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Refugee Documentation Centre

Country Marriage Pack

Ethiopia

Disclaimer

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1. Types of Marriage

Civil Marriages

Article 35 (Rights of Women) of the *Constitution of the Federal Democratic Republic of Ethiopia* states:

- A. "2. Women have equal rights with men in marriage as prescribed by this Constitution." (Federal Democratic Republic of Ethiopia (21 August 1995) *Constitution of the Federal Democratic Republic of Ethiopia*)

The Revised Family Code of 2000, in a section titled "Chapter One: Conclusion of Marriage", states:

"Article I. — Various Forms of Marriage.

- 1) Marriage may be concluded before an officer of civil status.
- 2) Notwithstanding the provisions of Sub-Article (1) of this Article, marriage may be concluded in accordance with the religion or custom of the future spouses.

Article 2. — Marriage Concluded before an Officer of Civil Status. Marriage shall be deemed to be concluded before an officer of civil status when a man and a woman have appeared before an officer of civil status for the purpose of concluding marriage and the officer of civil status has accepted their respective consent. (Federal Negarit Gazetta of the Federal Democratic Republic of Ethiopia (4 July 2000) *The Revised Family Code*)

A report prepared for the *UN Committee on the Elimination of Racial Discrimination (CERD)*, in a section titled “Right to marriage and choice of spouse” (paragraph 139), states:

“According to the FDRE Constitution all men and women who attained marriageable age (18) have the right to marry and found a family without distinction as to race, nation, nationality or religion. Marriage of an Ethiopian national of either sex to a foreign national shall not annul his/her Ethiopian nationality. A marriage conducted outside of Ethiopia is also recognized under Ethiopian law so long as it does not infringe public morality. The Constitution also recognizes religious and customary marriages so long as they do not contradict the Constitution including its basic principles of human rights. Since family matters are left to regional states, new family codes have been adopted by the regional states in addition to the Federal Family Code. Marriage across the different ethnic groups is very common in Ethiopia.” (UN Committee on the Elimination of Racial Discrimination (11 March 2009) *Reports submitted by states parties under article 9 of the convention; Reports of States parties due in 2007; Ethiopia [CERD/C/ETH/7-16]*)

Religious Marriages

Article 34 (Marital, Personal and Family Rights) of the *Constitution of the Federal Democratic Republic of Ethiopia* states:

“4. In accordance with provisions to be specified by law, a law giving recognition to marriage concluded under systems of religious or customary laws may be enacted.” (Federal Democratic Republic of Ethiopia (21 August 1995) *Constitution of the Federal Democratic Republic of Ethiopia*)

The Revised Family Code of 2000, in a section titled “Chapter One: Conclusion of Marriage”, states:

Article 3. — Religious Marriage.
Religious marriage shall take place when a man and a woman have performed such acts or rites as deemed to constitute a valid marriage by their religion or the religion of one of them. (Federal Negarit Gazetta of the Federal Democratic Republic of Ethiopia (4 July 2000) *The Revised Family Code*)

A report presented by the *Federal Democratic Republic of Ethiopia* to the UN Human Rights Committee, in Article 23: Protection of the family (paragraph 219), states:

“The Constitution recognizes religious and customary marriages in so far as they do not contradict the Constitution and the essential conditions of marriage (reference is made to paragraphs 181, 189, 192 of Ethiopia’s initial report under the ICESCR). Hence, the federal and regional family codes recognize marriages concluded in accordance with the religion or custom of the future spouses; no distinction shall be made as to the effect of marriage, whether the marriage has been concluded before an officer of civil status or according to the forms prescribed by a religion or custom.” (UN Human Rights Committee (22 October 2009) *Consideration of reports submitted by States parties under article 40 of the Covenant; First periodic report of States parties; Ethiopia [CCPR/C/ETH/1]*)

“Article 3. — Religious Marriage” of the The Revised Family Code states:

“Religious marriage shall take place when a man and a woman have performed such acts or rites as deemed to constitute a valid marriage by their religion or the religion of one of them.” (Federal Negarit Gazetta of the Federal Democratic Republic of Ethiopia (4 July 2000) *The Revised Family Code*)

Proxy Marriages

No information on the above issue could be found among sources available.

