SOVIET FAMILY

The family as an institution has distinguishing features depending on time, social structure, nation and class.

The family in pre-class (primitive) society differed materially from that in class society with its exploitation of man by man. The family in slave, feudal and capitalist societies, too, presents essential differences. And in capitalist society, bourgeois and working-class families differ from one another in principle, since each of the antagonistic classes in a society based on exploitation has its own moral and ethical standards.

The Soviet family, the latest type of family in history of humanity, is based on entirely new principles compared with all other types.

Like any other type of family, the Soviet family, too, is the fundamental unit of society based on marriage and blood relationship, a social institution in which the vital process of procreation takes place. It is not the family as such that is transient, but its various forms and types. If the family ceased to exist, the human race would cease to exist too.

The function of the family as the procreative unit is common to it under all social structures. But the manner in which the family performs this function depends primarily on the social system and economic conditions. As Lenin wrote in his work "The Economic Content of

Narodism," "The conditions of procreation are directly influenced by the structure of the various social organisms."

In a society based on exploitation, all the natural and necessary human relationships, including family relationships, are wholly subordinated to the laws of private ownership. In a society with antagonistic classes love and the interests of preserving private property contradict each other to a large extent. One can even establish an interdependence between the two: the greater the prominence gained by the interests of private ownership, the more is suppressed love as the natural foundation of family. Marx says that the world of private ownership lacks precisely the *foundation of family life*, love as the real, motivating and determining factor. This is *soulless family life*, an *illusion* of family life. Developed to the full, the *principle of private ownership* contradicts the *principle of family*. Here we see the *barbarity* of private ownership *versus* family life.

The family in socialist society is of an entirely different nature.

The abolition of private ownership of the means and instruments of production has freed the family from the evil influence of the cash nexus.

Socialist society has brought about conditions for a really free marriage. Consolidation of the socialist system, the growing well-being of the people and the emancipation of woman mean that the overwhelming majority of marriages in the U.S.S.R. have nothing to do with the considerations of gain. Mutual love of man and woman and affection for children is the guiding force of marriage in the Soviet Union. Here, as Marx put it, family life for the first time becomes the life of the family, the *living love*.

Procreation as the function of the family reaches its most complete realization under socialism thanks to

the freeing of family relationships from property considerations, to the improved standard of living, and other factors. This is evident in the steady growth of population in the U.S.S.R.: the annual net increase in population exceeds 3,000,000. Mothers of large families are awarded medals, Orders and the title of "Mother Heroine." By 1955 over 4,500,000 mothers had been honoured for bringing up five and more children.

The healthy and close-knit Soviet family with many children guarantees the steady increase of the population.

There is another aspect to the life of the family—the mutual aid on the part of its members. The household economy and the care for members unable to work—children, old people and invalids—is the concern of the family as a whole.

This aspect of family life in the U.S.S.R. is very important, although extension of social services, growth of social insurance funds and development of the collective-farm economy will introduce certain changes: the necessity of conducting petty household economy (in which mostly women are occupied today), of providing for invalid members of the family will become less pressing.

As Lenin said: "The real *emancipation of women*, real communism, will begin only where and when a mass struggle begins (led by the proletariat wielding the power of state) against this petty domestic economy, or rather when its *wholesale transformation* into large-scale socialist economy begins."\*

Growing mechanization of domestic economy in the U.S.S.R., expansion of the public-catering network, increase in the production and sales of semi-prepared food-stuffs, of preserves, of all kinds of household objects, the increase in the number of dress-making establish-

\* V. I. Lenin, "A Great Beginning," *Selected Works*, Vol. II, Part 2, Moscow 1952, pp. 233-34.

ments and in the sales of ready-made clothes—all this will lead to a reorganization of the family household economy.

The Soviet family plays an extremely important part in the communist upbringing of the younger generation. As is the case with all social relations in socialist society, the family is based on the principle of comradesly co-operation and socialist mutual aid.

The economic foundation of Soviet society is the socialist system of economy and the socialist ownership of the instruments and means of production.\*

There is, consequently, no contradiction between the interests of members within a family, between families, or between the family and society as a whole. This fosters consciousness of the unity of interests of family and society, frees the family from exclusiveness, egoism and

\* Socialist property in the U.S.S.R. exists either in the form of state property (belonging to the whole people) or in the form of co-operative and collective-farm property (property of collective farms, property of co-operative societies). The land, its mineral wealth, waters, forests, mills, factories, mines, rail, water and air transport, banks, communications, large state-organized agricultural enterprises (state farms, machine-and-tractor stations and the like), as well as municipal enterprises and the bulk of the dwelling-houses in the cities and industrial localities, are state property, that is, belong to the whole people. The common enterprises of collective farms and co-operative organizations, with their livestock and implements, the products of the collective farms and co-operative organizations, as well as their common buildings, constitute the common, socialist property of the collective farms and co-operative organizations. The personal property right of citizens in their incomes and savings from work, in their dwelling-houses and subsidiary husbandries, in articles of domestic economy and use and articles of personal use and convenience, as well as the right of citizens to inherit personal property, is protected by law. Every household in a collective farm, in addition to its basic income from the common collective-farm enterprise, has for its personal use a small plot of household land and, as its personal property, a subsidiary husbandry on the plot, a dwelling-house, livestock, poultry and minor agricultural implements.—*Ed.*

narrow-mindedness, and enables it to fulfil its mission of communist upbringing.

Communist ideology does not oppose the family and its interests to the interests of society, it does not regard the behaviour of a person in the family as separate from his behaviour in society and at work. On the contrary, the Communist Party and the Soviet State hold the principles and standards of behaviour in personal and social life to be the same. Mikhail Kalinin has given an excellent formulation of the tasks of the Soviet family as the primary cell of communist upbringing. He said: "The family must not limit one's outlook but broaden it, it must live not isolated from socialist society but be closely linked with it."\*

It is the family that brings up the young patriots who work selflessly in all fields of socialist construction. It is the family that brings up young men and women as fighters for peace, for friendship among nations.

There is another vital aspect to the Soviet family.

It is a fact that the interests of private property determined the inequality of the sexes, which has typified exploiter societies throughout history. But the socialist system of economy and socialist property determine the unity of the interests of man and woman in each and every sphere of life. This brings about equality of man and woman—a very important feature that distinguishes the Soviet family from all other types of family. Women in the U.S.S.R. are guaranteed equal rights with men in all spheres of economic, government, cultural, political and other public activity.

The Soviet family can be defined as the fundamental unit of socialist society based on marriage and kinship, characterized by the mutual love of its members, equality of man and woman, identity of interests of the individual

\* *Izvestia*, May 17, 1936.

and society, and performing the functions of procreation, communist upbringing and mutual aid.

The family, consequently, is a form of communion, ensuring favourable conditions for the satisfaction of both individual inclinations and desires and society's vital needs. By supporting and encouraging the family in every way, the socialist State solves a two-fold problem: it ensures conditions for the fullest satisfaction of the interests of the individual and for the development of society as a whole.

The Soviet State's solicitude for the family is not limited to the many-sided material aid through the vast network of mother-and-child welfare institutions, grants to mothers, and other measures for which thousands of millions of rubles are allocated. Its solicitude for the family also takes the form of establishing laws relating to marriage and the family, combating the hang-overs of private-property morality and psychology that are sometimes encountered in family relationships. New, socialist human relationships do not spring up ready-made. There is no impenetrable wall fencing off the working people from the habits and ideas left over from the capitalist past, although they have been freed from capitalist oppression.

The overwhelming majority of Soviet families are the embodiment of truly human relationships based on the lofty principles of socialist morality. At the same time it is exactly in the sphere of family relationships, family life, that the survivals of the past in the minds of people are fairly strong.

One of the survivals of capitalism is the idea that woman is destined by nature to submit to man, that she is unworthy of equal standing with him, the idea inculcated for centuries by the exploiters' state, law, religion and art. Another old-world idea is that the family is a stronghold isolated from society.

These survivals still manifest themselves in promiscuous sex relations, in violations of monogamous marriage and in looking on woman as a slave. In some cases these survivals are evident in marriages of interest, in parents trying to evade responsibility for children and vice versa, in bringing up children in the petty-bourgeois spirit of gain, egoism and laziness, and in treating lightly one's family and family obligations.

Ancient customs affecting human dignity such as abduction of the bride, buying brides, and polygamy still sometimes occur in the Eastern regions (for instance, in Uzbekistan). Not all families are free from religious prejudice. Now that the conditions for a stable family based on socialist principles have been established, and the demands on the individual as regards his moral conduct are becoming more strict, these and similar facts can no longer be tolerated.

In *My Recollections of Lenin*, Klara Zetkin cites some of Lenin's highly valuable observations concerning morality, behaviour and relations between man and woman. "Communism," Lenin said, "ought to bring with it not asceticism but joy of life and good cheer called forth, among other things, by a life replete with love."\* Lenin denounced dissipation, promiscuous relations between man and woman, all kinds of "orgiastic behaviour," as he termed it. "Laxity in sexual matters is bourgeois; it is a sign of degeneration. The proletariat is an ascending class. It requires no intoxication to stun or excite it. It has no need of intoxication either by sexual looseness or by means of alcohol. It derives its strongest stimulants to struggle from the position of its class, from the communist ideal. What it needs is clarity, clarity and once more—clarity. Therefore, I repeat: there must be no weakness, no waste or destruction of energy. Self-pos-

\* Klara Zetkin, *My Recollections of Lenin*, p. 71.

session, self-discipline are not slavery; they are necessary also in love."\* Love between man and woman being a source of new life, Lenin pointed out that it gives rise to social interests and a sense of duty towards the community.

