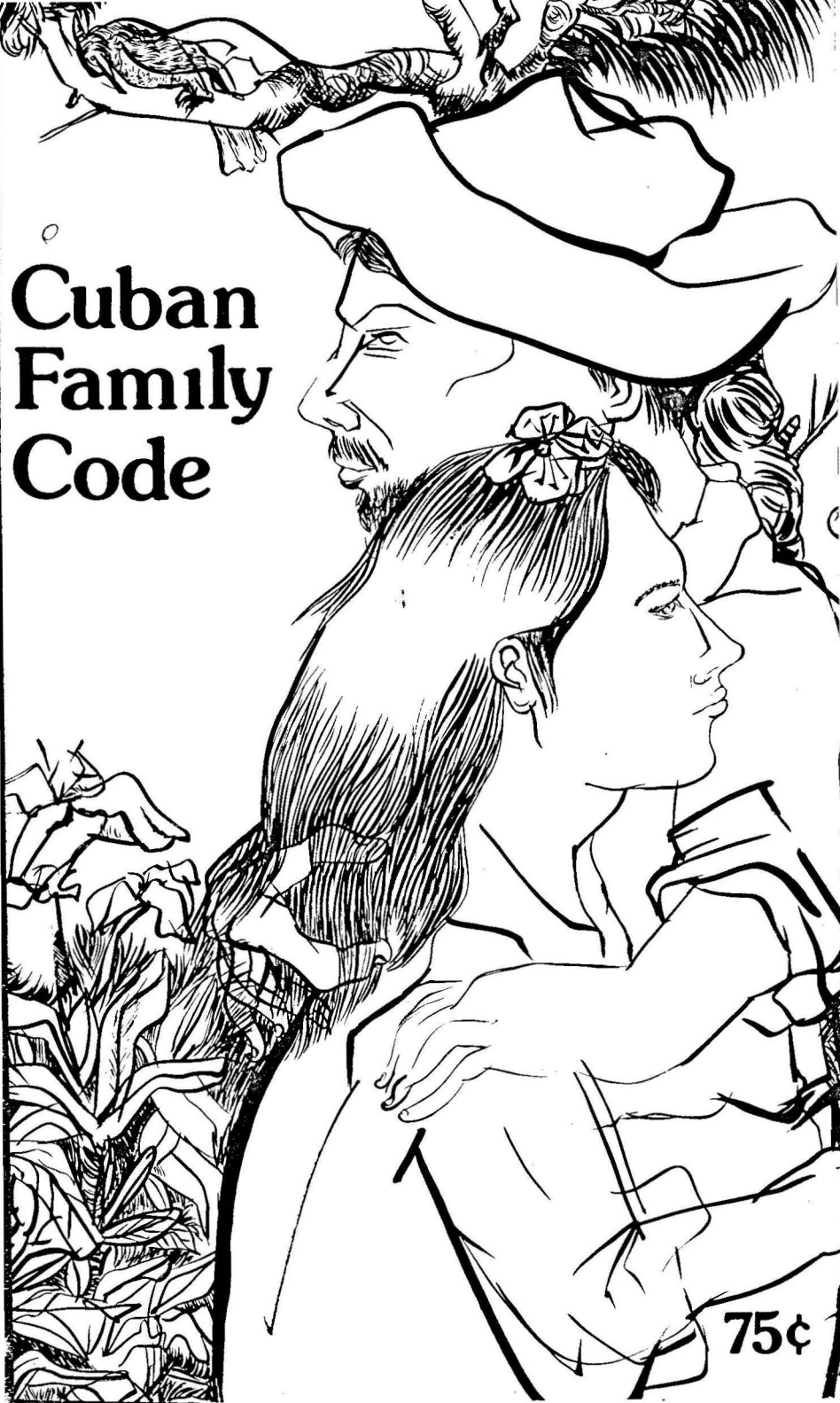


**This volume was donated to LLMC
to enrich its on-line offerings and
for purposes of long-term preservation by**

University of Florida Library



Cuban Family Code

75¢

KGG
.C9
C35113
C.2
LIBRARY
AMERICA

Following its discussion by the people and approval by more than 98 per cent of the participants in the meetings and assemblies, the Family Code went into effect on March 8, International Women's Day, 1975, by virtue of a Law enacted by the Council of Ministers on February 14, 1975. Cubans are taking the provisions of the Family Code seriously, and the Code is helping to create one of the most basic conditions for further development of the Revolution, that of equality between men and women in all areas of Cuban life.

CREDITS

Graphics: Cover drawing and metal engraving on p. 4 are by Nelson Dominguez Cedeno; p. 25, lithograph of José Martí by Raúl Martínez. From the collection of the Center for Cuban Studies.

Photographs: pp. 7 and 10, from the Cuban film LUCIA; pp. 17 and 22, Sandra Levinson; p. 20, Robert Van Lierop; p. 29, from the archives of Bohemia; p. 33, Luc Chessex.

This translation of the Cuban Family Code originally appeared in Vol. II, No. 4 of the CENTER FOR CUBAN STUDIES NEWSLETTER. It is the official Cuban translation.

The Center for Cuban Studies is a non-profit, tax-exempt institution. Its library and reading room are open to the public. It publishes a NEWSLETTER and a bilingual cultural quarterly, CANTO LIBRE. These publications and others are sent free with Center membership: \$15 (regular), \$25 (supporting), or \$50 (sustaining) annually. All contributions to the Center are tax-deductible. For further information, write the Center, 220 East 23rd Street, New York, N. Y. 10010.

THE FAMILY CODE

Executive Branch Council of Ministers

I, OSVALDO DORTICOS TORRADO, President of the Republic of Cuba, HEREBY PROCLAIM: That the Council of Ministers has approved and I have signed the following:

WHEREAS: The equality of citizens resulting from the elimination of private property over the means of production and the extinction of classes and all forms of exploitation of human beings by others is a basic principle of socialist society being constructed by our people, a principle which must be explicitly and fully reflected in the provisions of our legislation.

WHEREAS: Obsolete judicial norms from the bourgeois past which are contrary to equality and discriminatory with regard to women and children born out of wedlock still exist in our country, these norms must be replaced by others fully in keeping with the principles of equality and the realities of our socialist society, which is constantly and dynamically advancing.

WHEREAS: The socialist concept of the family is based on the fundamental consideration that it constitutes an entity in which social and personal interests are present and closely linked in view of the fact that it is the elementary cell of society and, as such, contributes to its development and plays an important role in the upbringing of the new generations.

Moreover, as the center for relations of common existence between men and women and between them and their children and between all of them with their relatives, it meets deep-rooted human needs in the social field and in the field of affection for the individual.

WHEREAS: The concept expressed above and the importance which, with this in mind, our socialist society assigns to the family, make it advisable that the judicial norms on this subject be separated from other legislation and constitute the Family Code.

WHEREAS: Adoption and tutelage are institutions which normally and generally correspond to the family, it is convenient that the judicial norms which cover them be included in the Family Code, especially when the relationship between adoptive parent and adopted child are similar to those between parents and their children.

WHEREAS: The draft version of the Family Code was drawn up on the basis of the ideas and assumptions contained in the preceding Whereases, by

the Law Study Commission and its Secretariat and presented to the Deputy Prime Ministers, Ministers, heads of central agencies and other officials for their individual examination. Their comments and suggestions were taken into account for the improvement of the draft which had been prepared.

WHEREAS: The draft version of the Family Code was submitted for broad and far-reaching discussion by all the people through the Committees for the Defense of the Revolution, Central Organization of Cuban Trade Unions, Federation of Cuban Women, National Association of Small Farmers, Federation of University Students of Cuba, Federation of Students of Intermediate Education and a number of state and social agencies and was approved in full and section by section by a majority of more than 98 per cent of those who participated in the meetings and assemblies held for this purpose.

WHEREAS: In spite of the general approval, the Secretariat of the Law Study Commission carefully studied each and every one of the more than 4000 observations which were made regarding 121 of the 166 articles and, regardless of the number of those who voted for them, accepted and included in the final version all suggestions which it felt were rational and useful for the goals of the proposed legislation.

THEREFORE: By virtue of the powers vested in it the Council of Ministers has resolved to enact the following

LAW No. 1289

FAMILY CODE PRELIMINARY TITLE ON THE OBJECTIVES OF THIS CODE

ARTICLE 1.—This Code regulates judicially the institutions of the family—marriage, divorce, parent-child relations, obligation to provide alimony, adoption and tutelage—with the main objectives of contributing to:—the strengthening of the family and of the ties of affection and reciprocal respect between its members;—the strengthening of legally formalized or judicially recognized marriage, based on absolute equality of rights between men and women;—the most effective fulfillment by parents of their obligations regarding the protection, moral upbringing and education of their children so they can develop fully in every field as worthy citizens of a socialist society;—the absolute fulfillment of the principle of equality of all children.

