

comrades, I repeat it here at the congress: *I have arrived at the conviction that Comrade Stalin cannot fulfill the role of unifier of the Bolshevik staff.* (Voices from the audience: “Untrue!” “Nonsense!” “So that’s what it is!” “He’s shown his cards!” Noise. Applause by the Leningrad delegation. Shouts: “We won’t surrender the commanding heights to you.” “Stalin! Stalin!” The delegates stand and cheer Comrade Stalin. Stormy applause. Shouts: “Here’s where the party has become united. Now the Bolshevik staff must be united.”)

(Yevdokimov, from his seat) “Long live the Russian Communist Party! Hurrah! Hurrah!” (The delegates stand and shout “Hurrah!” Noise. Stormy, long-sustained applause)

(Yevdokimov, from his seat) “Long live the Central Committee of our party! Hurrah!” (The delegates shout “Hurrah!”) “The party above all! Right!” (Applause and shouts, “Hurrah!”)

(Voice from a seat) “Long live Comrade Stalin!” (Stormy, continued applause, shouts) “Hurrah!” (Noise)

(Chairman) “Comrades, I beg you to quiet down. Comrade Kamenev will now finish his speech.”

I began this part of my speech with the words, “We are against the theory of individual preëminence, we are against creating a Duce!” With these same words I end my speech. (Applause by the Leningrad delegation)

(Voice from a seat) “And who do you propose?”

(Chairman) “I declare a ten minute recess.” . . .

Translated in Robert V. Daniels (ed.), *A Documentary History of Communism*, vol. 1 (New York: Alfred Knopf, 1960), pp. 277–279.

The Code of Laws on Marriage and Divorce, the Family and Guardianship

November 19, 1926

For a whole year, from the fall of 1925 to November 1926, a countrywide debate on the draft law on family, marriage, and divorce raged in the Soviet Union. Left reformers saw the new law as a model for socialist relations, but pro-peasant Communists, like Mikhail Kalinin, as well as the bulk of the peasantry itself, opposed the law’s provisions on alimony, simple declaration of divorce, and de facto, unregistered marriages. The Left complained that if such important laws are made “solely on the basis of a majority vote in the villages, in the skhod [village gatherings], then we are taking the leadership of our country away from the party, away from the vanguard, and turning it over to the backward, long-bearded village elders.” Kalinin, on the other hand, wanted to draw in “the workers and peasants to participate in the legislative project.” And Aron Solts, a Communist member of the Soviet Supreme Court, agreed: “We write laws not for Communists, but for the entire country. It is impossible to build socialism with only one socialist hand.”¹ Peasants feared that de facto marriage would undermine the peasant household, the very basis of their society and economy.

The law code was liberationist in its aim, the product of intellectuals and jurists reconceiving gender and generational relations. But its effect on impoverished Russian society was

1. Wendy Z. Goldman, *Women, the State, and Revolution: Soviet Family Policy and Social Life, 1917–1936* (Cambridge: Cambridge University Press, 1993), pp. 215, 221.

far from positive. The divorce rate almost doubled. People refused to pay alimony, and punishment for neglecting child support was rare. Though the chronic problem of homeless children (bezprizornost’) was somewhat ameliorated by the legalization of adoption, only a dedicated state campaign reduced the number of children on the streets from 125,000 to about 10,000 in the late 1920s. With the coming of the First Five-Year Plan and the massive flow of women into the industrial workforce, the party leaders shifted their views on family stability and abortion. What had begun as a commitment to “the withering away” of the family ended with the Stalinist reversion to its strengthening. “By 1944 the reversal in family law was complete,” writes Wendy Z. Goldman; “the Family Edict of that year repudiated the remaining traces of the legislation of the 1920s by withdrawing recognition of de facto marriage, banning paternity suits, reintroducing the category of illegitimacy, and transferring divorce back to the courts. . . . Stalinist policy toward the family was a grotesque hybrid: Rooted in the original socialist vision, starved in the depleted soil of poverty, and ultimately deformed by the state’s increasing reliance on repression.”²

Decree of the All-Russian Central Executive Committee passed at the Third Session of its Twelfth Election Period on November 19, 1926

PART I. MARRIAGE AND DIVORCE

Chapter 1. General Principles

1. The registration of marriages is introduced in the interest of the State and society as well as for the purpose of facilitating the protection of the personal and property rights and the interests of husband and wife and of children. A marriage is contracted by registration at a Civil Registrar’s Office in the manner prescribed by Part IV of the present code.