The Soviet State is guided by Lenin's ideas when it effects measures to strengthen in each citizen the sense of duty to his family and to consolidate the family. It is building new, socialist family relationships. The laws regulating marriage and the family pursue the same aim.

#### THE EVOLUTION OF SOVIET MARRIAGE AND FAMILY LAWS

Marriage and family laws have been the concern of the Soviet State since its inception. In December 1917 Lenin signed two decrees on marriage and divorce. The code of laws governing the acts of civil status, marriage, the family and guardianship relationships appeared in 1918. Thus the Soviet State at an early stage of its existence enacted the marriage and family laws of the world's first socialist state, together with important decrees determining the nature of the new social relationships and abolishing social estates, landed property, national inequality and the judicial system of an exploiter society.

The legislation that immediately followed the October Revolution abolished everything which deprived individuals of their freedom upon concluding marriage. Marriage was exempted from the influence of the church and the jurisdiction of canon law, i.e., the acts of civil status were secularized. The various restrictions of the rights of the individual at contracting marriage such as difference of religion, nationality, the consent of parents, guardians and superiors were abolished; woman—wife and mother—

was freed from her state of slavery and granted personal independence and property rights. Tsarist laws established an exceptionally wide-ranging paternal authority. The laws were based on humiliation of children born out of wedlock and of unmarried mothers; the consistory system of granting divorces (through ecclesiastical courts) actually meant indissoluble marriage and involved a procedure shameful to the parties, and to woman in the first place; the system of guardianship was based on a class principle. This was drastically changed by the very first decrees of the Soviet power.

Lenin said of these decrees: "The Soviet power is the first and the only one in the world to have abolished all the old bourgeois and base laws placing woman in an unequal position with man and granting man privileges, as for example in the sphere of marriage laws or in his authority over the children. The Soviet power, the power of the working people, is the first and the only one in the world to have abolished all the privileges in the sphere of property relations which man preserves in all, even the most democratic, bourgeois republics."\*

Under the New Economic Policy, in 1925-26, it was felt that some of the laws enacted immediately after the Revolution were in need of revision. The livening up of exploiter classes which had not yet been abolished and the economic difficulties of the N.E.P. period made further protection of the rights of woman imperative. In 1926 a nation-wide discussion of the draft of a new code on marriage, the family and guardianship, was followed by publication of the new code in the R.S.F.S.R., and later in the other Union Republics.

The subsequent ten years brought the country decisive success in the building of socialism. By 1936 the capitalist elements had been completely suppressed in the U.S.S.R.

\* *Ibid.*, p. 72

\* V. I. Lenin, *Works*, Vol. 30, p. 346.



and the socialist system had gained the upper hand in all branches of national economy. The exploitation of man by man had been abolished for ever; crises, poverty, unemployment and ruin became things of the past.

All this brought to the foreground the problem of further strengthening the family as the fundamental social unit which under socialism fulfils highly important social functions. The idea of the impermissibility of petty-bourgeois loose morals and of neglect of family duties had penetrated deeply in the minds of people. On June 27, 1936, the Central Executive Committee and the Council of People's Commissars of the U.S.S.R. introduced further measures for mother-and-child care and amendments into the laws regulating marriage and family relationships, aimed at heightening the responsibility to one's children and at putting an end to divorce without serious grounds. The new law made it necessary for the parties seeking a divorce to appear at the Registrar's Office, to have a special entry of divorce made in their passports; besides, the law raised the fee for divorce, the sum increasing with the number of divorces granted to one and the same individual. This was the first law fixing the alimony to be paid for the maintenance of children; it also provided for strict penalties against those refusing to pay alimony as adjudicated by the court, and for charging to the delinquents the costs incurred in locating them.

The treacherous invasion of the Soviet Union by the fascists interrupted the work of peaceful construction and brought untold sorrow to millions of families. But even during the war, while guns were thundering on the battlefields, the Soviet people turned their attention to problems of peaceful construction, one of which was further consolidation of the family.

The interests of mothers and children, and of the family as a whole, necessitated considerable changes in the

family laws as well as a vast increase in material aid to families and in allocations for mother-and-child care.

Accordingly, the Decree of July 8, 1944, enacted by the Presidium of the U.S.S.R. Supreme Soviet introduced changes into the procedure of concluding and dissolving marriage and made provisions for the support of single mothers and their children.

As noted previously, beginning with 1936 Soviet legislation pursued the course of regulating the marriage and family relationships for the whole of the Soviet Union, whereas in the past matters affecting marriage and the family had been dealt with by the laws of the individual republics.

The tendency to establish a unified legislation valid for the entire Soviet Union and doing away with multi-formity in regulating family relationships, a very important aspect of life of the community, is perfectly understandable. It was pointed out at the Third Session of the U.S.S.R. Supreme Soviet in 1947 that the unified social, economic and political foundation in all the republics of the Soviet Union ensured and demanded unified legislation based on this foundation.

Citing the legislative practice of the Soviet Union in the matter of fundamental laws concerning marriage and the family, used as the prototype for all Union Republics, the Editorial Commission handling Addenda and Amendments to the U.S.S.R. Constitution proposed that the basic legislation concerning marriage and the family should come under the jurisdiction of the Union of Soviet Socialist Republics. The U.S.S.R. Supreme Soviet accepted the proposal and at present Article 14 of the Constitution contains a paragraph to this effect.

The inclusion of the regulation of marriage and the family in the Constitution is further proof of the importance which the Soviet State attaches to this sphere of

social relationships. All-Union legislation on marriage and the family must be the legal expression of the great Lenin ideas which have inspired Soviet family laws ever since their inception.

The evolution of marriage and family laws shows that this problem has always been a concern of the Communist Party and the Soviet Government. The idea of consolidating the family is a guiding principle of Soviet legislation to be found in the regulation of all aspects of family laws.

The laws now in force in the Soviet Union are the Decrees of the Supreme Soviet of the U.S.S.R. dated July 8, 1944, and March 14, 1945, and also some other all-Union acts and codes of laws concerning marriage, the family and guardianship, issued by individual republics and amended to conform with all-Union law. Some very important elucidations can be found in the rulings of the Plenum of the U.S.S.R. Supreme Court.

In the following chapters we shall see how the concrete problems of marriage and the family are solved on the basis of these laws.

#### THE CONDITIONS AND MANNER OF CONTRACTING MARRIAGE

Only a marriage that has been duly registered is acknowledged in the U.S.S.R. and only such marriage imposes the rights and obligations of husband and wife.

This is very important, because by means of registration the State makes sure that the parties enter into marriage of their free will and that there are no legal obstacles to marriage. By registering the marriage the State takes it under its protection. A registered marriage entitles husband and wife to mutual aid, to a part of the property acquired by them in the married state, to inheritance, etc.

The ceremony of marriage registration is performed with the solemnity becoming the event, important both for the parties and society as a whole. The State thereby not only legalizes the fact of marriage but lends to it its prestige, manifests its approval of the act and undertakes to protect it. A marriage that has not been registered, so-called marriage *de facto* is, on the contrary, not acknowledged by the State and involves no rights or obligations for the parties concerned.

The State supports the system of registered marriages because this enables it to regulate marriage relationships in the interests of society and the individual, to prevent marriages that are undesirable or harmful, as, for instance, too early marriages, marriages harmful to the health of the offspring, etc.

Another reason why the State recognizes only registered marriage is that it helps to realize the monogamous principle. The law helps man and woman to establish their relations on the basis of a strong and well-regulated union.

The question of marriage *de facto* and registered marriage is of major importance. Thus, the 1918 code did not recognize marriages *de facto*, but a few years later such marriages were granted protection by law: if the marriage *de facto* could be proved in court, it involved the same rights and duties as a duly registered marriage.

This was done because at that stage in the development of socialist society it would have been premature to refuse protection to marriages *de facto*, since this would have seriously affected the interests of women and children. The exploiting classes had not yet been fully suppressed and the young Soviet State was experiencing grave difficulties at the time. The standard of living was low, there was unemployment and, as often as not, women had no choice but to enter into unregis-

tered marital relations with men who were economically better off. There were numerous cases when exploitation of women assumed the form of marriage *de facto*: a kulak or a trader of the N.E.P. period, or some other non-labouring elements would often pass their servants for their wives.

In these conditions the State's refusal to render legal assistance to marriages *de facto*, or the refusal to recognize the rights of wives and children to support and inheritance, would have placed them at further disadvantage.

Later years brought radical changes in the status of woman. During the early five-year plans the remnants of the capitalist classes were eliminated and the exploitation of man by man and unemployment abolished. Millions of Soviet women are employed in the national economy, education, etc., and are active social workers. This has greatly contributed to the emancipation of woman, the raising of her cultural level and establishing her complete equality with man. At the same time state aid to mothers has increased several times over, and the network of nurseries, kindergartens, playgrounds, schools and other welfare institutions has been expanded.

The advent of the new stage of socialist development suggested a new approach to the problem of marriage *de facto*. By the Decree dated July 8, 1944, the Government introduced throughout the U.S.S.R. the principle whereby marital rights and duties accrue only from registered marriage.

