

## MARRIAGE LAW IN THE REPUBLIC OF VIETNAM

Information has been requested on the Vietnamese law pertaining to common law marriage. The date of the marriage in question has not been stated. Before 1959, the laws on marriage in South Vietnam were the three civil codes: the Civil Code of the South (Dan-Luat Gian-Yeu--DLGY) promulgated in 1883, the Civil Code of the North (Dan Luat Bac---DLB) promulgated in 1931, and the Civil Code of the Center (Dan Luat Trung--DLT) promulgated between 1936 and 1938. These three codes had parallel application for family matters in South Vietnam until the promulgation of the Family Law of 1959.

According to all three codes, the two spouses-to-be had to meet certain conditions concerning their ages, their consent and parental consent, before the marriage could be celebrated. As for the procedures required for the celebration of marriage, the DLGY stated that a marriage ceremony must be carried out in the presence of the civil officer (Article 17). The DLB and DLT did not require the celebration of marriage to be in the presence of a civil officer but stated that after the marriage ceremony had been celebrated according to the local rites, the parties must notify the local civil officer, in order for him to register the marriage in the marriage record (Articles 31 of DLB and DLT). Further, Article 82 of DLB and Article 83 of DLT mentioned that if a marriage was celebrated without notification to the civil officer, that marriage would be considered by the law as null. It should be mentioned that polygamy was accepted

by the three civil codes cited above. However, the second or third marriage still had to be effected in accordance with the conditions established by the law, and again, had to be registered by a competent civil officer. Therefore, common law marriage was not considered as valid legally in South Vietnam under these three civil codes.

Since 1959, the law governing marriage in South Vietnam has been, successively, as follows:

1. The Code of the Family (LGD 1/59), promulgated by Decree-Law No. 1/59 of January 2, 1959;
2. The Decree-Law Regulating Marriage, Filiation and Community Property (SL 15/64), promulgated on July 23, 1964.
3. The Civil Code (EDL 72), promulgated by Decree-Law No. 028-TT/SJU of December 20, 1972.

Under all three of the above laws, polygamy was abolished; and a marriage must be proved by means of a marriage certificate issued by a competent registrar, attesting to the fact that all the requirements called for by the law have been fulfilled, and that the marriage ceremony has been carried out in the prescribed manner and in the presence of the officer issuing the certificate (Article 22, Article 24, and Article 123 of the three laws, respectively). Among the above laws, only the Code of the Family (LGD 1/59), which was the first to abolish polygamy, has six articles governing common law marriage. Article 77 of the law defines common law marriage as the cohabitation of a man and a woman not joined in marriage, and states that such relationship is

strictly prohibited. Article 78 adds that the Public Prosecutor, on request or on his own initiative, may issue an injunction ordering the couple to terminate their cohabitation or to regularize their status by marriage within two months. In case the parties decide to end their relationship, an adequate indemnity shall be paid by one of the parties to the one without resources (Article 79). If there are children of the relationship, both parties are jointly liable to support them (Article 80, paragraph 2).

Therefore, in the light of the above provisions regarding marriage, common law marriage was not recognized by the law of South Vietnam.

---

Prepared by Mya Saw Shin, Senior Legal Specialist, and  
Phuong Khanh Nguyen, Legal Analyst  
Far Eastern Law Division  
Law Library  
Library of Congress  
Washington, D.C. 20540  
February 1976

PKN/MSS/vmy

2/12/76

PKN MSS

*M*