TITLE I
MARRIAGE
CHAPTER I
MARRIAGE IN GENERAL

SECTION ONE
Marriage and its establishment

ARTICLE 2.—Marriage is the voluntarily established union between a man and a woman who are legally fit to do so, in order to live together. Marriage will have a legal effect only when it is formalized or recognized in keeping with the rules established in this Code.

ARTICLE 3.—Women and men who are more than 18 years old are authorized to marry. Those who are less than 18 years old are not.

In spite of the contents of the above paragraph, under exceptional circumstances and for justified reasons the parents or other relatives in lieu of them, or in other cases, the court, can grant permission to those who are under 18 to formalize their marriage, as long as the girl is at least 14 and the boy at least 16 years old.

This exceptional permission must be granted by:

- 1) the father and mother on a joint basis, or the one which has *patria potestas*;
- 2) the maternal or paternal grandparents, without distinction, in lieu of the parents, with preference given to those who live in the same dwelling as the minor;
- 3) the person or persons who adopted the minor—in case of adoption;
- 4) the tutor, if the minor was subject to tutelage;
- 5) the court, if for reasons contrary to the norms and principles of socialist society, one of the above refuses to give permission.

In this case, one or both interested parties or a brother or sister of age, with the aid of a district attorney, can call on the competent regional people's court to grant the required permission. The court, after having heard the opinions of the interested parties and taking into account the interests of society and those of the interested parties, will summarily decide what is best.

ARTICLE 4.—The following people will not be able to marry:

- 1) those who are mentally unfit to give their consent;
- 2) those who have been joined in a formalized or judicially recognized marriage;
- 3) girls under 14 and boys under 16.

ARTICLE 5.—The following people will not be able to marry among themselves:

- 1) direct ascendants and descendants, brothers and half-brothers;
- 2) those who adopted a person and the person they adopted;
- 3) those who have tutelage and the person they have tutelage over;
- 4) those who have been sentenced as directly responsible for the murder of the partner of either and those who have been sentenced as directly responsible



for and accomplice in the murder.

ARTICLE 6.—Once their marriage is ended for any reason, either of the partners has the right to formalize a new marriage anytime afterward.

However, in order to facilitate a determination of paternity, the woman whose marriage has ended and is going to formalize a new one within the next 300 days, must prove by means of a medical certificate, provided by a state medical institution, whether or not she is pregnant.

If the certificate indicates she is pregnant, the paternity of the partner in the previous marriage will be assumed. All types of legally admissible evidence can be presented to counter this assumption. If the woman has given birth before the aforementioned 300 days no certificate will be required for the formalization of a new marriage.

SECTION TWO

The formalization of marriage

ARTICLE 7.—Those in charge of the Civil Register and notary publics are the officials who can give permission for the formalization of marriages in keeping with the provisions of this Code.

Consuls and vice-consuls of the Republic have the power to grant permission for marriages between Cubans abroad.

ARTICLE 8.—Those who want to formalize a marriage must present and reaffirm before the official who will grant permission a statement in which, after being warned that if they do not tell the truth they are liable to the corresponding penal action, they will provide the following information:

- 1) first and last names;
- 2) place and date of birth and the Civil Register which contains this information;
- 3) citizenship, civil status and occupation:
- 4) address;
- 5) first and last names of their parents.

This statement is to be accompanied by a document which certifies the civil status of the applicants, whose previous marriage had been ended for any reason.

ARTICLE 9.—When the permission mentioned in Article 3 is required for the formalization of a marriage it is to be granted as soon as the ratification has taken place unless it is a case of the kind covered in the last paragraph of that article, in which case the statement must be accompanied by a document which certifies that it has been granted.

Permission can also be granted as a result of an appearance before a notary public, the head of the Civil Register, consul or vice-consul, and be certified by means of the corresponding testimony or certificate which must be presented along with the initial statement.

ARTICLE 10.—Marriage can be formalized by proxy when one of the partners lives in an area other than the one where the formalization is to take place.

In this case special permission indicating the name of the person with whom the marriage is to be formalized is required. This permission will be valid as long as the other partner and the proxy representative are not legally notified of the annulment of this permission before the formalization of the marriage.

ARTICLE 11.—The statement mentioned in Article 8 will be included in the marriage certificate and will be reaffirmed by the partners as they formalize their marriage. It will be signed by the partners, the witnesses and the official who grants permission for the marriage.

ARTICLE 12.—The commander of a warship or the captain of a merchant ship or fishing boat will grant permission for marriages which are formalized on board, in case of imminent danger of death. The military commander of an army which is engaged in operations will also have the power to formalize marriages between members of the army, in case of imminent danger of death.

ARTICLE 13.—Marriages formalized under the provisions of the above article will be conditional and subject to the factors outlined in Article 15.

ARTICLE 14.—When an official who is to grant permission for a marriage suspects the existence of some legal obstacle he will listen to what the partners say and order the investigations which he feels are required and will deny or grant permission for the marriage on the basis of the results of such investigation.

ARTICLE 15.—Officials with the authority to do so will authorize the marriage of those in imminent danger of death without the prior presentation of the documents which certify the aspects mentioned in the last two paragraphs of Article 8. In such cases, however, the marriage will be conditional until those documents are produced.

ARTICLE 16.—The marriage will be formalized with the dignity and the solemn setting that the act requires because of its social significance. The part-

ners—or one of them and the proxy representative—will appear before the official, together with two witnesses who are of age and not related to the partners up to the second degree of consanguinity. Then, after the official has read Articles 24-28 inclusive, he will ask each of them if they still want to formalize their marriage. If they say they do, he will provide the required certificate with all the necessary circumstances to indicate that the procedure called for in this Code has been fulfilled. The marriage certificate will be signed by the partners, the witnesses and the official who granted permission for the marriage.

ARTICLE 17.—The official who grants permission for the formalization of the marriage must also take the following steps:

- 1) when the marriage is formalized by the head of the Civil Register, the certificate mentioned in the previous article will be entered in the book of the section which corresponds to the Register in question;
- 2) when the marriage is formalized by a notary, he must present, within three days, a faithful copy of the certificate to the head of the Civil Register in the place where the marriage was formalized so it can be included in the respective section of the Register. He must also present the case folder established for the formalization of the marriage, with all the required documents so that it can be placed in the custody and under the care of the head of the Register;
- 3) in cases of marriages formalized abroad in the presence of consuls and vice-consuls of the Republic, the same procedure will be followed as those mentioned in clause 1 of this article. These marriages will be recorded in the Civil Register which is administered by the General Register and Notary Department of the Ministry of Justice, which will cover the acts and deeds which take place abroad which have to do with the civil status of Cubans or their children. Within three days of the marriage, the consul or vice-consul will send the Ministry of Justice by means of the Ministry of Foreign Affairs a certified copy of the certificate of formalization of the marriage and the case folder, to be recorded and filed in the Civil Register;
- 4) in the cases of marriages formalized under the provisions of Articles 12 and 13 the official who grants permission must send the certificate that has been issued for this purpose to the Ministry of Justice, within the shortest possible time.

SECTION THREE **Nonformalized marriage**

ARTICLE 18.—A matrimonial union between a man and a woman who are legally fit to establish it and which is in keeping with the standards of stability and singularity, will be just as binding as legally formalized marriages when recognized by a competent tribunal.

When the matrimonial union is not singular because one of the partners was previously married, the marriage will be legally in effect for the person who acted in good faith and for the children born of that union.

ARTICLE 19.—The formalization or judicial recognition of a marriage be-

tween a man and a woman who are joined together in the manner mentioned in the previous article will be retroactive to the date the union began, in keeping with the statements of the partners and the witnesses in the certificate of the formalization of the marriage or what is stated in the court decision.

ARTICLE 20.—The writ of execution resulting from the process of recognition of the existence of a matrimonial union will be included in the book of the corresponding section of the Civil Register Office of the area where the partners live.

SECTION FOUR **Proof of matrimony**

ARTICLE 21.—Proof of a formalized or legally recognized marriage will be provided by the certificate which is recorded in the Civil Register.