Soviet law attaches no juridical import to marriage contracted according to religious rites. The church has been deprived of all jurisdiction over marriage, which is held to be a purely secular institution. The transfer of marriage and family acts from the church to State is the result of the separation of church from state effected in the U.S.S.R.

There was no civil marriage in pre-revolutionary Russia; marriage was contracted in accordance with religious rites and entered in church registers. When, however, the first Soviet decrees on civil marriage were issued, the question arose as to the validity of church marriage contracted before the Revolution. The law settled this question by recognizing all church marriages contracted before the enactment of the Soviet laws.

Recognizing a church marriage as juridically valid, means, among other things, that its existence can be established legally. By way of illustration we shall cite the case of Citizeness Provkova who applied to the court to be recognized as an heiress to her late husband. The file contained documents stating that in 1917 she had been married in church to Provkov and that the marriage had not been dissolved. In October 1946 the court ruled that the plaintiff was the widow of the deceased and, consequently, entitled to his property.

Soviet laws require the parties about to contract marriage to comply with certain conditions, and at the same time guarantee complete personal freedom in marriage. The conditions requisite for marriage reflect, as do all Soviet laws relating to marriage and the family, the idea of socialist humanism and solicitude for human beings and, particularly, children. Their purpose is to ensure every man and woman freedom of family life in harmony with the interests of society as a whole.

Here are the conditions necessary for contracting marriage in all Soviet Republics.

Marriage is a voluntary act and the laws of all Union Republics provide for the free consent of the parties. Soviet law emphatically refutes any pressure on the parties, including the ancient custom (practised in some parts of the U.S.S.R.) of parents pledging their word for their children; persons guilty of such practices commit a criminal offence.

The economic, social and legal conditions created by the Socialist State are such that the principle of free consent in marriage can be fully exercised.

A person guilty of violating this principle by coercion, threats or deceit is liable to prosecution.

There used to be cases in the Eastern regions of the U.S.S.R. when women were forced into marriage or made to continue living in the married state against their will; this was often done in obedience to ancient customs, survivals of the tribal system, as for instance, when a widowed woman was made to marry a relative of her husband's. All such practices are considered criminal and punishable by law.

The Soviet State has freed the individual from the class, national, religious and other restrictions in the sphere of relationships between man and woman which were in force before the Revolution (e.g., Greek-Catholics, Roman-Catholics and United Greeks were prohibited to marry non-Christians, etc.).

Soviet laws demand that persons about to contract a marriage should have reached a certain age. For most Union Republics the statutory age, both for men and women, is 18, the age of civil majority; in exceptional cases the executive committees of local Soviets may lower this age—in accordance with special applications—to 17 for women. In the Byelorussian S.S.R. the age at which a person can marry can be lowered to 16 for both male and female. In some Union Republics, for instance, in the Ukraine, Georgia, Armenia, Moldavia and Azerbaijan, women can marry at the age of 16.

In pre-revolutionary Russia marriages were allowed at a very early age: in the Transcaucasus males could get married at 15 and females at 13; males of the nomad peoples of Eastern Siberia could marry at 16, females at 14. Force of habit led to cases of very early marriages in some of the Eastern republics even after the October

Revolution. The Soviet State took a strong attitude in this question. It launched extensive educational work and issued decrees providing for criminal prosecution of persons guilty of forcing minors into marriage.

Another prerequisite of Soviet marriage law is the principle of monogamy. If one of the parties is already married the law forbids the registration of marriage. This is a very important principle of Soviet legislature and of socialist morality, and it is strictly in keeping with the existing state of things. The Soviet family is monogamous in the fullest sense of the term, justifying the words of Engels who said that, far from disappearing in socialist society, the monogamous family would, on the contrary, find its fullest realization.

We must own, however, that there still are cases when this important principle of socialist life is violated. This can be seen from the following example. A man concealed from his future wife and from the registrar the fact that he was already married. When his second wife learned about this, she applied to the court to have her marriage dissolved. "I do not want a bigamist for a husband," she said. The court, naturally, dissolved the marriage and brought a criminal case against the offender.

Soviet laws prohibit marriages between blood relations in a direct ascending or descending line and also between brothers and sisters. The codes of the Byelorussian and Georgian republics prohibit marriages between guardians and wards, between adoptive parents and adopted children until the guardianship or adoption is discontinued. There are no other obstacles to marriage in the Soviet Union.

Violation of the legal provisions for contracting marriage involves its annulment.

#### THE RIGHTS AND DUTIES OF MEMBERS OF FAMILY

Having entered into marriage, people have families. The children grow up, marry in their turn and have their own families. This brings about legal relationships between man and wife, parents and children, brothers and sisters, between grandparents and grandchildren, etc. What are the laws regulating these relationships?

In settling all issues between man and wife Soviet law holds that marriage is a free and voluntary union between them. Soviet law in no way detracts from the personalities of marriage partners, but, on the contrary, ensures their personal rights and upholds the dignity of each and also the absolute equality of man and wife.

This principle holds good for all legal relationships affecting man and wife. Take, for instance, the matter of the family name. The usual practice is for the wife to take the husband's family name, but Soviet law does not insist on this as was the case before the Revolution. According to Soviet law husband and wife can have a common family name which may be the husband's or the wife's, or each may preserve his and her own family name.

Nor does Soviet law set any limits regarding the married couple's domicile: if one changes domicile the other is not obliged to follow. Free choice of domicile does away with the coercive principle of old family laws which stated that "wife must follow her husband to his place of abode." Since marriage in the U.S.S.R. is a perfectly free and voluntary union, no such condition is enforced.

Husband and wife enjoy full equality in all other legal respects. Soviet law sets no limits to the social status of the married woman, she is not subservient to her husband's will. Soviet family laws hold that both husband and wife are free to choose their professions and occupa-

tions. The manner of conducting their household is the concern of the married couple. Property owned by husband and wife before marriage ranks as personal property, but property acquired in the married state is common property. When a dispute arises regarding its division the share of each is decided by the court, the work of the wife in keeping house and bringing up the children being considered equal to the work of the husband in providing the means of sustenance. In dividing the common property between husband and wife the Soviet court takes into account which of the parents will have the custody of the children. To provide the necessary conditions for the upbringing of children the court has full powers to decide what share shall go to the parent who has charge of the children.

When a husband or a wife dies, the surviving spouse has, together with the children and aged parents of the deceased, precedence over all other heirs. Soviet law admits of no curtailment of women's right to inheritance.

Members of families are in duty bound to aid one another. This duty has nothing in common with charity and cannot be abused by idle members of the family. Soviet laws entitle to maintenance by able-bodied members of the family only those whose age or state of health prevents them from working, i.e., children, aged people and invalids. A proviso says that a husband or a wife can demand support from his or her marriage partner only in case of lack of means and inability to work.

The laws regulating relationships between man and wife reflect the great changes introduced into these relationships by the socialist system. In Lenin's words, the proletarian revolution creates conditions for an effective renovation of marriage and relations between the sexes.

An interesting incident occurred a few years ago at the Social, Humanitarian and Cultural Committee of the U.N. Organization during the debate on the draft

Declaration of the Rights of Man. The initial draft all but ignored the important problem of equality of man and woman in the family. Objections were raised when the Soviet delegation suggested that a clause should be included reading "Man and woman shall enjoy equal rights both during marriage and upon its dissolution." However the suggestion was accepted by a majority vote.

The Soviet State sets great store by the friendship, mutual aid and mutual understanding between parents and children, and fosters a sense of duty in both parents and children. The State allocates considerable sums to help parents to bring up their children, to enable mothers of large families to participate in social production and to broaden their horizons. In this way the State consolidates the family.

Socialist society which extends year by year the sphere of social upbringing does not use it as a counterweight to the family, it bases its activity in this respect on combining the two. A feature of the Soviet approach to children and the family is that, while extending state educational facilities (pre-school institutions, schools, etc.), it attaches no small importance to family upbringing and to the role of parents in it. This point is stressed in a number of directives of the Party and the Government, as, for instance, in the important Decision of the Central Executive Committee and the Council of People's Commissars of the U.S.S.R. of June 27, 1936, in which upbringing of children was proclaimed a civil duty of parents. According to the Decree of the Presidium of the U.S.S.R. Supreme Soviet of July 8, 1944, maternity medals and Orders are granted to women not just for giving birth to several children but for bringing them up.

On presenting orders to a group of Mother Heroines in 1945, Mikhail Kalinin said: "Under the tsarist regime a large family was a great burden to working folk, for the state was not interested in the number of children a

man had and showed no solicitude for them. The Soviet State, whose prime concern is the well-being of the working people, naturally is very solicitous of those who bring children into the world and work hard to bring them up as Soviet citizens."

Soviet law protects the rights of parents in every way. But while standing guard over parental rights, Soviet laws dealing with the family demand, in conformity with the constitutional principle of State protection of the interests of children (Article 122 of the Constitution of the U.S.S.R.), that these rights should be exercised in the interests of children.

Soviet society guarantees parental rights—the right to bring up children and to protect their interests. Like all other rights and freedoms enjoyed by citizens of the U.S.S.R., parental rights are not merely proclaimed, they are fully guaranteed, and the State does everything to enable parents to enjoy their rights.