Traditional/Other Marriages

The Revised Family Code of 2000, in a section titled “Chapter One: Conclusion of Marriage”, states:

Article 4. — Marriage According to Custom.

Marriage according to custom shall take place when a man and a woman have performed such rites as deemed to constitute a valid marriage by the custom of the community in which they live or by the custom of the community to which the belong or to which one of them belongs.

Article 5. __Celebrated Abroad.

Marriage celebrated abroad in accordance with the law of the Place of celebration shall be valid in Ethiopia so long as it does not contravene public moral.” (Federal Negarit Gazetta of the Federal Democratic Republic of Ethiopia (4 July 2000) *The Revised Family Code*)

The 2012 *US Department of State* country report on Ethiopia, in a section titled “Women” (paragraph headed “Discrimination”), states:

“There was limited legal recognition of common-law marriage. A common-law husband had no obligation to provide financial assistance to his family, and as a result, women and children sometimes faced abandonment.

Notwithstanding progressive provisions in the formal law, traditional courts continued to apply customary law in economic and social relationships.” (US Department of State (19 April 2013) *2012 Human Rights Reports: Ethiopia*, p.29)

In a section titled “Children” (paragraph headed “Child Marriage”) this report states:

“In the Amhara and Tigray regions, girls were married routinely as early as age seven. Child marriage was the most prevalent in the Amhara Region, where the median first marriage age was 15.1 years per the 2011 DHS, compared with 14.7 years in 2005. Regional governments in Amhara and, to a lesser extent, Tigray offered programs to educate young women on issues associated with early marriage. (ibid, p.31)

A Working Paper published by Young Lives, in a section titled “Prevalence of child marriage and circumcision”, states:

“Early marriage of women is prevalent throughout Ethiopia and is clearly a gendered issue, given the considerable difference between men and women in age at marriage. The most recent data come from the Ethiopian Demographic Health Survey (EDHS) of 2011, a draft of which was released in May 2012. The data suggest that female child marriage is prevalent throughout the country, with the median age at first marriage¹⁷ for women being 17.1, almost a year below the legal age of marriage, whereas the median for men was six years older, at 23.1.” (Young Lives (February 2013) Harmful Traditional Practices and Child Protection: Contested Understandings and Practices of Female Child Marriage and Circumcision in Ethiopia, pp.8-9)

A feature story published on the website of the *United Nations Population Fund (UNFPA)* comments on the practice of wife inheritance, stating:

- A. “In some places a woman is considered the property of the family into which she marries, and if her partner dies, she is expected to wed a male relative.” (United Nations Population Fund (UNFPA) (7 December 2009) *Shelter from the Storm: Escaping from Gender Violence in Ethiopia*)

2. Formalities of Marriage (Consent, Minimum Age and Registration of Marriage)

Article 34 (Marital, Personal and Family Rights) of the *Constitution of the Federal Democratic Republic of Ethiopia* states:

“1. Men and women, without any distinction as to race, nation, nationality or religion, who have attained marriageable age as defined by law, have the right to marry and found a family. They have equal rights while entering into, during marriage and at the time of divorce. Laws shall be enacted to ensure the protection of rights and interests of children at the time of divorce.

- B. 2. Marriage shall be entered into only with the free and full consent of the intending spouses.” (Federal Democratic Republic of Ethiopia (21 August 1995) *Constitution of the Federal Democratic Republic of Ethiopia*)

The Revised Family Code of 2000, in a section titled “section 2. Essential Conditions of Marriage”, refers to the formalities of marriage as follows”

“Article 25 — Formalities of Celebration.