ARTICLE 22.—In any civil, penal or administrative process in which the existence of a matrimonial union could not be proved according to the provisions of the previous article, according to the nature of the process, proof will be provided by constant living together in union, along with the birth certificates of children if there are any, with the effects, in its case, of Article 18.

ARTICLE 23.—Marriages formalized in foreign countries where these acts are not subject to regular or genuine registry can be proved by any legally admissible means.



CHAPTER II

RELATIONS BETWEEN HUSBAND AND WIFE

SECTION ONE

Rights and duties between husband and wife

ARTICLE 24.—Marriage is established with equal rights and duties for both partners.

ARTICLE 25.—Partners must live together, be loyal, considerate, respectful and mutually helpful to each other.

The rights and duties that this Code establishes for partners will remain in effect as long as the marriage is not legally terminated, even if the partners do not live together for any well-founded reason.

ARTICLE 26.—Both partners must care for the family they have created and each must cooperate with the other in the education, upbringing and guidance of the children according to the principles of socialist morality. They must participate, to the extent of their capacity or possibilities, in the running of the home, and cooperate so that it will develop in the best possible way.

ARTICLE 27.—The partners must help meet the needs of the family they have created with their marriage, each according to his or her ability and financial status. However, if one of them only contributes by working at home and caring for the children, the other partner must contribute to this support alone, without prejudice to his duty of cooperating in the above-mentioned work and care.

ARTICLE 28.—Both partners have the right to practice their profession or skill and they have the duty of helping each other and cooperating in order to make this possible and to study or improve their knowledge. However, they must always see to it that home life is organized in such a way that these activities are coordinated with their fulfillment of the obligations posed by this Code.

SECTION TWO

The economic basis of matrimony

ARTICLE 29.—The economic basis of matrimony will be joint property of goods as contemplated in this Code.

This will prevail from the moment a marriage is formalized or from the date a union is initiated in the cases covered by Article 19 and it will cease when the marriage is terminated for any reason.

ARTICLE 30.—In line with the bases mentioned in the above article, the following will be considered joint property:

- 1) the salaries or wages, retirement pensions, benefits and other pensions or other income obtained by one or both partners during the marriage as a result of work done or from the social security fund;
- 2) the goods and the rights acquired by virtue of a purchase made during the marriage with common funds, regardless of whether the purchased item is for joint use or for one of the partners;
- 3) the benefits, rents or interests received or acquired during the marriage from goods or items which are considered joint property or those which are the individual property of either partner.

ARTICLE 31.—The goods in possession of the partners will be presumed to be common property as long as it is not proven that they are the sole property of one or the other.

ARTICLE 32.—The following items are the property of the partners individually:

- 1) those purchased by either one prior to the marriage;
- 2) those they purchased during the marriage with money derived from inheritance, in replacement or substitution of another item which is their property, and for commercial purposes. In cases of donations and onerous payment made with funds which are common property, a deduction will be made;
- 3) those which were purchased with the money of one of the partners;
- 4) the money collected by one or the other partner in periods during the marriage which is the result of an amount or credit in his or her favor previous to the marriage and payable in a specific number of installments;
- 5) those which are for the exclusive use of each of the partners.

SECTION THREE

Responsibilities and obligations involved in joint property of goods

ARTICLE 33.—The joint property of goods will involve the following responsibilities:

- 1) support of the family and meeting of the expenses resulting from the education and upbringing of children of both or one of the partners;
- 2) all debts and obligations arising during the marriage which were taken on and assumed by either partner, except in the cases when the consent of both was required to assume them;
- 3) the rent or interests derived during the marriage from the obligations to which the goods which were the property of the individual partners and those which are joint property are subject;
- 4) minor repair work or upkeep of individual property during the marriage.

ARTICLE 34.—The payment of the debts assumed by either partner before marriage will not have to be covered by joint property.

SECTION FOUR

Administration of joint property

ARTICLE 35.—The partners are the ones who must administer their joint property and either of them may be in charge of administration and the purchase of goods which, due to their nature, are destined for ordinary use or consumption by the family.

ARTICLE 36.—Neither partner may have control over goods which are joint property without the consent of the other except when it is to satisfy a demand posed by the community.

ARTICLE 37.—In all cases not covered in this Code, the joint property of goods will be governed by the general provisions which cover joint property.

SECTION FIVE

The termination and liquidation of joint property of goods

ARTICLE 38.—The joint property of goods will be ended by the termination

of the marriage. Joint property will be divided up in half between the partners or, in case of death, between the survivor and the heirs of the deceased.

When the marriage is terminated by its being declared null and void, the partner whose bad faith brought this about will not share in the distribution of joint property.

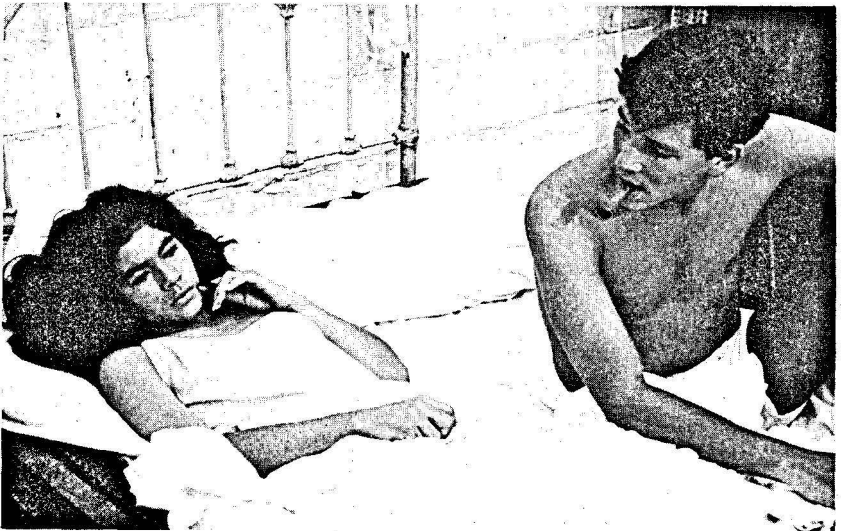
Either partner may forfeit his rights, in full or in part, to the joint property after the marriage has been terminated. This must always be done in writing.

ARTICLE 39.—When no agreement can be reached among the interested parties for the termination of joint property in the manner indicated in the previous article and it becomes necessary to resort to a court settlement an inventory and appraisal of the goods will be made, based on their value when the marriage was terminated.

Once the appraisal is carried out, all debts pending, obligations and responsibilities will be deducted and what is left will be distributed in the proportion indicated in the previous article.

ARTICLE 40.—One year after termination of the marriage resulting from divorce or annulment, if the legal or extralegal measures for the termination of joint property have not been initiated without prejudice to what is contained in the second paragraph of Article 38, the partners will remain the only owners of the personal property, real estate or joint property in their possession since the termination.

ARTICLE 41.—In spite of the provisions of previous articles the court, when ordering the liquidation of joint property, may decide that certain domestic items of common property which it feels are needed or convenient for the education and



upbringing of minor children be given with preference to the partner who has custody over the children. If this gives him more than half the goods, he will be given the right to use the excess even though the other partner retains ownership over it as long as he or she acquires similar items.

ARTICLE 42.—In case the marriage is terminated because of death, the surviving partner and the minor children have the right to continue using the common property until legal action is not taken to terminate the joint property of goods. The court which has jurisdiction over the matter will grant permission, to the extent that it is necessary, for the surviving partner to receive the payments which corresponded to the deceased or to the joint property so that using these funds or the money which is part of the goods that have been left he can meet his ordinary expenses and those of the minor children and make the necessary withdrawals from the bank accounts of the deceased or of both in order to fulfill that obligation.

CHAPTER III

Termination of marriage

SECTION ONE

General provisions

ARTICLE 43.—The bonds of matrimony are terminated:

- 1) by the death of the husband or wife;
- 2) by a court order on the presumed death of husband or wife;
- 3) by an unappealable judgment of annulment;
- 4) by an unappealable decree of divorce.

SECTION TWO

On the presumed death of husband or wife

ARTICLE 44.—The court order on the presumed death of one of the partners terminates the marriage as of the moment when it goes into effect. If the remaining husband or wife does not marry again and the one presumed dead reappears, the marriage will be declared valid if so requested by both at the Civil Register. In case of the remaining partner having married again the marriage is considered legal.

Pursuant to the provisions contained in the first paragraph, a court order on presumed death may be issued, at the request of the interested party, 18 months after the statement of absence, excepting in the case of disappearance as a result of a publicly-known act, in which case presumption of death may be declared any time after its occurrence.