A very important duty of parents is to bring up their children in the spirit of love and devotion to their country, to inculcate an honest attitude to civic duties and respect for the rules of socialist behaviour.

Care for their children's health and physical development is another important duty of parents. It is at the same time their natural desire in the fulfilment of which they are aided by the State through the network of institutions protecting the health and seeing to physical development of the younger generation.

Parents are obliged to see to the education of their children and to prepare them for socially useful activities. The State takes upon itself the bulk of the responsibility for and expenditure on education. But the parents must send their children to school, supervise their progress and help the school in giving the children a communist upbringing. Parents refusing to send their children to school are liable to punishment.

Parents have the duty of looking after their children, and failure to do so involves certain penalties. Thus, parents are held materially responsible for any damages done by minors under 14 years of age; responsibility for damages done by juveniles of 14 years and upwards is shared by delinquent and parents. The militia are empowered to fine parents for the disorderly behaviour of their children in public places. The militia and the offices of the Ministry of Education report to Party and trade-union organizations at the parents' place of work any failure to look after their children.

When the failure of parents to perform their duties as regards their children leads to grave consequences or when parents abuse their rights, harsher measures are taken.

Parents are the natural guardians and custodians of the rights and interests of minors, and no legal procedure is required to constitute them as guardians. But if parents abuse their rights, they can be deprived of them by decision of the court. True, instances of this nature are extremely rare in the Soviet courts. If, however, a parent fails to perform his duty or abuses his rights, the court takes his children from him and places them under the care of ward and guardianship authorities, making the parent pay for the maintenance of the children, since deprivation of parental rights does not abolish the duty of maintenance.

Maintenance of their children until they are of age is one of the fundamental duties of parents. Soviet law holds this duty to be very important. In the case of parents failing to perform this duty voluntarily the court makes them pay one quarter of their earnings to support one child, one-third for two children and half for three and more children.

According to Soviet law wilful non-payment of alimony for the maintenance of children and failure to support

them until they are of age is a grave offence punishable by imprisonment.

Disputes are apt to arise during the hearing of alimony cases. In settling them the court is always guided by the interests of children. The following examples will serve as illustration.

A mother of two children applied to court to fix a sum for the maintenance of the children, the said sum to be deducted from her husband's wages. "He has not made any contribution to the house for a long time," she wrote, "he spends all he earns away from home." The defendant objected to having to pay alimony on the plea that he was living with his wife. But seeing that he would not give anything for the maintenance of his children unless forced to do so, the court ruled that a definite sum should be deducted from his wages for his children.

In another case a father would not give anything for the support of his six-year-old child. When the mother sued him the father refused to pay on the plea of three years' "prescription" of which he had heard somebody say something. His arguments were as follows: "The child was born more than three years ago, therefore, my former wife has lost the right to alimony." The court, naturally, disregarded his plea, explaining that the alimony relationship is a durable one, continuing until the child's coming of age, and that alimony must be paid throughout that period.

Parents must support not only children who are under age but also their children who, although of age, are for some reason or other unable to work and in need of aid. The monthly amount of alimony in such cases is determined by the court, depending on the income of the parents.

Grown-up children must in turn support their parents, and if parents who are in need of aid are denied it by their children they can apply to the court, which

determines the sum to be paid, also depending on the material standard of the parties.

Sometimes the press reports cases when grown-up children neglect their parents who need material aid. The indignation with which the public react to facts of this sort shows how alien such conduct is to Soviet morality. And indeed courts are seldom called upon to deal with cases of this nature. Whenever they come up, the courts oblige the children to maintain their parents.

When parents have several grown-up children the amount to be paid by each is fixed in accordance with his means. There are instances, however, when for some reason or other, parents do not demand aid from all their children but only from one or two. In one case the father of three sons refused to take anything from two of them and wanted his youngest son alone to support him. The court considered this unjust as regards the youngest son and ruled that he should pay only a part of the sum claimed.

Inheritance rights of parents and children are also mutual, children inheriting their parents' property and vice versa. The law places old people and children under special protection as regards inheritance rights: no testator can deprive his invalid parents and children under age of their share of inheritance.

The Decree of July 8, 1944, repealed the earlier right of a child's mother to go to court to establish paternity and obtain an order for alimony from the person named as the father but who is not her registered husband. The practice now is for the child to take the mother's name and a patronymic chosen by the mother.

Along with the annulment of this right the State granted the right to receive a State allowance for the child or to place the child in an infants' home or kindergarten at State expense. The home cannot refuse to receive

a single mother's child and she reserves the right to take the child back whenever she so desires.

If a single mother marries the father of her child and if he admits parentage the child enjoys all the rights and privileges of children born in wedlock.

A single mother is a member in full standing of Soviet society, an active participant in socialist construction, like any other woman. The State grants her an allowance for the child and the laws provide for penalties against anyone insulting the dignity of motherhood.

The thesis of parents being their children's natural guardians applies equally both to father and mother, neither enjoying any privileges or suffering from any restrictions in this respect.

Take, for instance, the question of the child's surname. Since Soviet law is based on the principle of the absolute social equality of man and woman, children may bear either the father's or the mother's surname. In the event of the parents being divorced, the children retain the name given at the registration of birth. But sometimes the parents' separation involves changing the children's surname. Here is an instance: a married couple, the Sergeyevs, gave their child the family surname. Upon divorce the mother, who retained custody of the child, resumed her maiden surname of Voronova. It might have been awkward for the child to have a surname different from the mother. In such cases if the mother's wish does not interfere with the interests of the child, she can have the child's surname changed to hers, with permission of the ward and trusteeship authorities.

When parents separate the difficult problem arises as to which of them shall keep the children. Under Soviet laws this matter is settled by the parents themselves, but if they disagree it is decided by the court. Disputes by divorced parents over their children are among the most complicated of all the issues of family law.



The judge must decide a dispute between two equally rightful claims of the parents, between two feelings equally protected by law. One cannot fail to perceive in the dry words of the record the dramatism of a dispute of this kind: "The plaintiff admits that the children living with their father are well cared for, but wants to take one of them, because she cannot live without her children." The judge has before him two human beings, a father and a mother, whose conduct towards their child is beyond reproach. The only thing they can be reproached for is that, by their dissent, they find themselves in court and their child the object of a dispute.

However, affection for the children and solicitude for their well-being are not always the only motives of such disputes. Sometimes survivals of the past manifest themselves in the motives actuating the behaviour of parents: one tries to keep the child in order to evade the unpleasant duty of paying alimony, another would keep the child at all costs without stopping to think of the child's interest, and so on.

Here are some examples illustrative of the courts' attitude in settling disputes of this nature.

Citizen E. applied to a procurator to have his child given to him, alleging that his former wife had refused to keep the child. The procurator sent the case to the people's court which ruled that E. should have the child, since the mother had sent it to live with her father. The case was appealed to the Judicial College for Civil Cases of the U.S.S.R. Supreme Court. It was established that the child had been living with the mother and that the grandfather had taken charge of it for the period of its mother's illness. There was nothing to back up the plaintiff's allegation that the mother had refused to bring up the child. Moreover, it became clear that the plaintiff had deserted his family six months after the birth of the child and the mother had to bring it up herself, under

difficult wartime conditions. Since E. had not contributed to the child's upkeep the mother had applied to the court for a maintenance order, and instead of paying the alimony, he in turn had applied to the procurator for custody of the child. In deciding to give the child to the father the people's court was guided by the desire to provide it with better conditions—the father being better off than the mother. But the Supreme Court repealed the decision as erroneous and pointed out that in deciding the question the court should have taken cognizance of all the circumstances, i.e., which of the parents was better qualified to bring up the child, which of them the child loved best, etc.

In the above instance the court decided in favour of the mother, but here is another case when the child's interests called for a different decision.

The G.'s divorced, the wife taking her newly-born baby with her. When it was 11 months old she brought it to her former husband and left it there. Two years later she applied to the court to have her child back. The court decided in her favour on the grounds that "in such disputes the decision should be in favour of the mother."

The Supreme Court of the U.S.S.R., however, found this argument incorrect and pointed out that "such disputes should be decided for the good of the child and not on the erroneous assumption that one of the parents has a better right to bring up the child." It stated further: "In taking care of the child the father showed a stronger parental affection for it than the mother. Citizeness G. brought the sick child to its father in winter, at a time it needed a mother's care most of all. For two subsequent years she showed no interest in the child, while the father surrounded it with every care, the child recovered and is now in perfect health."

As can be seen from the above, the decisive factor in disputes about children is the children's interests, and the decision is prompted by the circumstances in each

particular case. The court takes into account the combination of many factors, such as the material standard of the parents, their characters, moral fibre, the conditions each parent can provide for the child, and the inclinations of the child itself.

In granting parents' pleas for removing their children from strangers or relatives the court follows the principle that parents, provided their attitude to the children is not harmful, have priority in bringing up their children.

To treat in full of the legal relationships within the family, mention should be made of *the relations between other members of the family*. Until children are of age they are under the guardianship of their parents who are obliged to support and educate them. But if for some reason (the death of the parents or lack of means) the parents are unable to support the children, the duty devolves on the grown-up brothers or sisters. The amount of alimony to be paid depends on means of the defendant. Brothers and sisters are considered lawful heirs. If a deceased person had no husband or wife, no children, parents or dependents, his property goes to his brothers and sisters.