- 1) Marriage shall be concluded publicly in the presence of the future spouses and two witnesses for each of the future spouses.
- 2) The future spouses and the witnesses shall declare, under oath, that the essential conditions of marriage are not violated.
- 3) The officer of civil status shall inform the future spouses and their witnesses, before taking oath, of the consequences of their declaration.

- 4) Each of the future spouses shall declare openly to the officer of civil status that they consented to conclude marriage on their own free will.
- 5) Each of the spouses and their witnesses shall sign in the register of civil status.

Upon fulfillment of the formalities prescribed above, the officer of civil status shall pronounce them united in marriage and shall issue a certificate of marriage to that effect.” (Federal Negarit Gazetta of the Federal Democratic Republic of Ethiopia (4 July 2000) *The Revised Family Code*)

In a section titled “Section 6. Registration of Marriage” this code states:

“Article 28. — Registration.

- 1) Marriage shall be registered by a competent officer of civil status irrespective of the form according to which the marriage is celebrated.
- 2) The officer of civil status who recorded the marriage in accordance with Sub-Article (1) of this Article shall issue a certificate of marriage to the spouses.
- 3) Any marriage shall have effect from the date of its conclusion.

Article 29. — Record of Marriage.

- 1) Where the spouses have failed to have registered their marriage in accordance with Sub-Article (1) of Article 28. the officer of civil status shall draw up the record of marriage of his own motion whenever he becomes aware of the marriage.
- 2) In such cases, the officer of civil status shall summon the spouses and their witnesses to sign in the record of marriage.

Article 30. — Particulars (sic) of the Record of Marriage.

The record of marriage shall show:

- (a) the full names, dates, and places of birth, of each of the spouses and their addresses;
- (b) the full names, dates and places of birth, of the witnesses, and their addresses;
- (c) the form of the marriage, the date on which it has been concluded and the date of its registration.” (ibid)

A report presented by the *Federal Democratic Republic of Ethiopia* to the UN Human Rights Committee, in Article 23: Protection of the family (paragraph 215), states:

- A. “The Constitution provides that marriage may be entered into only with the free and full consent of the intending spouses (reference is made to paragraphs 181–189–192 of Ethiopia’s initial report under the ICESCR.) The

Revised Family Code applicable for the two federal cities (Addis Ababa and Dire Dawa) makes free and full consent of the spouses one of the essential conditions for a valid marriage. This principle is reiterated in all state family codes.” (UN Human Rights Committee (22 October 2009) *Consideration of reports submitted by States parties under article 40 of the Covenant; First periodic report of States parties; Ethiopia [CCPR/C/ETH/1]*)

Paragraph 216 of this report states:

“The marriageable age of men and women is also provided in the federal as well as in the regional family codes. Hence, neither a man nor a woman who has not attained the full age of 18 years shall conclude marriage. This is applicable to all regions. In some exceptional circumstances, the Ministry of Justice at the federal level and Bureau of Justice at the regional level may grant dispensation for not more than two years for serious cause, upon the application of the future spouses or the parents or the legal guardian of one of them. Where a minor is married in accordance with this dispensation, he shall be emancipated from legal restraints by the sole fact of such marriage. The Criminal Code also punishes a person who concludes marriage with a minor.” (ibid)

A report submitted to the UN Human Rights Council by the *Sexual Rights Initiative* (a coalition of women’s rights NGOs), in a section titled “Legal Framework”, states:

- A. “Under the Revised Federal Family Law discriminatory laws (such as provisions of the Civil Code of 1965) have been revised and made equitable and age of marriage has been made 18 for both boys and girls, though customary practices pertaining to marriage, divorce and inheritance often discriminate against women and girls.” (Sexual Rights Initiative (2009) *Report on Ethiopia- Universal Periodic Review – Sixth Round (2009)*)

In a section titled “Child Marriage” this report states:

- A. “About 40 % of girls are married by 15 or younger. In 1995, Ethiopia set the minimum age limit for marrying at 18, but early marriages have not stopped.” (ibid)

The 2012 *US Department of State* country report on Ethiopia, in a section titled “Children” (paragraph headed “Child Marriage”), states:

“The law sets the legal marriage age for girls and boys at 18; however, this law was not enforced uniformly, and rural families were sometimes unaware of this provision. In several regions it was customary for older men to marry young girls, although this traditional practice continued to face greater scrutiny and criticism.” (US Department of State (19 April 2013) 2012 *Human Rights Reports: Ethiopia*)

In a section titled “Women” (paragraph headed “Other Harmful Traditional Practices”) this report refers to the practice of marriage by abduction as follows:

“Marriage by abduction is illegal, although it continued in some regions, including Amhara, Oromia, and SNNPR, despite the government’s attempts to combat the practice. Forced sexual relationships accompanied most marriages by abduction, and women often experienced physical abuse during the abduction. Abductions led to conflicts among families, communities, and ethnic groups. In cases of marriage by abduction, the perpetrator did not face punishment if the victim agreed to marry the perpetrator. Ethiopia Goji Limadawi Dirgitoch Aswogaj Mahibar (EGLDAM), an NGO that combats harmful traditional practices, reported in June 2010 that there were significant decreases in this practice in all regions over the past decade. Overall, 25 percent of women ages 60 and above reported marriage by abduction, but only 8 percent of women under age 30 reported this practice.” (ibid)

See also 2004 document published by *UNICEF* which states:

“According to surveys conducted by the National Committee on Traditional Practices of Ethiopia (NCTPE), the prevalence of marriage by abduction is 80 per cent in Oromia Region... and as high as 92 per cent in Southern Nations Nationalities and Peoples Region (SNNPR), with a national average of 69 per cent.” (UNICEF (9 November 2004) *UNICEF Supports Fight to End Marriage By Abduction in Ethiopia*)

Article 587 (Abduction of a Woman) of the *Criminal Code of the Federal Republic of Ethiopia* states:

“(1) Whoever with intent to marry a woman abducts her by violence, or commits such an act after having obtained her consent by intimidation, threat, trickery or deceit, is punishable with rigorous imprisonment from three years to ten years.

(2) Where the act of abduction is accompanied by rape, the perpetrator shall be liable to the punishment prescribed for rape in this Code.

(3) The conclusion of a marriage between the abductor and the abducted subsequent to the abduction shall not preclude criminal liability.

(4) Nothing shall affect the right of the victim to claim compensation under civil law for the moral and material damage she may have sustained as a result of the abduction.” (Federal Democratic Republic of Ethiopia (9 May 2005) *Criminal Code of the Federal Democratic Republic of Ethiopia 2004*)

A Human Rights Watch report, in a section titled “Rape and Sexual Violence”, refers to the abduction of young girls by Ethiopian soldiers as follows:

“There were also multiple interviewees from one village that told us that when the army left after tukul construction, they took with them seven girls to become ‘their wives.’ One eyewitness said:

When the soldiers finally left after the construction period they took seven young girls with them ‘for forced marriage.’ They took them back to the Highland areas. I know the girls personally. They were taken right in front of their parents. They did not resist because the soldiers have guns. They were all taken in the same day, just at the end of construction.

At the time of the interviews there was no information of the girls having been returned to their village.” (Human Rights Watch (17 January 2012) *“Waiting Here for Death”: Forced Displacement and “Villagization” in Ethiopia’s Gambella Region*)

A document on marriage in Ethiopia supplied by the Ethiopian embassy in Dublin, in a section headed “Formalities to register a marriage (article 25) and requirements”, lists the documents required for a marriage in Ethiopia as follows:

- “6.1 Both applicants should bring documents from their respective Kebeles (local registration office), which conforms that both are single. Such documents obtained 6 months before request to marriage certificate are not valid.
- 6.2 If one of the applicants has been married before, she/ he should have a document (divorce certificate) indicating that the applicant is legally divorced.
- 6.3 Whenever Ethiopians living outside the country want to acquire marriage certificate, they should bring a document from the Ethiopian Embassy where they reside, approved by ministry of foreign affairs, indicating that she/he is not married along with renewed passport.
- 6.4 The future spouses should bring a recently renewed resident ID cards (both the original and copy)
- 6.5 The future spouses should bring identical passport size photos (3 each)
- A. 6.6 Four Witnesses (2 from each side) should be present at the ceremony with their ID cards (both original and copy)”. (Embassy of the Federal Democratic Republic of Ethiopia (1 March 2011) *Information about marriage in Ethiopia*)

3. Divorce

A report presented by the *Federal Democratic Republic of Ethiopia* to the UN Human Rights Committee, in Article 23: Protection of the family (paragraph 214), states:

- A. “The Constitution guarantees the right to marry and form a family for men and women without any distinction as to race, nation, nationality or religion provided that they have attained marriageable age as defined by law. Furthermore, the Constitution asserts that spouses are entitled to equal rights on the conclusion of marriage, during marriage and upon dissolution of marriage. The Constitution also demands that laws be enacted to safeguard the interests of children at the time of divorce.” (UN Human Rights Committee (22 October 2009) *Consideration of reports submitted by States parties under article 40 of the Covenant; First periodic report of States parties; Ethiopia [CCPR/C/ETH/1]*)

The Revised Family Code of 2000, in a section titled Chapter Four: Dissolution of Marriage (sub-section headed “section 1. Divorce by Mutual Consent”), contains the following articles relating to divorce:

Article 77. —Petition for Divorce by Mutual Consent.

- 1) Where the spouses have agreed to divorce by mutual consent, such agreement, which shall also regulate the consequences thereof, shall be submitted in writing to the court for approval.
- 2) Notwithstanding the provisions of Sub-Article (1) of this Article, spouses whose marriage lasted for less than six months shall not be permitted to divorce by mutual consent.
- 3) Spouses who petition for divorce by mutual consent are not obliged to state the reason thereof.

Article 78. — Power of the Court.

- 1) Where a petition for divorce is made under Article 77 (1), the court may discuss with the spouses separately or jointly and counsel them to renounce their intention to divorce.
- 2) In the event that the spouses did not show willingness to renounce their intention to divorce, the court may, having regard to circumstances, dismiss them giving a cooling period of not more than three months.

Article 79. — Re-application.

- 1) Where the spouses did not change their intention to divorce within the cooling period given to them under Article 78 (2), they may re-apply to the court to approve their agreement to divorce within six months from the last date of such cooling period.
- 2) Notwithstanding the six months time limit provided in Sub-Article (1) of this Article, nothing shall prevent the spouses from submitting a new petition for divorce.

Article 80. — Approval of Divorce by Mutual Consent.

- 1) The court shall approve the divorce agreement only when it believes that the agreement is the true expression of the intention and free consent of the spouses and is not contrary to law and morality.
- 2) The court shall also approve the conditions of the divorce agreed between the spouses together with the divorce agreement.
- 3) Notwithstanding the provisions of Sub-Article (2) of this Article, where the agreement of the spouses on the conditions of divorce does not sufficiently protect the interest and well being of their children, or, where it adversely affects the interests of one of the spouses, the court may approve only the divorce agreement and give decisions it may deem appropriate to correct the defects on the conditions of

divorce.” (Federal Negarit Gazetta of the Federal Democratic Republic of Ethiopia (4 July 2000) *The Revised Family Code*)

See also sub-section headed “Section 2. Divorce by Petition” which consists of the following articles:

“Article 81. — (1) Petition for Divorce.

- 1) A petition for divorce may be made to the court either by the two spouses conjointly or by one of them.
- 2) The spouses or one of them may state in the petition the reasons for divorce.

Article 82. — (2) Power of the Court.