SECTION THREE

Annulment of marriage

ARTICLE 45.—Marriages formalized under the following are declared null:

- 1) violation of any of the prohibitions contained in Articles 4 and 5;
- 2) marriage to the wrong person or under coercion or intimidation to bring about consent;
- 3) infringement of the requisites established by this Code to declare a marriage legal.

ARTICLE 46.—Action to request annulment of marriage must be taken by:

- 1) either of the partners, or the district attorney in the case of clauses 1 and 2 of the preceding article;
- 2) by the partner who was victim of the error, coercion or intimidation in the case of clause 2 of the preceding article.

ARTICLE 47.—Action for annulment shall be taken within 6 months of the formalization of marriage in the cases pointed out in Article 3 and clauses 2 and 3, Article 45.

If action is not taken within the 6-month period the marriage will be validated as a matter of law.

In the case of clause 3, Article 4, the marriage will be validated as a matter of law if both minors reach the established age without action for annulment having been taken or the female is pregnant.

A marriage formalized with any of the vices contained in clauses 1 and 2, Article 4, and in Article 5, cannot be validated and action for annulment may be taken at any time.

ARTICLE 48.—A marriage declared null will yield, in any case, the rights stated in this Code for the children resulting from said marriage and for the partner who has acted in good faith.

If both partners have acted in bad faith, the marriage will yield no rights in favor of either of them

The partner who at the time when the marriage was formalized knew of the existence of any cause for annulment is considered to have acted in bad faith.

Good faith is presumed, unless the contrary is proved.

SECTION FOUR

Divorce

ARTICLE 49.—Divorce will result in the dissolution of the matrimonial ties and all the other effects mentioned in this section.

ARTICLE 50.—Divorce can only be obtained by means of a judicial decree.

ARTICLE 51.—Divorce will take effect by common agreement or when the court determines that there are factors which have led the marriage to lose its meaning for the partners and for the children and, thus, for society as a whole.

ARTICLE 52.—For the purposes of this law it is understood that marriage loses its meaning for the partners and for the children and, thus, for society as a whole when there are causes which create an objective situation in which the marriage is no longer, or cannot be in the future, the union of a man and a woman in a manner adequate to exercise the rights, fulfill the obligations and obtain the objectives mentioned in Articles 24-28 inclusive.

ARTICLE 53.—Either one of the partners can take action to obtain a divorce.

ARTICLE 54.—The divorce action can be taken at any time as long as the

situation which motivated it exists.

ARTICLE 55.—The divorce will have the following effects between the partners:

- 1) termination of their marriage, as of the day the court decree becomes definitive;
- 2) separation of property of the partners, following liquidation of the joint property of goods, which is to be carried out in keeping with the rules established in Section Five, Chapter II, Title I of this Code;
- 3) termination of the right of succession among the partners.

ARTICLE 56.—If the partners have lived together for more than a year or if children have been born during their marriage, the court, when handing down the decree of divorce, will grant an alimony for one of them in the following cases:

- 1) the partner who does not have a paying job and lacks other means of support. This will be temporary and it will be paid by the other partner for six months if there are no minor children in his or her care and guardianship, or for a year if there are, so the beneficiary can obtain a paying job;
- 2) the partner who because of age, disability, illness or other insurmountable obstacle is unable to work and lacks other means of support. In this case the alimony will continue as long as the obstacle exists.

ARTICLE 57.—In the decree of divorce the court will grant *patria potestas*, establishing as a rule that both parents shall retain it over their minors.

However, the court may grant it to the parent whom it feels should have it, when this is required by the interests of the minors, outlining the reasons why one or the other is deprived of it.

Likewise, the court may determine, outlining its basis for doing so, the negation of *patria potestas* to both parents when this is necessary for the interests of the children, in which case the children will be placed under tutelage.

ARTICLE 58.—In the decree of divorce the court must determine which of the parents will have guardianship and care over the children born during the marriage and will take the necessary measures so the children can maintain adequate communication with the parent that is not entrusted with their guardianship and care.

For the purposes of the provisions in the previous paragraph, the court will be guided by the rules established in Articles 88, 89 and 90.

ARTICLE 59.—Support of minors is a duty of both parents even if they do not have *patria potestas* over them or even if the children are not under their guardianship and care or even if they are enrolled in an educational institution. In accordance with this norm, the court, in its decree of divorce, will set the amount of alimony to be paid by the parent who does not have the minors under his or her guardianship and care.

ARTICLE 60.—The amount of alimony for minors will be determined by their normal expenses and the income of the parents, in order to determine the responsibility of the latter in a proportionate manner.

ARTICLE 61.—The measures contained in decrees of divorce regarding alimony, *patria potestas*, guardianship and care, and communication can be modified whenever it is deemed necessary because the circumstances which led to their being adopted have changed.

ARTICLE 62.—For the temporary measures adopted during the course of the divorce action with regard to guardianship and care, communication with the children and alimony for them, and, if necessary, for one of the partners, the rules established in this section are to be observed.

These measures can be changed during the process if a reason for doing so materializes.

ARTICLE 63.—Proof of a divorce will be provided by a copy of the court order issued by a competent tribunal or its recording in the Civil Register.

ARTICLE 64.—A divorce obtained abroad which terminates marriage held according to the laws of that country or according to Cuban laws between Cubans or between a Cuban and a foreigner, or between foreigners, will be valid in Cuba as long as the Cuban consulate in the country where it was granted certifies that it was substantiated and granted according to the laws of that country.

TITLE II

RELATIONS BETWEEN PARENTS AND CHILDREN

CHAPTER I

RECOGNITION OF PATERNITY

SECTION ONE

Recognition and registration

ARTICLE 65.—All children are equal and they have equal rights and duties with regard to their parents, regardless of the latter's civil status.

ARTICLE 66.—In the case of a formalized or judicially recognized marriage, the registration of the birth of a child in the Civil Register by one of the parents will have legal standing with respect to both.

ARTICLE 67.—The registration of the birth of a child and the recognition of paternity by parents who are not married must be done by both, either together or separately.

ARTICLE 68.—In the case of the previous article, when only the mother seeks to have the birth of a child registered and she states the name of the father, he will be summoned to appear before the head of the Civil Register and notified that if he does not appear within 30 days to accept or deny paternity the child will be registered as his. Following this period and if there is no challenge to the paternity, the registration will become binding and once this has been done the challenge can only be carried out by means of the corresponding procedure, within a year.

If there is a denial of paternity the child will be registered without mentioning the name of the father, the latter may recognize paternity at a later date, provided the mother agrees. If not, they must proceed in the manner outlined in the final paragraph of the previous article.

ARTICLE 69.—When the mother appears to have the child registered without mentioning the name of the father, the latter may recognize paternity at a later date, provided the mother agrees. If not, they must proceed in the manner outlined in the final paragraph of the previous article.

ARTICLE 70.—Recognition of paternity of an offspring who is of age requires his consent.

ARTICLE 71.—Paternity of children can only be proven by a certification of the registration of their birth, issued with the due formalities by the Civil Register.

Any genuine document, public document, writ or unappealable sentence in which paternity is recognized or declared will be binding only when it is included in the corresponding Civil Register.

ARTICLE 72.—In cases of registrations of births in which the parents are not present, the persons who do this can indicate the name of the parents but this will not be proof of paternity.

ARTICLE 73.—The first last name of the children will be that of the father and the second last name the first last name of the mother.

If the name of only one parent appears on the birth certificate of a child born outside of the framework of the situation described in Article 66, he will have the last names of that parent or repeat the last name in case of one last name only.

SECTION TWO

Presumption of relationship

ARTICLE 74.—The following are presumed to be the children of those united in matrimony:

- 1) those born during the marriage;
- 2) those born within the 300 days following the end of the matrimonial ties, provided the mother has not married again.

Presumptions established in this article are understood not to be detrimental to that established in Article 6.

ARTICLE 75.—Paternity will be presumed:

- 1) when inferred in a statement made by the father on an uncontested document;
- 2) whenever the marital relations with the mother during the period in which conception may have occurred were publicly-known;
- 3) whenever the condition of offspring has been made ostensible through the actions of the father or his family.

ARTICLE 76.—Maternity will be presumed when the mother is included in the cases referred to in clauses 1 and 3 of the preceding article. In all other cases, maternity is established by the act of giving birth and the identity of the child.

ARTICLE 77.—Action for claiming recognition of the children is to be taken by

the children or by the father or mother in case one of the two have not done so.