The law establishes reciprocal maintenance rights and duties between grandparents and grandchildren. Grandchildren under age or unable to work who have no means of their own but have grandparents of means are entitled to material aid from the latter. The question as to whether a maternal or a paternal grandparent must render this aid is decided in accordance with concrete circumstances (the whereabouts of the grandparent, his material standard, etc.). The court establishes the amount to be paid by the grandparent, not a percentage of earnings, but fixes a sum, depending on his means.

Grandchildren inherit grandparents' property in case one of the testator's children dies before him, when the

deceased's share falls to his children (the testator's grandchildren).

Grandparents with no means of their own and unable to work, in their turn, are entitled to maintenance by grandchildren possessing means. But grandchildren are made to provide for the grandparent only when the latter has no husband or wife capable of supporting him and no children. In this case, too, the court fixes the sum to be paid to the grandparent, and not a percentage of the grandchild's earnings.

A stepchild's status in the family depends on whether the child has been adopted by the stepparent. In case of adoption, which is fairly frequent in Soviet society, stepchildren have equal rights with own children. But where a child has not been adopted its interests are, nevertheless, carefully protected by Soviet law. The laws of the R.S.F.S.R. and of most of the other Union Republics stipulate that under certain conditions a stepparent must support his stepchild (or children). If a stepchild has been the stepparent's dependent for not less than ten years, he, in turn, is obliged to support the stepparent in case of illness or want.

Many Soviet families adopt and bring up children that are not their own.

Under Soviet law only infants and young people under age can be adopted. Any person who is 18 years old can adopt a child. Persons deprived of parental rights and those with interests opposed to the interests of the child cannot become adoptive parents. A person who has children of his (or her) own can adopt other children, and Soviet life knows many instances of people with children adopting orphans.

Adopted children enjoy the same rights as children by blood (the right to maintenance, to inheritance, pensions, etc.). Adoptive parents, in their turn, are in every

respect equal to own parents and are entitled to support from the adopted child, to inheritance, etc.

Families in the U.S.S.R. often bring up children who are either wards or over whom they exercise "patronage."

Guardianship is exercised over every child who does not live with its parents or in a children's institution. Guardians are appointed at the death of a child's parents, but in certain cases guardians are appointed when the parents may be alive, when they have been deprived of parental rights or when they are unable to attend to the child's upbringing for a long period of time. Guardians are appointed to fulfil the duties of parents. A guardian is the child's representative, in whose name and interests he fulfils his duties and exercises his rights: he must maintain his ward, look after his health, care for his physical upbringing, and see that he gets an education. A guardian controls his ward's property.

Under "patronage," a contract is drawn up between the person who undertakes the upbringing of a child (usually, an orphan), and the organization responsible for the child's welfare—a Public Education or a Public Health institution. The person exercising "patronage" over a child must supply it with food and clothing, send it to school, supervise its progress, teach it discipline and train it for work—just as his own children. "Patrons" of infants must submit them to medical examinations at definite intervals. The State grants "patrons" a monthly allowance.

Taking children into the family and bringing them up as one's own children—a noble act aimed at providing family life for parentless children—became widespread during the war years. Altogether, hundreds of thousands of children were welcomed into Soviet families in those years.

We should like to mention the example of Shaakhmed Shamakhmudov, an Uzbek blacksmith in the city of

Tashkent, who adopted 14 children. Among his adopted children are Uzbeks, Russians, a Ukrainian boy, a Jewish boy, a Moldavian girl, a Tatar boy and a Kazakh girl. For this patriotic act Shamakhmudov and his wife, Bakhri Akramova, won public acclaim.

#### DISSOLUTION OF MARRIAGE

Soon after the October Revolution, on December 18, 1917, the Soviet Government issued a decree proclaiming freedom of divorce. During the first years of socialist construction the Soviet State was not faced with the problem of taking measures against thoughtless approach to divorce, because the new, Soviet family was yet in the making. When, however, conditions were created for a stable family, it became necessary to regulate divorce procedure.

The questions of marriage and the family are not purely personal, and socialist society and the State cannot display indifference to them. The social significance present in every marriage makes the State interfere in these relationships and take measures to prevent wanton attitude to divorce.

Prior to the publication of the Decree of July 8, 1944, it was enough for a person desirous of obtaining a divorce to give an unsubstantiated application to the Registrar's Office and to pay a small fee at the registration of the divorce. In order to heighten the responsibility of the parties the Government introduced certain changes in this procedure already in 1936. But those changes were not sufficient and were not in keeping with the demands every Soviet citizen must meet in contemplating such a serious step.

Accordingly, by its Decree of July 8, 1944, the Presidium of the U.S.S.R. Supreme Soviet introduced further changes into divorce procedure. The Decree did not make

marriage indissoluble but allowed divorce on serious grounds and acted as a check on wanton divorce.

The law demands that divorce be effected publicly by the judgment of a court of law upon the filing of an application by one or both of the parties. The application must state the grounds for divorce. When the application is made the applicant pays 100 rubles stamp duty. Before the court tries the case the other party is summoned to the court to be informed of the contents of the application, to express his attitude in the matter and to name witnesses. Announcement of the divorce case is made in the local newspaper at the expense of the party bringing the action.

During the hearing the people's court establishes the reasons that caused the application for divorce and takes measures to reconcile the parties.

If reconciliation is not brought about by the people's court the plaintiff can appeal to a higher court. Divorce is granted by the Territorial, Regional, District and City courts and by the Supreme Court of an Autonomous Republic. These courts grant divorce in cases where they deem it necessary; if they see no legal causes for divorce they refuse the suit. When divorce is granted the court makes a decree relative to the custody of the children, decides which of the parents is to support the children and how the property between the parties should be divided. Each of the parties may assume the name he (or she) bore prior to marriage. The court also rules the sum one or both of the parties are to pay at the registration of the divorce. The Registrar's Office registers the divorce upon the court's decision coming into force. From the moment the entry of divorce is made in the register the marriage is dissolved.

In some cases (when one of the parties is insane, or cannot be located, or has been condemned to a long term of imprisonment) procedure is simplified, requiring no

preliminary application to a lower court, no high stamp duty at the registration, etc.

This procedure of obtaining divorce was established for the purpose mentioned in the Decision of the Central Executive Committee and the Council of People's Commissars of 1936, namely, for combating thoughtlessness in treating one's family and family duties.

What are the legal grounds for divorce under the present law? In what cases does the court grant a divorce and when does it refuse the suit?

Soviet law does not follow the formal principle of giving an exhaustive list of legal causes for divorce and of refusing all suits which do not contain these causes. Such a principle would militate against the best decision in each particular case. Life is highly complex and varied, and judicial practice shows that causes which are valid in one case may be invalid in others.

The law provides for one criterion in the dissolution of marriage—the criterion of necessity. The Decision of the Plenum of the U.S.S.R. Supreme Court of September 16, 1949, entitled *Judicial Practice in Dissolution of Marriage* formulates this criterion as follows: "A court may dissolve a marriage only when, upon studying the concrete circumstances of the case, it arrives at the conclusion that the action has been brought on well thought-out and thoroughly substantiated grounds and that continuation of the married state would be contrary to the principles of communist morality and interfere with the creation of normal conditions for living together and bringing up children."

Here are some concrete cases where the court did not deem it necessary to dissolve the marriage. The S.'s had their marriage registered in 1948 after living together for a year. In March 1954 the husband applied for divorce on the grounds that his wife was suffering from a chronic nervous ailment and was unfit for marital relations. The

court made a wrong decision and the case was appealed to the Supreme Court of the U.S.S.R. The Judicial College for Civil Cases refused the divorce, because "the plaintiff has been unable to furnish proof of his wife being ill of an incurable nervous disease." It added that the plaintiff's appeal for divorce "was not substantiated by any serious argument and was prompted solely by his desire to free himself from rendering his wife moral and material aid and helping her to recover. Far from constituting grounds for divorce, the plaintiff's wish to get rid of an invalid wife should be condemned, since such an attitude to one's marriage partner who is in difficult circumstances is contrary to the principles of socialist morality."

In another instance a wife brought a suit for divorce after ten years of married life. The couple had two children and the wife had a 12-year-old son by her first husband. She was 37 years old and worked as a shop assistant. The husband was a war invalid. In her application the wife complained of her husband's treatment of the children and particularly of her eldest son. Witnesses, however, refuted the charge. The defendant objected to divorce, he asserted he was fond of the children and wanted to bring them up himself. Plaintiff's allegation that the husband was a bad father was disproved by the testimony of witnesses and the court refused to grant a divorce. In making its decision the court pointed out that "the couple have children whom they must bring up, and this task is best performed by the joint effort of both parents."

Citizen O. brought an action for divorce against his wife and when the regional court refused the suit he appealed to the Supreme Court of the R.S.F.S.R. The latter changed the previous decision on the following grounds: "The family has been broken up, since the husband and wife are living separately, each has taken his share of property and the wife receives alimony from

the husband." The Chairman of the U.S.S.R. Supreme Court disagreed with this decision and submitted the case to the Judicial College for Civil Cases. Here is the decision of the College: "The couple have two children. A few years after the marriage O. was transferred to Sakhalin, his new place of work. He took his family with him. Then he deserted his family taking with him the proceeds from the sale of the property acquired after the marriage. The reason for the suit was the division of property and support of the children. The case contains no proof of circumstances having arisen of late that would preclude renewal of marital relations, provided the wife does not object. By refusing to grant a divorce the regional court expressed its disapprobation of the plaintiff's attitude to his family. The court insisted that the parties should re-establish normal relations for stable family life and for bringing up the children."

