

MARRIAGE LAW IN THE REPUBLIC OF VIETNAM

Information has been requested regarding the marriage law that applied in 1974 for the former Republic of Vietnam. The question is raised as to whether the marriage law in effect at that time recognized a Chinese customary marriage as valid. The request did not give any other information concerning the case in question.

The law that governed family matters in 1974 was the Civil Code of 1972 (Bộ Dân Luật 1972 - BDL 72), promulgated on December 20, 1972. Under this law a marriage had to 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 had been fulfilled and that the marriage ceremony had been carried out in the prescribed manner in the presence of a competent civil officer responsible for issuing the certificate (Article 123).

Regarding the actual marriage celebration, the law stated that prior to the celebration of the wedding, the civil official had to post an announcement of the marriage at a public office or at the current residence of each prospective spouse. The announcement had to contain the names, occupations, residences, and addresses of both future spouses and their parents, as well as the place where the wedding ceremony would be held (Article 113). Accordingly, not more than one year prior to the date of the actual ceremony, banns had to be published and displayed for ten consecutive days (Article 115). Finally, the wedding ceremony had to be celebrated in the presence of a civil official at a public office or at the residence of either prospective spouse. If both parties had agreed to the marriage and if there were two witnesses present who were at least

twenty years of age or older, the civil official would have declared the two parties man and wife in the name of the law and would have issued a marriage certificate immediately (Article 123).

As for the question of foreigners who married in Vietnam, Vietnamese jurisprudence provided that foreigners who married in Vietnam or a foreigner who married a Vietnamese national in Vietnam had to follow the procedures required by Vietnamese law in order for their marriages to be considered as legal by Vietnamese courts. The decisions taken by the Vietnamese courts were based on the principle, set forth in private international law, which provides that in matters of procedure an act of marriage must follow the principle of "locus regit actum." The courts, however, also allowed foreign couples who chose not to follow Vietnamese procedures to marry at their embassies according to the requirements of the laws of their countries. The ceremonies should then be performed by competent officers of their respective embassies. But a religious ceremony or a ceremony carried out according to custom alone was not sufficient to constitute a legal civil marriage. Thus, according to jurisprudence, Vietnamese courts did not recognize a Chinese customary marriage as valid if such a marriage had been celebrated within Vietnamese territory.^{1/}

1/ Trần Đại Khâm, An Lê Vung Tập [Compilation of Jurisprudence from 1948-1967] (Saigon, Nhà Sách Khai Trí, 1969), p. 326.

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