

SUPREME COURT LIBRARY

**AN ACT
TO GOVERN THE
DEVOLUTION OF ESTATES AND
ESTABLISH RIGHTS OF
INHERITANCE FOR SPOUSES
OF BOTH STATUTORY
AND CUSTOMARY MARRIAGES**

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AN ACT TO GOVERN THE DEVOLUTION OF ESTATES AND ESTABLISH RIGHTS OF INHERITANCE FOR SPOUSES OF BOTH STATUTORY AND CUSTOMARY MARRIAGES

WHEREAS, the Constitution of this Republic guarantees that "All persons are equal before the law and are therefore entitled to the equal protection of the law," and

WHEREAS, since the inception of this Republic over a century ago, there has been a dichotomy of legal rights between the customary wife/widow regarding dower rights and the administration of their deceased husband's estates: and

WHEREAS, it is a political truism that the quality of justice a nation metes out to its citizens determines the degree of democracy of that country; and

WHEREAS, according to law extent, the customary wife is considered a chattel, the property of her husband, which doctrine is repugnant not only to the/universal Declaration of Human Rights, but also the Liberian Constitution which provides that "...No person shall be held in slavery or forced labor within this Republic, nor shall any citizen of Liberia or any person resident therein deal in slaves or subject any other person to forced labor, debt, bondage or personage...", and

WHEREAS, the Constitution of this Republic mandates the Legislature to "...enact laws to govern the devolution of estates and establish rights of inheritance and decent for spouses of both statutory and customary marriages so as to give adequate protection to surviving spouses and children of such marriages",

NOW, THEREFORE;

It is enacted by the Liberian National Legislature of the Government of the Republic of Liberia in Legislature Assembled:

Section 1. TITLE OF ACT – This Act shall be cited as the EQUAL RIGHTS OF THE CUSTOMARY MARRIAGE LAW OF 1998.

CHAPTER 1. DEFINITIONS

Section 1. In this Act, unless the context otherwise requires:

- (a) "Customary marriage" means marriage between a man and a woman performed according to the tribal tradition of their locality;
- (b) "Tradition" means those values, norms and customs which a tribe of a locality has practiced over the ages and is considered their way of life;
- (c) "Dower" means the one-third ($\frac{1}{3}$) interest of the tribal husband's property to which his widow is entitled as of right regardless of whether or not the widow and children for her late husband, or whether or not she assisted him in acquiring the property;
- (d) "Widow" means a woman whose husband is dead;
- (e) "In loco parentis" means those persons standing in the place of a person, or a substitution of parents;
- (f) "Letters of Administration" means the authority given by the Probate Court to a tribal widow/widows, children of tribal marriage, or next of kin to take care of, or control the property of the deceased which he left at the time of his death;
- (g) "Estate" means the total amount of property, real, personal and mixed, which a person died seized of at the time of his death;
- (h) "Intestate estate" means the property left by one who has died without leaving a Last Will and Testament describing how said property is to be divided;
- (i) "Tribal or customary spouse" means either the husband or wife who is married according to tribal tradition;
- (j) "To confess" means for a woman, whether married or not, to call the name of a man, other than her husband or boyfriend, with whom she has illicit sexual intercourse;
- (k) "Christian marriage" means that marriage which is performed either in the Church, at home, or any place by a Priest, Pastor or Judge, according to statute;
- (l) "Inchoate dower" means a wife's vested interest in the property of her husband immediately upon marriage during his lifetime, which may become a right of dower after his demise.

CHAPTER 2. RIGHT, DUTIES AND LIABILITIES OF CUSTOMARY MARRIAGE

Section 2.1 - Equal Right to be Accorded Customary Wife

All customary marriages shall be legal within this Republic, and the rights, duties and liabilities of the statutory wife shall likewise be accorded to all customary wives, consistent with and pursuant to the provisions contained in the Act Adopting A New Domestic Relations Law, known as Title 9 of the Liberian Code of Laws Revised, 1973, and which is hereby fully incorporated, as if quoted verbatim herein.

Section 2.2 – Recovery of Dowry Prohibited – The recovery of dowry (token) from the wife or her parents by the husband is hereby prohibited. Any husband who collects or attempts to collect dowry from his wife or her parent by use of force, directly or indirectly, has committed a felony of the first degree, and upon conviction in a court of competent jurisdiction, shall be fined the amount of not less than LD500.00 nor more than LD\$1,000.000, including restitution, if any dowry was refunded.

Section 2.3 – Husband/Wife's Inchoate Dower – Immediately upon marriage, the customary wife shall be entitled to one-third of her husband's property personal or real and vice versa regardless whether or not he/she helped him/her to acquire said property.

Section 2.4 – Compulsory Wife Labor Prohibited – It shall be the responsibility of customary spouses to work in partnership and adequately maintain and support their household, according to their financial or physical means.

Section 2.5 – Wife's Human Right to be Respected – Every customary husband shall respect his Wife's Human rights; any violation of this Section shall entitle the wife to seek redress in a court of law.

Section 2.6 – Wife's Property Exclusively Her Own

- (a) The property acquired or owned by a customary woman either before or during marriage, belongs to her exclusive of her husband and she is therefore free to do any lawful business in her own name, including the right to contract with third parties but to the full knowledge and consent of her husband.