SECTION THREE

Exception of recognition

ARTICLE 78.—The birth registration, effected according to that established in Article 66, may be contested by the partner who was not present at the time of registration. Exception can only be founded on the partners' impossibility to have procreated the child.

ARTICLE 79.—Action for contesting, referred to in the preceding article, can only be taken within the next six months following the date when the plaintiff knew of the registration.

ARTICLE 80.—A child recognized when he or she was a minor can only contest the recognition within a year following the day when he or she becomes of age.

ARTICLE 81.—The person who considers he has the right to register as his own a child previously recognized by another person, because he believes to be the child's real parent, may establish action in that direction at any time.

If the child is a minor the case will be transferred to the district attorney to determine whether substantiation of the case before the child becomes of age is to the interest of the minor.

After examining the district attorney's judgment the court will decide whether or not it is justifiable to proceed with the case. If the court rules against, it will order that the case be filed and will reserve the parties the right to proceed pursuant to what is established in the following paragraph.

If the person to be recognized is of age, substantiation of the case requires that the action be taken jointly by the person who considers himself with the right to recognize and the child whose recognition is being attempted.

CHAPTER II

RELATIONSHIP BETWEEN PARENTS AND CHILDREN

SECTION ONE

Patria potestas and its exercise

ARTICLE 82.—Minors are under the *patria potestas* of their parents.

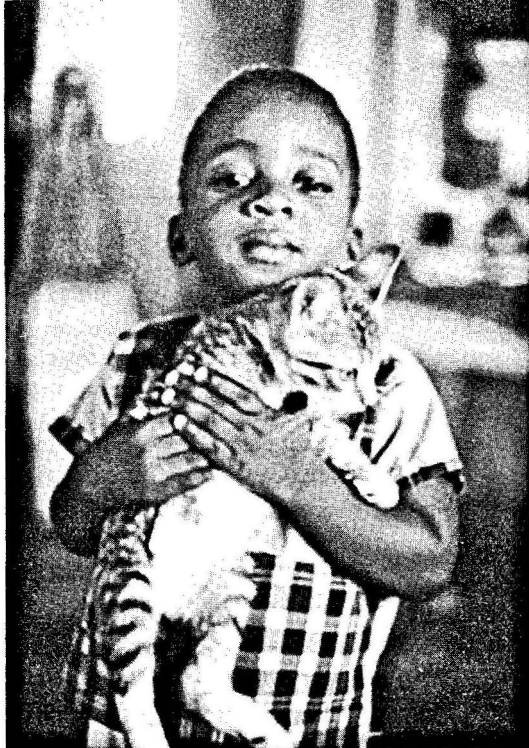
ARTICLE 83.—The exercise of *patria potestas* corresponds jointly to both parents.

It will correspond solely to one of them as a result of the death of the other or as a result of suspension or deprivation of its exercise.

ARTICLE 84.—The children are obliged to respect, show consideration for and help their parents and to obey them while under their *patria potestas*.

ARTICLE 85.—*Patria potestas* entails the following rights and duties of the parents:

- 1) keeping the children under their guardianship and care; making every possible effort to provide them with a stable home and adequate nourishment; caring for their health and personal hygiene; providing them with the means of recreation fitting their age which are within their possibilities; giving them the proper protection; seeing to their good behavior and cooperating with the authorities in order to overcome any situation or environmental factor that may have an



unfavorable effect on their training and development;

- 2) seeing to the education of their children; inculcating them with the love for learning; seeing to it that they attend school; seeing to their adequate technical, scientific and cultural improvement in keeping with their aptitude and vocation and the demands posed by the country's development; and collaborating with the educational authorities in school programs and activities;
- 3) training their children to be useful citizens; inculcating them with the love for their country, respect for the country's symbols and their country's values, the spirit of internationalism, the standards of coexistence, and socialist morality; respect for social property and the property and personal rights of others; arousing the respect of their children by their attitude toward them; and teaching them to respect the authorities, their teachers and every other person;
- 4) administering and caring for their children's property; seeing to it that their children use and enjoy in a proper manner whatever property they have; and not to sell, exchange or give any such property except in the interest of the children and pursuant to the requisites of this Code;
- 5) representing their children in every judicial action or arrangement in which they are involved; giving their authorization in those cases where full capacity for taking action is required; and taking action opportunely and in due fashion to defend the children's interests and property.

ARTICLE 86.—The parents are invested with the authority to reprimand and set straight adequately and moderately those children under their *patria potestas*.

ARTICLE 87.—Acting in the interest of the children under their *patria potestas*, the parents may dispose of, cede, exchange or sell the children's property for justifiable reasons of usefulness or necessity, subject to authorization granted by the competent court in hearing with the district attorney.

SECTION TWO

Guardianship and care and communication between parents and children

ARTICLE 88.—Guardianship and care of the children will be arranged by the parents in those cases where they do not live together.

ARTICLE 89.—In case there is no arrangement or the arrangement is detrimental to the material or moral interests of the children, the question will be settled by the competent court, which will decide on the basis of what is more beneficial to the minors. Under equal conditions, the court will generally decide that the children be left under the care of the parent in whose company they have been until the disagreement arose. Preference is given to the mother in the case that the children lived with both father and mother, unless special reasons make another solution advisable.

ARTICLE 90.—In the case of the preceding article, the court will decide on what is convenient so that the parent who is not given guardianship and care of the children may maintain written and verbal communication with them at regular periods in keeping with the nature of the case and always in benefit of the minors' interests. Nonfulfillment of the court decisions may be cause for a modification of the ruling on the matter of guardianship and care, apart from the penal responsibility that may arise from such behavior.

In exceptional cases, when the circumstances so require, special provisions may be made limiting communication between one or both parents and the children and even prohibiting communication for a certain time or indefinitely.

ARTICLE 91.—The measures adopted by the court on the matter of guardianship and care and regime of communication may be modified at any time when the court decides that the *de facto* circumstances that determined the ruling no longer apply.

SECTION THREE

Termination and suspension of *patria potestas*

ARTICLE 92.—*Patria potestas* is terminated by the following:

- 1) death of the parents or the child;
- 2) coming of age of the child;
- 3) the marriage of the child before becoming of age;
- 4) the adoption of the child.

ARTICLE 93.—Both parents or one of them will lose *patria potestas* over their children when:

- 1) unappealable judgment is imposed on them for criminal action;
- 2) one of them alone is given—or both of them are deprived of—*patria potestas* as a result of an unappealable judgment indicated in the case of divorce or annulment of marriage.

ARTICLE 94.—*Patria potestas* is suspended by a court decision on incapacity or absence of the parents.

ARTICLE 95.—In keeping with the circumstances, the court may deprive one or both of the parents of *patria potestas* or suspend their exercise of *patria potestas* in the cases of Articles 93 and 94 or by a judgment dictated on a motion made by one of the parents or by the district attorney, in the case where one or both parents:

- 1) are grossly derelict in their duties as established in Article 85;
- 2) induce the child to carry out a criminal act;
- 3) abandon the national territory and, therefore, their children;
- 4) observe a defective, corrupting, criminal or dangerous conduct incompatible with the exercise of *patria potestas*;
- 5) commit a crime against the child.

ARTICLE 96.—Privation or suspension of *patria potestas* does not exempt the parents from the duty to provide alimony for their children.

ARTICLE 97.—In all judgments by civil courts by virtue of which one or both parents are deprived of *patria potestas* or suspended of its exercise, court will decide on the legal representation, guardianship and care and alimony for the minors and the regime of communication between parents and children.

The affected parent or the district attorney may file a motion for the cessation of the suspension of *patria potestas* and for the modification of any other measure referred to in the preceding paragraph, provided the circumstances that made their adoption justifiable no longer apply.

ARTICLE 98.—When both parents or one of them have or has been deprived of *patria potestas* or its exercise suspended by a criminal court decision, the other parent or the district attorney may file suit in civil court to settle the question referred to in the first paragraph of the preceding article.

CHAPTER III ADOPTION

ARTICLE 99.—Adoption is established in the interest of the best possible development and education of the minor and creates between the adopter and the adopted a bond similar to that between parent and child, which entails the same rights and duties established by this Code with regard to parent-child relations.

ARTICLE 100.—The requisites for adoption are the following:

- 1) the adopter must be over 25 years old;
- 2) he or she must be in full exercise of civil and political rights;
- 3) he or she must be able to meet all the economic needs of the adopted;
- 4) he or she must have the moral character and observe the kind of conduct that may make it possible, within reason, to presume that he or she will comply with the duties assumed as established in Article 85.

ARTICLE 101.—Husband and wife will adopt jointly. With the exception of this case, no one may be adopted by more than one person.