- 1) Where the petition for divorce is made under the preceding Article, the court shall speak to the spouses separately or jointly with a view of persuading them to renounce the petition for divorce and solve their dispute amicably.
- 2) Where the attempt made under Sub-Article (1) has tailed or is likely to fail the court may direct the spouses to settle their dispute through arbitrators of their own choice.
- 3) Where the spouses did not agree to settle their dispute through arbitration, the court may dismiss the parties by giving them a cooling period of up to three months.
- 4) Where all the efforts made under the preceding provisions have failed, the court shall pronounce divorce within one month from the receipt of the reports or arbitrators, or the end of the cooling period, as the case may be.
- 5) From the time the petition for divorce is brought before it, the court shall forthwith give appropriate order regarding the maintenance of the spouses, the custody and maintenance of their children and the management of their property.
- 6) Where circumstances absolutely require that one of the spouses leave their common abode, the court shall, when giving an order under Sub-Article (5) of this Article, take into consideration the interest of children and the condition of the spouse who may be affected more by leaving their common abode.

Article 83 — Decision on Conditions of Divorce.

- 1) Where the marriage is dissolved by divorce under this section, the court shall request the spouses to agree on the conditions of divorce.
- 2) Where the spouses are not willing to agree or have failed to agree in accordance with Sub-Article (1) of this Article, the court shall, by itself, or through arbitrators, or experts appointed by it, or by any other means it thinks appropriate, decide on the conditions of divorce.

- 3) The conditions of divorce agreed upon by the spouses or decided by arbitrators or experts shall be submitted to the court for approval.
- 4) After deciding the divorce, the court may postpone the judgment on conditions of the divorce for not more than six months.

Article 84—Indemnities.

Where the cause of the divorce is imputable to one of the spouses and where justice so requires, the court may order such spouse to make good the damage sustained by the other spouse.” (ibid)

4. Marriage between Non Nationals and Nationals

Marriage between a Non National and a National

Article 35. (Rights of nationality) of the *Constitution of the Federal Democratic Republic of Ethiopia* states:

- A. “1. No Ethiopian national shall be deprived of his or her Ethiopian nationality against his or her will. Marriage of an Ethiopian national of either sex to a foreign national shall not annul his or her Ethiopian nationality.” (Federal Democratic Republic of Ethiopia (21 August 1995) *Constitution of the Federal Democratic Republic of Ethiopia*)

The 2003 *Proclamation on Ethiopian Nationality*, in Part Two: Acquisition of Ethiopian Nationality (paragraph 6: Cases of Marriage), states:

“A foreigner who is married to an Ethiopian national may acquire Ethiopian nationality by law if:

1. The marriage is concluded in accordance with the Ethiopian laws or in accordance with the laws of any other country where the marriage is contracted:
 2. There is a lapse of at least two years since the conclusion of the marriage:
 3. He has lived in Ethiopia for at least one year preceding the submission of his application: and
- B. He has fulfilled the conditions stated under Sub-Articles (1), (7) and (8) of Article 5 of this proclamation” (Federal Democratic Republic of Ethiopia (23 December 2003) *Proclamation on Ethiopian Nationality, No. 378 of 2003*)

A manual published by the *Addis Ababa City Government Acts and Civil Status Documents Service*, in section 6 “The issue of Marriage Certificate” (sub-section headed 6.2) refers to the documentation required by “Non-resident Ethiopians and foreign nationals” as follows:

“A document confirming that they are singles, verified by the embassy and the Ministry of Foreign Affairs.

If one or both the spouses are non-resident, they have to produce

- Court verdict if there was a divorce.
- Renewed government issued ID.
Two witnesses on each side” (The Addis Ababa City Government Acts and Civil Status Documents Service (undated) *Manual for the Issue of Marriage and Birth Certificates*)

Marriage between two Non Nationals

Referring to the Revised Family Code a document on marriage in Ethiopia supplied by the Ethiopian embassy in Dublin states:

- A. “In these laws though it is not specifically stated about the formalities to be fulfilled by foreigners to conclude marriage in the country” (Embassy of the Federal Democratic Republic of Ethiopia (1 March 2011) *Information about marriage in Ethiopia*)

Please refer to previous section for further information.

References

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