The Judicial College of the U.S.S.R. Supreme Court corrected the decision of the Supreme Court of the R.S.F.S.R. in repealing the correct decision of the regional court directed at consolidating the family and passed in conformity with the Decree of the U.S.S.R. Supreme Soviet of July 8, 1944. Thus, the Supreme Court of the U.S.S.R. upheld the decision of the regional court.

On the other hand, when there are serious grounds for divorce, when divorce is desired because it is impossible for the parties to live in the married state, the court grants divorce. Here are some examples.

The K.'s were married in 1946 and had a daughter born in that year. By decision of a court K. had been paying alimony to his wife since 1949. In November 1953 the wife applied for divorce because of the husband's habitual drunkenness and ill-treatment of the family. The plaintiff stated that the father's conduct had a harmful influence on their little daughter. At first the regional court refused to grant divorce on the ground that there was no proof of

the defendant's habitual use of intoxicating liquor, that quarrels in the family had been provoked by the plaintiff's relatives and that to preserve the marriage was in the child's interests. But the Supreme Court of the U.S.S.R., trying the case in July 1954, found the regional court's decision erroneous and stated that: "the circumstances of the case clearly suggest that the marital relationships cannot be established in the family, they are in contradiction to it. It is clear from this case that the defendant, despite his denial of the charges, was not disposed to establish normal relations with his wife. Moreover, during the hearing in the people's court he had to admit that it was impossible to continue living in the married state. Witnesses testified that the defendant was a habitual drunkard, that he systematically ill-treated members of the family and that prior to applying to court the plaintiff had repeatedly complained of her husband's behaviour to social and Party bodies.

"The plaintiff's allegation of non-support was borne out by the fact that in 1949 a maintenance order was made against the defendant.

"The regional court's statement that the parties could re-establish normal marital relations provided the plaintiff consented to live apart from her parents is wrong on principle.

"It can be seen from the materials of the case and from additional materials that the plaintiff is the only daughter of her aged mother whom she supports.

"The court's statement that the plaintiff's mother is to blame for the defendant's ill-treatment of his family is groundless and contradicts the circumstances of the case." All these considerations guided the Supreme Court of the U.S.S.R. in granting the plaintiff a divorce.

Here is another instance when a lower court refused a divorce case brought by the husband and when the U.S.S.R. Supreme Court granted a divorce. The evidence

showed that the plaintiff was a good husband and father. His wife had left him, taking with her the children and property and established a new domicile. The husband had made several attempts to keep the family intact; the wife promised to come back but failed to keep her promise, and was now living with another man. The Supreme Court of the U.S.S.R. stated that "the circumstances being what they are, the refusal to grant divorce to the plaintiff is groundless, and the court's decision to maintain the family would be mere form devoid of content." The U.S.S.R. Supreme Court ruled that the lower court revise its original decision.

A few years ago a divorce case was heard in Lenina-bad, in the Tajik S.S.R. The plaintiff applied for divorce on grounds that her husband adhering to old-time prejudices did not allow her, a graduate of a Pedagogical Institute, to work as teacher and wanted her to devote herself to house-work. The local court did not attach due importance to the plea and the case came before the Supreme Court of the U.S.S.R. which recognized the validity of the plaintiff's grounds. The Supreme Court noted that the husband's attitude towards the wife's status in the family had brought about a separation and instructed the local court to "go deeper into the actual relations between the parties and to establish valid grounds for divorce."

Citizeness T. brought the action and the court which tried it refused to grant a divorce. The Supreme Court of the U.S.S.R. reviewed the case and found the decision erroneous. It stated that: "T. alleged in her application that during her stay in hospital her husband had brought into their home another woman with whom he lived as man and wife. She stated that the husband's unfaithfulness and ill-treatment of the plaintiff made it impossible for her to re-establish the former marital relationship, although they had been married for a long time. The

court, however, did not verify the correctness of the plaintiff's statement, it did not seek the true reasons for divorce, but merely refused the suit." The Supreme Court of the U.S.S.R. ruled that the court revise its decision.

In another case a wife ill-treated her husband's children by the first marriage and his aged mother to such an extent as to make the children leave home. She insisted on her husband removing his mother from their home because, as she asserted, he did not earn enough to support her. At the same time the wife neglected her household duties, although she did not work anywhere. The court decided to grant a divorce.

And one last example. Citizen K. brought an action for divorce against his wife to whom he had been married for over two years, on the plea that she refused to bring up his two children by previous marriage and often insulted them. The Supreme Court of the U.S.S.R. held that the lower court's refusal to grant a divorce was groundless. It instructed the court "to establish the actual relationship of the parties and whether the family can be maintained without infringing the interests of the children." It noted also that "the defendant had not objected to divorce" and suggested that all these circumstances be taken into account in reviewing the case.

Judicial practice offers numerous examples showing that the mutual consent of the parties is of considerable importance in obtaining divorce. But the idea entertained by mis-informed persons that refusal of one of the parties is an obstacle to divorce, is erroneous. The court's duty is to hear the arguments of both husband and wife, go deep into the circumstances and grant a divorce whenever necessary.

The Decision of the Plenum of the U.S.S.R. Supreme Court of September 16, 1949, states that: "Court decisions on divorce cases are of great social and educational importance, because they must facilitate a correct under-

standing of the significance of marriage and the family in the Soviet State and inculcate upon the population respect for the family and marriage based on the lofty principles of communist morality and protected by Soviet law."

\* \* \*

Soviet marriage and family law is in keeping with socialist ethics and morality, because, like other measures implemented by the Communist Party and the Soviet Government, it is directed towards consolidating the moral principles of socialist society, towards solving an important task of the Soviet State—consolidation of the family.

### *Appendix*

Hereunder are excerpts from the R.S.F.S.R. Code of Laws governing Marriage, the Family and Guardianship adopted by the All-Russia Central Executive Committee at its Third Session (XII Convocation) on November 19, 1926, and put into effect on January 1, 1927.

Each of the sixteen Union Soviet Republics has its Code of Laws on Marriage, the Family and Guardianship. Although there are certain differences in these Codes, the legal regulation of these relationships in all the Union Republics is, in the main, similar to the following articles of the R.S.F.S.R. Code.

Since 1936 the basic problems affecting marriage and the family have been regulated by all-Union legislation, such as the Decree of the Central Executive Committee and the Council of People's Commissars of the U.S.S.R. of June 27, 1936, the Decree of the Presidium of the U.S.S.R. Supreme Soviet of July 8, 1944, the Decree of the Presidium of the U.S.S.R. Supreme Soviet of March 14, 1945, and others.

The Codes in the Union Republics have been changed to correspond with these all-Union laws.

The following excerpts from the R.S.F.S.R. Code of Laws governing Marriage, the Family and Guardianship are presented in the form amended to correspond with the all-Union laws.



Excerpt from the Decision of the All-Russia Central Executive Committee adopted by the Third Session (XII Convocation) *On the Code of Laws governing Marriage, the Family and Guardianship.*

For the purpose of regulating legal relationships deriving from marriage, the family and guardianship based on the new, revolutionary principles, of safeguarding the interests of mothers and especially children, and of establishing equal rights of husbands and wives in property relations and in bringing up children, the All-Russia Central Executive Committee resolves:

1. To endorse and introduce as from January 1, 1927, the Code of Laws governing Marriage, the Family and Guardianship.

*Excerpts from the Code of Laws governing Marriage, the Family and Guardianship.*

SECTION I  
MARRIAGE

Chapter 1

General Principles

*From Article 1.* Registration of marriage is established both in the interests of the state and society and of safeguarding the personal and property rights and interests of husbands, wives and children.

Only a duly registered marriage imposes the rights and duties of the parties provided for in this Code.

*Article 2.* Registration of a marriage in the Registrar's Office is incontestable proof of the fact of marriage. Documents certifying the performance of the marriage ceremony in keeping with religious rites have no legal validity.

*Note:* Marriages concluded in keeping with religious rites prior to December 20, 1917, and in enemy-occupied localities prior to the establishment of Registrar's Offices, have the same status as registered marriages.

Chapter 2

Conditions of Marriage Registration

*Article 4.* The conditions enumerated hereunder must be complied with for registration of a marriage: *a.* mutual consent of the parties to have the marriage registered; *b.* the parties must have reached the statutory age; *c.* the parties must produce documents enumerated in Article 132 of this Code.

*Article 5.* The minimum age for marriage is established at eighteen.

*Note:* The presidiums of the Central Executive Committees of the autonomous republics, the presidiums of regional executive committees of autonomous regions, the presidiums of district executive committees, and of town and district Soviets in towns can, in exceptional cases, lower the minimum age (on special application) for women, by not more than one year.

*Article 6.* Marriages cannot be registered: *a.* between parties of which at least one is already married; *b.* between parties of which at least one has been legally certified feeble-minded or insane; *c.* between relatives in a direct ascending or descending line, and between full and half-brothers and sisters.\*

\* Relatives in a direct ascending or descending line are: grandfather and grandmother, son, daughter, grandson, granddaughter; full brothers and sisters are the children of one father and mother, half-brothers and half-sisters are the children of one father and different mothers or of one mother and different fathers.