ARTICLE 102.—Adopters must be at least 15 years older than the adopted.

ARTICLE 103.—Those under 16 may be adopted only under the following circumstances:

- 1) their parents are unknown;
- 2) they have either been abandoned by their parents or are in a state of abandonment due to some other cause;



3) *patria potestas* over them has ended.

Those under *patria potestas* may be adopted provided those having *patria potestas* over them give their consent.

ARTICLE 104.—In all cases, adoption must be authorized by a court, provided the following is proved:

- 1) that the adopter meets the provisions established in Articles 100, 101 and 102;
- 2) that the adopted be under 16 and be included in some of the cases referred to in Article 103;
- 3) that the bases exist for the reasonable presumption that all duties contained in Article 99 will be complied with.

ARTICLE 105.—Judicial authorization for adoption is to be obtained through a procedure of voluntary jurisdiction. This procedure must be promoted by the adopters, who will prove that they meet the provisions contained in the preceding article.

The district attorney will participate in this procedure.

The court will hear those persons, official institutions and social organizations it deems pertinent.

ARTICLE 106.—The judicial resolution authorizing adoption will always be well-founded and will express the conditions under which it is made. In the resolution, the court will determine, according to the request made by the applicant, whether the adopted keeps the last names of his natural family or adopts those of the adopter or adopters.

The resolution will be recorded in the Civil Register where the adopted's birth certificate appears, to all legal effects.

When the adopted is included in the cases outlined in clauses 1 or 2 of Article 103, the resolution authorizing adoption will make possible the registration of the adopted in the Civil Register under the last names of the adopter or adopters.

ARTICLE 107.—When the minor in question is seven years old or more the court may ask for his opinion on the matter and make the corresponding decision.

ARTICLE 108.—Opposition to adoption may be expressed by:

- 1) the parents of the minor in the case of clauses 1 and 2, Article 103. In the case of clause 1, the parents must justify their parenthood via a registered birth certificate;
- 2) in the case of clause 3, Article 103, the grandparents of the minor or, in lieu of these, the uncles and those brothers of full age.

ARTICLE 109.—If objection to adoption is made by any of the persons referred to in the preceding article, the court decision will be filed and those interested will have the right to state their objection through ordinary civil procedures.

ARTICLE 110.—Judicially authorized adoption may be objected to only by those persons mentioned in Article 108, within a period of six months and provided they justify the reasons for objecting the court's decision.

ARTICLE 111.—The legal effects resulting from the adoption may be suspended pursuant to the causes outlined in Article 95. In such cases, the court may also revoke adoption.

ARTICLE 112.—Adoption may also be revoked pursuant to the causes outlined in Article 95 and also when the adopted commits a crime against the adopter. In the latter case, the action will correspond to the adopter and, in the others, to the district attorney.

ARTICLE 113.—Judgments dictated by the civil courts suspending or revoking adoption will determine the legal representation of the minors and their support, guardianship and care.

ARTICLE 114.—If the adopter has been sentenced by a criminal court for having committed a crime against the adopted, the district attorney, on taking action, will start the corresponding civil court proceeding, pursuant to that established in Articles 112 and 113.

ARTICLE 115.—In case of divorce or discrepancies between the adopting couple, the norms established for such cases in this Code with respect to children under *patria potestas* will be applied with respect to their relations with the adopted.

ARTICLE 116.—The rights derived from the bond of parenthood established between adopter and adopted includes that of inheritance. This right will be extinguished between the adopted and his or her consanguineous family.

TITLE III
PARENTHOOD AND THE OBLIGATION TO PROVIDE ALIMONY
CHAPTER I
PARENTHOOD

ARTICLE 117.—The following people are related by consanguinity:

- 1) persons who descend one from the other;

2) those who do not descend one from the other, but descend from the same person.

Those persons who are mentioned in clause 1 are the direct line of parenthood that can be ascending or descending.

Those covered by clause 2 constitute the collateral line.

ARTICLE 118.—Parenthood will be measured by degrees. In the ascending and descending lines the degree will be determined by the number of generations between one person and the other. In the collateral the degree will be determined by the number of generations that separate them, including their common ascendancy.

ARTICLE 119.—Relatives on the father's and mother's side have a double tie. Relatives on the father's or mother's side alone have a single tie.

ARTICLE 120.—Relatives of one partner are also of the other, by affinity, in the same line and degree.



CHAPTER II OBLIGATION TO PROVIDE ALIMONY

ARTICLE 121.—The definition of alimony is all that which is indispensable to meet the needs of support, dwelling and clothing, and in the case of minors, also that which is required to meet the need of their education, recreation and development.

ARTICLE 122.—The following people can demand alimony:

- 1) minors to their parents in every case;
- 2) others who have a right to it, when, lacking the financial means, they are unable to support themselves, due to age or disability.

ARTICLE 123.—The following people have the duty of giving each other alimony:

- 1) husbands and wives;
- 2) parents and children;
- 3) adopter and adopted;
- 4) brothers, regardless of the natures of their kinship.

ARTICLE 124.—The demand for alimony when there are two or more people with the duty of providing it will be made in the following order: 1) to the partner; 2) next of kin or those who have adopted, whatever the case; 3) offsprings or adopted children; 4) brothers.

ARTICLE 125.—When two or more people have the obligation of providing alimony, the payments will be made in keeping with their respective incomes. However, in cases of urgent need and as a result of special circumstances, the court can compel one of them to assume this obligation alone, without prejudice to the right of that person to demand that the others pay their share.

ARTICLE 126.—When two or more people demand alimony from the same person who has the legal obligation to provide it and his income is not large enough to handle both cases, the order outlined in Article 124 will be observed.

If the persons demanding alimony were the partner and an offspring or adopted child who is a minor or a disabled person of age, the latter will have preference over the former.

ARTICLE 127.—The amount of money to be paid will be in keeping with the financial standing of the person providing alimony and the needs of those who receive it. In order to adequately determine the amount of those payments the court will bear in mind the portion of the income derived by the recipient which can be considered as alimony.

The financial resources of those under the obligation of providing alimony must never be affected to such an extent that they are unable to meet their own needs and that of their partners and minor children.

ARTICLE 128.—The amount of these payments will be increased or reduced according to the increases and declines in the needs of the person receiving alimony and the income of the person providing it.

ARTICLE 129.—The person under the obligation to provide alimony may choose between paying the assigned sum of money and sheltering and supporting the person with the right to alimony in his own home. However, the latter form can only be put into effect if regulations regarding guardianship and care of the child are not affected and no moral and material obstacles exist.

ARTICLE 130.—From the moment that a person with the right to be given alimony needs it for his or her survival he or she may take action to demand that it be provided, but it will only be provided as of the date that action was initiated.

ARTICLE 131.—Payments will be made on a monthly basis at the beginning of the month. When a person being given alimony dies, his heirs are not bound to return that which he had received in advance.

ARTICLE 132.—The right to be given alimony is imprescriptible and nontransferable and cannot be forfeited. Neither can it be compensated for by what the person being given alimony owes the person who is providing it.

ARTICLE 133.—A person who is being given alimony must take action within three months to demand payments that are already due and were not received.

ARTICLE 134.—When a third party pays alimony assigned by the court, with

or without the knowledge of the person responsible for doing so, the party in question has the right to demand compensation from the person with the obligation to provide alimony. This credit will be given preference and there can be no refusal to pay by capitalizing upon the fact that any property, salary, social security benefits or income of any sort is not subject to embargo.

ARTICLE 135.—The duty to provide alimony will cease:

- 1) because of the death of the person to whom it is being provided;
- 2) because of the death of the person providing it;
- 3) when the income of the person providing it has been reduced to such an extent that he is no longer able to provide alimony without neglecting his own needs, and as the case may be, those of his partner and minor children and disabled offspring of age who are in his care;
- 4) when the person receiving alimony becomes of age to work and he is not disabled or enrolled in an educational institution and thus unable to regularly work at a paying job;
- 5) when the cause which led up to the obligation to provide alimony ceased.

ARTICLE 136.—The preceding provision can be applied in a supplementary manner to the other cases in which by virtue of this Code or special laws there is a right to alimony.

**TITLE IV
TUTELAGE
CHAPTER I
GENERAL PROVISIONS**

ARTICLE 137.—Tutelage will be judicially established and will provide for the:

- 1) guardianship and care, education, defense of the rights and protection of the patrimonial interests of the minors not covered by *patria potestas*;
- 2) defense of the rights, protection of the person and patrimonial interests and fulfillment of the civil obligations of those who are of age and have been declared legally incapacitated.