2. The registration of a marriage at a Civil Registrar’s Office is conclusive evidence of the existence of the state of matrimony. Documents attesting the celebration of marriage according to religious rites have no legal effect.

Note.—Marriages celebrated according to religious rites prior to December 20, 1917, or which were celebrated in localities occupied by the enemy prior to the establishment of the Civil Registrar’s Offices, have the same effect as registered marriages.

3. Where *de facto* conjugal relations exist between persons which relations have not been registered in the manner prescribed such persons are entitled at any time to regularize their relation by registration, stating when so doing the period of their actual cohabitation.

Chapter 2. Conditions Governing the Registration of Marriages

4. The following conditions are required for the registration of a marriage: (a) there must be mutual consent to register the marriage; (b) both parties must be of marriageable age. . . .

5. The marriageable age is fixed at eighteen years.

2. *Ibid.*, pp. 340, 342.

Note.—The Presidiums of the Central Executive Committees of the Autonomous Republics, the Presidiums of the Executive Committees of the Autonomous Regions, Regional Executive Committees and also those of Town and District Soviets in towns may, in exceptional cases, and acting upon individual petitions, lower the marriageable age fixed for women in the present section, but not by more than one year. . . .

6. It is unlawful to register the following marriages: (a) between persons one or both of whom is or are already married either with or without registration; (b) between persons one or both of whom has or have been adjudged weak-minded or insane, in the manner prescribed by law; (c) between relatives in the direct line of descent; also between brothers and sisters, whether of the full blood or the half blood.

Chapter 3. *Rights and Duties of Husband and Wife*

7. On registering a marriage the contracting parties may declare it to be their wish to have a common surname, either that of the husband or of the wife, or to retain their antenuptial surnames.

8. On the registration of a marriage between a person who is a citizen of the R.S.F.S.R. and a person who is a foreign citizen, each party retains his or her respective citizenship. Change in citizenship of such persons may be effected in the simplified manner provided for by the Union laws. . . .

9. Both husband and wife enjoy full liberty in the choice of their respective trades and occupations. The manner in which their joint household is conducted is determined by the mutual agreement of the two contracting parties. A change of residence by either husband or wife does not oblige the other marriage partner to follow the former.

10. Property which belonged to either husband or wife prior to their marriage remains the separate property of each of them. Property acquired by husband and wife during continuance of their marriage is regarded as their joint property. The share belonging to either husband or wife shall, in case of dispute, be determined by the court. . . .

11. Section 10 of the present code extends also to the property of persons married *de facto* though not registered, provided such persons recognize their mutual status of husband and wife, or their marital relationship is established as a fact by a court on the basis of the actual conditions under which they live.

12. Proof of joint cohabitation is sufficient for the court to establish marital cohabitation in cases where the marriage has not been registered, provided that in addition to proof of joint cohabitation proof of a common household be adduced and that statements have been made to third persons either in personal correspondence or in other documents tending to prove the existence of marital relations, taking also into consideration such circumstances as the presence or absence of mutual material support, joint raising of children, and the like.

13. The husband and wife may enter into any contractual relations with each other regarding property provided they are lawful. Agreements between husband and wife intended to restrict the property rights of the wife or of the husband are invalid and are not binding on third parties or on the husband or wife who may at any time refuse to carry them out.

14. When either husband or wife is in need and unable to work he or she is entitled to receive alimony from the other conjugal partner, if the court finds that the latter is able to support the former. A husband or wife in need of support but able to work is likewise entitled to alimony during the period of his or her unemployment.