*Chapter 3*

**Rights and Duties of Husband and Wife**

*Article 7.* Upon registering marriage the parties express the wish either to bear one common family name (assuming either the husband's or the wife's name) or to preserve their original surnames.

*Article 9.* Both husband and wife are perfectly free in their choice of profession or occupation. Which is to be housemaker is decided by mutual consent of the parties. Change of domicile by one party involves no obligation for the other to follow.

*From Article 10.* The property of the parties before marriage is the separate property of each. Property acquired by husband and wife in the married state is common property. In case of dispute the share of each is determined by a court of law.

*Article 13.* Husbands and wives can conclude between themselves all legal property contracts. Agreements between a husband and wife infringing upon the property rights of one of the parties are invalid and are not binding either for them or for any third party; parties to such an agreement can repudiate it at any moment.

*Article 14.* A husband or wife unable to work and in need of support has the right to support from his (or her) marriage partner in the event of the court establishing the latter's ability to do so.

*Article 15.* A husband or wife unable to work preserves the right to support from the marriage partner even upon dissolution of the marriage until there occurs a change in the conditions which, according to Article 14 of this Code, provide grounds for support, but not longer than one year after dissolution of the marriage.

*Article 16.* The sum for the support of a husband or wife unable to work is determined by the court through usual legal procedure.

*Chapter 4*

**Dissolution of Marriage**

*Article 17.* A marriage ceases with the death of the husband or wife or when a notary or a court of law establishes the fact of death.

*Article 18.* During the lifetime of husband and wife the marriage can be dissolved only through divorce granted by a court of law upon the application of one or both parties. The divorce is effected publicly. Upon the application of the parties the court can conduct a divorce case *in camera*, when this is necessary.

*Article 19.* The following procedure must be adhered to in bringing a divorce suit.

*a.* Application for divorce is submitted to the people's court, stating the grounds for divorce and giving the family name, first name and patronymic of the other party, his (or her) date of birth and whereabouts. A sum of 100 rubles is paid by the applicant when submitting the application.

*b.* The other party shall be summoned to the court to be informed of the application filed against him, to express his attitude in the matter, and also to name witnesses.

*c.* Notice shall be inserted in the local newspaper announcing the suit for divorce, at the expense of the party bringing the action.

*Article 20.* The people's court must establish the grounds for divorce and take measures to reconcile the parties, for which purpose the court summons the parties and, if the need arises, witnesses.

If no reconciliation takes place at the people's court the plaintiff can appeal to a higher court.

*Article 21.* The territorial, regional, area, town courts and the Supreme Court of an autonomous republic have the right to pass decisions of divorce.

*Article 22.* In the event of a territorial, regional, area, town court or the Supreme Court of an autonomous republic deeming it necessary to dissolve a marriage, the court must:

- a.* Decide which of the parents is to have the custody of the children and to support them;
- b.* Establish the division of the property between the parties (determine the share or name articles that go to each party).
- c.* Grant each of the parties the family name borne previous to the marriage—if the party so wishes;
- d.* Determine the sum one of the parties (or both) must pay when the divorce is registered.

SECTION II  
RELATIONSHIPS BETWEEN PARENTS, CHILDREN  
AND OTHER RELATIVES

*Chapter 1*

**General Principles**

*Article 25.* The entry of a birth in the register at the Registrar's Office is proof of a child being born of the parents mentioned in the register and can be challenged only in a court of law.

*Article 26.* Father and mother of the child are entered in the birth register.

*Article 27.* Upon registering a child born out of wedlock the child receives the mother's family name and a patronymic of the mother's choice.

*Article 28.* If an unmarried mother enters into a registered marriage with the father of the child and if the father acknowledges himself as such, the child acquires all the rights of children born in duly registered marriage, receives the patronymic derived from the father's name and, if both parents wish it, the father's family name.

*Article 29.* A woman cannot apply to court for establishing the paternity of her child and for alimony from a man with whom she had not entered into a duly registered marriage.

*Note:* Claims for alimony by mothers of children born prior to the publication of the Decree of the Presidium of the U.S.S.R. Supreme Soviet of July 8, 1944, from persons to whom the mothers are not married can be heard, provided the defendant is entered in the register as the child's father.

*Article 30.* Children born prior to the publication of the Decree of the Presidium of the U.S.S.R. Supreme Soviet of July 8, 1944, of parents whose marriage had not been registered are entitled upon his death to inherit from the father (if entered as such in the register), and to receive pensions and state benefits for military men's families equally with children born of a registered marriage.

*Chapter 2*

**Rights and Duties of Relatives**

*Article 33.* Parental rights are exercised exclusively in the interests of children; in cases of abuse of parental rights the court can deprive parents of these rights.

*Article 34.* Where the parents have a common family name the children, too, must bear this name. If parents have different family names they can agree as to the family name of the children. If no agreement is reached on this point, the children's family name is established by ward and trusteeship authorities.

Upon dissolution of the parents' marriage children bear the name they received at birth.

Where a parent has the custody of a child and wants it to bear his family name, the ward and trusteeship authorities settle the matter in the interests of the child.

*Article 35.* A child of parents who are citizens of different countries, but one of whom was at the time of the child's birth a citizen of the R.S.F.S.R. (provided at least one of the parents resided in the U.S.S.R. at the child's birth), becomes a citizen of the R.S.F.S.R. If, however, one of the parents was a citizen of the R.S.F.S.R. but at the birth of the child both parents lived outside the U.S.S.R., the child's citizenship is determined by the will of the parents.

*Article 36.* Change of citizenship by one of the parents, citizens of the R.S.F.S.R. residing in the U.S.S.R., does not affect the citizenship of their children. In the event of one of the parents, citizens of the R.S.F.S.R. living outside the U.S.S.R., changing his citizenship, the citizenship of the children is decided by the parents.

*Article 37.* The parents' agreement as to their children's religion has no juridical significance.

*Article 38.* All measures in respect of their children are taken jointly by the parents.

*Article 39.* In cases of disagreement all disputes between parents are settled by ward and trusteeship authorities together with the parents.

*Article 40.* In case of separate domicile the parents agree as to the custody of their children under age. Where no agreement is reached the question is settled through court procedure upon application to a court of law.

*Article 41.* Parents are obliged to take care of their children under age, in particular to see to their upbringing and to prepare them for socially useful activities.

*Article 42.* Parents are obliged to maintain their children under age as well as grown children who are in need of aid and unable to work.

*Article 42 (1).* Stepparents are obliged to maintain children under age and also grown children in need of aid and unable to work in the following cases: *a.* if the

children's parents are dead; *b.* if the parents are unable to maintain the children.

This duty is enforced on a stepparent, provided the child was the stepparent's dependent before the death of its father or mother, or before the existence of the conditions mentioned in clause "b" of the present article.

Stepchildren are obliged to support their needy or invalid stepparents provided they have been the latter's dependents for not less than 10 years.

*Article 42 (2).* A person inheriting the property of one who had supported children or who had been obliged by law to support them, must maintain the children under age, in need of sustenance, and those unable to work, within the limits of the property inherited.

Where an inheritance goes to several persons, the obligation foreseen in the present article is borne by them proportionally to the share of the inheritance.

*Note:* This duty devolves in the following cases: *a.* if the children's parents are dead; *b.* if the parents lack the means to maintain the children.

*Article 42 (3).* Where persons who have undertaken to bring up and maintain children cease to do so, they must pay alimony for the maintenance of children under age, and those unable to work, in the following cases: *a.* if the children's parents are dead; *b.* if the parents lack means for maintaining the children.

The obligation foreseen in the present article does not apply to guardians and trustees or to persons who undertake to bring up a child under a contract with the Public Education, Public Health or other state bodies.

*Article 43.* Parents must safeguard their children's personal and property rights and represent the children at courts and other institutions.

*Article 44.* Parents can demand through court that their children be returned to them by any person who keeps the children not on the strength of law or a court decision.

The court is not bound by the parents' right and acts in each given case entirely in the interests of the children.

*Article 46.* Where parents fail to perform their duties or abuse their rights as regards their children, and also in case of cruelty, the court can take the children from the parents and place them under the protection of ward and trusteeship authorities making both parents pay alimony when necessary.

*Note:* In cases when it is dangerous for children to continue living with the parents or persons entrusted with their custody, ward and trusteeship authorities can take the children from them, pending decision of the court.

*Article 47.* Where parents are deprived of their parental rights by a judicial decision the ward and trusteeship authorities are obliged to let the parents see the children, except in cases when such meetings may be harmful to the children.

*Article 48.* The obligation to maintain children devolves on both parents, the sum being determined in accordance with their means.

*Article 49.* Sons and daughters are obliged to maintain their parents who are in need of aid or who cannot work.

*Article 50.* Where parents refuse to maintain children and children refuse to maintain parents under the provision of Articles 42 and 49 of this Code, the persons entitled to maintenance can apply to court for redress.

Where a marriage has been registered or where a defendant has been entered in the register as the child's parent, the court dealing with cases of alimony from parents, simultaneously with filing the application fixes a provisional sum which the defendant must pay for the upkeep of the children pending a final decision.

*Note:* In the event of a change in the material status of the parents or children the court's decision can be altered through usual legal procedure.

*Article 51.* Deprivation of parental rights does not absolve the parents from the duty of supporting the children.