ARTICLE 138.—The following people will be subject to tutelage:

- 1) minors not covered by *patria potestas*;
- 2) those who are of age and have been declared legally incapacitated to control their person and property because of mental derangement, because they are deaf mutes or for other causes.

ARTICLE 139.—Acceptance of the role of tutor is voluntary but once it is accepted it cannot be renounced except for a justified reason which must be demonstrated to a court.

ARTICLE 140.—When the need to place a person under tutelage arises the following people must report it to the district attorney;

- 1) relatives of the minor or the incapacitated person to the third degree of consanguinity;
- 2) those who live with the minor or incapacitated person and the immediate neighbors, or the nearest Committee for the Defense of the Revolution;
- 3) public officials who because of their position become aware of the existence of a need of the kind mentioned in the first paragraph of this article.



ARTICLE 141.—Whenever necessary the district attorney will press for tutelage upon receiving the information cited in the previous article or in the event that a final judgment deprive the parents of the *patria potestas* or repeal the adoption.

ARTICLE 142.—The people's lower courts at the place of residence of the persons who should be subject to tutelage will act as their guardian and keeper of their possessions until a tutor or guardian is appointed, if no one is exercising this function.

ARTICLE 143.—The people's regional courts have the following functions:

- 1) decree the tutelage by means of a corresponding resolution and appoint a tutor;
- 2) deprive the tutor of his tutelage whenever the law so decides;
- 3) supervise the proper exercise of the tutelage;
- 4) and declare an end to the tutelage upon receipt, whenever possible, of the tutor's report.

ARTICLE 144.—The people's regional court within whose jurisdiction lives the person under tutelage will be in charge of granting tutelage.

Once tutelage has been granted, all facts concerning the tutelage will be of the jurisdiction of the people's regional court within whose jurisdiction falls the residence of the tutor.

The tutelage documents will be substantiated by means of a voluntary jurisdiction.

CHAPTER II CONCERNING THE TUTELAGE OF MINORS

ARTICLE 145.—To decree the tutelage of a minor, the court will summon the relatives of said minor to the third degree of consanguinity, who reside within or without the same court boundaries as long as their home is located in the same city or town as the court, for the purpose of holding a hearing in which the relatives who attend and the minor if over seven years of age will express his or her opinions before the court appoints the tutor in accordance with the following rules:

- 1) the preference expressed by the minor and by the majority opinion of the aforementioned relatives insofar as said preference is acceptable to the court.
- 2) if the court is unable to appoint a tutor in accordance with the previous rule, the court will continue to be guided by whatever is most advantageous to the minor and, all things being equal, will appoint as tutor the relative with whom the minor is currently residing. If the minor is not residing with any one relative, or if the minor is residing with several relatives at once, the court will deem first choice, one of the grandparents, second choice, one of the brothers or sisters, and third choice, an uncle or aunt;
- 3) as an exception, whenever special reasons so advise it, the court may adopt a solution not in keeping with the previous rules and appoint tutor a person who is not related to the minor. In this case, the court will appoint a person who is interested in assuming guardianship over the minor, always giving preference to the person under whose care the minor was placed.

ARTICLE 146.—To be appointed tutor of a minor the following requisites must be met:

- 1) be of age and in full enjoyment of civil and political rights;

- 2) have sufficient earnings to cover the minor's expenses whenever necessary;
- 3) not have been convicted of crimes against the normal development of sexual relations, the family, childhood and adolescence, or of any other kind of crime deemed by the court to constitute an impediment in being appointed tutor;
- 4) have good public standing;
- 5) be a Cuban citizen;
- 6) not have interests in opposition to those of the minor.

ARTICLE 147.—The directors of assistance institutions, schools and reeducational institutions and the heads of military and paramilitary units will be considered the tutors of the minors residing in these establishments or belonging to said units and who are not subject to *patria potestas* or tutelage, for the purpose of fulfilling this judicial function. The directors and heads of units who exercise the role of tutor may, if they do so desire, delegate a member of the judicial department of their respective agency to represent them in court.

CHAPTER III

CONCERNING THE TUTELAGE OF INCAPACITATED PERSONS OF AGE

ARTICLE 148.—The tutelage of persons of age who have been declared incapacitated corresponds in order of preference to:

- 1) the spouse;
- 2) one of the parents;
- 3) one of the children;
- 4) one of the grandparents;
- 5) one of the brothers or sisters.

Should the person in question have several relatives within the same degree of consanguinity, the court will grant tutelage considering whatever is most advantageous to the incapacitated person.

As an exception, when there are reasons to warrant it, the court will appoint tutor a person not mentioned in the previous list. In this case, the court will give preference to the person who takes care of the incapacitated person or to the person who shows interest in assuming tutelage.

ARTICLE 149.—In order to be appointed tutor of an incapacitated person the following requirements must be met:

- 1) be of age and in full enjoyment of civil and political rights;
- 2) not have been convicted of crimes against property or against persons or of other crimes which in the opinion of the court constitute an impediment to being appointed tutor.
- 3) have good public standing;
- 4) be a Cuban citizen;
- 5) not have interests in opposition to those of the incapacitated person.

ARTICLE 150.—The directors of assistance institutions will be considered the tutors of incapacitated persons of age who live in said institutions and are under the tutelage of no other person, in accordance with the same rules established for minors in Article 147.

CHAPTER IV CONCERNING THE EXERCISE OF TUTELAGE

ARTICLE 151.—The tutor represents the minor or the incapacitated person in all civil and administrative matters, except in those cases when the law decrees that the person under tutelage can represent himself.

ARTICLE 152.—The minors under tutelage owe respect and obedience to the tutor. The tutor is empowered to reprehend and punish them within moderation.

ARTICLE 153.—The tutor must:

- 1) look after the keeping of the person under tutelage and see to his or her education in the case of a minor;
- 2) help the incapacitated person regain or acquire his or her capacity;
- 3) make an inventory of the property of the minor or of the incapacitated person and present it to the court within the time prescribed by the court;
- 4) administer diligently the inheritance of the minor or of the incapacitated person;
- 5) request, at the proper time, the authorization of the court for the performance of those functions and duties requiring such authorization.

ARTICLE 154.—The court, in its functions as an institution of tutelage, can order forthwith the deposit of cash, jewels and other possessions of much value belonging to the minor or to the incapacitated person.

The court is also empowered to set limits to withdrawals made from the bank account of a person under tutelage.

ARTICLE 155.—The tutor will need the authorization of the court for the following:

- 1) request the help of the authorities for the purpose of placing the person under tutelage in an assistance or reeducational institution;
- 2) carry out acts of domain or of any other type concerning the patrimony of the person under tutelage;
- 3) refuse or accept inheritances and donations; and divide these and other properties of the person under tutelage held in common with others;
- 4) make investments and major changes in the property of the minor or of the incapacitated person;
- 5) accept settlement in suits filed against the minor or against the incapacitated person.

ARTICLE 156.—The court is not empowered to authorize the tutor to use the property of the minor or of the incapacitated person, except by virtue of need or because of daily justified profits.

ARTICLE 157.—The exercise of tutelage involves no monetary retribution. The tutor may be reimbursed for justified expenses incurred in the exercise of the tutelage, given previous approval of the court.

ARTICLE 158.—The tutor is held accountable to the court at least once a year on an appointed date. The tutor is also held accountable to the court whenever the court finds it necessary, and will notify the court of any changes of address.

ARTICLE 159.—During the exercise of tutelage, whenever the tutor ceases to fulfill the requirements established by this Code in appointing him or her, or



should the tutor fail to fulfill the duties assigned to him or her, the acting court by itself or at the instance of the direct attorney will make arrangements for depriving the tutor of his or her tutelages. The persons mentioned in Article 140 should report to the district attorney those facts which could have a bearing in said deprivation of tutelage.

ARTICLE 160.—The tutelage concludes:

- 1) when the minor becomes of age, is married or is adopted;
- 2) in the case of an incapacitated person, when the cause for tutelage has ceased;
- 3) should the person under tutelage die.

ARTICLE 161.—Once tutelage has concluded, the tutor is held accountable of his tutelage to the court. A tutor deprived of tutelage and the heirs of a deceased tutor will likewise be held accountable in the court.

The account of the tutelage will be examined by the court, which will approve it or make any necessary observation and the corresponding reimbursements.

CHAPTER V CONCERNING THE REGISTER OF TUTELAGE

ARTICLE 162.—The people's regional courts will have a register in which all tutelages within jurisdiction will be properly recorded.