15. The right of a husband or wife in need and unable to work to receive alimony from the other conjugal partner continues even after the dissolution of the marriage until there has been a change in the conditions which according to Section 14 of the present code serve as a basis for the receipt of alimony, but not for a period exceeding one year from the time of the dissolution of the marriage. The amount of alimony to be paid to a needy unemployed husband or wife in case of dissolution of the marriage is fixed by the court for a period not exceeding six months and shall not exceed the corresponding amount of Social Insurance relief.

16. The right to receive alimony both during marriage and after its dissolution extends also to persons who are married *de facto*, though not registered, provided they fall within the purview of Sections 11 and 12 of the present code.

Chapter 4. *Dissolution of Marriage*

17. A marriage is dissolved by the death of one of the parties to it or by a declaration of the presumptive death of either the husband or the wife through a notary public or court. . . .

18. During the lifetime of both parties to a marriage the marriage may be dissolved either by the mutual consent of both parties to it or upon the *ex parte* application of either of them.

19. During the lifetime of both parties, the dissolution of a marriage (divorce) may be registered at the Civil Registrar's office, whether the marriage was registered or unregistered, provided that in the latter case it had been established as a fact by the court in accordance with Section 12 of the present code.

20. The fact that a marriage has been dissolved may also be established by a court, if the divorce was not registered.

21. When registering the dissolution of their marriage the husband and wife indicate what surname each of them wishes to use. In the absence of an agreement between the parties on this point, each resumes his or her antenuptial surname.

22. When registering the dissolution of a marriage it is the duty of the Registrar to consider the question of which child or children, if any, shall be entrusted to the custody of each parent to what extent each parent is to bear the expense of raising the children, and the amount of alimony to be paid to a husband or wife unable to work. In case the husband and wife arrive at an understanding on these points, such agreement is recorded in the register of divorces and a corresponding extract from the book is handed to both husband and wife; this agreement does not deprive either the husband or wife, or the children, of the right subsequently to present, by way of an ordinary lawsuit, a claim for alimony in a sum exceeding that stipulated in the agreement.

23. If the obligations set forth in the agreement have not been carried out, the persons interested may apply at the office of a notary public for a writ of execution in accordance with Clause B Section 47, of the regulations governing the State notaries public.

24. In the absence of an agreement the question of the amount of alimony to be awarded to children is settled by an ordinary lawsuit; the court at the time the statement of claim was filed renders a decision, after careful consideration of the circumstances of the case and the interests of the children, specifying which of the parents, and to what extent, he or she must, pending the decision of the lawsuit, provisionally bear the expense of the maintenance of the children, and who is to have provisional custody of the children.

The amount of alimony awarded to a husband or wife in need and unable to work must in the absence of an agreement likewise be decided by the court upon the institution of an ordinary lawsuit.

PART II. MUTUAL RELATIONS BETWEEN PARENT AND CHILD AND BETWEEN OTHER RELATIVES

Chapter 1. *General Principles*

25. The mutual rights of children and parents are based on consanguinity. Children whose parents are not married possess the same rights as children born in wedlock.

26. The father and mother of a child are recorded in the register of births.

27. If no record is made of the parents, or if the record made is incorrect or incomplete, the parties interested are entitled to prove or disprove paternity or maternity by recourse to the court.

28. In order to protect the interests of the child, the mother is granted the right, during the period of her pregnancy or after the birth of the child, to file a declaration of paternity with the local Civil Registrar's Office according to her place of residence, stating the name, patronymic, surname and residence of the father of the child.

29. The Civil Registrar's Office informs the person alleged in the declaration to be the father, of the filing of such declaration. If the putative father, within a month after receiving this notification, does not raise any objection, he is recorded as the father of the child. The person alleged to be the father may within one year after the date of the receipt of the notification institute a suit, against the mother of the child contesting the truthfulness of her statement.