- (b) Any customary husband who shall control, or attempts to control his wife's property, or prevents her from operating her lawful business, has committed a felony of the second degree (Theft of Property), and upon conviction in a court of competent jurisdiction, shall be fined the amount of not less than LD\$200.00, nor more than LD\$500.00 including restitution of property of the wife converted to his personal use.

Section 2.7 - "Confession Damages Prohibited - No customary husband shall aid, abet, or create the situation for his customary wife to have illicit sexual intercourse with another man for the sole purpose of collecting damages. Any customary husband who shall violate this Section has committed a felony of the first degree, and upon conviction in a court of competent jurisdiction, shall be fined the amount of not less than LD\$200.00, nor more than LD\$500.00, including restitution of the damages collected, if any.

Section 2.8 - "Confession" Names Unlawful - It shall be unlawful for any customary person or husband to compel or demand any female of legal age, whether or not she is his customary wife, to "confess" or call the name of her lover with whom she has had illicit sexual intercourse in order to collect damages from said lover, for interference with domestic relations, either spouse may seek redress through a court of competent jurisdiction or tribal court. Any violation of this Section shall constitute a felony of the second degree, and the offender shall, upon conviction in a court of competent jurisdiction be fined the amount of not less than LD\$500.00, nor more than LD\$1,000.00.

Section 2.9 - It shall be unlawful for any customary female under the age of 16 to be given in customary marriage to a man; any tribal person who violates this Section has committed a felony of the first degree, and upon conviction, shall be fined the amount of not less than LD\$500.00, nor more than LD\$1,000.00.

Section 2.10 - Unlawful for Parents to Choose Daughter's Husband

(a) Every customary female of legal age shall have the unrestricted right to marry the man of her choice. It shall be unlawful for any tribal parent to choose a husband for his/her daughter, or compel the daughter or other female relative to marry a man not her choice.

(b) Any tribal parent or next of kin who shall violate Section 2.10 (a) of this Act has committed a felony of the first degree, and upon conviction, is punishable by a fine of not less than LD\$500.00, nor more than LD\$1,000.00.

CHAPTER 3 DEVOLUTION OF ESTATES AND RIGHTS OR INHERITANCE

Section 3.1 - Decedent Estates Law Applicable to Customary Marriage

* - The provision as contained in Title 8 of the Liberian Code of Laws Revised of 1972, know as the New Decedents Estates Law Including a Probate Court Procedure Code, are hereby incorporated as if quoted verbatim, and which shall equally apply to all native customary marriages immediately after the passage of this Act.

Section 3.2 - Widow's Dower Rights - Upon the husband's death, the widow or multiple widows shall be entitled to only one-third (1/3) of their late husband's property; the balance two thirds (2/3) of the decedent's property shall descent to his children, if any, or to his collateral heirs according to the Decedents Estates Law.

Section 3.3 - Widow's Liberty not Restricted After Husband's Death
After the death or burial of her/their husband, the customary widow or multiple widows shall be at liberty either to remain on the premises of her/their late husband to administer said estate, or she/they may take another husband of her/their choice and shall vacate the premises of the late husband in as much the new marriage entered automatically reverse said rights and same property return to the heirs or children of the late husband.

Section 3.4 - Compulsory Marriage of Widow to Deceased Husband's Kin Unlawful

(a) No family member of the deceased husband shall compel the widow or widows to remain within the family, or marry a kin of her/their late husband;

(b) Any family member who shall compel widow to marry one of her last husband's relatives against her will in order for said widow to be able to subsist or earn a livelihood, has committed a felony of the first degree, and upon conviction in a court of competent jurisdiction, shall be fined the amount of not less than L\$500.00, nor more than L\$1,000.00.

Section 3.5 - Widow to Administer Deceased Husband's Estate

Widow or multiple widows collectively, children or collateral heirs, shall have the unrestricted right to petition the Probate Court in their jurisdiction of Letters of Administration to administer the property of said decedent, and which right shall not be denied by Probate Court within the Republic. Any denial of this right shall entitle the aggrieved party to appeal to the Supreme Court of Liberia.

Section 3.6 - Right of Tribal Inhabitants to Make Last Will and Testament

Every male and female of legal age under customary or tribal law shall have the right to make his/her Last Will and Testament, describing how his/her property is to be distributed after his/her death.

Section 3.7 - Custody of Minor Children Right of Spouse

Upon the death of either spouse (husband or wife), said children, if minors, shall remain with the spouse living as of right; no member of the deceased family shall deprive the spouse living of the right to custody of said minor children, taking into consideration the best interest of the child.

Section 2 - Repealers - Section 404 (paragraph 2-3) Sections 405 and 406 of Title 1 of the Liberian Code of Laws of 1956, known as the Aborigines Law, and all Regulations of the Ministry of Internal Affairs governing tribal citizens of this Republic which are repugnant to any provision of this Act, are hereby declared repealed.

Section 3 Effective Date of Act - This act shall take effect immediately upon publication in handbills.

ANY LAW TO THE CONTRARY, NOTWITHSTANDING!