



Eritrea: Marriage and Divorce Laws

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ERITREA

MARRIAGE AND DIVORCE LAWS

Since Eritrea became independent in May of 1993, Ethiopian laws have remained in force until they are amended. A search of the material available in the Law Library's collection has failed to disclose any amendments to the family law.

In Ethiopia the Civil Code of 1960¹ regulates marriage and divorce. Article 577 of the Code lists three types of valid marriages: civil, religious and customary.

A civil marriage must be solemnized by the officer of civil status in the presence of four witnesses. "The future spouses and the witnesses shall take an oath that, to their knowledge, there exists no obstacle to the marriage." Then the future spouses declare that "they want to take one other as husband and wife," and the officer of civil status pronounces them united in marriage.² A religious marriage must be celebrated according to the formalities required by the religion of the future spouses or the religion of one of them.³ A customary marriage must be celebrated according to the formalities required by the customs of the community of the future spouses or the community of one of them.⁴

Article 62 of the Code requires marriages to be recorded in the civil status registers within one month. Existence of a valid marriage may be proved by the record of such a register.⁵ However, marriages that are not recorded in the civil status registers may be proved by the testimony of four witnesses in court.⁶

¹. NEGARITA GAZETA [official gazette], No. 2 of May 5, 1960 at 1-583.

². *Id.* art. 604 at 101.

³. *Id.* art. 579 at 98.

⁴. *Id.* art. 580.

⁵. *Id.* art. 47 at 9.

⁶. *Supra* note 1, art. 700 at 118.

For divorces, the Code provides a system of family arbitration borrowed from customary law.⁷ The jurisdiction of courts is only subsidiary to the powers of family arbitrators. Therefore, parties can petition a court for divorce only if the arbitrators fail to make a decision within the period prescribed by law.⁸ However if the existence of a divorce is contested “only the court is competent to decide whether a divorce has been pronounced or not”.⁹

Prepared by Belma Bayar
Senior Legal Specialist
Eastern Law Division
Law Library of Congress
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⁷ *Id.* art. 666 at 112.

⁸ *Id.* art. 737 at 123..

⁹ *Id.* art. 729 at 122.