30. The mother of the child has also the right to institute a paternity suit in court after the birth of the child.

31. If the court is satisfied that the person stated in the declaration (Sections 28 and 30 of the present code) is the father of the child, it enters a finding to that effect and imposes on the father the duty of contributing to the expenses connected with her pregnancy, lying-in, childbirth and maintenance of the child, also to the expenses of the mother during the period of her pregnancy and for six months after childbirth.

32. In case the court during the trial of the paternity case finds as a fact that the mother of the child at or about the time of conception had sexual intercourse not only with the person referred to in Section 28 of the present code, but also with other persons, the court enters a decree which recognizes one of these persons as the father of the child and imposes on him the duties set forth in Section 31 of the code.

Chapter 2. *Rights and Duties of Relatives*

33. Parental rights are to be exercised exclusively in the interests of the children and in case they are improperly exercised the court is authorized and empowered to deprive the parent of their rights.

34. If the parents have a common surname, that surname is also given to the children. If the parents have not a common surname, the surname of the children is determined by agreement between the parents. In the absence of an agreement between the parents on the question of the surname of their children, the surname of the children is decided upon by the Office of Guardians and Trustees. If the father is unknown the child takes the name of the mother. In the case of a dissolution of the marriage, the children retain the surname given them at birth.

35. If the citizenship of the parents is not the same, but at least one of them at the time of the birth of the child is a citizen of the R.S.F.S.R., and at least one of the parents at the time of the birth of the child was living on U.S.S.R. territory, the child will be deemed a citizen of the R.S.F.S.R. If one of the parent was a citizen of the R.S.F.S.R. at the time of the child's birth but at that time both parents lived outside the territory of the U.S.S.R., the citizenship of the child is determined by agreement between the parents.

36. A change in the citizenship of either husband or wife where both are citizens of the R.S.F.S.R. and living on U.S.S.R. territory, does not affect the citizenship of their children. The citizenship of children in cases where one of the parents, citizens of the R.S.F.S.R. but who live outside the territory of the U.S.S.R., loses his R.S.F.S.R. citizenship, is determined by agreement of the parents.

37. Agreement between the parents that their children adhere to any particular religion is of no legal effect.

38. All steps in regard to children are taken by both parents jointly. . . .

43. The protection of the interests of minors, whether they pertain to their persons or their property, is incumbent upon the parents, who act as guardians *ad litem* of the children in courts and other institutions.

44. The parents are entitled to sue in court for the return of their children from any person detaining the children on his premises without warrant of law and not in pursuance of any court decree; in such case the court is not bound by the formal rights of the parents but decides according to the merits of each case with due regard only for the welfare of the children.

45. Parents are granted the right to entrust their children to other persons to have them brought up and educated. They also enjoy the right, with the consent of the children, to make contracts of apprenticeship and work for wages in the cases and in the manner permitted by the labour legislation in force at the time.

Children may not be entrusted for purposes of being brought up and educated to persons who under Section 77 of the present code may not act as guardians and trustees. . . .

46. In the event of non-fulfilment of their duties on the part of the parents or in case they do not properly exercise their rights with respect to their children, or if they treat their children cruelly, the court issues a decree to the effect that the children be taken away from the parents and handed over to the care of the Office of Guardians and Trustees, and the court is authorized to decree at the same time that both parents contribute to the support of their children.

Note.—The Office of Guardians has the right pending the decision of the court to issue orders to take the children away from their parents or from other persons in whose custody they are, if the continuance of their stay with these persons constitutes a menace to the children.

47. In the event of the court issuing a decree depriving parents of their parental rights, the Office of Guardians and Trustees must allow parents to see their children except in cases where such meetings may prove injurious to the children.

48. The duty to support children rests upon both parents; the extent of their contributions towards their support depends upon their respective means.

49. Children must support their needy incapacitated parents.

50. When parents are unwilling to support their children, or children their parents, in the cases provided for in Sections 42 and 49 of the present code, the persons entitled to support may sue for such support in court.

Note.—In case of any change in the material position of the parents or children, the court decree may be modified by instituting a lawsuit in the usual way.