*From Article 51-a.* Where alimony is paid for one child it amounts to one quarter, for two children a third, and for three or more children, half the defendant's earnings.

Alimony paid by a collective farmer is calculated in accordance with his work-day units, the percentage remaining as above.

*Article 52.* Persons with the obligation of joint support pay alimony on a parity basis, with the exception of cases when, owing to a difference in their material standards, or the absence of one of them, or some other grave reason, the court deems it necessary otherwise to define their share in the discharge of this obligation.

*Article 54.* Brothers and sisters under age in need of maintenance are entitled to such from brothers and sisters possessing sufficient means in cases when the former cannot be supported by their parents owing to the latter's absence or lack of means.

*Article 55.* Grandparents unable to work and in need of support are entitled to it from grandchildren possessing sufficient means, if they cannot receive such from their husbands (or wives), or children. Equally, minor or invalid grandchildren in need of support are entitled to receive it from grandparents with sufficient means, if they cannot receive it from their parents.

*Article 56.* Children born to members of a peasant household are considered members of the household to which their parents belong.

In the case of the parents belonging to different peasant households their children can be registered as members of one of the households, according to the choice of the parent who has the custody of the children.

Disputes as to a child's affiliation to this or that household are settled by the court in the interests of the child.

*Article 56 (1).* In addition to rights as members of a household, children born to a member of a peasant household (see Article 56) are entitled to support from their father's or mother's personal incomes as per Articles 48 and 50 of this Code.

### Chapter 3

#### Adoption

*Article 57.* Adoption is allowed only in relation to young children and minors and solely in the children's interests.

*Article 59.* Adoption is effected by ward and trusteeship authorities and is subject to registration at the Registrar's Office.

*Note:* Adoption of children of Soviet citizens by citizens (subjects) of other countries resident in the U.S.S.R. is allowed, provided the rules set out in this Chapter are complied with and, in addition, the sanction of the Presidium of the gubernia, area,\* or some other executive committee is obtained in each individual case.

*Article 60.* At the request of the adoptive parent the adopted child can be given the adoptive parent's family name and the patronymic derived from the name of the adoptive father.

At the request of the adoptive parents they can be entered in the register as the child's parents.

*Article 61.* If an adopted child has parents or a guardian, or a trustee, the consent of his parents (not deprived of their parental rights), or guardian, or trustee is necessary for the child's adoption.

\* Regional (territory) or district—depending on the administrative division of the territory.

*Article 62.* If the person who wishes to adopt a child is married, the consent of the wife (or husband) is necessary.

*Article 63.* If the child has reached the age of ten, the adoption, taking the adoptive parent's family name and patronymic derived from the adoptive father's name, and the registration of the adoptive parents as the child's parents can be done only with the child's consent.

*Article 64.* Adopted children and their progeny enjoy the same rights and have the same obligations (in personal and property relations) as regards their adoptive parents, and vice versa, as parents and children related by blood.

*Article 65.* Adoption effected in the absence of the child's parents or without their consent, can be declared null and void by ward and trusteeship authorities if it is in the child's interests to be returned to his parents. In annulling adoption the child's consent, if he has reached the age of ten, is required.

*Article 66.* Any person or institution can bring a suit for annulling adoption if this is in the child's interests.

*Article 67.* In the event of adoption being annulled, the court can take the child from his adoptive parents and place him in the hands of ward and trusteeship authorities; besides, the court has the right to make the adoptive parent contribute to the child's support.

### SECTION III

#### GUARDIANSHIP AND TRUSTEESHIP

##### Chapter 1

#### General Principles of Guardianship and Trusteeship

*Article 68.* Guardianship and trusteeship are established for the purpose of safeguarding persons incapable of protecting themselves, their legal rights and interests, and also their property in cases provided for by the law.

*Article 69.* Guardianship is established for children up to the age of fourteen and for persons legally certified as feeble-minded or insane. In addition, guardianship is established in cases foreseen by the law for the property of persons whose whereabouts are unknown, or of deceased persons. Guardians exercise their rights and discharge their duties in the name and interests of the wards.

*Article 70.* Trusteeship is established for minors between 14 and 18 and adults whose state of health prevents them from safeguarding their own rights. Trustees assist these persons in all cases when exercising their rights and fulfilling duties, and protect them against abuses by third parties.

*Article 71.* Parents and adoptive parents are acknowledged guardians and trustees without being appointed as such.

*Article 74.* Ward and trusteeship authorities appoint guardians or trustees from among persons related to the ward or persons named for this office by any public organization, such as a trade union, the peasants' mutual aid committee,\* or by some individuals, for want of an organization.

*Article 76.* In selecting a guardian or a trustee, his personal character, fitness to fulfil his duties and the relations between him and the ward, and also the latter's wishes (whenever possible) must be taken into account.

*Article 78.* Apart from the exceptions listed hereunder, no one is excused from the office of guardian or trustee. The exceptions are: *a.* persons who have reached the age of 60; *b.* persons prevented by illness, physical defect, material status or occupation from exercising the duties; *c.* persons engaged in bringing up two or more children;

\* Collective farmers' mutual-aid society.

*d.* nursing mothers or mothers with a child under 8;  
*e.* persons who are already guardians or trustees.

*Article 79.* The guardian of a minor must bring him up, educate and prepare him for socially useful functions. The guardian of a feeble-minded or insane person must take measures to cure his ward and keep him in the condition required by the state of his health.

*Article 80.* When a guardian or a trustee is appointed after nomination by a public organization (as per Article 74 of this Code) the public organization supervises his activity and the correct fulfilment of his duties as guardian or trustee, assists him in the performance of his duties and, on the instruction of ward and trusteeship authorities, assesses his activity.

*Article 81.* The duties of guardian and trustee are performed gratis. If a ward has property yielding an income and placed under the control of the ward and trusteeship authorities, the latter can pay the guardian or trustee a remuneration of not more than 10% of the income accruing from the property.

*Article 82.* Expenditure on upkeep of the ward which the ward and trusteeship authorities deem necessary and beneficent, is deducted from the income accruing from the ward's property, and in case the income is insufficient or when there is no income, from property itself, the deduction being made with the permission of the ward and trusteeship authorities.

*Note:* Where a ward has no property, the ward and trusteeship authorities apply to a social insurance body with the request that the guardian be allotted means with which to support the ward.

*Article 83.* The guardian can demand that any person detaining his ward without legal grounds shall return him to the guardian.

*Article 84.* Ward and trusteeship authorities inform the corresponding Public Health bodies of all cases when guardianship is established for insane persons, for taking such persons under medical supervision as per instruction of the Commissariat for Public Health.

*Article 85.* Guardianship and trusteeship for citizens of the R.S.F.S.R. residing or possessing property outside the U.S.S.R., come under the jurisdiction of U.S.S.R. embassies, legations and consulates abroad.

Establishment of guardianship for the property of citizens of the R.S.F.S.R. dying abroad is covered by special laws.

#### SECTION IV

#### REGISTRATION OF ACTS OF CIVIL STATUS

##### Chapter 1

##### General Principles

*From Article 111.* Registration of acts of civil status (birth, death, marriage, divorce and adoption) is effected in cities and district centres by the city and district Registrar's Offices, and in rural localities and industrial settlements by village or settlement Soviets.

##### Registration of Marriages and Divorces

*Article 131.* Those desirous of having their marriage registered submit an application to this effect to the Registrar's Office in the area where one of the applicants resides.

*Article 132.* The parties must produce the documents of identification, a signed statement that none of the obstacles listed in Chapter 2, Section I of this Code, applies, that they have informed each other of the state of their health

(particularly as regards venereal diseases, tuberculosis and insanity); each must say how many times he (she) has been married before and how many children he (she) has, if any.

*Article 133.* The official registering the marriage shall read to the parties Articles 4, 5 and 6 of this Code and warn them of criminal liability for false statements. When this has been done, the entry is read aloud, signed by the parties and endorsed by the official.

*Article 133 (1).* An entry is made in the parties' passports, stating the name, first name, patronymic and the date of birth of the husband (wife); date and place of the registration of the marriage.

*Article 134.* Marriage can be registered in the presence of witnesses if the parties so desire.

*Article 135.* If before signing the entry of marriage a statement is made by anyone testifying to legal obstacles to registration, the official must interrupt the procedure and demand that that person produce necessary proof within a time prescribed by the chief of the Registrar's Office.

*Article 136.* Marriages between aliens on the one hand and Soviet citizens on the other, as well as between aliens contracted on the territory of the U.S.S.R. are registered with the observance of the usual procedure.

*Note:* On a reciprocity basis marriages between aliens can be registered at corresponding embassies and consulates functioning in the U.S.S.R., provided the conditions set out in Chapter 2, Section I of this Code are complied with.

*Article 137.* Marriages between aliens contracted outside the U.S.S.R. in accordance with the laws of the corresponding countries, are recognized in the U.S.S.R. as duly registered in keeping with Chapter 1, Section I of this code.



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*Article 138.* The Registrar's Offices, acting on the decision of the law courts, register the dissolution of marriage and issue divorce certificates, the procedure being accompanied by making a corresponding entry in the passports of the parties and by withholding from one or both parties a sum varying from 500 to 2,000 rubles, in accordance with the decision of the court.

*Article 141.* Documents issued to aliens and certifying divorce granted in accordance with the laws of the corresponding countries have equal validity as the entries in the register at the Registrar's Offices.

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