ARTICLE 163.—These registers will be kept by the secretary of civil court, who will be responsible for making the entries and issuing the certificates.

ARTICLE 164.—Each tutelage recorded in the register should include:

- 1) the name, last names, age and residence of the minor or of the incapacitated

person and the provisions adopted by the court with regard to the exercise of tutelage;

- 2) the name, last names, occupation and residence of the tutor;
- 3) the date in which the tutelage was established;
- 4) reference to the inventory of the property, which will be recorded separately, together with the deposit receipts and the withdrawal limits set on the bank account;
- 5) the name of the school, assistance or reeducational institution to which the person under tutelage is assigned and any changes made in this respect.

ARTICLE 165.—At the beginning of each year, it will be noted at the foot of each registration whether or not the tutor has filed a report on his tutelage. The court of the jurisdiction of the tutor's residence will report to the court where the tutelage was registered, all rendering of accounts and any changes made in the facts registered and will remit the corresponding papers.

ARTICLE 166.—The court will examine annually the tutelage registers leaving a certificate to this effect and making the decisions necessary in each case to defend the interests of the persons under tutelage.

INTERIM PROVISION

The judicial relationships established based on the previous legislation will have the validity bestowed by the same, but henceforth their effects will be determined by the provisions of this Code.

Therefore, to enforce the corresponding legislation in cases which do not come directly under the jurisdiction of this Code, the following will be observed:

RULES

FIRST: Marriages legalized or recognized prior to the enforcement of this Code will retain their validity and will be proved valid according to the rules established in previous legislation.

Those marriages whose legalization or recognition was requested or filed prior to the time that this Code was in full force and having no final judgment, will also come under the jurisdiction of the previous legislation.

In all cases, personal and patrimonial relationships between the marriage partners and to the effects of marriage on minor children will fall under the jurisdiction of this Code.

SECOND: Dissolved marriages or marriages whose dissolution were started prior to the enforcement of this Code for reasons of nullity or divorce and are pending a final judgment at the time this Code becomes effective, will fall under the jurisdiction of the past legislation with regard to their causes and effects between the marriage partners, but the effects concerning offspring or third parties will fall under the jurisdiction of the provisions of this Code according to the following rules. All actions for divorces or annulments of marriage started henceforth will be guided by the rules of this Code.

THIRD: All actions for settlement and division of joint ownership of property that were initiated prior to the time this Code becomes effective but are pending final judgment will be settled and divided according to the provisions of the

previous legislation; but those cases in which settlement and division of property has not been legally requested before the time this Code becomes effective will follow the provisions of this Code concerning settlement and division of joint property.

FOURTH: The economic system adopted by reason of the articles of marriage will adjust, from the time this Code is in full force, to the provisions of the same.

The Register of Articles of Marriage will still be effective for the sole purpose of showing the record of the marriage contracts legalized prior to the time this Code becomes effective.

FIFTH: The rules concerning *patria potestas* and guardianship and care granted and the system of communication between parents and minors established prior to the time this Code becomes effective will retain the form decreed at that time, but henceforth will fall under the jurisdiction of the rules of this Code with regard to its exercise and changes.

SIXTH: The alimony legally claimed under the protection of the previous legislation and still pending when this Code becomes effective will be settled in accordance with this Code. The payment of alimony according to judicial decisions decreed before this Code becomes effective will be mandatory, but any subsequent changes will be guided by the provisions of this Code. All claims concerning overdue monthly alimonies which have not been paid will be guided by the provisions of this Code with regard to its prescription, but if a judicial claim has been filed, although the allowance has not been paid, the limits of the prescription will be those of the previous legislation.

SEVENTH: The adoptions legalized before this Code becomes effective will grant the same rights of inheritance that this Code establishes between the adopted and adopting parties and the descendants of the latter should any of them die after this Code becomes effective.

EIGHTH: The offspring whose parental relationship was declared or recognized prior to the time this Code becomes effective will from then on have the same rights attributed to the offspring of marriages. The offspring whose parental relationship is pending recognition or a judicial decision when this Code becomes effective will have the same rights as above once said relationship is recognized or declared.

NINTH: All types of tutelage which were granted and registered prior to the time this Code becomes effective will still hold, even though the acting protutors and chairmen and members of the family councils will no longer exercise their respective duties and the councils will be dissolved. Henceforth, the tutor will be subject to the rules of this Code concerning the exercise and control of functions, and discontinuance and deprivation of the functioning as tutor.

TENTH: No reimbursements for bonds will be made to a tutor who was appointed prior to the time this Code becomes effective and while said tutor is still fulfilling his tutelage; reimbursements will only be made in the corresponding sum according to the previous legislation at the conclusion of his or her tutelage.

ELEVENTH: The courts in whose registers appear tutelages granted prior to the time this Code becomes effective will bring up to date said inscriptions in accordance with the rules specified in this Code.

The Governing Council of the People's Supreme Court will regulate the way in which said actualization will be made.

FINAL PROVISIONS

FIRST: Article 320 of the Civil Code is modified as follows:

“Article 320. A minor is considered of age on his or her eighteenth birthday.

“A person eighteen or over is considered legally capable of performing all acts related to his civil life, save exceptions established by law in special cases.”

SECOND: The following are repealed.

- 1) Title IV (Marriage); Title V (Paternity and filiation); Title VI (Alimony among relatives); Title VII (*Patria potestas*); Title IX (Tutelage); and Title X (The family council), all included in the First Book of the Civil Code.
- 2) Section eight (Rights of inheritance of illegitimate children) of Chapter II; Section two (Parenthood) of Chapter III; Section three (Rights of inheritance of recognized natural children) of Chapter IV, all included in Title III of the Third Book of the Civil Code.
- 3) Chapter I (General provisions); Articles 1327 to 1333, both inclusive, of Chapter II (Donations by reason of marriage); Chapter III (The dowry); Chapter IV (Paraphernalia); Chapter V (Joint ownership of property); and Chapter VI (The division of marital property and its administration by the wife during marriage), all included in Title III of the Fourth Book of the Civil Code.
- 4) The first clause of Article 1966 of the Civil Code (The prescription for legal action to claim payment of alimony).
- 5) Law of June 19, 1916 (concerning the coming of age and the emancipation of the children; Official Gazette No. 145, June 21; page 11 793).
- 6) Law of July 18, 1917 (concerning the paraphernalia property; Official Gazette No. 19, July 23; page 1205).
- 7) The Presidential Decree No. 1135, of August 18, 1917 (which decreed the Rules of the National Register of Marriage Articles; Official Gazette No. 44, August 21; page 2933).
- 8) Law of July 29, 1918, excepting Article 1 (which modified the legal marriage system; Official Gazette No. 31, August 6; corrected copy; page 1953).
- 9) Law-Decree No. 206, of May 10, 1934 (containing the legal divorce system; Special Official Gazette No. 45, May 11).
- 10) Law-Decree No. 739, of December 4, 1934 (amending Articles 15, 24 and 62 of Law-Decree No. 206, of May 10, 1934; Official Gazette No. 134, December 8; page 10 121).
- 11) Law-Decree No. 740, of December 4, 1934 (which authorized upon request of one side the dissolution of the marriage bond in the divorce suits filed under the protection of the Civil Code; Official Gazette No. 134, December 8; page 10 123).
- 12) Law No. 129, of May 3, 1935 (concerning the representation of minors by the district attorney to the sole effect of complementing the minor's civil capacity; Special Official Gazette No. 40, May 4).
- 13) Law No. 9 of December 20, 1950 (on the civil benefits granted to women; Official Gazette No. 302, December 29; page 27553).

14)Articles 3 and 5 of Law No. 1215, of October 27, 1967 (concerning the acts of the Civil Register; Official Gazette No. 7, November 9; page 65).

15)All laws, law-decrees, decree-laws, resolution-laws, military orders, decrees, regulations and other legal provisions, insofar as they are opposed to the enforcement of the provisions of the present Code.

THIRD: This Code will become effective as of March 8, International Women's Day, of the current year.

THEREFORE: I command that this Law be fulfilled and enforced in all its parts.

SIGNED in the Palace of the Revolution, in Havana, on the fourteenth day of the month of February of the year one thousand, nine hundred and seventy-five.

OSVALDO DORTICOS TORRADO

Fidel Castro Ruz
Prime Minister

Armando Torres Santrayil
Minister of Justice



Center for Cuban Studies
220 East 23rd Street
New York, N.Y. 10010

1001
1001
1001
1001