51. The deprivation of parental rights does not relieve parents of the duty to support their children.

52. Persons who are jointly liable to contribute support are liable in equal shares, except where the court in view of the unequal means of the persons liable to contribute or in view of the absence of one of them, or for some other cogent reason, finds it necessary to fix other ratios for the discharge of this duty.

53. The rights of parents and children with regard to the property of a peasant household (*Dvor*) are determined by the pertinent sections of the Land Code.

54. Needy brothers and sisters, if minors, are entitled to obtain support from their brothers and sisters who possess efficient means if the former brothers and sisters are unable to obtain alimony from their parents because the parents are not a party to the action or because they are impecunious.

55. A needy, incapacitated grandfather or grandmother is entitled to alimony from his or her grandchildren if the latter possess sufficient means, provided such alimony cannot be obtained from the conjugal partner or the children. Similarly needy grandchildren who are either under age or incapacitated are entitled to alimony from their grandfather or grandmother who possess sufficient means, provided they are unable to obtain such alimony from their parents.

56. Children born of members of a peasant household (*Dvor*) are recognized as members of the *Dvor* to which their father or mother belongs, irrespective of whether their parents are married with or without registration.

Where parents belong to different peasant households, their children may be registered as members of one of these households at the option of the parent with whom the children are living.

Disputes concerning the place where a child is to be recorded as a member of a peasant household are decided by the court which is guided by the interests of the child. . . .

56 (1) Where the fatherhood of a member of a peasant household (*Dvor*) has been established, the court fixes at the same time the quantity of food products which the *Dvor* of the father must contribute to the support of the child.

Children born of a member of a peasant household (Sec. 56) retain the right to alimony out of the personal means of the father and out of the personal means of the

mother over and above the rights which they possess as members of the peasant household on the general principles laid down in Sections 48 and 50 of the present code. . . .

Chapter 3. Adoption

57. Adoption is allowed only in the case of young children and persons under age, and exists exclusively in the interests the children.

58. Persons deprived of the right to act as guardians in accordance with Section 77 of the present code have no right to adopt.

59. Adoption is effected by order of the Office of Guardians and Trustees and must be registered in the usual manner in the Civil Registrar's Office.

Note.—The adoption of children of Soviet citizens by foreign citizens (subjects) residing on U.S.S.R. territory is allowed provided the rules laid down in the present chapter are observed and provided further that special permission be obtained in each individual case from the Presidium of the Executive Committee of the respective Gubernia, Okrug, or other respective administrative area.

60. At the time of adoption, the adopted child may be given the surname of the adopter, and with the consent of the adopted child, also the adopter's patronymic.

61. If the parents of the adopted child are living, or if it is under the care of a guardian or trustee, adoption can take place only with the consent of the parents, if they have not been deprived of their parental rights; or of the respective guardians or trustees.

62. Where the adopter is married, adoption can only take place with the consent of the other conjugal partner.

63. No children above the age of 10 may be adopted without their own consent.

64. Adopted children and their offspring have the same personal and property rights and duties with regard to their parents by adoption, and the latter with regard to their children by adoption and their offspring, as have the corresponding relatives by consanguinity.

65. Adoption effected in the absence of, or without the consent of, the parents of the adopted child, may be annulled by the Office of Guardians and Trustees at the request of the parents, the child's return to them is in the interests of the child. In order to annul the adoption of a minor over 10 years of age his own consent is required.

66. Any person or institution may institute a suit in court or the annulment of an adoption if such annulment is necessary in the interests of the child. . . .

Translated in Rudolf Schlesinger (ed.), *The Family in the U.S.S.R.: Documents and Readings* (London: Routledge & Kegan Paul, 1949), pp. 154–165.

Kamenev-Bukharin Exchange

July 11, 1928

Early in 1928, the alliance of Stalin and Bukharin fell apart. The "extraordinary measures" taken by Stalin and his agents in collecting the grain that past fall, and his intention to move beyond individual peasant agriculture to collective farms, stood in sharp contrast to Bukharin's